



LAWS OF KENYA

EDUCATION ACT

CHAPTER 211

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CHAPTER 211
EDUCATION ACT

[Date of assent: 6th February, 1968.]

[Date of commencement: 4th April, 1968.]

An Act of Parliament to provide for the regulation and progressive development of education

[Act No. 5 of 1968, Act No. 11 of 1970, L.N. 41/1970, Act No. 17 of 1971, Act No. 7 of 2007.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Education Act.

2. Interpretation

In this Act, except where the context otherwise requires—

“**advisory council**” means an advisory council established under section 4;

“**assisted school**” means a school, other than a maintained school, which receives financial assistance from the Ministry or assistance from the Teachers Service Commission established by the Teachers Service Commission Act (Cap. 212);

“**board of governors**” means a board of governors established under Part III of this Act;

“**curriculum**” means all the subjects taught and all the activities provided at any school, and may include the time devoted to each subject and activity;

“**Institute**” means the Kenya Institute of Education established by section 23(1) of this Act;

“**institution of higher education**” means a university or a constituent college or institution of a university;

“**local authority**” means a county council or a municipal council constituted under the Local Government Act (Cap. 265);

“**maintained school**” means a school in respect of which the Ministry or a local authority accepts general financial responsibility for maintenance;

“**manager**” means any person or body of persons responsible for the management and conduct of a school, and includes a Board;

“**principal**” includes headmaster;

“**public funds**” means the public funds of the Government or the public funds of a local authority;

“**public school**” means a school maintained or assisted out of public funds;

“pupil” means a person enrolled as a pupil or student in a school;

“qualified teacher” has the meaning for the time being assigned to it in the Teachers Service Commission (Qualifications for Registration) (Cap. 212) Regulations 1967 (L.N. 90/1965, Sub-Leg);

“register” means the register of unaided schools established under Part IV;

“school” means an institution in which not less than ten pupils receive regular instruction, or an assembly of not less than ten pupils for the purpose of receiving regular instruction, or an institution which provides regular instruction by correspondence, but does not include—

- (a) any institution or assembly for which a Minister other than the Minister is responsible; or
- (b) any institution or assembly in which the instruction is, in the opinion of the Minister, wholly or mainly of a religious character; or
- (c) any institution for the purpose of training persons for admission to the ordained ministry of a religious order;

“school committee” means a school committee established under section 9;

“syllabus” means a concise statement of the contents of a course of instruction in a subject or subjects;

“the Teachers Service Commission” means the Teachers Service Commission established by section 3 of the Teachers Service Commission Act (Cap. 212);

“unaided school” means a school which is not receiving grants out of public funds.

PART II – PROMOTION OF EDUCATION

3. Minister to promote education

(1) The Minister shall promote the education of the people of Kenya and the progressive development of institutions devoted to the promotion of education, and shall secure the effective co-operation, under his general direction or control, of all public bodies concerned with education in carrying out the national policy for education.

(2) For the purposes of carrying out his duties under subsection (1), the Minister may from time to time formulate a development plan for education consistent with any national plan for economic and social development of Kenya.

4. Advisory councils

(1) The Minister may, by order, establish an advisory council to advise him on any matter concerning education in Kenya or in some part of Kenya, and may establish different councils for different areas or for different aspects of education.

(2) An advisory council shall consist of not less than ten and not more than twenty persons, each appointed by the Minister, and the Minister shall appoint one of the members to be chairman.

(3) The First Schedule shall apply with respect to advisory councils.

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(2) An advisory council shall consist of not less than ten and not more than twenty persons, each appointed by the Minister, and the Minister shall appoint one of the members to be chairman.

(3) The First Schedule shall apply with respect to advisory councils.

4A. Minister may establish institutes

(1) The Minister may, by order in the *Gazette*, establish one or more educational institutes with responsibility for the co-ordination of such activities as may be specified in the order.

(2) An order under this section may specify—

- (a) that the institute to which it relates shall have corporate personality;
- (b) the duties, powers and functions of the institute;
- (c) the manner in which the institute shall be governed;
- (d) the constitution, duties, powers and functions of an academic board responsible to the governing body of the institute; and
- (e) such other matters with respect to the conduct and management of the institute, as the Minister may find it necessary or desirable to provide for.

[Act No. 7 of 2007, Sch.]

5. Minister may entrust functions to local authority

(1) Subject to this Act and to any regulations made thereunder, the Minister may, by order, entrust any of his functions with respect to education to a local authority on such terms, conditions or restrictions as he may think fit.

(2) The Minister may, by order, revoke, suspend, vary or amend an entrustment made under subsection (1).

(3) Where an entrustment of a function to a local authority is revoked or suspended under subsection (2) of this section, the Minister may recover from the local authority the whole or any part of the expenditure incurred in the performance of the functions:

Provided that, where the estimates of expenditure to be incurred by the local authority in the performance of the function are subject to the approval of the Minister for the time being responsible for Local Government under Part XV of the Local Government Act (Cap. 265), such recovery shall be subject to the agreement of the Minister for the time being responsible for local government.

(4) Where functions have been entrusted to a municipal council under this section, the municipal council shall appoint an education committee in accordance with section 91 of the Local Government Act (Cap. 265), and shall consider a report from the education committee before exercising any of the functions:

Provided that, notwithstanding that regulation, an education committee shall consist of ten councillors and five other members appointed by the Minister, and those five other members shall include not more than three persons to represent any sponsor or sponsors appointed by the municipal council under section 8(1) of the Act.

(5) The principal education officer of a local authority shall attend all meetings of an education committee appointed under subsection (4), and shall advise the local authority on all matters concerning education in the area of the local authority.

[L.N. 41/1970, Sch.]

PART III – MANAGEMENT OF SCHOOLS

General

6. Management of schools

Subject to section 7—

- (a) every primary school maintained by a local authority shall be managed by that local authority; and
- (b) every maintained or assisted school other than a primary school maintained by a local authority shall be managed by a Board of Governors, or as the Minister may otherwise direct,

in accordance with this Act and any regulations made under this Act.

Primary Schools Maintained by Local Authorities

7. Choice for primary schools how maintained by local authorities

(1) The manager of every primary school maintained but not managed by a local authority before the commencement of this Act shall within six months of such commencement choose either—

- (a) to transfer the management of the school to that local authority, which shall thereafter manage and maintain the school (hereinafter called a transferred school); or
- (b) to continue to maintain the school as an unaided school.

(2) [*Spent*].

(3) Where the management of a school is transferred to a local authority under this section, the service of any teacher in the establishment of the school immediately before and immediately after the transfer shall be deemed to be continuous service for the purpose of regulation 16(1) of the Pensions Regulations (Cap. 189, Sub. Leg.).

8. Transferred school formerly managed by church to have sponsor

(1) Where a transferred school was managed by a church, or an organization of churches, and it is the wish of the community served by the school that the religious traditions of the school should be respected, the former manager shall be appointed by the local authority to serve as the sponsor to the school.

(2) If the former manager, or any ten citizens belonging to the community served by the school, are aggrieved by the decision of a local authority to appoint, or to refuse to appoint, or to revoke the appointment or to refuse to revoke the appointment of, the former manager as sponsor to the school, they may appeal in writing to the Minister, who shall make such inquiries as appear to him desirable or necessary, and whose decision shall be final.

(3) Where the former manager of a transferred school has been appointed by the local authority to serve as the sponsor to the school—

- (a) the Teachers Service Commission, or any agent of the Teachers Service Commission responsible for the assignment of teachers to schools on behalf of the Teachers Service Commission, shall assign teachers to the school after consultation with and, so far as may be compatible with the maintenance of proper educational standards at the school and the economical use of public funds, with the agreement of the sponsor;
- (b) the sponsor shall have the right to use the school buildings free of charge, when the buildings are not in use for school purposes, after giving reasonable notice of his intention to do so to the headmaster of the school:

Provided that any additional expenses and the cost of making good any damage incurred during or in consequence of the sponsor using the buildings shall be defrayed by the sponsor; and

- (c) religious instruction shall be given at the school in conformity with a syllabus prepared or approved under regulations made under section 19 of this Act after consultation with the sponsor.

(4) In determining what are the wishes of the community served by a school, the local authority or the Minister shall give due weight to the wishes of the parents of the children at the school.

9. School committee

(1) For every primary school maintained and managed by a local authority there shall be a school committee, established by the local authority, to advise the local authority on matters relating to the management of the school.

(2) The members of a school committee shall be appointed by the local authority in the prescribed number and manner, and the members of the committee shall include persons to represent the local authority, the community served by the school and, where a sponsor to the school has been appointed under section 8, the sponsor.

Other Schools

10. Board of Governors

(1) The Minister may, by order, establish a Board of Governors for any maintained or assisted school, other than a primary school managed and maintained by a local authority, or, if the manager of any unaided school applies to him, for that unaided school, and the Minister may—

- (a) establish one board of governors for two or more schools; or
- (b) establish boards of governors for two or more schools by means of the same order.

(2) The Minister may, by order, declare a Board of Governors to be a body corporate under the name of the Board of Governors of the school or schools, and such board of Governors shall have perpetual succession and a common seal with power to hold both movable and immovable property, and may in its corporate name sue and be sued.

(3) Where a Board of Governors is established, the Minister shall exercise all the functions of the board during the interval of time that may elapse between the establishment of the Board and the first meeting of the Board.

11. Constitution and functions of board of governors

An order establishing a Board of Governors shall provide for—

- (a) the exercise by the Board of the duty of management of the school or schools, subject to this Act, the Teachers Service Commission Act (Cap. 212) and any regulations made under this Act and to any limitations or restrictions that may be imposed by the order;
- (b) the membership of the Board, which shall be not less than five persons;
- (c) including among the members of the board representatives of the communities served by the school, of persons representing any voluntary body which was the founder of the school or its successor, and of any other persons or representatives of bodies or organizations that, in the opinion of the Minister, should be included;
- (d) the appointment and resignation of members and the continuity of the membership of the board;
- (e) a person or persons representing the Minister to attend at meetings of the board;
- (f) in the case of a Board of Governors which is not a body corporate, vesting the movable and immovable property of the Board in trustees incorporated under any law or in the Public Trustee;
- (g) the application of all the income of the school to promoting the objects of the school;
- (h) any other matters which the Minister considers it necessary or desirable to provide for with respect to the status, functions, constitution or procedure of the board.

12. Default by Board of Governors

(1) Where in the opinion of the Minister a Board of Governors has behaved irresponsibly or has failed to exercise properly its functions under this Act, he may in writing—

- (a) suspend the Board from the exercise of and performance of all its powers and duties, and appoint an administrator to exercise and perform all the powers and duties of the board for such period not exceeding one year as the Minister specifies;
- (b) require the resignation of all or any of the members of the board, and appoint or require the appointment of new members of the Board.

(2) The Minister shall make regulations providing for the manner in which an administrator appointed under subsection (1) shall exercise all the powers and perform the duties of a board of governors.

PART IV – REGISTRATION OF UNAIDED SCHOOLS

13. Register of unaided schools

The Minister shall cause a register of unaided schools to be established and maintained, and the register shall be open to public inspection at all reasonable times.

14. Application for registration

(1) Any person who wishes to establish an unaided school shall first make application to the Minister for the school to be registered.

(2) An application for registration shall state the classification of the proposed school according to the prescribed nomenclature and the classes or forms to be provided in the school.

(3) In this section “establish”, in relation to a school, includes—

- (a) providing any additional class or form not included in any previous registration; or
- (b) providing any type of education not falling within the classification in which the school was previously registered; or
- (c) changing ownership or management of the school; or
- (d) transferring the school to a new site; or
- (e) reopening a school that has been closed under section 16.

15. Registration

(1) Where application is made for the registration of an unaided school, the Minister shall cause the school to be provisionally registered for a period of eighteen months, if he is satisfied that—

- (a) the establishment of the school is consistent with the needs of Kenya and the economical and efficient provision of public education; and
- (b) the premises and accommodation are suitable and adequate, having regard to the number, ages and sex of the pupils who are to attend the school, and fulfil the prescribed minimum requirements of health and safety and conform with any building regulations for the time being in force under any written law; and
- (c) the manager is a suitable and proper person to be the manager of the school:

Provided that, where the establishment of the school consists only of one or more of the acts specified in paragraphs (a), (b), (c), (d) and (e) of section 14(3), the Minister may, in his discretion, register the school at the outset instead of first registering it provisionally.

(2) If, at the end of one year from the provisional registration of a school the Minister is satisfied that efficient and suitable instruction is being provided at the school, he may cause the school to be registered.

(3) The Minister may, as a condition of provisional registration or registration, require the manager of an unaided school to apply to him for an order establishing a Board of Governors for the school, and such a requirement may be made at any subsequent time.

(4) Where the Minister refuses to provisionally register or to register an unaided school, he shall inform the person making the application in writing of the grounds of refusal.

16. Closure of unaided school

(1) Where the Minister is satisfied that an unaided school which has been registered under this Part is objectionable because the school—

- (a) fails to comply with paragraphs (a), (b) and (c) of section 15(1); or
- (b) is a place in which efficient and suitable education or instruction is not being provided; or
- (c) is being conducted or managed in a manner which is, in the opinion of the Minister, prejudicial to the physical, mental or moral welfare of the pupils of the school, or to peace, good order or good government in Kenya; or
- (d) is a place in which a person is teaching who is not registered in the register of teachers kept under section 7 of the Teachers Service Commission Act (Cap. 212) (now repealed) and is not exempted under section 22 of that Act from registration; or
- (e) fails to conform with regulations made under section 19; or
- (f) has not complied with a condition imposed under section 15(3),

the Minister may serve on the manager of the school a notice in writing specifying the respects in which the school is objectionable and requiring him to remedy the said matters within a specified period not exceeding six months:

Provided that if, in the opinion of the Minister, there are urgent reasons for the immediate closure of the school the Minister may order the manager of the school to close the school forthwith.

(2) If the manager of an unaided school fails to remedy the matters specified in a notice served on him under subsection (1) of this section within the period specified therein, the Minister shall order the manager to close the school.

(3) An unaided school which has been ordered to be closed under this section, and any unaided school which has remained closed for a period of six months or more, shall be removed from the register.

17. Regulations as to registration

The Minister may make regulations with respect to registration of unaided schools and in particular such regulations may—

- (a) prescribe the particulars to be entered in the register;
- (b) prescribe the manner in which application for registration shall be made and the particulars, proof or evidence to be supplied by the applicant;
- (c) prescribe with respect to any application for registration the procedure to be followed, the forms to be used and the fees to be paid;

- (d) prescribe the conditions which may be attached to provisional registration, beyond that mentioned in section 15(3);
- (e) provide for the issue, variation and revocation of certificates of provisional registration and certificates of registration;
- (f) require the submission from time to time, or at any time, of any particulars, information, documents or returns by the manager of a registered unaided school;
- (g) provide for any other matter that the Minister may consider necessary or desirable to provide for the purposes of this Part.

PART V – INSPECTION AND CONTROL OF SCHOOLS

18. Inspection of schools

(1) The Minister shall appoint officers with authority to enter and inspect any school, or any place at which it is reasonably suspected that a school is being conducted, at any time, with or without notice, and to report to him with respect to the school or any aspect thereof.

(2) The Minister shall appoint officers with authority to enter any school at any time, with or without notice, and inspect or audit the accounts of the school or advise the manager of the school on the maintenance of accounting records, and may temporarily remove any books or records for the purpose of inspection or audit.

(3) On being so requested by an officer appointed under this section, the principal of the school shall place at the disposal of the officer all the facilities, records, accounts, notebooks, examination scripts and other materials belonging to the school that the officer may reasonably require for the purpose of the inspection of the school or the inspection or audit of its accounts.

(4) An officer inspecting a school under subsection (1) shall have special regard to the maintenance of educational standards and to compliance with any regulations made under section 19.

(5) In this section, “school” includes—

- (a) any part of the school and any buildings used in connexion with the school, including workshops, dormitories, kitchens, sanatoria, hostels, ancillary buildings and any other buildings on the site of the school; and
- (b) except in subsection (2), an institution or assembly for which a Minister other than the Minister is responsible.

19. Regulations as to conduct of schools

The Minister may make regulations with respect to the conduct and management of schools and such regulations may—

- (a) prescribe standards with regard to the numbers and qualifications of staff, the size of classes and the expenditure on educational materials;

- (b) provide for the preparation or approval of curricula, syllabuses, books and other educational materials;
- (c) prescribe minimum standards for the health and safety of pupils and for a satisfactory environment for education;
- (d) provide for the keeping of registers and records and the submission of returns;
- (e) provide for the admission, suspension, punishment and dismissal of pupils;
- (f) prescribe the minimum number of days in a year on which instruction shall be given;
- (g) prescribe how schools shall be classified and the name to be attached to each class of school;
- (h) make different provision with respect to different classes or kinds of schools, impose conditions and make exceptions;
- (i) provide for or prescribe such other matters as the Minister considers it necessary or desirable to provide for or prescribe.

PART VI – EXAMINATIONS AND DIPLOMAS

20. Examinations and issue of certificates and diplomas

(1) The Minister may provide for the conduct of public examinations, and may issue certificates or diplomas to pupils who have been successful in a public examination for the conduct of which he has provided.

(2) The Minister may issue certificates and diplomas to pupils who have successfully completed an approved course of education or training.

21. No unauthorized issue of certificates or diplomas

No person except—

- (a) the persons and institutions named in the Second Schedule; or
- (b) a person who has received the consent of the Minister, given by notice in the *Gazette*,

shall issue a certificate or diploma to any person indicating or purporting to indicate, that a person has successfully completed a course of education or training, or has attained a particular educational standard, or possesses any skill, knowledge or professional competence.

22. Regulations as to examinations, certificates and diplomas

The Minister may make regulations—

- (a) prescribing the manner in which certificates or diplomas may be issued under section 20;
- (b) prescribing the manner in which public examinations shall be conducted, and the conditions of entry and the fees to be charged;
- (c) concerning the submission of applications for the Minister's consent to the issue of certificates and diplomas, and the revocation of such consent.

PART VII – THE KENYA INSTITUTE OF EDUCATION

23. Establishment of Kenya Institute of Education

(1) There is hereby established the Kenya Institute of Education with responsibility for the co-ordination of institutions devoted to the training of teachers, the conduct of examinations to enable persons to become qualified teachers, the conduct and promotion of educational research, the preparation of educational materials and other matters connected with the training of teachers and the development of education and training.

(2) The Minister may, by order, prescribe—

- (a) the duties, powers and functions of the Institute;
- (b) the manner in which the Institute shall be managed and controlled by a Council including persons representing the Minister, the University of Nairobi and the maintained training colleges of Kenya;
- (c) the constitution, duties, powers and functions of an Academic Board responsible to the Council for the academic management of the Institute;
- (d) that the movable and immovable property of the Institute may be vested in the Public Trustee and the manner in which they shall be so vested; and
- (e) any other matters with respect to the conduct and management of the Institute which the Minister considers it necessary or desirable to provide for.

PART VIII – MISCELLANEOUS

24. Area to be served by public school

The Minister may, at the request of any local authority or otherwise, by notice in the *Gazette*, prescribe the area to be served by a public school.

25. Medical examination

The Minister, or the manager of a school, may require any person attending the school, or applying for admission to the school, to undergo medical examination by a medical practitioner.

26. Religious instruction in public schools

(1) If the parent of a pupil at a public school requests that the pupil be wholly or partly excused from attending religious worship, or religious worship and religious instruction, in the school, the pupil shall be excused such attendance until the request is withdrawn.

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

27. Minister may give directions

(1) Where the Minister is satisfied, upon complaint made by any person or otherwise, that a local authority, or the Board of Governors or manager of any school, or a sponsor, or the Institute, or the Teachers Service Commission, has acted or is proposing to act unreasonably or in contravention of the policy of the Government with respect to education as approved from time to time in Parliament, in the exercise of any functions entrusted to it by or under this Act, or the Teachers Service Commission Act (Cap. 212), he may give such directions as to the exercise of such functions as appear to him expedient.

(2) Where the Minister is satisfied that a local authority, or the Board of Governors or manager of any school, or the Institute, or the Teachers Service Commission established as aforesaid, has failed to discharge any duty imposed upon it by, or for the purposes of, this Act, or the Teachers Service Commission Act (Cap. 212), he may give such directions as may be necessary for securing compliance with this Act or the Teachers Service Commission Act (Cap. 212):

Provided that, where the estimates of expenditure to be incurred by any local authority in the performance of any function entrusted to it under section 5 are subject to the approval of the Minister for the time being responsible for Local Government under Part XV of the Local Government Act (Cap. 265), any direction given under this subsection to a local authority shall be subject to the agreement of the Minister for the time being responsible for Local Government.

PART VIIIA – DISTRICT EDUCATION BOARDS**28. Establishment of Boards**

(1) The Minister may, by notice in the *Gazette*, establish a District Education Board (in this Part referred to as a Board) for any district or for such other area or areas as may be specified in the notice.

(2) A notice under this section shall specify the classification or types of schools, or groups of schools, in respect of which the Board concerned shall have jurisdiction within the area for which it is established.

[Act No. 17 of 1971, s. 2.]

29. Memberships of Boards

(1) Each Board shall consist of not less than ten nor more than fifteen members appointed by the Minister, of whom—

- (a) one shall be the Provincial Education Officer of the Province or his representative;
- (b) one shall be the clerk to the council of the local authority for the area of jurisdiction of the Board or, where there is more than one such local authority, the clerk to the council of such one of them as the Minister may direct;

- (c) three shall be nominated by the local authority for the area of jurisdiction of the Board or, where there is more than one such local authority, by such of them, in such proportions, as the Minister may direct;
- (d) three shall be nominated by the managers or sponsors of the schools or groups of schools in respect of which the Board has jurisdiction;
- (e) one shall be nominated by any registered, trade union recognized by the Minister as representing the interests of teachers;
- (f) not more than six shall be appointed by the Minister to represent other interests.

(2) The Minister shall appoint one member of a Board to be chairman, and the District Education Officer to be the secretary and executive officer, of the Board.

(3) A member of a Board shall hold office for a period of three years from the date of his appointment unless earlier—

- (a) he dies;
- (b) he resigns his office by writing under his hand addressed to the Minister;
- (c) the Minister revokes his appointment,

but at the expiration of his period of office a member shall be eligible for reappointment.

(4) Where the office of a member of a Board becomes vacant by reason other than the expiry of the period of such office, the Minister may, in accordance with subsection (1), appoint a person in place of such member who shall hold office for the remainder of the period of office of the member he replaces.

[Act No. 17 of 1971, s. 2.]

30. Procedure of Boards

(1) A Board shall meet at least three times in every year, and the chairman may, and shall at the written request of not less than six members of the Board, at any time summon a special meeting of the Board, and in the case of such request the meeting shall be held within six weeks of the receipt of the request by the chairman.

(2) The Permanent Secretary of the Ministry of Education, or his representative, and the Provincial Commissioner, or his representative, any member of the National Assembly duly elected to represent the constituents of an area within the jurisdiction of the Board, and any person invited by the chairman, may be present at any meeting of a Board and take part in the proceedings but shall not be entitled to vote on any question.

(3) Subject to this section and save as otherwise may be prescribed, a Board shall regulate its own procedure.

[Act No. 17 of 1971, s. 2.]

31. Functions of Boards

The functions of a Board, in respect of the area and the schools under its jurisdiction, shall be—

- (a) to prepare and to submit to the Minister for approval estimates of revenue and expenditure;

- (b) to receive grants or grants-in-aid from public or local authority funds;
- (c) to administer such grants or grants-in-aid in respect of such schools in accordance with the approved estimates of expenditure;
- (d) to submit to the Minister for approval plans for the development or promotion of education in the area and to carry out such plans if approved;
- (e) to tender advice to the Minister on the establishment of new schools;
- (f) to submit such statistical, financial and other reports as the Minister may require;
- (g) to superintend the management of public schools;
- (h) to fulfil such other functions as the Minister may prescribe.

[Act No. 17 of 1971, s. 2.]

32. Financial provisions

(1) Every Board shall cause to be kept all proper books of account, and other records relating thereto, in respect of all its funds, property and transactions, and shall prepare such accounts, in such form, as the Minister may prescribe.

(2) The Minister shall appoint the Controller and Auditor-General or some other auditor to inspect, examine and report to the Board on the annual accounts and financial records of a Board:

Provided that the Controller and Auditor-General shall not be so appointed without his consent.

(3) A Board shall cause to be produced and laid before the auditor all books and accounts of the Board and all other documents and information required by the auditor in order to carry out the audit.

(4) On receipt of a report by the auditor, the secretary of a Board shall—

- (a) within three weeks of such receipt, transmit a copy of the report and of the accounts certified by the auditor to the Minister;
- (b) submit such report and accounts to the Board at its next meeting, which shall be held not later than three months after such receipt, and the secretary shall, within three weeks of such meeting, forward to the Minister a copy of the resolution of the Board accepting and adopting the accounts.

(5) The expenses of and incidental to an audit shall be paid by the Board, and where the accounts require to be completed by the auditor the audit fee may take account of the extra work occasioned thereby.

[Act No. 17 of 1971, s. 2.]

33. Regulations

The Minister may make regulations—

- (a) prescribing the powers and duties of Boards regarding the manner of establishment of new schools or groups of schools;
- (b) prescribing the manner and form in which records and statistics shall be kept by Boards and the manner in which returns shall be rendered and recommendations made;

- (c) regulating the procedure of Boards;
- (d) prescribing the manner and form in which development plans shall be drawn up and submitted;
- (e) prescribing anything required to be prescribed for the purposes of this Part.

[Act No. 17 of 1971, s. 2.]

PART IX – FINANCIAL

34. Use of public funds

(1) The Minister may from time to time from public funds—

- (a) establish, maintain, assist, make grants-in-aid of or make advances on loan in respect of—
 - (i) schools;
 - (ii) establishments or provision for the boarding or feeding of pupils;
 - (iii) organizations or establishments responsible for educational development or research, or the promotion or co-ordination of education, or the welfare of students;
 - (iv) organizations responsible for the conduct of public examinations;
- (b) make grants-in-aid to any institution of higher education;
- (c) provide for the conduct of such public examinations as are held under the supervision or control of the Ministry;
- (d) make grants-in-aid to local authorities for the purpose of any functions entrusted to them under section 5;
- (e) provide in whole or in part for the transport of pupils to or from any public school;
- (f) provide for the medical inspection of pupils;
- (g) provide scholarships or bursaries to assist in the education, maintenance and transport of pupils who are undergoing, or proceeding to or returning from courses of instruction at an institution approved by the Minister;
- (h) provide for the reimbursement of the expenses of any body constituted under this Act;
- (i) provide for, or make grants-in-aid of, educational conferences, exhibitions, displays, dramatic or film presentations, sports or other occasions of an educational character or purpose;
- (j) make such other provision for the carrying on of education as may be consistent with this Act.

(2) Grants-in-aid may be made for either capital or recurrent purposes.

35. Regulations as to use of public funds

The Minister may make regulations prescribing—

- (a) the conditions upon which grants which may lawfully be made out of public funds for the maintenance or assistance of schools, organizations or establishments may be made;
- (b) the fees to be charged or remitted at any school which receives a grant out of public funds, and the liability of parents for the payment of fees;
- (c) the manner in which scholarships or bursaries may be granted, increased, reduced or withdrawn;
- (d) the manner in which and the conditions under which grants are made to any institution of higher education;
- (e) any other matter with respect to public funds relating to the submission of estimates, the maintenance and submission of accounting records, the use to which grants may be applied and the disposal of surpluses and reserve funds.

36. Offences

Any person who—

- (a) establishes, manages, maintains or conducts an unaided school which has not been provisionally registered or registered, or whose provisional registration has expired, or which has been removed from the register in accordance with section 16(3) of this Act; or
- (b) issues a certificate or diploma contrary to section 21 of this Act; or
- (c) hinders or obstructs any officer of the Ministry acting in the course of his duty as such, or any person exercising any powers, or performing any duties, conferred or imposed by or under this Act,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

[Act No. 11 of 1970, Sch.]

37. General power to make regulations

Without prejudice to the other provisions in this Act for the making of regulations for particular purposes, the Minister may make regulations generally for the better carrying out of the purposes of this Act.

38. Repeal of Cap. 211

Provided that the following Orders made under that Act, namely

- (a) the Education (Hospital Hill School Governors) Order (Cap. 211, Sub. Leg., L.N. 212/1962, L.N. 431/1962, L.N. 180/1965)
- (b) the Education (Boards of Governors) Order 1964 (Cap. 211, L.N. 353/1964, L.N. 43/1965, L.N. 114/1965, L.N. 204/1965, L.N. 2/1966, L.N. 3/1966, L.N. 111/1966, L.N. 277/1966, L.N. 350/1966, L.N. 52/1967.);

- (c) the Kenya Polytechnic (Board of Governors) Order 1965 (Cap. 24, Sub-Leg, L.N. 73/1965, L.N. 278/1966)
- (d) the Mombasa Technical Institute (Board of Governors) Order 1966 (Cap. 24, Sub-Leg, L.N. 84/1967)

shall continue in force as though made under this Act, and accordingly the Boards of Governors established by those Orders shall upon the commencement of this Act—

- (i) be deemed to have been established and incorporated under section 10 of this Act;
- (ii) hold the same property and be subject to the same obligations as they held or were subject to immediately before such commencement.

FIRST SCHEDULE

[Section 4.]

PROVISION AS TO ADVISORY COUNCILS

Tenure and Vacation of Office

1. The members of an advisory council shall hold office for three years, or such lesser period as the Minister may specify in the appointment, and shall be eligible on retirement for re-appointment.
2. A member of the advisory council may at any time by notice in writing addressed to the Minister resign his office and if a member becomes, in the opinion of the Minister, unfit or unqualified to continue in office, or incapable of performing his duties, the Minister may revoke the appointment of the member and communicate the revocation to him in writing.
3. The names of persons appointed to be members of an advisory council and the names of persons ceasing to be members of the Council shall be notified in the Gazette.

Meetings and Proceedings

4. Subject as hereinafter provided, an advisory council shall regulate its own procedure.
5. Meetings of an advisory council shall be called by the chairman of the council whenever the Minister so requests.
6. If the chairman is absent from a meeting of an advisory council, the members present shall elect one of their number to preside at that meeting.
7. The agenda at a meeting of an advisory council shall consist of such matters as the Minister may from time to time refer to the council for consideration by the council and such other matters as the council, with the agreement of the Minister, may receive to consider.

8. A quorum at any meeting of an advisory council shall be one half of the members of the Council.

9. A resolution at a meeting of an advisory council shall require the affirmative votes of one half of the members present except the chairman, who shall have a casting vote only.

Staff

10. The secretary and any other staff of an advisory council shall be public officers appointed for the purpose by the Minister.

SECOND SCHEDULE

[Section 21.]

**PERSONS WHO NEED NOT OBTAIN THE MINISTER'S PRIOR WRITTEN
CONSENT TO THE ISSUE OF CERTIFICATES AND DIPLOMAS**

The Government.

Any person issuing a certificate or diploma as a result of an examination for the conduct of which the Government, the Kenya Polytechnic or the Mombasa Technical Institute is responsible.

Any institution of higher education.

The Kenya Scouts Association.

The Council of Legal Education.

Egerton Agricultural College.

The Girl Guides Association.

The Kenya Polytechnic.

The Kenya Red Cross.

Pitmans Examinations Institute.

St. John Ambulance Association.