



ST HELENA

REVISED EDITION OF THE LAWS, 2017

FAMILY, EDUCATION & WELFARE

EDUCATION ORDINANCE, 2008¹

*Ordinance 8 of 2008
In force 30 August 2008*

Amended by Ordinances 14 of 2008, 16 of 2017 (in force 20 December 2017)

Subsidiary legislation:

EDUCATION (SCHOOL ATTENDANCE) REGULATIONS, 2009

Legal Notice 19 of 2009

EDUCATION ORDINANCE, 2008

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AN ORDINANCE to make provision with respect to education in St Helena and for connected purposes

**PART I
PRELIMINARY**

Short title and commencement

1. (1) This Ordinance may be cited as the Education Ordinance 2008.
- (2) This Ordinance comes into force on a date the Governor appoints by notice in the *Gazette*.
- (3) A notice under subsection (2) may appoint different dates for different provisions or for different purposes of the same provision.

Interpretation

2. In this Ordinance, unless the context otherwise indicates—
- “**adult education**” means continuing education and training activities (other than tertiary education) organised on a part-time basis suitable to the requirements of persons over compulsory school age and designed to enhance knowledge, skills, attitudes or cultural awareness;
- “**attendance officer**” means a person appointed as such by the Governor under section 32;
- “**Committee**” means a Council Committee having responsibility for education on St Helena;
- “**compulsory school age**” has the meaning given in section 34;
- “**Director**” means the Director of Education and Employment appointed under section 6;
- “**educational institution**” means any place where educational activities are carried on;
- “**Government**” means the Government of St Helena;
- “**head teacher**” includes an acting head teacher or, in the absence of such person, the teacher having charge of a school;
- “**medical officer**” means a person qualified to practice medicine in St Helena in accordance with the Medical Practitioners Ordinance, 1910;
- “**member of staff**” in relation to a school, means any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or

- charge of students at the school;
- “**parent**” in relation to a child, includes a guardian and any other person having actual custody of the child;
- “**pre-school education**” means education suitable to the requirements of a child who has attained the age of 3 years but has not attained the age of 5 years;
- “**primary school education**” means education which is suitable to the requirements of a child who has attained the age of 5 years but who has not attained the age of 12 years;
- “**private school**” means a school which is not a public school, but does not include home schooling activities;
- “**public library**” includes a mobile library;
- “**public school**” means a school which is maintained out of public funds and to which the general public has access without any conditions, other than those authorised by or under this Ordinance;
- “**school**” means an educational institution for providing pre-school, primary school or secondary school education;
- “**school day**” means a day on which children of compulsory school age are required to attend school in accordance with this Ordinance;
- “**school hours**” means those hours during which, on any school day, children of compulsory school age are required to attend school in accordance with this Ordinance;
- “**school year**” means the period from the 1st September in any year to the 31st August in the following year;
- “**secondary school education**” means education suitable to the requirements of a child who has attained the age of 11 years and who has completed primary school education;
- “**special education**” means education that is suitable to the best development of persons—
- (a) who are hearing or visually impaired, physically disabled or emotionally or behaviourally disturbed or who have moderate or severe learning disabilities; or
 - (b) who are gifted or have exceptional ability;
- “**special school**” means premises, other than a school, where education is provided to suit the needs of a person or persons who, by reason of the matters set out in this Ordinance, are required to be provided with education at such premises;
- “**teacher**” means a person employed in the public service as a teacher;
- “**tertiary education**” means education (including vocational training and technical training) suitable to the requirements of persons over compulsory school age who are not enrolled for secondary education in any school, or, if so enrolled, have completed a course of secondary education;
- “**this Ordinance**” includes a reference to any rules or regulations made under it.

PART II ADMINISTRATION

General purposes of Ordinance

3. The purposes of this Ordinance are to ensure—
 - (a) the promotion of education on St Helena and the establishment of institutions devoted to that purpose;
 - (b) the establishment of a system of education designed to provide adequately for the planning and development of an educational service related to the changing needs of the community;
 - (c) the effective execution of the education policy of the Government;
 - (d) a co-ordinated educational system organised in accordance with this Ordinance.

General responsibilities of Committee

4. (1) The Committee is responsible for securing the purposes set out in section 3 and the powers conferred on the Committee under this Ordinance must be exercised so as to ensure that such purposes are achieved.

(2) In the exercise of the powers conferred on it under this Ordinance, the Committee may do all things necessary and incidental to the purposes of carrying out its responsibilities under this Ordinance.

(3) In addition to supervising the duties imposed on the Director by this Ordinance, the Committee is responsible for—

- (a)* fostering a system of education calculated, as far as possible, to ensure that educational, technical and vocational abilities, aptitudes and interests of students find adequate expression and opportunity for development; and
- (b)* fostering a system of education for adults and young persons who have ceased compulsory schooling, and undertaking or participating in the discharge of the responsibilities of the Government with respect to post-schooling education.

Powers of Committee

5. For the purpose of discharging its responsibilities under this Ordinance, the Committee may, by rules or otherwise,—

- (a)* require the attendance of children of compulsory school age at schools established and conducted under this Ordinance;
- (b)* regulate the operation of private schools;
- (c)* ensure that curricula, textbooks and practices in all schools conform with prescribed standards of education;
- (d)* establish and disestablish public schools;
- (e)* determine the classification of schools;
- (f)* establish and maintain, or assist in establishing and maintaining, educational institutions or other facilities for tertiary education, adult education and special education;
- (g)* provide for the grant of scholarships;
- (h)* make provision for the examination and testing of students and the award of certificates; and
- (i)* prescribe guidelines for the dress code for schools.

Appointment of Director and Education Officers

6. (1) The Governor must appoint a suitably qualified person to be the Director of Education and Employment who is, subject to the directions of the Committee, responsible for the general administration of this Ordinance.

(2) The Governor must appoint Education Officers whose function is to assist the Director and who have responsibilities as prescribed by this Ordinance.

Responsibilities of Director

- 7.** Without limiting section 6, the Director is responsible for—
- (a) ensuring that schools and other educational institutions are administered in a proper and efficient manner;
 - (b) developing administrative principles and procedures for implementing general policies and administering the education system;
 - (c) delegating authority to appropriate professional personnel for administering various aspects of the system of education;
 - (d) the development and training of all public officers involved in education;
 - (e) initiating, subject to this Ordinance, curriculum innovation and reform and the establishment of appropriate procedures for evaluating the instructional programme of schools and other educational institutions;
 - (f) advising the Committee on matters affecting education in St Helena;
 - (g) ensuring that the premises, property and stock of public educational institutions are protected against improper use;
 - (h) initiating, organising and conducting courses of induction and training for untrained teachers;
 - (i) ensuring the observance of the provisions of this Ordinance pertaining to the conduct of educational institutions; and
 - (j) performing any other functions under this Ordinance assigned from time to time by the Committee.

Delegation of authority

8. (1) The Committee may, subject to the agreement of the Director, delegate in writing to the Director any function, duty or responsibility conferred on the Committee by this Ordinance.

(2) A delegation under subsection (1) does not preclude the Committee from exercising any or all of the functions so delegated if the Committee considers it expedient to do so.

(3) If the Director is required or permitted by this Ordinance to perform any function, the Director may in writing authorise a public officer to perform such function.

PART III SYSTEM OF EDUCATION

A. General

Stages of education

- 9. (1)** Compulsory education is to be organised in the following 2 stages:
- (a) primary school education; ~~and~~
 - (b) secondary school education.

(2) In addition to the 2 stages of education in subsection (1), there may be provided as part of the system of education—

- (a) pre-school education;
- (b) special education;
- (c) tertiary education;

- (d) adult education.

Classification

10. For the purposes of this Ordinance, the school system is to be organised in categories to be known as public schools and private schools.

B. Public Schools

Public schools

11. The public school system comprises schools that are necessary for the efficient carrying out of education in accordance with section 9, and may include—

- (a) pre-schools or departments of schools providing pre-school education;
- (b) schools providing primary school education;
- (c) schools providing secondary school education;
- (d) vocational or technical educational institutions providing education suitable for the needs of craftsmen and technicians.

Duty to provide schools

12. The Committee must cause to be provided the number of public schools necessary to secure a sufficient number of school places for children of compulsory school age.

Education Officers

13. Each public school is to be under the supervision of one or more Education Officers, subject to the directions of the Director.

Responsibilities of Education Officers

14. An Education Officer is responsible for the exercise and performance of the powers, duties and functions with regard to all public schools as determined by the Director, and is in particular responsible for—

- (a) the supervision and inspection of the programme of education required by the curriculum;
- (b) ensuring that school premises are protected against improper use;
- (c) the submission of reports to the Director on matters relating to the discipline of teachers;
- (d) monitoring and co-ordinating performance of the functions of attendance officers;
- (e) ensuring that outputs and targets set in business plans are met.

Annual report as to public schools

15. The head teacher of every public school must prepare and forward to the Director before 30th September in each year, a report for the previous school year containing any information required by the Director.

Responsibilities of head teacher

16. Subject to this Ordinance, the head teacher of a school is responsible for the day-to-day management of his or her school, including—

- (a) ensuring the physical safety of students and staff;
- (b) the suitable application of the syllabus in conformity with the needs of the students of the school, and the administration of the school's programme;
- (c) allocation and supervision of the duties and responsibilities of members of staff;
- (d) the discipline of the school;
- (e) teaching;
- (f) the proper use of school equipment and stock;
- (g) the keeping of proper records;
- (h) the furnishing of reports required at any time by the Director;
- (i) the preparation of annual business plans setting out the outputs and targets of the school for the forthcoming school year;
- (j) ensuring the observance of this Ordinance in respect of the school.

Inspection of public schools

17. The Director must cause inspections of public schools to be carried out in accordance with regulations made under this Ordinance.

Power of Committee to obtain information relating to public schools

18. (1) The Committee may, through the Director, require the head teacher of any public school to provide any information relating to the school required by the Committee for purposes of administering this Ordinance.

(2) The Committee may require the information under subsection (1) to be given in writing either by the entry of particulars in a form supplied by the Committee or otherwise.

(3) If a head teacher refuses or neglects to comply with a requirement of this section, the Director may take appropriate disciplinary action against the head teacher concerned

C. Private Schools

Private schools to be registered

19. No person may keep or continue to keep a private school unless the school and details of the proprietor are registered in the Register of Private Schools required to be kept under this Part.

Register of Private Schools

20. (1) The Director must cause to be kept in a prescribed manner a Register of Private Schools (in this Part referred to as "**the Register**").

(2) There must be entered in the Register every private school established before or after the commencement of this Ordinance in respect of which an application for registration is made in a form prescribed by regulations.

(3) A copy of the Register certified by the Director to be correct must be published in the *Gazette* in April of each year.

(4) Any additions or amendments to the Register must from time to time be certified by the Director and be published in the *Gazette*.

Application for registration

21. (1) An application for registration as a private school must be submitted by or on behalf of the school to the Director.

(2) The Director must, without delay, forward all applications received under subsection (1), with any observations on such applications, to the Committee.

(3) The Committee may, on receipt of an application, request the applicant to provide any such additional information and particulars the Committee considers to be relevant in relation to the application, and the applicant must comply with any such request.

Requirements for registration

22. (1) If the Committee, after causing appropriate inspection to be made of the school to which the application relates, is satisfied that—

- (a) the school premises are suitable for use as a school;
 - (b) the accommodation provided at the school premises is adequate and suitable having regard to the number, age and sex of the students who will be attending the school;
 - (c) efficient and suitable instruction will be provided at the school, having regard to the number, age and sex of the students attending the school;
 - (d) the proprietor and head teacher of the school are fit and proper persons to hold those positions; and
 - (e) the school meets any other requirements that may be prescribed by regulations,
- the Director must, either unconditionally or subject to conditions specified in writing by the Committee, register the school and notify the applicant and proprietor accordingly.

(2) If the Committee is not satisfied as to any of the requirements set out in subsection (1), it must refuse to register the school and notify the applicant in writing of its decision, giving its reasons for the refusal.

Power of Director to require proprietor to rectify deficiencies

23. If the Director is satisfied that a private school registered under this Part has ceased to be conducted in accordance with any of the requirements of this Ordinance, the Director may serve on the proprietor a notice setting out the deficiencies and requiring the proprietor of the school to rectify the deficiencies within a reasonable time specified in the notice.

Cancellation of registration

24. If the proprietor of a school who has been served with a notice under section

23 fails to rectify the deficiencies set out in the notice within the specified time or any further time the Committee allows, the Committee must cancel the registration of the school and notify the proprietor in writing of its decision, giving its reasons for the cancellation.

Restoration of school to register

25. (1) If the registration of a school is cancelled pursuant to section 24, the proprietor of the school may, if the deficiencies which led to the cancellation of the registration of the school have been rectified, apply to the Committee for the restoration of the school to the Register.

(2) Sections 21 and 22 apply, with necessary changes, to every application under subsection (1).

(3) Whenever there is any change in the name, ownership or location of a private school, the proprietor must immediately provide to the Director a supplemental return containing the correct particulars.

(4) If a private school remains closed for a period of more than 30 consecutive days (otherwise than for school holidays), the proprietor must provide to the Director a supplemental return giving the reasons for the closing of the school and the period during which the school is likely to remain closed.

(5) If subsequent to the closure of a private school as referred to in subsection (4), the proprietor desires to reopen the school, a new return specifying the name of the school, the closing and re-opening dates, and any particulars referred to in section 22(1) must be provided to the Director before the school is re-opened.

(6) The registration of a private school that remains closed for a period of more than 6 months is deemed to have been cancelled.

Returns of private schools

26. (1) At the end of each term, every proprietor of a private school must provide to the Director a return setting out—

- (a) the number of days during which the school was opened;
- (b) the number of students on roll at the end of each month during that term;
- (c) the average attendance for each month of that term;
- (d) the percentage of attendance of the total possible attendances for the students on roll;
- (e) the aggregate attendance for each month of that term.

(2) The proprietor of every private school must, before 31st March in each year, provide to the Director a report in respect of the previous 12 months containing a statement of accounts in a form approved by the Committee and containing any other information required by the Committee.

Offences in relation to private schools

27. (1) It is an offence for a person to—

- (a) keep a private school in contravention of section 19;
- (b) being the proprietor of a private school, contravene any of the conditions subject to which the school is registered under section 22.

Penalty: A fine of £1,000.

(2) Without affecting section 24, if a proprietor is convicted of an offence under subsection (1), the registration of the school must be cancelled from the expiration of the time for appealing against the conviction if no appeal against such conviction has been made, or as from the dismissal of the appeal, as the case may be.

PART IV EDUCATION

Curriculum

28. (1) Every public school must follow a curriculum consisting of the core subjects English, Mathematics and Science, which must be balanced by appropriate foundation courses as agreed by the Committee in consultation with the Director.

- (2) The curriculum must specify in relation to each subject—
- (a) the matters, skills and processes which are required to be taught to students of different abilities and maturities during each level of schooling (to be known as “**programmes of study**”);
 - (b) the knowledge, skills and understanding which students of different abilities and maturities are expected to have during each level of schooling (to be known as “**outcomes**”); and
 - (c) the arrangements for assessing students during each level of schooling for the purpose of ascertaining what the students have achieved in relation to the outcome targets of that level (to be known as “**assessment arrangements**”).

Levels of schooling

29. The levels of schooling in relation to a student are as follows—
- (a) in the case of primary school education - the period beginning with the student becoming of compulsory school age and ending at the same time as the school year in which all students in a particular class attain the age of 11 years; and
 - (b) in the case of secondary school education - the period beginning at the same time as the school year in which all students in a class attain the age of 12 years and ending at the same time as the school year in which all students in a class attain the age of 16 years.

Duty to establish curriculum

30. (1) The Director, in consultation with the Committee, must—
- (a) establish a complete curriculum as soon as is reasonably practicable after the commencement of this Ordinance; and
 - (b) revise that curriculum whenever it is considered necessary or expedient to do so.
- (2) The Director may specify such programmes of study, such outcomes and such assessment arrangements in relation to each of the subjects in the curriculum as ~~it is~~ **are**

considered appropriate for that subject.

Collective worship

31. (1) A public school must, subject to subsections (2) and (3), begin at least one school day in each week with collective worship which must provide for a single act of worship attended by all students in attendance at the school.

(2) If the parent of any student attending at the school requests that the student be wholly or partly excused from attendance at collective worship, the student must, until the request is withdrawn, be excused from such attendance.

(3) If, in the opinion of the Director, the school premises or other circumstances are such as to make it impractical or inconvenient to assemble the students for collective worship—

- (a)* in one place - the Director may direct that collective worship in such school be attended by students in smaller groups;
- (b)* in any particular week - there must be collective worship on some other day or days the Director directs.

PART V COMPULSORY EDUCATION

Attendance officers

32. (1) The Governor must appoint such number of school attendance officers as are necessary or desirable for the performance of the duties of such officers prescribed by this Ordinance.

(2) The functions of attendance officers are as prescribed in this Part, or by regulations made under this Ordinance.

Prohibition of discrimination

33. No person who is eligible for admission to a public educational institution as a student may be refused admission on any ground such as sex, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, age, disability, birth or other status.

Compulsory school age

34. (1) Subject to subsections (2), (3) and (4), a child is deemed to be of compulsory school age if he or she has attained the age of five years and has not attained the age of 16 years.

(2) A child who attains the age of 5 years during any school year is deemed to have attained the lower limit of compulsory school age at the beginning of that school year and it becomes compulsory for such a child to attend school from the first day of that school year.

(3) Any child who attains the age of 16 years during the course of any school year is deemed not to have attained the upper limit of compulsory school age until the day following the last examination required to be taken by that child in that school year.

(4) On the application of the parent of a child who has attained the age of 16 years, the Committee may, if satisfied that the further compulsory attendance of that child at a school would not be beneficial to the child, direct that as from the date of such direction, the child ceases to be of compulsory school age for the purposes of this Ordinance.

Meaning of “suitable education”

35. In this Part, “suitable education” in relation to a child means education which, having regard to the curriculum and facilities for education for the time being available in St Helena, is, as nearly as may be, suitable to the age, ability, special needs (if any), aptitude and health of the child.

Parents must secure education of children

36. (1) The parent of every child of compulsory school age must cause the child to receive suitable education either by regular attendance at a public school or otherwise.

(2) If any question arises as to whether or not a child of compulsory school age is receiving suitable education, the question must be referred to and determined by the Director.

(3) In determining any question as to whether a child is receiving suitable education otherwise than by regular attendance at a public school, the Director must have regard to any certificate given by a medical officer relating to the capacity of the child to undergo, without detriment to his or her physical or mental health, any particular course or method of instruction.

School attendance orders

37. (1) If it appears to an attendance officer that the parent of a child of compulsory school age is failing to perform the duty imposed by section 36, the attendance officer, subject to subsection (3), must take any steps that appear expedient for the purpose of securing the performance of the duty.

(2) For purposes of subsection (1), the attendance officer may, after obtaining approval from the Director, serve on the parent an order (hereinafter referred to as a “**school attendance order**”) requiring the parent to cause the child to be enrolled at a public school named in the order, within a time (being not less than 7 days) specified in the order.

(3) If a parent claims that a child is receiving suitable education otherwise than by attendance at a public school, that claim together with appropriate details setting out the schemes of work that the child is undertaking, must be referred to the Director for determination.

(4) The Director may revoke, amend or vary a school attendance order if, having regard to any change in circumstances, it appears to the Director to be expedient to do so.

(4A) The revocation of a school attendance order does not prevent the taking of further action under this section if at any time the circumstances so require.

(5) Subject to subsection (4), a school attendance order made in respect of any child continues in force for so long as the child is of compulsory school age.

(6) A person upon whom a school attendance order is served who fails without reasonable excuse (the burden of proving which is on the person) to comply with the requirements of the order commits an offence.

Penalty: A fine of £200.

Parents must secure regular attendance of children at school

38. (1) Subject to subsection (1A), if any child of compulsory school age who is enrolled as a student at a school fails to attend regularly at the school, the parent of the child commits an offence.

Penalty: A fine of £200.

(1A) A parent does not commit an offence under this subsection if the parent proves that he or she did not know and could not possibly have known (the burden of proving which is on the parent) that the child was failing to attend regularly at the school.

(2) In any proceedings for an offence under this section, the child in respect of whom the proceedings are taken is deemed not to have failed to attend regularly at the school—

- (a)* by reason of the child's absence from school with leave granted by the head teacher of the school, or any teacher authorised by the head teacher for the purpose;
- (b)* at any time when the child was prevented from attending because of sickness or other unavoidable cause; or
- (c)* on any day exclusively set apart for religious observance by the religious body to which the child's parent belongs.

Persistent truants

39. (1) If in any proceedings for an offence under section 38 it appears to a court that the child in respect of whom the proceedings are brought is—

- (a)* a persistent truant; and
- (b)* beyond the control of his or her parent,

the court may, whether the parent is convicted or not, direct that the child be brought before a Juvenile Court, and may remand the child on bail or in custody in a home or other place approved for the purpose by the Department until the child can be brought before a Juvenile Court.

(2) If a child is brought before a Juvenile Court pursuant to subsection (1), and if it is proved to the satisfaction of the court that the child is a persistent truant and is beyond the control of his or her parent, the child must be deemed to be in need of care and protection or control and the Juvenile Court may deal with the child in accordance with section 42 of the Welfare of Children Ordinance, 2008.

- (3) In this section—
- “**persistent truant**” means a child who, having been enrolled as a student in a school, frequently and wilfully fails to attend at that school;
- “**Juvenile Court**” means a court exercising jurisdiction under the Welfare of Children Ordinance, 2008; and
- “**child**” means a person who is of compulsory school age;
- “**Department**” has the same meaning as in the Welfare of Children Ordinance, 2008.

Powers of attendance officers to obtain information, etc.

40. (1) For the purpose of enabling an attendance officer to discharge his or her duties under this Part, an attendance officer may require—
- (a) the parent of any child to give information relating to the age of the child or the attendance of the child at school and any other information which is in the possession of, or available to, the parent and which is relevant to the purposes of this Part; and
- (b) the head teacher of any school to give information relating to the enrolment of any child as a student at the school or the attendance at the school of any child enrolled as a student at the school and any other information which is in the possession of, or available to, the head teacher and which is relevant to the purposes of this Part.
- (2) An attendance officer may require any information given pursuant to subsection (1) to be given in writing, either by the entry of particulars in a form supplied by the attendance officer or otherwise.
- (3) If any information is required under this section to be given in writing, the time allowed for the information to be given must be at least 3 days.

Obstructing attendance officer, etc.

41. (1) It is an offence for a person wilfully to—
- (a) obstruct or hamper an attendance officer acting in the execution of his or her duties under this Part; or
- (b) refuse or neglect to comply with any requirement as to the giving of information imposed under section 40.
- Penalty: A fine of £500 or imprisonment for 12 months, or both.
- (2) A person who, on being required under section 40 to give information, gives any false information which the person knows to be false or does not believe to be true, commits an offence.
- Penalty: A fine of £500 or imprisonment for 12 months, or both.

**PART VI
FREE EDUCATION**

Interpretation of Part

42. In this Part “**free education**” in relation to any child, means education for

which no fee for the tuition of the child is payable by or on behalf of the child.

Entitlement to free education

43. (1) Subject to this Ordinance, every child who is ordinarily resident in St Helena has a right to receive free education at a public school, suited to the child's age, ability, special needs (if any), aptitude and health.

(2) Every child who is ordinarily resident in St Helena and has attained the age of 3 years but who has not attained the age of 5 years has, subject to the availability of resources, a right to receive free pre-school education if accommodation is available for the child in a public school.

(3) Subject to subsections (4) and (5), no fee is to be demanded, sought or accepted by any teacher or other person from the parent or any other person in respect of the education at a public school of any child who is entitled to receive free education under this section.

(4) Nothing in this Part prohibits the Director from requiring the parent of a child to pay an amount necessary to replace any educational material or other property which a child has lost or so damaged as to render unusable, and the Committee may make rules for giving effect to this subsection.

(5) Without derogating from the right to free education, a parent of a child may be required to contribute, either financially or otherwise, to any extra-curricular activity (school outings, expeditions, school performances, religious festivals, etc.) in which the child is involved.

Implementation of right to free education

44. (1) The right of children to receive free education pursuant to this Ordinance must be implemented by the provision of free education at all public schools, and such provision is sufficient fulfilment of this Part in so far as it confers a right to receive free education.

(2) Nothing in this Part requires the provision of free education for a child if, in the circumstances of a particular case, it would, in the opinion of the Committee, be impracticable or inexpedient to so provide.

Principles governing admission to schools

45. (1) The principles governing the admission of a child to a public school are as prescribed by regulations.

(2) The head teacher of every public school must bring to the attention of parents the admission procedures prescribed by regulations made in accordance with subsection (1).

(3) If the Director gives a direction that a child is not to attend or continue to attend at a particular public school, the attendance by the child at that school is, if the child is of compulsory school age, deemed not to be attendance at a public school for the purposes of

this Ordinance.

(4) A child who is receiving education at a public school and who ceases to reside in the district in which that school is situated, is not required to transfer to a school situated in the district in which the child has taken up new residence until the beginning of a new school year, unless the Director is satisfied, in all the circumstances of the case, that such transfer is necessary or expedient.

PART VII DISCIPLINE, SUSPENSION AND EXPULSION

Responsibility for discipline

46. (1) The Director must ensure that policies designed to promote good behaviour and discipline on the part of all students are pursued at public schools.

(2) The Director must, in consultation with the Committee, prepare a written statement of general principles to which a head teacher is to have regard in determining any measures under subsection (4) and must from time to time review such statement.

(3) Before preparing or revising the statement required by subsection (2), the Director must consult the relevant head teacher and parents of students at the school in a manner that appears to the Director to be appropriate.

(4) The head teacher must, subject to subsection (5), decide on measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—

- (a) promoting self-discipline and proper regard for authority among students;
- (b) encouraging good behaviour and respect for others on the part of students;
- (c) securing an acceptable standard of behaviour of students; and
- (d) otherwise regulating the conduct of students.

(5) The Director and the head teacher must, before any measures are decided on under subsection (4), consult the Committee on any matter arising from the proposed measures which might affect the specific responsibilities of the Committee under this Ordinance.

(6) Rules introduced by virtue of subsection (4) are not to come into effect unless approved in writing by the Director.

(7) A head teacher must publicise any measures decided on under subsection (4) in the form of a written document and must—

- (a) make the measures generally known within the school and to parents of students at the school; and
- (b) at least twice in every school year, take steps to bring the measures to the attention of all students and parents and all persons employed at the school.

Power of member of staff to restrain student

47. (1) A member of staff of a school may use, in relation to any student at the

school, such force as is reasonable in the circumstances for the purpose of preventing the student from doing (or continuing to do) any of the following:

- (a) committing any offence;
- (b) causing personal injury to, or damage to the property of, any person (including the student himself or herself); or
- (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its students, whether that behaviour occurs during a teaching session or otherwise.

(1A) Any force used as mentioned in subsection (1) must where practically possible be exercised by a member of staff of the same sex as the student.

(2) Subsection (1) applies if a member of staff of a school is either on the premises of the school or elsewhere at a time when, as a member of its staff, he or she had lawful control or charge of the student concerned.

(3) Nothing in this section authorises anything being done in relation to a student which constitutes the giving of corporal punishment.

(4) Subsection (1) does not prevent any person from relying on any defence available to the person otherwise than by virtue of this section.

(5) For purposes of this section “**offence**” includes any act which would constitute an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.

Power of members of staff to search school students for weapons

48. (1) A member of the staff of a school who has reasonable grounds for suspecting that a student at the school may have with him or her or in his or her possession—

- (a) an offensive weapon; or
- (b) any illegal drugs or alcoholic beverage,

may search that student or his or her possessions for such articles, weapons, or substances.

(2) A search under this section may be carried out only where—

- (a) the member of the staff and the student are on the premises of the school; or
- (b) they are elsewhere and the member of the staff has lawful control or charge of the student.

(3) A person may carry out a search under this section only if the person—

- (a) is the head teacher of the school; or
- (b) has been authorised by the head teacher to carry out searches.

(4) A person who carries out a search of a student under this section—

- (a) may not require the student to remove any clothing other than outer clothing;
- (b) must be of the same sex as the student; and
- (c) may carry out the search only in the presence of another member of the staff who is also of the same sex as the student.

(5) A student’s possessions may not be searched under this section except in the

student's presence and in the presence of another member of the staff.

(6) If, in the course of a search under this section, the person carrying out the search finds—

- (a) anything which the person has reasonable grounds for suspecting falls within subsection (1)(a) or (b); or
- (b) any other thing which the person has reasonable grounds for suspecting is evidence in relation to an offence,

the person may seize and retain it.

(7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.

(8) A person who seizes anything under subsection (6) must deliver it to a police officer as soon as reasonably practicable.

(9) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section, or to a particular description of such searches.

(10) The powers conferred by this section are in addition to any powers exercisable by the member of the staff in question apart from this section and are not to be construed as restricting such powers.

(11) In this section—

“**member of the staff**”, in relation to a school, means—

- (a) any teacher who works at the school; and
- (b) any other person who, with the authority of the head teacher, has lawful control or charge of students for whom education is being provided at the school;

“**offensive weapon**” means any article made or adapted for use for causing injury to the person, or intended by the person having it with him or her for such use by him or her (or some other person)

“**outer clothing**” means—

- (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
- (b) a hat, shoes, boots, gloves or a scarf;

“**possessions**”, in relation to a student of a school, includes any goods over which the student has or appears to have control.

Degrading or injurious punishment

49. In the enforcement of discipline in public or private schools, degrading or injurious punishment (which includes corporal punishment) must not be administered.

Suspension or expulsion of students

50. (1) The head teacher of a public school may temporarily suspend from attendance any student who on account of gross misconduct may be considered a risk or danger to the members of staff or to other students or whose attendance at school is likely to have an adverse effect upon the good order and proper discipline of the school, but no such

suspension may exceed 2 weeks.

- (2) If a student is suspended from attendance under subsection (1)—
 - (a) the Head Teacher of the school must immediately notify the Director;
 - (b) the Director must, as soon as is reasonably practicable after receipt of notification under paragraph (a), notify the Committee; and
 - (c) the Committee may, on receipt of notification under paragraph (b), order—
 - (i) that the term of suspension be extended to enable proper enquiries to be made;
 - (ii) that the student be reinstated on a date to be fixed by it if the circumstances justify this after due investigation;
 - (iii) that the student be removed to another educational institution including a special school; or
 - (iv) that the student be expelled.

(3) A student who has been suspended from attendance at a secondary educational institution under this section or who has been expelled from such an institution is, for the period during which the suspension is in effect or after being so expelled, as the case may be, deemed to have forfeited his or her right to free education under section 43.

Suspension on account of disease

51. The head teacher of a school may temporarily suspend from attendance any student who may be likely to communicate any contagious disease and in every such case the head teacher must immediately report to the parents of the student and to the Director the action taken by the head teacher and the reasons for it.

PART VIII APPEALS

Constitution of Appeals Committee

52. (1) There is to be a body of persons, to be known as the Appeals Committee, having the powers and duties conferred or imposed upon it by or under this Ordinance.

(2) The Governor must appoint not less than 5 persons to form a panel from which the members of the Appeals Committee are to be selected.

(3) The Governor must appoint a Chair of the Appeals Committee and at any sitting of the Committee the Chair, if present, must preside.

(4) If the Chair is absent at any sitting, the Governor may appoint another member from among the panel appointed under subsection (2) to be Chair at that sitting.

(5) The Chair must select 2 persons from the panel appointed under subsection (2) and those 2 persons, together with the Chair form the Appeals Committee to determine any appeal made to it.

(6) Subject to this Ordinance, the Appeals Committee may regulate its own

proceedings.

Right to appeal

- 53. (1)** Any person aggrieved by a decision—
- (a) to refuse a child admission to a public school;
 - (b) to require a student to be transferred to a school situated in a district in which the child has taken up new residence before the end of the relevant term;
 - (c) to suspend or expel a student pursuant to section 50;
 - (d) to refuse to register a private school under section 22(2);
 - (e) to cancel the registration of a private school under section 24;
 - (f) under section 36, whether a child of compulsory school age is receiving suitable education;
 - (g) not to exempt a child who has attained the age of 16 years from attending school as provided for in section 64,

may appeal to the Appeals Committee.

(2) Pending the decision of the Appeals Committee on any appeal, the decision appealed against stands.

Procedure on appeal

54. (1) Any person wishing to appeal under section 53 (hereinafter referred to as “**the appellant**”) must address to the Chair of the Appeals Committee a notice of appeal in writing—

- (a) setting out all relevant particulars relating to the child and to the school concerned; and
- (b) specifying the decision appealed against and the grounds of the appeal.

(2) The appellant must serve a copy of the notice of appeal on the Director (hereinafter referred to as “**the respondent**”) who has have the right to reply to it.

(3) The Appeals Committee must fix a date for the hearing of the appeal and on that date may either determine the appeal upon the facts contained in the notice of appeal and the reply to it, or may hear any further evidence that is required and available.

(4) The appellant and the respondent have the right to be heard in person at the hearing of the appeal, or they may appear by their duly appointed representatives.

(5) The Appeals Committee must communicate its decision in writing to the appellant and the respondent.

Further appeal against decision of Appeals Committee

55. Any person aggrieved by a decision of the Appeals Committee under section 54 may, within 30 days of being notified of the decision, and in accordance with any rules of court for the time being in force, appeal to the Supreme Court against the decision.

**PART IX
SUPPLEMENTAL**

Power to visit or inspect private schools

56. (1) Subject to subsection (3), for the purpose of administering this Ordinance, any person authorised by the Director may visit or inspect, at all reasonable hours, any private school.

(1A) A member of the Committee may take part in any inspection under subsection (1).

(2) A member of the Committee may, after appropriate arrangements have been made with the Director, visit any private school.

(3) Before any inspection or visit referred to in subsection (1) or (2) is carried out, the Director must cause reasonable notice of the intended inspection or visit to be given to the proprietor and head teacher of the school.

(4) If any person inspects or visits any private school as contemplated by this section, the proprietor and head teacher of the school must afford that person every reasonable facility in furtherance of the purpose of the inspection or visit.

(5) A proprietor or head teacher who refuses or neglects to perform the duty imposed by subsection (4) commits an offence.
Penalty: A fine of £500.

Power to obtain information relating to private schools

- 57.** (1) The Committee may -
- (a) require the proprietor or head teacher of any private school to provide ~~to him~~ any information relating to the school specified in the request for the purpose of administering this Ordinance; and
 - (b) require any such information to be given in writing either by the entry of particulars in a form supplied by the Committee or otherwise.

(2) A proprietor or head teacher of any private school who refuses or neglects to comply with a requirement under subsection (1) commits an offence.
Penalty: A fine of £200.

(3) A person who in responding to a request under subsection (1) gives any false information which the person knows to be false or does not believe to be true commits an offence.
Penalty: A fine of £500.

Requirement that notices, etc. must be in writing

58. All notices, orders, consents, applications and other documents authorised or required by or under this Ordinance to be given, made or issued must, except as otherwise expressly provided, be in writing.

Authentication of documents

59. (1) Any notice, order, consent or other document which the Committee is authorised or required by or under this Ordinance to give, make or issue, may be signed on behalf of the Committee by any officer of the Education Department duly authorised by the Committee for that purpose.

(2) Any document purporting to bear the signature of a person expressed to hold an office by virtue of which the person is under this section empowered to sign such a document, or expressed to be duly authorised by the Committee to sign such a document, is, for the purposes of this Ordinance, deemed, until the contrary is proved, to have been duly given, made or issued by or under the authority of the Committee.

Service of notices

60. Any notice, order, consent, application or other document which is required or authorised by or under this Ordinance to be given to or served on—

- (a) the Committee, - may be given or served by delivering it at the Education Office or by sending it by post in a prepaid letter to that office; or
- (b) any other person - may be given or served by delivering it to that person or by sending it by post in a prepaid letter addressed to the person at the person's usual or last known place of residence or business.

Institution of prosecutions

61. No proceedings for any offence against this Ordinance may be instituted or carried on except with the consent of the Attorney General.

PART X MISCELLANEOUS

Teachers

62. (1) Teachers must be appointed in accordance with the relevant provisions of the Constitution.

(2) The Director must assign each teacher to a particular school, and may transfer teachers between schools, subject to any conditions of appointment under subsection (1).

(3) Any pension, gratuity or other allowances granted under the Pensions Ordinance, Cap. 150 or under any Ordinance amending or replacing that Ordinance, to a person who has held an office as teacher is to be computed as if all the person's service as a teacher (including service in a school established under this Ordinance or any previous Ordinance relating to education) had been service under the Government.

Non-employment of children

63. *Repealed by Ord.16/2017*

Exemption from attendance of children over 16 years

64. A child who has attained the age of 16 years may be exempted by the Committee from the attendance prescribed by this Ordinance, if it is shown to the satisfaction of the Committee that there are special circumstances for the child being so exempted.

Special education

65. (1) The Committee -

- (a) may for the purpose of ascertaining which children of compulsory school age require special educational treatment, cause relevant investigations to be carried out; and
- (b) after considering the results of such investigations, may take any steps necessary to provide for the education of any such children requiring special educational treatment.

(2) The Committee may, in the case of children suffering under serious disabilities, so far as is practicable, provide for their education in special schools appropriate for such children.

(2A) If such provision is not practicable or the disability of the child is not serious, the Committee may provide for the giving of special treatment to children suffering under any disability at any school.

(3) For the purposes of this section, the Director may cause to be served on the parent of any child of compulsory school age a notice requiring the parent to submit the child, on or before the time specified in the notice, for examination by a medical officer for advice as to whether the child is suffering from any disability of mind or body and as to the nature and extent of any such disability.

(4) A parent on whom notice is served under subsection (3) who fails without reasonable cause to comply with the requirements of the notice commits an offence.
Penalty: A fine of £250.

(5) The Director may make such arrangements as are considered necessary for the provision of transport and implement other measures for the purpose of facilitating the attendance of children receiving special educational treatment at a school or other place.

Teachers and Parent-Teachers Associations

66. (1) An association of teachers or of parents and teachers may be constituted in connection with any public educational institution in accordance with regulations made under this Ordinance and the Committee may encourage and assist the formation of such associations.

(2) The objects of any such association must include the promotion of the interests of the educational institution by bringing parents, members of the community, students and teachers into close co-operation.

(3) Each such association must, subject to this Ordinance, make rules for the

regulation and control of its business.

Wishes of parents to be considered in education of students

67. (1) In the exercise and performance of its functions under this Ordinance, the Committee must, subject to subsection (2), have regard to the general principle that the wishes of parents are to be considered in the education of students.

(2) Subsection (1) applies only so far as is compatible with the provision of efficient instruction and training of students and the avoidance of unreasonable public expenditure.

Penalty for obstructing execution of Ordinance

68. A person who wilfully obstructs any person acting in the execution of this Ordinance, or any regulations, rules or directions made or issued under it commits an offence. Penalty: A fine of £500 or imprisonment for 12 months, or both.

Penalty for offences

69. *Omitted*

Vendors on school premises

70. (1) No person may sell or offer for sale any goods, food, drinks or services on school premises without the written permission of the Director.

(2) A person who wishes to sell or offer for sale any goods, food, drinks or services on the premises of a school must apply in writing for permission to do so to the Director through the head teacher of the particular school.

(3) If an application is made under subsection (2) to sell food or drink, the applicant must submit with the application a medical certificate from a medical officer to the effect that the applicant is free from disease and is unlikely to be a source of infection to any person at the school.

(4) If an application is made under subsection (2), the Director may, after interviewing the applicant and consulting the head teacher and having considered the suitability of the proposed goods, food, drinks or services to be sold, grant permission to the applicant, on terms and conditions the Director thinks fit.

(5) Every person who sells or offers for sale food or drink on school premises must ensure that the area used by the person is in a clean state and that all wrapping or other kinds of litter are collected for disposal.

(6) The sale of food and drink during lesson periods must not be permitted without the prior approval of the head teacher.

(7) The Director may revoke the written permission given to any vendor who contravenes any condition stated in the permit.

(8) A person who sells or offers for sale any goods, food, drinks or services or any other item on the school premises or within the entrance or exit of a school during school hours without the written consent of the Director or the approval of the head teacher under subsection (6) commits an offence.

Penalty: A fine of £500.

Prohibition on sale of alcoholic drinks and tobacco

71. Any person who sells, offers or exposes for sale any alcoholic drinks or tobacco on the premises of any school during school hours or whilst a school is being used for educational purposes commits an offence.

Penalty: A fine of £500, or imprisonment for 12 months, or both.

Loitering, etc. on school premises

72. (1) It is an offence for a person to—

- (a) be found loitering, wandering or otherwise trespassing on the premises of any school;
- (b) create a disturbance on the premises of any school;
- (c) while on the premises of any school—
 - (i) use threatening or insulting language or in any manner interfere with any student or member of staff of the school;
 - (ii) assault, insult or abuse a teacher or student; or
 - (iii) disrupt any lawful activity conducted on the premises of the school;
- (d) in a public place cause or make a noise that disturbs or is likely to disturb any lawful activity carried out on the premises of a school; or
- (e) commit any damage to a school building or other property found on the premises or forming part of the compound of the school.

Penalty: A fine of £500, or imprisonment for 12 months, or both.

(2) A person who commits an offence under subsection (1) may be arrested by a police officer with or without a warrant.

Regulations

73. (1) The Governor in Council may make regulations necessary or convenient for the purposes of this Ordinance and, without limiting this provision, such regulations may specifically—

- (a) prescribe the principles governing admission to public schools;
- (b) prescribe the number of days in each school year which will be school days;
- (ba) prescribe the hours during which children of compulsory school age will be required to attend school on such days;
- (c) regulate the practice and procedure for the inspection of public schools;
- (d) prescribe additional requirements for the registration of private schools;
- (e) prescribe the standards of education in public and private schools; and
- (f) provide for any matters that are contemplated by this Ordinance or that are necessary for giving full effect to this Ordinance and for its administration.

(2) Regulations made under this section may contain provisions for imposing a

penalty on any person contravening the regulations.

PART XI PUBLIC LIBRARIES

Provision for and management of public libraries

74. (1) The Governor may, by notice published in the *Gazette*, designate any building, or part of a building, as a public library.

(2) The management and control of every public library is vested in the Committee.

(3) The Committee may establish and maintain mobile libraries for the use of the public.

(4) The Committee may set aside and use any part of a public library for the purpose of study and research, the holding of classes or exhibitions, the viewing or hearing of library material, or for other like purposes of an educational or cultural nature, and in that connection may provide the requisite equipment and facilities.

Penalty for offences in libraries

75. It is an offence for a person, in any public library to which this Ordinance applies, to the annoyance or disturbance of any person using such library to—

- (a) behave in a disorderly manner;
- (b) use violent, abusive or obscene language; or
- (c) after proper warning, persist in remaining in the public library beyond the hours fixed for the closing of it.

Penalty: A fine of £250.

Rules relating to public libraries

76. The Committee may prescribe rules—

- (a) fixing the hours during which any public library is to be open to the public;
- (b) regulating admission to any public library or part of it or the use of any such library or part or any of the equipment, facilities or library material provided in any public library;
- (c) regulating the lending and borrowing of library material in any public library;
- (d) regulating the conduct of persons in any public library;
- (e) protecting any public library and the fittings, furniture, equipment and library material in it, and any other contents of it, from damage;
- (f) enabling any person to be refused the use of any public library or any of the equipment, facilities or library material in any such library and the removal from the library of any person;
- (g) providing for the fees, charges and penalties to be paid by any person in respect of the borrowing of library material from any public library;
- (h) providing for the general regulation and management of any public library.

PART XII

REPEAL AND TRANSITIONAL PROVISIONS

Repeal

77. The Education Ordinance, Cap. 167 is repealed.

Transitional provisions

78. (1) Despite the repeal of the Education Ordinance, Cap. 167 (“**the repealed Ordinance**”) by this Ordinance—

- (a) any school or public or mobile library established under the repealed Ordinance continues to exist and is deemed to have been established under this Ordinance;
- (b) any person appointed under the repealed Ordinance as the Director, an Education Officer, attendance officer or teacher is deemed to have been appointed as such under this Ordinance;
- (c) any matter prescribed by the Governor in Council or by the Committee by rule or regulation under the repealed Ordinance remains in force so far as it is not inconsistent with this Ordinance.

(2) Subsection (1) applies until schools and public or mobile libraries are established under this Ordinance; appointments of persons are made under this Ordinance; and rules and regulations are made under this Ordinance.

(3) *Omitted*

(4) A child is deemed not to be of compulsory school age for the purposes of this Ordinance if the child is over the age of 15 years and, immediately before the commencement of this Ordinance the child was—

- (a) over the compulsory school age prescribed in the repealed Ordinance; or
- (b) exempted from school attendance under any other provision of that Ordinance.

(5) Subsection (4) does not apply if the child continues to attend school on or after the commencement of this Ordinance.

EDUCATION ORDINANCE, 2008

EDUCATION (SCHOOL ATTENDANCE) REGULATIONS, 2009

(Section 73)

Citation

1. These regulations may be cited as the Education (School Attendance) Regulations, 2009.

School attendance

2. (1) The number of days in each school year which are to be school days is 197.

(2) Children of compulsory school age are required to attend school between the hours of 9.00 a.m. and 3.00 p.m. on each school day.

Functions of attendance officers

3. The functions of attendance officers appointed under section 32 of the Ordinance are, in addition to the functions prescribed by Part V of the Ordinance -

- (a) to receive and investigate any report that a child of compulsory school age has, without reasonable excuse failed to attend school as required by that Part or these Regulations;
 - (b) to receive and investigate any report that a child of compulsory school age has been employed during school hours in contravention of section 63 of the Ordinance;
 - (c) to report to the Director, in writing, the results of any such investigation; and
 - (d) with the approval of the Director, to take appropriate action, including legal proceedings, against any person who appears to the officer to have contravened Part V of the Ordinance.
-