

Examined and certified by:



Clerk of the Parliament

In the name and on behalf of Her Majesty Queen Elizabeth the Second I hereby assent to  
this Act this 12<sup>th</sup> day of December 2012



Sir F. Goodwin, KBE  
Queen's Representative

## ANALYSIS

1	Title	4
2	Commencement	4
<b>Part 1</b>		
<b>Preliminary</b>		
3	Purpose	4
4	Interpretation	5
5	Act binds the Crown	8
<b>Part 2</b>		
<b>The Minister, Ministry and Secretary</b>		
6	Ministry of Education	8
7	Minister for Education	8
8	Secretary of Education	8
<b>Part 3</b>		
<b>Establishment and registration</b>		
<i>Government educational institutions</i>		
9	Establishing and closing government educational institutions	9
10	Regulations may prescribe requirements for government educational institutions	9
<i>Private providers</i>		
11	Private schools to be registered	9
12	Private tertiary education providers to be registered	9
13	Application for registration of private school or private tertiary education provider	10
14	Decision on application	10
15	Registration	10
16	Compliance with conditions	11
17	Deregistration	11
18	Monitoring registered private schools and registered private tertiary education providers	12
19	Closing a private school	12
<b>Part 4</b>		
<b>Schools</b>		
<b>Subpart 1—School Enrolment and Attendance</b>		
20	Terms, school days and school hours	12
21	Schools must be open for terms, school days and school hours	13
22	Entitlement to attend government school	13

23	Compulsory enrolment and attendance	14
24	Exemption from attending school	14
25	Exclusion for health reasons	15
26	School zones	15
	Subpart 2—Regulating Student Behaviour	
27	Application	15
28	School rules	15
29	School discipline committee	16
30	Dealing with student misbehaviour	16
31	Stand-down for misbehaviour	16
32	Procedure after stand-down	17
33	Suspension by principal	17
34	Action after suspension	17
35	Exclusion of student under 16	18
36	Expulsion from school of student over 16	19
37	Review of stand-down or suspension decision	19
38	Effect of suspension on school register	20
39	Duties of principal when student stood down or suspended	20
	Subpart 3—School Associations	
40	School associations	20
41	Authority of a school association	21
42	Members of school associations	21
43	School association committee	21
44	Members of school association committee	21
45	Ending membership of committee member	22
46	Meetings of school association committees	22
47	School association annual general meeting	23
48	School association bank account	23
49	Financial records of school association	23
50	Financial statements of school association	24
	Subpart 4—Teachers	
	<i>Application</i>	
51	Application	24
	<i>Professional standards and registration system</i>	
52	Secretary's responsibilities—professional standards for teachers	25
53	Secretary's other responsibilities	25
	<i>Registration of teachers</i>	
54	Teachers must be registered or hold limited authority to teach	25
55	The teacher register	25
56	Register of limited authorities to teach	26
57	Application for registration or for limited authority to teach	26
58	Consideration of application	26
59	Decision on application	27
60	Registration	28
61	Renewal of registration—application	28
62	Renewal of registration—decision	29
63	Failure to inform Secretary of name change	29
64	Failure to inform Secretary of charge	29
65	Applications following refusal or cancellation	30
	<i>Monitoring performance of teachers</i>	

66	Applications of sections 65 to 74	30
67	Teachers charged with, or convicted of, a sexual offence	30
68	Secretary may revoke limited authority to teach	30
69	Complaints about registered teacher conduct or competence	31
70	Complaints about conduct	31
71	Committee's report and recommendations	31
72	Secretary's decision on conduct	32
73	Complaints about competence	32
74	Secretary must inform teacher of proposed action	32
75	Secretary's decision on competence	33
	<i>Complaints about decisions</i>	
76	Complaints about teacher registration decisions	33
	<i>Offences</i>	
77	Wrongfully claiming to be a registered teacher	33
78	Employing unregistered teacher	33
	Subpart 5—Other provisions relating to schools	
79	Trespassing on or disturbing schools	34
80	Police clearance for school staff	34
81	Board of trustees for government schools	34
82	Incorporation of society of teachers	35
	<b>Part 5</b>	
	<b>Education Guidelines</b>	
83	Education guidelines	35
84	Instructions relating to the Education Guidelines	35
	<b>Part 6</b>	
	<b>Formal Qualifications</b>	
	Subpart 1—National Qualifications Framework	
85	National Qualifications Framework	36
	Subpart 2—Approval of Qualifications by Secretary	
86	Application of subpart 2	36
87	Approval to provide formal qualification	36
88	Application for approval to provide formal qualification	36
89	Decision on application	36
90	Revocation of approval of tertiary programme	37
	Subpart 3—Cook Islands Qualifications Authority	
91	Definition	37
92	Application	37
93	Cook Islands Qualification Authority	37
94	National Register of Qualifications	37
95	Application for registration of formal qualification	37
96	Decision on application	38
97	Registration of formal qualifications	38
98	Schools and providers must be accredited	38
99	Application for accreditation	38
100	Decision on application	39
101	Cancellation of accreditation	39
	<b>Part 7</b>	
	<b>Tertiary Education</b>	
	Subpart 1—Internationally recognised universities	
102	Declaration of internationally recognised universities	39

	Subpart 2—Tertiary Education Committee	
103	Establishment of Tertiary Education Committee	39
	Subpart 3—Cook Islands Government Scholarships	
104	Purpose of Subpart 3	39
105	Cook Islands government scholarships	40
106	Eligibility for Cook Islands government scholarships	40
107	Award of Cook Islands government scholarships	40
108	Contract for Cook Islands government scholarship	40
	<b>Part 8</b>	
	<b>Miscellaneous</b>	
109	Corporal punishment and verbal abuse	40
110	False or misleading information	41
111	Protection from liability	41
112	Minister may establish advisory committees	41
113	Education Gazette	41
114	Grants to private educational institutions	41
115	Regulations	41
116	Repeal	42
	<b>Part 9</b>	
	<b>Savings and Transitional</b>	
117	Savings and transitions	42
118	Children turning 15 before 1 January 2013	43
119	Renewal of registration of teachers registered before commencement	43
120	Police clearances for school staff	43

---

An Act to regulate education in the Cook Islands.

**The Parliament of the Cook Islands enacts as follows—**

- 1 Title**  
This Act is the Education Act 2012.
- 2 Commencement**  
This Act comes into force on a day to be determined by the Queen's Representative by Order in Executive Council.

### **Part 1**

#### **Preliminary**

- 3 Purpose**  
The purpose of this Act is to provide for an education system in the Cook Islands, with an emphasis on—
  - (a) providing education for all age-groups; and
  - (b) the use and preservation of the Cook Islands Maori language; and
  - (c) Cook Islands Maori language, culture, perspectives, and aspirations; and
  - (d) equitable access to education of high quality; and
  - (e) a high level of community involvement in determining educational outcomes; and

- (f) ensuring that everyone involved in the education system is treated with dignity, respect, and understanding, in a way that is consistent with—
  - (i) the fundamental human rights and freedoms in Articles 64 and 65 of the Constitution of the Cook Islands; and
  - (ii) the Convention on the Rights of the Child; and
  - (iii) the Convention on the Elimination of All Forms of Discrimination Against Women; and
  - (iv) the Convention on the Rights of Persons with Disability.

#### 4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**child** means a person under the age of 18 years

**continuing education** means education (other than tertiary education) for people who have completed their secondary education

**complaints assessment committee** means a committee established under section 68

**convicted of an offence** means found guilty of an offence,—

- (a) whether on a plea of guilty or otherwise; and
- (b) whether or not a conviction is or was recorded

**Cook Islander** has the meaning given by the Entry, Residence and Departure Act 1971-72

**Cook Islands government scholarship** has the meaning given by section 103.

**discipline policy**, for a school, means the school's policy for regulating student behaviour and dealing with breaches of the school rules by students of the school

**early childhood education** means education for children under the age of 5 years

**education** includes vocational training

**Education Gazette** means the periodical of that name referred to in section 113

**educational institution** means an institution offering any or all of the following types of education—

- (a) early childhood education:
- (b) primary education:
- (c) secondary education:
- (d) tertiary education:
- (e) continuing education:
- (f) vocational training

**fails** includes refuses

**financial record**, for a school association, means any document that relates to the financial management of the association (for example, a bank statement, contract, invoice, or receipt)

**formal qualification** means a qualification of a kind mentioned in the National Qualifications Framework

**government educational institution** means an educational institution established under section 9(1), or under a corresponding provision of any former enactment

**government school** means a school established under section 9

**government tertiary education institution** means a government educational institution established to provide tertiary education

**higher education** means tertiary education or continuing education

**internationally recognised university** means a university declared to be an internationally recognised university under section 199

**Minister** means the Minister for Education

**Ministry** means the Ministry of Education established by section 6(1)

**managers** means—

- (a) for a private school that has a Board that is an incorporated body,—the Board of the institution; and
- (b) for any other private school,—the persons who control and manage the institution, whether or not they have a proprietary interest in the school

**National Qualifications Framework** means the framework approved by the Minister under section 83

**National Qualifications Register** means the register established and maintained under section 92

**parent** of a child includes—

- (a) a person who exercises parental responsibility for the child, whether by customary law or otherwise; and
- (b) a person who has the actual custody of the child

**permanent resident** has the meaning given by the Entry, Residence and Departure Act 1971-72

**police clearance**, for a country, means advice from the police service of that country about whether the person to whom the clearance applies has been convicted of a criminal offence, and details of any charge or conviction

**post-secondary education** means education undertaken after secondary education

**prescribed** means prescribed by the regulations

**primary education** means education offered in years 1 to 6 of school

**principal**, of an educational institution, means the person (however described) who is responsible for the day to day management of the educational institution

**private educational institution** means an educational institution other than a government educational institution or an internationally recognised university

**private school** means a school that is not a government school

**private tertiary education** means tertiary education provided in or from an institution that is not a government tertiary education institution or an internationally recognised university

**private tertiary education provider**—

- (a) means a person who provides private tertiary education; and

- (b) for an institution in or from which private tertiary education is provided, means the person who provides it

**professional standards**, for teachers, are the competencies, skills, knowledge, behaviour, and values that enable a person to effectively perform the duties of a registered teacher

**public service employee** means an employee, within the meaning of section 4 of the Public Service Act 2009, of a department, within the meaning of section 4 of the Public Service Act 2009

**registered private school** means a private school registered under section 15(1) or a corresponding provision of a former Act

**registered tertiary education provider** means a provider of tertiary education registered under section 15(1) or a corresponding provision of a former Act

**registered teacher** means a teacher registered on the teacher register under Subpart 4 of Part 4

**the Regulations** means regulations made under this Act or any repealed enactment relating to education

**school** means an institution that offers any or all of the following types of education (and which may also offer continuing education)—

- (a) early childhood education;
- (b) primary education;
- (c) secondary education

**school association**—

- (a) means an association established under section 39; and
- (b) in relation to a particular school, means the school association of that school (or 2 or more schools that include that school)

**school activity** means an activity organised by a school with the approval of the school principal, whether or not the activity is conducted at the school premises, and includes extracurricular activities and activities conducted after school hours

**school days** means the days when a school is open for the instruction of students

**school discipline committee**, for a school, means the committee (however described) established by the school to deal with breaches by students of the school rules and other matters relating to the discipline of students.

**school hours** means the minimum number of hours on each school day that a school is open for the instruction of students

**school rules**—

- (a) means rules made under section 26(1); and
- (b) in relation to a particular school, means the school rules in force for that school

**secondary education** means education offered in years 7 to 13 of school

**Secretary** means the Secretary of Education appointed under the Public Service Act 2009

**sexual offence** means a crime against Part VII of the Crimes Act 1969

**stand-down** means a direction from a principal of a school under section 29 regarding the student's participation in school programmes.

**student** means a person for whom education is provided, or is required to be provided, under this Act

**teacher** includes the holder of a limited authority to teach

**teacher only days** means days when a school is open for the professional development of teachers, and does not include school days.

**tertiary education** means post-secondary education intended to lead to the award of a formal qualification

**treasurer** means the treasurer of the committee of a school association.

- (2) For the purposes of this Act, a person is "**resident**" in the Cook Islands if the person is living in the Cook Islands and intends to make the Cook Islands their home indefinitely or for a reasonable period, and does not include a person holidaying in the Cook Islands or in the Cook Islands for a short-term stay only.

- 5 Act binds the Crown**  
This Act binds the Crown.

## **Part 2**

### **The Minister, Ministry and Secretary**

**6 Ministry of Education**

- (1) This subsection establishes the Ministry of Education.
- (2) The Ministry's function is to administer this Act and all matters concerned with education.
- (3) The Ministry operates on a budget appropriated by Parliament.

**7 Minister for Education**

- (1) The Minister for Education is responsible for the Ministry.
- (2) The Minister may delegate any of his her powers under this Act to any person he considers appropriately qualified.

**8 Secretary of Education**

- (1) The Secretary is the head of the Ministry.
- (2) The Secretary's functions are:
- (a) exercising and performing the powers and functions conferred on the Secretary by or under under this Act, the Public Service Act 2009, or any other enactment; and
  - (b) under the Public Service Act 2009, appointing employees of the Ministry for the effective and efficient performance of its function.
- (3) The Secretary may delegate any of his her powers under this Act or any other enactment to any employee of the Ministry he considers appropriately qualified.
- (4) But the Secretary must not delegate a power that the Minister has delegated to the Secretary without the Minister's written consent to do so.



### **Part 3**

## **Establishment and registration**

### *Government educational institutions*

#### **9 Establishing and closing government educational institutions**

- (1) The Minister may, with Cabinet consent, establish an educational institution or close a government educational institution.
- (2) When establishing an educational institution, the Minister must state what kind of institution it is.
- (3) The Minister must not close a government educational institution unless satisfied that—
  - (a) it is uneconomic to continue the institution; and
  - (b) another government educational institution providing comparable education is available to existing and prospective students.

#### **10 Regulations may prescribe requirements for government educational institutions**

- (1) The Regulations may prescribe requirements, not inconsistent with this Act or the Public Service Act 2009, for government educational institutions.
- (2) Requirements may include requirements relating to any or all of the following—
  - (a) governance and management;
  - (b) financial accountability, reporting and audit;
  - (c) staffing, whether academic or administrative;
  - (d) students (including overseas students), including matters relating to enrolment, fees, academic progress, and behaviour.
- (3) The regulations may prescribe different requirements for different kinds of government educational institution.

### *Private providers*

#### **11 Private schools to be registered**

- (1) Primary or secondary education must not be provided in a private school unless it is a registered private school.
- (2) A person who provides primary or secondary education in a private school while it is not registered as required by subsection (1) commits an offence, and is liable on conviction—
  - (a) to the penalty prescribed for a very serious offence; and
  - (b) if the offence is a continuing offence, to the penalty prescribed for a continuing very serious offence.

#### **12 Private tertiary education providers to be registered**

- (1) Private tertiary education must not be provided by any person unless he or she is a registered tertiary education provider.
- (2) A person who provides private tertiary education while not registered as required by subsection (1) commits an offence, and is liable on conviction—

- (a) to the penalty prescribed for a very serious offence; and
- (b) if the offence is a continuing offence, to the penalty prescribed for a continuing very serious offence.

**13 Application for registration of private school or private tertiary education provider**

- (1) Any person may apply in writing to the Minister, on a form approved by the Minister for the purpose,—
  - (a) to register a private school; or
  - (b) to register as a private tertiary education provider.
- (2) The application must be accompanied by the prescribed application fee.
- (3) The Minister may require the applicant—
  - (a) to provide any additional information that the Minister reasonably requires to consider the application; and
  - (b) to confirm by statutory declaration any element of the application (or of any additional information required by the Minister) that the Minister requires.
- (4) The Minister must refuse to consider the application if the applicant fails to—
  - (a) comply with subsection (2); or
  - (b) provide any information required under subsection (3)(a); or
  - (c) confirm by statutory declaration any element of the application (or of any additional information required by the Minister) that the Minister has required under subsection (3)(b).
- (5) Subsection (4) overrides section 14(1).

**14 Decision on application**

- (1) Promptly after receiving an application under section 13, the Minister must consider whether the school or provider concerned:
  - (a) is likely to fulfil a need in the Cook Islands; and
  - (b) meets the prescribed criteria for the registration of private schools or private tertiary education providers (as the case may be).
- (2) If not satisfied that the school or provider does the things stated in subsection (1)(a) and (b), the Minister must refuse the application.
- (3) If satisfied that the school or provider does the things stated in subsection (1)(a) and (b), the Minister—
  - (a) may, with the approval of Cabinet, register the school or provider, (unconditionally, or subject to conditions); or
  - (b) may refuse the application.
- (4) The Minister must promptly give the applicant written notice of his or her decision.
- (5) If he or she has registered the school or provider subject to conditions, the notice must state the conditions.

**15 Registration**

- (1) The Minister registers a private school or provider by entering in a register established and maintained by the Secretary for the purpose—

- (a) the name of the school or provider;
  - (b) the date of registration;
  - (c) for a school, the names of its managers;
  - (d) any conditions to which the registration is subject.
- (2) Promptly after the Minister registers a private school or provider, he or she must—
- (a) Publish notice of the registration in the *Education Gazette*; and
  - (b) issue to the applicant a certificate of registration containing the information stated in subsection (1).
- (3) The managers of the school, or the provider, must tell the Minister in writing about any change to the information contained in the certificate, within 30 days after the change occurs.
- (4) A manager of the institution, or a provider, who fails to comply with subsection (2) commits an offence and is liable on conviction to the penalty prescribed for a standard offence.

#### **16 Compliance with conditions**

- (1) The managers of a registered private school must take all reasonably practicable steps to ensure that all conditions of its registration are complied with.
- (2) A registered private tertiary education provider must take all reasonably practicable steps to ensure that the provision of tertiary education by the provider, and all offers by the provider to provide tertiary education, comply with all conditions of the provider's registration.
- (3) The managers of a registered private school who fail to take all reasonably practicable steps to ensure that all conditions of its registration are complied with commit an offence.
- (4) A registered private tertiary education provider who fails to take all reasonably practicable steps to ensure that the provision of tertiary education by the provider, and all offers by the provider to provide tertiary education, comply with all conditions of the provider's registration commits an offence.
- (5) On conviction, a person who commits an offence against subsection (3) or (4) is liable—
- (a) to the penalty prescribed for a serious offence; and
  - (b) if the offence is a continuing offence, to the penalty prescribed for a continuing serious offence.

#### **17 Deregistration**

- (1) After complying with subsection (2), and with Cabinet consent, the Minister may, deregister a registered private school if satisfied that its managers are not complying with—
- (a) any of the requirements of this Act or the Regulations; or
  - (b) any condition to which the school's registration is subject,
- (2) After complying with subsection (2), and with Cabinet consent, the Minister may, deregister a registered private tertiary education provider if satisfied that provider is not complying with—

- (a) any of the requirements of this Act or the Regulations; or
  - (b) any condition to which the provider's registration is subject.
- (3) Before deregistering a registered private school or registered private tertiary education provider, the Minister must give the managers of the school or provider (as the case may be) a reasonable opportunity to show reasons why the Minister should not deregister the school or provider.
- (4) The Minister deregisters a registered private school or registered private tertiary education provider by cancelling the entries relating to the school or provider in the register referred to in section 15(1).
- (5) On the deregistration of a registered private school or registered private tertiary education provider,—
- (a) the certificate of registration issued to managers of the school or the provider under section 15(2)(b) must be treated as having been cancelled; and
  - (b) the managers or provider must promptly surrender it to the Secretary if he or she gives the managers or provider written notice to do so.

**18 Monitoring registered private schools and registered private tertiary education providers**

The Secretary must ensure that the Ministry monitors the performance of registered private schools and registered private tertiary education providers to ensure the school or provider is complying with—

- (a) the requirements of this Act and the Regulations; and
- (b) the conditions of the school's or provider's registration; and
- (c) any other standards that apply to the school or provider.

**19 Closing a private school**

If the managers of a private school intend to close it, they give the Minister written notice that they intend to do so.

**Part 4  
Schools**

Subpart 1—School Enrolment and Attendance

**20 Terms, school days and school hours**

- (1) Before 1 July each year, the Minister must determine and publish in the Education Gazette—
- (a) the first and last days of each school term for the next year; and
  - (b) the total number of days on which the school must be open for the instruction of students in the next year; and
  - (c) the school hours for the next year; and
  - (d) the total number of teacher-only days for the next year.
- (2) The days and hours may differ for different types of school.
- (3) Each school term must be no longer than 15 weeks.
- (4) The number of school days determined must be at least 195.

- (5) The number of teacher only days determined must be at least 5.

**21 Schools must be open for terms, school days and school hours**

- (1) In every year, the principal of a school must take all reasonably practicable steps to ensure that—
- (a) on every day during each school term determined for the year that is not a Saturday, a Sunday, or a public holiday, the school is either—
    - (i) open for the instruction of students; or
    - (ii) open for the professional development of teachers of the school; and
  - (b) the school is (on days during the terms determined for the year that are not a Saturday, a Sunday, or a public holiday) open for the professional development of teachers of the school for the number of teacher-only days determined for the year; and
  - (c) on every day on which the school is open for the instruction of students or the professional development of teachers of the school, it is open for at least the school hours determined for the year.
- (2) If in any year the school would otherwise be open for the instruction of students for fewer than the total number of days determined for the year, the principal must ensure that the school is open for the instruction of students (on days that are not a Saturday, a Sunday, or a public holiday) in the periods between school terms for enough days to ensure that it is in that year open for that total number of days.
- (3) Subsection (2) does not authorise the principal (or any other person or body) to close a school on a day on which he or she is required by subsection (1)(a) to ensure that it is open.
- (4) The Secretary may (in relation to any particular day on which the principal is required by subsection (1)(a) to ensure that the school is open) exempt the principal from the requirements of subsection (2) if—
- (a) the school was closed on that day; but
  - (b) the Secretary is reasonably satisfied that it was closed because of—
    - (i) a cyclone or other force of nature; or
    - (ii) an event that endangered the health and safety of people at the school (for example, a spill of toxic chemicals); or
    - (iii) another event that seriously affected people at the school.
- (5) The exemption has the effect of reducing by one day the total number of days on which the school must be open for the instruction of students in the year concerned.
- (6) In this section, **determined** means determined under section 19.
- 22 Entitlement to attend government school**
- (1) Every person is entitled to be enrolled and educated at a government school if he or she is—
- (a) aged 3 years or older; and
  - (b) resident in the Cook Islands.

- (2) The Crown must pay the cost of providing instruction, administration and facilities for a person's education at a government school if the person is—
  - (a) a Cook Islander, a permanent resident, or a child of a permanent resident; and
  - (b) resident in the Cook Islands.
- (3) If a person to whom subsection (2) does not apply attends a government school, the person's parents or guardian (or if he or she is aged 18 years or over, the person) must pay the school fees prescribed by the Regulations.
- (4) The Regulations may prescribe different fees for different kinds of school and for different categories of person.

### **23 Compulsory enrolment and attendance**

- (1) Each parent or guardian of a child resident in the Cook Islands must ensure that—
  - (a) the child is enrolled at a primary or secondary school no later than the day on which the child turns 5 years of age; and
  - (b) the child continues to be enrolled at a primary or secondary school until the child turns 16 years of age.
- (2) If a child turns 5 on a day that is not during a school term (for the class or school concerned), subsection (1) is complied with if a parent or guardian ensures that the child is enrolled no later than the first day of the next school term on which the school is open for the instruction of students.
- (3) Each parent of a child must ensure that, until the end of the last school term of the year in which the child turns 16 years of age, the child attends the school at which the child is enrolled during school hours on each day on which the school is open for the instruction of students.
- (4) Subsection (3) does not apply to a child who is stood down or suspended.
- (5) A parent or guardian who fails to comply with subsection (1) or (3) commits an offence.
- (6) On conviction, a person who commits an offence against subsection (1) or (3) is liable—
  - (a) to the penalty prescribed for a serious offence; and
  - (b) if the offence is a continuing offence, to the penalty prescribed for a continuing serious offence.
- (7) A parent or guardian does not commit an offence if—
  - (a) the student is on suspension or has been expelled, under Subpart 2; or
  - (b) the Secretary exempts the parent under section 23.
- (8) Subsection (6) overrides subsection (4.)

### **24 Exemption from attending school**

- (1) The Secretary may exempt a parent or guardian from compliance with any or all of the requirements of section 22 if reasonably satisfied that the child concerned—
  - (a) is prevented from attending school because of—
    - (i) illness or injury; or
    - (ii) the risk of infection; or

- (b) is receiving equivalent education by home schooling or in some other way; or
  - (c) is aged at least 15 years, and is being trained in an apprenticeship; or
  - (d) has another acceptable reason for not attending school.
- (2) An exemption may be for the period that the Secretary considers appropriate in the circumstances.
  - (3) The Secretary must not exempt a parent or guardian just because the child concerned has special needs or is pregnant.
  - (4) For the purposes of this section, a child has special needs if he or she is not developing to his or her full potential, or is at risk of not achieving the major achievement objectives of the school curriculum, because of learning or behavioural difficulties.

**25 Exclusion for health reasons**

The principal of a school may prohibit a student from attending the school while the student has an infestation or is suffering from a disease that, in the opinion of the Secretary of the Ministry of Health, is an infestation or disease that is, or is likely to be, infectious, contagious, or harmful to the health of other people at the school.

**26 School zones**

- (1) The Queen's Representative may, by order in Executive Council, declare an area to be a school zone.
- (2) The purpose of school zones is—
  - (a) to avoid overcrowding at government schools; and
  - (b) to ensure that students are selected for enrolment at government schools in a fair and transparent way; and
  - (c) to allow the Secretary to make the best use of the existing network of government schools.
- (3) If an area is declared to be a school zone, a child must be enrolled at a school located in that school zone if the child—
  - (a) lives in that zone; and
  - (b) is required to be enrolled at a school under section 22; and
  - (c) is not enrolled at a private school.
- (4) The Secretary may exempt a child from the requirements of subsection (3) if the Secretary is satisfied there are compelling reasons that justify the exemption.

**Subpart 2—Regulating Student Behaviour**

**27 Application**

This subpart applies to government schools only.

**28 School rules**

- (1) The principal of a school may make rules for that school.
- (2) School rules must focus on safety, well-being and good conduct of—

- (a) people (whether or not students) who are on the school's premises on a day on which the school is open for the instruction of students; and
- (b) students (whether or not on the school's premises on a day on which the school is open for the instruction of students) who are—
  - (i) wearing the school uniform; or
  - (ii) taking part in a school activity; or
  - (iii) representing the school at an event.

**29 School discipline committee**

- (1) A school must have a school discipline committee comprising the principal, and 2 other members of the school association.
- (2) The functions of the school discipline committee are to—
  - (a) develop a discipline policy for the school; and
  - (b) deal with breaches of the school rules and other matters relating to the regulation of behaviour of students of the school.

**30 Dealing with student misbehaviour**

The principal or a teacher of a school may, in accordance with the school's discipline policy, discipline any student who breaches the school rules.

**31 Stand-down for misbehaviour**

- (1) The principal of a school may, after consultation with the chairperson of the school committee, and in accordance with the school's discipline policy, stand a student of the school down on the grounds that—
  - (a) the student's gross misbehaviour or continual disobedience is a harmful or dangerous example to other students at the school; or
  - (b) because of the student's behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood down.
- (2) When standing the student down, the principal may place conditions on the student's return to school.
- (3) The principal must not stand a student down for more than 3 continuous school days.
- (4) The total number of days a student at a school is stood down must not exceed—
  - (a) 5 school days in any school term; or
  - (b) 10 school days in any year.
- (5) In calculating the period of the stand-down, the day on which the student was stood down, and any day on which the student was not required to attend school for a reason other than the stand-down, must not be counted.
- (6) If, when standing the student down, the principal directs that the student is not permitted to attend the school during the stand-down period, the student must not be permitted to attend the school during the period unless—
  - (a) the principal reasonably considers the student's attendance is appropriate for the purposes of section 30; or
  - (b) a parent or guardian of the student asks that the student be permitted to attend the school and the principal considers the request reasonable.



- (7) The principal may lift the stand-down at any time before it is due to expire.

**32 Procedure after stand-down**

As soon as possible after a student is stood down, the principal must take all reasonably practicable steps to—

- (a) meet with the student, in the presence of a parent or guardian of the student, to talk about the student's behaviour; and
- (b) give the Secretary, and a parent or guardian of the student, a written notice stating the following—
  - (i) that the principal has stood the student down;
  - (ii) the reasons for the stand-down;
  - (iii) the length of the stand-down;
  - (iv) any conditions placed on the student's return to school;
  - (v) that the parent may apply to the Secretary for a review of the principal's decision;
  - (vi) how the parent may apply for review.

**33 Suspension by principal**

- (1) The principal of a school may, after consultation with the chairperson of the school committee, and in accordance with the school's discipline policy, suspend a student of the school on the grounds that—
  - (a) the student's gross misbehaviour or continual disobedience is a harmful or dangerous example to other students at the school; or
  - (b) because of the student's behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood-down.
- (2) The principal may suspend the student whether or not the student has in the past been stood down; but if the student has in the past been stood down, the suspension must relate to behaviour occurring after the most recent stand-down.
- (3) The student is not permitted to attend school during the suspension.
- (4) The principal must give the Secretary, and a parent or guardian of the student, a written notice stating the following—
  - (a) that the principal has suspended the student;
  - (b) the reasons for the suspension;
  - (c) that the parent may apply to the Secretary for a review of the principal's decision;
  - (d) how the parent may apply for review.

**34 Action after suspension**

- (1) The school discipline committee must hold a disciplinary hearing no later than 3 working days after the principal suspends any student.
- (2) Not less than 24 hours before the hearing, the committee must give the student and a parent or guardian of the student written notice of the hearing, inviting the student and the student's parents or guardian to appear at the hearing.
- (3) After the hearing, the committee may—

- (a) lift the student's suspension either unconditionally or subject to conditions; or
- (b) extend the suspension for a further reasonable period subject to appropriate conditions aimed at facilitating the student's return to school; or
- (c) if the committee considers that the circumstances of the student's case justify a very serious response—
  - (i) for a student younger than 16 years of age, exclude the student from the school by confirming the suspension and requiring the student to be enrolled at another school; or
  - (ii) for a student aged 16 years or older, expel the student.
- (4) If the committee extends the suspension, it must take appropriate steps to help the student to return to school as soon as possible.
- (5) If the student fails to comply with any condition imposed on the student under this section, the principal may ask the committee to reconsider its original decision; and the committee may confirm or reverse its decision, or modify its decision by taking any action mentioned in subsection (3).
- (6) Within 24 hours after reconsidering its decision, the committee must give a parent or guardian of the student written notice of—
  - (a) the result of committee's reconsideration; and
  - (b) how the parent or guardian may apply for a review of the decisions arrived at.
- (7) Unless the school discipline committee has not earlier lifted or extended the suspension, or excluded or expelled the student from the school—
  - (a) a suspension imposed within 7 school days before the end of a school term ceases 10 days after the day on which it was imposed; and
  - (b) a suspension imposed at any other time ceases 7 school days after the day on which it was imposed.

### **35 Exclusion of student under 16**

- (1) Subject to subsection (4)(b), if under section 32(3)(c)(i), a school discipline committee excludes from a school a student under the age of 16 years, the principal of another school (including the school from which the student is excluded) may refuse to enrol the student while the exclusion is in effect.
- (2) The principal of the school must try to arrange for the student to attend another suitable school that the student can reasonably conveniently attend.
- (3) If, by the end of 10 days after the day the committee decides to exclude the student, the principal is unable to arrange for the student to attend another school, the principal must tell the Secretary what steps the principal took in trying to do so.
- (4) If the Secretary is satisfied that the principal has not arranged for the student to attend another school, the Secretary must—
  - (a) if satisfied that it is not inappropriate for the student to return to the school, lift the exclusion; or
  - (b) arrange for and, if necessary, direct the principal of another government school to enrol the student at the other school; or

- (c) direct a parent or guardian of the student to enrol the student at a correspondence school.
- (5) The Secretary may not lift the exclusion under subsection (4)(a) or give a direction under subsection (4)(b) without having made all reasonable attempts to consult the following people—
  - (a) the student;
  - (b) the student's parents;
  - (c) the school discipline committee;
  - (d) any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
- (6) A principal given a direction under subsection (4)(b) must comply with the direction regardless of any enrolment scheme the principal's school may have in place.

### **36 Expulsion from school of student over 16**

- (1) Subject to subsection (2), if a student aged over 16 years is expelled from a school under section 32(3)(c)(ii), the principal of any school (including the school from which the student was expelled) may refuse to re-enrol the student.
- (2) The Secretary may arrange for and, if necessary, direct the principal of another government school to enrol the student at the other school.
- (3) Subsection (2) overrides subsection (1).
- (4) The Secretary must not give a direction under subsection (2) unless the Secretary has made all reasonable attempts to consult the following people—
  - (a) the student;
  - (b) the student's parents;
  - (c) the school discipline committee;
  - (d) any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
- (5) A principal given a direction under subsection (2) must comply with the direction regardless of any enrolment scheme the principal's school may have in place.

### **37 Review of stand-down or suspension decision**

- (1) This section applies if—
  - (a) a student has been stood down or suspended under this subpart; or
  - (b) the disciplinary committee of a school has—
    - (i) extended the suspension of a student; or
    - (ii) excluded or expelled a student.
- (2) A parent of the student may apply in writing to the Secretary for a review of the principal's or committee's decision.
- (3) The application must give reasons why the parent considers the decision should be changed.

- (4) As soon as practicable after receiving an application under subsection (2), the Secretary must—
- (a) review the decision and confirm, change or cancel the decision; and
  - (b) tell the parent and the principal, in writing, about the Secretary's decision and the reasons for the decision.

**38 Effect of suspension on school register**

- (1) If a student younger than 16 years of age has been suspended or excluded from a school this subpart, the student's name must stay on the school's register until the earlier of the following days—
- (a) the day the student is enrolled at another school;
  - (b) the day the student is given an exemption from attendance under section 23.
- (2) If a student aged 16 years or over is suspended from a school under section 31, the student's name must stay on the register of the school until the earliest of the following days—
- (a) the day the student is expelled from the school;
  - (b) the day the student is enrolled at another school;
  - (c) the day the student leaves school.

**39 Duties of principal when student stood down or suspended**

- (1) When a student is stood down or suspended from a school, the principal of the school must take all reasonable steps to ensure the student receives guidance and counselling that is reasonable and practicable in the circumstances.
- (2) If the student's suspension is subject to conditions, the principal must take all reasonable steps to ensure that an appropriate educational programme is provided to the student to facilitate the student's return to school and to minimise any possible educational disadvantage to the student.
- (3) A parent of the student mentioned in subsection (2) must ensure that the student participates fully in the educational program.

**Subpart 3—School Associations**

**40 School associations**

- (1) A school must have a school association.
- (2) One or more school associations may amalgamate into a combined school association, if a majority of the members of each of the school associations agrees.
- (3) The role of the school association is to—
- (a) promote the interests of the school; and
  - (b) facilitate the further development of the school; and
  - (c) foster community interest in educational matters; and
  - (d) increase cooperation between parents of students attending the school, other members of the community, staff of the school, and students of the school; and
  - (e) participate in the governance of the school;

- (f) participate in an appraisal of the principal as required by the Secretary; and
- (g) give, or assist in giving, financial or other resources or services for the benefit of the school; and
- (h) help to maintain the school grounds, buildings and equipment; and
- (i) perform any other tasks, consistent with this Act, that the Minister decides.

**41 Authority of a school association**

- (1) A school association must comply with—
  - (a) this Act; and
  - (b) any written directions of the Secretary.
- (2) A school association does not have, and must not attempt to exercise, any authority over the principal, teaching staff, or the general operation and management, of the school.

**42 Members of school associations**

- (1) The following people are members of the school association of a school—
  - (a) the principal of the school;
  - (b) a registered teacher of the school elected by the registered teachers of the school to be their representative.
- (2) The following people may become members of the school association—
  - (a) a parent of a student attending the school;
  - (b) any other adult who is interested in the school's welfare.

**43 School association committee**

- (1) Each school association must have a committee.
- (2) The committee's role is to ensure the school association performs its role under section 38(3).
- (3) The committee may form subcommittees to deal with matters that support the committee's role.

**44 Members of school association committee**

- (1) The following people are members of the school association committee—
  - (a) the principal of the school;
  - (b) the teacher representative referred to in section 40(1)(b);
  - (c) a chairperson, who is to run meetings of the school association and committee;
  - (d) a treasurer, who is to keep and maintain the school association's financial records;
  - (e) a secretary, who is to keep and maintain the school association's other records (including minutes of meetings of the school association and committee);
  - (f) at least 2 other school association members, as decided by the school association.

- (2) The members of the school association must elect the members mentioned in subsection (1)(c) to (f) at each annual general meeting of the school association.
- (3) When doing so, the members must ensure that a majority of the elected members are parents of students at the school.
- (4) The elected members of the committee hold their positions until the next annual general meeting of the school association, but are eligible for reappointment.
- (5) The members of the committee hold their positions in an honorary capacity.

#### **45 Ending membership of committee member**

- (1) The school association committee may vote to remove a member from the committee if, in its opinion, the member—
  - (a) is unable to perform his or her duty as a committee member because of—
    - (i) a physical or mental incapacity; or
    - (ii) imprisonment; or
    - (iii) absence from the Cook Islands for longer than 6 months; or
  - (b) has neglected his or her duty as a committee member; or
  - (c) has not acted with integrity as a committee member (for example, by—
    - (i) failing to disclose, and to take all reasonable steps to avoid, a real or apparent conflict of interest in relation to his or her membership of the committee; or
    - (ii) using information under the control of the committee, other than for performing the school association's role; or
    - (iii) failing to attend 3 consecutive meetings of the committee without first giving an apology to the committee); or
  - (d) is convicted of an offence of such a nature that is not appropriate for the member to continue to be a member.
- (2) The position of a member of the committee becomes vacant if the member—
  - (a) is removed from the committee under subsection (1); or
  - (b) resigns, by giving a written notice of resignation to the school association; or
  - (c) dies.
- (3) If a position on the committee, other than a position mentioned in section 42(1)(a) or (b), becomes vacant, the committee may appoint a member of the school association, who is a parent of a student at the school, to fill the vacancy.
- (4) If the position on the committee for the teachers' representative becomes vacant, the registered teachers must elect another registered teacher at the school to fill the vacancy.

#### **46 Meetings of school association committees**

- (1) The chairperson of a school association committee must ensure that the committee meets at least once every 2 months, except in December and January.

- (2) In addition, the chairperson must convene an extra meeting if at least 3 committee members ask the chairperson in writing to do so.
- (3) If the chairperson is unavailable for a meeting, the committee members may appoint another committee member to run the meeting.
- (4) The quorum for a meeting is a majority of the committee members.
- (5) Each question before a meeting must be decided by the votes of a majority of the committee members present at the meeting.
- (6) If a vote is tied, the chairperson or other person running the meeting has a casting vote.
- (7) Except as provided in this section, or in the Regulations, the committee may conduct its meetings in any way that it considers appropriate.

**47 School association annual general meeting**

- (1) A school association must hold its annual general meeting on or before 31 March in each year.
- (2) The chairperson of the school association committee must ensure that members of the school association are given notice of the meeting at least 7 days before the meeting is to be held.

**48 School association bank account**

- (1) A school association must have one bank account, and may have other bank accounts if the Secretary has given approval.
- (2) Money received by a school association must be deposited in the association's bank account as soon as practicable after the money is received.
- (3) The trustees of the school association's bank accounts are—
  - (a) the principal; and
  - (b) the treasurer of the school association committee; and
  - (c) a member of the school association appointed by the members of the association at the annual general meeting.
- (4) The school association committee may appoint a member of the school association who is a parent of a student at the school to fill a vacancy in the position mentioned in subsection (3)(c) until the association's next annual general meeting.
- (5) The school association bank account must be operated on the signature of at least 2 of the trustees.
- (6) The principal must ensure that money received by the school association is used only for the lawful performance of the school association's role under section 38.

**49 Financial records of school association**

The principal of a school must retain each financial record of the school association for 7 years after the later of the following dates—

- (a) the date the financial record was created; or
- (b) the date the financial record was received by the school association.

**50 Financial statements of school association**

- (1) The treasurer of a school association committee must prepare a financial statement in accordance with subsection (3) for the school association for each calendar year.
- (2) For subsection (2) the financial statement must—
  - (a) for the period that the statement relates to, state—
    - (i) the opening balance of the school association’s bank account at the start of the period; and
    - (ii) the amounts paid into, and out of, the bank account during the period; and
    - (iii) who the amounts were received from or paid to; and
    - (iv) the closing balance of the bank account at the end of the period; and
  - (b) state that the financial statement gives a true and fair view of the school association’s bank account for the period that the statement relates to; and
  - (c) be signed by the 3 trustees of the school association’s bank account.
- (3) The treasurer must prepare the financial statement as soon as practicable after the end of the calendar year, but no later than 31 January.
- (4) As soon as the financial statement is prepared, the treasurer must give a copy of the statement to the Secretary.
- (5) The treasurer must, as soon as practicable after the end of each calendar year, but not later than 1 February, arrange for an auditor to—
  - (a) audit the financial records of the school association; and
  - (b) prepare a report on the results of the audit.
- (6) The treasurer must give a copy of the auditor’s report to the Secretary as soon as practicable after the Treasurer receives the report.
- (7) The treasurer must also give a copy of the auditor’s report to the school association members present at the next annual general meeting of the school association.
- (8) In subsection (5), **auditor** means a person who holds qualifications of a kind that are approved by the Secretary for auditing the school association’s bank account.

**Subpart 4—Teachers***Application***51 Application**

This subpart—

- (a) applies only to teachers in government schools; and
- (b) prevails over the Public Service Act 2009, to the extent of any inconsistency between this Subpart and the Public Service Act 2009.



*Professional standards and registration system***52 Secretary's responsibilities—professional standards for teachers**

- (1) The Secretary is responsible for establishing and maintaining a system for professional standards for registered teachers.
- (2) The system must, among other things, provide for—
  - (a) developing the standards; and
  - (b) reviewing the standards regularly, and making any necessary changes to them; and
  - (c) monitoring the performance of registered teachers against the standards; and
  - (d) enforcing the standards; and
  - (e) maintaining accessible records of the Secretary's decisions about the standards.
- (3) The professional standards must ensure that teaching services—
  - (a) meet accepted international standards; and
  - (b) are consistent with the human rights that apply in the Cook Islands.

**53 Secretary's other responsibilities**

The Secretary is also responsible for—

- (a) promoting the teaching profession to the public; and
- (b) informing registered teachers and the public about the operation of this Act; and
- (c) developing or approving training programmes for teachers; and
- (d) undertaking or supporting reviews and research relevant to the regulation of the teaching profession.

*Registration of teachers***54 Teachers must be registered or hold limited authority to teach**

- (1) A person must not teach in a school unless the person—
  - (a) is a registered teacher; or
  - (b) is teaching in accordance with a limited authority to teach held by the person.
- (2) A person who does not comply with subsection (1) commits an offence and is liable on conviction to the penalty prescribed for a serious offence.

**55 The teacher register**

- (1) The Secretary must maintain a teacher register containing information about each teacher whose application for registration, or renewal of registration, has been approved.
- (2) The information on the register must include—
  - (a) the teacher's name, address and date of registration; and
  - (b) the type of registration of the teacher; and
  - (c) any conditions that apply to the teacher's registration; and
  - (d) the qualifications of the teacher.

- (3) The Secretary must—
- (a) allow the teacher register to be inspected by the public at the times and places decided by the Secretary (for example on a website), on the payment of the prescribed fee; and
  - (b) provide certificates in relation to the status of approved teachers, on the payment of the prescribed fee.

**56 Register of limited authorities to teach**

- (1) The Secretary must maintain a register containing information about each person who holds a limited authority to teach.
- (2) The information on the register must include—
  - (a) the person's name and address; and
  - (b) the date the limited authority to teach was given; and
  - (c) the curriculum area, education program, or extra-curricular activity the holder is authorised to teach; and
  - (d) the level and school at which the person is authorised to teach; and
  - (e) any other limits to which the authority is subject; and
  - (f) the qualifications of the person.
- (3) The Secretary must allow the register of limited authorities to teach to be inspected by the public at the times and places decided by the Secretary (for example on a website), on the payment of the prescribed fee.

**57 Application for registration or for limited authority to teach**

- (1) A person who wishes to be registered as a teacher, or to hold a limited authority to teach, must apply to the Secretary using the form approved by the Secretary.
- (2) The application must be accompanied by—
  - (a) evidence of the person's eligibility for registration; and
  - (b) evidence of the person's suitability for registration; and
  - (c) a police clearance for the applicant for the Cook Islands and any foreign country in which the applicant has resided for at least 12 months in the last 10 years; and
  - (d) the prescribed fee.
- (3) The Secretary may require the person—
  - (a) to provide any other information; and
  - (b) to confirm any aspect of the application by statutory declaration.
- (4) The regulations may prescribe different fees for different types of application.

**58 Consideration of application**

- (1) On receipt of an application under section 55, the Secretary must consider whether the applicant—
  - (a) meets the eligibility criteria stated in subsection (2); and
  - (b) is a suitable person to be registered as a teacher, or to hold a limited authority to teach, in accordance with subsection (3).
- (2) For subsection (1) (a), a person meets the eligibility criteria if—

- (a) for an application for registration as a teacher, the person has the qualifications and experience prescribed by the Regulations; or
  - (b) for an application for a limited authority to teach, the person has the knowledge, skills or experience that the Secretary considers to be relevant to the teaching position that the person is to fill.
- (3) For subsection (1) (b), when deciding whether a person is suitable for registration, the Secretary may have regard to any matters that the Secretary considers relevant, including—
- (a) if the person has been refused registration as a teacher overseas, why the person was refused registration; and
  - (b) if the person's employment in an educational institution was terminated, why the person's employment was terminated; and
  - (c) if a condition was imposed on the person's registration overseas, the nature of the condition, and why it was imposed; and
  - (d) if the person's registration overseas was suspended or cancelled, why the registration was suspended or cancelled; or
  - (e) if the person's registration was affected in some other way, how the registration was affected and why; and
  - (f) any conviction of the person of an offence against a law of the Cook Islands or another country, and the relevance of the offence to the duties of a teacher.

#### **59 Decision on application**

- (1) If the Secretary is satisfied that the matters stated in section 56(1) are met in relation to an applicant, the Secretary may approve the applicant's application.
- (2) If the Secretary is not satisfied that the matters mentioned in section 56(1) are met in relation to the applicant, the Secretary must refuse the applicant's application.
- (3) If the Secretary approves an application for registration, the Secretary may impose conditions on the applicant's registration, including a condition—
  - (a) requiring the person to complete a training course successfully; or
  - (b) requiring the person to be supervised for a stated period; or
  - (c) restricting the subjects the person may teach, the level at which the person may teach, or both; or
  - (d) restricting the educational institutions at which the person may teach.
- (4) If the Secretary approves an application for a limited authority to teach, the Secretary may determine—
  - (a) the curriculum area, education program, or extra-curricular activity the holder of the authority is authorised to teach; and
  - (b) the level and school at which the person is authorised to teach; and
  - (c) any other limits to which the authority is subject.
- (5) The Secretary must tell the applicant in writing of the Secretary's decision.
- (6) If the applicant is a public service employee, and the application is refused, or approved subject to conditions, the Secretary must also inform the teacher that he or she may make a complaint about the decision under section 74.

**60 Registration**

- (1) If the Secretary approves an application for registration, the Secretary must—
  - (a) enter the applicant's details in the teacher register; and
  - (b) issue a certificate of registration to the applicant.
- (2) A certificate of registration expires on the day specified on the certificate, which must be no later than—
  - (a) in the case of registration as a teacher, 3 years after the day on which the certificate is issued; or
  - (b) in the case of conditional registration as a teacher, one year after the day on which the certificate is issued.
- (3) If the Secretary approves an application for a limited authority to teach, the Secretary must grant the limited authority to the applicant by giving the applicant a written notice stating—
  - (a) the day the limited authority to teach was given; and
  - (b) the day the limited authority expires (which must not be more than one year after the day it is given); and
  - (c) the curriculum area, education program, or extra-curricular activity the holder is authorised to teach; and
  - (d) any other limits to which the authority is subject.
- (4) A limited authority to teach expires on the day specified in the authority.

**61 Renewal of registration—application**

- (1) A person who wants to his or her their registration must apply in writing to the Secretary no later than 12 months after the expiry of the registration.
- (2) To remove any doubt, a teacher who applies for renewal after the teacher's registration has expired must not teach unless and until the teacher's registration is renewed.
- (3) If a registered teacher applies for renewal of registration before the teacher's registration expires, and the Secretary makes his or her decision on the application after the registration expires, the teacher's registration is extended until the date of the Secretary's decision.
- (4) The application must be—
  - (a) in the form approved by the Secretary; and
  - (b) accompanied by a police clearance for the applicant for the Cook Islands and any foreign country in which the applicant has resided for at least 12 months in the last 10 years; and
  - (c) accompanied by the prescribed fee.
- (5) However, paragraph (4) (b) does not require an applicant to provide a police clearance for a country other than the Cook Islands if—
  - (a) the applicant has previously provided a police clearance to the Secretary for the country; and
  - (b) the applicant has not been present in the country since the date of the police clearance previously provided.
- (6) The applicant for renewal must—

- (a) provide any other information that the Secretary reasonably requires to consider the application; and
- (b) confirm by statutory declaration any aspect of the application that the Secretary reasonably requires to consider the application.

**62 Renewal of registration—decision**

- (1) On receipt of an application for renewal of registration, the Secretary must consider whether the applicant—
  - (a) meets the eligibility criteria mentioned in section 56 (2); and
  - (b) is a suitable person to be registered as a teacher in accordance with section 56 (3).
- (2) If the Secretary is satisfied that the applicant meets the requirements mentioned in subsection (1), the Secretary may renew the applicant's registration, with or without conditions.
- (3) If the Secretary is not satisfied that the applicant meets the requirements mentioned in subsection (1), the Secretary must refused the application.
- (4) If the Secretary approves the application, the Secretary must renew the applicant's registration in the teacher register and issue a certificate of renewal of registration to the applicant.
- (5) The certificate of renewal expires on the day stated on the certificate of renewal, which must be no later than—
  - (a) for renewal of registration as a teacher, 3 years after the day on which the certificate of renewal is issued; or
  - (b) for renewal of conditional registration as a teacher, one year after the day on which the certificate of renewal is issued.
- (6) If the application is for renewal of a conditional registration, and the Secretary approves the application, the Secretary may remove any or all of the conditions that apply to the registration if satisfied it is appropriate to do so.
- (7) The Secretary must inform the applicant, in writing, of the Secretary's decision.
- (8) If the applicant is a public service employee, and the application is refused or approved subject to conditions, the Secretary must also inform the teacher that he or she may make a complaint about the decision under section 74.

**63 Failure to inform Secretary of name change**

- (1) A person commits an offence if the person—
  - (a) is registered as a teacher under this Act or holds a limited authority to teach; and
  - (b) fails to tell the Secretary, in writing, of a change to the person's name within 1 month of the change happening.
- (2) An conviction, a person convicted of an offence under subsection (1) is liable to the prescribed penalty for a standard offence.

**64 Failure to inform Secretary of charge**

- (1) A person commits an offence if the person—
  - (a) is registered as a teacher under this Act or holds a limited authority to teach; and

- (b) is charged with a sexual offence or an offence punishable by a term of imprisonment of at least 12 months; and
  - (c) fails to tell the Secretary as soon as possible, in writing, of the charge.
- (2) An conviction, a person convicted of an offence under subsection (1) is liable to the prescribed penalty for a serious offence.

**65 Applications following refusal or cancellation**

- (1) If a person's application for registration, or renewal of registration, as a teacher is refused, the person may not reapply for registration or renewal within one year of the day of the refusal decision.
- (2) If a person's registration as a teacher is cancelled the person may not apply for re-registration within one year of the day on which the registration was cancelled.

*Monitoring performance of teachers*

**66 Applications of sections 65 to 74**

Proceedings taken under this Subpart do not restrict possible proceedings under other relevant laws against a registered teacher or holder of a limited authority to teach.

**67 Teachers charged with, or convicted of, a sexual offence**

- (1) The Secretary must immediately suspend a person's registration as a teacher, or limited authority to teach, if the Secretary becomes aware that the person has been charged with a sexual offence.
- (2) If the charge against the person is withdrawn, or the person is acquitted of the charge, the Secretary must immediately re-instate the person's registration.
- (3) The Secretary must immediately cancel a person's registration as a teacher, or limited authority to teach, if the Secretary becomes aware that the person has been convicted of a sexual offence, regardless of whether an appeal against the conviction has been filed.
- (4) The Secretary must immediately re-instate the person's registration, or limited authority to teach, or if the conviction is quashed or overturned on appeal.
- (5) If the Secretary suspends a person's registration or limited authority to teach under subsection (1), or cancels a person's registration or limited authority to teach under subsection (3), the Secretary must inform the person in writing of the suspension or cancellation.

**68 Secretary may revoke limited authority to teach**

- (1) The Secretary may revoke a limited authority to teach if the Secretary is satisfied that the conduct or performance of the holder of the authority does not meet appropriate standards.
- (2) Before revoking the authority, the Secretary must, in writing—
- (a) notify the holder of the authority that the Secretary is considering revoking the authority and state the reasons; and
  - (b) invite the holder to make written submissions to the Secretary, within 10 days of receiving the advice, on why the authority should not be revoked.

- (3) If the holder makes submissions to the Secretary within the time stated in subsection (2) (b), the Secretary must take the submissions into account in deciding whether or not to revoke the authority.
- (4) If the Secretary revokes the authority, the Secretary must—
  - (a) notify the holder in writing of the Secretary's decision; and
  - (b) if the holder is a public service employee, inform the holder that the holder may make a complaint about the decision under section 74.

**69 Complaints about registered teacher conduct or competence**

- (1) A person may complain to the Secretary about a registered teacher's conduct or competence, in accordance with any complaint procedures established by the Ministry (for example, procedures in the School Manual).

For example—

- (a) a complaint about non-compliance with the professional standards for teachers;
  - (b) a complaint about non-compliance with a condition of a teacher's registration;
  - (c) a complaint about the committal by a registered teacher of an offence in any way associated with or affecting the effective performance of the teacher's duties as a registered teacher.
- (2) If the Secretary is reasonably satisfied that a complaint is frivolous or vexatious, the Secretary must inform the complainant, in writing, that no action will be taken.
  - (3) If a complainant withdraws a complaint, the Secretary may continue to investigate the complaint on the Secretary's own initiative.

**70 Complaints about conduct**

- (1) If a complaint has been made against a registered teacher, and the complaint relates to the teacher's conduct rather than the teacher's competence, the Secretary may establish a complaints assessment committee to investigate the complaint.
- (2) The Secretary may also establish a complaints assessment committee to investigate a matter relating to a teacher's conduct on the Secretary's own initiative.
- (3) The following persons must not be a member of a complaints assessment committee—
  - (a) the complainant (if any);
  - (b) the principal of the school at which the teacher is employed;
  - (c) any other person who has any interest that may conflict with a fair and impartial hearing of the complaint.
- (4) The Secretary must specify which member of the committee is to chair the committee.

**71 Committee's report and recommendations**

- (1) On completion of its investigation, the complaints assessment committee must give the Secretary a written report setting out its findings and recommendations.

- (2) In deciding its recommendations, the committee may consider any past conduct of the teacher.
- (3) The committee's recommendations may include—
  - (a) a recommendation that stated conditions be applied to the teacher's registration; or
  - (b) a recommendation that the teacher's registration be suspended for a stated period; or
  - (c) a recommendation that the teacher's registration be cancelled.
- (4) The committee must give a copy of the report to the teacher and advise the teacher, in writing, that he or she may, within 10 days of receiving the report, give the Secretary written submissions on the report.

#### **72 Secretary's decision on conduct**

- (1) After considering a complaints assessment committee's report under section 69, and any written submissions received from the teacher concerned in the period mentioned in section 69(4), the Secretary may decide to—
  - (a) reprimand the teacher; or
  - (b) impose conditions on the teacher's registration; or
  - (c) suspend the teacher's registration for a specified period; or
  - (d) cancel the teacher's registration.
- (2) The Secretary must inform the teacher, in writing, of the Secretary's decision.
- (3) If the teacher is a public service employee, the Secretary must also inform the teacher that the teacher may make a complaint about the decision under section 74.

#### **73 Complaints about competence**

- (1) If a complaint has been made against a registered teacher, and the complaint relates to the teacher's competence, the Secretary may require the teacher to participate in a performance improvement programme.
- (2) The Secretary may also require a registered teacher to participate in a performance improvement programme on the Secretary's own initiative.
- (3) In this section, **performance improvement programme** means a process to assist the teacher to improve his or her performance and competence in order to consistently meet the teacher professional standards.

#### **74 Secretary must inform teacher of proposed action**

- (1) If, after a teacher has undergone a development improvement programme, the Secretary is of the view that the teacher has not attained the required level of competence, the Secretary must give the teacher a written notice—
  - (a) advising the teacher that the Secretary is of the view that the teacher has not attained the required level of competence; and
  - (b) advising the teacher of the reasons for this view, and of any action the Secretary proposes taking under section 73; and
  - (c) inviting the teacher to make written submissions to the Secretary, about why the proposed action should not be taken, within 10 days of receiving the notice.



**75 Secretary's decision on competence**

- (1) After considering any written submissions received from a teacher to whom section 72 applies in the period stated in section 72(c), the Secretary may, if satisfied the teacher has not attained the required level of competence, decide to—
  - (a) impose conditions on the teacher's registration; or
  - (b) suspend the teacher's registration for a specified period; or
  - (c) cancel the teacher's registration.
- (2) The Secretary must inform the teacher, in writing, of the Secretary's decision.
- (3) If the teacher is a public service employee, the Secretary must also inform the teacher that the teacher may make a complaint about the decision under section 74.

*Complaints about decisions***76 Complaints about teacher registration decisions**

- (1) If a decision mentioned in subsection (3) is made about a person who is a public service employee, the person may complain about the decision to the Secretary.
- (2) The person may complain about the following decisions—
  - (a) a decision to refuse the person's application for registration as a teacher under section 57:
  - (b) a decision to refuse the person's application for a limited authority to teach under section 57:
  - (c) a decision to impose conditions on the person's registration as a teacher under section 57:
  - (d) a decision to refuse the person's application for renewal of registration as a teacher under section 60:
  - (e) a decision to revoke the person's limited authority to teach under section 66:
  - (f) a decision to suspend the person's registration as a teacher under section 70 or 73 :
  - (g) a decision to cancel the person's registration as a teacher under section 70 or 73.
- (3) Section 36 of the Public Service Act 2009 applies to the complaint.

*Offences***77 Wrongfully claiming to be a registered teacher**

- (1) A person who is not a registered teacher commits an offence if he or she holds himself or herself out to be a registered teacher.
- (2) On conviction, a person convicted of an offence against subsection (1) is liable to the penalty prescribed for a standard offence.

**78 Employing unregistered teacher**

- (1) A person commits an offence who employs, or offers employment to, another person as a teacher knowing that the other person is not a registered teacher.

- (2) On conviction, a person convicted of an offence against subsection (1) is liable on conviction to the penalty prescribed for a standard offence.

#### Subpart 5—Other provisions relating to schools

##### **79 Trespassing on or disturbing schools**

- (1) A person commits an offence if the person is on the premises of a school without lawful authority or reasonable excuse.
- (2) A person who is not enrolled as a student of a school commits an offence if, without reasonable excuse, the person intentionally disturbs the good order or management of a school.
- (3) A person who is not enrolled as a student of a school commits an offence if the person abuses or threatens a teacher or student at the school in the presence or hearing of a student or students of that school—
- (a) on the school premises; or
  - (b) at any other place where students of the school are assembled for educational purposes.
- (4) On conviction, a person convicted of an offence against this section is liable on conviction to the penalty prescribed for a standard offence.

##### **80 Police clearance for school staff**

- (1) For the safety of children attending a school, each staff member of a school must, as soon as practicable after staff member is employed at the school, give to the Secretary a police clearance for the Cook Islands and for each country in which the person has resided for at least 12 months in the previous 10 years.
- (2) Subsection (1) does not apply to a registered teacher or the holder of a limited authority to teach.

##### **81 Board of trustees for government schools**

- (1) This section applies if the Minister considers it would be of benefit to a government school for the school to have a board of trustees.
- (2) The Minister may create a board of trustees for the school, by notice published in the Education Gazette.
- (3) The notice must—
- (a) state the name of the board; and
  - (b) specify the board's duties of management of the school and any conditions on the board's exercise of those duties; and
  - (c) specify the type of members of the board (for example representatives of the Ministry, parents of students at the school, communities served by the school, or other organisations); and
  - (d) provide for the—
    - (i) revocation of appointment of board members; and
    - (ii) retirement or resignation of board members; and
    - (iii) appointment of new board members; and
    - (iv) appointment of temporary board members if a member is absent or unable to act; and

- (e) any other matter that the Minister considers necessary for the constitution, duties and procedure of the board (for example delegation by the board to committees of the duties of management).
- (4) A board of trustees is a body corporate.

**82 Incorporation of society of teachers**

A body of registered teachers may apply for incorporation, under the Incorporated Societies Act 1994, as a society for the promotion of the welfare and interests of teachers and the teaching profession.

## **Part 5 Education Guidelines**

**83 Education guidelines**

- (1) The Minister may develop education guidelines containing any or all of the following—
- (a) education goals, which are statements about the objectives and desirable achievements for the education system, or a part of the education system;
  - (b) a curriculum framework for schools that gives direction in relation to—
    - (i) essential learning areas and programmes; and
    - (ii) essential skills and development; and
    - (iii) values and attitudes.
  - (c) administration statements, which are guidelines about the administration of educational institutions.
- (2) The education guidelines must be published in the Education Gazette, by publishing either—
- (a) the full text of the education guidelines; or
  - (b) a notice that gives a general description of the education guidelines and indicates where the full text of the education guidelines may be obtained.

**84 Instructions relating to the Education Guidelines**

- (1) A principal of an educational institution must ensure that the institution operates consistently with the Education Guidelines.
- (2) A private tertiary education provider must provide tertiary education consistently with, the Education Guidelines.
- (3) The Secretary may issue instructions to the principals of educational institutions or to private tertiary education providers in order to promote compliance with—
- (a) the education guidelines; and
  - (b) any other policies made under this Act.

## **Part 6**

### **Formal Qualifications**

#### Subpart 1—National Qualifications Framework

**85 National Qualifications Framework**

- (1) The Minister must, by notice published in the Education Gazette, approve a National Qualifications Framework for the Cook Islands.
- (2) The National Qualifications Framework must set out the qualifications that may be awarded in relation to secondary and tertiary education in the Cook Islands, and the desired learning outcomes for each qualification.
- (3) The National Qualifications Framework approved by the Minister may be developed in the Cook Islands or overseas (for example the New Zealand Qualifications Framework).

#### Subpart 2—Approval of Qualifications by Secretary

**86 Application of subpart 2**

- (1) This subpart applies only while the Cook Islands Qualification Authority is not established under subpart 3.
- (2) The establishment of the Authority does not prevent the application of section 87 to events occurring before that establishment.

**87 Approval to provide formal qualification**

- (1) A private school or private tertiary provider commits an offence if, without the Secretary's approval to provide a formal qualification, it—
  - (a) provides or offers to provide a formal qualification; or
  - (b) holds out any course of study that it provides or offers to provide as a course leading to a formal qualification.
- (2) On conviction, a person who commits an offence against subsection (1) is liable to the penalty prescribed for a serious offence.

**88 Application for approval to provide formal qualification**

- (1) A registered private school or registered private tertiary education provider, may apply to the Secretary for approval to provide a formal qualification.
- (2) The application must be in writing in the form approved by the Secretary, and accompanied by the prescribed fee.
- (3) The Secretary may require the applicant to do either or both of the following—
  - (a) provide any other information that the Secretary reasonably requires to consider the application;
  - (b) confirm any aspect of the application by statutory declaration.

**89 Decision on application**

- (1) As soon as practicable after receiving an application for approval to provide a qualification, the Secretary must consider whether the school or provider meets the prescribed criteria for approval in relation to the qualification.

- (2) If the Secretary is satisfied that the school or provider meets the prescribed criteria, the Secretary may—
  - (a) approve the application with or without conditions; or
  - (b) refuse the application.
- (3) If the Secretary is not satisfied that the school or provider meets the prescribed criteria, the Secretary must refuse the application.
- (4) The Secretary must promptly advise the applicant, in writing, of the Secretary's decision.

**90 Revocation of approval of tertiary programme**

- (1) The Secretary may revoke an approval given to an educational institution or tertiary education provider to provide a formal qualification.
- (2) Before revoking the approval, the Secretary must give the institution or provider a reasonable opportunity to show the reasons why the Secretary should not revoke the approval.
- (3) The Secretary must promptly advise the institution or provider if the Secretary revokes the approval.

### Subpart 3—Cook Islands Qualifications Authority

**91 Definition**

In this subpart, **Authority** means the Cook Islands Qualifications Authority established under section 93(1).

**92 Application**

Sections 93 to 99 apply only if the Authority is established.

**93 Cook Islands Qualification Authority**

- (1) The Queen's Representative may, by Order in Executive Council, establish an authority to be called the Cook Islands Qualifications Authority.
- (2) The functions of Authority include the following—
  - (a) maintaining the National Qualifications Register;
  - (b) registering qualifications on the National Qualifications Register;
  - (c) accrediting government tertiary education institutions and private tertiary education providers to provide registered qualifications.
- (3) The Regulations may prescribe requirements for the governance, management, financial accountability, reporting, and audit of the Authority.

**94 National Register of Qualifications**

The Authority must establish and maintain a register of formal qualifications approved for registration by the Authority under section 94, to be known as the National Register of Qualifications.

**95 Application for registration of formal qualification**

- (1) A government educational institution, registered private school, or registered tertiary education provider, or an internationally recognised university, may apply to the Authority for registration of a formal qualification.

- (2) The application must be in writing in the form approved by the Authority, and accompanied by the fee prescribed by the Regulations.
- (3) The Authority may require the applicant—
  - (a) to provide any other information that the Authority reasonably requires to consider the application; and
  - (b) to confirm any aspect of the application by statutory declaration.

**96 Decision on application**

- (1) As soon as practicable after receiving an application for registration under section 93, the Authority must consider the application and decide whether to approve or refuse the application.
- (2) The Authority must promptly advise the applicant, in writing, of the Authority's decision.

**97 Registration of formal qualifications**

As soon as practicable after the Authority approves an application for registration of a formal qualification under section 94, the Authority must include the qualification on the National Register of Qualifications.

**98 Schools and providers must be accredited**

- (1) Unless a formal qualification is registered on the National Register of Qualifications and the school, provider, or university is accredited by the Authority to provide it, a private school, private tertiary provider, or internationally recognised university commits an offence if it—
  - (a) provides or offers to provide the qualification; or
  - (b) holds out any course of study that it provides or offers to provide as a course leading to the qualification.
- (2) On conviction, a person who commits an offence against subsection (1) is liable to the penalty prescribed for a serious offence.
- (3) Unless the qualification is registered on the National Register of Qualifications, a government tertiary education institution must not—
  - (a) provide or offer to provide the qualification; or
  - (b) hold out any course of study that it provides or offers to provide as a course leading to the qualification.

**99 Application for accreditation**

- (1) A registered private school, or registered tertiary education provider, may apply to the Authority for accreditation to provide a formal qualification registered on the National Qualifications Register.
- (2) The application must be in writing in the form approved by the Authority, and accompanied by the prescribed fee.
- (3) The Authority may require the applicant to do either or both of the following—
  - (a) provide any other information that the Authority reasonably requires to consider the application;
  - (b) confirm any aspect of the application by statutory declaration.

**100 Decision on application**

- (1) As soon as practicable after receiving an application for accreditation, the Authority must consider it and decide whether to approve or refuse it.
- (2) The Authority must promptly advise the applicant, in writing, of the Authority's decision.

**101 Cancellation of accreditation**

- (1) The Authority may cancel any accreditation to provide a formal qualification.
- (2) Before cancelling accreditation, the Authority must give the institution, provider, or university concerned a reasonable opportunity to show the reasons why the accreditation should not be cancelled.
- (3) The Authority must promptly advise the institution, provider, or university if the Authority cancels the accreditation.

## **Part 7 Tertiary Education**

### Subpart 1—Internationally recognised universities

**102 Declaration of internationally recognised universities**

Subject to any prescribed requirements prescribed, the Queen's Representative may, by order in Executive Council, declare a university to be an internationally recognised university for the purposes of this Act.

### Subpart 2—Tertiary Education Committee

**103 Establishment of Tertiary Education Committee**

- (1) The Tertiary education Committee is established.
- (2) The committee has the following functions—
  - (a) to advise the Secretary on tertiary education policy;
  - (b) to award Cook Islands government scholarships;
  - (c) to make recommendations on the award of other scholarships for tertiary education.
- (3) The Minister must appoint at least 5, and no more than 7, appropriately qualified persons as members of the Committee.
- (4) The Minister is to appoint one member to chair the committee.
- (5) The Regulations may prescribe requirements for the governance, management, financial accountability, reporting and audit of the committee.

### Subpart 3—Cook Islands Government Scholarships

**104 Purpose of Subpart 3**

The purpose of this Subpart is to provide for the award of scholarships to promote the economic and social progress of the Cook Islands by helping Cook Islanders and permanent residents build their capabilities through post-secondary education and training, so they can contribute their skills and knowledge to the development of the Cook Islands.

**105 Cook Islands government scholarships**

The Crown may provide scholarships (**Cook Islands government scholarships**) eligible people to enable them to pursue tertiary education in the Cook Islands or overseas.

**106 Eligibility for Cook Islands government scholarships**

A person is eligible to be awarded a Cook Islands government scholarship only if he or she is resident in the Cook Islands and is—

- (a) a Cook Islander; or
- (b) a permanent resident; or
- (c) the child of a permanent resident.

**107 Award of Cook Islands government scholarships**

- (1) The Tertiary Education Committee may award a Cook Islands government scholarship to any eligible person.
- (2) The Regulations may prescribe the process for the award of Cook Islands government scholarships.

**108 Contract for Cook Islands government scholarship**

- (1) Each person awarded a Cook Islands government scholarship must, before receiving any benefit under the scholarship, enter a contract with the Ministry.
- (2) The contract must contain a condition requiring the person to return and work in the Cook Islands for at least 2 years on completion of—
  - (a) the person's study and training in relation to which the scholarship was awarded; or
  - (b) a professional development course approved by the Secretary, undertaken on completion of that studies and training.

## **Part 8 Miscellaneous**

**109 Corporal punishment and verbal abuse**

- (1) A person at an educational institution, or at an educational institution activity, must not—
  - (a) verbally abuse a student of the institution; or
  - (b) use physical force, by way of correction or punishment, against a student of the institution; or
  - (c) require a student of the institution to do an act intended or likely to cause the student pain, severe discomfort, or humiliation.
- (2) In this section, **educational institution activity** means an activity—
  - (a) organised by an educational institution with the approval of the principal of the institution; and
  - (b) attended by students of the institution.



**110 False or misleading information**

- (1) A person commits an offence who gives false or misleading information, either orally or in writing, to the Minister, the Secretary, the Cook Islands Qualifications Authority, or the principal of an educational institution, in connection with this Act or the Regulations.
- (2) On conviction, a person convicted of the offence against subsection (1) is liable to the penalty prescribed for a serious offence.

**111 Protection from liability**

- (1) The following people are not civilly liable for any act done, or omission made, honestly and without negligence, under this Act or the Regulations—
  - (a) the principal of an educational institution:
  - (b) any employee of an educational institution:
  - (c) a member of the school association:
  - (d) an employee of the Ministry:
  - (e) the Secretary:
  - (f) a member of the Cook Islands Qualifications Authority:
  - (g) a member of the Tertiary Education Commission.
- (2) If subsection (1)(a), (b) or (c) prevents civil liability attaching to a person, the liability may attach to—
  - (a) if the educational institution or school is a government educational institution—the Crown; or
  - (b) if the educational institution or school is a private educational institution—the managers of the institution.

**112 Minister may establish advisory committees**

The Minister may establish advisory committees to assist the Minister in carrying out his or her functions and duties under this Act.

**113 Education Gazette**

- (1) The Ministry must from time to time publish a document called the Education Gazette that contains information relevant to education.
- (2) The Ministry must issue a copy of the Education Gazette to every educational institution and registered private tertiary education provider.

**114 Grants to private educational institutions**

The Minister may make grants to private educational institutions and private tertiary education providers, and may impose conditions on grants.

**115 Regulations**

- (1) The Queen's Representative may, by order in Executive Council, make regulations about any matter that is—
  - (a) required or permitted to be prescribed by this Act; or
  - (b) necessary or convenient for giving effect to this Act.
- (2) Regulations may also be made under this Act in relation to the following matters—

- (a) the governance, management, financial accountability, reporting, audit, staffing and students of government educational institutions:
  - (b) criteria for the registration of private educational institutions:
  - (c) criteria for the registration of private tertiary education providers:
  - (d) eligibility criteria for registration of teachers and limited authorities to teach:
  - (e) procedures for monitoring the performance of registered teachers:
  - (f) criteria for the approval by the Secretary for a private school or private tertiary education provider to offer and provide a qualification:
  - (g) the governance, management, financial accountability, reporting and audit of the Cook Islands Qualification Authority:
  - (h) the governance, management, financial accountability, reporting and audit of the Tertiary Education Commission.
- (3) Regulations may also be made under this Act prescribing—
- (a) fees payable under this Act; and
  - (b) a maximum penalty, not exceeding \$25 000, for a very serious offence against this Act; and
  - (c) a maximum penalty, not exceeding \$2500 per day, for a continuing very serious offence against this Act; and
  - (d) a maximum penalty, not exceeding \$15 000 for a serious offence against this Act; and
  - (e) a maximum penalty, not exceeding \$1500 per day for a continuing serious offence against the Act; and
  - (f) a maximum penalty, not exceeding \$1 000 for a standard offence against this Act; and
  - (g) a maximum penalty, not exceeding \$100 per day for a continuing standard offence against the Act.
- (4) Subsections (2) and (3) do not limit the generality of subsection (1).

**116 Repeal**

The Education Act 1986-1987 is repealed.

## Part 9 Savings and Transitional

**117 Savings and transitions**

- (1) Despite the repeal of the Education Act 1986-1987 by this Act—
- (a) any document made, or action taken, under the Education Act 1986-1987 continues to have effect as if it had been made or taken under the corresponding provisions of this Act; and
  - (b) any right of the government to collect any fees payable under the Education Act 1986-1987 before the commencement of this Act is not affected by the repeal of that Act; and
  - (c) any offence committed, or penalty incurred, before the commencement of this Act, may be prosecuted or enforced as if the relevant provisions of the Education Act 1986-87 had not been repealed; and

- (d) all applications and other matters arising out of or under the Education Act 1986-1987 that are not determined or otherwise dealt with under that Act at the date of commencement of this Act must be determined or otherwise dealt with under the corresponding provisions of this Act with such modifications, adaptations and alterations as the Minister considers necessary.
- (2) The Queen's Representative may, by order in Executive Council, make regulations of a transitional or savings nature necessary or convenient to be made because of the enactment of this Act.

**118 Children turning 15 before 1 January 2013**

Section 22 does not apply to a child who turns 15 years of age before 1 January 2013 unless the child attends school in the 2012 school year.

**119 Renewal of registration of teachers registered before commencement**

- (1) This section applies to a teacher registered under the Education Act 1986-87 immediately before the commencement of this Act.
- (2) If the teacher was registered 3 years or more before the commencement of this Act—
  - (a) the teacher's registration expires 6 months after the commencement of this Act; and
  - (b) the teacher must apply for renewal of his or registration in accordance with section 59 (3) and (4) no later than 12 months after the teacher's registration expires.
- (3) If the teacher was registered less than 3 years before the commencement of this Act—
  - (a) the teacher's registration expires 3 years after the teacher was registered; and
  - (b) the teacher must apply for renewal of his or registration in accordance with section 59 (3) and (4) no later than 12 months after the teacher's registration expires.
- (4) To remove any doubt, a teacher who applies for renewal after the teacher's registration has expired under this section must not teach unless and until the teacher's registration is renewed.
- (5) If a registered teacher applies for renewal of registration before the teacher's registration expires under this section, the teacher's registration is extended until the date of the Secretary's decision on the application.

**120 Police clearances for school staff**

- (1) If a person is employed at a school at the date of commencement of this Act (the commencement date), the person must, no later than 3 months after the commencement date, give to the Secretary a police clearance for the Cook Islands and for each country in which the person has resided for at least 12 months in the previous 10 years.
- (2) Subsection (1) does not apply to a registered teacher or the holder of a limited authority to teach.

---

This Act is administered by the Ministry of Education.  
Printed under the authority of the Cook Islands Parliament—2012.

---