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Education Act, 1981

Act 9 of 1981

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Education Act, 1981
 Contents

Part I – Preliminary 1

 1. Short title 1

 2. Interpretation 1

 3. Establishment and registration of schools 2

Part II – Minister’s powers, National Education Board, etc. 2

 4. General functions of the Minister 2

 5. Establishment and membership, etc., of National Education Board 3

 6. Executive Committee of the Board 3

 7. Functions of the Board 4

 8. Qualifications of members of the Board 4

 9. Procedure of the Board and the Executive Committee 4

Part III – District Education Advisory Boards 5

 10. Establishment of District Education Advisory Boards 5

 11. Functions of Advisory Board 5

 12. Procedure of Advisory Board 5

Part IV – School committees 5

 13. Establishment of school committees 5

 14. Membership of school committee 5

 15. Functions of school committee 6

Part V – Adult Education Council 6

 16. Establishment of the Adult Education Council 6

 17. Functions of the Council 6

 18. Qualifications for membership 7

 19. Procedure of the Council 7

Part VI – Other provisions 7

 20. Power to inspect schools, etc. 7

 21. Power to make Regulations 7

 22. Offences and penalties 7

 23. Repeal 7

Third Schedule (Section 19) 9

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Education Act, 1981

Act 9 of 1981

Commenced on 8 January 1982

[This is the version of this document at 1 December 1998.]

An Act to repeal and replace the Education Act, 1964 and to provide for other matters incidental thereto.

Part I – Preliminary

1. Short title

This Act may be cited as the Education Act, 1981 and shall come into operation on such date as the Minister may, by Notice in the *Gazette*, appoint.

2. Interpretation

In this Act, unless the context otherwise requires—

“**adult education**” means any form of education for adults which is recommended by the Council and approved of by the Director;

“**Advisory Board**” means a District Education Advisory Board established under [section 10](#);

“**Board**” means the National Education Board established under [section 5](#);

“**Committee**” means a school Committee established under [section 13](#);

“**Council**” means the Adult Education Council established under [section 16](#);

“**Director**” means the Director of Education:

“**grantee**” means the recipient of a grant from public funds in aid of education;

“**Minister**” means the Minister for Education;

“**Principal Secretary**” means the Principal Secretary of the Ministry of Education;

“**primary education**” means formal education in which instruction is given up to and including Grade 7;

“**primary school**” means a school or a department of a school which provides primary education;

“**public educational institution**” means an educational institution which is wholly or mainly maintained with public funds;

“**public school**” means a school which is wholly or mainly maintained with public funds;

“**secondary education**” means post primary education in which instruction is given up to and including “O” level or “A” level as applicable;

“**secondary school**” means a school or a department of a school which provides secondary education;

“**school**” means an institution for providing primary or secondary education or post-primary or post-secondary training but does not include—

- (a) an institution or assembly in which the instruction is wholly or mainly of a religious character;
- (b) an institution owned or maintained by a religious body for the purpose of training persons for the ordained ministry or for admission to a religious order:

Provided that any class, division, or section of any such institution in which instruction relates to secular subjects shall be deemed to be a school;

- (c) an institution or assembly the principal purpose of which is to impart instruction in hobbies, the arts, games or sports;
- (d) any institution or assembly under the jurisdiction of a Ministry other than the Ministry of education.

3. Establishment and registration of schools

- (1) Every person who intends to establish a school may apply in the prescribed form to the Principal Secretary for the registration of such school.
- (2) Subject to subsection (3) no person shall operate a school unless such school is registered in accordance with this Act.
- (3) All schools approved or registered under the Education Act, 1964 (repealed by this Act) shall be deemed to have been registered under this Act.
- (4) A person aggrieved by the refusal of the Principal Secretary to register a school may in writing appeal to the Minister whose decision shall be final.

Part II – Minister's powers, National Education Board, etc.

4. General functions of the Minister

- (1) The functions of the Minister shall be—
 - (a) to promote the education of the people of Swaziland and develop institutions for that purpose;
 - (b) to establish an educational policy in keeping with the needs and aspirations of the people of Swaziland with a view to providing a comprehensive educational service in Swaziland;
 - (c) to establish a co-ordinated educational system organized in accordance with this Act;
 - (d) to take such steps as may be necessary to contribute to the spiritual, moral, mental and physical development of the people by ensuring that as far as practicable efficient educational facilities are available to all to meet their needs;
 - (e) to ensure the effective execution of the educational policy of the Government.
- (2) Without derogating from the generality of the provisions of subsection (1) the Minister may, in consultation with the Board—
 - (a) establish schools in such places as he may think fit and determine the classification of such schools;
 - (b) make grants to any school, or otherwise assist in the maintaining of schools;
 - (c) establish, maintain and assist in the maintaining of such teacher colleges as he considers necessary for the training of teachers and take such other steps as he considers necessary to ensure that the requirements for teachers in public educational institutions will be satisfied;
 - (d) establish, maintain or assist in maintaining vocational schools at which pupils devote less than half of the regular hours of tuition to receiving instruction in some trade, handicraft, agricultural work or home economics;
 - (e) provide and approve the grant of scholarships, bursaries and other financial assistance for post-secondary education;

- (f) make provision for the administration and testing of pupils and the award of certificates or diplomas;
- (g) provide for the inspection of schools;
- (h) provide or assist in providing such facilities as he may think fit for post-secondary education;
- (i) provide for the granting to any pupil or class of pupils of free places in public educational institutions or public schools, including free accommodation in an educational institution, free books and medical and dental assistance;
- (j) prescribe allowances and remuneration for any members of the Board;
- (k) establish and maintain a national curriculum centre for the evaluation, design, preparation and co-ordination of the curricula for educational institutions that he may define from time to time.

5. Establishment and membership, etc., of National Education Board

- (1) There is hereby established a board to be known as the National Education Board which shall consist of the following members—
 - (a) the Principal Secretary, who shall be the Chairman;
 - (b) the Director, who shall be the Chairman in the absence of the Principal Secretary;
 - (c) one public officer from the Ministry of Finance appointed by the Principal Secretary of that Ministry;
 - (d) one public officer from the Department of Establishments and Training appointed by the Principal Secretary of the Ministry to which that Department belongs;
 - (e) two persons appointed by the King;
 - (f) three grantees appointed, one each, by the Swaziland Council of Churches, the Swaziland Conference of Churches and the Swaziland League of Churches;
 - (g) four persons appointed, one each, by the District Education Advisory Boards;
 - (h) one person appointed by the Minister to represent colleges of education;
 - (i) one teacher appointed by the Swaziland Association of Teachers or such other body which, in the opinion of the Minister, has similar objects;
 - (j) one person appointed by the Swaziland Association of Employers or such other body which, in the opinion of the Minister, has similar objects;
 - (k) one person appointed by the Council of the University College of Swaziland.
- (2) The Chairman shall appoint a Secretary to the Board.
- (3) A member referred to in paragraphs, (e) to (k) of subsection (1) shall hold office for a period not exceeding three years and shall be eligible for re-appointment.

6. Executive Committee of the Board

- (1) The members of the Board referred to in paragraphs (a), (b), (c) and (d) of [section 5\(1\)](#) shall constitute the Executive Committee of the Board.
- (2) The Executive Committee shall have such duties and perform such functions as may, subject to this Act, be assigned to it by the Minister and shall carry out the decisions of the Board.

7. Functions of the Board

- (1) The Board shall make recommendations to the Minister and advise him regarding the establishment and planning of schools and classes, the qualifications of teachers to be employed in such schools and classes, the subjects to be taught in them and the general conduct and discipline of such schools or classes.
- (2) The Board may make recommendations to the Minister and advise him regarding—
 - (a) the allocation of grants or other assistance to schools;
 - (b) the drawing up of curricula and syllabi for schools;
 - (c) the academic and other standards to be maintained by schools;
 - (d) proposals for legislation relating to education;
 - (e) the staffing of schools;
 - (f) the co-ordination of educational activities under this Act with those relating to post-secondary and adult education;
 - (g) the terms and conditions relating to the employment of teachers and other members of staff in schools;
 - (h) plans for the promotion and development of education; and
 - (i) such other matters as are required to be done by the Minister under this Act or any other law relating to education.
- (3) All expenses incurred by the Board, including travelling and other allowances payable to members of the Board, shall be paid out of public funds.

8. Qualifications of members of the Board

- (1) No person shall be qualified to serve as a member of the Board if—
 - (a) he is an unrehabilitated insolvent; or
 - (b) he has been convicted of any offence involving dishonesty or violence or has been sentenced to imprisonment without the option of a fine.
- (2) No person shall serve on the Board if—
 - (a) he has since his appointment become disqualified in terms of subsection (1);
 - (b) he wilfully absents himself from two or more consecutive meetings of the Board without the consent of the chairman of the Board; or
 - (c) he, in writing, resigns from it.

9. Procedure of the Board and the Executive Committee

- (1) The proceedings of the Board and other matters relating thereto shall be governed by the provisions set out in the First Schedule.
- (2) The Executive Committee shall make its own rules of procedure.
- (3) The Minister may, by Notice in the *Gazette*, amend the First Schedule.

Part III – District Education Advisory Boards

10. Establishment of District Education Advisory Boards

- (1) The Chairman of the Board shall as soon as practical after the commencement of this Act convene meetings for the purpose of establishing a District Education Advisory Board in each district.
- (2) Each Advisory Board shall consist of the following members—
 - (a) the district education officer of the district concerned who shall be chairman of the Advisory Board;
 - (b) two Ministers of religion in the district appointed by the Minister;
 - (c) a teacher serving in the district appointed by the Swaziland National Association of Teachers or a body approved by the Minister as having similar objects;
 - (d) two members appointed by the Principal Secretary after consultation with the school committees operating in such district;
 - (e) three members of Tinkhundla resident in the district appointed by the Regional Administrator of that district at least one of whom shall be a female;
 - (f) the District Education Officer shall appoint one of his staff to be Secretary of the Advisory Board.

11. Functions of Advisory Board

The function of an Advisory Board shall be to advise the National Education Board on all matters relating to education in the District concerned.

12. Procedure of Advisory Board

- (1) The proceedings of an Advisory Board and other matters relating thereto shall be governed by the provisions set out in the Second Schedule.
- (2) The Minister may, by Notice in the *Gazette*, amend the Second Schedule.

Part IV – School committees

13. Establishment of school committees

The Principal Secretary shall with the approval of the Minister—

- (a) establish a school committee for each school;
- (b) prepare and provide a constitution for each school committee; and
- (c) establish a joint association of parents and teachers for each school.

14. Membership of school committee

- (1) A school committee shall consist of the following members—
 - (a) one person appointed by and representing the chief of the area in which the school is situated;
 - (b) one person appointed by and representing, in the case of a committee in Mbabane Town and Manzini Town, the Town Council of Mbabane or Manzini as the case may be;

- (c) in all other areas the District Commissioner or his representative;
 - (d) the grantee of the school;
 - (e) all members elected in accordance with the constitution of the committee by the parents of the pupils at a school;
 - (f) the headmaster of the school.
- (2) The members of a committee shall elect one of their numbers to be the chairman of the committee and another one to be the secretary to the Committee.

15. Functions of school committee

The functions of a committee shall be—

- (a) to look after the affairs of the school in respect of which the committee has been established;
- (b) to advise the District Education Advisory Board on any matter relating to the management or conduct of such school.

Part V – Adult Education Council

16. Establishment of the Adult Education Council

- (1) An Adult Education Council is hereby established and shall consist of the following members—
- (a) the Director or, in his absence, a person appointed by him, who shall be the chairman;
 - (b) the Chief Executive Officer of the Sebenta Society;
 - (c) one public officer from each Ministry;
 - (d) one person nominated by the Board;
 - (e) one public officer appointed by the head of the Department of Establishments & Training;
 - (f) one person appointed by the Swazi National Council;
 - (g) one person appointed by the National Board for High Education from among its members;
 - (h) one Minister of religion nominated by the Minister;
 - (i) one person appointed by the Swaziland National Association of Teachers from among its members;
 - (j) one person appointed by the Swaziland Federation of Employers from among its members.
- (2) A member of the Council other than the members referred to in paragraphs (a) and (b) of subsection (1) shall hold office for a period of not more than three years but shall be eligible for re-appointment.
- (3) The Principal Secretary shall appoint an officer from his Ministry to be the secretary to the Council.

17. Functions of the Council

- (1) The Minister may refer any matter relating to adult education to the Council for its advice.
- (2) The Council shall, when any matter is referred to it under subsection (1), consider it and submit its advice thereon to the Minister.

- (3) The Council may submit to the Minister its advice on any matters relating to adult education, including—
- (a) the co-ordinated development of adult education and the establishment of adult education centres and classes;
 - (b) the financial and other requirements of adult education centres;
 - (c) the standards of education to be maintained;
 - (d) proper and adequate staffing;
 - (e) the terms and conditions of employment of teachers and other staff.

18. Qualifications for membership

Section 8 shall apply *mutatis mutandis* to the members of the Council.

19. Procedure of the Council

- (1) The proceedings of the Council and other matters relating thereto shall be governed by the provisions set out in the Third Schedule.
- (2) The Minister may, by Notice in the *Gazette*, amend the Third Schedule.

Part VI – Other provisions

20. Power to inspect schools, etc.

The Principal Secretary may appoint any person to inspect schools and adult education centres for the purpose of—

- (a) ensuring that proper standards are maintained in relation to the health of pupils, teachers and other members of staff and the cleanliness of buildings, premises and other facilities;
- (b) examining the records of any school or adult education centre and any other matters relating to the teaching at or management of such school or centre.

21. Power to make Regulations

The Minister may make Regulations for the purposes of this Act.

22. Offences and penalties

Any person who operates a school contrary to section 3(2) shall be guilty of an offence and on conviction liable to a fine of E500 or imprisonment for one year.

23. Repeal

The following Acts are repealed—

- (a) The Education Act, 1964;
- (b) The Medical Inspection of Schools Act, 1928;
- (c) The Inspection of Schools Act, 1934.

First Schedule (Section 9)

Rules of procedure of the National Education Board

1. The Chairman of the National Education Board shall convene and preside at all meetings of the Board.
2. In the absence of the Chairman, but subject to the provisions of this Schedule relating to the quorum, the members present shall elect one of their numbers to preside at a meeting.
3.
 - (1) The Board shall hold at least one meeting every six months and the Secretary shall give to each member fourteen days' notice of the time and place of such meeting.
 - (2) Without prejudice to sub-paragraph (1) the Chairman shall, if so requested in writing by at least two-thirds of all the members, convene a special meeting of the Board within seven days of such request and may, at any other time convene an emergency meeting after giving notice of such meeting to all the members.
4. The quorum for a meeting of the Board shall be not less than six members.
5. All decisions of the Board shall be made by a majority of the votes of the members present and in the event of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.
6. The Board may co-opt any person to attend a meeting but such person shall have no right to vote.
7. No member of the Board who is directly or indirectly interested in any contract or proposed contract or has a personal interest in any other matter to be considered by the Board shall take part in the consideration thereof or vote thereon but he shall, as soon as practicable before or after the commencement of the consideration of the contract or matter in question, disclose his interest to the Chairman.
8. The Chairman shall, within ten days after every meeting, submit to the Minister a written report on such meeting and shall, as soon as the Minutes thereof have been confirmed, submit to the Minister a copy of those Minutes.
9. The Board, in accordance with its prior decision to that effect may decide on any matter, without a meeting, by the circulation of papers among the members and by the expression of the views of the majority of the members thereon in writing.
10. Subject to the provisions of this Schedule relating to a quorum, no act or proceedings of the Board shall be invalid by reason only of some defect in the appointment of a member or that the number of members is not complete or of the fact that any person who purports to be a member was not validly a member.
11. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

Second Schedule (Section 12)

Rules of procedure of a District Education Advisory Board

1. The Chairman of an Advisory Board shall convene and preside at all meetings of the Board.
2. In the absence of the Chairman, but subject to the provisions of this Schedule relating to the quorum, the members present shall elect one of their numbers to preside at a meeting.
3.
 - (1) The Advisory Board shall hold at least one meeting every three months and the Secretary shall give to each member fourteen days' notice of the date and place of such meeting.
 - (2) Without prejudice to paragraph (1) the Chairman shall, if so requested in writing by at least two-thirds of all the members, convene a special meeting of the Board within seven days of such request.
4. The quorum for a meeting of the Advisory Board shall be not less than six members.

5. All decisions of the Advisory Board shall be made by a majority of the votes of the members present and in the event of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.
6. The Advisory Board may co-opt any person to attend a meeting but such person shall have no right to vote.
7. No member of the Advisory Board who is directly or indirectly interested in any contract or proposed contract or has a personal interest in any other matter to be considered by the Advisory Board shall take part in the consideration thereof or vote thereon but he shall, as soon as practicable before or after the commencement of the consideration of the contract of matter in question, disclose his interest to the Chairman.
8. The Chairman shall, within ten days after every meeting, submit to the Chairman of the National Education Board, a report on such meeting and shall, as soon as the Minutes have been confirmed, submit to the Chairman of the National Education Board a copy of those Minutes.
9. The Advisory Board, in accordance with its prior decision to that effect may decide on any matter, without a meeting, by the circulation of papers among the members and by the expression of the views of the majority of the members thereon in writing.
10. Subject to the provisions of this Schedule relating to a quorum, no act or proceedings of the Advisory Board shall be invalid by reason only of some defect in the appointment of a member or that the number of members is not complete or of the fact that any person who purports to be a member was not validly a member.
11. Subject to the provisions of this Schedule, the Advisory Board may regulate its own proceedings.

Third Schedule (Section 19)

Rules of procedure of the Adult Education Council

1. The Chairman of the Adult Education Council shall convene and preside at all meetings of the Council.
2. In the absence of the Chairman, but subject to the provisions of this Schedule relating to the quorum, the members present shall elect one of their numbers to preside at a meeting.
3.
 - (1) The Council shall hold at least one meeting every six months and the Secretary shall give to each member fourteen days' notice of the time and place of such meeting.
 - (2) Without prejudice to sub-paragraph (1) the Chairman shall if so requested in writing by at least two-thirds of all the members, convene a special meeting of the Council within seven days of such request.
4. The quorum for a meeting of the Council shall be not less than eight members.
5. All decisions of the Council shall be made by a majority of the votes of the members present and in the event of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.
6. The Council may co-opt any person to attend a meeting but such person shall have no right to vote.
7. No member of the Council who is directly or indirectly interested in any contract or proposed contract or has a personal interest in any other matter to be considered by the Council shall take part in the consideration thereof or vote thereon but he shall, as soon as practicable before or after the commencement of the consideration of the contract or matter in question disclose his interest to the Chairman.
8. The Chairman shall, within ten days after every meeting, submit to the Minister a written report on such meeting and shall, as soon as the Minutes thereof have been confirmed, submit to the Minister a copy of those Minutes.

9. The Council, in accordance with its prior decision to that effect, may decide on any matter without a meeting, by the circulation of papers among the members and by the expression of the views of the majority of the members thereon in writing.
10. Subject to the provisions of this Schedule relating to a quorum, no act or proceedings of the Council shall be invalid by reason only of some defect in the appointment of a member or that the number of members is not complete or of the fact that any person who purports to be a member was not validly a member.
11. Subject to the provisions of this Schedule, the Council may regulate its own proceedings.