



Isle of Man

Ellan Vannin

EDUCATION BILL 2020

EDUCATION BILL 2020

Explanatory Memorandum

1. This Bill is promoted by Minister Graham Cregeen M.H.K., on behalf of the Department of Education, Sport and Culture.
2. Part 1, Division 1 contains technical introductory provisions.
3. Clause 1 gives the Bill its short title.
4. Clause 2 provides for the Bill to come into force in accordance with an order to be made by the Department.
5. Clause 3 gives an overview of the provisions of the Bill.
6. Clause 4 defines terms used in the Bill.
7. Clause 5 requires an annual consultation meeting with school governors and head teachers on the Department's educational strategy.
8. Part 1, Division 2, deals with principles and duties.
9. Clause 6 sets out the fundamental principles of education in the Island.
10. Clause 7 confirms a general duty on the Department to secure and promote the education of persons resident in the Island.
11. Clause 8 requires the Department to exercise functions in cooperation with other public authorities, and allows the Department to consult.
12. Clause 9 sets out the principles for dispute-resolution in matters relating to education in the Island.
13. Part 2 deals with schools.
14. Division 1 defines terms.
15. Clause 10 defines different classes of school.
16. Clause 11 defines "maintained school".
17. Clause 12 defines "maintained faith school".
18. Clause 13 defines "contracted school".
19. Division 2 deals with maintained schools.
20. Clause 14 requires the Department to ensure that there are available in the Island sufficient schools for the provision of primary and secondary education.
21. Clause 15 requires the Department to provide and maintain schools.
22. Clause 16 requires the Department to set the term dates for maintained and contracted schools in each year.

23. Clause 17 allows the Department to establish, close and alter schools.
24. Clause 18 requires the Department to make arrangements for the maintenance and development of premises for maintained schools.
25. Clause 19 requires the Department to make articles of government for schools.
26. Clause 20 requires the Department to issue model instruments of government for schools.
27. Clause 21 allows the Department to issue policies dealing with matters relating to the governance or conduct of schools.
28. Clause 22 requires instruments of government to include provision about the appointment of governors.
29. Clause 23 allows the Department to give directions to schools where governing bodies or head teachers are behaving unreasonably or unlawfully.
30. Clause 24 allows the Department to make arrangements for delegated financial management of schools.
31. Clause 25 allows the Department to make regulations about charges for specified kinds of services provided at schools.
32. Clause 26 allows the Department to aim to secure capital contributions from church and faith institutions where significant development or other capital costs are expected to be incurred.
33. Clause 27 requires the Department to make regulations about providing reports to parents of pupils at maintained schools.
34. Clause 28 allows the Department to require the provision of information about pupils and activities at schools.
35. Clause 29 gives the Department responsibility for employing teachers, and makes provision for the employment of educational support staff, in maintained schools.
36. Clause 30 requires the Department to set the curriculum for registered pupils of compulsory school age at maintained schools.
37. Clause 31 requires the articles of government of maintained schools to make provision about standards of behaviour.
38. Clause 32 requires the articles of government of maintained schools to include procedural provisions relating to suspension and exclusion.
39. Clause 33 forbids the use of Corporal punishment.
40. Clause 34 allows staff at schools to use reasonable force to restrain pupils.
41. Clause 35 makes provision about the confiscation of property in schools.
42. Clause 36 allows the recovery of costs in relation to damage caused by pupils at schools.
43. Clause 37 makes provision about offensive weapons in schools.

44. Clause 38 gives school teachers limited powers in relation to behaviour outside school premises at times when teachers are responsible for the welfare or behaviour of pupils.
45. Clause 39 allows head teachers of maintained and contracted schools to ban people from the premises.
46. Clause 40 creates an offence of violent or disorderly behaviour in schools.
47. Clause 41 allows constables to assist head teachers in specified circumstances.
48. Clause 42 allows head teachers to take action in relation to certain inappropriate use of social media.
49. Clause 43 requires the Department to set catchment areas for maintained schools.
50. Clause 44 makes provision about registers of pupils at schools.
51. Clause 45 makes provision for admission of pupils to schools.
52. Clause 46 provides for inspections of maintained schools.
53. Clause 47 requires maintained schools to carry out self-assessments at least once a year and makes provision about matters which may be considered in an inspection.
54. Clause 48 makes provision for additional and interim inspections of maintained schools.
55. Clause 49 makes supplementary provision in relation to inspections.
56. Clause 50 makes provision where inspections have identified deficiencies in schools.
57. Clause 51 defines “independent school”.
58. Clause 52 provides for the maintenance of a register of independent schools.
59. Clause 53 makes provision for entry of independent schools in the register.
60. Clause 54 makes provision for provisional registration.
61. Clause 55 makes provision for removal from the register of independent schools.
62. Clause 56 makes it an offence to conduct an unregistered independent school.
63. Clause 57 makes provision for the inspection of independent schools.
64. Clause 58 requires the provision of information about independent schools to the Department.
65. Clause 59 makes provision for the investigation of complaints relating to independent schools.
66. Clause 60 makes provision about the determination of complaints.
67. Clause 61 makes provision for the enforcement of complaint notices in relation to independent schools.

68. Clause 62 makes provision about the welfare of children and young persons in independent school residential accommodation.
69. Part 3 deals with the law of compulsory education.
70. Clause 63 defines “compulsory school age”.
71. Clause 64 requires parents of children of compulsory school age to ensure that they receive suitable education.
72. Clause 65 requires parents who wish to arrange for their children to attend school to register their child at the school in the academic year before the academic year in which the child reaches the age of five.
73. Clause 66 requires parents to notify the Department of arrangements made for children’s education otherwise than at school.
74. Clause 67 makes provision where the Department suspects that a child is not receiving suitable education.
75. Clause 68 creates an offence committed by a parent of a child of compulsory school age who is failing to attend school regularly despite being registered at a school.
76. Clause 69 makes provision about determining what amounts to regular attendance.
77. Clause 70 allows courts to require parents to attend guidance courses relating to school attendance.
78. Clause 71 allows the imposition of a civil penalty in relation to school attendance.
79. Clauses 72 to 76 make provision about school attendance orders.
80. Clause 77 makes provision about education supervision orders.
81. Clause 78 makes provision for the return of truants to school.
82. Clauses 79 and 80 make provision about home education.
83. Part 4 makes provision about individuals with additional educational needs.
84. Clause 81 defines “additional educational needs”.
85. Clause 82 sets out principles of education in relation to people with additional educational needs.
86. Clause 83 requires the Department to issue a code of practice about additional educational needs.
87. Clause 84 makes provision for the assessment of children with additional educational needs.
88. Clause 85 allows parents to request an assessment.
89. Clause 86 makes provision about the procedure for assessments.

90. Clause 87 requires the Department to produce a report following an assessment in relation to additional educational needs.
91. Clause 88 allows the Department to provide education at a maintained school for individuals with additional educational needs.
92. Clause 89 allows the Department to provide education at colleges in certain circumstances.
93. Clause 90 allows the Department to make arrangements for attendance at independent schools in certain circumstances.
94. Clause 91 makes provision for the provision of education outside schools or colleges in certain circumstances.
95. Clause 92 allows the Department to make off-Island provision for children in certain circumstances.
96. Part 5 makes provision about education outside schools.
97. Clauses 93 and 94 make provision about colleges, including applying other provisions of the Bill with modifications.
98. Clause 95 makes provision about further education.
99. Clause 96 makes provision about higher education.
100. Clause 97 makes provision about recognised awards and degrees.
101. Clause 98 provides for the enforcement of the provisions of clause 97.
102. Clauses 99 to 105 make provision about pre-school education.
103. Clause 106 makes provision for youth and community services.
104. Clause 107 makes provision allowing the Department to give financial assistance in respect of educational facilities.
105. Clause 108 allows the Department to make arrangements for transport to schools and colleges.
106. Clause 109 allows the Department to arrange the provision of food and drink at maintained schools and colleges.
107. Clauses 110 to 119 make provision for the registration and inspection of educational institutions.
108. Clauses 120 to 123 make provision for the registration of private tutors.
109. Part 6 makes general and final provision.
110. Clause 124 continues the Education Tribunal.
111. Clause 125 allows the Department to administer trust property.
112. Clause 126 makes provision about child employment.
113. Clause 127 makes provision for the determination of children's ages.
114. Clause 128 makes provision about the admission of certain documents in evidence.

115. Clause 129 makes provision about the publication of notices.
116. Clause 130 makes provision about subordinate legislation under the Bill.
117. Clause 131 contains consequential repeals.
118. Schedule 1 lists schools.
119. Schedule 2 makes additional provision about the establishment, closure and alteration of schools.
120. Schedule 3 makes provision about schemes relating to educational trusts.
121. The resulting Act is not expected to have any financial or human resource implications.
122. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



Eilán Vannin

EDUCATION BILL 2020

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EDUCATION BILL 2020

- 1 **A BILL** to make provision about education, and other provisions about children
2 of school age.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

3 **PART 1 – INTRODUCTORY**

4 **DIVISION 1 – TECHNICAL PROVISIONS**

5 **1 Short title**

6 The short title of this Act is the Education Act 2020.

7 **2 Commencement**

8 (1) This Act, other than section 1 and this section, comes into operation in
9 accordance with an order to be made by the Department.

10 Tynwald procedure – laying only

11 (2) An order, —

12 (a) may appoint different days for different purposes; and

13 (b) may include consequential, incidental, supplementary and
14 transitional provision.

15 **3 Overview**

16 (1) This section outlines the provisions of this Act.

17 (2) Division 2 of this Part makes provision about the principles of education
18 and the duties of the Department.

19 (3) Part 2 makes provision about schools, —

20 (a) Division 1 defines classes of school;

21 (b) Division 2 makes provision about maintained schools,
22 including, —

- (i) provision and maintenance of schools;
 - (ii) opening, closing and altering schools;
 - (iii) premises;
 - (iv) governance and finance;
 - (v) teaching;
 - (vi) school discipline;
 - (vii) admission of pupils; and
 - (viii) inspections; and
 - (c) Division 3 makes provision about independent schools.
- (4) Part 3 makes provision about compulsory education, —
 - (a) Division 1 defines compulsory school age;
 - (b) Division 2 makes provision about parental duties;
 - (c) Division 3 makes provision about failure to secure attendance at school;
 - (d) Division 4 makes provision about school attendance orders;
 - (e) Division 5 makes provision about education supervision orders;
 - (f) Division 6 makes provision about truancy; and
 - (g) Division 7 makes provision about home education.
- (5) Part 4 makes provision about additional educational needs, —
 - (a) Division 1 defines additional educational needs;
 - (b) Division 2 makes provision about the principles of additional educational needs and the additional educational needs code;
 - (c) Division 3 makes provision about additional educational needs assessments; and
 - (d) Division 4 makes provision about additional educational needs reports and provision.
- (6) Part 5 makes provision about education outside schools, —
 - (a) Division 1 makes provision about colleges;
 - (b) Division 2 makes provision about further and higher education;
 - (c) Division 3 makes provision about pre-school education;
 - (d) Division 4 makes provision about youth, community and ancillary services;
 - (e) Division 5 makes provision about educational institutions; and
 - (f) Division 6 makes provision about private tutors.
- (7) Part 6 makes general and final provision.

4 Interpretation

- (1) In this Act, except where the context otherwise requires, —
- “**AEN Code**” has the meaning given by section 83;
- “**AEN principles**” has the meaning given by section 82;
- “**the Tribunal**” means the tribunal established in accordance with section 124;
- “**additional educational needs**” has the meaning given by section 81;
- “**adult**” means an individual who is neither a child nor a young person;
- “**articles of government**” has the meaning given by section 19;
- “**authorised person**” means a person (whether or not an official of the Department) authorised by the Department in writing;
- “**child**” means an individual who is not over compulsory school age (see Part 3, Division 1);
- “**college**” means an institution primarily providing further and higher education, whether or not it also provides other education (which may include general education for pupils of compulsory school age and education for pupils with additional educational needs);
- “**all-through school**” has the meaning given by section 10(1);
- “**compulsory school age**” has the meaning given by section 63;
- “**conduct**”, in relation to an independent school, has the meaning given by section 56;
- “**contracted school**” means a school provided for specific purposes, ;
- “**DHSC**” means the Department of Health and Social Care;
- “**the Department**” means the Department of Education, Sport and Culture;
- “**early years education**” has the meaning given by section 99(2);
- “**early years provider**” has the meaning given by section 99(1);
- “**education**” includes practical instruction and training;
- “**education supervision order**” has the meaning given by section 77;
- “**educational institution**” has the meaning given by section 110;
- “**exclusion**”, in relation to the exclusion of a pupil from a school, means the permanent removal of the pupil from the school’s register;
- “**federated school**” has the meaning given by section 10(1);
- “**foundation governor**” has the meaning given by section 22(5);
- “**further education**” has the meaning given by section 95(2);
- “**governor**” means a member of the governing body of a school;
- “**higher education**” has the meaning given by section 96(2);

- 1 “home education” has the meaning given by section 79;
- 2 “independent school” has the meaning given by section 51;
- 3 “instrument of government” has the meaning given by section 20;
- 4 “maintain”, in relation to a school or college, has the meaning given by section
5 15 or 93;
- 6 “maintained school” has the meaning given by section 11;
- 7 “parent” means a person with parental responsibility for a child;
- 8 “premises”, in relation to a school, includes a reference to any part of the
9 school’s premises;
- 10 “prescribed” means prescribed by regulations;
- 11 “primary education” means education for children between the ages of 5 and 11
12 (inclusive);
- 13 “primary school” has the meaning given by section 10(1);
- 14 “private tutor” has the meaning given by section 120;
- 15 “psychoactive substance” has the meaning given by section 35(9);
- 16 “public authority” has the same meaning as in the *Freedom of Information Act*
17 2015;
- 18 “school” has the meaning given by section 10(1);
- 19 “school attendance order” has the meaning given by section 73;
- 20 “school year” means an academic year of a school or college, —
- 21 (a) beginning with 1 September and ending with 31 August, or
- 22 (b) in the case of a school or college which, with the approval of the
23 Department, publishes arrangements for the beginning and
24 ending of its academic years, an academic year as determined in
25 accordance with those arrangements;
- 26 “secondary education” means education for children between the ages of 11
27 and 16 (inclusive);
- 28 “secondary school” has the meaning given by section 10(1);
- 29 “suspension”, in relation to the suspension of a registered pupil from a school,
30 means denying the pupil the right to attend the school for a specified
31 period;
- 32 “young person” means an individual who, —
- 33 (a) is over compulsory school age, and
- 34 (b) is not over the age of 18, or, in the case of an individual with
35 additional educational needs, is not over the age of 21; and
- 36 “youth and community services” has the meaning given by section 106(2).

- (2) A reference to educational or other services or facilities being provided in the Island includes a reference to services or facilities provided remotely (from anywhere) and accessed in the Island.

5 Consultation with school governors and head teachers

- (1) At least once in each calendar year the Minister for Education, Sport and Culture must convene a meeting which the Chair of Governors of each school in the Island may attend (personally, or by a representative who is also a governor of the relevant school).
- (2) At least once in each calendar year the Minister for Education, Sport and Culture must convene a meeting which the head teacher of each non-independent school in the Island may attend (personally, or by a representative who is also a teacher at the relevant school).
- (3) At each meeting the Minister must, —
- (a) outline the Department's educational strategy;
 - (b) outline major achievements, challenges and events since the last meeting in relation to education in the Island; and
 - (c) give those attending an opportunity to express their views on matters relating to education in the Island.
- (4) The Minister may hold additional meetings if the Minister considers it appropriate.
- (5) The Minister must publish a report of the proceedings of each meeting.

DIVISION 2 – PRINCIPLES AND DUTIES

6 Principles of education

- (1) This section sets out the fundamental principles of education in the Island.
- (2) A public authority must have regard to the fundamental principles when exercising a function under this Act or any other function relation to education.
- (3) The principles are, —
- (a) that education in the Island should enable all individuals to have an equality of opportunity as far as practicable;
 - (b) that the mainstream educational system should so far as possible reflect and implement the AEN principles (see section 82);
 - (c) that education in the Island should include provision for vocational and other practical training so far as possible;
 - (d) that education in the Island should include provision for life-long learning so far as possible;

- (e) that children, young persons and their parents should have a reasonable degree of influence over the kind of education which is provided to them;
- (f) that the educational system should support the cultural integrity and identity of the Island;
- (g) that the educational system should support the development of a diverse society based on mutual respect;
- (h) that providers of education in or for the Island should make appropriate use of developing technology;
- (i) that education in the Island should be provided economically, effectively and efficiently.

- (4) The Department may make regulations defining “life-long learning” for the purposes of this section.

Tynwald procedure – laying only

7 General duty of Department

- (1) The Department has a general duty to secure and promote the education of persons resident in the Island.
- (2) For the purpose of performing that duty the Department must make arrangements for the provision of educational services in the Island.
- (3) In the exercise of its functions under this Act the Department must aim to manage resources economically, efficiently and effectively.
- (4) In the exercise of its functions under this Act the Department must, –
 - (a) provide facilities for education throughout people’s lives (and not only for children and young persons);
 - (b) aim to provide facilities for education that use a range of learning and communication technology;
 - (c) aim to provide facilities (particularly for adults) for part-time and remote learning;
 - (d) aim to take account of the needs of children, young persons and their parents;
 - (e) make arrangements to safeguard the welfare and wellbeing of individuals attending educational establishments, and generally in connection with their education;
 - (f) in addition to providing or using facilities provided in the Island, consider using facilities provided outside the Island where that is appropriate, economical, efficient and effective;
 - (g) provide appropriate support for children and young persons with medical conditions attending maintained schools.

8 Consultation, cooperation and review

- (1) In the exercise of its functions under and in accordance with section 7 the Department must carry out such consultation as it considers appropriate with education professionals and others.
- (2) The Department must, where appropriate, exercise its functions in cooperation with, —
 - (a) DHSC (particularly in relation to safeguarding and in relation to its responsibilities under the *Children and Young Persons Act 2001*),
 - (b) the Safeguarding Board in the exercise of its responsibilities under the *Safeguarding Act 2018*;
 - (c) the Department of Home Affairs;
 - (d) the Isle of Man Constabulary; and
 - (e) other relevant public authorities.
- (3) The Department must from time to time, —
 - (a) review the facilities for the provision of education to persons resident in the Island; and
 - (b) publish its findings.
- (4) The Department must from time to time, —
 - (a) issue guidance about the exercise of its functions under this Act; and
 - (b) publish the guidance.

9 Dispute resolution

- (1) This section sets out the dispute resolution principles for matters relating to education in the Island.
- (2) A public authority exercising functions in relation to education must apply the dispute resolution principles.
- (3) A court or tribunal considering matters relation to education must have regard to the dispute resolution principles.
- (4) The dispute resolution principles are that so far as possible disputes should be addressed, —
 - (a) first, by an internal review carried out by the decision-maker in respect of whose decision the dispute has arisen;
 - (b) next, by mediation; and
 - (c) finally (subject to doleance), by referral to an independent tribunal.
- (5) A court or tribunal determining a matter which has not been addressed by internal review and mediation may, —

- (a) require the parties to explain why internal review and mediation have not been used, and
- (b) take such account of the explanation (whether in relation to the substantive outcome of the case, costs or otherwise) as the court or tribunal considers appropriate.

PART 2 – SCHOOLS

DIVISION 1 – DEFINITIONS

10 Classes of school: general

- (1) In this Act, —
 - (a) “**primary school**” means an institution providing education mostly for children between the ages of 5 and 11 (inclusive);
 - (b) “**secondary school**” means an institution providing education mostly for children between the ages of 11 and 16 (inclusive);
 - (c) “**all-through school**” means a school that is both a primary school and a secondary school;
 - (d) “**federated school**” means a group of two or more schools sharing a single head teacher and a single governing body (which may have one or more sub-committees each of which focuses on the affairs of a particular school in the group);
 - (e) “**school**” means a primary school, secondary school, all-through school or federated school.
 - (2) An all-through school is to be treated for the purposes of this Act and any other enactment as if it were both a primary school and a secondary school; and provisions of this Act and any other enactment apply to an all-through school with any necessary modifications.
 - (3) The Department may arrange for two or more schools to share a single set of premises; and where schools are co-located, this Act and any other enactment about education applies to each school separately, subject to any necessary modifications.
 - (4) The Department may make regulations providing for schools (“middle schools”) which cater for part of the age group served by primary schools and part of the age group served by secondary schools; and the regulations may make provision for the application of the provisions of this Act in relation to middle schools.
- Tynwald procedure – approval required
- (5) An institution falling within the definition of a college in section 93 is not a secondary school by reason of its also providing education for pupils of compulsory school age.

11 Maintained school

- (1) In this Act “**maintained school**” means a school provided and maintained by the Department.
- (2) In this Act, —
- (a) a reference to providing a school is a reference to making premises owned by the Department available for the use of the school, and
 - (b) a reference to maintaining a school is a reference to the Department paying the expenses of the school.

12 Maintained faith school

In this Act “**maintained faith school**” means a maintained school the governing body of which includes foundation governors nominated by a church or other religious institution.

13 Contracted school

In this Act “**contracted school**” means a school in respect of which the curriculum is provided, or management functions are performed, in accordance with a contract entered into by the Department.

DIVISION 2 – MAINTAINED SCHOOLS**SUBDIVISION 1 – PROVISION AND MAINTENANCE OF SCHOOLS****14 Duty to ensure sufficient schools**

- (1) The Department must ensure that there are available in the Island sufficient schools for the provision of primary education and secondary education.
- (2) In subsection (1) “sufficient schools” means schools that are sufficient in number and character, and have sufficient resources, to provide all children resident in the Island with education appropriate to their different, —
- (a) ages,
 - (b) abilities,
 - (c) interests, and
 - (d) aptitudes.
- (3) In performing its duty under this section, the Department must in particular have regard to the need to ensure, —
- (a) that suitable provision is made for pupils who have been assessed as having additional educational needs;

- (b) that primary and secondary education are as a general rule to be provided in separate schools (subject to paragraph (a), and subject to the power to establish all-through schools where the Department thinks it appropriate in particular circumstances);
- (c) that resources are used economically, efficiently and effectively, having regard to the number of pupils in each school.

15 Provision and maintenance

- (1) The Department must provide and maintain schools.
- (2) The Department must continue to maintain any school that is a maintained school immediately before this section comes into force (subject to closure or conversion under section 17).
- (3) The schools that are, immediately before this section comes into force, provided or maintained are listed in Schedule 1; and the Department may by order, —
 - (a) amend the Schedule to reflect a change in the name of a school;
 - (b) amend the Schedule to reflect anything done under, or of a kind described in, section 17.

Tynwald procedure – laying only

16 Term dates

- (1) The Department must set the term dates for maintained and contracted schools for each year.
- (2) The Department must publish the term dates for a school year as far in advance as is reasonably practicable.

SUBDIVISION 2 – OPENING, CLOSING AND ALTERING SCHOOLS

17 Establishment, closure and alteration of schools

- (1) The Department may by order make provision for or in connection with, —
 - (a) the establishment of a new maintained school;
 - (b) the adoption of an independent school as a maintained school;
 - (c) the closure of a maintained school, or its conversion into an independent school;
 - (d) the division of a school into two or more separate schools;
 - (e) the amalgamation of two or more separate schools into a single school.

Tynwald procedure – laying only

- (2) The Department may by order make provision for or in connection with the establishment of a new contracted school, or the conversion of an existing school into a contracted school.

Tynwald procedure – approval required

- (3) The Department may by order provide for any of the following kinds of alteration in the character of a maintained school, –

- (a) beginning or ceasing to provide education for pupils above or below a particular age; or
- (b) significantly enlarging or altering the school premises;
- (c) transferring the school to a new site.

Tynwald procedure – laying only

- (4) The Department may not make provision of a kind permitted by subsection (1) or (2) except by order under that subsection.

- (5) Schedule 2 makes supplementary provision about orders under this section.

SUBDIVISION 3 – PREMISES

18 Premises of maintained schools

- (1) The Department must make arrangements for the maintenance, and where necessary the development, of premises used for maintained schools.

- (2) Arrangements under subsection (1) may include, –

- (a) cooperation or collaboration with other Departments or public authorities;
- (b) entering into contracts.

- (3) In respect of a maintained faith school, the Department may require a contribution to maintenance or development costs from the church or other religious institution that nominates foundation governors to the governing body.

- (4) The Department may make regulations about contributions under subsection (3); and the regulations may make provision, in particular, –

- (a) about rates of contribution (which may include provision for rates to be determined by reference to a formula, by reference to the judgment of a specified person, or in some other way);
- (b) for arrangements for maintenance or development to be conditional on arrangements for contributions.

Tynwald procedure – approval required

SUBDIVISION 4 – GOVERNANCE AND FINANCE

19 Articles of government

- (1) For each school, other than an independent school, the Department must make an instrument (“**articles of government**”) in accordance with which the school is to be conducted.
- (2) The articles of government must include provision for, —
 - (a) the functions of the Department, the governing body (if any) and the head teacher in relation to the conduct of the school;
 - (b) the appointment of teachers;
 - (c) the determination of school sessions;
 - (d) the admission of pupils;
 - (e) the behaviour standards, discipline, suspension, expulsion and reinstatement of pupils; and
 - (f) giving effect to any financial arrangements under section 24.
- (3) The Department must ensure that the articles of government clearly define the role and responsibilities of governors.
- (4) The articles of government must provide that, —
 - (a) an individual may not serve as governor of any one school for a period or periods amounting in total to more than 6 years; but
 - (b) the Department may permit a specified individual to serve for one or more specified periods beyond what would be permitted in accordance with paragraph (a) where the Department consider it expedient having regard to special circumstances.
 - (c) This section is subject to other provisions of this Act.

20 Model instruments of government

- (1) The Department must issue one or more model instruments (“**instrument of government**”) dealing with the constitution and proceedings of the governing body of primary and secondary schools.
- (2) The relevant model instrument of government applies automatically to each maintained primary or secondary school (including faith schools).
- (3) The Department may by written notice provide for specified modifications of a model instrument of government in its application by virtue of subsection (2) to a specified school or class of school.

21 Policies

- (1) The Department may issue one or more policies dealing with matters relating to the governance or conduct of schools.

- 1 (2) A policy may, in particular, relate to standards of behaviour in schools.
- 2 (3) The governing body and head teacher of any school must have regard to
- 3 any policy issued under this section.
- 4 (4) Before issuing a policy under this section the Department may consult
- 5 head teachers and governing bodies.
- 6 (5) The Department must take such steps to publicise policies issued under
- 7 this section as it considers appropriate.

8 **22 Appointment of governors**

- 9 (1) An instrument of government, —
- 10 (a) must include provision about the arrangements for the
- 11 appointment of governors (which may include provision for
- 12 election or for selection, and may confer functions on specified
- 13 persons);
- 14 (b) may include provision about arrangements for co-option of
- 15 governors with the approval of the Department;
- 16 (c) may include provision about the delegation of functions to
- 17 committees or sub-committees.
- 18 (2) The instrument of government must provide for the governing body to
- 19 consist of a maximum of 9 individuals of whom, —
- 20 (a) at least one is a teacher at the school, elected by the teachers at the
- 21 school;
- 22 (b) at least one is a non-teaching member of staff of the school,
- 23 elected by the non-teaching members of staff at the school;
- 24 (c) at least one is a parent of one or more children attending the
- 25 school, elected by the parents of children attending the school;
- 26 (d) in the case of a secondary school or college, one may be a pupil at
- 27 the school who is at least 16 years old; and
- 28 (e) the remainder are appointed or ratified by the Department.
- 29 (3) A governing body may co-opt additional members, subject to the
- 30 ratification of the Department.
- 31 (4) In appointing or ratifying governors the Department, —
- 32 (a) must ensure that the appointments under subsection (2)(a) to (d)
- 33 are not in a minority on the governing body;
- 34 (b) must aim to appoint individuals who in the Department's opinion
- 35 will provide an independent and objective perspective and will
- 36 act in the interests of securing an efficient, economic and effective
- 37 education for children attending the school; and

(c) may not appoint an individual who is a Member of Tynwald or the holder of an office which is a public authority to which holders are elected by the public.

(5) The instrument of government of a maintained faith school must provide that at least one third of the governors are to be individuals (“**foundation governors**”) appointed otherwise than by the Department for the purpose of ensuring, —

(a) that the character of the school as a maintained faith school is preserved and developed, and

(b) in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it.

(6) In the case of a federated school, the instrument of government may make separate appointments under any of paragraphs (a) to (d) of subsection (2) in respect of each of the schools in the federation; and the maximum of 9 members set by subsection (2) is increased by one for each additional appointment under any of those paragraphs.

23 Directions by Department

(1) The Department may give directions to the governing body or head teacher of a maintained school about the exercise of a function in respect of which the Department is satisfied that the governing body or head teacher has acted or is proposing to act, —

(a) unreasonably, or

(b) contrary to the articles of government of the school.

(2) If the Department is satisfied that the governing body or head teacher of a maintained school has failed to discharge a duty under the Act, the articles of government or directions under subsection (1) it may make an order, —

(a) declaring the governing body or head teacher to be in default in respect of that duty, and

(b) giving such directions for the purpose of enforcing the performance of the duty (which may include dismissal, whether by way of procedure in accordance with articles of government or a contract of employment, or otherwise).

(3) The Department may act under this section in respect of a function which consists of, or confers, a discretion.

(4) A governing body or head teacher must comply with a direction or order under this section.

(5) The articles of government must include provision for the removal of governors who appear to the Department to be unable or unwilling to perform their functions.

24 Delegated financial management

- (1) The Department may make arrangements for the head teacher of a maintained school to manage all or any part of a budget in respect of the actual or expected expenses incurred in connection with the operation of the school.
- (2) The Department may issue directions to be followed by head teachers, —
 - (a) in the preparation of draft budgets under this section;
 - (b) in managing budgets in accordance with arrangements under this section.

25 Charges for certain services

- (1) The Department may by regulations provide for the making of charges in respect of the provision at a maintained school of specified classes or descriptions of teaching or other activities for pupils (whether part of the normal curriculum or not).
Tynwald procedure – approval required
- (2) No charge may be made by or on behalf of the Department or the governing body of a maintained school for any teaching or other activity provided for pupils at the school except in accordance with regulations under subsection (1).

26 Foundation contributions to maintained faith schools

- (1) Where significant development or other capital costs are expected to be incurred in the maintenance of a school in a school year, the Department may aim to secure contributions from the church or other faith institution that nominates foundation governors to the governing body.
- (2) In applying this section the Department must aim to secure a contribution that fairly reflects all the circumstances of the case.

27 Reports to parents

- (1) The Department must make regulations about the provision of reports to parents of pupils at maintained schools.
Tynwald procedure – laying only
- (2) Reports must, —
 - (a) include, or provide reference to, information about the educational provision for pupils at the school (including the curriculum and syllabuses followed); and
 - (b) include reports on the educational achievements of their children, including the results of examinations and assessments.
- (3) The Department, —

- (a) may include in the regulations provision about the recording, maintenance and confidentiality of information; and
- (b) may issue guidance for schools in relation to compliance with data protection law.

28 Information for government

- (1) The Department may require the head teacher or governing body of a school to provide information about pupils and activities at the school.
 - (2) The Department may make regulations requiring the head teacher or governing body of a maintained school to keep records of a specified kind for the purposes of being able to comply with requirements under this section.
- Tynwald procedure – approval required
- (3) The regulations must include provision about redaction and anonymisation and any other necessary safeguards to ensure compliance with data protection law.

SUBDIVISION 5 – TEACHING

29 Employment of teachers and other staff

- (1) The Department is responsible for employing (including determining remuneration and terms and conditions of service of) all teachers in maintained schools.
- (2) The Department must ensure that terms and conditions of service of teachers under this section, —
 - (a) promote and facilitate equality of opportunity and the avoidance of discrimination, and
 - (b) in particular, reflect any relevant legislation, and Departmental guidance, in relation to equality.
- (3) This section does not prevent a government department apart from the Department, or the Public Services Commission, from employing staff in schools.

30 The curriculum

- (1) The Department must by order prescribe a curriculum which must be provided for all registered pupils of compulsory school age at maintained schools.
- Tynwald procedure – laying only
- (2) In prescribing the curriculum the Department must aim to provide for an appropriate balance between different subjects.

- 1 (3) The curriculum must, in particular, —
 - 2 (a) include education in religion, ethics and values, avoiding
 - 3 proselytising for any particular religion or religious approach;
 - 4 (b) include education about Manx Gaelic, Manx culture and Manx
 - 5 history;
 - 6 (c) include age-appropriate education about relationships and sex,
 - 7 health and lifestyle, and economic and other wellbeing; and
 - 8 (d) include opportunities for physical education (including games
 - 9 and sports).
- 10 (4) The curriculum may include arrangements for, —
 - 11 (a) regular assessments, and
 - 12 (b) access to public examinations, or participation in the attainment of
 - 13 qualifications, provided in the Island and elsewhere.
- 14 (5) The curriculum may include modifications and exceptions for pupils
- 15 with additional educational needs.
- 16 (6) Before making an order under subsection (1) the Department must
- 17 consult education professionals and such other persons as it considers
- 18 appropriate.

19 SUBDIVISION 6 – BEHAVIOUR

20 **31 School standards**

- 21 (1) The articles of government of a maintained school must make provision
- 22 about standards of behaviour in the school.
- 23 (2) The articles must specify the person responsible for setting standards of
- 24 behaviour for the school; and that person may be, —
 - 25 (a) the Department,
 - 26 (b) the governing body, or
 - 27 (c) the head teacher.
- 28 (3) The articles must specify, —
 - 29 (a) the sanctions which may be imposed for misbehaviour;
 - 30 (b) the criteria to be applied in determining which sanction to apply
 - 31 in a particular case; and
 - 32 (c) the person responsible for administering penalties.
- 33 (4) The sanctions specified under subsection (3)(a) may not include, —
 - 34 (a) corporal punishment;
 - 35 (b) fines or other financial penalties; or
 - 36 (c) deprivation of property.
- 37 (5) Subsection (4)(b) and (c) are subject to sections 35 and 36.

(6) For the purposes of subsection (3)(c) any of the following may be specified, and different persons may be specified for different penalties, levels of penalty or circumstances, —

- (a) the Department,
- (b) the governing body,
- (c) the head teacher,
- (d) other teachers or members of staff.

32 Suspension and exclusion

(1) The articles of government of each maintained school must include the provision required by this section.

(2) The articles must provide for an appeal to the Department against any penalty involving suspension from the school.

(3) The articles must provide that only the Department may exclude a pupil.

(4) The articles must allow the Department to require the school to accept a pupil who has been excluded by the Department from another school.

(5) A pupil who is excluded from a school may appeal to the Tribunal.

(6) The Department must maintain and publish a policy to be followed by the Department in relation to suspensions and exclusions.

33 Corporal punishment

(1) No school may use corporal punishment.

(2) Exercising functions as a head teacher, teacher or other member of staff of a school is not in itself a defence to a charge of assault.

34 Restraining pupils

(1) A teacher or other member of staff at a school may use reasonable force to prevent a pupil from, —

- (a) committing an offence,
- (b) injuring a person (whether the pupil or another person),
- (c) damaging property, or
- (d) behaving in any way that threatens good order and discipline at the school.

(2) In subsection (1) the reference to an offence includes anything that would be an offence if done by an adult.

35 Confiscation

- (1) Section 31(4)(c) does not prohibit the confiscation of property in accordance with this section.
- (2) The articles of government of a maintained school may make provision allowing a teacher or other member of school staff to confiscate anything in a pupil's possession if, —
 - (a) it has been misused, or
 - (b) it is a class of property prohibited by the articles from being in the possession of pupils on the school premises.
- (3) Articles of government which make provision in accordance with subsection (2) must make provision about the return or collection of confiscated property.
- (4) A teacher or other member of staff at a school may confiscate from a pupil, —
 - (a) an offensive weapon (or anything which the teacher or other member of staff reasonably believes to be an offensive weapon or capable of being used as an offensive weapon),
 - (b) a controlled drug,
 - (c) a psychoactive substance,
 - (d) tobacco or tobacco products,
 - (e) alcohol, or
 - (f) any article, other than an item of clothing, which pupils are forbidden from possessing or using in accordance with written school rules.
- (5) Reasonable force may be used in confiscating property under or in accordance with this section.
- (6) Anything confiscated under this section must be delivered, within 24 hours, —
 - (a) in the case of offensive weapons, tobacco, tobacco products or alcohol, to a parent of the pupil or to a constable;
 - (b) in the case of controlled drugs or psychoactive substances, to a constable;
 - (c) in any other case, to the pupil or to a parent of the pupil.
- (7) Instead of delivering an article to a parent of a pupil, —
 - (a) the head teacher of the school may notify the parent that the article has been confiscated and may be collected from the school within the period of 7 days beginning with the date on which the notice is received;
 - (b) if the parent does not arrange for the collection of the article within that period, it may be disposed of (in which case any

directions about disposal given by the Department must be complied with).

(8) Section 34 of the *Summary Jurisdiction Act 1989* (disposal of property) applies to anything delivered to a constable under this section.

(9) In this section —

“controlled drug” has the same meaning as in the *Misuse of Drugs Act 1976*;

“alcohol” has the same meaning as “liquor” in the *Licensing Act 1995*;

“offensive weapon” means —

(a) an article to which section 27A of the *Criminal Justice Act 1991* (article with blade or point) applies;

(b) an article made or adapted for causing injury or damage; and

(c) any article in a person’s possession where the person appears to intend to use it to cause injury or damage;

“psychoactive substance” has the same meaning as in the *Psychoactive Substances Act 2016* (as applied to the Island); and

“tobacco product” has the same meaning as in the *Public Health (Tobacco) Act 2006*;

36 Damage

(1) Section 31(4)(b) does not prohibit taking action in accordance with this section.

(2) The Department, or the governing body of a school, may recover, —

(a) the cost of repairing damage caused by a pupil at a maintained school;

(b) damages in respect of other expenses incurred or expected to be incurred in consequence of damage caused by a pupil at a maintained school.

(3) In subsection (2) a reference to damage includes a reference to any action taken in contravention of school rules.

(4) The right under subsection (2) may be enforced as if it were a debt owed to the Department or governing body by the pupil or a parent of the pupil.

37 Offensive weapons

(1) A teacher or other member of staff at a school who has reasonable grounds for suspecting that a pupil is in possession of an offensive weapon may search the pupil or their possessions.

(2) The power under subsection (1) may be exercised only by, —

(a) the head teacher, or

- (b) a teacher, or other member of staff, authorised by the head teacher in writing to carry out the search.
- (3) A pupil who identifies as female may not be searched except by a woman.
- (4) A pupil who identifies as male may not be searched except by a man.
- (5) A person may not carry out a search of a pupil except in the presence of another teacher, or member of staff, of the school.
- (6) A person may not carry out a search of a pupil's possessions except in the presence of, —
- (a) the pupil, where the identify of the pupil is known and the pupil is available, and
- (b) another teacher, or member of staff, of the school.

38 Behaviour outside school premises

- (1) A power under section 34, 35 or 37 may be exercised by a teacher at a school at any time when the teacher is responsible for the welfare or behaviour of the pupil in accordance with written rules of the school.
- (2) The articles of government of each maintained school must include provision about discipline in respect of behaviour taking place outside the school premises at any time when the teacher is responsible for the welfare or behaviour of the pupil in accordance with written rules of the school.
- (3) In this section and sections 34 to 37 a reference to a teacher at a school includes a reference to another member of staff at a school.

39 Barring from premises

- (1) It is an offence for any person to fail to comply with an order of the head teacher of a maintained or contracted school, —
- (a) to leave the school premises, or
- (b) not to enter the school premises.
- Maximum penalty (summary) level 4 fine.
- (2) Subsection (1) does not apply to a person who is, —
- (a) a teacher or other member of staff at the school,
- (b) a registered pupil at the school (who is not suspended or excluded), or
- (c) a person who is authorised by the Department or DHSC for any purpose under this Act and who is acting in pursuance of the authorisation.

40 Disorderly conduct

It is an offence for any person on the premises of a maintained or contracted school to, —

- (a) behave in a violent or disorderly manner, or
- (b) use obscene, indecent or threatening language.

Maximum penalty (summary) level 4 fine.

41 Assistance of constable

(1) This section applies if, —

- (a) the head teacher of a school, or someone acting on behalf of the head teacher, requests a constable to remove a person from the school premises, and
- (b) the constable is satisfied that the person is committing or has committed an offence under section 39 or 40.

(2) The constable must comply with the request and may use reasonable force.

42 Inappropriate use of social media

(1) This section applies where the head teacher or another member of staff of a maintained or contracted school becomes aware that, —

- (a) a pupil at the school is using social media in a way that causes, or appears intended to cause, distress or offence to another pupil at the school, the head teacher or another teacher or other member of staff at the school, or
- (b) a relative, or present or former associate, of a pupil at the school is using social media in a way that causes, or appears intended to cause, distress or offence to a pupil at the school, the head teacher or another teacher or other member of staff at the school.

(2) The head teacher must take reasonable steps to prevent the use specified in subsection (1); and those steps may include, —

- (a) applying school rules to ensure that the use of social media does not take place during school hours, on school premises or through the use of school equipment;
- (b) providing education and guidance to pupils about the use of social media and the potential for it to cause distress, offence and other damage;
- (c) drawing the use of social media to the attention of a police officer and inviting the officer to consider whether an offence has been committed;
- (d) issuing guidance to the person using social media as specified in subsection (1), or to anyone who appears to the head teacher to be

a victim or potential victim of that use, as to the law of harassment, and the civil and criminal remedies available under it.

SUBDIVISION 7 – ADMISSION OF PUPILS

43 Catchment areas

- (1) The Department must make arrangements for each maintained school to have, —
 - (a) a catchment area for the acceptance of pupils, and
 - (b) arrangements for the application of rules in relation to the catchment area.
- (2) The Department may make regulations about, —
 - (a) the extent or operation of catchment areas;
 - (b) rules in relation to catchment areas;
 - (c) exceptions to the catchment area rules.

Tynwald procedure – laying only
- (3) The regulations may make provision for dealing with the application of the catchment area rules in cases where a child lives in more than one catchment area.

44 Registers of pupils

- (1) The Department must by regulations make provision for the maintenance of registers of pupils at each non-independent school.

Tynwald procedure – approval required
- (2) The regulations may impose duties on head teachers, governing bodies and the Department.
- (3) The regulations may include provision about, —
 - (a) the details to be recorded in registers;
 - (b) inspection of registers;
 - (c) provision of information from the registers to the Department.
- (4) The regulations may, in particular, require head teachers or governing bodies, —
 - (a) to notify the Department where a pupil is withdrawn, or is about to be withdrawn, from a school's register, and
 - (b) to provide the Department with such information, of a kind specified in the regulations, as the Department may require for a purpose specified in the regulations.

- (5) The regulations may include provision about the maintenance of registers electronically or in hard copy (or both).
 - (6) The regulations may create criminal offences, punishable on summary conviction by a fine not exceeding level 3 on the standard scale.
 - (7) The Department may by regulations apply this section and regulations under it to colleges for children of compulsory school age who are at least 14 years old, with such modifications as the regulations may specify.
- Tynwald procedure – approval required

45 Admission to schools

- (1) The Department must by regulations make provision for the procedure by which a child, —
 - (a) becomes a registered pupil at a non-independent school,
 - (b) may be withdrawn from the register of a non-independent school;
 - (c) may be removed from the register of a non-independent school by way of expulsion.

Tynwald procedure – approval required
- (2) The regulations must include provision prohibiting non-independent schools from using selection criteria for admissions that refer to ability or aptitude.
- (3) A child who is subject to a school attendance order may not be withdrawn from the register of a school named in the order.

SUBDIVISION 8 - INSPECTIONS

46 Inspections

- (1) The Department must make arrangements for the inspection of maintained schools.
 - (2) The Department must make regulations about the inspection of maintained schools.
- Tynwald procedure – approval required

47 Inspection arrangements

- (1) The arrangements under section 46 must include a requirement for each maintained school to carry out a self-assessment at such intervals as may be prescribed in regulations under section 46.
- (2) Regulations under section 46 may, in particular, make provision about, —

- 1 (a) the matters to be addressed in an inspection;
- 2 (b) criteria to be applied in the course of an inspection;
- 3 (c) records to be kept of an inspection;
- 4 (d) information to be supplied to the Department;
- 5 (e) information to be published;
- 6 (f) timings of an inspection; and
- 7 (g) actions to be taken for the purpose of remedying deficiencies
- 8 identified in the course of inspections or self-assessments.

9 **48 Interim and additional inspections**

10 The Department must make arrangements for interim or additional inspections
11 of maintained schools where the Department think it appropriate.

12 **49 Inspections: supplementary**

- 13 (1) Inspections may be carried out, —
- 14 (a) by officials of the Department, or
- 15 (b) by or on behalf of a person selected by the Department.
- 16 (2) The Department may make regulations about inspections; and the
- 17 regulations may, in particular, —
- 18 (a) authorise persons to enter a school;
- 19 (b) authorise the inspection of premises;
- 20 (c) authorise the inspection and seizure of records.
- 21 Tynwald procedure – approval required
- 22 (3) A person who intentionally obstructs the performance of a function
- 23 under this section commits an offence.
- 24 Maximum penalty (summary) 6 months' custody or a level 5 fine.

25 **50 Enforcement**

- 26 (1) Where the Department is not satisfied with the progress being made in
- 27 remedying any deficiencies identified it may, —
- 28 (a) vary requirements for action imposed following inspections in
- 29 accordance with regulations under section 46;
- 30 (b) assign teaching or other staff to the school;
- 31 (c) assign staff to the school with management responsibilities.
- 32 (2) A person who intentionally obstructs the performance of a function
- 33 under this section commits an offence.
- 34 Maximum penalty (summary) 6 months' custody or a level 5 fine.

- (3) An assignment under subsection (1)(c) may modify the contractual responsibilities (but not other terms) of the head teacher or another member of staff at the school with management responsibilities.
- (4) Subsection (3) is without prejudice to the right of the department to dismiss a head teacher or other member of school staff on grounds of performance failure.

DIVISION 3 – INDEPENDENT SCHOOLS

51 Definition: “independent schools”

For the purposes of this Act “**independent school**” means a school which is not a maintained school or a contracted school.

52 The Register

- (1) The Department must keep a register of all independent schools in the Island (“**the Register**”).
- (2) The Department must make the register available to public inspection free of charge, —
- (a) online, and
 - (b) in hard copy, at all reasonable times.

53 Registration

- (1) The Department must enter in the Register any institution, —
- (a) which appears to the Department to be an independent school, and
 - (b) in respect of which an application for registration is made to the Department by a person appearing to the Department to be the proprietor of the institution.
- (2) An application for registration, —
- (a) must be made in writing,
 - (b) must be made in any manner prescribed,
 - (c) must contain or be accompanied by any prescribed information or documents,
 - (d) be accompanied by any prescribed fee, and
 - (e) must comply with any other prescribed conditions.
- Tynwald procedure – laying only
- (3) The duty in subsection (1) does not apply in respect of an independent school if, —

- 1 (a) the proprietor is disqualified from being the proprietor of an
- 2 independent school by an order under this Part,
- 3 (b) the school premises are disqualified from being used as a school
- 4 by an order under this Part, or
- 5 (c) if the school premises are used or proposed to be used for a
- 6 purpose for which they are disqualified by an order under this
- 7 Part.
- 8 (4) The Department may register a specified independent school without an
- 9 application by the proprietor if the Department is satisfied that, —
- 10 (a) the school has functioned for at least 20 years before the
- 11 commencement of this section,
- 12 (b) the proprietor wishes to continue to conduct the school,
- 13 (c) the Department is already in possession of sufficient information
- 14 of the kind that would be required on an application under this
- 15 section, and
- 16 (d) it is not necessary for the proprietor to make an application under
- 17 this section.

18 **54 Provisional registration**

- 19 (1) The Department may make arrangements for the provisional registration
- 20 of an institution which has applied, or proposes to apply, for registration.
- 21 (2) A provisional registration lasts until, —
- 22 (a) the institution is registered,
- 23 (b) the application is withdrawn or discontinued, or
- 24 (c) the Department notifies the institution that the provisional
- 25 registration has lapsed.
- 26 (3) An institution which is the subject of a provisional registration is to be
- 27 treated as a registered independent school for the purposes of this Act.

28 **55 Removal from register**

- 29 The Department must comply with, —
- 30 (a) an order under this Part to remove a school from the register;
- 31 (b) an order under this Part to restore a school to the register.

32 **56 Offence of conducting unregistered school**

- 33 (1) It is an offence to conduct an unregistered independent school.
- 34 (2) Where the conduct of an independent school fails to comply with any
- 35 conditions attached to registration it is to be treated for the purposes of
- 36 this section as an unregistered independent school.

- (3) For the purposes of this Act a reference to conducting an independent school includes a reference to playing any part in the management, conduct or arrangement of the affairs of the school (and more than one individual or other person may be conducting an independent school at the same time).
- (4) It is an offence to hold an institution out as being a registered independent school at a time when it is not registered.
- Maximum penalty (summary) 6 months' custody or a level 5 fine.

57 Inspections

- (1) The Department must make arrangements for the inspection of independent schools that are not already inspected by another professional body, for the purposes of monitoring the matters listed in section 58.
- (2) Inspections must be carried out at intervals determined by the Department in consultation with the independent school.
- (3) The report of each inspection must be published.
- (4) Inspections may be carried out, —
- (a) by officials of the Department, or
 - (b) by or on behalf of a person selected by the Department in consultation with the independent school.
- (5) The Department may make regulations about inspections; and the regulations may, in particular, —
- (a) authorise inspectors to enter premises;
 - (b) authorise inspection of premises; and
 - (c) authorise the inspection and seizure of records.
- Tynwald procedure – approval required
- (6) A person who intentionally obstructs the performance of a function under this section commits an offence.
- Maximum penalty (summary) 6 months' custody or a level 5 fine.
- (7) Following an inspection the Department may notify the proprietor of the school, —
- (a) of any deficiencies identified in the report, and
 - (b) an action plan to be followed in remedying those deficiencies (including a timetable).
- (8) Where the Department is not satisfied with the progress being made in pursuing an action plan it may, —
- (a) vary the action plan; or
 - (b) remove the school from the register.

- (9) The proprietor of a school may appeal to the Tribunal against action taken under this section; and, —
 - (a) the Tribunal may make any order it thinks appropriate;
 - (b) the decision of the Tribunal is final; and
 - (c) the Department must give effect to any decision of the Tribunal.

58 Provision of information

- (1) It is an automatic condition of registration (by virtue of this section) that the proprietor of the school complies with regulations under this section requiring the provision of information to the Department.
Tynwald procedure – approval required
- (2) The regulations may require the provision of information relating to, or required by the Department for monitoring, —
 - (a) the quality of the education provided in the school;
 - (b) the spiritual or ethical, social and cultural development of pupils at the school;
 - (c) the welfare (including safeguarding issues), health and safety of pupils at the school;
 - (d) the qualifications and suitability of the proprietor, teachers and other staff at the school;
 - (e) the quality of the leadership and management of the school;
 - (f) the premises and facilities used by the school;
 - (g) the procedures for the handling of complaints in respect of the school;
 - (h) other matters relating to the school specified by the Department.
- (3) The regulations may make provision about, —
 - (a) the timing and frequency of the provision of information (and information is to be required to be provided at least annually);
 - (b) the form and manner of the provision of information.
- (4) The regulations may require the proprietor of a school to notify the Department of changes in relation to information previously provided.
- (5) The regulations must include provision about redaction and anonymisation and any other necessary safeguards to ensure compliance with data protection law.

59 Complaints about independent schools

- (1) The Department may serve on the proprietor of an independent school a notice (“a complaint notice”) to the effect that the Department believes that there are likely to be issues in relation to, —

- (a) the suitability of the school premises or facilities;
 - (b) the quality or suitability of the education being provided at the school;
 - (c) the quality or suitability of the proprietor, a teacher or other member of staff at the school;
 - (d) the welfare of pupils at the school.
- (2) A complaint notice must specify either, —
 - (a) that the Department believes that the issues complained of are capable of being addressed within a reasonable period of time, or
 - (b) that the Department believes that the issues complained of are not capable of being addressed within a reasonable period of time.
- (3) A notice under subsection (2)(a) must specify, —
 - (a) the measures necessary in the opinion of the Department to address the issues complained of, and
 - (b) a period within which the measures are to be taken (and the period must be not less than 6 months beginning with the date of service of the notice).
- (4) If a complaint notice specifies an issue in relation to the quality or suitability of a person, the notice must, —
 - (a) name the person;
 - (b) provide sufficient details of the issue to enable the person to understand the nature of the complaint; and
 - (c) be served on the person as well as on the proprietor.
- (5) A complaint notice must specify a period (not less than one month beginning with the date of service of the notice) during which the proprietor may refer the complaint to the Tribunal.

60 Determination of complaints

- (1) A complaint notice under section 59 is to be considered either, —
 - (a) by the Tribunal, if a person on whom the notice was served refers it to the Tribunal within the time specified in the notice, or
 - (b) otherwise, by the Department or a person designated by the Department.
- (2) The Tribunal, Department or designated person must, —
 - (a) consider all evidence submitted to it, and
 - (b) give anyone appearing to be concerned an opportunity to make representations.
- (3) In determining the complaint the Tribunal, Department or designated person may, —

- 1 (a) dismiss the complaint;
- 2 (b) make an order for the school to be removed from the register;
- 3 (c) make an order prohibiting the use of the premises or a specified
- 4 part of them to be used for the conduct of a school, or imposing
- 5 conditions or limitations on the use of the premises or a specified
- 6 part of them for the conduct of a school;
- 7 (d) make an order for the purposes of remedying deficiencies in
- 8 relation to safeguarding the welfare of pupils at the school;
- 9 (e) make an order prohibiting a person from acting as the proprietor
- 10 of an independent school;
- 11 (f) make an order prohibiting a person from teaching at an
- 12 independent school.
- 13 (4) An order for removal from the register may be absolute or conditional
- 14 (and a condition may require the Department to be satisfied of specified
- 15 matters within a specified period).

16 **61 Enforcement**

- 17 (1) It is an offence to contravene a prohibition under section 60.
- 18 Maximum penalty (summary) 6 months' custody or level 4 fine.
- 19 (2) A prosecution for an offence under this section may be brought only by
- 20 or on behalf of the Department.
- 21 (3) A person subject to a prohibition order under section 60 may apply to the
- 22 Department for its removal or variation because of a change in
- 23 circumstances; and, —
- 24 (a) the Department may remove, vary or confirm the prohibition
- 25 order, and
- 26 (b) the person may appeal the Department's decision (or failure to
- 27 make a decision within the period of 30 days beginning with the
- 28 date of the application) to the Tribunal, which may remove, vary
- 29 or confirm the prohibition order.

30 **62 Welfare of children and young persons**

- 31 (1) This section applies to an independent school which provides residential
- 32 accommodation for one or more children or young persons.
- 33 (2) The proprietor and each person involved in the conduct of the school has
- 34 a duty to safeguard and promote the child's and young persons' welfare.
- 35 (3) DHSC must take reasonably practicable steps to monitor compliance
- 36 with the duty under subsection (2); and, —
- 37 (a) a person authorised by DHSC may enter an independent school at
- 38 any reasonable time for the purposes of this subsection;

- (b) the person may inspect the premises, children, young persons and records;
- (c) the person must produce on request identification and proof of authority;
- (d) the Department must make regulations about entry and inspection under this subsection; and
- (e) if DHSC believes (whether or not as a result of an inspection) that there has been or may have been a failure in compliance it must notify the Department.

Tynwald procedure (for regulations under subsection (3)(d)) – approval required

- (4) A person who intentionally obstructs the performance of a function under subsection (3) commits an offence.

Maximum penalty (summary) 6 months' custody or a level 5 fine.

- (5) This section does not limit the operation of any other enactment relating to children and young persons.

PART 3 – COMPULSORY EDUCATION

DIVISION 1 – COMPULSORY SCHOOL AGE

63 Compulsory school age

- (1) This section defines “**compulsory school age**” for the purposes of this Act and (subject to any indication to the contrary) for the purposes of any other enactment.
- (2) A child, —
 - (a) becomes a child of compulsory school age on becoming 5 years old (subject to regulations under subsections (3) and (4)), and
 - (b) stops being a child of compulsory school age on becoming 16 years old (subject to subsection (5)).

- (3) The Department may make regulations modifying the effect of subsection (2) in relation to children of a specified description or in specified circumstances.

Tynwald procedure – approval required

- (4) The Department may make regulations about school starting dates for children born at different times of the year; and the regulations may, in particular, —
 - (a) make different provision for different schools;

- (b) provide for a child not to be treated as being of compulsory school age between the moment when the child becomes 5 years old and the next starting date (or the next starting date that applies to the child).

Tynwald procedure – approval required

- (5) A person who is a registered pupil at a school, or has been within the previous 12 months, and who reaches the age of 16 during a school year, is to be treated for the purpose of subsection (2) as reaching that age on the Friday before the last Monday in May in that year.

- (6) The Department may by regulations modify or disapply the effect of subsection (5) in relation to children of a specified description or in specified circumstances.

Tynwald procedure – approval required

DIVISION 2 – PARENTAL DUTY

64 Duty to arrange for education

- (1) Each parent of a child of compulsory school age must ensure that the child receives suitable education, whether or not by regular attendance at a school.
- (2) For the purposes of this Part “**suitable education**” for a child means efficient full-time education suitable to the child’s, —
- (a) age,
- (b) abilities and aptitude, and
- (c) additional educational needs (if any).
- (3) The Department must enforce the duty under subsection (1) in accordance with the provisions of this Act.

65 Duty to register at school

- (1) A parent who wishes to fulfil their duty under section 64 by arranging for a child to attend school must register the child at a school in the academic year before the academic year in which the child reaches the age of 5.
- (2) Subsection (1) applies even if the child will not be of compulsory school age immediately on becoming 5 years old, by reason of the application of regulations under section 63.

66 Duty to notify Department of arrangements otherwise than at school

- (1) This section applies where a child of compulsory school age is not a registered pupil at a maintained school or a contracted school.

- (2) The child's parent must notify the Department in writing of the arrangements made for the child's education.
- (3) The notice must state, —
- (a) the child's full name, address and date of birth;
 - (b) the parent's full name and address;
 - (c) if the child's education is to be provided by attendance at a school (whether in the Island or elsewhere), the name and address of the school;
 - (d) otherwise, the name and address of any person by whom the child's education is to be provided; and
 - (e) any other information requested by the Department.
- (4) A notice must be given, —
- (a) during the period of 12 months before the child reaches compulsory school age;
 - (b) in the case of a child who ceases to be a registered pupil at a maintained school, during the period of 3 months before the date when the child ceases to be registered at the school;
 - (c) in the case of a child of compulsory school age who becomes resident in the Island, within the period of 3 months beginning with the day when the child becomes resident in the Island; or
 - (d) in the case of a child who on the day when this section comes into force is of compulsory school age and resident in the Island, within the period of 3 months beginning with the date of commencement.
- (5) A notice must also be given, —
- (a) within the period of 21 days beginning with the parent's receipt of a written request from the Department; and
 - (b) within the period of 21 days beginning with the date on which any of the information included in a previous notice changes.
- (6) A parent who, without reasonable excuse, fails to give a notice in accordance with this section commits an offence.
- Maximum penalty (summary) level 4 fine.
- (7) Proceedings for an offence under this section may be brought only by the Department.

67 Enforcement: notice requiring information

- (1) If the Department suspects that a child of compulsory school age in the Island who is not a registered pupil at a school or college is not receiving suitable education, it must serve a notice in writing on a parent of the

- child requiring the parent to provide information satisfying the Department that the child is receiving suitable education.
- (2) The Department may issue guidance as to the criteria to which it will have regard in determining the suitability of education for the purposes of subsection; and the guidance may, in particular, make provision by reference to, —
- (a) educational outcomes (including but not limited to examinations and qualifications);
 - (b) educational methods and processes;
 - (c) opportunities for social interaction and integration.
- (3) The notice must specify a period within which the parent must provide information under subsection (1); and the period must be not less than 15 days beginning with the day on which the notice is served.
- (4) The notice may require the parent to cooperate with arrangements for the child to be examined or assessed; and if a notice includes a requirement under this section it must specify, —
- (a) the arrangements that the Department proposes for the examination or assessment, and
 - (b) a period within which the examination or assessment is to take place, which must be not less than 15 days beginning with the day on which the notice is served.

DIVISION 3 – FAILURE TO SECURE ATTENDANCE

68 Parent failing to secure child's regular attendance: offence

- (1) If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, any parent of the child commits an offence.
- Maximum penalty (summary) level 4 fine.
- (2) Proceedings for an offence under this section may be brought only by the Department.
- (3) This section is subject to the provisions of section 71.

69 Regular attendance

- (1) This section makes provision about when a registered pupil's attendance at a school is to be treated as being regular, or as not being regular, for the purposes of this section.
- (2) In determining whether a child's attendance has been regular the court, —
- (a) must look at the pattern of the child's attendance overall,

- (b) may not treat absence on any one day as being in itself sufficient evidence of irregular attendance;
- (c) must have regard to the provisions of this section;
- (d) must ignore days on which a child is absent with permission of the head teacher;
- (e) may ignore days on which a child is absent with reasonable excuse, except that a total of 18 or more days absence in any one school year or a total of 6 or more days in any one school term (including absences that are treated as being absences with reasonable excuse under regulations under this section) is to raise a presumption of irregular attendance.
- (3) Where a non-boarding pupil fails to arrive at the beginning of the school morning or afternoon session on any day, without permission or reasonable excuse, that session is to be treated as a half-day of absence from the school.
- (4) Where a boarding pupil is absent from the school on any morning or afternoon during the school term without permission or reasonable excuse, that morning or afternoon is to be treated as a half-day of absence from the school.
- (5) For the purposes of this section “permission” means permission given by or on behalf of, —
- (a) in the case of a maintained school, the head teacher or the governing body; or
- (b) in the case of a non-maintained school, the governing body or the proprietor of the school.
- (6) For the purposes of this section any of the following may (depending on the circumstances) be reasonable excuses for non-attendance, —
- (a) illness;
- (b) a matter beyond the child’s control that prevents the child’s attendance at the school;
- (c) a day exclusively set apart for religious observance by a religious body to which a parent of the child belongs.
- (7) The Department must make regulations about absence during term time for the purposes of holidays; and the regulations, —
- (a) may make provision for circumstances in which a holiday is to be treated as a reasonable excuse for absence;
- (b) may make provision for circumstances in which a holiday is not to be treated as a reasonable excuse for absence;
- (c) may confer discretion on the Department, a proprietor of a school or the governing body of a school;

- (d) may make different provision for different circumstances (including provision by reference to an aggregate total of absences for holidays, the timing of holidays, the cost of holidays, the situation of siblings or other family members, or any other matter).

Tynwald procedure – approval required

70 Order to attend guidance course

- (1) A court convicting a person of an offence under section 68 may order the person to attend a course if satisfied that it would be desirable in order to prevent the commission of a further offence.
- (2) For the purposes of subsection (1) “course” means a course of counselling or guidance, —
- (a) of a kind prescribed for the purposes of this subsection;
 - (b) requiring attendance not more than once in any week; and
 - (c) requiring attendance over a period not exceeding 3 months.

Tynwald procedure – approval required

- (3) A person who without reasonable excuse fails to comply with an order under this section commits an offence.

Maximum penalty (summary) 6 months’ custody or a level 5 fine.

71 Civil penalty

- (1) This section applies where a constable or an authorised person has reasonable cause to believe that a person (“the parent”) has committed or is committing an offence under section 68.
- (2) The constable or authorised person may give the parent a notice in writing in the prescribed form offering the opportunity of discharging any liability to be convicted of the offence by payment of a civil penalty.

Tynwald procedure – approval required

- (3) The notice must specify, —
- (a) a period of at least 28 days beginning with the date of the notice, during which the penalty must be paid (“the payment period”); and
 - (b) a period of at least 14 days beginning with the date of the notice, during which the penalty may be paid at a lower rate (“the discount period”).
- (4) The amount of a penalty under this section is, —
- (a) £60, if the penalty is paid during the discount period, or
 - (b) £120, if the penalty is not paid during the discount period.

- (5) The Department may by order amend subsection (4)(a) or (b) (or both) to substitute a different amount.
- Tynwald procedure – laying only
- (6) Criminal proceedings may not be taken against the parent for the offence, —
 - (a) before the end of the payment period, or
 - (b) after the end of the payment period, if the penalty is paid during it.
- (7) A penalty under this section is to be, —
 - (a) paid to the Chief Registrar, and
 - (b) applied as a fine imposed by a criminal court.
- (8) A certificate purporting to be signed by or on behalf of the Chief Registrar that a penalty was, or was not, paid under this section on or before a date specified in the certificate is admissible as evidence of that fact.

DIVISION 4 – SCHOOL ATTENDANCE ORDERS

72 School attendance order: pre-issue procedure

- (1) This section applies where a parent on whom a notice has been served in respect of a child under section 67 fails to satisfy the Department, in accordance with the notice, that the child is receiving suitable education.
- (2) If the Department believes that the child should attend school, it must serve on the parent a school attendance pre-issue notice.
- (3) A school attendance pre-issue notice is a notice in writing, —
 - (a) informing the parent that the Department intends to make a school attendance order in respect of the child;
 - (b) specifying a period of not less than 21 days after which the school attendance order may be made;
 - (c) naming a school which the Department intends to name in the order;
 - (d) naming any other schools (if any) which the Department regards as suitable alternatives; and
 - (e) stating the effect of a school attendance order.
- (4) After the end of the period specified under subsection (3)(b) the Department may make a school attendance order in respect of the child and serve it on the parent.

73 School attendance order: contents

- (1) A school attendance order is an order requiring the parents of the child to arrange for him to become a registered pupil at a school named in the order.
- (2) A school attendance order must be in the prescribed form.
Tynwald procedure – approval required
- (3) If the school attendance pre-issue notice specifies one or more alternative schools and a parent of the child notifies the Department before the school attendance order is made that the parent has selected one of the schools, the order must name that school.
- (4) If before the school attendance order is made a parent of the child applies for the child to be admitted to a maintained school, the child is offered a place and the parent notifies the Department, the order must name that school.
- (5) If before the school attendance order is made a parent of the child applies for the child to be admitted to a non-maintained school, the child is offered a place, the parent notifies the Department and the Department is satisfied that the school is suitable to the child's age, abilities, aptitudes and any additional educational needs, the order must name that school.

74 School attendance order: process

- (1) Where a maintained school is named in a school attendance order, —
 - (a) the Department must inform the governing body and the head teacher, and
 - (b) the Department or governing body must admit the child to the school.
- (2) This section does not affect any power to expel or suspend a registered pupil from a school.

75 School attendance order: duration and revocation

- (1) This section applies where a school attendance order has been made in respect of a child.
- (2) The school attendance order continues to have effect while the child is of compulsory school age (subject to the following provisions of this section).
- (3) A parent of the child may apply to the Department for the revocation of the school attendance order on the grounds that arrangements have been made for the child to receive suitable education otherwise than at school.

- (4) The Department must revoke the school attendance order on an application under subsection (3) unless not satisfied that the arrangements are satisfactory.
- (5) A parent of the child may apply to the Department for the amendment of the school attendance order on the grounds that the child has been offered a place at, —
- (a) a maintained school (“the new maintained school”) other than that named in the order, or
 - (b) a non-maintained school (“the new non-maintained school”) other than that named in the order.
- (6) On an application under subsection (5)(a) the Department must amend the school attendance order so as to name the new maintained school.
- (7) On an application under subsection (5)(b) the Department must amend the school attendance order so as to name the new non-maintained school unless not satisfied that it is suitable to the child’s age, abilities, aptitudes and any additional educational needs.
- (8) If the Department refuses an application for the revocation or amendment of the school attendance order, —
- (a) the Department must give the parent written notice of its decision;
 - (b) the notice must give the Department’s reasons;
 - (c) the notice must specify an appeal period of at least 21 days beginning with the day on which the notice is served;
 - (d) a parent of the child may appeal to the Tribunal against the refusal, on the ground that satisfactory arrangements have been made for the education of the child otherwise than at school or that the alternative school is suitable to the child’s age, ability and aptitude and to any additional educational needs;
 - (e) the Tribunal may confirm the Department’s decision or overturn it and grant the application for revocation or amendment (in which case the school attendance order is revoked or amended in accordance with the Tribunal’s order); and
 - (f) the overturning by the Tribunal of the Department’s decision does not prevent the making of a new school attendance order in respect of the child (or the revocation or amendment of the order by the Department).
- (9) The Department may amend the school attendance order with the consent of a parent of the child.
- (10) The Department may revoke a school attendance order.

76 Contravention of school attendance order

- (1) It is an offence for a parent of a child to fail to comply with a school attendance order.
Maximum penalty (summary) 6 months' custody or a level 5 fine.
- (2) In proceedings for an offence under this section it is a defence for the defendant to show, —
 - (a) that the school attendance order was not served on the defendant, or
 - (b) that the child is receiving suitable education otherwise than at school or at a school other than that named in the order.
- (3) If a person is acquitted in proceedings for an offence under this section, —
 - (a) the court may revoke the school attendance order;
 - (b) revocation by the court does not prevent the making of a new school attendance order in respect of the child.
- (4) Proceedings for an offence under this section may be brought only by the Department.

DIVISION 5 – EDUCATION SUPERVISION ORDERS**77 Education supervision orders**

- (1) A juvenile court may make an order putting a child under the supervision of DHSC (an "education supervision order") if the court is satisfied, on the application of the Department of Education, Sport and Culture, that the child, —
 - (a) is of compulsory school age, and
 - (b) is not receiving efficient full-time education suitable to the child's age, abilities, aptitudes and any additional educational needs.
- (2) The court must presume that subsection (1)(b) is satisfied if, —
 - (a) a school attendance order in respect of the child is not being complied with, or
 - (b) the child is failing to attend regularly (within the meaning of section 69) at a school at which the child is a registered pupil.
- (3) The presumption in subsection (2) is rebuttable.
- (4) Before making an application for an education supervision order the Department must inform DHSC.

DIVISION 6 - TRUANCY

78 Return of truants

- (1) This section applies where a constable or an authorised person has reasonable cause to believe that a person found by the constable in a highway or other public place, —
- (a) is a child of compulsory school age, and
 - (b) is absent from a school at which he or she is registered without permission or reasonable excuse.
- (2) The constable or authorised person may remove the child to, —
- (a) the school at which the constable believes that the child is a registered pupil; or
 - (b) a place designated by the Department and communicated to the Isle of Man Constabulary.

DIVISION 7 – HOME EDUCATION

79 Definition: “home education”

In this Act “**home education**” means education provided to a child in accordance with a decision by the child’s parent to arrange for the child to be educated otherwise than at a school or college.

80 Departmental assessment

- (1) The Department must assess the educational development of children in the Island receiving home education.
- (2) The Department may provide advice and information on request to a parent of a child receiving home education.
- (3) The Department may make arrangements to allow children receiving home education to have access to school or college facilities or services to the extent the Department thinks appropriate.
- (4) The Department must consult the head teacher of any school or college when making arrangements in respect of it under subsection (3).
- (5) The Department must maintain a register of children in respect of whom the Department is notified under section 66 that the child is being home educated.
- (6) The Department must carry out assessments from time to time of the educational development of each child receiving home education
- (7) A parent of a child receiving home education must comply with any request by the Department to provide information for the purposes of an assessment.

(8) The Department must make regulations about assessments under subsection (6); and the regulations may, in particular, make provision about, —

- (a) timing;
- (b) location;
- (c) the criteria to be followed; and
- (d) the procedures to be followed.

Tynwald procedure – approval required

PART 4 – ADDITIONAL EDUCATIONAL NEEDS

DIVISION 1 - INTERPRETATION

81 Definition: “Additional educational needs”

(1) For the purposes of this Act an individual who is not over the age of 21 has additional educational needs if they have a learning difficulty or disability which calls for special educational provision to be made for them.

(2) The Department may by regulations amend the age specified in subsection (1) to another age not exceeding 25.

Tynwald procedure – approval required.

(3) An individual has a learning difficulty or disability if they, —

- (a) have a significantly greater difficulty in learning than the majority of others of the same age, or
- (b) have a disability which prevents or hinders them from making use of facilities of a kind generally provided for others of the same age in mainstream institutions.

DIVISION 2 – PRINCIPLES

82 AEN principles

The principles of education in relation to those with additional educational needs (“the AEN principles”) are that, —

- (a) the educational system should include and integrate children and young persons who have additional needs as a result of their mental or physical conditions;
- (b) the educational system should include and integrate children and young persons who present challenging behaviour;
- (c) each child and young person has a right to have their needs assessed by people with appropriate expertise;

- (d) each child and young person has a right to have their needs addressed by the commitment of appropriate resources (including staff and technology) subject to overall considerations of efficiency and fairness;
- (e) parents, children and young persons have a right to expect a consistent provision of services across the Island;
- (f) parents, children and young persons have a right to have their views taken into account;
- (g) parents, children and young persons and education professionals should be involved in the decision-making process;
- (h) parents, children and young persons have a right to be given full and prompt information at all stages of the process of assessing, reporting on and providing for additional educational needs;
- (i) parents, children and young persons have a right to expect decisions to be taken in a coherent way, with public authorities and other relevant agencies cooperating and communicating wherever possible.

83 AEN Code

- (1) The Department must issue a code of practice about educational provision for persons with additional educational needs (“**the AEN Code**”).
- (2) The AEN Code must reflect the AEN principles.
- (3) A public authority exercising functions in relation to education, or relating to children or young persons, must have regard to the code of practice.

DIVISION 3 - ASSESSMENTS

84 Assessment at Department’s initiative

- (1) This section applies where the Department has reason to believe that a child has additional educational needs that should be assessed.
- (2) The Department must notify a parent of the child in writing and propose to make an assessment of the child’s needs.
- (3) The notice must inform the parent, —
 - (a) that the parent may, within a period of at least 15 days specified in the notice (“the representation period”), make representations and submit evidence to the Department about the proposed assessment;
 - (b) about the procedure to be followed in relation to the assessment; and

- 1 (c) about any right of appeal under section 86.
- 2 (4) At the end of the representation period the Department must either, —
- 3 (a) make an assessment of the child’s educational needs and provide
- 4 a copy to the parents, or
- 5 (b) notify the parent in writing with reasons of its decision not to
- 6 make an assessment.
- 7 (5) The Department must not make an assessment unless satisfied that the
- 8 child’s additional educational needs, —
- 9 (a) are likely to be of long-term significance;
- 10 (b) are likely to have a significant effect on the child’s development;
- 11 and
- 12 (c) cannot be addressed through standard provision already in place
- 13 in the school which the child attends or is likely to attend.
- 14 (6) The Department may not make an assessment of a child who, —
- 15 (a) is less than 3 years old, or
- 16 (b) is not registered at a maintained school and has not applied to be
- 17 registered at a maintained school.

18 **85 Assessment at request of parent**

- 19 (1) The Department must comply with a request from a parent of a child,
- 20 who is a registered pupil at a maintained school, to assess the child’s
- 21 educational needs.
- 22 (2) The Department may comply with a request from a parent of a child to
- 23 whom subsection (1) does not apply to assess the child’s educational
- 24 needs (subject to subsection (7)).
- 25 (3) Subsection (1) does not apply if the Department has previously made an
- 26 assessment, or decided not to make an assessment, and is satisfied that
- 27 there is no reason to believe that the child’s educational needs have since
- 28 changed.
- 29 (4) Before deciding that subsection (1) does not apply, by reason of
- 30 subsection (3), the Department must give the parent an opportunity to
- 31 make representations.
- 32 (5) If complying with a request under subsection (1) or (2), the Department
- 33 must serve a notice in writing on the parent informing the parent, —
- 34 (a) that the parent may, within a period of at least 15 days specified
- 35 in the notice (“the representation period”), make representations
- 36 and submit evidence to the Department about the proposed
- 37 assessment;
- 38 (b) about the procedure to be followed in relation to the assessment;
- 39 and

- (c) about any right of appeal under section 86.
- (6) At the end of the representation period the Department must either, —
 - (a) make an assessment of the child's educational needs and provide a copy to the parents, or
 - (b) notify the parent in writing with reasons of its decision not to make an assessment.
- (7) The Department must not make an assessment unless satisfied that the child's additional educational needs, —
 - (a) are likely to last for at least a year;
 - (b) are likely to have a significant effect on the child's development; and
 - (c) cannot be addressed through standard provision already in place in the school which the child attends or is likely to attend.

86 Procedure

- (1) The Department must make regulations about assessments under this Division.
- Tynwald procedure – approval required
- (2) The regulations may, in particular, make provision, —
 - (a) about the procedure to be followed in making an assessment of a child's additional educational needs;
 - (b) about the role to be played by educational psychologists;
 - (c) requiring a child to attend for examination;
 - (d) allowing parents of the child to attend an examination;
 - (e) creating an offence of failure to arrange for the child to attend for examination, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
 - (f) enabling a parent to appeal to the Tribunal against a decision to carry out or not to carry out an assessment;
 - (g) enabling a parent to refer other specified matters relating to assessments to the Tribunal.

DIVISION 4 – REPORTS AND PROVISION

87 Post-assessment report

- (1) Following an assessment the Department must produce a report setting out what provision to make for the child's educational needs, having regard to, —
 - (a) the results of the assessment,

- 1 (b) the AEN Code, and
- 2 (c) the AEN principles.
- 3 (2) The Department may by regulations make provision about the form and
- 4 content of reports.
- 5 Tynwald procedure – approval required
- 6 (3) The regulations may make provision about the role of educational
- 7 psychologists (whether or not those who were involved in the
- 8 assessment) in the preparation of reports.
- 9 (4) The regulations may make provision about the process to be followed in
- 10 amending or revoking reports; and the regulations must include
- 11 provision for parental involvement similar to that in Division 3.

12 **88 Provision of education at maintained school**

13 The Department may provide education at a maintained school, for individuals
14 with additional educational needs.

15 **89 Provision of education at college**

- 16 (1) The Department may provide education at a college for a child of
- 17 compulsory school age who is at least 14 years old.
- 18 (2) The Department may provide education at a college for a child of
- 19 compulsory school age who is under 14 years old, if the Department is
- 20 satisfied that education at a school, —
- 21 (a) is not in the best interests of the child, or
- 22 (b) is not in the best interests of other pupils or school staff.
- 23 (3) A child educated at a college in accordance with this section must be
- 24 registered at a school and educated partly at the college by arrangement
- 25 between the school and the college; but if the Department consider it
- 26 appropriate by reason of the special circumstances of a child, the child
- 27 may be registered at the college and need not be educated at a school at
- 28 all.

29 **90 Provision of education at independent school**

- 30 (1) If satisfied following a report that a child's educational needs can be met
- 31 satisfactorily only by attendance at an independent school, the
- 32 Department may, on such terms and conditions as the Department may
- 33 specify, —
- 34 (a) facilitate the child's admission to the school;
- 35 (b) pay the school's fees in respect of the child; and
- 36 (c) pay for other matters appearing to the Department to be
- 37 necessarily incidental to the child's attendance at the school.

- (2) Nothing in this section requires an independent school to accept a child as a pupil.

91 Provision of education outside school or college

The Department may make special arrangements for a child to be educated outside a school or college (whether or not at the child's home) if the Department is satisfied that education at a school or college, —

- (a) is not in the best interests of the child, or
- (b) is not in the best interests of other pupils or school staff.

92 Off-Island provision

- (1) The Department may make special arrangements for a child to be educated outside the Island at a school or other educational establishment if satisfied that —
- (a) the school or other institution provides wholly or mainly for persons with additional educational needs similar to those of the child concerned, and
 - (b) suitable education cannot be provided for the child in the Island.
- (2) Before making arrangements under this section the Department must consult other appropriate Departments.

PART 5 – EDUCATION OUTSIDE SCHOOLS

DIVISION 1 - COLLEGES

93 Colleges

- (1) The Department may, —
- (a) provide and maintain one or more colleges (“**maintained colleges**”);
 - (b) provide financial or other assistance to a non-maintained college.
- (2) Section 11 applies to the interpretation of expressions used in this section, with any necessary modifications.
- (3) In respect of each maintained college the Department may provide, —
- (a) an instrument of government providing for the constitution and proceedings of the governing body of the college;
 - (b) articles of government for the conduct of the college.
- (4) Articles of government of a college may include provision (subject to the provisions of this Act)—

- 1 (a) conferring discretionary functions on the Department, the
- 2 governing body or the principal of the college;
- 3 (b) requiring the preparation of an annual budget for the college;
- 4 (c) about the appointment of teachers and lecturers;
- 5 (d) for determining terms, holidays and sessions;
- 6 (e) about the admission of students; and
- 7 (f) about discipline, suspension, expulsion and reinstatement of
- 8 students.
- 9 (5) The Department may enter into an agreement with a university for the
- 10 affiliation of a college to the university; and the agreement may, in
- 11 particular, —
- 12 (a) include the provision of services to the college by or on behalf of
- 13 the university;
- 14 (b) include the provision of staff (by secondment or otherwise) to the
- 15 college by the university.
- 16 (6) Section 23 applies to colleges with any necessary modifications.

17 **94 Application of Act to colleges**

- 18 (1) In the provisions listed in subsection (2) a reference to a school includes a
- 19 reference to a college in respect of a child, —
- 20 (a) who is at least 14 years old, and
- 21 (b) for whom education is being provided, or might be provided, at a
- 22 college.
- 23 (2) The provisions mentioned in subsection (1) are, —
- 24 (a) section 14;
- 25 (b) section 19(4);
- 26 (c) section 21;
- 27 (d) section 23;
- 28 (e) section 24;
- 29 (f) section 25;
- 30 (g) section 27, but only in relation to pupils of compulsory school age;
- 31 (h) section 28 (with references to the principal substituted for
- 32 references to the head teacher);
- 33 (i) section 29 (with references to lecturers substituted for references
- 34 to teachers, and references to the principal substituted for
- 35 references to the head teacher; and regulations under that section
- 36 may make separate provision in relation to colleges);
- 37 (j) section 44;
- 38 (k) section 45;

(l) Subdivision 8 of Division 2 of Part 2;

(m) Division 3 of Part 3;

(n) Division 4 of Part 3;

(o) Division 6 of Part 3.

(3) Sections 31 to 42 apply to colleges and college premises as to schools and to school premises, but with provision being made by rules of the college made by the principal and not in the articles of government.

(4) In the application of a provision to a college by virtue of this section a reference to the head teacher of a school is to be treated as a reference to the principal, or a teacher acting as the principal, of the college.

DIVISION 2 – FURTHER AND HIGHER EDUCATION

95 Further education

(1) The Department must make such arrangements as it considers appropriate for continuing the education of persons in the Island over compulsory school age who have completed their compulsory education.

(2) In this Act “**further education**” means education for persons in the Island over compulsory school age (other than higher education in accordance with section 96).

(3) For the purposes of this section the Department may make arrangements with schools or colleges.

96 Higher education

(1) The Department must make such arrangements as it considers appropriate for the provision of higher education.

(2) In this Act “**higher education**” means education for persons in the Island over compulsory school age leading to the award of, —

(a) a degree,

(b) a diploma of higher education, or

(c) any qualification or accreditation of a similar kind.

(3) The Department may arrange for the provision of higher education at or under the supervision of, —

(a) universities;

(b) colleges; and

(c) other educational establishments and institutions.

(4) An institution for the purposes of subsection (3) may be located in the Island or elsewhere.

(5) Arrangements under subsection (1) may include the provision of financial assistance to an institution in the Island or elsewhere any university, college or other educational establishment or institution in the Island or elsewhere for the purpose of improving the facilities for higher education available for persons in the Island.

(6) The Department may by regulations provide that a specified qualification or accreditation, or specified class of qualification or accreditation, is to be, or not to be, treated as falling within subsection (2)(a), (b) or (c).

Tynwald procedure – approval required

97 Unrecognised degrees and awards

(1) In this section “recognised award” means, —

- (a) an award granted by a university, college or other body which is authorised in the United Kingdom or the Island by or under Royal Charter, Act (of Parliament) or Act of Tynwald;
- (b) an award granted by a body acting on behalf of a body listed in paragraph (a); and
- (c) any other award of a prescribed kind.

Tynwald procedure – approval required

(2) It is an offence to do any of the actions listed in subsection (3) in relation to an unrecognised award which purports to be, or might reasonably be taken to be, —

- (a) a recognised award, or
- (b) a degree, diploma or similar qualification.

Maximum penalty (summary) 6 months’ custody or a level 5 fine.

(3) The actions referred to in subsection (2) are, —

- (a) granting an award;
- (b) offering to grant an award;
- (c) advertising an award or a course or scheme designed to lead to the grant of an award.

(4) Actions fall within subsection (3) only if carried out, —

- (a) by a person in the Island,
- (b) to a person in the Island, or
- (c) from premises in the Island.

98 Degrees and awards: enforcement

(1) An authorised person who believes that an offence is being or may have been committed under section 97 may, —

- (a) require a person to produce documents or information;
 - (b) seize and retain anything which may be evidence of the commission of the offence;
 - (c) enter any premises for the purpose of acting under paragraph (a) or (b).
- (2) Nothing in this section compels the production of, or permits the retention of, a communication subject to legal privilege.
 - (3) Proceedings for an offence under section 97 may not be instituted except by or with the consent of the Attorney General.

DIVISION 3 – PRE-SCHOOL EDUCATION

99 Early Years Providers

- (1) In this Act “**early years provider**” means a person providing early years education (with or without other services).
- (2) In this Act “**early years education**” means education for children who are under compulsory school age.
- (3) An early years provider must be registered with the Department and with DHSC.
- (4) The Department may by regulations make provision about, —
 - (a) the information to be provided on an application for registration; and
 - (b) any other requirements to be satisfied on an application for registration.

Tynwald procedure – approval required
- (5) The regulations may provide for automatic registration by reference to registration with DHSC (with or without additional requirements).
- (6) It is an offence for a person to be involved in the management or conduct of an early years provider which, —
 - (a) is not registered, or
 - (b) is failing to satisfy any conditions on the provider’s registration.

Maximum penalty (summary) level 4 fine.
- (7) In making regulations under this section the Department must aim to coordinate registration for the purposes of this section with registration under the *Regulation of Care Act 2013*, so as to, —
 - (a) minimise duplication, and
 - (b) avoid unnecessary administrative burdens.

100 Inspection

- (1) The Department must make arrangements for the inspection of early years providers by authorised persons.
 - (2) The arrangements must include provision for collaboration and cooperation with inspectors acting in accordance with the *Regulation of Care Act 2013*.
 - (3) Inspectors must have regard to, —
 - (a) any document entitled Quality Assurance Framework which is issued or approved by the Department and which states that it addresses standards of early years providers for the purposes of this Act;
 - (b) any other document specified in regulations made by the Department.
- Tynwald procedure – approval required
- (4) The inspection regime must include, —
 - (a) welfare and safeguarding conditions and arrangements;
 - (b) educational provision;
 - (c) any other matters that the Department thinks appropriate.
 - (5) An inspection report to the Department must specify any matters in respect of which the performance or arrangements of the early years provider are unsatisfactory.
 - (6) Where an inspection report specifies matters in respect of which an early years provider is unsatisfactory, the Department may, —
 - (a) impose conditions on the early years provider's registration;
 - (b) suspend the early years provider's registration (whether for a fixed period or pending satisfaction of specified conditions);
 - (c) cancel the early years provider's registration;
 - (d) make recommendations to the early years provider as to improvements to be made;
 - (e) arrange for the provision of support or guidance for the early years provider;
 - (f) take action of a kind specified in regulations under this paragraph for the purposes of improving provision made by the early years provider;
 - (g) make determinations as to the suitability of the early years provider for receipt (directly or indirectly) of financial assistance under section 105.

Tynwald procedure – approval required

101 Complaints about Early Years Providers

- (1) The Department may serve on the proprietor of an early years provider a notice (“a complaint notice”) to the effect that the Department believes that there are likely to be issues in relation to, —
 - (a) the suitability of the provider’s premises or facilities;
 - (b) the quality or suitability of the education being provided by the provider;
 - (c) the quality or suitability of the proprietor, a teacher or other member of staff at the institution;
 - (d) the safeguarding and welfare of children to whom the early years provider is providing education.
- (2) A complaint notice must specify either, —
 - (a) that the Department believes that the issues complained of are capable of being addressed within a reasonable period of time, or
 - (b) that the Department believes that the issues complained of are not capable of being addressed within a reasonable period of time.
- (3) A notice under subsection (2)(a) must specify, —
 - (a) the measures necessary in the opinion of the Department to address the issues complained of, and
 - (b) a period within which the measures are to be taken (and the period must be not less than 6 months beginning with the date of service of the notice).
- (4) If a complaint notice specifies an issue in relation to the quality or suitability of a person, the notice must, —
 - (a) name the person;
 - (b) provide sufficient details of the issue to enable the person to understand the nature of the complaint; and
 - (c) be served on the person as well as on the proprietor.
- (5) A complaint notice must specify a period (not less than one month beginning with the date of service of the notice) during which the proprietor may refer the complaint to the Tribunal.

102 Determination of complaints

- (1) A complaint notice under section 101 is to be considered either, —
 - (a) by the Tribunal, if a person on whom the notice was served refers it to the Tribunal within the time specified in the notice, or
 - (b) otherwise, by the Department or a person designated by the Department.
- (2) The Tribunal, Department or designated person must, —

- 1 (a) consider all evidence submitted to it, and
- 2 (b) give anyone appearing to be concerned an opportunity to make
- 3 representations.
- 4 (3) In determining the complaint the Tribunal, Department or designated
- 5 person may, —
- 6 (a) dismiss the complaint;
- 7 (b) make an order for the early years provider to be removed from
- 8 the register;
- 9 (c) make an order prohibiting the use of the premises or a specified
- 10 part of them to be used for the conduct of an early years provider,
- 11 or imposing conditions or limitations on the use of the premises
- 12 or a specified part of them for the conduct of an early years
- 13 provider;
- 14 (d) make an order for the purposes of remedying deficiencies in
- 15 relation to safeguarding the welfare of children to whom the early
- 16 years provider is providing education;
- 17 (e) make an order prohibiting a person from acting as the proprietor
- 18 of an early years provider;
- 19 (f) make an order prohibiting a person from teaching at an early
- 20 years provider.
- 21 (4) An order for removal from the register may be absolute or conditional
- 22 (and a condition may require the Department to be satisfied of specified
- 23 matters within a specified period).

103 Enforcement

- 24 (1) It is an offence to contravene a prohibition under section 102.
- 25 Maximum penalty (summary) level 4 fine.
- 26 (2) A prosecution for an offence under this section may be brought only by
- 27 or on behalf of the Department.
- 28 (3) A person subject to a prohibition order under section 102 may apply to
- 29 the Department for its removal or variation because of a change in
- 30 circumstances; and, —
- 31 (a) the Department may remove, vary or confirm the prohibition
- 32 order, and
- 33 (b) the person may appeal the Department's decision (or failure to
- 34 make a decision within the period of 30 days beginning with the
- 35 date of the application) to the Tribunal, which may remove, vary
- 36 or confirm the prohibition order.
- 37 Tynwald procedure – approval required
- 38

104 Appeal

- (1) An early years provider may appeal to the High Bailiff against a decision of the Department under this Division.
- (2) On an appeal the High Bailiff may confirm, vary or cancel the Department's decision.
- (3) The decision of the High Bailiff is final.
- (4) The Department must give effect to a decision of the High Bailiff.

105 Funding

- (1) The Department may provide financial assistance in respect of the provision of early years education.
- (2) Financial assistance may be given, —
 - (a) to parents of children under compulsory school age;
 - (b) to registered early years providers.
- (3) Financial assistance may be given on such terms and conditions (which may include provision for repayment with or without interest in specified circumstances) as the Department may specify.
- (4) The Department may specify early years providers, or classes of early years provider, to whom or in respect of whom financial assistance under this section may or may not be provided.

DIVISION 4 – YOUTH, COMMUNITY AND ANCILLARY SERVICES**106 Youth and community services**

- (1) The Department may make arrangements for the provision of community services.
- (2) In this Act “**youth and community services**” means services designed to encourage and facilitate the personal and social welfare of children and young persons.
- (3) Services under subsection (1) may include, —
 - (a) recreational facilities;
 - (b) facilities for education and recreation outside normal school hours or terms (including vacation schools and classes, camps and play-centres);
 - (c) careers guidance and services.
- (4) For the purposes of this section the Department may, —
 - (a) cooperate or collaborate with any local authority, voluntary organisation or other institution;

- 1 (b) provide financial or other assistance (including training or
- 2 assistance with training) to any local authority, voluntary
- 3 organisation or other institution;
- 4 (c) provide financial assistance to service-users;
- 5 (d) lease or licence premises or other facilities to any local authority,
- 6 voluntary organisation or other institution;
- 7 (e) make accommodation and facilities at a maintained school
- 8 available for use by voluntary organisations or other institutions.
- 9 (5) In this section “voluntary organisation” means a company or other
- 10 person which has a constitution which, —
- 11 (a) requires any surplus income or gains to be reinvested in company
- 12 or other person, and
- 13 (b) does not allow the distribution of any of its profits or assets (in
- 14 cash or in kind) to members or third parties.

15 **107 Financial assistance**

- 16 (1) The Department may make regulations about the provision of financial
- 17 assistance for or in respect of individuals who are taking advantage of, or
- 18 who wish to take advantage of, educational facilities.
- 19 Tynwald procedure – approval required
- 20 (2) Regulations under this section may be made only with the consent of the
- 21 Treasury.
- 22 (3) For the purposes of subsection (1) educational facilities means, —
- 23 (a) maintained or contracted schools in the Island,
- 24 (b) further or higher education institutions in the Island or elsewhere,
- 25 and
- 26 (c) other facilities for the provision in the Island of early years,
- 27 primary, secondary, further or higher education.
- 28 (4) For the purposes of this section “financial assistance” includes, —
- 29 (a) scholarships, exhibitions, bursaries and other awards and
- 30 allowances;
- 31 (b) payments in respect of training schemes or apprenticeships;
- 32 (c) grants, loans, guaranties and indemnities;
- 33 (d) lump sums and annual or other periodic payments; and
- 34 (e) any other kind of financial assistance.
- 35 (5) The regulations may permit or require financial assistance to be given on
- 36 terms and conditions; and, in particular, the regulations may, —
- 37 (a) confer discretion on the Department or another specified person
- 38 in relation to the terms and conditions;

- (b) permit the inclusion of conditions requiring the provision of information;
 - (c) make eligibility for assistance dependant on means testing (whether of a student or prospective student, a parent or any other person specified in the regulations);
 - (d) refer to provision for repayment with or without interest in specified circumstances.
- (6) The Department may specify educational facilities, or classes of educational facility, in respect of whom financial assistance under this section may or may not be provided.

108 Transport

- (1) The Department may make arrangements for facilitating the attendance of pupils at schools and colleges.
- (2) The arrangements may, —
 - (a) involve the provision of transport by or on behalf of the Department;
 - (b) involve collaboration or cooperation with another person;
 - (c) include provision for charging for the use of facilities provided under the arrangements.
- (3) Arrangements for charges by the Department, —
 - (a) may be made only with the consent of the Treasury; and
 - (b) must be designed not to make a profit (allowing for reasonable levels of cross-subsidisation and of recovery of indirect costs).
- (4) The Department may pay travelling expenses to or in respect of a pupil registered at a school or college who is not reasonably able to take advantage of transport facilities provided in accordance with this section.

109 Provision of food and drink

- (1) The Department may make arrangements for the provision of food and drink at maintained schools and colleges.
- (2) The Department may, with the concurrence of the Treasury, make regulations about arrangements under this section; and the regulations may, in particular, make provision about, —
 - (a) the nature of food and drink to be provided under the arrangements;
 - (b) facilities and services to be provided by governing bodies and teachers; and
 - (c) charging for provision made under the arrangements.

Tynwald procedure – approval required

DIVISION 5 – EDUCATIONAL INSTITUTIONS

110 Definition: educational institution

In this Act “**educational institution**” means a person that provides education in the course of a business, other than, —

- (a) a school,
- (b) an individual,
- (c) an early years provider, and
- (d) an organisation that provides training for the purposes of continuing professional education in the exercise of the organisation’s supervisory or regulatory functions under an enactment.

111 Register

- (1) The Department must maintain a register of educational institutions operating in the Island.
- (2) For the purposes of this section an institution is operating in the Island if it, —
 - (a) offers services to persons resident in the Island; or
 - (b) is based (wholly or partly) in the Island.

112 Entry in register

- (1) The proprietor of an educational institution may apply to the Department for entry in the register.
- (2) An application must be accompanied by, —
 - (a) prescribed information, and
 - (b) the prescribed fee.

Tynwald procedure – approval required
- (3) The information prescribed under subsection (2) may include information about, in particular, —
 - (a) safeguarding arrangements for children’s welfare;
 - (b) the nature of courses being provided;
 - (c) the nature of qualifications being awarded;
 - (d) the amount of fees being charged.

113 Determination of applications

- (1) On consideration of an application the Department may, —
 - (a) grant the application and register the institution; or

- (b) refuse the application.
- (2) Registration may be granted —
 - (a) absolutely, or
 - (b) on specified terms or conditions.
- (3) The Department must provide a registered institution with a certificate of registration, specifying, —
 - (a) the date of registration, and
 - (b) any terms and conditions of registration.

114 Offence of conducting unregistered institution

- (1) It is an offence to conduct an unregistered educational institution.
Maximum penalty (summary) level 4 fine.
- (2) Where the conduct of an educational institution fails to comply with any conditions attached to registration it is to be treated for the purposes of this section as an unregistered educational institution.
- (3) For the purposes of this Act a reference to conducting an education institution includes a reference to playing any part in the management, conduct or arrangement of the affairs of the institution (and more than one individual or other person may be conducting an educational institution at the same time).
- (4) It is an offence to hold an institution out as being a registered educational institution at a time when it is not registered.
Maximum penalty (summary) level 4 fine.

115 Provision of information

- (1) It is an automatic condition of registration (by virtue of this section) that the proprietor of the educational institution complies with regulations under this section requiring the provision of information to the Department.
Tynwald procedure – approval required
- (2) The regulations may require the provision of information relating to, or required by the Department for monitoring, —
 - (a) the quality of the education provided by the institution;
 - (b) the welfare (including safeguarding issues), health and safety of children or young persons studying at the institution;
 - (c) the qualifications and suitability of the proprietor, teachers and other staff at the institution;
 - (d) the quality of the leadership and management of the institution;
 - (e) the premises and facilities used by the institution;

- 1 (f) the procedures for the handling of complaints in respect of the
- 2 institution.
- 3 (3) The regulations may make provision about, —
- 4 (a) the timing and frequency of the provision of information (and
- 5 information is to be required to be provided at least annually);
- 6 (b) the form and manner of the provision of information.
- 7 (4) The regulations may require the proprietor of an educational institution
- 8 to notify the Department of changes in relation to information previously
- 9 provided.

10 **116 Inspections**

- 11 (1) The Department must make arrangements for the inspection of
- 12 educational institutions, other than institutions professionally accredited
- 13 or approved by a body exercising functions under an enactment, for the
- 14 purposes of monitoring the matters listed in section 115.
- 15 (2) Inspections must be carried out at intervals determined by the
- 16 Department.
- 17 (3) The report of each inspection must be published.
- 18 (4) Inspections may be carried out, —
- 19 (a) by officials of the Department, or
- 20 (b) by or on behalf of a person selected by the Department.
- 21 (5) The Department may make regulations about inspections; and the
- 22 regulations may, in particular, —
- 23 (a) authorise inspectors to enter an educational institution;
- 24 (b) authorise the inspection of premises;
- 25 (c) authorise the inspection and seizure of records.
- 26 Tynwald procedure – approval required
- 27 (6) A person who intentionally obstructs the performance of a function
- 28 under this section commits an offence.
- 29 Maximum penalty (summary) 6 months' custody or a level 5 fine.
- 30 (7) Following an inspection the Department may notify the proprietor of the
- 31 institution, —
- 32 (a) of any deficiencies identified in the report, and
- 33 (b) an action plan to be followed in remedying those deficiencies
- 34 (including a timetable).
- 35 (8) Where the Department is not satisfied with the progress being made in
- 36 pursuing an action plan it may, —
- 37 (a) vary the action plan;

- (b) order the registrar to remove the institution from the register.
- (9) The proprietor of the institution may appeal to the Tribunal against an order under subsection (8)(b); and the Tribunal may, —
 - (a) confirm the order;
 - (b) vary the order;
 - (c) quash the order;
 - (d) make supplementary or ancillary orders.
- (10) The decision of the Tribunal is final.
- (11) The Department must give effect to a decision of the Tribunal.

117 Complaints about educational institutions

- (1) The Department may serve on the proprietor of an educational institution a notice (“a complaint notice”) to the effect that the Department believes that there are likely to be issues in relation to, —
 - (a) the suitability of the institution’s premises or facilities;
 - (b) the quality or suitability of the education being provided at the institution;
 - (c) the quality or suitability of the proprietor, a teacher or other member of staff at the institution;
 - (d) the safeguarding and welfare of children and young persons studying at the institution.
- (2) A complaint notice must specify either, —
 - (a) that the Department believes that the issues complained of are capable of being addressed within a reasonable period of time, or
 - (b) that the Department believes that the issues complained of are not capable of being addressed within a reasonable period of time.
- (3) A notice under subsection (2)(a) must specify, —
 - (a) the measures necessary in the opinion of the Department to address the issues complained of, and
 - (b) a period within which the measures are to be taken (and the period must be not less than 6 months beginning with the date of service of the notice).
- (4) If a complaint notice specifies an issue in relation to the quality or suitability of a person, the notice must, —
 - (a) name the person;
 - (b) provide sufficient details of the issue to enable the person to understand the nature of the complaint; and
 - (c) be served on the person as well as on the proprietor.

- (5) A complaint notice must specify a period (not less than one month beginning with the date of service of the notice) during which the proprietor may refer the complaint to the Tribunal.

118 Determination of complaints

- (1) A complaint notice under section 117 is to be considered either, —
- (a) by the Tribunal, if a person on whom the notice was served refers it to the Tribunal within the time specified in the notice, or
 - (b) otherwise, by the Department or a person designated by the Department.
- (2) The Tribunal, Department or designated person must, —
- (a) consider all evidence submitted to it, and
 - (b) give anyone appearing to be concerned an opportunity to make representations.
- (3) In determining the complaint the Tribunal, Department or designated person may, —
- (a) dismiss the complaint;
 - (b) make an order for the institution to be removed from the register;
 - (c) make an order prohibiting the use of the premises or a specified part of them to be used for the conduct of an educational institution, or imposing conditions or limitations on the use of the premises or a specified part of them for the conduct of an educational institution;
 - (d) make an order for the purposes of remedying deficiencies in relation to safeguarding the welfare of children and young persons studying at the school;
 - (e) make an order prohibiting a person from acting as the proprietor of an educational institution;
 - (f) make an order prohibiting a person from teaching at an educational institution.
- (4) An order for removal from the register may be absolute or conditional (and a condition may require the Department to be satisfied of specified matters within a specified period).

119 Enforcement

- (1) It is an offence to contravene a prohibition under section 118.
- Maximum penalty (summary) level 4 fine.
- (2) A prosecution for an offence under this section may be brought only by or on behalf of the Department.

- (3) A person subject to a prohibition order under section 118 may apply to the Department for its removal or variation because of a change in circumstances; and, —
- (a) the Department may remove, vary or confirm the prohibition order, and
- (b) the person may appeal the Department's decision (or failure to make a decision within the period of 30 days beginning with the date of the application) to the Tribunal, which may remove, vary or confirm the prohibition order.

DIVISION 6 – PRIVATE TUTORS

120 Definition: “private tutor”

In this Act “**private tutor**” means an individual who provides education in the course of a business.

121 Requirement to register

It is an offence to operate in the Island as a private tutor without being registered in accordance with this Part.

Maximum penalty (summary) level 4 fine.

122 The register

- (1) The Department must maintain a register of private tutors.
- (2) The Department must make the register open to public inspection at all reasonable times.
- (3) An entry on the register must include a statement that inclusion on the register does not amount to, —
- (a) confirmation by the Department of the accuracy of any information provided by the private tutor, or
- (b) an endorsement by the Department of the quality of the services provided by the private tutor.

123 Registration

- (1) An individual may apply to the Department for entry in the register.
- (2) An application must be accompanied by, —
- (a) a current enhanced check certificate issued by the Disclosure and Barring Service in accordance with the Safeguarding Vulnerable Groups Act 2006 (of Parliament);
- (b) information about the subjects the tutor offers or intends to offer to teach;

- 1 (c) information about the age-range of students the tutor offers or
2 intends to offer to teach; and
3 (d) any prescribed fee.
4 Tynwald procedure – approval required
5 (3) A registered private tutor must at intervals of not more than one year
6 confirm their registration by notice in writing, –
7 (a) including any changes to the information supplied with the
8 application for registration; and
9 (b) accompanied by any prescribed fee.
10 Tynwald procedure – approval required
11 (4) An individual who provides false information in connection with an
12 application or confirmation commits an offence.
13 Maximum penalty (summary) 6 months’ custody or a level 5 fine.

14 **PART 6 – GENERAL AND FINAL PROVISION**

15 **DIVISION 1 – GENERAL PROVISION**

16 **124 The Education Tribunal**

- 17 (1) The Education Tribunal consists of a chair and two other members
18 appointed in accordance with the *Tribunals Act 2006*.
19 (2) In Part 1 of Schedule 2 to that Act at the end add, –
20 “12. The Education Tribunal.”

21 **125 Educational trusts**

- 22 (1) The Department may accept, hold and administer property on trust for
23 purposes connected with education.
24 (2) Schedule 3 makes additional provision about property held by the
25 Department on trust for purposes connected with education.

26 **126 Provision about child employment**

- 27 (1) For the purposes of any enactment relating to the prohibition or
28 regulation of the employment of children or young persons, a person
29 who is not over compulsory school age is to be treated as a child within
30 the meaning of that enactment (but subject to any express or implied
31 provision to the contrary in the enactment).
32 (2) The Department may make regulations prohibiting, restricting or
33 regulating, –

- (a) the employment of children;
- (b) participation by children in performances;
- (c) training children to participate in performances including dangerous activities;
- (d) participation by children in travel out of the Island for the purpose of taking part in performances; and
- (e) involvement of children in street trading.

Tynwald procedure – approval required

(3) The regulations may, —

- (a) require the provision of information to the Department;
- (b) prohibit activities except where authorised by, and in accordance with the terms and conditions of, a licence granted by an authority specified in the regulations;
- (c) make provision about the licensing system (including grant, renewal, variation, transfer, suspension and revocation of licences);
- (d) make provision for appeals to a court or tribunal (including a tribunal established pursuant to the regulations);
- (e) create offences (including permitting maximum fines not exceeding level 5 on the standard scale, specifying defences, and allowing a court convicting a person of an offence to make an order in relation to a licence);
- (f) confer power on constables or other specified persons to enter premises, make enquiries, demand information and seize items.

(4) The regulations may make consequential or incidental provision repealing or amending provisions of an enactment relating to children or young persons.

(5) The regulations may define employment for the purposes of this section and the regulations (including so as to include unpaid work in specified circumstances).

127 Evidence of age

(1) This section applies where a person's age needs to be proved for the purposes of, —

- (a) this Act, or
- (b) an enactment relating to the employment of children.

(2) The person may apply to the relevant register of births for a certified copy of the entry relating to the person's birth.

(3) An application must, —

- (a) be made in writing;

- 1 (b) be made in the prescribed form (if any);
- 2 (c) contain prescribed information; and
- 3 (d) be accompanied by any fee prescribed under the *Civil Registration*
- 4 *Act 1984*.
- 5 Tynwald procedure – approval required
- 6 (4) A registrar must provide to the Department any information which it
- 7 requests for purposes connected with this Act.
- 8 (5) Expressions used in this section have the same meaning as in the *Civil*
- 9 *Registration Act 1984*.
- 10 (6) In the absence of evidence in accordance with this section, a court or
- 11 tribunal may make findings about a person's presumed age.

12 Other evidence

- 13 (1) The following may be admitted in evidence before a court or tribunal, —
- 14 (a) a document purporting to be issued by the Department and
- 15 signed by an authorised person;
- 16 (b) a document purporting to be an extract from the minutes of the
- 17 proceedings of a governing body and signed by the chair or
- 18 secretary;
- 19 (c) a document purporting to be a certificate giving details of a
- 20 person's attendance at a school or college, and signed by the head
- 21 teacher of the school or proprietor; or
- 22 (d) a document purporting to be a certificate issued by a registered
- 23 medical practitioner on behalf of the Department.
- 24 (2) Unless the contrary is proved, a document admitted under subsection (1)
- 25 is to be taken to be, —
- 26 (a) valid, and
- 27 (b) evidence of its contents.

129 Notices

- 29 A requirement of this Act to give public notice is satisfied by publication, —
- 30 (a) in a newspaper circulating in the Island, and
- 31 (b) on an open-access website.

32 DIVISION 2 – FINAL PROVISION

33 130 Subordinate legislation

- 34 (1) Regulations under this Act may, —

- (a) make provision generally or for specified purposes only, and may make different provision for different purposes;
 - (b) confer functions on specified persons (which may include the Department);
 - (c) include transitional, consequential, incidental or supplemental provision.
- (2) A function of making regulations under this Act is exercisable by the Department.

131 Repeals

The following enactments are repealed, —

- (a) the *Education Act 2001*; and
- (b) the *Education (Miscellaneous Provisions) Act 2009*.

1

SCHEDULE 1

2

LIST OF SCHOOLS

3

[Section 15]

4

MAINTAINED SCHOOLS

5

A – PRIMARY SCHOOLS

6

Anagh Coar School

7

Andreas School

8

Arbory School

9

Ashley Hill School

10

Ballacottier School

11

Ballasalla School

12

Ballaugh School

13

Braddan School

14

Bunscoill Rhumsaa

15

Cronk y Berry School

16

Dhoon School

17

Foxdale School

18

Henry Bloom Noble School

19

Jurby School

20

Kewaique School

21

Laxey School

22

Manor Park School

23

Marown School

24

Michael School

25

Onchan School

26

Peel Clothworkers' School

27

Rushen Primary School

28

Scoil Phurt le Moirrey

29

Scoil Vallajeelt

30

Scoil yn Jubilee

31

St John's School

32

St Mary's Roman Catholic School

33

St Thomas' Church of England School

34

Sulby School

1

Victoria Road School

2

Willaston School

3**B – SECONDARY SCHOOLS****4**

Ballakermeen High School

5

Castle Rushen High School

6

Queen Elizabeth II High School

7

Ramsey Grammar School

8

St Ninian's High School

9

1

SCHEDULE 2

2

ESTABLISHMENT, CLOSURE AND ALTERATION OF SCHOOLS

3

[Section 17]

4

Proposals for action

5

1. Paragraph 2 applies where, —

6

(a) the Department proposes to take action under section 17, or

7

(b) any persons submit proposals to the Department for a school to become a maintained school.

8

9

2. The Department must publish the proposals.

10

3. The following may submit objections to the proposals in writing to the Department, —

11

12

(a) the governing body of a maintained school affected by the proposals;

13

14

(b) a group of 10 or more individuals who live in the actual or proposed catchment area for the school to which the proposals relate in accordance with section 43.

15

16

17

4. Objections must be submitted in writing within the period of 3 months beginning with the date of publication of the proposals (“the consultation period”).

18

19

5. After the expiry of the consultation period the Department may make an order under section 17 giving effect to the proposals made by or to the Department, with or without modifications of them.

20

21

22

6. The Department may not make an order giving effect to proposals for a school to become a maintained school unless it has entered into an agreement with the governing body of the school for the transfer to the Department of all necessary interests in the school premises.

23

24

25

26

7. Following an order providing for a school to become a maintained school, the Department must maintain it.

27

28

8. Following an order for the establishment of a new maintained school, the persons who submitted the proposals for its establishment (“the promoters”) must submit to the Department for approval, in such form and in such manner as it may direct, specifications and plans of the school premises.

29

30

31

32

9. Once the specifications and plans have been approved by the Department, —

33

(a) the promoters must give effect to the proposals in accordance with the specifications and plans so approved;

34

- 1 (b) the Department must provide the school premises; and
- 2 (c) the Department must maintain the school.

3 10. If the Department makes an order to close a maintained school or to convert it
4 into an independent school, once the order take effect the Department is no longer
5 required to maintain the school.

6 *Governors closing school*

7 11. A governing body of a maintained school proposing to discontinue the school
8 must give the Department at least 2 years' written notice ("closure notice").

9 12. A closure notice may not be withdrawn except with the consent of the
10 Department.

11 13. A closure notice may not be given without the consent of the Department if the
12 Department has incurred capital expenditure in respect of the school premises.

13 14. Consent under this Schedule may be absolute or on terms or conditions (which
14 may include provision for repayment of expenditure incurred, conveyance of property
15 to the Department, or other payments).

16 15. The Department may conduct a school while a closure notice is pending if the
17 governing body, —

- 18 (a) are unable or unwilling to conduct it, and
- 19 (b) enter into arrangements with the Department for the transfer of
20 property.
21

SCHEDULE 3

SCHEMES RELATING TO EDUCATIONAL TRUSTS

[Section 125]

Interpretation

1. In this Schedule “educational charity” means any trust of property established for charitable purposes which are or include any educational purpose, but excludes, —

- (a) an ecclesiastical charity within the meaning of Schedule 3 to the *Church Act 1992*, and
- (b) a hospital trust within the meaning of Schedule 1 to the *National Health Service Act 2001*.

Contents of schemes

2. (1) The Department may make a scheme to do all or any of the following in relation to any educational charity, —

- (a) appoint trustees of the charity;
- (b) to amalgamate the trusts of the charity with the trusts of any other such charity;
- (c) where the benefits of the charity are restricted to any parish or other district, to extend those benefits to any area or any other parish or district;
- (d) to make provision for the better administration of the charity;
- (e) to vest any property of the charity in the Department;
- (f) to authorise the disposal of any property of the charity, or of any interest therein;
- (g) to authorise any part of the income of the charity to be added to the capital thereof, or the capital of the charity or any part thereof to be applied as income;
- (h) subject to paragraph 3, to alter the purposes of the charity so as to allow the property thereof or part of it to be applied *cy-près*;
- (i) to modify, amend or repeal any enactment so far as it relates to the charity.

(2) A scheme under this Schedule may make such incidental, consequential, transitional and supplementary provisions as appear to the Department to be necessary or expedient for the purposes of the scheme.

Occasions for applying property cy-près

3. (1) The purposes for which property may be applied may not be altered under paragraph 2(1)(h) unless it appears to the Department, —

- (a) that the original purposes of the gift were that the property should be wholly applied for educational purposes; and
 - (b) that the circumstances are as set out in sub-paragraph (2).
- (2) The circumstances in which those purposes may be so altered are as follows —
 - (a) where the original purposes, in whole or in part —
 - (i) have been fulfilled, as far as may be, or
 - (ii) cannot be carried out, or not according to the directions given and to the spirit of the gift; or
 - (b) where the original purposes provide a use for part only of the property; or
 - (c) where the property and other property applicable for similar purposes can be more effectively used in conjunction, and to that end can suitably be made applicable to common purposes, regard being had to the spirit of the gift; or
 - (d) where the original purposes were laid down by reference to an area which then was but has since ceased to be a unit for educational or other purposes, or by reference to a class of persons or to an area which has for any reason ceased to be suitable, regard being had to the spirit of the gift, or to be practical in administering the charity; or
 - (e) where the original purposes, in whole or in part, have since they were laid down, —
 - (i) been adequately provided for by other means;
 - (ii) ceased for any reason to be in law charitable; or
 - (iii) ceased in any other way to provide a suitable and effective method of using the property, regard being had to the spirit of the gift.
- (3) In relation to property the application of which is regulated by a statutory provision (including a provision repealed by this Act or the *Charities Act 1986*), references in this paragraph to the original purposes of a gift are to the purposes for which the property is for the time being applicable.

Consents and approvals

4. (1) A scheme under this Schedule does not have effect, —
 - (a) in any case, unless it is approved by the High Court; and
 - (b) where it makes any provision under paragraph 2(1)(i), unless it is approved by Tynwald.
- (2) In the case of a scheme which does not affect a charity other than one, —

- 1 (a) the endowment of which does not include any land, and
2 (b) the gross income of which in the last preceding accounting year
3 was the prescribed amount or less,
4 the approval of the Attorney General is substituted for the approval of
5 the High Court under sub-paragraph (1)(a).
6 (3) In this paragraph "the prescribed amount" means £2,000 or such larger
7 amount as may for the time being be specified in section 2(1)(b) of the
8 *Charities Act 1986* by virtue of an order under section 3(5) of that Act.

9 *Registration of schemes*

- 10 5. Every scheme under this Schedule must be filed in the General Registry.

11 *Savings*

- 12 6. Nothing done in pursuance of a scheme under this Schedule requires the
13 approval or authorisation of the High Court or the Attorney General, but this Schedule
14 is otherwise without prejudice to the powers of the High Court or the Attorney
15 General in relation to charities.

IN THE COUNCIL

EDUCATION BILL 2020

A BILL to make provision
about education, and other
provisions about children of
school age.

Leave to introduce given by the
Council of Ministers on 19 December
2019

MR CREGEEN

JANUARY 2020