



MONTserrat

CHAPTER 16.01

EDUCATION ACT

Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

	Page
EDUCATION ACT	3
Act 1 of 2004 .. in force 1 October 2004 (S.R.O. 49/2004) Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)	
EDUCATION (IMMUNISATION) REGULATIONS – Section 171	99
S.R.O. 25/2009 .. in force 1 September 2009	



MONTSERRAT

CHAPTER 16.01

EDUCATION ACT

Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

	Page
EDUCATION ACT	3
Act 1 of 2004 .. in force 1 October 2004 (S.R.O. 49/2004)	
Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)	
EDUCATION (IMMUNISATION) REGULATIONS – Section 171	99
S.R.O. 25/2009 .. in force 1 September 2009	

CHAPTER 16.01
EDUCATION ACT
ARRANGEMENT OF SECTIONS

PRELIMINARY

SECTION

1. Short title
2. Interpretation

CHAPTER 1
ADMINISTRATION OF THE EDUCATION SYSTEM

PART 1

GOALS AND OBJECTIVES

3. Goals and objectives
4. Responsibilities of the Minister
5. Powers of Minister
6. Annual Report
7. Delegation of authority by Minister

PART 2

RESPONSIBILITIES OF THE DIRECTOR OF EDUCATION

8. Duties of Director of Education

PART 3

ESTABLISHMENT AND FUNCTIONS OF
THE EDUCATION ADVISORY COMMITTEE

9. Establishment of Education Advisory Committee
10. Functions of Advisory Committee
11. Powers of the Committee to hold public hearing
12. Minister not bound by advice of Committee

CHAPTER 2

RIGHTS AND RESPONSIBILITIES
OF STUDENTS AND PARENTS

PART 1

STUDENTS RIGHTS AND RESPONSIBILITIES

13. Right to education
14. Responsibility to students
15. Free tuition
16. Student responsibilities
17. Students accountable to teacher, principal and Ministry
18. Exercise of rights

PART 2

PARENTS' RIGHTS AND RESPONSIBILITIES

19. Rights and responsibilities of parents
20. Choice of education
21. Student records and reports
22. Damage to school property
23. Parent Teacher Association
24. School Committees
25. Wishes of parents to be considered in education of students

PART 3

ADMISSION AND ATTENDANCE OF STUDENTS

26. Compulsory school attendance
27. Mode of admission
28. Prohibition of discrimination
29. Age limit for secondary schools
30. Student's Register
31. Transfer of students
32. Effect of contagious diseases
33. Readmission of a student on production of medical certificate
34. Temporary or permanent closing of schools
35. Zoning of schools

PART 4

ENFORCEMENT OF COMPULSORY SCHOOL ATTENDANCE

36. Duty of parent to enforce attendance

37. Valid excuses from attendance
38. School attendance counsellors
39. Responsibility of school attendance counsellor
40. Power to enter premises and question children
41. Offences against school attendance counsellors
42. Power to deliver absent student
43. Duties of school attendance counsellor
44. Reports by principals
45. Liability of parent
46. Compulsory school age and offences
47. Legal proceedings

PART 5

DISCIPLINE, SUSPENSION AND EXPULSION OF STUDENTS

48. School rules to govern discipline
49. Corporal punishment
50. Suspension for offences

PART 6

SCHOOL DISCIPLINARY COMMITTEE

51. Schools disciplinary committees

CHAPTER 3

ADMINISTRATION OF EDUCATIONAL INSTITUTIONS

PART 1

MANAGEMENT OF PUBLIC PRIMARY SCHOOLS

52. Establishment and maintenance of primary schools
53. Management of public primary schools
54. Boards of Management
55. Members of a Board of Management
56. Functions of a Board of Management for a primary school
57. Submission of reports, statements and estimates
58. Special or general directions

PART 2

MANAGEMENT OF PUBLIC SECONDARY SCHOOLS

59. Application of Part

60. Management of public secondary schools
61. Establishment of Board of Management
62. Functions of Board of Management for secondary schools
63. Funds and resources of a Board of Management
64. Accounts and audit
65. Annual report, statement of accounts of estimates
66. Minutes of board receivable in evidence

PART 3

MANAGEMENT OF ASSISTED SCHOOLS

67. Management of assisted primary schools
68. Management of assisted secondary schools
69. Denomination or proprietor may add duties
70. Appointment of joint Board of Management

PART 4

MANAGEMENT OF TERTIARY INSTITUTIONS

71. Establishment and management of tertiary institution

CHAPTER 4

CATEGORIES OF SCHOOLS AND THE STAGES OF EDUCATION

PART 1

THE FORMS AND STAGES OF EDUCATION

72. Stages of public education

PART 2

EARLY CHILDHOOD EDUCATION SERVICES

73. Establishment of early childhood education services
74. Programmes and policies
75. Insurance
76. Council on early childhood education services
77. Regulations

PART 3

HOME EDUCATION

78. Home education

79. Termination of programme

PART 4

SPECIAL EDUCATION

80. Special education
81. Determination of special educational needs
82. Special needs appeals
83. Council on Special Education

CHAPTER 5

CATEGORIES OF EDUCATIONAL INSTITUTIONS

84. Organisation of schools

PART 1

PUBLIC SCHOOLS

85. Status of public schools

PART 2

PRIVATE EDUCATIONAL INSTITUTIONS

86. Interpretation
87. Body without legal personality
88. Applicability
89. References and objects
90. Permit
91. Presumption
92. Existing private educational institutions
93. Private educational institutions register
94. Application for registration
95. Eligibility for registration
96. Refusal
97. Limitation on instruction
98. Number of students
99. Content of permit
100. Vocational education
101. Duration and renewal of permits
102. Modification
103. Transfer
104. Information

105. Visits to private educational institutions
106. Notice to comply
107. Cancellation of registration
108. Appeal
109. Registration and closure
110. Returns
111. Health and sanitation
112. Disqualification of teachers
113. Prohibition of discrimination

PART 3

DENOMINATIONAL, ASSISTED AND PRIVATE SCHOOLS

114. Agreement to establish assisted private schools
115. Publication of list of assisted private schools
116. Religious education in assisted private schools
117. Loans to assisted private schools
118. Status of denominational school
119. Regulations for denominational schools

CHAPTER 6

TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

120. Establishment of Technical and Vocational Education Council
121. Functions of Council
122. Directions
123. Appointment of committees and functions thereof
124. Additional functions of committee
125. Training schemes
126. System for monitoring
127. Regulations by Governor acting on the advice of Cabinet
128. Annual report
129. National policy
130. Plans for technical and vocational education
131. Regulations by Governor acting on the advice of Cabinet

CHAPTER 7

PROFESSIONAL DUTIES AND RESPONSIBILITIES OF TEACHERS AND PRINCIPALS

132. Qualifications of teachers

133. Rights of teachers
134. Exercise of general profession duties
135. Duties of teachers
136. Duties of Deputy Principal
137. General responsibilities of principals

CHAPTER 8

CURRICULUM AND ASSESSMENT OF STUDENTS

138. National curriculum
139. Core and foundation subjects
140. Key stages of assessment
141. Determination of attainment targets
142. Subject panels
143. Collective worship and religious education
144. Religious education in public schools

CHAPTER 9

ISLAND SCHOLARSHIPS AND GRANTS

145. Montserrat Island scholarships
146. Value of scholarships
147. Qualifications for scholarship
148. Examination for scholarship
149. Entry at proposed institution
150. Forfeiture of scholarship
151. Scholar to sign undertaking
152. Travel grants
153. Award of grants and bursaries

CHAPTER 10

INSPECTION AND REVIEW OF THE EDUCATION SYSTEM

PART 1

INSPECTION OF EDUCATIONAL INSTITUTIONS

154. Inspection of educational institutions
155. Educational institutions to be opened for inspections and visits
156. Offences

PART 2

REVIEW OF THE EDUCATION SYSTEM

157. Appointment of Education Review Committee
158. Review and report of Education Review Committee

CHAPTER 11

APPEALS

159. Establishment of Education Appeal Tribunal
160. Composition of Tribunal
161. Mediation
162. Procedure of Tribunal
163. Powers of the Tribunal
164. Matters to be considered
165. Final decision
166. Enforcement of order
167. Copy to the Minister and parties

CHAPTER 12

MISCELLANEOUS

168. Vendors on school premises
169. Prohibition of sale of alcoholic beverages and tobacco
170. Loitering etc. on school premises

CHAPTER 13

REGULATIONS

171. Regulations
 - FIRST SCHEDULE: Education Advisory Committee
 - SECOND SCHEDULE: Constitution, Procedure and Functions of Boards of Management
 - THIRD SCHEDULE: Procedure of Technical and Vocational Education and Training Council
 - FOURTH SCHEDULE: Constitution of Committees

CHAPTER 16.01

EDUCATION ACT

(Acts 1 of 2004 and 9 of 2011)

AN ACT TO PROVIDE A REGULATORY SYSTEM FOR THE DELIVERY OF EDUCATION SERVICES IN MONTSEERRAT.

Commencement

[1 October 2004]

Short title

1. This Act may be cited as the Education Act.

Interpretation

2. In this Act unless the context otherwise requires—

“**Adult education**” means—

- (a) continuing education; and
- (b) training activities organised on a part-time basis suitable to the requirements of persons over compulsory school age and designed to enhance knowledge, skills, attitudes or cultural awareness, but does not include tertiary education;

“**assisted school**” means a school assisted by a grant or any form of assistance made from public funds;

“**class**”, in relation to a particular student and a particular subject, means the teaching group in which a student is regularly taught that subject or, where there are 2 or more groups, such one of them as may be designed by the principal or head teacher of the school as the case may be;

“**compulsory school age**” means the ages prescribed by the Minister under section 26(1) during which students are obliged to attend school;

“**Denominational school**” means an educational institution established, managed and maintained by a religious community;

“**Director**” means the Director of Education appointed by the Governor or the Deputy Governor;

“**distance education**” means an educational process in which a significant proportion of the teaching is conducted through one medium or a combination of media by persons removed in space or time from the learners;

- “early childhood education”** means education provided in an institution specially designed for that purpose and suitable to the needs of children of one year and over but under five years;
- “Educational institution”** means any school, training centre, or college or such other institution of higher education as may be prescribed;
- “Educational programme”** means a course of study whether conducted in an educational institution or otherwise that is designed to meet the specified learning needs of an individual or group of persons;
- “Head teacher”** means the head of a school suited to the requirements of students of primary school age or of nursery school age;
- “Minister”** means the Minister of Education and Ministry shall be construed accordingly;
- “Parent”** includes a guardian and every person liable to maintain or having custody of a child;
- “Primary education”** means full-time education suited to the requirements of students of primary school age;
- “Primary student”** means a student who at the beginning of the school year has attained the age prescribed by section 26 or will attain the age by which of that year but has not attained the age of six years;
- “Principal”** means the head of a school and shall where the context so requires include a head teacher and deputy principal shall be construed accordingly;
- “Private education institutions”** mean schools other than public schools and assisted private schools and which are owned, managed, and financed by trusts, individuals, bodies or any incorporated or unincorporated bodies and include—
- (a) a school; or
 - (b) a class; or
 - (c) an educational institution attended by twelve or more students continuously for more than eight hours per week and which is in possession of a permit issued by the Minister;
- “Public schools”** mean schools which are wholly or mainly maintained at the public expense and to which the general public has access without any conditions other than those authorised by or under this Act;
- “public service law”** means any law relating to the matters referred to in section 24(2)(a) to (c) of the Montserrat Constitution Order, 2010; *(Inserted by Act 9 of 2011)*
- “Secondary education”** means full-time education suited to the requirements of students of secondary school age;
- “Student”** means a person of any age for whom education is provided under this Act;

“**Teacher**” means a person employed as such in any government or assisted school or in any private school;

“**Teachers College**” means an educational institution established for the purpose of training teachers for service in educational institutions;

“**Technical College**” means a school or other institution that provides for studies, training or research in technology, science, commerce or art;

“**Tertiary education**” means—

- (a) education suitable to the requirements of persons over compulsory school age; and
- (b) university education and instruction normally available at institutions for teacher training, vocational training and technical training.

CHAPTER 1

ADMINISTRATION OF THE EDUCATION SYSTEM

PART 1

GOALS AND OBJECTIVES

Goals and objectives

3. (1) The Minister shall, subject to available resources, establish and pursue for the education system general and specific goals and objectives as provided in subsections (2) and (3).

(2) The general goals and objectives which the Minister shall establish and pursue are—

- (a) the establishment of a varied, relevant and comprehensive educational system that is characterised by excellence;
- (b) the promotion of the education of the people of Montserrat by the establishment of educational institutions for the purpose of fostering the spiritual, cultural, moral, intellectual, physical, social and economic development of the community;
- (c) the framing of an educational policy designed to give effect to the purposes of this Act;
- (d) the effective execution of the educational policy of the Government; and
- (e) the establishment of a co-ordinated educational system organised in accordance with this Act.

(3) Without prejudice to the generality of subsection (1), the specific goals and objectives which the Minister shall establish and pursue are—

- (a) to encourage the development of the basic knowledge and skills in all persons, including—
 - (i) the skills of literacy, listening, speaking, reading, writing, numeracy, mathematics, analysis, problem solving, information processing, computing;
 - (ii) critical and creative thinking skills for today's world;
 - (iii) an understanding of the role of science and technology in society together with scientific and technological skills;
 - (iv) appreciation and understanding of creative arts;
 - (v) physical development and personal health and fitness; and
 - (vi) the creative use of leisure time;
- (b) to develop self-worth through a positive educational environment;
- (c) to promote the importance of the family and community;
- (d) to provide opportunities to reach maximum potential;
- (e) to promote the recognition, understanding and respect for the Constitution, laws and national symbols of the state;
- (f) to develop an understanding of the principle of gender equality;
- (g) to promote understanding of the history, language, culture, rights, and values of Montserrat and their changing role in contemporary society;
- (h) to increase awareness and appreciation of the natural environment of the state;
- (i) to promote a Caribbean identity through regional co-operation and integration;
- (j) to develop an understanding of the historical and contemporary role of labour and business in society; and
- (k) to prepare for participation in the Montserratian and global society.

(4) The Minister shall promote the goals specified in subsection (3) through appropriate basic education and continuing education strategies.

Responsibilities of the Minister

4. (1) The Minister shall be responsible for the overall administration of this Act and may do all things necessary or convenient for the purpose of carrying out that responsibility.

(2) Without restricting the generality of subsection (1) the Minister shall be responsible for—

- (a) devising a system of education designed as far as possible to ensure that the intellectual and vocational abilities, aptitudes and interests of students find adequate expression and opportunity for development;
- (b) establishing public schools and determining their location and classification;
- (c) making, subject to this Act, provision for the admission and transfer of students in public schools and assisted private schools;
- (d) establishing and maintaining or assisting in the establishment and maintenance of educational institutions or other facilities for tertiary, adult and continuing education and special education, including—
 - (i) teachers' colleges for the training of teachers; and
 - (ii) technical colleges and training centers considered necessary for fulfilling the requirements of technical and vocational education;
- (e) taking such other action for ensuring that the requirements of teachers in public educational institutions are satisfied;
- (f) conducting, managing and assisting schools in accordance with Regulations made under this Act;
- (g) rendering, to such students or class of students, subject to such conditions as may be prescribed, such forms of assistance as may be necessary for enabling the students to take full advantage of the educational facilities available;
- (h) evaluating the work of public schools and assisted private schools with particular reference to the curriculum to be followed therein, and making provision for the examination and testing of students and the award of certificates;
- (i) the referral of children who have been identified by the Director of Education as having learning difficulties to appropriate medical, educational, social services or other agencies where they exist for remedial treatment or assistance;
- (j) providing educational opportunities for meeting the demands for higher education and in particular taking such steps as may be necessary for the carrying out of the Government's obligation to the Caribbean Examinations Council, the University of the West Indies or any other institution of higher learning; and

- (k) actively encouraging the formation, functioning and development of students councils in all schools and a National Student Council.

Powers of Minister

5. (1) For the purpose of carrying out the responsibilities conferred by this Act, the Minister shall have power to—

- (a) require attendance of persons of compulsory school age at schools established and conducted under this Act;
- (b) regulate the operation of public schools, assisted private schools, and private educational institutions;
- (c) make provision for the professional training of teachers for the entire system of education, and lay down standards which are applicable to the recruitment of teachers, their training;
- (d) designate the grades or classes and special programmes to be offered in public schools and assisted private schools;
- (e) prescribe forms and notices as required for the administration of this Act;
- (f) constitute committees or other bodies to offer advise from time to time on educational and related matters;
- (g) prescribe lists of textbooks and practices in all public schools and assisted private schools so as to ensure conformity with national standards of education provided that, in the case of assisted private schools textbooks for religious education shall be determined by the denomination establishing the school;
- (h) determine the level of assistance to assisted private schools and regulate such assistance;
- (i) establish or disestablish public schools including schools for technical education and inaugurate classes or discontinue classes in those when necessary;
- (j) prescribe, in accordance with this Act, curriculum for public schools and assisted private schools; and
- (k) provide for any other matter or do all such things as may be expedient from time to time for the carrying out of the Minister's responsibilities for education and training.

(2) In the exercise of the powers conferred by subsection (1)(c), (g) and (j), the Minister shall consult such organisations representing the teaching profession as the Minister considers appropriate.

Annual report

6. The Minister shall, within three months of the end of each school year present to the Legislative Assembly a report of the state of education in Montserrat within the preceding school year. (*Amended by Act 9 of 2011*)

Delegation of authority by Minister

7. (1) The Minister may delegate in writing to the Permanent Secretary and the Director of Education any function, duty or responsibility conferred on the Minister by this Act or any Regulation made under this Act, but this does not preclude the Minister from exercising any or all of the functions so delegated where the Minister considers it expedient.

(2) Where by this Act or any enactment made under this Act, the Permanent Secretary and the Director of Education are required, or otherwise permitted to perform any function, they may after consultation, authorise a public officer who is accountable to them to perform the function.

PART 2

RESPONSIBILITIES OF THE DIRECTOR OF EDUCATION

Duties of Director of Education

8. The Director shall—

- (a) ensure that schools and other educational institutions are administered in a proper and efficient manner;
- (b) develop administrative principles and procedures for implementing general policies and administering the school system;
- (c) after prior consultation with the Permanent Secretary, delegate authority to professional staff of the Ministry for administering various aspects of the system of education including the registration and administration of private schools;
- (d) recommend the recruitment, appointment, transfer and promotion of professional staff;
- (e) develop and direct training of all professional personnel;
- (f) initiate, subject to the provisions of this Act, curriculum innovation and reform and the establishment of appropriate procedures for evaluating the instructional programme of schools and other educational institutions;
- (g) advise the Minister on matters affecting education in the state;
- (h) ensure that school premises, property and stock are protected against improper use;

- (i) initiate, organise and conduct courses of induction and training for untrained teachers;
- (j) ensure the observance of the provisions of this Act and Regulations made thereunder pertaining to the conduct of schools and other educational institutions; and
- (k) perform such other functions under this Act as the Minister may from time to time assign to the Director of Education.

PART 3

ESTABLISHMENT AND FUNCTIONS OF THE EDUCATION ADVISORY COMMITTEE

Establishment of Education Advisory Committee

9. (1) The Governor acting on the advice of Cabinet shall establish a body to be called the Education Advisory Committee.

(2) The Education Advisory Committee shall consist of at least 10 members including—

- (a) the principal of the Montserrat Community College;
- (b) four members nominated by the Governor acting on the advice of Cabinet from among persons representing—
 - (i) expert educational opinion;
 - (ii) parents of children attending public schools;
 - (iii) parent teacher associations; and
 - (iv) technical or vocational community;
- (c) two representatives, one from the Secondary School and one from the Primary School/Early Childhood Education;
- (d) one representative nominated by the duly recognised organisations representing teachers;
- (e) the Resident Tutor, the University of the West Indies School of Continuing Studies;
- (f) one representative nominated by the Montserrat Christian Council;
- (g) one representative each nominated by the business and professional communities;
- (h) Director of Education; and
- (i) One representative from Youth Council or School Council.

(3) The representatives nominated by the Governor acting on the advice of Cabinet and the organisations specified in subsections (2)(b), (c),

(d), (f) and (g), shall be appointed by the Governor acting on the advice of Cabinet.

(4) The Governor acting on the advice of Cabinet shall appoint a chairperson and a vice-chairperson from among its members.

(5) The appointment of a member of the Education Advisory Committee shall be for a period not exceeding two years, but the member shall be eligible for reappointment.

(6) The provisions of the First Schedule shall apply in respect of the Constitution and procedure of the Education Advisory Committee and otherwise in relation thereto.

(Amended by Act 9 of 2011)

Functions of Advisory Committee

10. The Education Advisory Committee shall advise the Minister on matters connected with education.

Powers of the Committee to hold public hearing

11. (1) Prior to advising the Minister on any matter concerning the promotion of education, the Education Advisory Committee may, where it thinks advisable and with the approval of the Minister—

- (a) hold a public hearing into the matter;
- (b) appoint one or more members to hold a public hearing into the matter; or
- (c) solicit written memoranda from the public on the matter.

(2) The Minister may require the Education Advisory Committee to hold a public hearing respecting any matter affecting the promotion of education and when so required, the Education Advisory Committee may adopt the procedure outlined in subsection (1) which it considers most appropriate.

Minister not bound by advice of Committee

12. (1) The Minister is not bound to accept the advice of the Education Advisory Committee, and where the Minister considers it advisable the Minister may refer a matter back to the Education Advisory Committee for reconsideration.

(2) Where after reconsideration, pursuant to subsection (1) the Education Advisory Committee adheres to the advice it had previously given, the Minister may reject the advice or adopt it either wholly or with such modification, additions or adaptation as the Minister thinks fit.

CHAPTER 2

RIGHTS AND RESPONSIBILITIES OF STUDENTS AND PARENTS

PART 1

STUDENTS RIGHTS AND RESPONSIBILITIES

Right to education

13. Subject to available resources, all persons are entitled to receive an educational programme appropriate to their needs in accordance with the provisions of this Act.

Responsibility to students

14. (1) The Director shall provide for every compulsory school-age person who resides in the state an educational programme consistent with the requirements of this Act and Regulations made thereunder.

(2) For the purposes of providing the educational programme to the student, the Director of Education shall—

- (a) enroll the student in an educational programme offered by the Ministry of Education; or
- (b) direct the student to attend an educational programme offered by another educational institution where it is reasonable to do so.

(3) Except in the case of a student who is transferred under section 51(8)(d), where a student is directed to attend an educational programme pursuant to paragraph (2)(b), the Government shall be responsible for such fees and costs, if any, consequent to the student's attendance at the educational programme.

Free tuition

15. (1) No tuition fees consequent to the student's attendance in an educational programme in Montserrat at a public school under section 26 shall be charged to the student or the parents of the student.

(2) Notwithstanding subsection (1) other charges may be imposed at a public school or assisted private school with the approval of the Minister.

Student responsibilities

16. Every student enrolled in a public school or assisted private school has the following responsibilities—

- (a) to observe the code of conduct and other rules and policies of the Ministry and of the school;
- (b) to attend classes regularly and punctually;

- (c) to participate in the educational programmes in which the student is enrolled;
- (d) to be diligent in pursuing the prescribed curriculum; and
- (e) observe standards approved by the Director or the principal or head teacher as the case may be, with regard to—
 - (i) cleanliness and tidiness of the person;
 - (ii) general deportment;
 - (iii) attire;
 - (iv) courtesy; and
 - (v) respect for the rights of other persons.

Students accountable to teacher, principal and Ministry

17. (1) Every student shall be accountable—

- (a) to the teacher for his or her conduct on the school premises during school hours and during such hours as the teacher is in charge of the student in class or while engaged in authorised school activities conducted during out-of-school hours; and
- (b) to the principal for his or her general deportment at any time that he or she is under the supervision of the school and members of the teaching staff, including the time spent in travelling between the school and his or her other place of residence.

(2) Every student shall be under the general direction and control of—

- (a) the driver of a school bus, if the driver is an employee of the Ministry of Education; and
- (b) any person under whose supervision students are placed on the authority of the Director of Education,

in respect of the student's general behaviour and deportment on a school bus, or while under supervision as the case may be.

Exercise of rights

18. (1) Every student has a right to be treated with respect and dignity and in a fair and reasonable manner.

(2) A student may express any religious, political, moral, or other belief or opinion so long as the expression does not adversely affect the rights or education of other students, or the rights of other persons in the school.

PART 2

PARENTS' RIGHTS AND RESPONSIBILITIES

Rights and responsibilities of parents

19. (1) Subject to section 21, parents of students attending public schools and assisted private schools are entitled—

- (a) to be informed of the progress, behaviour and attendance of their children;
- (b) upon reasonable notice to the principal and teacher, to observe the instruction of their children if the parental visitation does not impede the instruction of other children;
- (c) to appeal decisions that significantly affect the education, health or safety of their children; and
- (d) to be consulted in the development of any special education programmes prepared for their children.

(2) A parent of a student attending a school may, and at the request of a teacher or principal shall, consult with the teacher or principal with respect to the student's educational programme.

(3) Every parent shall inform the principal in writing of any medical or other condition peculiar to their child—

- (a) on admission of the child; or
- (b) as soon as the parent becomes aware of such medical or other condition.

(4) The information provided under subsection (3) shall constitute part of the student's record pursuant to section 21.

Choice of Education

20. Subject to the provisions of this Act, parents may choose home schooling in accordance with section 81, private schooling or public schooling for their children.

Student records and reports

21. (1) Every principal shall establish and maintain a student record for each student enrolled in the school managed by the principal in accordance with the guidelines established by the Director.

(2) Every school shall provide to the parents/guardian of a student periodic reports on the students' academic performance and conduct.

(3) The report referred to in subsections above shall be in such form and contain such information as the Director may determine.

(4) The following persons may examine a student's record or on paying the prescribed fee request a certified copy of a student's record—

- (a) the parents of a student;
- (b) a student who is eighteen years of age or older.

(5) Subject to subsection (2), a student's record is only for the information and use of school and departmental officials as required for the performance of their functions and is not available to any other person or institution without the written permission of the parent or, where the student is eighteen years of age or older, the student.

(6) Persons who contribute information to a student's record are exempt from any liability with respect to the provision of that information if those persons, in providing the information, acted—

- (a) in good faith;
- (b) within the scope of their duties and responsibilities; and
- (c) with reasonable care.

(7) If, on examining a student's record, a person authorised under this section is of the opinion that the student's record contains inaccurate or incomplete information, that person may request the principal to rectify the record.

(8) Where the principal refuses to rectify the record when so requested under subsection (7), the person who has requested the rectification may, within fourteen days of the refusal, refer the matter to the Director who shall review the request and provide directions in writing to the principal stating his reasons therefor. A copy of his directions shall be given to the person who referred the matter to the Director.

(9) Where the person who referred a matter to the Director under subsection (8), is dissatisfied with its disposition by the Director, that person may appeal the matter to the Education Appeal Tribunal established pursuant to this Act within fourteen days of the receipt by him of the reasons for the decision of the Director.

(10) Any person who discloses information from a student's record in contravention of subsection (5), commits an offence and is liable on summary conviction to a fine of \$1,000.

Damage to school property

22. (1) Every student in a public school and assisted private school shall take good care of any public property placed at the student's disposal and where such property is to be returned, the property shall be returned in good condition at the end of the school activities on a day and time determined by the principal.

(2) If a student fails to comply with subsection (1), the Director may claim the value of the property from the parents of the student if a minor or from the student if the student is eighteen years and over.

(3) If the property of a public school or assisted private school is destroyed, damaged, lost, or converted by the intentional or negligent act—

- (a) of a student who is a minor, the student and the student's parents are liable in respect of the act of the student; or
- (b) of two or more students who are minors acting together, the students and their parents are jointly and severally liable in respect of the act of the students.

(4) If the property of a public school or assisted private school is destroyed, damaged, lost or converted by the intentional or negligent act of one or more students who are eighteen years or older—

- (a) the single student shall be liable in respect of his or her sole act; and
- (b) the students who acted together shall be jointly and severally liable in respect of their act.

Parent Teacher Association

23. (1) Parents and teachers may, in accordance with Regulations made under this Act form associations, to be known as Parent Teacher Associations.

(2) The Minister shall encourage and assist in the formation of—

- (a) Parent Teacher Associations; and
- (b) a National Council of Parent Teacher Associations.

(3) Parent Teacher Associations may be established in public and private assisted schools.

(4) The objects of Parent Teacher Associations shall include the promotion of the interests of the school by bringing parents, members of the community, students and teachers into close co-operation.

(5) Parent Teacher Associations may, subject to this Act and Regulations made under this Act, make rules for the Regulation and control of their business.

(6) On the formation of a Parent Teacher Association, the names of the members of the executive shall be forwarded to the Director and subsequently after every election of a new executive.

School Committees

24. (1) Subject to subsection (2), where a Parent Teachers Association does not exist, the principal, in consultation with his or her staff, may establish a school committee comprising such number of parents, teachers and members of the community as the principal determines.

(2) No school committee shall come into existence without written approval of the Director.

(3) A school committee shall be an advisory committee to the school for which it is established.

(4) A school committee shall—

(a) advise the school administration where requested by the principal on any matter relating to the school;

(b) perform any duty or function referred to it by the Director; and

(c) actively pursue the formation of a Parent Teacher Association.

(5) On the formation of a Parent Teacher Association, the principal shall dissolve the school committee forthwith.

Wishes of parents to be considered in education of students

25. The Minister shall, in the exercise of the functions conferred under this Act have regard to the general principle, that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, the wishes of parents formally conveyed to the Minister are to be considered in the education of students.

PART 3

ADMISSION AND ATTENDANCE OF STUDENTS

Compulsory school attendance

26. (1) Every child shall attend school from the beginning of the school year following that in which the child attains the age prescribed in an order made by the Governor acting on the advice of Cabinet and continue to do so until the last day of the school year in which the child attains sixteen years of age or at the end of which the child obtains a certificate or diploma awarded by the Minister, whichever occurs first.

(2) Notwithstanding subsection (1), if the Minister is satisfied that it has become necessary or expedient to raise or lower the compulsory school age, the Governor acting on the advice of Cabinet may, by order, subject to affirmative resolution of the Legislative Assembly within sixty days of the making of the order, direct that subsection (1) shall have effect as if for references therein there were substituted a reference to any age prescribed in the order.

(Amended by Act 9 of 2011)

Mode of admission

27. No child shall be admitted to a primary school unless at the time of such admission—

- (a) the child is accompanied by a parent or a responsible person over the age of eighteen years who has been authorised by a parent to represent him;
- (b) the person accompanying the child brings a birth certificate giving the information required for the Student's Register;
- (c) the child shall have attained the age prescribed under section 26 or will attain that age by 31 March of that same school year; and
- (d) a certificate issued by a registered medical practitioner or the Public Health authorities is produced indicating that the child has been immunised as may be prescribed by Regulations made under this Act.

Prohibition of discrimination

28. Subject to the provisions of this Act, no person who is eligible for admission to a public educational institution or an assisted private school as a student shall be refused admission on any discriminatory grounds including race, place or origin, political opinions, colour, creed, sex, or subject to the provisions of this Act, mental or physical handicap.

Age limit for secondary schools

29. (1) Subject to subsections (2) and (3), no child without the written permission of the Director shall be admitted as a student to a public secondary school or assisted private secondary school before the child has reached the age of 11.

(2) A child below the prescribed age may be admitted to a secondary school on the written approval of the Director on the grounds of exceptional ability and consistently high academic performance as evidenced by—

- (a) outstanding performance in termly and annual class examinations;
- (b) the child's assessment results at the key stages as provided for in section 140; and
- (c) the written recommendations of teachers who have taught the child.

(3) A child below the age of eleven, who prior to the child's residence in Montserrat attended or gained admission to a secondary school or the equivalent of a secondary school may on the written approval of the Director be admitted to a public secondary school or an assisted private school.

(4) No student shall without the written permission of the Director be retained in a public secondary school or an assisted private secondary school after the end of the school year in which he shall have reached the age of nineteen years.

Student's Register

30. (1) The principal of every school shall maintain a register of students which shall be known as the Student's Register.

(2) The Student's Register must include—

(a) upon admission of a student to a school—

- (i)* the name, address, telephone number and date of birth of such student;
- (ii)* the date of admission;
- (iii)* the name and residence of the student's parent;
- (iv)* the name of the last school, if any, which the student attended;
- (v)* where appropriate, the date the student left the school from which he transferred as far as it can be ascertained;
- (vi)* the grade, or form of the student at the date of leaving the school from which he was transferred;
- (vii)* the grade or form to which the student is admitted; and

(b) upon the departure of a student from a school—

- (i)* the date of the student's departure;
- (ii)* the grade or form of the student on the date of departure; and
- (iii)* where appropriate, the school or other location to which the student is being transferred.

(3) Notwithstanding subsection (2), the Students Register shall include such other information as may be prescribed by the Director from time to time.

Transfer of students

31. (1) Subject to the approval of the Director, a student who seeks admission from one school to another shall not be admitted to that other school—

- (a)* except on presentation of a letter of transfer signed by the current principal; and
- (b)* after consultation between the current principal and the receiving principal concerning the availability of a school place in the receiving school.

(2) A principal shall furnish on request, to any student seeking a transfer, a letter of transfer referred to in subsection (1).

(3) Letters of transfer shall be retained by the principal of the admitting school and a copy thereof shall be submitted by the principal, to the Director.

(4) In the event that a dispute arises between 2 or more principals when a student seeks to transfer from one school to another, the Director shall make a final determination.

Effect of contagious diseases

32. (1) Subject to section 33, no student suffering from or exposed to a contagious disease shall be admitted to or permitted to remain in any school.

(2) Where the principal discovers or has reason to suspect the presence of a contagious disease he shall immediately report the same to the parents of the students concerned and the Director of Education and the Chief Medical Officer.

Readmission of student on production of medical certificate

33. (1) A student who has been refused admission to a school on the ground that he or she is suffering from or exposed to a contagious disease shall not be re-admitted except upon production of a medical certificate from a medical practitioner registered under the Medical Act to the effect that such student is free from such disease and is unlikely to be a source of infection to other persons in the school.

(2) The medical certificate required by subsection (1) shall be issued free of charge by any Government medical officer issuing the same.

Temporary or permanent closing of schools

34. (1) Where—

- (a) as a result of the total or partial destruction by hurricane, earthquake, fire, volcanic activity, flood or other natural disaster of all or any of the buildings used in connection with any public school or assisted private school; or
- (b) as a result of the outbreak of any infectious or contagious disease; or
- (c) for any other reason,

attendance at any public school or assisted private school has fallen to such extent that, in the opinion of the Minister justifies the temporary or permanent closing of the institution, the Minister may, notwithstanding anything contained in this or any other enactment, direct that the school be temporarily or permanently closed, as the case may be, and the school shall, with effect from the date of the direction, be closed.

(2) Where a school is permanently closed, the Minister shall provide alternative accommodation to the students affected by the closure.

(3) The powers conferred on the Minister by this section are in addition to any powers conferred upon the Minister in any other enactment.

(4) Without affecting subsection (1), the Minister may delegate to the Director the power conferred on the Minister by that subsection to temporarily close a school referred to in subsection (1).

(5) Notwithstanding subsections (1) and (3), the principal of a school may, in an emergency and where it is impractical to obtain the prior approval of the Minister or Director, close a school temporarily and inform the Minister or Director as soon as practicable thereafter.

Zoning of schools

35. (1) The Minister may by Regulations introduce a scheme of zoning for the admission and transfer of students to public schools and assisted private schools, whether primary or secondary.

(2) The scheme of zoning shall link the place of residence of the student and the location of the school of attendance.

(3) Residency of a student shall be determined by the residency of the student's parents.

PART 4

ENFORCEMENT OF COMPULSORY SCHOOL ATTENDANCE

Duty of parent to enforce attendance

36. Subject to section 37, it shall be the duty of the parent of every child of compulsory school age to cause the child to receive an education by regular attendance at a school.

Valid excuses from attendance

37. A student shall be excused from school attendance if—

- (a) in the opinion of the Minister, the student is receiving satisfactory instruction at home or elsewhere;
- (b) the student is excluded from attendance at school under any provision of this Act or the Regulations made thereunder;
- (c) the student is unable to attend school because of sickness, danger of infection, infirmity, sudden or serious illness of a parent or other related cause;
- (d) the student is suffering from a physical or mental disability that, in the opinion of a registered medical practitioner, makes the student incapable of being educated by ordinary methods or instruction;
- (e) the student is granted permission by the principal of the school to be temporarily absent from school for good and sufficient reason;

- (f) the student is a participant in observances, celebrations, or activities recognized by a religious denomination;
- (g) during the period of suspension if the student has been suspended by a school in accordance with the provisions of this Act;
- (h) the student is enrolled and in regular attendance at a home education programme in accordance with this Act; or
- (i) the student is engaged in work experience or other educational programmes authorised or approved by the principal.

School attendance counsellors

38. The Governor acting on the advice of Cabinet may, by order, designate school attendance counsellors to assist in the enforcement of the compulsory attendance provisions of this Act. (*Amended by Act 9 of 2011*)

Responsibility of school attendance counsellor

39. A school attendance counsellor shall be responsible for the enforcement of compulsory attendance at school of all children of compulsory school age.

Power to enter premises and question children

40. For the purposes of section 39 a school attendance counsellor, who has reasonable cause to believe that a person is in contravention of this Act and upon presentation of his credentials, may at any time—

- (a) enter premises and make such inquiries as are necessary to determine whether section 39 is being complied with or whether anyone is in contravention of section 42 in relation to a child of compulsory school age whom the school attendance counsellor has reasonable cause to believe to be frequenting, visiting, residing or employed on the premises;
- (b) stop and question any child who appears to be of compulsory school age but is not at school concerning—
 - (i) his age;
 - (ii) his name and address;
 - (iii) the school at which he is registered;
 - (iv) the reason for his absence from school; and
 - (v) any other matter relevant to the inquiries referred to in paragraph (a).

Offences against school attendance counsellors

41. (1) A person is guilty of an offence if he or she—

- (a) assaults, obstructs, or uses insulting, abusive indecent language to—
 - (i) a school attendance counsellor in the execution of his duties; or
 - (ii) any other person executing a duty imposed on that person by this Act, in relation to the attendance of any child at school;
 - (b) being a parent, fails, without reasonable cause, having been requested by a school attendance counsellor to give any information concerning—
 - (i) the name, age, residence, parent, enrollment of the attendance of any child at school;
 - (ii) any other matter, relevant to the attendance of any child at school; or
 - (c) gives to any school attendance counsellor, knowing it to be false or misleading, any information concerning any matter mentioned in paragraph (b).
- (2) Subsection (1) applies, notwithstanding that the child in relation to whom the offence is committed is not of compulsory school age.

(3) A person who is convicted of an offence under subsection (1) shall be liable on summary conviction to a fine of \$1,500 or six months imprisonment or both.

Power to deliver absent student

42. A school attendance counsellor may, at the request of the parent, apprehend and deliver to the school from which he is absent or to his parent, any student found absent from school without having been excused under section 37.

Duties of school attendance counsellor

43. A school attendance counsellor shall—

- (a) report monthly to the Director;
- (b) perform his duties under the direction and supervision of the Director;
- (c) inquire into every suspected case of unlawful failure to attend school within his knowledge or when requested so to do by the Director or the principal of a school;
- (d) give—
 - (i) written warning of the consequences of failure to attend school to the parent of the child who is not attending school; and

- (ii) written notice to the parent to cause the child to attend school forthwith.

Reports by principals

44. Every principal of a school shall—

- (a) report in accordance with such Regulations as may be prescribed to the school attendance counsellor, the names, ages and residences of all pupils of compulsory age who have not attended school as required;
- (b) furnish the Director with such other information as the Director requires for the enforcement of compulsory education; and
- (c) report in accordance with section 50 to the Director every case of suspension and expulsion.

Liability of parent

45. (1) A parent of a child of compulsory school age, who neglects or refuses to cause the child to attend school, unless the child has been excused under section 37, commits an offence and is liable on summary conviction to a fine of \$1,000 or a lesser alternative punishment available under the general law.

(2) The court may, instead of imposing a fine, require a person convicted of an offence under subsection (1) to enter into a bond not exceeding \$1,000, with one or more sureties to be approved by the court, on condition that the person shall, after the expiration of five days, cause the child to attend school as required.

Compulsory school age and offences

46. (1) Subject to subsection (2), a person who employs a child of compulsory school age during the school year commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

(2) If a body corporate contravenes subsection (1), in addition to the said body corporate, every director and officer of the body corporate, who authorises, permits or acquiesces in such contravention commits an offence and is liable on summary conviction to the same penalty as the corporation.

(3) Notwithstanding subsection (1), a person or body corporate may employ a student over fourteen years of age—

- (a) during the vacation periods of the school year as specified by the Minister; or
- (b) if the employment of the student is part of the school programme to prepare students for further employment.

(4) Except with the permission of the principal under supervision of a teacher deputed by the principal for the purpose, no student of compulsory school age shall be admitted, on payment or otherwise, to any cinema show or

other form of entertainment on any day and at any times which attendance at school, is by this Act or Regulations made hereunder, required.

(5) No student of compulsory school age shall be allowed to loiter on the licensed premises of any person or body corporate who carries on any business in connection with the sale, storage or conveyance of intoxicating liquor within the meaning of the relevant provision of the Liquor Licence Act.

(6) Any person who contravenes any of the provisions of subsections (4) and (5), commits an offence and shall be liable on summary conviction to a fine of \$2,000 or to imprisonment for six months, or to both.

Legal proceedings

47. (1) Prosecutions under sections 45 and 46 may be instituted by the Director.

(2) In prosecutions under sections 45 and 46 a statement as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, shall be *prima facie* evidence of the facts stated therein.

(3) In any prosecution under this section, a birth or baptismal certificate is evidence of the age of the person named in the certificate or copy.

(4) In the absence of a certificate, the court may receive and act upon any other document or information relating to age that is considered reliable.

(5) In any prosecution under sections 45 and 46, the court may draw inferences as to the age of a person from the person's demeanor or from statements made by the person in direct examination or cross-examination.

PART 5

DISCIPLINE, SUSPENSION AND EXPULSION OF STUDENTS

School rules to govern discipline

48. (1) A public school and an assisted private school may, after consultation with its Board of Management, provided that, such a Board exists, introduce rules to govern the attire, conduct and discipline of students.

(2) Rules established pursuant to subsection (1) shall—

(a) not come into effect unless approved in writing by the Director; and

(b) be circulated to the parents of the students of the school.

(3) The rules that affect students shall be posted in conspicuous places within the school and shall be reviewed with the students of the school at the commencement of each school year.

(4) The rules established pursuant to this section shall be applied without discrimination to all students and shall be consistent with this Act and the Regulations.

(5) Discipline of students shall be administered in accordance with this Act and the rules and procedures established by the Board of Management, or the Director.

Corporal punishment

49. (1) In the enforcement of discipline in public schools, assisted private schools and private educational institutions degrading or injurious punishment shall not be administered.

(2) Corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed by the principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Director.

(3) Whenever corporal punishment is administered an entry shall be made in a punishment book which shall be kept in each school for such purpose indicating the nature and extent of the punishment and the reasons for administering it.

(4) A person other than those mentioned in subsection (2) who administers corporal punishment to a student on school premises commits an offence and shall be liable on summary conviction to a fine of \$1,000.

Suspension for offences

50. (1) The principal of any public school or assisted private school may suspend a student for a period of more than two days but not exceeding ten school days for—

- (a) gross misconduct which may be considered a risk or danger to members of staff or other students;
- (b) persistent breach of school rules;
- (c) a refusal by the student to be inspected, examined, immunised or treated by a duly qualified medical practitioner or nurse acting in accordance with any scheme or school health programme in operation in Montserrat:

Provided the consent of the parent is obtained;

- (d) destroying or damaging without lawful excuse the property of the school;
- (e) assaulting the principal, a member of staff or other employee of the school, a student or any other person lawfully present in the school;

- (f) possession of any article or substance made or adapted for use for causing injury or intended by the student for such use by him or by some other person; and
 - (g) possession of alcohol or illegal drugs and substances.
- (2) (a) A student who is suspended under subsection (1)(c) shall only be re-admitted on the production of a medical certificate signed by a duly qualified medical practitioner or nurse;
- (b) For the purposes of subsections (1)(c) and (2)(a), “**duly qualified**” in respect of a medical practitioner or nurse, means registered under the provision of the Medical Act.
- (3) When a principal suspends a student the principal shall report in writing to the student’s parents and the Director of Education the reason or reasons for the suspension subject to section 51.

PART 6

SCHOOL DISCIPLINARY COMMITTEE

Schools disciplinary committees

51. (1) There shall be established a Schools Disciplinary Committee for the Montserrat Secondary School system and another disciplinary committee for the Montserrat Primary School system to which matters relating to the maintenance and enforcement of discipline within the school system may be referred by the Director.

(2) The School Disciplinary Committee for the Montserrat Secondary School system shall consist of one representative each from the medical profession, the legal profession, the Montserrat Christian Council, a parent, the Guidance Counsellor, the Principal Community Development Officer, the Director of Education and the Principal of the Secondary School concerned. If the Principal of the Secondary School is unavoidably absent, he may be represented by the Vice Principal. Where necessary, the Director will be similarly represented by his nominee from the Ministry of Education.

(3) The representative of the Montserrat Christian Council shall chair meetings of the Committee but in his absence, the members shall elect a Chairman from among the members present.

(4) The Schools Disciplinary Committee for the Primary School system shall consist of the Head of the school concerned, a representative of the Parent Teachers Association of the school, the Public Health Nurse resident in or assigned to the area, a Pastor representing the Montserrat Christian Council, a Community Development Officer of the Ministry of Education, Health and Community Services and the Director or his nominee from the Ministry of Education.

(5) The representative of the Parent Teachers Association shall chair the meeting of the Primary Schools Disciplinary Committee and in his

absence the members shall elect a Chairman from among the members present.

(6) Decisions of the Committee shall be by a majority of the total membership of the Committee and shall be reported to the Director within seven days of the making of the decision.

(7) The Director shall, upon the receipt of notification under section 50(3) refer the matter to the School Disciplinary Committee.

(8) The Schools Disciplinary Committee may, after due consideration, order that—

- (a) the student be placed on a suspension that exceeds ten school days and that ends at the end of the term or semester or school year, whichever occurs first;
- (b) the term of suspension be extended for a specified number of days to enable proper enquiries to be made;
- (c) the student be reinstated after due investigation and, if the circumstances warrant this, on a date to be fixed by the School Disciplinary Committee;
- (d) the student be transferred to another school including a special school; or
- (e) the student be expelled.

(9) The parents of a suspended student who is a minor or the representative of a suspended student who is eighteen years of age or over may make representations to the School Disciplinary Committee with respect to any suspension by the principal or head-teacher within seven days of the suspension.

(10) The Schools Disciplinary Committee shall give its decision in writing within ten days of the representations being made to them and the student shall remain suspended during that period.

(11) A student or a parent of a student may appeal within fourteen days of the receipt of the decision of the School Disciplinary Committee to the Education Appeal Tribunal established pursuant to this Act.

(12) The Schools Disciplinary Committee shall inform the student and the parents of the student of the right of appeal under subsection (11) at the time of notifying them of his decision under subsection (3).

CHAPTER 3

ADMINISTRATION OF EDUCATIONAL INSTITUTIONS

PART 1

MANAGEMENT OF PUBLIC PRIMARY SCHOOLS

Establishment and maintenance of primary schools

52. Primary schools which are public schools may be established and maintained in accordance with this Act and Regulations made under this Act.

Management of public primary schools

53. All primary schools which are public schools shall be under control of the Minister.

Boards of management

54. (1) The Minister may by notice, if he deems it necessary, appoint a Board of Management for any primary school which is a public school where it appears to him to be desirable to do so in the interest of economy, efficiency, and for the participation of the community in the management of education.

(2) Notwithstanding subsection (1), the Minister may appoint one Board of Management to administer more than one primary school if he is satisfied that the general interest of education in the area in which these institutions are situated will be best served by a single Board.

Members of a Board of Management

55. (1) A Board of Management appointed under section 54 shall include the following members—

- (a) the principal who shall be *ex-officio* member;
- (b) one member who shall be a representative nominated by the Parent Teacher Association of the school, provided that, if no such association exists the Minister may appoint a parent after consultation with the principal;
- (c) one member who shall be a representative nominated by the staff at an authorised staff meeting;
- (d) not less than 4 members appointed by the Minister acting in his discretion from among persons representing—
 - (i) expert educational opinion;
 - (ii) religious denominations;

- (iii) organisations concerned with business;
- (iv) organisations concerned with community development;
and
- (v) such other areas of national interest as the Minister considers appropriate.

(2) The persons named in subsection (1)(b), (c) and (d), shall be appointed by the Minister by instrument in writing.

(3) The provisions of the Second Schedule shall apply in respect of the procedure and functions of the Board of Management established under subsection (1) and otherwise in relation thereto.

Functions of a Board of Management for a primary school

56. (1) Subject to subsection (2), a Board of Management appointed under section 57 shall—

- (a) control and manage—
 - (i) the expenditure of any grants for the repair and maintenance of the school;
 - (ii) the rebuilding or extension of the school;
 - (iii) other matters relating to the organisation of the school as may be referred to it by the Minister;
- (b) be responsible for the efficient maintenance of the school under its control and management and for the keeping of the buildings in good state of repair and sanitation;
- (c) review, modify if necessary, and approve the school plan prepared by the school administration for each school operated by it;
- (d) establish policies for the administration, management and operation of the school including a student attendance policy;
- (e) prepare reports, information, and perform any duties as may be required under this Act, its Regulations and guidelines, or by the Minister;
- (f) arrange for the examination and investigation of—
 - (i) student progress;
 - (ii) order among and discipline of students;
 - (iii) the system of instruction;
 - (iv) mode of keeping school records; and
 - (v) conditions of buildings and premises;

- (g) in consultation with the Director and the principal and staff, establish a procedure for resolving disputes between schools, parents and teachers; and
 - (h) generally exercise any other function conferred on it by this Act or by Regulations made under this Act.
- (2) In the performance of its functions under subsections (1)(a), (b), (c) and (d), the Board of Management shall consult the Director.

Submission of reports, statements and estimates

57. Every Board of Management shall, after consultation with the principal, submit to the Director—

- (a) within one month after the end of the school year a statement containing information on—
 - (i) the discipline of students;
 - (ii) the attainment levels of the students;
 - (iii) the application of the curriculum;
 - (iv) the condition of the school and the maintenance of its property;
 - (v) student attendance; and
 - (vi) generally, any matter which directly or indirectly affects the school and its development;
- (b) not later than 31 July in each year, or such later date as the Minister approves in writing, a statement detailing the expenditure of any grant made to the Board of Management; and
- (c) on, or before 31 July in each year, its estimate of expenditure for the school under its control in respect of the next financial year for the approval of the Minister.

Special or general directions

58. Subject to this Act and Regulations made thereunder, a Board of Management shall act in accordance with any special or general directions of the Minister concerning the exercise and performance of its functions under this Act.

PART 2

MANAGEMENT OF PUBLIC SECONDARY SCHOOLS

Application of Part

59. This Part shall apply to any public secondary school established under this Act.

Management of public secondary schools

60. Subject to this Act public secondary schools shall be under the management and control of the Minister.

Establishment of Board of Management

61. (1) The Minister may by notice, if he deems it necessary, appoint a Board of Management for each public secondary school established under this Act where it appears to him to be desirable to do so in the interest of economy, efficiency, and for the participation of the community in the management of education.

(2) Notwithstanding subsection (1), the Minister may appoint one Board of Management to administer more than one secondary school if the Minister is satisfied that the general interest of education in the area in which these schools are situated will be best served by a single Board.

(3) A Board of Management appointed under subsection (1) shall include the following members—

- (a) the principal who shall be an *ex-officio* member;
- (b) one member who shall be a representative nominated by the Parent Teacher Association of the school provided that, if no such association exists, the Minister may appoint a parent after consultation with the principal;
- (c) one member who shall be a representative nominated by the staff at an authorised staff meeting;
- (d) not less than five members appointed by the Minister acting in his discretion from among persons representing—
 - (i) expert educational opinion;
 - (ii) religious denominations;
 - (iii) organisations concerned with business;
 - (iv) organisations concerned with community development;
and
 - (v) such other areas of national interest as the Minister considers appropriate.

- (e) a member of the student council if one exists may be invited to any meeting of the Board whenever the Board considers it necessary, providing however that the student representative is invited to at least one meeting in each school year.
- (4) The persons named in subsection (3)(b), (c) and (d) shall be appointed by the Minister in writing.
- (5) The provisions of the Second Schedule shall apply in respect of the procedure and functions of a Board of Management established under subsection (1) and otherwise in relation thereto.

Functions of Board of Management for secondary school

62. (1) Subject to subsection (2), the functions of a Board of Management in relation to the schools for which it is established are—

- (a) to be responsible to the Minister for management, control, operation and maintenance of the school;
- (b) to receive, disburse and account for the expenditure of such sums as may from time to time be voted by the Legislative Assembly for the operation of such schools; (*Amended by Act 9 of 2011*)
- (c) to review, modify if necessary, and approve the school plan prepared by the school administration for each school operated by it;
- (d) to establish policies for the administration, management and operation of its schools, including a student attendance policy;
- (e) to prepare reports, provide information, and perform any duties as may be required under this Act, its Regulation and guidelines, or by the Minister;
- (f) to arrange for the examination and investigation of—
- (i) student progress;
 - (ii) order among and discipline of students;
 - (iii) the system of instruction;
 - (iv) mode of keeping school records; and
 - (v) conditions of buildings and premises.
- (g) in consultation with the Director and the principal and staff, establish a procedure for resolving disputes between schools, parents and teachers;
- (h) to make recommendations to the Minister with regard to any matter directly or indirectly affecting the school or the development of secondary education generally;

- (i) to appoint where necessary committees consisting wholly or partly of members of the Board of Management; and
- (j) to perform such other functions in relation to the school as the Minister requires or as may be prescribed by this Act or Regulations made under this Act.

(2) In the performance of its functions under subsection (1)(a), (c) and (d), the Board of Management shall consult the Director.

(3) For the purpose of performing its function under subsection (1)(b) the Board of Management shall appoint a Bursar who shall be paid from the funds voted by the Consolidated Fund.

Funds and resources of a Board of Management

63. The funds and resources of a Board of Management are—

- (a) moneys voted for the purposes of the Board of Management by the Legislative Assembly; (*Amended by Act 9 of 2011*)
- (b) moneys or property payable to or vested in the Board of Management in respect of any matter incidental to their functions;
- (c) moneys derived from fund-raising activities; and
- (d) moneys and other property derived by way of gift, bequest, trust, or donation, or in any other manner.

Accounts and audit

64. (1) Every Board of Management established pursuant to sections 54 and 61 shall keep proper accounts of its transactions, and the accounts shall be audited annually by the Auditor General or any person authorised by him in that behalf.

(2) The Auditor General shall, at the request of the Minister or on his own initiative, carry out at any time an investigation into or a special audit of the accounts of a Board of Management.

(3) The members and employees of a Board of Management shall—

- (a) grant to the Auditor General or any authorised member of the staff of the Auditor General referred to in subsection (1), access to all books, documents, money and property of the Board; and
- (b) give to any person referred to in paragraph (a) such information as might be within the knowledge of the members and employees of the Board of Management in relation to the operation of the Board of Management.

Annual report, statement of accounts of estimates

65. (1) Every Board of Management under this Part shall submit to the Minister—

- (a) a report in accordance with section 57;
- (b) not later than 31 August in each year, or such later date as the Minister approves, a statement of its accounts, audited in accordance with section 64, for the financial year; and
- (c) on or before 31 July in each year, its estimates of revenue and expenditure in respect of the next financial year for the approval of the Minister.

(2) Copies of the documents referred to in subsection (1)(a) and (b) shall be laid in the Legislative Assembly. *(Amended by Act 9 of 2011)*

Minutes of Board receivable in evidence

66. Minutes of meetings of any Board of Management established pursuant to sections 54 and 61 are, if duly signed by the chairperson, or deputy chairperson, receivable in evidence in all legal proceedings without further proof and every meeting of a Board of Management in respect of which minutes have been signed shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified to act.

PART 3

MANAGEMENT OF ASSISTED SCHOOLS

Management of assisted primary school

67. (1) Every primary school or educational institution which is an assisted school shall be administered by a Board of Management which consists of not less than 9 persons appointed as follows—

- (a) four persons including the chairperson nominated by the denomination or proprietor which owns that school;
- (b) the principal of the institution;
- (c) one member elected by the academic staff;
- (d) one member elected by a recognised local community group;
- (e) one member appointed by the Minister; and
- (f) one member elected by the Parent Teacher Association where such an association exists.

(2) The quorum shall be four members and shall include the chairperson or the vice-chairperson of the Board of Management.

Management of assisted secondary schools

68. (1) Every secondary school or educational institution which is an assisted school shall be administered by a Board of Management of not more than ten members appointed by the Minister in the following manner—

- (a) three members including the chairperson nominated by the denomination or proprietor which owns the school;
- (b) the principal of the institution;
- (c) one member nominated by the Minister;
- (d) three members elected in the following manner—
 - (i) one by the academic staff;
 - (ii) one by the Old Students' Association where such an association exists;
 - (iii) one by the Parent Teacher Association where such an association exists; and
- (e) 3 members nominated by the Board of Management for their particular expertise.

(2) The quorum shall be five members and shall include the chairperson or the vice-chairperson of the Board of Management.

(3) The procedure of a Board of Management established under sections 67 and 68 are set out in the Second Schedule and otherwise in relation thereto.

Denomination or proprietor may add duties

69. (1) In addition to the functions conferred by the denomination or the proprietors of an assisted school, a Board of Management established under sections 67 and 68 shall—

- (a) if the school for which the Board of Management is established is a primary school, perform the functions established under section 56 above; and
- (b) if the school for which the Board of Management is appointed is a secondary school, perform the functions established under section 62, above.

(2) The proprietors of a denominational school which has become an assisted private school, whether primary or secondary, shall not direct, request or encourage the Board of Management established under sections 67 and 68 to perform functions and duties inconsistent with the provisions of this Act.

Appointment of joint board of management

70. (1) Notwithstanding sections 67 and 68, the Minister may appoint a Board of Management to administer more than one assisted school if—

- (a) these assisted private schools have the same proprietors;
- (b) the proprietors agree to the appointment of a Board of Management;
- (c) the proprietors agree to the composition of the membership of the Board of Management under subsection (2); and
- (d) the Minister is satisfied that the general interest of education in the area in which these assisted schools are situated will be best served by a Board of Management.

(2) Where a Board of Management is appointed to administer more than one assisted school, the membership of that Board of Management may exceed the number prescribed for one Board of Management, and in the appointment of additional members consideration shall be given to the different categories of persons to be represented on the Board of Management.

PART 4

MANAGEMENT OF TERTIARY INSTITUTIONS

Establishment and management of tertiary institution

71. (1) The Governor acting on the advice of Cabinet may establish and maintain, in accordance with this Act and Regulations made under this Act, teachers' colleges, technical colleges, and any other institution of higher education at such places as the Minister may determine.

(2) Any college, technical institution, or other tertiary institution in existence at the commencement of this Act shall be deemed to be established by this Act.

(3) For the purpose of subsection (1), the Governor acting on the advice of Cabinet may by Order provide for any matter respecting the establishment or management of any tertiary institution.

(4) Without prejudice to the generality of the foregoing, the Governor acting on the advice of Cabinet may provide in any Order made under subsection (3) for the establishment of a governing board for any tertiary institution, and may specify the number of members of the board and its powers, functions and procedures.

(5) Without affecting subsections (1) to (4), the Governor acting on the advice of Cabinet may appoint such number of advisory boards as he thinks fit to advise on, and assist with, the management of the tertiary institutions to which this Part applies.

(6) An advisory board may be appointed under subsection (5) to advise on, and assist with, the management of more than one tertiary institution.

(7) Every advisory board appointed under subsection (5) shall consist of a chairman and such other members as the Governor acting on the advice of Cabinet determines.

(8) Where a tertiary institution that is established and registered as a private school becomes an assisted private school under this Act, the Governor acting on the advice of Cabinet may by Order provide for any matter respecting—

- (a) its curriculum;
- (b) the criteria for admission of students;
- (c) the payment of fees;
- (d) the appointment of the staff, including their terms and conditions of employment;
- (e) its management;
- (f) Regulations regarding the—
 - (i) professional behaviour of instructors, lecturers and tutors; and
 - (ii) conduct and discipline of students and trainees.

(Amended by Act 9 of 2011)

CHAPTER 4

CATEGORIES OF SCHOOLS AND THE STAGES OF EDUCATION

PART 1

THE FORMS AND STAGES OF EDUCATION

Stages of public education

72. (1) Subject to subsection (2), the system of public education shall be in the following stages—

- (a) early childhood education;
- (b) primary education;
- (c) secondary education; and
- (d) tertiary education.

(2) The Minister may, as resources permit, include as part of the system of public education—

- (a) education to meet the requirements of pupils who are gifted or have exceptional ability;
- (b) special education in accordance with the provision of this Act;

- (c) adult and continuing education; and
- (d) distance education.

PART 2

EARLY CHILDHOOD EDUCATION SERVICES

Establishment of early childhood education services

73. (1) Subject to satisfying the provisions of Part 2 or Part 5, an educational institution specified in section 88 may provide an Early Childhood Services Programme suitable to the needs of children one year of age or older but under six years of age, if the parent of the child agrees.

(2) A private educational institution that provides early childhood services may charge the parents of children attending the programme fees in respect of the programme.

(3) A child who attends a programme under this section is not entitled to any of the rights and benefits given to a student under this Act by reason of attending that programme.

Programmes and policies

74. An educational institution offering early childhood education services shall develop and maintain policies and programmes consistent with the early childhood services, policies, programmes and plan prescribed by the Minister.

Insurance

75. (1) A private educational institution shall keep in force a general liability insurance policy or other form of indemnification in the minimum amount prescribed by Order made by the Governor acting on the advice of Cabinet for each occurrence for any loss or damage resulting from bodily injury to, or the death of one or more persons, and for loss or damage to property, regardless of the number of claims arising from one occurrence.
(Amended by Act 9 of 2011)

(2) The policy or other indemnification under subsection (1) shall provide coverage to a private educational institution for all claims arising because of liability imposed by law on a private educational institution and for a liability assumed under any agreement entered into by the private educational institution.

(3) A private educational institution shall ensure that in its general liability policy or other form of indemnification the word “**insured**” is defined to include the named insured and any employee, board member, agent, or any other person whether receiving compensation or not, when acting within the scope of his or her duties for the named insured.

Council on early childhood education services

76. (1) The Minister may, when he deems it desirable, establish a Council on Early Childhood Education to advise him on policies to guide the implementation of this Part.

(2) Where a Council on Early Childhood Education is established, the Governor acting on the advice of Cabinet may by order provide for its—

- (a) membership;
- (b) procedures for the conduct of its business; and
- (c) powers and functions.

(Amended by Act 9 of 2011)

Regulations

77. (1) The Governor acting on the advice of Cabinet may make Regulations generally for the proper carrying out of the purposes of this Part.
(Amended by Act 9 of 2011)

(2) Without limiting subsection (1), the Governor acting on the advice of Cabinet may make Regulations—

- (a) prescribing the academic and professional qualifications of teachers or other persons employed in early childhood education services;
- (b) respecting the records to be submitted to the Minister by a private educational institution engaged in early childhood education services;
- (c) concerning the safety standards which must be satisfied by private educational institutions;
- (d) respecting the health requirements of the environment and of the persons employed in early childhood services;
- (e) concerning the buildings, premises, equipment and furnishings to be used in delivering early childhood education services;
- (f) prescribing the ratio of staff to students required by the private educational institution;
- (g) respecting the needs of children of specified ages attending the programme offered by the private educational institution; and
- (h) respecting teacher training and curriculum development.

(Amended by Act 9 of 2011)

PART 3

HOME EDUCATION

Home education

78. (1) A parent of a student may provide, at home, a home education programme for the student if the parent complies with this section and if the programme meets the goals and objectives outlined in section 3(3).

(2) The parent shall, prior to the commencement of a home education programme for the student and on an annual basis thereafter for as long as the home education programme is offered, register the student with the Director of Education.

(3) An educational plan for each student who is receiving home education shall be prepared and provided to the Director of Education subject to the following conditions—

- (a)* the initial educational plan shall be prepared and provided to the Director three months prior to the commencement of the home education programme;
- (b)* the educational plan shall be for a minimum period of three school years and shall cover every year of the home education programme;
- (c)* the educational plan shall include a description of the learning activities for the student that will comply with the goals and objectives set out in section 3(3); and
- (d)* the educational plan shall be based on the national curriculum as established by the Minister under Chapter 8.

(4) The parent of a home education student may request that tests be administered to the student subject to the requirements of the Regulations and payments of fees prescribed by the Regulations for any tests that are administered.

(5) A student in a home education programme may attend courses offered by the Minister subject to any terms and conditions established by the Regulations.

(6) Subject to Regulations made under this Act, the parent of a home education student may receive, for the student, educational resource materials and use of school facilities and equipment.

(7) The Director shall—

- (a)* provide for the assessment of the student's achievement on a regular basis and communicate the results to the parent;
- (b)* advise the parent if, in the opinion of the Director, the student is not making reasonable progress in the programme; and

- (c) provide the parent with recommendations which will assist the student in improving the level of achievement.

Termination of programme

79. (1) The Director may exempt foreign student from the provisions of this Part where he is satisfied that the student does not intend to reside in Montserrat for more than nine months.

(2) Notwithstanding section 78(1), the Director shall, in writing, terminate the home education program if he is of the opinion, after considering the abilities of the student, that—

- (a) the home education programme no longer meets the requirements of section 3(3); or
- (b) the student has failed to meet standards of student achievement, as measured by achievement testing comparable to those of students in public schools.

(3) The Director shall, in conjunction with the notice of termination, direct the student to attend a school established by or registered under this Act effective on the date specified in the notice of termination.

(4) Where the parent disagrees with the decision of the Director made under subsection (1), the parent may appeal to the Education Appeal Tribunal established pursuant to this Act within fourteen days of the notice of termination.

PART 4

SPECIAL EDUCATION

Special education

80. (1) The Director shall subject to available resources provide special education programmes for students of compulsory school age who by virtue of intellectual, communicative, behavioural, physical or multiple exceptionalities are in need of special education.

(2) A student who is entitled to a special programme shall have the programme delivered in the least restrictive and most enabling environment to the extent that resources permit and it is considered practicable by the Director in consultation with professional staff of the school and the Ministry of Education and the parents, having due regard for the educational needs and rights of all students.

(3) A special education programme may take the form of an individual education plan in that the plan is tailored to the specific or individual needs of the student.

(4) Where it has been determined that a student will require an individual education plan, the costs of developing, providing and maintaining that plan shall be apportioned between the student if over eighteen years of

age, or the parent of the student if the student is under eighteen years of age as the case may be and the Ministry of Education in such manner as may be prescribed by Regulations made under this Act.

Determination of special educational needs

81. (1) Before a determination is made under subsection (2) the following procedures shall be followed—

- (a) the student shall be referred to the Director for a determination of the assessments that may be required to be performed;
- (b) the parent of the student shall receive written information concerning the procedures outlined in this section;
- (c) prior written informed consent by a parent for the administration to the student of psychological and other specialised tests that are not routinely used by teachers shall be obtained;
- (d) where possible, the assessment shall be multi-disciplinary;
- (e) the results of the assessment reports shall be provided and explained to the parent;
- (f) a parent and, where appropriate, the student shall be consulted prior to the determination of and during the implementation of the special education programme; and
- (g) the parents shall be provided with information concerning the right of appeal to the Education Appeal Tribunal.

(2) Subject to subsection (1), the principal in consultation with professional staff and parents or, where a child is not in attendance at a school, the Director, in consultation with professional staff and parents, shall determine—

- (a) whether a student is a student with special educational needs; and, if so
- (b) what special education programme is appropriate to meet the needs of that student.

(3) Parents shall have the right to request for their children a determination in accordance with this section.

(4) A principal may invite a parent to be a member of a school based team that is established for the provision of a special education programme for a student.

(5) The school based team referred to in subsection (4), shall comprise persons selected on the basis of their expertise by the principal of a school to advise on a programme specific to the needs of a particular student or group of students.

(6) Where there is more than one parent for a child, consultation with one parent shall be deemed to be compliance with any consultation requirements of this section.

Special needs appeals

82. (1) If a disagreement arises respecting a decision concerning—

- (a) the identification of a student as a student with special educational needs;
- (b) the individual education plan established for a student;
- (c) a request by a parent for a determination pursuant to subsection 81(3);
- (d) the implementation of the individual education plan in an environment other than the regular class;
- (e) the non-implementation of an individual education plan in a school where the student would normally attend; or
- (f) the apportionment of costs, including non-educational costs, between the Ministry of Education and the parents of the student for the provision of an individual education plan,

the parent, student, or Board of Management may, within fourteen days of the decision, appeal the matter to the Education Appeal Tribunal established pursuant to this Act.

(2) A decision under subsection (1), shall be communicated in writing to the parents, student or Board of Management as the case may be.

(3) When an appeal is made to the Education Appeal Tribunal, the student shall be enrolled in the program determined in accordance with section 81 until the Education Appeal Tribunal makes its decision.

Council on Special Education

83. (1) The Minister may establish a Council on Special Education to advise him on guidelines for the implementation of this Part.

(2) Where a Council on Special Education is established the Minister may by order provide for its—

- (a) membership;
- (b) procedures for its business; and
- (c) powers and functions.

CHAPTER 5

CATEGORIES OF EDUCATIONAL INSTITUTIONS

Organisation of schools

84. For the purposes of this Act, the school system shall be organised in the following categories—

- (a) public schools;
- (b) private educational institutions;
- (c) denominational schools; and
- (d) assisted schools.

PART 1

PUBLIC SCHOOLS

Status of public schools

85. All public schools existing at the commencement of this Act shall be deemed to have been established by this Act and shall continue as public schools under this Act.

PART 2

PRIVATE EDUCATIONAL INSTITUTIONS

Interpretation

86. The words “**institution**” or “**school**”, where used in this Part to refer to the subject of rights or obligations, mean the person operating the institution or school to which the provision concerned applies.

Body without legal personality

87. (1) In the case of a body not endowed with legal personality, the provisions of this Act shall apply as if the body were endowed with legal personality.

(2) The obligations to comply with the provisions of this Act lies with the persons responsible for the administration of the body.

(3) In the case of an institution established by partnership, the obligation lies with both the partnership and the partners.

Applicability

88. This Act applies to every private educational institution dispensing all or some of the educational services belonging to one or more of the following categories—

- (a) early childhood educational services;
- (b) primary school education;
- (c) organisations, schools or other institutions providing special education;
- (d) secondary school education;
- (e) secondary school instructional services in vocational education;
- (f) secondary school adult education services;
- (g) secondary school adult education services in vocational education;
- (h) instructional services in general education at the tertiary level;
and
- (i) instructional services in vocational training at the tertiary level.

References and objects

89. (1) Section 88(a) to (f) and (h) refers to education or instruction intended mainly to develop students' abilities in subjects preparing them for studies at the primary, secondary, post-secondary, tertiary or university level, as the case may be.

(2) Section 88(g) and (i) refers to vocational education or vocational training which is intended mainly to develop students' abilities so as to prepare them for an occupation, a trade or a profession.

Permit

90. No person may operate a private educational institution to which this Act applies unless he is the holder of a permit issued by the Governor acting on the advice of Cabinet, for the institution and the educational services of one or more categories of educational services mentioned in section 88. (*Amended by Act 9 of 2011*)

Presumption

91. Any person or body dispensing for profit or non-profit purposes, educational services for his own account and in the case of a body for its own account, shall be deemed to be operating a private educational institution.

Existing private educational institutions

92. (1) A person or organisation who, at the commencement of this Act, owns a private educational institution, shall, within six months of commencement of this Act or of such further period as the Minister may by notice allow, comply with section 90.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$1,000 or imprisonment for a term of six months, and, in the case of a continuing offence is liable to a further fine of \$200 for each day during which the offence continues after the first conviction.

Private educational institutions register

93. (1) The Director shall keep in such manner as may be prescribed, a register of private educational institutions to be known as the Private Educational Institutions Register.

(2) There shall be entered on the Private Educational Institutions Register the particulars of every private educational institution in respect of which a permit has been issued by the Governor acting on the advice of Cabinet. (*Amended by Act 9 of 2011*)

(3) The Director shall annually certify a copy of the Private Educational Institutions Register and the copy so certified shall be published in the *Gazette* on such date as the Minister may determine.

(4) The Director shall certify any amendment to the Register and the amendment shall be published in the *Gazette*.

Application for registration

94. (1) An application for a permit to establish a private educational institution shall be made in the prescribed form by or on behalf of the proprietor of the private educational institution and shall contain the prescribed information.

(2) The Governor acting on the advice of Cabinet shall, upon the receipt of an application made in accordance with subsection (1) cause the private educational institution to be inspected. (*Amended by Act 9 of 2011*)

Eligibility for registration

95. Where a private educational institution in respect of which an application is made under section 94 has been inspected, the Governor acting on the advice of Cabinet shall, subject to any condition that the Governor acting on the advice of Cabinet may specify, cause the educational institution to be registered if the Governor acting on the advice of Cabinet is satisfied that—

- (a) the premises are suitable for the activities intended by the private educational institution;

- (b) the furniture is adequate and suitable having regard to the number and ages of the students attending the private educational institution;
- (c) the accommodation provided is adequate and suitable having regard to the number, ages and sex of students attending the private educational institution;
- (d) efficient and suitable instruction equivalent to that provided in an equivalent public educational institution is being or will be provided at the private educational institution having regard to the ages and sex of the students attending the institutions;
- (e) there is adequate land for the recreation of the students;
- (f) the proprietor, principal or staff members have not been convicted of or pleaded guilty to, an offence under this Act, or a criminal offence committed in relation to the operation of a private educational institution in the three years preceding the application;
- (g) that the private educational institution will have at its disposal the adequate human and material resources required for dispensing the educational services for which the permit is issued and sufficient financial resources for that purpose; and
- (h) the applicant has paid the fee fixed by Regulation.

(Amended by Act 9 of 2011)

Refusal

96. (1) The Governor acting on the advice of Cabinet may refuse to issue a permit if, during the three years preceding the application, a permit held by the applicant was revoked. *(Amended by Act 9 of 2011)*

(2) Where an application for a permit to establish a private educational institution has been refused, the applicant shall be notified in writing—

- (a) of the refusal and of the reasons for refusal; and
- (b) of his right of appeal under section 109.

Limitation on instruction

97. Notwithstanding section 90, the Governor acting on the advice of Cabinet may refuse to issue a permit authorising, in a primary school or in general education at the secondary school level, instructions limited to certain subjects or classes, or the Governor acting on the advice of Cabinet may subject the issue of such a permit to the conditions the Governor acting on the advice of Cabinet determines. *(Amended by Act 9 of 2011)*

Number of students

98. (1) The Governor acting on the advice of Cabinet may determine the maximum number of students who may be admitted to educational services or

categories of educational services provided by the private educational institution.

(2) The capacity of the facilities at the disposal of an institution is the capacity determined by the applicant for a permit and approved by the Governor acting on the advice of Cabinet.

(3) Where the applicant fails to determine such capacity, the Governor acting on the advice of Cabinet may refuse to issue the permit.

(Amended by Act 9 of 2011)

Content of permit

99. The permit to establish a private educational institution shall mention—

- (a) the name of the proprietor who shall be the holder;
- (b) the name and address of the institution;
- (c) the address of the buildings or premises at its disposal;
- (d) the educational services or categories of educational services the institution is authorised to dispense;
- (e) where applicable, the authorisations and conditions determined under sections 97 and 101; and
- (f) the maximum number of students who may be admitted under section 98.

Vocational education

100. In respect of vocational education, the permit to establish a private educational institution shall specify, where it concerns—

- (a) secondary school instructional services in vocational education or adult vocational education, the vocational education programmes that the institution is authorised to dispense;
- (b) supplementary vocational training and the fields for which the permit is granted; or
- (c) general or vocational education at the tertiary level and the programmes that the institution is authorised to dispense.

Duration and renewal of permits

101. (1) On first issuance, a permit is valid for a period of three years.

(2) The Governor acting on the advice of Cabinet shall renew for five years, and subsequently for the same period, a permit held by a person who—

- (a) applies therefor in writing to the Governor acting on the advice of Cabinet within the time limit prescribed by Regulation and furnishes, within that time limit, the

information and documents prescribed by such Regulation;
(Amended by Act 9 of 2011)

- (b) meets the conditions set out in section 95; or
- (c) has complied with the provisions of this Act and its Regulations for the period of validity preceding the renewal.

(3) Notwithstanding subsections (1) and (2), the Governor acting on the advice of Cabinet may issue or renew a permit for a different period or without a date of expiry where the Minister on the approval of the Governor acting on the advice of Cabinet deems it expedient. (Amended by Act 9 of 2011)

Modification

102. (1) The Governor acting on the advice of Cabinet may, at the request of a permit holder, modify the permit upon payment of the fees fixed by Regulation. (Amended by Act 9 of 2011)

(2) To modify the educational services mentioned in a permit, the holder must meet the conditions for the issue of a permit which apply to the educational services for which the request is made.

Transfer

103. No permit may be transferred except with the written authorisation of the Minister.

Information

104. (1) The holder of a permit must inform the Minister—

- (a) of any change which renders the information provided for the issue, renewal or modification of a permit inaccurate or incomplete;
- (b) whenever the institution fails to provide all or some of the educational services mentioned in its permit.

(2) Every legal person or body holding a permit must inform the Governor acting on the advice of Cabinet of any amalgamation, sale or transfer affecting it, as well as of any change in the name of the institution.

(Amended by Act 9 of 2011)

Visits to private educational institutions

105. (1) The Minister or the Director or any other person authorised in writing by the Minister or the Director may for the purpose of making enquiries, carrying out inspections and discharging such other duties as are imposed on him by this Act, enter the premises of any private educational institution during the hours of operation of that institution.

(2) The proprietor of a private educational institution shall during school hours, keep the school open to visits by the persons mentioned in subsection (1).

(3) A person who in respect of any person specified under subsection (1)—

- (a) obstructs that person in the performance of his duties;
- (b) makes false representation to that person; or
- (c) refuses to furnish any information which that person may require under this Act or Regulations made under this Act,

commits an offence and is liable on summary conviction to a fine of \$1,000.

Notice to comply

106. Where the Governor acting on the advice of Cabinet is satisfied that a private educational institution registered under this Act has ceased to be conducted in accordance with this Act or Regulations made under this Act, the Governor acting on the advice of Cabinet may serve on the proprietor of the institution a notice of the fact, requiring him within the time specified in the notice to conduct the school in accordance with this Act or the Regulations as the case may be. *(Amended by Act 9 of 2011)*

Cancellation of registration

107. Where a proprietor who is served with a notice under section 106 fails, within the time specified in the notice or within such further time as the Governor acting on the advice of Cabinet allows, to comply with the notice, the Governor acting on the advice of Cabinet shall—

- (a) cancel the permit and the registration of the private educational institution; and
- (b) inform the proprietor in writing—
 - (i) that the permit has been revoked and the registration has been cancelled and of the reasons for the revocation and cancellation; and
 - (ii) of his right to appeal under section 108.

(Amended by Act 9 of 2011)

Appeal

108. (1) The proprietor of a private educational institution which is refused a permit and registration pursuant to sections 95 and 96 or whose registration is cancelled under section 107 may, within thirty days of being notified of the refusal or cancellation, appeal to the Education Appeal Tribunal established pursuant to this Act against the refusal or cancellation, as the case may be.

(2) In the case of a refusal, a proprietor may appeal on any of the following grounds—

- (a) that the reasons given for the decision do not disclose any failure to meet any of the requirements for registration set out in section 95 above;
- (b) that the inspection of the school carried out pursuant to section 94(2) was not adequate for determining whether the school meets the requirements set out in section 96 above;
- (c) that there is no evidence available to support the decision.

(3) In case of a cancellation, a proprietor may appeal on any of the following grounds—

- (a) that no notice was served on the proprietor under section 106;
- (b) that the time specified in the notice served under section 109 or the further time allowed to the proprietor under section 110 to comply with the notice is unreasonable;
- (c) that the proprietor has complied with the notice served under section 106; or
- (d) that there is no evidence available to support the decision.

(4) Where an appeal is brought under this section against a cancellation of registration or a refusal to grant a permit, the Governor acting on the advice of Cabinet may not enforce the refusal or cancellation until the appeal is determined or withdrawn. (*Amended by Act 9 of 2011*)

(5) The determination of an appeal by the Education Appeal Tribunal shall be final and binding upon the parties to any such decision.

(6) Where an appeal is dismissed or withdrawn, cancellation of the registration of the private educational institution shall take effect from the date of the making of the order by the Education Appeal Tribunal dismissing the appeal, or the date of withdrawal of the appeal.

Registration and closure

109.(1) Where the registration of a private educational institution is cancelled pursuant to section 107, the proprietor of the educational institution may, if the proprietor has complied with the notice served on him under section 106, apply to the Governor acting on the advice of Cabinet for the re-registration of the school. (*Amended by Act 9 of 2011*)

(2) The requirements of section 98 shall apply to an application under subsection (1).

(3) From the date on which the cancellation of the registration of a private educational institution takes effect, the institution shall remain closed until it is re-registered.

(4) Where the Governor acting on the advice of Cabinet is satisfied that the notice served under section 106 has been complied with, the Governor acting on the advice of Cabinet may re-register the private educational institution subject to any condition which the Director may specify. *(Amended by Act 9 of 2011)*

Returns

110. The proprietor of a private educational institution shall furnish the Director with returns in the manner and containing the information required by this Act and Regulations made under this Act.

Health and sanitation

111.(1) The Health Authorities shall require the same health and sanitary arrangements for private educational institutions as are required for public schools and assisted private schools.

(2) The Director may, on the advice of the Chief Medical Officer, require the closure of any private educational institution or classroom at such an institution, or the exclusion of certain pupils for a specified time with a view to preventing the spread of disease or any danger to health.

Disqualification of teachers

112.(1) A teacher employed in a private educational institution shall possess at least the minimum qualifications required of a teacher employed in an equivalent public educational institution.

(2) The Director may declare any person who does not possess the minimum qualification required under subsection (1) to be unqualified for employment as a teacher in a private educational institution and that person shall not be so employed.

(3) An appeal from a decision of the Director made pursuant to subsection (2) shall lie to the Educational Appeal Tribunal established pursuant to this Act within fourteen days of the decision.

(4) The decision of the Educational Appeal Tribunal shall be final and binding on the parties to any such notification of the decision to the person concerned.

Prohibition of discrimination

113. A private educational institution which denies admission to a child or expels a student on account of race or the political affiliation of the parents of the student commits an indictable offence and is liable on conviction to a fine of \$10,000.

PART 3

DENOMINATIONAL, ASSISTED AND PRIVATE SCHOOLS

Agreement to establish assisted private schools

114. (1) An assisted private school comes into existence by mutual agreement between the Governor acting on the advice of Cabinet and the proprietor of the school. (*Amended by Act 9 of 2011*)

(2) An agreement under subsection (1) shall—

- (a) be in writing;
- (b) exist for one or more schools;
- (c) be for a specified period of years; and
- (d) subject to this Act and Regulations, specify the terms, conditions, the rights, responsibilities and liabilities of the respective parties.

(3) Any party to the agreement may terminate the agreement by giving the other at least thirty six calendar months notice.

Publication of list of assisted private schools

115. (1) The Minister shall publish in the *Gazette* by 31 July of each year, a list of all assisted private schools and shall cause the list to be circulated to all public and assisted private schools.

(2) Where the Minister and the proprietor of a private educational institution agree, a list published by virtue of subsection (1) shall detail the respective rights, responsibilities and obligations of the Government and the assisted private school.

Religious education in assisted private schools

116. (1) Subject to subsection (2) where an assisted private school is owned or managed by a denominational body, the denominational body shall be responsible for organising and providing religious instruction or education to students that belong to its religious faith in accordance with a curriculum prescribed by that body.

(2) Where an assisted private school admits students who do not subscribe to the religious beliefs of the denominational body, no student, except with his own consent or, if he is a person under the age of eighteen years, the consent of his parent, shall be compelled or be required to receive religious education or instruction or take part in or attend any religious ceremony or observance prescribed under subsection (1).

Loans to assisted private schools

117. (1) Where the proprietor or the Board of Management of any assisted private school requires a loan for the purpose of improving or extending the buildings of the assisted private school or erecting a new school in substitution for any discontinued assisted private school, the proprietor or the Board of Management may apply to the Minister for a loan from the Government.

(2) If upon consideration of an application for a loan under this section, the Minister is satisfied that the purpose for which the loan is required may properly be obtained by borrowing, the Minister may arrange to obtain a loan from the Government on such terms and conditions as may be agreed by the parties.

Status of denominational school

118. Except where a denominational school agrees to become an assisted private school, it shall not lose its status whether or not it is in receipt of a Government grant or subsidy or other form of financial assistance designed to meet in whole or in part the cost of the management and maintenance of the school.

Regulations for denominational schools

119. The Governor acting on the advice of Cabinet may make Regulations respecting—

- (a) the registration of denominational schools;
- (b) the capacity of the facilities used by the denominational school;
- (c) the educational services or categories of educational services the denominational body dispenses;
- (d) the number and frequency of inspections by the Minister or Director to denominational schools;
- (e) the annual returns of statistics to be furnished by the denominational body to the Minister;
- (f) the health and sanitary requirements to be maintained by the denominational body; and
- (g) the buildings, premises, equipment and furnishings to be used by the denominational body.

(Amended by Act 9 of 2011)

CHAPTER 6

TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

Establishment of Technical and Vocational Education Council

120. (1) The Minister may establish a Technical and Vocational Education and Training Council whose membership shall be as follows—

- (a) the Permanent Secretary of the Ministry of Labour who shall be an *ex-officio* member;
- (b) the Director who shall be an *ex-officio* member;
- (c) the principal of the Montserrat Community College or his nominee;
- (d) the following persons appointed by the Minister by instrument in writing—
 - (i) 2 members appointed on the recommendations of the associations which represent employers;
 - (ii) 3 members with expertise in technical and vocational education and training; and
 - (iii) 2 members appointed on recommendations of the trade unions.

(2) The Minister shall, by instrument in writing, appoint one member as chairperson, and one member as deputy chairperson.

(3) In the case of the inability of any member to act, the Minister may appoint a person to act temporarily in the place of that member.

(4) The Third Schedule has effect with respect to the procedure of the Technical and Vocational Education and Training Council and otherwise in relation thereto.

Functions of Council

121. The functions of the Technical and Vocational Education and Training Council are—

- (a) to advise the Minister on policy relating to technical and vocational education and training;
- (b) to prepare plans for technical and vocational education and training in accordance with national policies and economic needs;
- (c) to ensure that agreed plans for technical and vocational education and training are implemented;
- (d) to co-ordinate technical and vocational education and training at all levels of the educational system;

- (e) to establish standards for technical and vocational education and training;
- (f) to establish training priorities, qualifications and accreditation;
- (g) to advise the Minister on the scheme of examinations which may be adopted to test students;
- (h) to determine the facilities and resources required to ensure satisfactory standards of technical and vocational education and training and the welfare of students, trainees and staff of training institutions;
- (i) to advise the Minister on the allocation of resources for technical and vocational education and training;
- (j) to make grants and loans for the support and provision of technical and vocational education and training; and
- (k) to carry out such other functions relating to technical and vocational education and training as the Minister may require.

Directions

122. The Minister may give directions of a general or specific nature to the Technical and Vocational Education and Training Council and it shall comply with those directions.

Appointment of committees and functions thereof

123. (1) The Technical and Vocational Education and Training Council may appoint committees to perform, in relation to technical and vocational education and training—

- (a) such of its functions as it delegates in writing; and
- (b) such other functions as are specified in section 124.

(2) The provisions of the Second Schedule shall apply in respect of the procedure and function of committees and otherwise in relation thereto.

Additional functions of committee

124. The additional functions of a committee appointed by the Technical and Vocational Education and Training Council are as follows—

- (a) to undertake research or assist persons in undertaking research into matters relating to technical and vocational education and training;
- (b) to advise the Technical and Vocational Education and Training Council on specified aspects of technical and vocational education and training;
- (c) to advise the Technical and Vocational Education and Training Council on the training facilities to be provided at institutions

for persons employed or seeking training in technical and vocational education and training;

- (d) to advise on or make arrangements for giving selection criteria in respect of persons wishing to obtain technical and vocational education and training;
- (e) to apply or make arrangements for tests and other methods of ascertaining the standards of efficiency to be recommended by the committee for persons seeking technical and vocational education and training; and
- (f) to recommend the terms applicable to persons wishing to obtain technical and vocational education and training.

Training schemes

125. (1) The Technical and Vocational Education and Training Council may, with the approval of the Minister and subject to section 121, formulate schemes for regulating training in any occupation.

(2) A term of any contract for training registered before the date of the coming into force of the scheme may not be revoked or varied by means of a scheme.

(3) A scheme may contain, in respect of any occupation to which it relates—

- (a) the qualifications, including the age and educational standards required for trainees;
- (b) the practical training that employers are required to provide for their trainees;
- (c) the theoretical training that is required to be provided by, or at the expense of, employers for their trainees, or that trainees are required to undergo, and the manner in which the training is to be provided or undergone;
- (d) the proficiency tests or examinations that trainees are required to take;
- (e) the maximum number of ordinary working hours including overtime, trainees may be required or permitted to work during any day, week or other specified period;
- (f) the days on which, the hours in any day before or after which, and the intervals during which, no trainee can be required or permitted to work;
- (g) the minimum wages and other conditions that apply to trainees;
- (h) the minimum remuneration and other conditions that apply in respect of any period during which a trainee is unable, by reason of any condition of training, or other circumstances, to render service to his employer during working hours; and

- (i) any other matter that, in the opinion of the Technical and Vocational Education and Training Council, with the approval of the Minister, is necessary for the effective operation of the scheme.

(4) Different conditions of training may be included in a scheme in respect of different classes of employers, trainees or occupations and the Technical and Vocational Education and Training Council may, in determining the different conditions for any scheme, apply any method of differentiation it thinks fit.

(5) A scheme may be amended by a subsequent scheme or by an order made by the Technical and Vocational Education and Training Council with the approval of the Minister.

System for monitoring

126. Subject to the approval of the Minister, the Technical and Vocational Education and Training Council shall establish an effective system for monitoring the implementation of the technical and vocational education and training strategy and plan.

Regulations by Governor acting on the advice of Cabinet

127. The Governor acting on the advice of Cabinet, may make Regulations on the recommendation of the Technical and Vocational Education Training Council—

- (a) prescribing the form and terms of any contract of training;
- (b) prescribing the procedure for the registration and transfer of contracts for training, and for the notification of the expiration or termination of such contracts; and
- (c) for holding of tests in respect of any specified occupation, and for granting of a certificate of proficiency to any person who enters for, and passes, any such test, notwithstanding that the person is not a trainee.

(Amended by Act 9 of 2011)

Annual report

128. (1) The Technical and Vocational Education and Training Council shall, not later than six months after the end of the school year, submit to the Minister a report containing—

- (a) an account of the activities of the Technical and Vocational Education and Training Council throughout the preceding financial year in such detail as the Minister directs; and
- (b) a statement of the accounts of the Technical and Vocational Education and Training Council for that financial year audited in accordance with Regulations enacted for that purpose.

(2) A copy of the report of the Technical and Vocational Education and Training Council referred to in subsection (1) shall be printed and laid before the Legislative Assembly and published in the *Gazette*.

(Amended by Act 9 of 2011)

National policy

129. The Technical and Vocational Education and Training Council shall prepare a national policy for technical and vocational education and training to meet the needs of society and the economy.

Plans for technical and vocational education

130. (1) The Technical and Vocational Education and Training Council shall prepare a strategy and plan for technical and vocational education and shall update it each year.

(2) The strategy and plan referred to in subsection (1) shall identify outputs and priorities and recommend allocation of resources to implement the plan in the most cost effective manner.

(3) The strategy and plan shall only be implemented in public and assisted private schools on the written directions of the Minister to the Director.

Regulations by Governor acting on the advice of Cabinet

131. The Governor acting on the advice of Cabinet may make Regulations—

- (a) enabling the Technical and Vocational Education and Training Council to appoint an Executive Director and other members of staff to manage its affairs;
- (b) establishing an employment and training fund for the purposes of promoting and supporting training and the upgrading of skills for the labour force;
- (c) establishing and regulating the accounting and auditing of any fund received by the Technical and Vocational Education and Training Council;
- (d) respecting the criteria and eligibility for receiving grants or loans;
- (e) respecting the procedures for the evaluation of proposals for grants or loans;
- (f) establishing procedures for monitoring the performance and outcome of training required to satisfy the conditions for award of grants or loans;

- (g) respecting the procedures regarding training schemes; and
- (h) respecting the supervision of trainees by employers.
(Amended by Act 9 of 2011)

CHAPTER 7

PROFESSIONAL DUTIES AND RESPONSIBILITIES OF TEACHERS AND PRINCIPALS

Qualifications of teachers

132. No person shall be employed as a teacher, principal or deputy principal in a public or assisted private school unless that person holds a valid qualification as established in Regulations made by the Minister.

Rights of teachers

133. Every teacher has the right to—

- (a) be treated in a fair and reasonable manner;
- (b) be provided with an adequate working environment;
- (c) be provided with sufficient and appropriate equipment to carry out assigned professional duties;
- (d) be provided with adequate physical facilities to enable the performance of the assigned professional duties;
- (e) be protected as far as reasonably possible from molestation, abuse, assault and battery in the process of carrying out assigned professional duties whether within or outside the school provided that, the teacher is engaged in authorised activities;
- (f) be afforded, if necessary, legal and/or psychological support in the event of injury while in the execution of assigned duties;
- (g) compensation for personal injury damage to, or loss of material possessions while in the execution or as a consequence of the execution of assigned duties provided that, the injury, damage or loss was not caused by the negligence of the teacher;
- (h) reasonable access to professional training and development whether basic or otherwise;
- (i) be provided with adequate clothing, tools and equipment when engaged in hazardous activities;
- (j) be a member of a representative body or association and to participate in the lawful activities of the representative body or association of which the teacher is a member; and
- (k) participate in the preparation of the school plan.

Exercise of general professional duties

134. A teacher shall—

- (a) carry out his professional duties under the reasonable direction of the principal; and
- (b) perform in accordance with any directions which may reasonably be given to him by the principal from time to time such additional duties as may reasonably be assigned to him.

Duties of teachers

135. (1) Every teacher in a public school and an assisted private school shall—

- (a) encourage students in the pursuit of learning, and teach them diligently and faithfully;
- (b) teach courses of study that are prescribed, approved, or authorised pursuant to this Act or the Regulations;
- (c) report on the progress, behaviour, and attendance of students to their parents in accordance with the provisions of this Act and the Regulations;
- (d) under the direction of the principal, maintain order and discipline among students while they are in school, on school grounds, or attending or participating in activities sponsored or approved for the school not inconsistent with this Act or Regulations made thereunder;
- (e) review with students their assessments and progress and advise students of the expectations for them;
- (f) maintain whatever registers, records, or other forms as may be required by the principal, Director, or this Act and make those registers, records, or other forms available for inspection by the Director or by any person authorised by the Director;
- (g) observe the standards of the school as established by the staff and principal;
- (h) upon reasonable notice from the principal admit a parent of a student to the classroom for the purpose of observing;
- (i) report promptly to the principal an apparent outbreak of contagious or infectious diseases in the school, any unsanitary condition of the school building or surroundings and any other conditions or circumstances that may reasonably threaten the health or safety of students or other employees of the school;
- (j) notify the principal of any absence by the teacher from school and the reason for the absence;

- (k) upon the direction of the principal, co-operate with student teachers and their instructors in the classroom for the purpose of observing and practice teaching, and render assistance to the student teachers and submit reports on the teaching ability of the student teachers;
- (l) perform assigned duties as outlined in the school emergency plan developed by the school administration and the teachers to protect the health and safety of students;
- (m) report to the principal and to the proper government official responsible for child welfare that a student is in need of protection when there are reasonable grounds to believe that the child is in need of protection as defined pursuant to any legislation enacted by the Legislative Assembly; (*Amended by Act 9 of 2011*)
- (n) attend staff meetings, Parent Teachers Association meetings and other related meetings;
- (o) plan and prepare courses and lessons;
- (p) teach students assigned to him according to their educational needs and set work to be carried out by the students in school and elsewhere and mark the same;
- (q) assess, record and report in a manner approved by the principal on the development, progress and attainment of students;
- (r) provide guidance and advice to students on education and social matters and on their further education and future careers, including information about sources of more expert advice on specific questions;
- (s) participate in the implementation of a policy for the pastoral care of the students;
- (t) make arrangements under the direction of the principal for parents to be given regular information about the school curriculum, the progress of their children and other matters affecting the school;
- (u) promote effective relationships with persons and bodies outside the school;
- (v) advise and assist the Board of Management in the exercise of its functions, including attending meetings and making such reports to it in connection with the discharge of his functions as may be required;
- (w) make and participate in implementing arrangements for the effective supervision of students during the school day, and the security of school buildings and their contents and of the school grounds;

- (x) participate to such extent as may be appropriate having regard to other duties, in the teaching of students at the school, including provision of cover for absent teachers; and
- (y) perform any other duties which may be prescribed by Regulations made by the Minister under this Act.

(2) A teacher who fails to perform any or combination of any of the professional duties specified in subsection (1) is liable to disciplinary action in accordance with the public service law. (*Amended by Act 9 of 2011*)

Duties of Deputy Principal

136.(1) A person appointed deputy principal in a school, in addition to carrying out the professional duties of a school teacher, and those duties particularly assigned to him by the principal, shall—

- (a) assist the principal in managing the school or such part of it as may be determined by the principal;
- (b) undertake any professional duty of the principal which may be delegated to him by the principal; and
- (c) undertake, in the absence of the principal to the extent required by him, or other authority, the professional duties of the principal.

(2) A deputy principal who fails to perform any or a combination of the professional duties specified in section 135(1) and subsection (1) is liable to disciplinary action in accordance with the public service law. (*Amended by Act 9 of 2011*)

General responsibilities of principals

137.(1) Subject to provisions of this Act, the principal of each school shall—

- (a) furnish such returns as may be prescribed by the Governor acting on the advice of Cabinet by Regulations made under this Act; (*Amended by Act 9 of 2011*)
- (b) ensure the observance of the provisions of this Act and any Regulations made under it;
- (c) promote satisfactory relationships with parents and the community served by the school;
- (d) develop and implement procedures for parental and community involvement in the school and promote co-operation between the school and the community it serves;
- (e) maintain order and discipline in the school, on the school grounds, and during activities sponsored or approved for the school;

- (f) supervise and direct teachers and other staff assigned or rendering services to the school including volunteers;
- (g) maintain any records and complete any returns and forms required pursuant to this Act and Regulations;
- (h) ensure the proper maintenance and care of school property;
- (i) requisition necessary materials, supplies, and equipment for the school and arrange for distribution of them;
- (j) attend meetings of the Board of Management, the Parent Teacher Association or school committee for the school when requested by the relevant body to do so;
- (k) report promptly to the Director, the Chief Medical Officer, and other appropriate health personnel an apparent outbreak of any contagious or infectious disease in the school, any unsanitary condition in the school building or surroundings and any other dangerous or unsafe condition in the school;
- (l) report to the Director and to the proper government official responsible for student welfare that a student is in need of child welfare services or protection when there are reasonable grounds to believe that the student is in need of such service or protection as defined pursuant to any legislation enacted by Legislative Assembly; (*Amended by Act 9 of 2011*)
- (m) prepare the school's operation and maintenance budget for review and approval by the Board of Management, if such a body exists;
- (n) be responsible for the preparation and implementation of the school plan;
- (o) keep parents informed of the progress and development of students;
- (p) ensure that instruction in the school is consistent with the courses of study prescribed pursuant to this Act or Regulations made thereunder;
- (q) include in the activities of the school, cultural heritage traditions and practices;
- (r) formulate with the assistance of the staff the overall aims and objectives of the school and policies for their implementation;
- (s) deploy and manage all teaching and non-teaching staff of the school and allocate particular duties to them (including such duties of the principal as may properly be delegated to the deputy principal or other members of the staff) in a manner consistent with their conditions of employment;
- (t) ensure that the duty of providing cover for absent teachers is shared equitably among all teachers in the school (including

- the principal), taking into account their teaching and other duties;
- (u) maintain relationships with organisations representing teachers and other persons on the staff of the school;
 - (v) organise and implement the prescribed curriculum for the school, having regard to—
 - (i) the needs, experience, interests, aptitudes and stages of development of the students;
 - (ii) the resources available to the school; and
 - (iii) his duties under this Act and Regulations made under it;
 - (w) keep under review the work and organisation of the school;
 - (x) evaluate the standards of teaching and learning in school, and ensure that proper standards of professional performance are established and maintained;
 - (y) maintain good order and discipline among the students and safeguard their health and safety both when they are authorised to be on the school premises and when they are engaged in authorised school activities elsewhere;
 - (z) perform any other related duties which may be prescribed by Regulations made by the Minister under this Act.

(2) A principal who fails to perform any or a combination of the professional duties specified in subsection (1) is liable to disciplinary action in accordance with the public service law. *(Amended by Act 9 of 2011)*

CHAPTER 8

CURRICULUM AND ASSESSMENT OF STUDENTS

National curriculum

138.(1) The Minister shall establish a national curriculum for public schools and assisted private schools.

(2) A curriculum established under subsection (1) shall be balanced and broadly based and shall, in addition to the goals and objectives specified in section 3(3)—

- (a) promote the spiritual, moral, cultural, intellectual and physical development of students and of society; and
- (b) prepare students for the opportunities, responsibilities and experiences of adult life.

(3) The Minister may revise the national curriculum whenever the Minister considers it necessary and expedient to do so.

Core and foundation subjects

139. (1) The curriculum for every public school and assisted private school shall comprise core and foundation subjects and specify in relation to each of them—

- (a) attainment targets that include the knowledge, skills and understanding which students of different abilities and maturities are expected to have by the end of each key stage;
- (b) programmes of study that include the matters, skills and processes which are required to be taught to students of different abilities and maturities during each key stage; and
- (c) assessment arrangements that include the arrangements for assessing students at or near the end of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets.

(2) Subsection (1) shall not apply in the case of a school engaged in the delivery of special education.

Key stages of assessment

140. (1) The key stages in relation to a student are as follows—

- (a) the period beginning with his attainment of compulsory school age and ending at the same time as the school year in which the majority of students in his class attain the age of eight;
- (b) the period beginning at the same time as the school year in which the majority of students in his class attain the age of eight and ending at the same time as the school year in which the majority of students in his class attain the age of ten;
- (c) the period beginning at the same time as the school year in which the majority of students in his class attain the age of ten and ending at the same time as the school year in which the majority of students in his class attain the age of thirteen; and
- (d) the period beginning at the same time as the school year in which the majority of students in his class attain the age of thirteen and ending at the same time as the school year in which the majority of students in his class attain the age of sixteen.

(2) For each key stage in subsection (1) the Director shall ensure that arrangements are made for the assessment of students to ascertain what they have achieved, in relation to the attainment targets.

(3) The assessment may be made by the Ministry of Education or by a body or organisation designated or contracted to do so by the Minister.

(4) The Director shall determine the frequency of the assessments.

(5) The Minister may publish the results of the assessments together with a commentary thereon by the Director.

Determination of attainment targets

141. (1) The Minister may by notice published in the *Official Gazette* establish—

- (a) the core subjects and other foundation subjects;
- (b) the attainment targets;
- (c) the programmes of study; and
- (d) the assessment arrangements,

that the Minister considers appropriate.

(2) A notice issued under subsection (1) may not require that—

- (a) any particular period or periods of time should be allocated during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it; or
- (b) provision of any particular time should be made in school timetables for the periods to be allocated to such teaching during any such stage.

Subject panels

142. (1) For the purpose of creating and revising the national curriculum from time to time, the Minister may constitute subject panels to develop syllabuses for the core and foundation subjects.

(2) A subject panel may comprise the following—

- (a) members of the teaching profession with expertise in the subject;
- (b) officials of the Ministry of Education; and
- (c) other persons, including parents, or relatives having knowledge or experience in the subject.

(3) Subject panels shall consist of not less than five or more than nine members appointed by the Minister after consultation with the Director, of whom—

- (a) one shall be appointed as chairman; and
- (b) another may be appointed as deputy chairman.

(4) It shall be the duty of the Director or other official designated by him to co-ordinate the work of the subject panels and to ensure the evaluation and implementation of the recommended syllabuses into the school system.

Collective worship and religious education

143. (1) Subject to subsections (2) and (5), the school day in every public or assisted private school shall begin with collective worship by all students and teachers in attendance at the school, and the arrangements made shall provide for single act of worship attended by all students unless the school premises are so constructed as to make it impracticable to assemble for that purpose.

(2) The collective worship required by subsection (1) shall not, in any public school and assisted private school, be distinctive of any particular religious denomination.

(3) Subject to section 144, religious education shall be part of the curriculum of every public school and assisted private school.

(4) It shall not be a condition of admission or attendance of any student in a public school or assisted private school that a student—

- (a)* participates in religious education or attends or abstains from attending any place of religious instruction or worship;
- (b)* if his parent objects, attends any religious observances or receives any education in religious subjects at an institution or elsewhere; or
- (c)* attends an institution or an activity in any place on any day specially set apart for religious worship by the religious body to which he belongs.

(5) Where the parent of any student attending a public school and assisted private school or a teacher requests that the student or the teacher, as the case may be, be excused from attendance at collective worship, any religious observance or any education or instruction in religious subjects at the institution or elsewhere on conscientious grounds, then, until the request is withdrawn, the student or teacher as the case may be, shall be excused.

Religious education in public schools

144. (1) The religious education given to any student in attendance at a public school pursuant to section 143(3) shall be given in accordance with an agreed syllabus adopted for the school and shall not include any catechism or formulary which is distinctive of any particular religious denomination.

(2) In respect of public schools the Minister may constitute a standing advisory council on religious matters connected with the religious instruction to be given in accordance with an agreed syllabus and in particular, as to methods of teaching, the choice of books, and the provision of lecturers or teachers.

CHAPTER 9

ISLAND SCHOLARSHIPS AND GRANTS

Montserrat Island scholarships

145. (1) There shall be established scholarships to be called the Montserrat Island Scholarships.

(2) The scholarships shall be open to public competition each year.

(3) The scholarships shall be tenable at the University of the West Indies or at any university, college or institution approved by the Legislative Assembly. (*Amended by Act 9 of 2011*)

(4) The Governor acting on the advice of Cabinet may award scholarships annually. (*Amended by Act 9 of 2011*)

Value of scholarships

146. (1) The scholarships shall be of such annual value as may by notice from time to time be determined by the Governor acting on the advice of Cabinet and shall be tenable for not less than three and not more than seven years, according to the time required for the completion of the approved course of study. (*Amended by Act 9 of 2011*)

(2) A notice under subsection (1) may specify differential rates of allowances varying according to the country or the educational institution at which the scholarship is tenable; provided that, the rates so fixed shall apply equally to every holder of an award who for the time being falls within a particular category.

Qualifications for scholarship

147. A student shall be eligible to compete for a scholarship if the student—

- (a)** has for three years immediately preceding the examination referred to in section 148 been *bona fide* receiving his education either at a school or otherwise in Montserrat;
- (b)** has passed the Caribbean Examination Council Secondary Examination Certificate General Proficiency examination or any other equivalent examination as may be prescribed by the Governor acting on the advice of Cabinet in 5 or more subjects including English Language; (*Amended by Act 9 of 2011*)
- (c)** has satisfied standards of conduct and deportment established by the school which the student attends or by the Ministry of Education;
- (d)** is a citizen of Montserrat or the child of a citizen of Montserrat or of a person who has acquired the status of a Montserratian or the child of a foreign person who is resident in Montserrat

and whose country of citizenship has enacted legislation in terms materially identical to this section and does not discriminate against the citizens of Montserrat in the award of the scholarships similar to those established by this Part. *(Amended by Act 9 of 2011)*

Examination for scholarship

148. (1) The scholarships shall be awarded by the Governor acting on the advice of Cabinet on the advice of the Scholarship Committee on the basis of results of the Caribbean Examination Council Advanced Proficiency examination or such other equivalent examination as may be prescribed by the Governor acting on the advice of Cabinet to the students who are reported by the examiners to have the best claim to be awarded the scholarships.

(2) In the event of the examiners reporting that any competitors are equal, the Governor acting on the advice of Cabinet shall award scholarships to such students who have performed best in the Caribbean Examination Council Secondary Examination Certificate Examination.

(Amended by Act 9 of 2011)

Entry at proposed institution

149. (1) A scholarship holder shall enter the approved university, college or institution within a reasonable period after the award of the scholarship and shall keep the prescribed term continuously until the scholarship expires.

(2) No change shall be made by a scholarship holder in either the university or college or institution attended or the approved course of study except with the approval of the Governor acting on the advice of Cabinet.

(Amended by Act 9 of 2011)

Forfeiture of scholarship

150. (1) Subject to subsection (2) a scholarship shall be forfeited—

- (a)* by expulsion of the scholarship holder from the university, college or institution;
- (b)* by failure of the scholarship holder to pass any examination within the period from time to time fixed by the competent authorities of the university, college or institution unless the Governor acting on the advice of Cabinet is satisfied on the recommendation of the authorities of the university, or college or institution that the scholarship holder has been prevented from passing the examination in circumstances which would not in their judgment justify forfeiture; *(Amended by Act 9 of 2011)*
- (c)* if the scholarship holder enters on any course of study or accepts any appointment which is not approved by the Governor acting on the advice of Cabinet; *(Amended by Act 9 of 2011)*

- (d) if the scholarship holder fails to comply with the requirements of this Chapter or of any Regulations made thereunder without furnishing satisfactory evidence that the cause of such failure was beyond his control;
- (e) by reason of any event either before or after the scholarship holder has entered on any course of study which in the opinion of the Governor acting on the advice of Cabinet is likely to be prejudicial to the object for which the scholarship was granted; or (*Amended by Act 9 of 2011*)
- (f) on proof to the satisfaction of Governor acting on the advice of Cabinet of grave misconduct by the scholarship holder at any time after the award. (*Amended by Act 9 of 2011*)

(2) The Governor acting on the advice of Cabinet may either before or after the scholarship holder has commenced studies, in lieu of declaring the scholarship to be forfeited, forfeit the whole or a portion of the scholarship accruing or payable in respect of any specified period if in the opinion of the Governor acting on the advice of Cabinet the circumstances of the case would be sufficiently met by the adoption of such a course. (*Amended by Act 9 of 2011*)

Scholar to sign undertaking

151. Every student to whom a scholarship is awarded under this Act shall sign a bond in such sum and in such manner as may be prescribed, to return, on his obtaining his qualifications, to Montserrat and to serve therein for a period of not less than three years provided that, the person is offered an appointment appropriate in the opinion of the Governor acting on the advice of Cabinet to his qualifications in the Public Service of Montserrat at such initial remuneration as is paid to holders of like offices in Montserrat. (*Amended by Act 9 of 2011*)

Travel grants

152.(1) A scholarship holder shall be paid travelling expenses from Montserrat to the approved university or college or institution and to Montserrat from such university or college or institution.

(2) Any scholarship awarded prior to the commencement of this Act shall be deemed to have been awarded under this Act and shall henceforth be subject to the provisions thereof.

Award of grants and bursaries

153. The Governor acting on the advice of Cabinet may, on such terms and conditions as may be prescribed by Regulations made under this Act, award grants or bursaries to—

- (a) selected students of secondary schools; and

(b) students and teachers admitted to tertiary educational institutions,
as it thinks advisable.

(Amended by Act 9 of 2011)

CHAPTER 10

INSPECTION AND REVIEW OF THE EDUCATION SYSTEM

PART 1

INSPECTION OF EDUCATIONAL INSTITUTIONS

Inspection of educational institutions

154. (1) The Director, an Education Officer, or a public officer authorised in writing by the Minister shall, at such times and in the manner prescribed, inspect public schools, assisted private schools, and private educational institutions.

(2) Any person who, pursuant to subsection (1) inspects an educational institution shall—

- (a) give such assistance and guidance to the teachers employed at the institution as might promote the good conduct and efficiency of the institution;
- (b) advise the principal of the institution on matters relating to its welfare and development; and
- (c) give to the Minister, the Board of Management, or, in the case of a private educational institution, the proprietor, a report on the institution.

Educational institutions to be opened for inspections and visits

155. (1) The principal of a public school, an assisted private school and the proprietor or principal of a private educational institution shall keep the institution open at all times during school hours to visits and inspections—

- (a) by the Minister;
- (b) by the Director; or
- (c) by any other person authorised in writing by the Minister or the Director to visit or inspect the institution.

(2) Any person who, pursuant to subsection (1), inspects an educational institution may at the request of the Director examine the students in the subjects of instructions taught at the institution.

Offences

156. A person who—

- (a) prevents a person empowered or authorised under this Act from visiting or inspecting a public school, assisted private school or private educational institution; or
- (b) assaults or obstructs a person empowered or authorised under this Act to visit or inspect a public school, an assisted private school or a private educational institution during a visit or inspection of such institutions,

commits an offence and is liable on summary conviction to a fine of \$1,000 and in the case of a second or subsequent conviction to a term of imprisonment of six months.

PART 2

REVIEW OF THE EDUCATION SYSTEM

Appointment of Education Review Committee

157. (1) Every five years or as soon as practicable thereafter, the Governor acting on the advice of Cabinet on the recommendation of the Minister of Education, shall appoint an Education Review Committee of not more than 5 members to review and report on the education system of Montserrat in accordance with section 158.

(2) The Education Review Committee shall comprise—

- (a) a member having relevant knowledge or expertise in education and who shall be chairperson;
- (b) one member from either—
 - (i) a Parent Teacher Association; or
 - (ii) a Board of Management;
- (c) one member from organisations concerned with either—
 - (i) community development; or
 - (ii) industry and commerce; or
 - (iii) professional services;
- (d) one member representing the teaching profession; and
- (e) such other member as the Governor acting on the advice of Cabinet in its discretion thinks fit.

(Amended by Act 9 of 2011)

Review and report of Education Review Committee

158. (1) The Education Review Committee shall review and report on—

- (a) the physical conditions and the maintenance of public and assisted private schools;
- (b) the suitability of the curriculum, in public and assisted private schools;
- (c) the performance of students at—
 - (i) the assessments held in accordance with sections 140(1) and (2);
 - (ii) annual examinations set and marked by individual schools; and
 - (iii) examinations set by the Caribbean Examinations Councils;
- (d) the organisation of the Ministry of Education and its delivery of education services;
- (e) the teaching service, and the number, quality and performance of teachers; and
- (f) any other matter which in the opinion of the Educational Review Committee would enhance the quality and delivery of education in Montserrat.

(2) The report of the Education Review Committee shall be submitted to the Minister who shall cause it to be presented before the Legislative Assembly. *(Amended by Act 9 of 2011)*

(3) After the report of the Education Review Committee has been laid before the Legislative Assembly it shall be printed and sold to the public. *(Amended by Act 9 of 2011)*

CHAPTER 11

APPEALS

Establishment of Education Appeal Tribunal

159. (1) For the purposes of determining appeals under this Act, the Governor acting on the advice of Cabinet shall appoint an Education Appeal Tribunal.

(2) The Governor acting on the advice of Cabinet shall appoint to the Education Appeal Tribunal—

- (a) a chairperson;
- (b) a maximum of five other persons of whom one shall be a person qualified in laws; and

(c) a secretary who shall be a public officer.

(3) The chairperson and the members of the Education Appeal Tribunal shall be appointed for the terms and in the manner specified by the Governor acting on the advice of Cabinet.

(4) The Governor acting on the advice of Cabinet may solicit and consider nominations for the membership of the Education Appeal Tribunal from groups interested in education in Montserrat.

(5) The chairperson and the members of the Education Appeal Tribunal shall swear an oath of non-disclosure in the form prescribed by the Governor acting on the advice of Cabinet for information gained during an appeal in accordance with this Part.

(Amended by Act 9 of 2011)

Composition of Tribunal

160. (1) An appeal referred to the Education Appeal Tribunal shall be heard by the chairperson and two or more members chosen by the chairperson.

(2) Where possible, the qualifications of the members of the Education Appeal Tribunal shall be appropriate to the matter under consideration by the Tribunal.

(3) The chairperson may call upon such experts or consultants as are considered advisable to report to the Education Appeal Tribunal.

Mediation

161. Prior to the consideration of an appeal by the Education Appeal Tribunal, the chairperson may appoint a mediator to attempt to settle the matter under appeal.

Procedure of Tribunal

162. (1) In considering the matter being appealed, the Education Appeal Tribunal may make any investigation it considers necessary.

(2) The Education Appeal Tribunal shall set the time, place, and date for a hearing of the appeal and shall notify the parties to the appeal of the time, place, and date of the hearing.

(3) No decision shall be made by the Education Appeal Tribunal without giving the parties to the appeal an opportunity to make representations either orally or in writing or both.

(4) Parties to an appeal shall pay their own costs.

(5) Unless the Education Appeal Tribunal decides otherwise, appeals shall be held *in camera* and may be heard in any place or community.

Powers of the Tribunal

163. The Education Appeal Tribunal, in deciding a matter being appealed, may make an order doing one or more of the following—

- (a) confirming or varying the decision that is under appeal;
- (b) identifying a student as a student with special educational needs;
- (c) determining that an individual education plan be prepared for a student;
- (d) directing the Director to implement an individual education plan in a particular environment including, but not limited to, a regular class;
- (e) directing the Director to enroll a student in a school named by the Education Appeal Tribunal;
- (f) directing a determination to be made in accordance with section 85;
- (g) defining the contents of a student record when the appeal under consideration is pursuant to section 21; and
- (h) reinstating to school a student who has been expelled or placed on an indefinite suspension.

Matters to be considered

164. In the determination of an appeal, the Education Appeal Tribunal shall consider—

- (a) the educational interests of the student who is the subject of the appeal;
- (b) the impact of a decision on the total school or class population; and
- (c) any other factor that appears to be relevant to the matter in dispute.

Final decision

165. The decision of the Education Appeal Tribunal shall be final and binding upon the parties to the appeal.

Enforcement of order

166. (1) A copy of an order made by the Education Appeal Tribunal shall be filed with the Registrar of the High Court.

(2) On the filing of a copy of an order with the Registrar of the High Court, the order has the same force and effect as if the order were an order of that Court.

Copy to the Minister and parties

167. A copy of the decision of the Education Appeal Tribunal shall be sent to the Minister and the parties to the appeal.

CHAPTER 12

MISCELLANEOUS

Vendors on school premises

168. (1) No person shall sell or offer for sale any services, goods, food, beverages or any other item on school premises without the written permission of the Director.

(2) A person who wishes to sell or offer for sale services, goods, food, beverages or any other item on the premises of a public school or assisted private school shall apply in writing to the Director through the principal of the particular school, for permission to do so.

(3) Where an application is made under subsection (2), the applicant shall submit together with his application a medical certificate from a medical practitioner registered under the Medical Act to the effect that the applicant is free from diseases and is unlikely to be a source of infection to a person at the school.

(4) Where an application is made under subsection (2), the Director may after interviewing the applicant and consulting the principal and having considered the suitability of the proposed services, goods, food, beverages or any other item to be sold, grant permission to the applicant, on such terms and conditions as the Director deems fit.

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

(6) The sale of food and drink is not to be permitted during lesson periods.

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

(8) A person who sells or offers for sale food, drink or any other item on the school premises or within the entrance or exit of a public school or assisted private school during school hours without the written consent of the Director commits an offence and is liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of one year.

Prohibition of sale of alcoholic beverages and tobacco

169. Any person who sells, offers or exposes for sale any alcoholic beverage or tobacco on the premises of any educational institution whether public or private commits an offence and is liable on summary conviction

to a fine of \$1,000 or to imprisonment for a term for a period of one year or both.

Loitering etc. on school premises

170. (1) Any person who—

- (a) is found loitering, wandering or otherwise trespassing on the premises of any educational institution;
- (b) creates a disturbance on the premises of any educational institution;
- (c) while on the premises of any educational institution—
 - (i) uses threatening or insulting language or in any manner interferes with any student or member of the staff of the educational institution; or
 - (ii) disrupts any lawful activity conducted on the premises of the educational institution;
- (d) in a public place causes or makes a noise that disturbs or is likely to disturb any lawful activity carried out on the premises of an educational institution; or
- (e) commits any damage to any school building or other property found on the premises of, or forming part of the compound of an educational institution,

is guilty of an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for a term of one year or both.

(2) A person who commits an offence under subsection (1), may be arrested by any member of the Police Service, with or without a warrant. *(Amended by Act 9 of 2011)*

(3) A prosecution for an offence under this section in relation to a public school or an assisted private school may be brought in the name of the Director.

CHAPTER 13

REGULATIONS

Regulations

171. (1) Subject to the provisions of this Act, the Governor acting on the advice of Cabinet may make Regulations generally for the proper carrying out of the goals and objectives of this Act. *(Amended by Act 9 of 2011)*

(2) Without restricting the generality of subsection (1), the Governor acting on the advice of Cabinet may make Regulations—

- (a) concerning the management and conduct of public schools and assisted private schools;

- (b) concerning the control and management and conduct and registration of private educational institutions and in particular in respect of—
 - (i) the size of the classrooms and their equipment, the number of students that may occupy each classroom and the necessary sanitary facilities to be provided;
 - (ii) the registers and other records to be kept by proprietors of private schools and the particulars to be furnished to the Ministry by the proprietors;
 - (iii) the suitability of premises;
 - (iv) the suitability of the curriculum and courses and methods of instructions; and
 - (v) generally for more effectively carrying out the provisions of this Act in respect of private educational institutions;
- (c) prescribing the standard to which the premises of educational institutions are to conform;
- (d) concerning the purposes for which the premises of a public school may be used;
- (e) prescribing the financial or other assistance and the conditions subject to which such assistance is given to any educational institution, or class of educational institutions specified in such Regulations;
- (f) concerning the admission of students to public schools and assisted private schools the discipline of such students, the keeping by public schools and assisted private schools of a school record of each student, the particulars to be included in the record and the disposal of the record;
- (g) concerning the admission of persons to teachers' colleges and the conditions of admission;
- (h) respecting—
 - (i) the admission or transfer of students to public secondary schools and assisted private secondary schools; and
 - (ii) the qualifying examinations for admission;
- (i) concerning the management and accounting by principals and teachers of public schools and assisted private schools of—
 - (i) moneys or property payable to or vested in the school;
 - (ii) moneys derived from fund-raising activities;
 - (iii) moneys and other property derived by way of gift, bequest, trust, or donations, or in any other manner whatsoever;
- (j) respecting special or home education;

- (k) prescribing the division into which students of teachers' colleges are to be classified and the conditions for the selection of students for those divisions and for their admission to or continuation in or removal from, teachers' colleges in those divisions;
- (l) prescribing the course and curricula for students of the various divisions in teachers' colleges;
- (m) providing for the certification and registration of teachers completing courses of training;
- (n) concerning the terms of employment including grading, promotion, and leave and payment of salaries and other remuneration to teachers;
- (o) concerning the establishment, administration, organisation, inspection and classification and discontinuance of schools, including pre-primary schools and schools for children with special needs;
- (p) concerning the award of scholarships, bursaries, grants and other financial assistance for tertiary education and specifying the value and other conditions subject to which scholarships, grants, and bursaries may be held or other financial assistance given;
- (q) prescribing the academic year, hours of school, terms and vacations of public schools and assisted private schools;
- (r) prescribing the case in which, and the matters for which, fees may be charged in public schools;
- (s) concerning the inspection of public schools, assisted private schools and private educational institutions;
- (t) concerning the constitution, rights, power and responsibilities of Student Councils and of the National Students Council;
- (u) embodying any collective agreement arrived at between the Ministry of Education and the Montserrat Union of Teachers concerning the conditions of service of teachers represented by that union, or between the Ministry and any other body representing members of the teaching profession in respect of such members;
- (v) prescribing anything which by this Act is to be prescribed.

(Amended by Act 9 of 2011)

FIRST SCHEDULE

(Section 9(6))

EDUCATION ADVISORY COMMITTEE**Definition**

1. In this Schedule, “Committee” means the Education Advisory Committee appointed under section 9 of the Education Act.

Temporary appointment

2. In the absence or in the case of the inability to act of a member, the Governor acting on the advice of Cabinet may appoint any person from the group that member represents to act temporarily in place of such member. (*Amended by Act 9 of 2011*)

Resignation of members

3. (1) Any member of the Committee, other than the chairperson may at any time resign from the Committee by instrument in writing addressed to the Minister and transmitted through the chairperson and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Board.

(2) The chairperson may at any time resign his office as a member of the Committee by instrument in writing addressed to the Minister such resignation to take effect from the date of the receipt of such instrument by the Minister.

Forfeiture of membership

4. Any member of the Board who fails to attend three consecutive meetings without excuse acceptable to the Committee shall cease to be a member.

Filling of vacancies

5. If any vacancy occurs in the membership of the Committee such vacancy shall be filled by the appointment of another member who may, subject to this Schedule hold office for the remainder of the period for which the previous member was appointed, but such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Publication of membership

6. The names of all members of the Committee as first constituted and every change in the membership shall be published in the *Gazette*.

Constitution not affected by vacancy

7. The Committee shall be deemed to be properly constituted for the purpose of this Schedule notwithstanding any vacancy among its members or any defect in their appointments.

Meetings

8. (1) The Committee shall meet at least three times a year and at such other times as may be convenient or expedient for the transaction of business and at such places as the chairperson may determine.

(2) Subject to this Schedule, the Committee may regulate its own procedure.

Special meetings

9. The chairperson may at any time call a special meeting of the Committee and shall call a special meeting within fourteen days of a requisition for that purpose addressed to him by any five members.

Person to preside at meetings

10. The chairperson or, in his absence, the deputy chairperson shall preside at the meetings of the Committee, and in the case of the absence of both the chairperson and the deputy chairperson, the members present and constituting a quorum shall elect a temporary chairperson from among the members present.

Voting

11. The decisions of the Committee shall be by a majority of votes of the members present and, in addition to an original vote, the chairperson or any other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

Quorum

12. The quorum of the Committee at any meeting shall be six.

Minutes

13. Minutes of the proceeding of the Committee shall be kept in proper form.

SECOND SCHEDULE

(Sections 54, 61, 67 and 68)

CONSTITUTION, PROCEDURE AND FUNCTIONS OF BOARDS OF MANAGEMENT

Interpretation

1. In this Schedule “**Board**” means a Board of Management appointed under sections 54, 61, 67 and 68 of the Education Act.

Chairperson and Deputy Chairperson

2. (1) Except in cases of Boards established under sections 67 and 68 of the Education Act, a Board shall elect a chairperson and a deputy chairperson from among its members.

(2) The membership of a Board as first constituted and any changes therein shall be notified in the *Gazette*.

Filling of vacancies

3. If any vacancy occurs in the membership of a Board such vacancy shall be filled by the appointment of another member in the manner indicated in section 54, 61, 67 or 68 (as the case may be), and such person shall hold office for the remainder of the period for which the previous member was appointed, provided however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Employment of member

4. (1) No member of a Board may be appointed to any office or employment under the Board of which he is a member.

(2) No person is eligible for appointment to any office or employment under a Board within one year from the date on which the person last held office or acted as a member of that Board.

Duration of membership

5. (1) Every member of a Board shall hold office for a term of three years unless, before the end of the term the member dies, resigns, is removed from office for any cause by the Minister or the appointing authority under sections 67 and 68 of the Education Act or ceases to be a member in accordance with subsection (3).

(2) Every member is eligible for reappointment for a further term.

(3) Any member of a Board who fails without reasonable cause to attend three consecutive meetings of the Board shall cease to be a member thereof.

(4) A member of Board may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairperson in cases of Boards established in public schools and through the denomination or proprietor in cases

of Boards established for private assisted schools provided that, the resignation shall be effective from the date of receipt by the Minister of such instrument.

(5) The chairperson may at any time resign office by instrument in writing addressed to the Minister in cases of Boards established in public schools and the denomination or proprietor in cases of Boards established in private assisted schools provided that the resignation shall be effective from the date of receipt by the Minister of such instrument.

Meetings

6. (1) A Board shall meet at least once in every school term and at such other times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times on such days as the chairperson may determine.

(2) The chairperson may at any time summon a meeting of a Board and shall summon a meeting within seven days—

(a) on a request for that purpose addressed to the chairperson by any three members of a Board; or

(b) on a direction to that effect addressed to the chairperson by the Minister.

(3) The chairperson, or in his absence the deputy chairperson, shall preside at any meeting of a Board.

(4) At any meeting of a Board, in case of the absence or inability to act of both the chairperson and the deputy chairperson, the members of the Board shall elect one of their members to preside at that meeting.

Quorum

7. At any meeting of a Board a quorum shall be the minimum number constituting a majority of the total members of the Board.

Decisions

8. The decisions of a Board shall be by a majority of the votes of the members present and constituting a quorum, but in any case in which the voting is equal the chairperson, deputy chairperson or other member presiding at the meeting shall in addition to an original vote, have a casting vote.

Minutes

9. (1) Minutes in proper form of each meeting of a Board shall be kept by the secretary or such other person as the Board may appoint for the purpose and shall be confirmed by the Board at its next meeting and signed by the chairperson or other person presiding at that meeting, and the secretary of the Board.

(2) A copy of the minutes of each meeting as recorded by the secretary or such other person appointed for that purpose shall be submitted to the Minister within one month of the confirmation of the minutes.

Attendance of Director

10. (1) The Director may attend any meeting of a Board or a committee or sub-committee thereof or may be represented at any such meeting by a public officer authorised by him in that behalf.

(2) The Director or his representative may take part in the proceedings of any such meeting but shall not be entitled to vote or otherwise take part in the decision-making process of any such meeting.

Appointment of committees

11. (1) A Board may appoint a committee for any of the purposes of the Board which in its opinion would be better regulated or managed by means of a committee, with or without restrictions or conditions, as it thinks fit.

(2) The number of members of a committee appointed under this section and their terms of office shall be fixed by the Board.

(3) A committee appointed under this section may include persons who are not members of the Board but the chairperson and at least two-thirds of the members of every committee shall be members of the Board.

(4) Any committee appointed by a Board under this section may, subject to any restrictions imposed by the Board, appoint a sub-committee of its members as it may determine.

(5) Any sub-committee appointed under this section shall be constituted in such manner as, subject to any restrictions imposed by the Board, may be determined by the appointing committee; but the chairperson and at least $\frac{2}{3}$ of the members of every sub-committee shall be members of the Board.

(6) Subject to any restrictions imposed by the Board where a committee appointed by the Board appoints a sub-committee in the exercise of the powers conferred on it by subsection (4), it may delegate to the sub-committee, with or without restrictions or conditions as it thinks fit, any of its functions.

Power to delegate

12. Without prejudice to paragraph 11, a Board, after consultation with the Minister, may delegate to any committee such of its functions as it considers appropriate subject to such restrictions or conditions as it thinks fit.

THIRD SCHEDULE

(Section 120)

PROCEDURE OF TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING COUNCIL

Definition

1. In this Schedule, “**Council**” means the Technical and Vocational Education and Training Council appointed under section 120 of the Education Act.

Duration of appointment

2. A member of the Council holds office for a term of three years unless he dies, resigns or has his appointment revoked before the end of that term, but—

- (a) a person who is appointed to fill a vacancy created by the death, resignation or removal from office of a member shall hold office only for the unexpired portion of the term of that former member; and
- (b) every member is, on the expiration of the term of his appointment, eligible for re-appointment for a further term.

Leave of absence

3. The Minister may grant leave of absence to a member of the Council and may appoint a person to act temporarily in the place of that member.

Resignation of member

4. A member of the Council other than the chairperson may resign office by instrument in writing addressed to the Minister transmitted through the chairperson and, from the date of the receipt of the instrument by the Minister if no date is specified therein, that member ceases to be a member of the Council.

Resignation of chairperson

5. The chairperson may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt of such instrument by the Minister if no date is specified therein he ceases to be chairperson and to be a member of the Council.

Quorum

6. Four members of the Council shall form a quorum.

Decisions

7. Decisions of the Council shall be made by a majority of members present and voting, and where the voting is equal the chairperson, in addition to his original vote, shall have a casting vote.

Frequency of meetings

8. The Council is required to meet at such times as may be expedient for the transaction of business and such meeting shall be held at such places and times and on such days as the Council determines.

Special meeting

9. The chairperson or, in the event of his being absent from Montserrat or for any reason being unable to act, the deputy chairperson, shall call a special meeting within seven days after receiving a requisition to do so by any four members of the Council.

Minutes

10. Minutes of each meeting shall be duly kept by the Secretary or other person appointed by the Council for the purpose, and shall be confirmed by the Council at its next meeting and signed by the chairperson or other person presiding at that meeting and the Secretary.

Co-opting of other persons

11. The Council may co-opt persons to attend any of its meetings for the purpose of assisting or advising it respecting any matters with which it is dealing, but a co-opted member does not have a right to vote.

Procedure

12. Subject to this Schedule, the Council may regulate its own procedure.

Documents

13. All documents made by, and all decisions of, the Council are to be signed under the hand of the chairperson or any member authorised to act in that behalf, or by the Secretary.

FOURTH SCHEDULE

(Section 123)

CONSTITUTION OF COMMITTEES

Definition

1. In this Schedule—

- (a) “**Council**” means the Technical and Vocational Education and Training Council appointed under section 123 of the Education Act; and
- (b) “**committee**” means a committee appointed by the Technical and Vocational Education and Training Council under section 123 of the Education Act.

Composition

- 2. (1) A committee shall consist of not more than five persons.
- (2) The Council shall, appoint one member of that committee to be chairperson.

Acting member

3. (1) A member of a committee may, with the permission of the chairperson of that committee, appoint a person to act for him in the event of his absence from a particular meeting.

(2) No person appointed to act as a member of a committee in pursuance of subsection (1) may appoint a person to act for himself nor may he be appointed to act for more than one member.

Duration of membership

4. A member of a committee shall hold office for a period not exceeding three years, but is eligible for re-appointment.

Vacancy

5. Where a vacancy occurs in respect of a committee, the Council may appoint a person to fill that vacancy for the unexpired portion of the period in respect of which the vacancy occurs.

Revocation of membership

- 6. The Council may revoke the appointment of a member of a committee who—
 - (a) is absent from 3 consecutive meetings of the committee without leave of the Council;
 - (b) is absent from Montserrat for three months or more without notifying the Council;
 - (c) is unable to perform his duties as a member of the committee; or
 - (d) fails to comply with a direction given by the Council.

Secretary

7. The Council may assign a person to be the secretary of a committee.

Frequency of meetings

8. A committee shall meet as often as the chairperson decides, but at intervals not exceeding four months.

Quorum

9. The chairperson and two other members of a committee shall constitute a quorum.

Decisions

10. Decisions of a committee are to be by a majority of votes, and where voting is equal, the chairperson, in addition to his original vote, has a casting vote.

Co-opting

11. A committee may co-opt persons to attend any of its meetings for the purpose of assisting or advising it with respect to any matter with which it is dealing, but a co-opted person is not entitled to vote and shall not be counted for the purpose of constituting a quorum.

Establishment of sub-committees

12. A committee may establish a sub-committee to assist in the performance of its functions and may co-opt to serve on any such sub-committee, any person whose assistance and advice the committee considers necessary for the purpose for which the sub-committee is established.

EDUCATION (IMMUNISATION) REGULATIONS – SECTION 171

(S.R.O. 25/2009)

Commencement

[1 September 2009]

Short title

1. This Regulation may be cited as the Education (Immunisation) Regulations.

Immunisation Certificate

2. No child shall be admitted to a primary school unless at the time of such admission a certificate issued by a registered medical practitioner in the Public Health Authorities is produced indicating that the child has been immunised for Diphtheria, Pertussis, Tetanus (DPT), Poliomyelitis, Haemophilus Influenza Type B, Hepatitis B, BCG, Measles, Mumps and Rubella, Booster Tetanus and Booster Polio.

