

REPUBLIC OF KIRIBATI
(No. 12 of 2013)

I assent,

Auto Tung
Beretitenti
30 Dec, 2013

AN ACT TO PROVIDE FOR AND REGULATE
PRIMARY AND SECONDARY EDUCATION IN KIRIBATI

Commencement:
1 January 2014

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

PART I – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Education Act 2013*.

2. Commencement

This Act commences on 1 January 2014.

3. Act binds Republic

This Act binds the Republic.

4. Objects

The objects of this Act are to—

- (a) provide for an education system in Kiribati that makes available to every student a high-quality education that will-
 - (i). help maximise the student's educational potential; and
 - (ii). enable the student to become an effective and informed member of the community; and



(b) promote compulsory education.

5. Best interests of children paramount

A person or body with functions under this Act must, in the performance of those functions, regard the best interests of children as the paramount consideration.

6. Definitions

In this Act, unless the contrary intention appears—

'Advisory Council' means the Advisory Council on Education established by section 10;

'approved form' means a form approved by the Minister under section 72;

'approved syllabus' means a syllabus approved by the Minister under section 30;

'authorised officer' means—

(a) the Secretary;

(b) the Director of Education;

(c) a principal; or

(d) a person appointed to be an authorised officer under section 9;

'centre for special education' means a centre established under section 19;

'child' means a person who has not reached the age of 18;

'child of compulsory school age' means a child who under section 7 is required to be enrolled at a school;

'compulsory education period', see section 7;

'Director General of Education' means the Director General of Education mentioned in section 8;

'full registration' means registration granted under section 46 ;

'junior secondary education' means education for year levels 7 to 9;

'limited authority' means a limited authority to teach granted under section 48. ;

'Minister' means the Minister responsible for administering this Act;

'Ministry' means the department of government responsible for administering this Act;

'national educational framework' means the national educational framework approved by the Minister under section 30;

'parent', of a student means the student's father or mother including a person exercising parental responsibility for the student by customary law, or anyone who has the actual control of the student.

'primary education' means education for year levels 1 to 6;

'principal', of a school, means the person responsible for the day-to-day management and control of the school;

'provisional registration' means registration granted under section 47;

'register of teachers' means the register kept under section 51;

'registered teacher' means a person who holds full registration or provisional registration;

'registration' means—

- (a) in relation to a teacher – full registration or provisional registration; or
- (b) in relation to a school – registration granted under section 24;

'school' means—

- (a) a primary school;
- (b) a junior secondary school; or
- (c) a senior secondary school;

'school day' means a day on which a school is conducting lessons for students;

'school hours' means the hours prescribed under section 71;

'School Inspector' means a person appointed to be a school inspector under section 9;

'school year' means the period of 12 months from 1 January to 31 December in any year;

'secondary education' means a school providing for education for year levels 7 to 13;

'Secretary' means the Secretary to the department of government responsible for administering this Act;

'secular' means not concerned with religion or religious belief

'senior secondary school' means a school providing education for year levels 10 to 13;

'serious offence' means—

- (a) a sexual offence;

- (b) an offence involving violence or cruelty
- (c) an offence involving dishonesty;
- (d) an offence punishable by 12 months' imprisonment or more, for which the person convicted of the offence is sentenced to imprisonment for at least 1 month;

'special education' means education for students with special educational needs;

'special educational needs', in relation to a student with a disability, means the student's need for education to be tailored to suit the student's individual requirements, and to receive other forms of support and assistance, in order to maximise the student's academic and social development;

'student', of a school, means a person enrolled at the school;

'teacher' means a registered teacher or a person with limited authority;

'Teacher Registration Committee' means the Teacher Registration Committee established by section 44;

'year level', means a class in school concerned with a particular year's work, containing students of about the same age.

7. Compulsory education period

The compulsory education period for a child is from the beginning of the year in which the child reaches the age of 6 years and 7 months until the earlier of the following—

- (a) the end of the year in which the child reaches the age of 15;
- (b) the child completes his or her junior secondary education.

PART II – ADMINISTRATION OF THE SCHOOL SYSTEM

Director General of Education

8. Director General of Education

- (1) The Secretary is the Director General of Education for the purpose of this Act.
- (2) The office of Director General of Education is a public office.

9. School inspectors and Authorized officers

- (1) The Minister may appoint officers of the Ministry to be school inspectors and authorised officers.

- (2) The Director General of Education must issue each School Inspector and Authorised Officer with an identity card bearing the full particulars and photograph of that person.

10. Advisory Council on Education

- (1) The Advisory Council on Education is established.
- (2) The function of the Advisory Council is to provide advice to the Minister:-
- (a) on any matter referred to it either under the provisions of this act or by the Minister; and or
 - (b) on any matter that concerns policies (in general) for the development of education that are referred to it by the Minister.
- (3) Regulations may provide for:-
- (a) the composition of the Advisory council;
 - (b) appointment of members;
 - (c) terms of office for members;
 - (d) rules of procedure;
 - (e) establishment of sub-committees;
 - (f) payment of sitting allowances to –
 - (a) members of the Advisory council; and
 - (b) members of any sub-committee.

PART III – ENROLMENT AND ATTENDANCE OF STUDENTS

Division 1 – Free and Compulsory education

11. Free public education

- (1) Every child of compulsory school age is entitled to free enrolment and free education at a primary or junior secondary school.
- (2) The Minister, acting upon the advice of the Cabinet, may approve a school to impose a fee or charge to be paid in respect of a child of compulsory school age at a primary or junior secondary school receiving education year 1 to year 9.

12. Compulsory enrolment

- (1) Each parent of a child must ensure the child is enrolled at a school for each year of the compulsory education period by filling up an approved form and submit it to the school.
- (2) A child can not be refused enrolment at a school on the basis of his or her sex, religion, race or disability.
- (3) A parent of a child of compulsory school age may apply in writing for exemption in an approved form to the Director General of Education who may issue a certificate of exemption for the child.
- (4) A parent who contravenes subsection (1) is liable to a fine not exceeding \$50.

13. Enrolment register

The principal of a school must—

- (a) keep an enrolment register for the school; and
- (b) ensure that particulars recorded in the register are retained for the period prescribed by regulation.

14. Withdrawal of enrolment

- (1) A parent of a child of compulsory school age wishing to withdraw the enrolment at the school must notify the principal of the school of the proposed education of the child after that withdrawal.
- (2) A principal must inform the Director General of Education in writing if he or she is not satisfied that appropriate arrangements have been made for the subsequent education of the child.

15. Compulsory attendance – obligation of parent

- (1) A parent of a child of compulsory school age enrolled at a school, must ensure the child attends the school on each school day unless a parent of the child gives the principal (either orally or in writing) a reason acceptable to the principal for the absence of the child.
- (2) A parent contravening subsection (1) is liable to a fine not exceeding \$50.

16. Employment of children of compulsory school age

- (1) A person employing a child of compulsory school age during school hours is liable to a fine not exceeding \$500.
- (2) Subsection (1) does not apply to a person who employs a child in respect of whom a certificate of exemption has been issued.

17. Procedures preceding prosecution under this Part

Where the complainant for an offence under this Part is the principal, the following procedures must be applied before prosecution is commenced against the parent:-

- (a) If the principal reasonably suspects a parent is contravening section 12 or 15, the principal may give the parent a notice explaining the parent's obligation under this Act.
- (b) If a notice is issued under subsection (b), the principal must also take reasonable steps to meet with the parent and seek to resolve the contravention in a conciliatory way.
- (c) If, despite the principal taking the actions mentioned in subsections (a) and (b), the principal reasonably suspects that the parent continues to contravene the Act, the principal must report the matter to the police.

Division 2 – ADMINISTRATION AND OPERATION OF SCHOOLS

18. Operation of schools

The Director General of Education is responsible to the Minister for the operation of all schools.

19. Provision for students with special educational needs

(1) In this section—

'principle of inclusive education' means the principle that a child of compulsory school age with a disability or is above the school compulsory age, must, where practicable, be enrolled in and attend a school, and be given the opportunity to participate together with the other students of the school in the education and extra-curricular activities offered by the school.

- (2) A child of compulsory school age with a disability or is above the school compulsory age, must not be excluded from access to free primary and junior secondary education on the basis of the disability or age.
- (3) The Minister, acting in accordance with the advice of the Cabinet, may establish centres for special education for children of compulsory school age with disabilities, or children above the school compulsory age.

20. Secular education

- (1) Education in schools must be non-sectarian and secular, except where the Minister, acting, in accordance with the advice of the Cabinet, has approved that education in the school is otherwise.

- (2) Secular education in a school may include the study of different religions as distinct from education in a particular religion.

21. Religious education

- (1) The regulations may provide for religious education to be received in a school but a teacher must not be compelled to give or be present at such instruction against the dictates of his or her conscience.
- (2) If the parent of a student requests that the student be wholly or partly excused from attendance at a religious instruction in the school, the student must be excused accordingly.

22. Voluntary contributions

A principal, or anyone at a school who denies a student education because a parent of the student refuses or fails to make a voluntary contribution to the school is liable to a fine not exceeding \$ 50.

23. School committees

- (1) A school may establish its school committee comprising of, but not limited to, the representatives of teachers at the school, students of the school, parents of students of the school, the broader school community and other persons as may be prescribed by regulations.
- (2) Regulations may provide for—
- (a) the functions of the committee;
 - (b) membership of the committee;
 - (c) rules of procedure of the meeting; and
 - (d) such other matters relevant to the school committee.

PART IV – REGISTRATION OF SCHOOLS

24. Register of schools

- (1) The Director General of Education must keep a register of registered schools.
- (2) The register must include the details of the registration and other information the Director General of Education considers necessary, including the prescribed conditions.

25. Application for registration of school

- (1) A person may apply to the Minister using an approved form, for registration of a school.

- (2) In order to be registered, a school must comply with all the conditions and criteria applicable as approved by the Minister, acting in accordance with the advice of the Cabinet.
- (3) Subject to subsection (2), the Minister must issue a certificate of registration in the approved form to the operator of the school, and if the operator is a Government, to the Secretary, and may upon request, issue a replacement certificate if the Minister is satisfied that the original certificate is lost or destroyed.

26. Probation for registered school

- (1) The Minister may place a registered school on probation for a period of no more than 2 years if satisfied on reasonable grounds that—
 - (a) a condition of registration has been contravened; or
 - (b) it is in the best interests of the students of the school to do so.
- (2) The Minister must give written notice to the operator of the school of his or her decision and to require the operator of the school to address and remedy the deficiencies identified in the school's operation which forms the basis of the Minister's decision to place the school on probation.
- (3) If, after the period of probation, the Minister is satisfied that the operator of the school has taken the steps necessary to address the deficiencies identified in the school's operation, the Minister must re-instate the school's registration.

27. Cancellation of registration of school

- (1) The Minister, acting in accordance with the advice of the Cabinet, may cancel the registration of the school if—
 - (a) the conditions for registration are not being complied with; or
 - (b) he or she is not satisfied that the operator of the school has taken the steps necessary to address the deficiencies identified in the school's operation.
- (2) Before cancelling the registration of the school, the Minister must give the operator of the school a written notice stating his or her reasons for cancelling the registration and requiring the operator of the school sufficient time to respond accordingly.

28. Operating school not registered

- (1) A person who operates a school not registered under this Act is liable to a fine not exceeding \$5000.

- (2) The principal of a school commits an offence if he or she teaches or allows any person to teach in a school not registered under this Act and is liable to a fine not exceeding \$2000.

29. Operating registered school for unspecified year level

The operator and the principal of a registered school each commit an offence if the school teaches a child during school hours at a year level not specified in the school's certificate of registration and each is liable to a fine not exceeding \$2000.

PART V – STANDARDS APPLICABLE TO SCHOOLS

Division 1 — National educational framework

30. Approval of national educational framework and syllabuses

- (1) The Minister must approve a national educational framework that sets national standards for—

- (a) curriculum;
- (b) assessment and reporting;
- (c) examinations; and
- (d) certification of students.

- (2) The Minister must approve syllabuses for subject areas and year levels in accordance with the national educational framework.

31. Adherence to national educational framework and approved syllabuses

- (1) The principal of a school must ensure that the school adheres to—

- (a) the national educational framework; and
- (b) the approved syllabuses for the subject areas and year levels taught at the school.

- (2) The Director General of Education must monitor a principal's compliance with subsection (1).

Division 2 — School Environment

32. School environment

- (1) The principal of a school must comply with the prescribed health and safety standards and must ensure that the school environment is clean, well maintained, safe and secure.

- (2) Without limiting subsection (1), the principal must ensure that adequate sanitary facilities are provided for staff and students of the school.
- (3) If the Director General of Education is satisfied that having regard to the environment, site, or to the buildings thereon, or to other special circumstances affecting the school and its premises, it is not possible to conform to the prescribed health and safety standards, the Director General of Education may waive any or all of those standards.

33. Temporary closure of a school

If the principal is of the view that there is an immediate risk to the health or safety of staff and students of the school, and the matter giving rise to the risk can not be solved promptly, the principal must recommend to the appropriate authority to close the school temporarily.

Division 3 — Health

34. Duty of parent to notify contagious disease

A parent of a student of a school who is aware that the student has a contagious disease must immediately notify the principal of the school.

35. Non-attendance of student carrying contagious disease

- (1) If the principal knows or reasonably believes that a student of the school is carrying a contagious disease, the principal may give a written notice to a parent of the student directing that the student must not attend the school for a specified period.
- (2) The principal must re-admit the student to the school on the production of a certificate signed by a health practitioner certifying that the student is fit to return to school.

Division 4 — School inspections

36. School Inspections

- (1) A School Inspector may enter a school at any reasonable time to inspect the school or anything in it, including the school's records of enrolment and attendance.
- (2) A School Inspector may require the principal of a school to provide any assistance reasonably necessary to carry out an inspection of the school.
- (3) The matters to be assessed by a school inspector include-
 - (a) compliance with the requirements of this Act;

- (b) attendance by students enrolled at the school;
 - (c) the performance of the principal and staff of the school; and
 - (d) any other matter the school inspector is asked to assess by the Director General of Education.
- (4) Within 14 days of the date of an inspection, the school inspector must provide the Director General of Education with a written report detailing—
- (a) the findings of the inspection; and
 - (b) in particular, whether the School Inspector knows or suspects that a provision of this Act is being or has been contravened.

Division 5 — Discipline

37. Application of Division

This Division applies to the behaviour of students while-

- (a) on school premises; and
- (b) during school activities away from school premises.

38. Guidelines for applying disciplinary actions

The principal, or a body that is responsible for disciplinary matters must take the following guidelines when applying disciplinary actions to a student-

- (a) discipline must be administered in a manner that is non-discriminatory and consistent with a student's human dignity and other rights;
- (b) disciplinary procedures must be consistent, clear and fair;
- (c) a student has a right to be heard before the imposition of any disciplinary penalty;
- (d) removing a student from school for any length of time, whether through suspension or expulsion, should be considered a measure of last resort; and
- (e) corporal punishment is not acceptable under any circumstances.

39. Definitions for this Division

In this Division -

'detention' means-

- (a) keeping a student in a classroom during some of a school lunch break; or

(b) keeping the student at school for up to 30 minutes after school hours;

'school rules' means rules made by a principal under section 51;

'serious breach of school discipline' means unacceptable behaviour that is so serious as to justify the immediate suspension of the student from school, and includes-

- (a) using violence or threats of violence against another person; or
- (b) the sexual harassment or indecent assault of another person; or
- (c) possessing a firearm, knife or other dangerous weapon without reasonable excuse; or
- (d) using, supplying or possessing-
 - (i) alcohol or tobacco;
 - (ii) an illegal drug;
 - (iii) any other illegal substance; or
- (e) being under the influence of alcohol or drugs;

'unacceptable behaviour' of a student of a school, means behaviour that-

- (a) constitutes refusal to participate in the education program of the school;
- (b) constitutes a breach of school rules;
- (c) is likely to impede significantly the learning of the other students of the school;
- (d) is likely to be harmful to the health, safety or welfare of the staff or other students of the school;
- (e) causes or is likely to cause damage to property at the school; or
- (f) is likely to bring the school into disrepute.

40. School rules

- (1). The principal of a school may make rules for the safety, well-being and good conduct of students of the school, while the students are-
 - (a) on school premises; or
 - (b) taking part in a school activity away from school premises.
- (2). School rules must be-

- (a) in writing
 - (b) consistent with this Act; and
 - (c) applied without discrimination on the basis of a student's sex, religion, race or disability.
- (3). A principal must use his or her best endeavours to ensure that students of the school and parents are aware of the school rules.

41. Discipline of students

- (1) The principal of a school, or a body responsible for disciplinary matters, may take disciplinary action against a student of the school if satisfied on reasonable grounds that the student has-
- (a) engaged in unacceptable behaviour; or
 - (b) committed a serious breach of school discipline
- (2) The principal, or a body responsible for disciplinary matters, must not take disciplinary action against a student because the student is pregnant or is a parent.
- (3) The principal, or a body responsible for disciplinary matters, must apply one or more of the following disciplinary actions that is appropriate to the seriousness of the student's conduct:-
- (a) issue a warning to the student;
 - (b) impose a period of detention on the student;
 - (c) restrict or prohibit the student's participation in a school activity or activities;
 - (d) convene a meeting to develop a behaviour plan for the student, attended by-
 - (i). the student;
 - (ii). a parent or parents of the student;
 - (iii). the principal; and
 - (iv). any other person acceptable to the student;
 - (e) counsel the student by a person appointed by the principal and acceptable to the student's parents, who must be-

- (i). a qualified counsellor,
 - (ii). a senior member of the school community; or
 - (iii). a representative of a religious organisation;
- (f) suspend the student from attending the school for a period considered appropriate; or
- (g) expel the student.
- (4) The principal must, as soon as reasonably practicable after the decision is made to take disciplinary action against a student, give written notice to a parent of the student of-
- (a) the disciplinary action that is to be or has been taken; and
 - (b) the reasons for taking the disciplinary action.

42. Review of principal's decision

A student who is a subject of the disciplinary action, or a parent of the student, may apply to the Director General of Education or the governing body, as the case may be, for a review of the decision to expel the student.

43. Offence of administering corporal punishment

- (1) In this section-

'corporal punishment' means physical force applied to punish or correct, and includes any action designed or likely to cause physical pain or discomfort.

- (2) A principal, a member of staff, or any other person teaching or assisting or supporting teaching at school commits an offence if he or she administers corporal punishment to a student of a school and is liable a fine of \$1000 or 6 months imprisonment.

PART VI – TEACHER REGISTRATION

Division 1 — Teacher Registration Committee

44. Teacher Registration Committee

- (1) The Teacher Registration Committee is established.
- (2) The Teacher Registration Committee comprises—
 - (a) the Director General of Education who is the Chairperson; and

- (b) such other senior officers of the Ministry as the Minister may appoint.
- (3) The function of the Teacher Registration Committee is to approve applications for registration under this Part and such other functions conferred on it under this Act.
- (4) Subject to this Act, the Teacher Registration Committee may decide its own procedures.

Division 2— Applications for registration and limited authority

45. Application for registration or limited authority

- (1) A person may apply to the Director General of Education for full registration, provisional registration or a limited authority.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by evidence of payment of the prescribed application fee.
- (3) The Director General of Education may require the person to provide any further information the Director considers necessary.
- (4) Before considering an application the Director General of Education must consult the Teacher Registration Committee as to whether the applicant fulfils each of the requirements for registration or a grant of limited authority.

46. Full registration

The Director General of Education may grant full registration to a person if he or she is satisfied that the person—

- (a) holds an approved teaching qualification;
- (b) has completed at least 1 school year of full-time (or an equivalent period of part-time) teaching to the satisfaction of the Director;
- (c) if regulations prescribe that a minimum standard be achieved in an English proficiency test – has achieved that standard;
- (d) is of good character;
- (e) is physically and mentally fit to teach; and
- (f) complies with other requirements prescribed under the Regulations.

47. Provisional registration

- (1) The Director General of Education may grant provisional registration to a person if he or she is satisfied that the person—

- (a) holds an approved teaching qualification;
 - (b) if regulations prescribe that a minimum standard be achieved in an English proficiency test – has achieved that standard;
 - (c) is of good character;
 - (d) is physically and mentally fit to teach; and
 - (e) complies with other requirements prescribed under the Regulations.
- (2) The period of provisional registration is 12 months.
- (3) The Director General of Education may issue an extension of the provisional registration on such conditions as the Director determines.
- 48. Limited authority**
- (1) A limited authority authorises a person to teach, under the supervision of a teacher with full registration,—
- (a) the subject areas specified in the authority, which may be further limited by year level; or
 - (b) the year levels specified in the authority.
- (2) The Director General of Education may grant a person who does not hold an approved teaching qualification a limited authority to teach if the Director is satisfied that the person—
- (a) has knowledge, experience, qualifications, skills or training considered by the Director to be relevant to—
 - (i). the subject areas in which the person desires to teach; and
 - (ii). the year levels the person desires to teach;
 - (b) if regulations prescribe that a minimum standard be achieved in an English proficiency test – has achieved that standard
 - (c) is of good character; and
 - (d) is physically and mentally fit to teach.
- (3) The period of the limited authority is any period the Director General of Education determines up to 2 years.
- (4) A grant of limited authority may not be extended or renewed, but a person who has previously had limited authority may apply for a fresh grant of limited authority.

49. Director General of Education may impose conditions

- (1) The Director General of Education may impose reasonable conditions on the registration or limited authority granted to a person, which may include (but are not limited to) conditions—
 - (a) requiring the person to complete a training course;
 - (b) requiring the person to be supervised;
 - (c) restricting the subject areas the person may teach; or
 - (d) restricting the year levels the person may teach.
- (2) The Director General of Education may, on application by the person, or at any time on the Director's own initiative, vary or cancel a condition, or impose a condition or further condition, on a person's registration or limited authority.

50. Certificates of registration or limited authority

- (1) The Director General of Education must issue a certificate of full registration in the approved form to a person who is granted full registration.
- (2) The Director General of Education must issue a certificate of provisional registration in the approved form to a person who is granted provisional registration or whose provisional registration is extended.
- (3) The Director General of Education must issue a certificate of limited authority in the approved form to a person who is granted a limited authority.
- (4) A certificate issued under subsection (1) or (2) must state all the relevant information of the teacher issued with a full registration, provisional registration, or limited authority
- (5) The Director General of Education may issue a replacement certificate under this section if satisfied that the original certificate is lost or has been destroyed.

Division 3— Register of teachers

51. Register of teachers

The Director of Education must keep a register of all teachers registered under this Part containing all the necessary details of registered teachers.

52. Notification of change in details

If the details of a teacher's name or place of residence entered in the register of teachers change, the teacher must give written notice to the Director General of Education within 3 months after the change occurs.

53. Inspection of register of teachers

The Director General of Education must, on request and at no charge, give a person an extract of the register of teachers showing the details of a registered teacher or a person with limited authority or both.

54. Removal of name from register of teachers

The Director General of Education may remove a person's name from the register of teachers if—

- (a) the person dies;
- (b) the person's registration or limited authority is cancelled;
- (c) for a person granted provisional registration or whose provisional registration is extended – the period of registration has expired and the person has not applied for extension of registration; or
- (d) for a person with limited authority – the period of limited authority has expired.

Division 4 — Information and Conduct of Inquiries

55. Principal of school to give notice of issue concerning teacher

(1) The principal of a school must give written notice to the Director General of Education if the principal reasonably believes that a teacher employed at the school—

- (a) has contravened any provision of this Part;
- (b) is no longer eligible for registration or a grant of limited authority;
- (c) obtained registration or a grant of limited authority using false or misleading information;
- (d) has his or her qualifications withdrawn; or
- (e) is convicted in Kiribati or elsewhere with a serious offence.

(2) The notice must—

- (a) be given as soon as reasonably practicable after the principal becomes aware of the matters giving rise to his or her belief; and
- (b) set out fully the matters giving rise to the principal's belief.

56. Director General of Education to request information for teacher charged or convicted

(1) The Commissioner of Police must, upon request by the Director General of Education, give written notice if there is a formal complaint received by a

member of the Kiribati Police Service alleging that a teacher has committed a serious offence and a result of the investigation of the complaint does not support proceedings for criminal prosecution.

- (2) The Director of Public Prosecutions or, if the matter is conducted by a police prosecutor, the Commissioner of Police, must give written notice to the Director General of Education, upon request, if a teacher is charged with a serious offence, or a teacher is convicted of a serious offence, or that the prosecution of the charge for that offence is discontinued or there is an acquittal.
- (3) The notice must-
 - (a) be given as soon as reasonably practicable after the occurrence of the event; and
 - (b) set out full details of the event and the circumstances involved.

57. Complaints

A person may complain in writing to the Director General of Education about the professional conduct of a teacher.

58. Inquiry

- (1) The Director General of Education must hold an inquiry in relation to a teacher if he or she-
 - (a) reasonably believes that the teacher may pose a risk of harm to a student;
 - (b) becomes aware that the teacher's qualifications have been withdrawn;
 - (c) reasonably believes the teacher obtained registration or a grant of limited authority using false or misleading information;
 - (d) becomes aware that the teacher has been convicted of a serious offence;
 - (e) receives a complaint about the professional conduct of the teacher under section 57; or
 - (f) otherwise becomes aware of a matter that, in his or her opinion, calls into question whether the teacher is eligible for-
 - (i) registration under section 46 or 47; or
 - (ii) a grant of limited authority under section 48.

- (2). Before deciding whether to hold an inquiry in relation to a teacher, the Director General of Education must consult the Teacher Registration Committee.
- (3). The Director General of Education may conduct or appoint a committee of inquiry to conduct the inquiry consisting of three persons, one of whom must be a senior officer of the Ministry or a principal
- (4). If criminal proceedings have been or are likely to be commenced in relation to the same matter, the inquiry may be suspended until the outcome of the criminal proceedings is known.
- (5). Regulations may provide for rules for conducting the inquiry.

59. Committee of inquiry to report to Director General of Education

- (1) If a committee of inquiry conduct an inquiry, it must report its findings and recommendations to the Director General of Education on completion of the inquiry.
- (2) The Director General of Education, in making a decision in relation to the inquiry, must take the findings and recommendations into consideration.

60. Decision

- (1) As a result of the inquiry, the Director General of Education may decide to-
 - (a) caution the teacher who is the subject of the inquiry;
 - (b) impose a condition or further condition or vary an existing condition on the teacher's registration or limited authority;
 - (c) suspend the teacher's registration or limited authority for any period, not exceeding 2 years, and subject to any conditions;
 - (d) cancel the teacher's registration or limited authority; or
 - (e) take no further action in relation to the subject matter of the inquiry.
- (2) The Director General of Education must give written notice of his or her decision to-
 - (a) the teacher who was the subject of the inquiry; and
 - (b) if the teacher is employed at a school – the principal of the school; and
 - (c) if the inquiry resulted from the making of a complaint – the complainant.

Division 5– Other matters

61. Effect of suspension of registration or limited authority

A teacher whose registration or limited authority is suspended is to be taken not to be a teacher for the period of the suspension, other than for the purposes of this Part.

62. Offences

- (1). A person who is not registered or certified under this Act and teaches at a school is liable to a fine not exceeding \$1000.
- (2). A person who does not have full registration and claims, or otherwise represent in any manner that he or she is registered or certified under this Act is liable to a fine of \$500.

PART VII – REVIEWS AND APPEALS

63. Reviews

- (1) Any person aggrieved by the decision of the Director General of Education may within 30 days apply in writing to have the decision reviewed by the Minister.
- (2) The Minister's decision on any matter under this Act is final.

64. Appeals

Any person aggrieved by the decision of the Minister under this Act, may within 30 days appeal to the High Court on a point of law only.

PART VIII – MISCELLANEOUS PROVISIONS

Division 1 – General Offences

65. Offences on school premises

- (1). In this section –
'school premises' means land (including a building or structure on the land)
- (2). A person who trespasses on the school premises is liable to a fine not exceeding \$100.
- (3). A person who is not a student of the school and behaves in an offensive or disorderly manner on the school premises is liable to a fine not exceeding \$500.
- (4). A person commits an offence if the person is on school premises and is directed to leave the premises by a police officer, the principal of the school or

a person authorised by the principal and fails to leave the premises in accordance with the direction is liable to a fine not exceeding \$500 .

- (5). A person who sells a product containing alcohol or tobacco on school premises is liable to a penalty not exceeding \$500.

66. Giving misleading information

- (1). In this section—

‘misleading information’ means information that is misleading in a material particular because it—

- (a) does not include relevant information; or
- (b) includes misinformation.

- (2). A person commits an offence and is liable to a fine not exceeding \$2000 and 12 months’ imprisonment if the person—

- (a) gives misleading information to another person who is exercising powers or performing functions under this Act; and
- (b) knows the other person is acting in an official capacity; and
- (c) knows the information is misleading.

- (3). A person commits an offence and is liable to a fine not exceeding \$1000 and 12 months’ imprisonment if the person—

- (a) gives a document containing misleading information to another person who is exercising powers or performing functions under this Act; and
- (b) knows the other person is acting in an official capacity; and
- (c) knows the document contains misleading information.

- (4). Subsection (3) does not apply if the person, when giving the document—

- (a) draws the misleading aspect of the document to the other person’s attention; and
- (b) to the extent to which the person can reasonably do so – gives the other person the information necessary to correct the document.

67. Obstruction of official

A person commits an offence and is liable to a fine not exceeding \$1000 or 6 months’ imprisonment if—

- (a) the person intentionally obstructs another person;
- (b) and that person obstructed is attempting to exercise a power or perform a function under this Act; and

- (c) the person knows the person obstructed is attempting to exercise a power or perform a function under this Act.

Division 2 — Other matters

68. Extended jurisdiction of magistrates' courts

A magistrates' court has jurisdiction to hear any criminal proceedings for an offence under this Act if the alleged conduct giving rise to the proceedings occurred within the area within which the court has jurisdiction.

69. Protection from liability

In this section—

'exercise', of a power, includes the purported exercise of the power;

'performance', of a function, includes the purported performance of the function.

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act.
- (2) Subsection (2) does not affect any liability the Republic would, apart from that subsection, have for the act or omission.

70. School hours

- (1) The regulations may prescribe the hours during which students are required to attend school.
- (2) The regulations may prescribe different school hours for different year levels.

71. Approved forms, standards, qualifications and other requirements

- (1) The Minister may approve—
 - (a) forms for this Act;
 - (b) teacher service standards;
 - (c) teaching qualifications for registration as a teacher;
 - (d) a Code of Ethics for teachers;
 - (e) the annual school calendar, including the dates for school holidays;
and
 - (f) any other matter that the Minister considers reasonably necessary for the implementation of this Act and national education policies.

72. Secretary may issue guidelines

The Secretary of Education may issue guidelines to assist officers of the Ministry and other persons with responsibility for the implementation of this Act.

73. Regulations

- (1). The Minister, acting in accordance with the advice of the Cabinet, may make regulations under this Act prescribing matters—
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to give effect to this Act.
- (2). Without limiting subsection (1), the regulations may prescribe the following—
 - (a) fees for services (other than a fee that is prohibited under section);
 - (b) the rules for the operation of a scheme to provide support for students in financial need;
 - (c) eligibility criteria for admission to a selective school;
 - (d) rules for the conduct of examinations;
 - (e) the criteria for the award of certificates to a student upon completion of a specified educational standard.
- (3). Regulations under this Act may prescribe a penalty for an offence against the regulations consisting of—
 - (a) a fine or imprisonment; or
 - (b) a fine and imprisonment.
- (4). A penalty prescribed for an offence against regulations made under this Act must not exceed—
 - (a) for a fine – \$10,000; or
 - (b) for a term of imprisonment – 3 years.

Part IX – REPEAL AND TRANSITIONAL MATTERS

Division 1— Repeal

74. Repeal

The following are repealed—

- (a) Education Ordinance (Cap.29); and

- (b) all subsidiary legislations made under the Ordinance.

Division 2— Consequential amendments

75. Amendment of the *Local Government Act*

In the Schedule to the *Local Government Act* 1984, repeal item 3(d).

76. Amendment of the *Penal Code*

In section 226(4) of the *Penal Code* (Cap.67) delete “, teacher,”.

Division 3— Transitional matters

77. Transitional arrangements for teachers

A person who is teaching at a school in the previous school year may continue to teach for up to 2 years after the commencement date without being registered or having a limited authority to teach.

78. Transitional arrangements for schools

A school operating in the previous school year is taken to have been registered under this Act.

79. Transitional regulations

- (1) The regulations may make provision (a ‘transitional regulation’) about a matter for which—
 - (a) it is necessary to make provision to achieve the transition from the operation of the repealed Ordinance to this Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a date not earlier than the commencement date.
- (3) However, to the extent a transitional regulation has retrospective operation, it must not operate to the disadvantage of a person (other than the Republic) by detrimentally affecting the person’s rights or imposing liabilities on the person.
- (4) This section expires 12 months after the commencement date.

EDUCATION ACT 2013
EXPLANATORY MEMORANDUM

Background and Objectives

The two main objects of the Education Act 2013 are to improve the quality of education in Kiribati, and to promote compulsory education. The Act seeks to make available to every student in Kiribati an education that will maximise the student's educational potential and enable the student to become an effective and informed member of the community.

The Act seeks to achieve this through measures such as requiring adherence by schools to the national educational framework and approved syllabuses, requiring all teachers to be qualified and registered, providing for the registration of all schools, imposing minimum standards on all schools, and placing responsibilities on parents and the Government in relation to the education of children of compulsory school age.

The current Education Ordinance has been in force since 1976. Its provisions are outdated and cumbersome to administer. In 2006 the Ministry of Education commenced work towards an Education Bill that would be suitable for Kiribati, and that would enable us to improve the standard of teaching and the standard of education. This Act is the end result of a long internal process of developing policy standards that suit the needs of Kiribati in terms of regulating and improving primary and secondary education, and translating that policy into draft legislation.

The Act provides for primary and secondary education, and for the registration of all schools, be they Government's or private's. The Act reaffirms the right of every child to education, and the responsibility of every parent to choose a suitable educational environment for their child.

PART I – PRELIMINARY MATTERS

Part I begins with three standard provisions: short title, commencement, and the binding of the Republic. The commencement provision provides that the Act will commence on 1 January 2014. Section 4 states the objects of the Act already referred to. Section 5 requires every person performing functions under the Act to keep the best interests of children as their paramount consideration.

Section 6 of the Act provides definitions of certain words and expressions used in the Act.

PART II – ADMINISTRATION OF THE SCHOOL SYSTEM

Part II of the Act provides for a number of key actors in the implementation of the Act. Section 8 states that the Secretary of Education is the Director General of Education for the purposes of the Act. The Minister appoints officers of the Ministry to be school

inspectors and authorised officers under section 9 and are to be issued with identification.

Section 10 provides for the establishment and functions of the new Advisory Council on Education (ACE). ACE is intended to be a broadly representative body to advise the Minister, Secretary and Director of Education on the performance of their functions under the Act.

PART III – ENROLMENT AND ATTENDANCE OF STUDENTS

This Part deals with the enrolment of students and provides the core of the compulsory education regime. The Part is divided into four divisions.

Division 1 covers general enrolment issues. Section 11 enshrines the basic principle of free public education for children of compulsory school age, which is a right guaranteed in the Convention on the Rights of the Child. Section 12 prohibits discrimination in enrolment for government schools, an important human rights obligation for Kiribati. Section 14 requires each parent of a child of compulsory school age to ensure that the child is enrolled at a school until the child completes the compulsory education period. The compulsory education period is provided for in section 6 (Part II). A child will begin school in the year in which they reach 6 years and 7 months, and must stay in school until the end of the year they reach the age of 15 or they complete Year 9 (the end of junior secondary), whichever comes first. The age for starting school is not changing, but the upper age is an increase from the present situation, which allows a child to leave school as early as their 14th birthday. Under the present arrangements a child could leave school after receiving only 7 1/2 years of education, which falls short of the Government's objective to provide 9 years of compulsory schooling.

The obligation to enrol does not apply where a certificate of exemption has been issued in respect of the child under section 12(3). The Director of Education may grant a certificate of exemption in an approved form.

In order to ensure the integrity of the compulsory enrolment requirements, a parent wishing to withdraw the enrolment of a child of compulsory school age must do so in writing (section 14). A principal who is not satisfied that appropriate arrangements have been made for the future education of the child must report their concerns to the Director General of Education.

Section 15 requires each parent of a child of compulsory school age to ensure the child attends school on every school day if the child is enrolled in a school, unless the child is for some reason not permitted to attend or a parent has provided the principal with an acceptable reason for the child's non-attendance.

It is an offence for a parent to contravene section 12(1) (obligation to ensure enrolment) or section 15(1) (obligation to ensure attendance of enrolled student).

Section 16 reinforces the compulsory schooling requirement by making it an offence to employ a child of compulsory school age during school hours. The maximum penalty is a fine of \$500. This does not apply to employment of a child in respect of whom a certificate of exemption has been issued. This provision complements section 84 of the Employment Ordinance (Cap.30), which prohibits the employment of any child under 14 years of age in any circumstances.

A parent cannot be prosecuted for breaching their obligation under section 12 (enrolment) or 15 (attendance) unless reasonable steps have been taken to resolve the parent's failure to comply, and the parent has been properly warned about the penalties that may be imposed for further contravention (section 17). Prosecution will be a matter of last resort.

The principal is required under section 13 to keep a register for enrolment.

Division 2 concerns administration and operation of the schools. Section 18 makes general provision for the operation of schools, with the Director General of Education responsible to the Minister for their operation.

Section 19 covers the provision of education for students who are above the compulsory school age or with disabilities, and obliges the Minister to use its his or her best endeavours, within available resources, to facilitate access to education for these students, under the principle of inclusive education. The Minister (acting in accordance with the advice of the Cabinet) may establish centres for special education.

Section 20 provides that education in schools must be non-sectarian and secular, except where the Minister, acting on the advice of Cabinet, permits otherwise. This is to acknowledge the right of religious denominations to establish their own, schools, mostly at the junior and senior secondary levels where education may be sectarian. Non sectarian and secular education may however, include the study of different religions as opposed to education in a particular religion. This section gives effect to the protection of the right to freedom of conscience, thought and religion enshrined in section 11 of the Constitution.

Section 21 provides a limited exception to the provision on secular education, by permitting religious education. But a teacher must not be compelled to give religious instructions or to be present when religion education is on. The principal must comply with the wishes of a student's parents.

Section 22 makes it an offence for denying education to a student because his or her parent does not make a contribution to the school.

Section 23 makes provision for the establishment of school committees, intended to support the principal and staff of the school in the performance of their function.

PART IV – REGISTRATION OF SCHOOLS

The Act provides for the compulsory registration of all schools. The present practice of the Government establishing its own schools ceases. Like any operator, the Government is required to go through existing procedures to have its schools registered. A person wishing to register school may apply to the Minister, and section 25 sets out the requirements for the application. The criteria for registration must be followed, which are dictated, as a matter of policy.

The Director of Education must keep a register of all schools (section 24). Registration is not time-limited, but a school that contravenes a condition of its registration may be placed on probation for up to 2 years by the Minister under section 26. The operator of the school is required to remedy the deficiencies identified. If, after the period of probation, the Minister is satisfied that the measures adopted are sufficient to address the deficiencies, the Minister may re-instate the school's registration.

Section 27 provides for the cancellation of the registration of a school if, after a period of probation, the school has not been able to address the deficiencies earlier identified in the school's operation. The decision to cancel a school's registration is made by the Minister, acting in accordance with the advice of the Cabinet.

Sections 28 and 29 create offences relating to operating a school not registered under this Act.

PART V – STANDARDS APPLICABLE TO ALL SCHOOLS

This Part of the Act prescribes standards relating to curriculum and assessment, school environment, health, school inspections, discipline and reporting that are applicable to all schools.

Division 1 concerns the national educational framework and approved syllabuses. The Minister must approve a national educational framework, as well as syllabuses for each subject area (section 30). The principal of a school must ensure that the school adheres to the national educational framework and all relevant approved syllabuses, and the Director of Education must monitor the principal's compliance (section 31).

Division 2 concerns the school environment, and requires the principal of a school to ensure that the school complies with prescribed health and safety standards, but the Director General of Education may waive any or all of those standards based on the school site or the conditions of its buildings. The principal must ensure that the school environment is clean, well-maintained, safe and secure (section 32). If a situation arises that presents a risk to the health or safety of staff and students of a school, the principal may recommend to the appropriate authority that the school be temporarily closed (section 33).

Division 3 covers health. Section 34 requires parents to notify the principal of their child's school if the child has a contagious disease. The principal of a school may issue a notice under section 35 to the parents of a student who is or appears to be carrying a contagious disease, directing that the student must not attend school until cleared to return by a health practitioner.

Division 4 deals with school inspections. Under section 36 a school inspector may enter a school at any reasonable time to inspect the school or anything in it, and the inspector must report back to the Director General of Education with his or her findings within 14 days.

Division 5 sets out extensive measures concerning the discipline of students. The Division applies to the behaviour of students while on school premises and during school activities away from school premises (section 37). Section 43 sets out various important guidelines to be taken into consideration when applying disciplinary actions. Of significance is the principle that school discipline must be administered in a manner that is non-discriminatory and consistent with a student's human dignity and other rights. This principle is in keeping with our obligations as a party to both the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). An example of its application can be seen in the provision that prohibits the disciplining of a student because she is pregnant or is a parent (section 41). Kiribati is obliged to ensure that male and female students are treated equally, and the previous practice of expelling students who become pregnant is inconsistent with this obligation. Another significant guideline for applying disciplinary action is that removing a student from school for a long time, through suspension or expulsion should be applied as measure last resort.

Section 40 provides for the adoption and publication of school rules.

The Student or a parent of a student may apply, under section 42 for a review of principal decision to expel to the Director General of Education or to the appropriate body who may review the decision to expel.

Corporal punishment of students by a principal or teacher is an offence carrying a maximum penalty of a \$1000 fine or imprisonment for 6 months (section 43).

PART VI –TEACHER REGISTRATION

This Part provides for the registration of teachers. The purpose of having rules for teacher registration is to ensure that all persons who teach in schools are of good character, that they are suitably qualified to provide quality education, and that teachers who are not fit to teach can be removed from the register.

Division 1 establishes the Teacher Registration Committee, which will approve all applications for registration to teach and advises the Director General of Education in the performance of his or her functions under this Part.

Division 2 establishes the basic requirement for a teacher to be registered, and makes offence to teach without being registered or supervised, or for a person to falsely claim to be registered (section 63). A person may apply to the Director General for: full registration (available to a person who has an approved teaching qualification and at least 12 months' teaching experience); provisional registration (available to a person who has an approved teaching qualification but lacks experience); or a limited authority to teach, (available to a person who does not have an approved teaching qualification but who has relevant knowledge, experience, qualifications, skills or training).

The transitional provisions (see Part IX, below) provide for transition to the new scheme over 2 years, to give the current cohort of teachers time to comply with the requirements. In order to grant any form of registration, the Director General of Education must be satisfied that the person is of good character. Under section 49 the Director General of Education may impose conditions on registration, for example, restricting the subjects that a person may teach. Certificates of registration or limited authority are to be issued (section 50).

Division 3 requires the Director General of Education to keep a register of teachers, containing the necessary details of registered teachers (section 51) as well as making provision for limited inspection of the register (section 53) and removing the names from the register of teachers (section 54).

Division 5 provides the machinery for the Director General of education to investigate allegations against teachers. Principals are obliged to inform the Director General of Education of any cause for concern, and in the event of withdrawal of the teacher's qualifications or if he or she has been charged with a sexual offence or convicted of a serious offence (section 55). The Commissioner of Police and the Director of Public Prosecutions must notify the Director of Education upon request of any relevant criminal proceedings involving a teacher (section 56).

Section 57 enables a person to complain to the Director General of Education about the professional conduct of a teacher, and section 58 sets out the circumstances in which the Director General must hold an inquiry in respect of a teacher. These circumstances include: where a teacher may pose a risk of harm to a student; if the teacher's qualifications have been withdrawn; if the teacher is alleged to have obtained registration using false or misleading information; if the teacher has been convicted of a serious offence; when a complaint has been made; and if there is any question as to whether the teacher is eligible for registration. The Director General of Education may conduct the inquiry, or a three-person committee of inquiry can be appointed.

Clause 60 sets out the options the Director General of Education has as a result of an inquiry, including a decision to suspend or cancel the teacher's registration, to caution the teacher, or to take no further action.

PART VII – REVIEWS AND APPEALS

Part VII of the Act sets out the rights of persons affected by specified decisions to apply for review (section 63) or appeal (section 65) against the decisions.

PART VIII – MISCELLANEOUS PROVISIONS

This Part covers Miscellaneous provisions.

Division 1 makes provision for general offences: offences on school premises, including trespassing, offensive or disorderly behaviour, and selling alcohol or tobacco; an offence of giving misleading information to a person who is exercising powers or performing functions under the Act; and obstructing an official. The penalty for providing false or misleading information is a fine of up to \$1,000 or 6 months imprisonment. The offence of providing false or misleading information could involve, for example, the commission of serious fraud in relation to making an application for registration as a teacher or registration of a non-government school.

Division 2 deals with a number of other matters. Section 68 extends the jurisdiction of the magistrates' courts to hear proceedings for offences under the Act. Section 69 protects any person who exercises a power or performs a function under the Act (for example, the Director of Education or a principal) from criminal or civil liability for anything done or omitted to be done in good faith.

Section 70 allows for school hours to be prescribed by regulation; while sections 71, 72 and 73 are standard administrative provisions: empowering the Minister to approve forms and other documents; empowering the Secretary to issue guidelines; and empowering the Minister (acting in accordance with the advice of the Cabinet) to make regulations.

PART IX – REPEAL AND TRANSITIONAL PROVISIONS

Part IX repeals the Education Ordinance, makes minor consequential amendments to the Local Government Act and the Penal Code, and provides for transitional matters. Under section 77, teachers will have 2 years to comply with the new registration requirements, and they may continue to teach in the meantime.

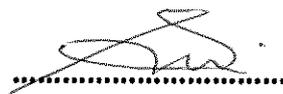
Section 78 provides that schools operating immediately before the entry into force of the Act will be taken to be established and registered under the Act.

Transitional regulations may be made under section 79, to deal with any unforeseen situations arising during the initial transition period.

Titabu Tabane
Attorney General

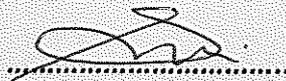
CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 10th December 2013 and is found by me to be a true and correctly printed copy of the said Bill.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this ³⁰..... day of
January 2014.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu