

EDUCATION ACT 1989

1989/130 - January 1989

| | |
|---|--|
| <p>1 Short title</p> <p>2 Interpretation</p> <p style="text-align: center;">PART 1 CENTRAL ADMINISTRATION</p> <p>3 Department of Education</p> <p>4 Cabinet's powers and responsibilities</p> <p>5 General duties of the Minister</p> <p>6 Delegation of Minister's powers</p> <p>7 Director of Education</p> <p>8 Appointment of other officers</p> <p>9 Delegation of Director's powers</p> <p>10 Expenses of administration to be appropriated by the Assembly</p> <p style="text-align: center;">PART 2 LOCAL ADMINISTRATION</p> <p>11 Prescribing zones of residence</p> <p>12 School committees</p> <p>13 Qualifications of members of school committees</p> <p>14 Vacancies of school committees</p> <p>15 Meetings of committees</p> <p>16 Committee to have management of school</p> <p>17 School funds</p> <p style="text-align: center;">PART 3 ESTABLISHMENT OF SCHOOLS</p> <p>18 Establishment of Government schools</p> <p>19 Fees for education</p> <p>20 Establishment and registration of private schools</p> <p>21 Deregistration of private schools</p> <p>22 School principals</p> <p>23 Appointment of teachers and other staff</p> <p style="text-align: center;">PART 4 ENROLMENT AND ATTENDANCE OF PUPILS</p> <p>24 Enrolment and attendance to be compulsory</p> | <p>25 Parents' responsibilities</p> <p>26 Exemption from enrolment</p> <p>27 Child be sent to a special school</p> <p>28 Penalty for failure to enrol child</p> <p>29 Exemption from attendance</p> <p>29A Exemption from attendance by children who have attained the age of 14 years</p> <p>30 Penalty for irregular attendance</p> <p>31 Principal to keep records</p> <p>32 Inspection of attendance</p> <p>33 Restriction on enrolment</p> <p>34 Suspension and expulsion</p> <p>35 Forbidding attendance in certain cases</p> <p style="text-align: center;">PART 5 SCHOOL CLASSES, HOURS AND TERMS</p> <p>36 Classification of pupils</p> <p>37 Hours and terms of attendance</p> <p style="text-align: center;">PART 6 COURSES OF INSTRUCTION</p> <p>38 Courses in Government schools</p> <p>39 Religious instruction</p> <p style="text-align: center;">PART 7 INSPECTION OF SCHOOLS</p> <p>40 Inspection of schools</p> <p>41 Schools to be open for inspection</p> <p>42 Inspection of school accounts</p> <p style="text-align: center;">PART 8 GENERAL PROVISIONS</p> <p>43 Guidance and counseling</p> <p>44 Closing of schools in emergency</p> <p>45 Wilful disturbance of schools</p> <p>46 Transport assistance</p> <p>47 Medical inspection</p> <p>48 Regulations</p> |
|---|--|

**To make provision for the education of the people of Niue under article 61(2)
of the Niue Constitution**

1 Short title

This is the Education Act 1989.

2 Interpretation

In this Act –

“Department” means the Department of Education constituted by this Act;

“Director” means the Director of Education and includes any person appointed as deputy of the Director;

“government school” means any school maintained from public funds and controlled and administered by the Department under this Act;

“Minister” means the Minister of Education;

“parent” in relation to any child, includes the legal adoptive parent or legal guardian of that child and any person who has actual custody of that child;

“primary school” means a school providing a 6 year course, or an 8 year course for pupils entering the school between the ages of 5 and 7 years;

“private school” means any private school that is registered under this Act;

“pupil” means any person who is enrolled on the register of pupils of any school and who has not attained the age of 21 years;

“school” means any institution which not fewer than 8 pupils or other persons normally attend for their education: and includes the assembly of not fewer than eight persons for that purpose; and also includes any institution from which regular educational instruction is given by correspondence; and also includes any class, division or section of any school; but does not include –

(a) Any institution or assembly in which instruction is given which is wholly or mainly of a religious character; or

(b) Any institution controlled by a religious organisation for the purpose of training persons for the ministry of religion or for admission to a religious order;

“school age” in relation to any child, means any age between the age of 5 years and the age of 16 years or any earlier age at which the child ceases to be required to have his name enrolled on the register of a school under Part 4; or in the case of any child who is deemed by the Director (after special examination by a medical officer or other officer appointed for the purpose) to require special tuition, between such ages as the Director may from time to time determine, but in no case shall any person who has attained the age of 21 years be deemed to be of school age;

“school committee” means a body of persons established under Part 2.

PART 1

CENTRAL ADMINISTRATION

3 Department of Education

There shall be a department of the Government of Niue called the Department of Education.

4 Cabinet's powers and responsibilities

In pursuance of the responsibilities of Cabinet to establish and maintain schools for the education of the people of Niue under article 61(2) of the Constitution, Cabinet shall through the Minister have control and direction of the Department and of the officers thereof, and, subject to this Act, shall generally administer this Act.

5 General duties of the Minister

It shall be the duty of the Minister to promote the education of the people of Niue, and subject to this Act, and to the Constitution to control, administer and maintain all Government schools and to exercise such supervisory and other functions in relation to private schools as may be provided under this Act.

6 Delegation of Minister's powers

(1) The Minister may by writing under his hand either generally or particularly, delegate to the Director all or any of the powers which are conferred on the Minister by this Act or any other enactment, including powers delegated under any enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 9.

(2) Subject to any general or special directions given or conditions or restrictions attached by the Minister, the Director may exercise any powers delegated as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Where the Director purports to act under any delegation under this section, he shall be presumed to be acting on the terms of the delegation in the absence of proof to the contrary.

(4) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

(5) (a) Unless and until any such delegation is revoked, it shall continue in force under tenor.

(b) In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Director ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Director or, if there is no Director in office or if the Director is absent from duty, to the person for the time being acting as Director.

7 Director of Education

A Director of Education, who shall be the administrative head of the Department of Education, shall be appointed by the Niue Public Service Commission.

8 Appointment of other officers

The Niue Public Service Commission may appoint as officers of the Department such Deputy Directors, Inspectors of Schools, and other officers and employees as may be necessary for the purposes of this Act.

9 Delegation of Director's powers

- (1) (a) The Director may by writing either generally or particularly delegate to such officer or officers or employee or employees of the Department as he thinks fit all or any of the powers exercisable by him under this Act or any other enactment, including any powers delegated to him under this Act or any other enactment, but not including this present power of delegation.
- (b) The Director shall not delegate any power delegated to him by the Minister without the written consent of the Minister:
- (2) Subject to any general or special directions given or conditions or restrictions attached by the Director, the officer or employee to whom any powers as delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.
- (3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director.
- (4) Any such delegation shall until revoked, continue in force under its tenor, notwithstanding the fact that the Director by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Director.

10 Expenses of administration to be appropriated by the Assembly

All amounts payable for the expenses of the Department, and all amounts payable for such other purposes as may be necessary to give effect to this Act, shall be paid out of the money appropriated by the Assembly for the purposes of this Act.

PART 2**LOCAL ADMINISTRATION****11 Prescribing zones of residence**

- (1) The Director may, with the approval of the Minister, prescribe zones of residence of pupils, and any pupil ordinarily residing within any such zone who is not exempted from attendance at a school under Part 4 or who is not attending a private school shall attend the Government school which the Director prescribes as appropriate to that zone.
- (2) Notwithstanding subsection (1) the Director may, with the approval of the Minister, authorise a pupil to attend a school outside such pupil's zone of residence if it is proven to the satisfaction of the Director that it is in the best interests of the pupil to attend that other school.
- (3) For the purposes of this section a pupil shall be deemed to be ordinarily residing in a zone if he is actually residing in that zone.
- (4) The boundaries of any such zone shall be notified by the Director in the *Gazette*.

12 School committees

- (1) (a) For every Government school established under this Act, there shall be a school committee comprising of 5 members 4 of whom to be elected by the parents whose children attend that school in the manner as may be prescribed by regulations made under this Act.
- (b) The Principal of each school shall be an ex officio member of the Committee.

(c) Where there is only one high school and one primary school for the whole of Niue, then the school committee in each case shall consist of one representative from each village.

(2) If at any time the parents referred to in subsection (1) refuse or neglect to elect a committee, or if for any cause whatever there is no school committee for any such school, the Director shall, until such time when a school committee is elected, be responsible for that school and exercise all the powers and functions of the school committee for that school as provided under this Act.

(3) Every school committee shall hold office for a term of one year, and any sitting member may be re-elected for any subsequent term or terms.

(4) Elections for school committees shall be held at the beginning of every calendar year and in no case later than April in each year.

13 Qualifications of members of school committees

(1) A person shall be incapable of becoming a member of a school committee if that person is –

- (a) Mentally disordered under Part 26 of the Niue Act 1966; or
- (b) A bankrupt who has not obtained an order of discharge or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled; or
- (c) A person convicted of any offence punishable by imprisonment, unless he has received a full pardon or has served his sentence or otherwise suffered the penalty imposed upon him.

(2) (a) Subject to subsection (1) every parent whose child attends a Government school shall be eligible to be elected a member of the school committee for that school and no other person shall be so qualified.

(b) A parent can only be a member of one school committee at any one time.

14 Vacancies on school committees

(1) The office of any member of a school committee shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy, if the member –

- (a) Dies; or
- (b) Resigns from office by writing under the member's hand delivered to the Chairman of the committee; or
- (c) Is absent without leave from 3 consecutive meetings of the committee; or
- (d) Becomes a mentally disordered person under Part 26 of the Niue Act 1966; or
- (e) Is adjudged a bankrupt; or
- (f) Is convicted of any offence punishable by imprisonment, and is sentenced to imprisonment for that offence.

(2) Every extraordinary vacancy on a school committee shall be filled by the election of a new member in the manner prescribed, and the member then elected shall retain office so long as the vacating member would have retained office if no such vacancy had occurred.

15 Meetings of Committees

(1) Each school committee shall hold its meetings, elect a chairman, appoint officers, and conduct its proceedings in such manner as it may determine, except where it is provided for by regulations.

(2) If at any time any committee fails from any cause for a period of 3 months to hold a meeting it shall cease to exist and section 12(2) shall apply accordingly.

16 Committee to have management of schools

(1) The committee of every Government school shall have the management of that school and shall ensure that the school is in good repair and order, and to provide for the proper cleaning of every such school and the outbuildings thereof, and make all necessary arrangements in regard to sanitary matters and to the care of the school grounds, gates and fences.

(2) Every school committee shall expend, in accordance with the instructions of the Director –

- (a) The grants made to it by the Director for incidental expenses; and
- (b) The grants made to it by the Director for special purposes.

(3) Subject to the terms of any trust, all other money received by the committee shall be used in such manner as the Committee thinks fit for the purposes of the school.

17 School funds

(1) The Director shall from year to year make grants to the committee of every school for incidental expenses and for any special purpose under regulations that may be made under this Act.

(2) Such funds obtained under subsection (1) and any donations, subscriptions, and all other money which may be received by the committee for the purposes of this Act shall form the School fund for that school, and every such School Fund shall be kept under regulations under this Act.

(3) Where any school committee ceases to function owing to the closing of the school the whole of the School Fund in the hands of the committee, after meeting its outstanding liabilities shall be paid to the Department and credited to the Department special fund for grants to committees for incidental expenses.

(4) The accounts of every school committee shall be audited by the Government Auditor under article 60 of the Constitution.

PART 3

ESTABLISHMENT OF SCHOOLS

18 Establishment of Government schools

(1) There shall be established in Niue such Government schools, institutions, classes, etc, as Cabinet considers necessary for the purposes of -

- (a) Providing pre-school education in the form of kindergartens, playcentres, and similar institutions;
- (b) Providing for primary education;
- (c) Providing for intermediate and secondary education;
- (d) Providing for special education such as for mentally and physically handicapped children;
- (e) Providing for further and or continuing education such as in the form of community colleges, etc;
- (f) Providing for the training of teachers;
- (g) Providing for the training of technical skills, trades, including cultural arts and crafts;
- (h) Providing for any other form of education or instruction which the Cabinet may determine as necessary and appropriate for the people of Niue.

(2) The Director shall advise the Minister as to the number and location of schools and teachers and as to the courses of instruction, which he believes to be necessary in order that the education of the people of Niue may be satisfactorily promoted, taking into account the aims and objects of education as Cabinet may direct or approve.

19 Fees for education

- (1) All education provided in Government schools shall be free.
- (2) Cabinet may by regulations require fees to be paid in respect of certain schools, institutions or classes of learning and also prescribe the nature and level of fees to be paid.

20 Establishment and registration of private schools

(1) Cabinet may, on the application of any person or body of persons desirous of establishing a private school, approve the establishment of such school upon such terms and conditions as Cabinet deems fit.

- (2) (a) Every such application shall be made to the Director who may require the provision of any further information as the Director may require.
- (b) Upon satisfaction that all relevant information pertaining to the application have been obtained, the Director shall as soon as practicable forward the application, together with any recommendations, to the Minister for consideration by Cabinet.
- (3) On the approval of the application by Cabinet, the Director shall accordingly register the school as a private school and the registration shall be notified by him in the *Gazette*.

21 Deregistration of private schools

(1) The Minister, with the approval of Cabinet, may cancel the registration of a private school if the Minister is satisfied on advice received from the Director that –

- (a) The school is conducted inefficiently or in a manner which is or is likely to be detrimental to the physical, mental, or moral welfare of the pupils attending; or
- (b) Any instruction has been imparted therein to any pupil which is prejudicial to the peace, order and good government of Niue; or
- (c) The school is carried on in premises which do not conform with the acceptable standards of health and hygiene.

(2) The Director shall give notice in writing of the cancellation of registration of any private school to the management of the school, and any such school shall be closed by the management not later than 4 days after the receipt of such notice. The Director shall also notify the cancellation of registration in the *Gazette*.

(3) The management of any private school who contravenes subsection (2) shall be guilty of an offence under this section and upon conviction shall be liable to a fine of 0.5 penalty units for every day they remain in breach.

22 School principals

(1) Every Government school shall be under the control and supervision of a Principal appointed by the Niue Public Service Commission.

(2) The person holding office as Principal of each school at the commencement of this Act shall be deemed to have been appointed hereunder.

(3) The Principal shall be responsible for the care, safety, control and discipline of each pupil attending that school.

(4) The Principal of every Government school, shall in carrying out his duties and functions under this Act or in carrying out such further duties and functions as the Director may direct, be responsible to the Director.

23 Appointment of teachers and other staff

There may be appointed by the Niue Public Service Commission such deputy principals, teachers and special education teachers and other staff to teach and carry out other duties in the Government schools as may be appropriate.

PART 4

ENROLMENT AND ATTENDANCE OF PUPILS

24 Enrolment and attendance to be compulsory

(1) Every child of school age who is in Niue and is ordinarily resident in Niue shall, unless exempted under this Part be enrolled at and shall attend, whenever it is open, the Government school which is appropriate to his zone of residence, or as directed by the Director under section 11(2) or a private school, or a special school or any other form of tuition as the Director deems necessary, during the whole of the period commencing on the child's fifth birthday (or on the next ensuing day on which any such school is open) and ending on the child's sixteenth birthday.

(2) Notwithstanding subsection (1) any child who will turn 5 during the duration of any school term shall be entitled to enrol at the beginning of that school term.

25 Parents' responsibilities

It shall be the duty of each parent of any child of school age who is in Niue and is ordinarily resident in Niue to arrange for the enrolment of that child as a pupil at a school and to cause the child to attend that school and remain at school during the period provided for in section 24, on every day on which the school is open and during any subsequent period for which that child remains enrolled as a pupil at the school, unless the child is unable to attend or remain at school, on any day by reason of sickness or illness of parent, or other sufficient cause.

26 Exemption from enrolment

(1) The parent of any child who has not completed his primary education may apply for and receive from the principal of the Government primary school nearest to his place of residence, a certificate of exemption under this section.

(2) The parent of any child who has completed his primary education may apply for and receive from the principal of the secondary school nearest to his place of residence, a certificate of exemption under this section.

(3) Every such certificate of exemption shall exempt the child from the obligation to have his name enrolled on the register of a school.

(4) No certificate of exemption shall be granted under this section, except upon the ground –

(a) That the child is elsewhere under instruction as regular and as efficient as in a Government school; or

(b) That the child is unable to attend school regularly or is unable to be educated by reason of physical or mental handicap.

(5) Any parent who is dissatisfied with any refusal to grant a certificate of exemption may appeal to the Director who may confirm or overrule the refusal.

(6) Every certificate of exemption given under this section shall state the ground of exemption, and a copy of every such certificate shall be forwarded to the Director within 14 days after its issue.

(7) The Director may cancel any certificate of exemption from enrolment granted under this section if he considers that the ground on which the certificate of exemption was granted no longer exists or has become in the particular case no longer such as to warrant the continuance of the exemption.

(8) Where any certificate of exemption from enrolment is granted on the ground specified in subsection (4)(b), the Director may, if he considers that the child would benefit from special education, revoke the certificate of exemption and, by notice in writing, call upon the parent of the child to have the name of the child enrolled on the register of any special school, special class, or correspondence school, or any recognised occupational group providing special facilities for the education of such children.

27 Child be sent to a special school

(1) It shall be the duty of the parent of every child who is of school age and is suffering from disability of body or mind of such magnitude as to require special education to take steps to provide efficient and suitable education for the child.

(2) In any case where the parent of the child fails to provide that education for the child, or is deemed by the Director to be unable to provide that education, the Director may direct that the child be sent to such special school, or class, or other institution providing special education as he thinks fit.

28 Penalty for failure to enrol child

(1) Where a child is required to be enrolled under this Act, the parent of the child commits an offence and is liable on conviction to a fine not exceeding 1 penalty unit.

(2) The payment of any such fine shall not be a bar to further proceedings in case of further default.

29 Exemption from attendance

(1) The parent of any child may apply for and receive a certificate of exemption from attendance from the Principal of the school at which the child is enrolled.

(2) Every such certificate of exemption from attendance shall exempt the child to whom it relates from attendance in whole or part at school.

(3) No certificate of exemption from attendance shall be granted under this section except upon the ground –

(a) That the child is unable to attend school by reason of sickness, danger of infection, infirmity, severe stress of weather, sudden and serious illness of a parent or other sufficient cause; or

(b) That the road by which the child has to travel to school is not sufficiently passable.

(4) Any parent who is dissatisfied with any refusal to grant a certificate of exemption from attendance may appeal to the Director who may confirm or overrule the refusal.

(5) (a) Every certificate of exemption from attendance shall state the ground of the exemption and shall be for such period only as the circumstances require; and no such certificate of exemption shall be granted for a longer period than 3 months, but any such certificate may be renewed for a like period during the continuance of the conditions for which the exemption has been granted.

(b) The Director, being satisfied that the conditions for which the exemption has been granted no longer exist, may cancel any such certificate of exemption.

(6) A child may be exempted from attendance for a period not exceeding 5 school days notwithstanding that no certificate exempting him from attendance has been granted if the Principal of the school attended by him is satisfied that the child has been absent for good and sufficient reason.

29A Exemption from attendance by children who have attained the age of 14 years

(1) The parent of a child who has attained the age of 14 years may apply to the Director for a certificate of exemption from attendance in respect of the child.

(2) A certificate of exemption granted under this section exempts the child to whom it relates from attendance at school.

(3) The Director must not grant a certificate of exemption under this section in respect of a child until the Director has satisfied himself that –

(a) The child has been offered employment or training; and

(b) It is in the child's best interest that the child should be so employed or trained instead of receiving instruction at a school.

(4) A parent who is dissatisfied with a refusal by the Director to grant a certificate of exemption under this section may appeal to the Minister who may confirm or overrule the refusal.

(5) A certificate of exemption granted under this section must –

(a) State the nature of the employment or training that the child is to undertake; and

(b) Be forwarded by the Director to the Minister within the 14 days after its issue.

(6) The Director may cancel a certificate of exemption granted under this section if the Director is satisfied that –

(a) The child named in the certificate –

(i) is not employed or receiving the training specified in the certificate; or

(ii) has not attended the employment or undertaken the training on a regular basis; or

(b) It has not proved to be in the child's best interest that the child should be employed or trained as specified in the certificate instead of receiving instruction at a school.

(7) The Director must within 14 days of cancelling a certificate of exemption granted under this section inform the Minister of the cancellation and the reason for the cancellation.

30 Penalty for irregular attendance

(1) Where any child required by this Act to attend school has been enrolled on the register of a school and does not attend, each parent of the child commits an offence and is liable on conviction to a fine not exceeding 0.5 penalty units for every day on which the child fails to attend school as required by this Act; but no parent shall be liable to a fine exceeding 0.5 penalty units on conviction for a first offence against this section, nor to a fine exceeding 1 penalty unit on conviction for a second or subsequent offence against this section.

(2) In any prosecution under subsection (1) the onus of proof that any child is not required to attend school shall be on the person charged.

31 Principal to keep records

(1) It shall be the duty of the principal of each school to enrol, and to maintain a proper roll of all pupils enrolled at the school, in such form and manner as may be required by the Director.

(2) The principal shall also ensure that the teachers keep proper records of attendance and the principal shall compile a summary of attendance for each school term which shall be forwarded to the Director at the end of each school term.

32 Inspection of attendance

The Director or any officer of the Department directed by the Director may carry out inspection of attendance records in every Government school and every private registered school.

33 Restriction on enrolment

The Director may, with the approval of the Minister, in order to avoid overcrowding at any Government school, limit the attendance at the school in such manner as it determines.

34 Suspension and expulsion

- (1) (a) Notwithstanding the foregoing provisions it shall be lawful for the principal of any Government school to suspend from attendance any child who, from gross misconduct or incorrigible disobedience, may be considered an injurious or dangerous example to other pupils, or whose attendance at school is likely for any serious cause to have detrimental effect upon himself or upon the other pupils.
- (b) No suspension of the pupil who is 14 years and under shall be for a period exceeding one week, except where extended as provided in this section.
- (2) Where any pupil 14 years and under is suspended from attendance under subsection (1) the following shall apply –
- (a) The principal shall immediately notify the parents or guardian of the pupil and the School Committee (if any) of the school of the suspension and the reasons therefore, and shall forward forthwith to the Director a full report of the suspension;
- (b) The Director on receiving the report may, after such enquiry as he considers necessary, either reinstate the pupil conditionally or unconditionally or extend the term of the suspension for such period as it deems fit;
- (c) Where after reasonable enquiries the Director is of the opinion that the pupil should not be reinstated in the school from which the pupil was suspended, the Director shall make arrangements for the re-establishing of the pupil in some other school providing education of the same kind which the pupil can conveniently attend, or if there is no such school available, the Director shall make arrangements for the pupil to be enrolled with a correspondence school whether established in Niue or elsewhere;
- (d) The name of every suspended pupil shall remain on the register of the school from which he is suspended until he has been placed at some other school, or has been enrolled in a correspondence school, or has been granted by the Director exemption from the obligation to be enrolled as a pupil of any school notwithstanding section 26(4) and the suspended pupil shall not be entitled to attend the school from which he is suspended while the suspension continues.

(3) Where any pupil over 14 years of age is suspended from attendance under subsection (1), the following provisions shall apply –

- (a) The principal shall immediately inform the parents or guardian of the pupil and the school committee (if any) of the school of the suspension and the reasons therefore, and shall forward forthwith to the Director a full report of the suspension;
- (b) The Director, on receiving the report shall thereupon investigate the matter as he considers necessary and may direct that the pupil be reinstated conditionally or unconditionally, or he may expel the child.

35 Forbidding attendance in certain cases

(1) Notwithstanding any other provision of this Act, it shall be lawful for the principal of any Government school to forbid the attendance at the school of any pupil on the grounds of want of cleanliness or on the grounds that the principal has reasonable cause to suspect the pupil is suffering from any communicable disease.

(2) Immediately on forbidding the attendance of any pupil under this section the principal shall report to the parents of the pupil, the school committee (if any), and the Director the action taken by him and the grounds for taking it.

(3) In the case of the pupil whose attendance is forbidden on the grounds that the Principal has reasonable cause to suspect that he is suffering from any communicable disease the Principal shall, in addition to making the reports required by subsection (2) give immediate notice of the case to the Director of Health.

(4) The Director shall cause an investigation to be made into the case of any pupil whose attendance is forbidden on the grounds of want of cleanliness and may direct the pupil to be readmitted or may confirm that his attendance remain forbidden until the cause of the complaint has been remedied or no longer exists.

(5) The Director may in his discretion refuse to permit the readmission of a pupil whose attendance at school has been forbidden on the grounds that the principal has reasonable cause to believe that the pupil is suffering from a communicable disease until the parent of the pupil supplies the certificate of a medical practitioner to the effect that the pupil is fit to return to school.

(6) The principal under this section shall not be liable for any action, whether on the ground of mistake of fact or on any other ground, unless the action was done in bad faith or without reasonable care.

PART 5

SCHOOL CLASSES, HOURS AND TERMS

36 Classification of pupils

The Director shall classify pupils under a system of nomenclature which distinguishes different classes, standard, or forms within schools in accordance with the stage and nature of instruction provided there, and may amend any such classification system.

37 Hours and terms of attendance

(1) All schools shall be open during the hours prescribed by the Minister, with the approval of Cabinet, from Monday to Friday (inclusive of both days) in each week, except on –

- (a) Statutory holidays; and
 - (b) Such of those days as the Minister with the approval of Cabinet may require or permit any school to be closed, provided that in emergency situations the Minister shall be empowered to act without prior Cabinet approval.
- (2) The period or periods of instruction on any day shall not exceed in total 5 hours for any pupil under the age of 6 years, or 6 hours for any pupil who is 6 years of age or older.
- (3) All schools shall be open for periods totaling not less than 200 nor more than 210 days in any calendar.
- (4) No school shall remain open for any continuous period or term which exceeds 15 weeks.
- (5) Notwithstanding subsections (3) and (4) the Minister may, with the approval of Cabinet, increase or decrease the number of school days in any calendar year, or the number of weeks in any one period or term.

PART 6

COURSES OF INSTRUCTION

38 Courses of instruction in Government schools

(1) Courses of instruction in all Government schools in Niue shall be secular and of such content and standards which takes into account the following broad aims, namely –

- (a) To adequately equip the people of Niue with knowledge and skills required to achieve national goals;
- (b) To provide the people of Niue with the highest possible standard of education;
- (c) To promote an understanding in the values of learning;
- (d) To continue to incorporate Niue's traditional arts, crafts and values in education development; and
- (e) To continue with the development of bilingualism (Niuean and English).

(2) All courses of instruction shall be approved by the Minister after consultation with the Director.

39 Religious instruction

(1) Notwithstanding section 38(1) provision may be made with the approval of the Minister for religious instruction to be given to pupils of any Government school for a period not exceeding 30 minutes for any class in any one week.

- (2) (a) Such religious instruction shall be observed or conducted under syllabuses which are not contrary to Government policy and are given by voluntary instructors who must be approved by the Minister; and
- (b) Such religious instruction shall be of a non-denominational character; and
- (c) No teacher shall be compelled to give such instruction, or to attend while such instruction is being given against the dictates of his conscience; and
- (d) If a parent of any pupil applies to the Principal of any school for the pupil to be excused wholly or in part from attendance at religious instruction, the pupil shall be excused from such attendance in accordance with the terms of the application.

PART 7

INSPECTION OF SCHOOLS

40 Inspection of schools

Every Government school and every registered private school shall be inspected by an Inspector of Schools or some other officer authorised by the Director for that purpose, at such times and in such manner as the Director may direct.

41 Schools to be open for inspection

Every Government school and every registered private school shall be opened at all times to visits or inspections by the Minister, or the Director or a Deputy Director, or by the Inspector of schools, or by any other person directed by the Director to visit or inspect the school.

42 Inspection of school accounts

(1) The Director or any officer of the Department appointed by him for the purpose may inspect the books, records, and accounts of any school committee established under Part 2.

(2) For the purposes of exercising the powers conferred by subsection (1) the Director or officer appointed by him may, after giving reasonable notice to the school committee whose books, records and accounts are to be inspected, enter into any office, school, or other premises in which the school committee's books, records and accounts are kept, or require such books, records and accounts to be submitted to the Department for inspection.

PART 8

GENERAL PROVISIONS

43 Guidance and counseling

It shall be the duty of the principal of each Government school to give guidance and counseling to the pupil attending the school and to notify the parents of any pupil of any condition or circumstances which in the principal's opinion is affecting the normal progress of the pupil through the school or is affecting the relationship of the pupil with the teachers, or with the other pupils of the school.

44 Closing of schools in emergency

Where the buildings or any of them used in connection with any Government school are wholly or partially destroyed by earthquake, fire, flood or other unforeseeable cause, and the attendance at the school has fallen to such an extent as in the opinion of the Minister to warrant the temporary or permanent closing of the school, the Minister may, notwithstanding anything contained in this Act or any other Act, direct that the school shall be temporarily or permanently closed and the school shall be closed accordingly as from the date of the Minister's direction.

45 Wilful disturbance of school

Any person who wilfully disturbs any school, or who upbraids, or abuses any teacher or other person engaged in the instruction of pupils in the presence of hearing of the pupils who are then in school, or are then assembled for school purposes whether in school or not, commits, an offence, and shall be liable on conviction to a fine not exceeding 1 penalty unit.

46 Transport assistance

The Director shall out of such money as may be appropriated by the Assembly for the purpose provide such school transport assistance as the Director thinks necessary.

47 Medical inspection

(1) Every pupil in attendance at a Government school shall undergo such medical and dental inspection and treatment as is provided for such pupils by the Government of Niue, and any such inspection and treatment provided by the Government shall be free in all cases.

(2) The consent of the parents shall be first obtained before any treatment is carried out.

48 Regulations

Cabinet may make regulations for all or any of the following purposes –

- (a) Providing for the election of school committees;
- (b) Providing for the provision and for the keeping of School Funds;
- (c) Providing for the establishment of any of the educational institutions referred to in section 18(1)(a), (d) – (h);
- (d) Defining the courses of study which may be given in accordance with this Act;
- (e) Fixing the terms and holidays to be observed in Government schools and defining the public holidays and other occasions on which any such school may be closed, and the conditions under which the Director may grant holidays on special occasions;
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for the due administration of it.