

ASSISTED SCHOOLS AND TRAINING COLLEGES (SUPPLEMENTARY PROVISIONS) ACT

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AN ACT to provide for vesting in the crown, without compensation, the property of assisted schools of which the Director of Education is, or becomes, the Manager under the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960, to provide for such Director for and on behalf of the crown to conduct and maintain schools on such property, to provide for the imposition of penalties on persons who offer resistance or obstruction to the entry of such Director to such school and to the taking possession of property vested in the crown, to provide for government making good or repairing any loss or damage caused to the property of assisted schools and for the recovery of the cost thereof by the government from the persons responsible for such loss or damage in a summary manner and to regulate the establishment of schools on or after the date of the commencement of this Act.

[Date of Commencement: 1st December 1960]

1. Short title.

This Act may be cited as the Assisted Schools and Training Colleges (Supplementary Provisions) Act.

2. Application of the Act.

(1) This Act shall apply to every assisted school of which the Director was on December 1, 1960, or is, or becomes, the Manager by virtue of the operation of any Order made under the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960, (hereafter in this Act referred to as the “principal Act”). Every such school is hereafter in this Act referred to as a “school to which this Act applies”.

(2) The provisions of section 22 shall apply to the principal Act, and the provisions of section 23 shall apply to any unaided school referred to in the said section 23.

PART I

VESTING IN THE CROWN WITHOUT COMPENSATION OF CERTAIN PROPERTY OF SCHOOLS TO WHICH THIS ACT APPLIES

3. Notice relating to property liable to vesting.

(1) Where the Minister decides that any property liable to vesting is needed by the Crown for the purpose of conducting and maintaining a school, the Minister may publish a notice in the *Gazette* stating that such property is so needed and that all or any of the acts authorised by subsection (2) may, if the Director deems it necessary, be done in respect of such property. Such property may be described in the notice in like manner as it is described in the First Schedule to this Act.

(2) After a notice under subsection (1) is published in the *Gazette* in respect of any property liable to vesting, any person authorised by the Director, together with such persons, implements and materials as may be necessary, may—

- (a) if that property is movable property, enter any land or building in which such property is kept and examine and take an inventory of such property; or
- (b) if that property consists of any land, building or other structure, enter such land, building or other structure and demarcate and set out the boundaries thereof.

(3) Any person who offers any obstruction or resistance to any other person in the exercise or performance of any power or duty under subsection (2) shall be guilty of any offence under this Act.

4. Vesting Order in respect of property.

(1) Where the Minister, considers it desirable to do so, the Minister may, by Order published in the *Gazette* (in this Act referred to as a “Vesting Order”), declare that, with effect from such date as shall be specified in the Order (not being a date earlier than fourteen days after the date of such publication), all property of the description specified in the Order, being property liable to vesting, shall vest in the Crown.

(2) A Vesting Order shall take effect notwithstanding that any arbitration proceedings under this Act, or proceedings before any court in pursuance or supposed pursuance of any other law, are pending in respect of any property specified in that Order.

(3) A Vesting Order may be made under subsection (1) in respect of any property notwithstanding that no notice has been published under section 3 in relation to that property.

5. Power to lodge objections in respect of any Vesting Order.

Any person interested in any property in respect of which a Vesting Order is made may, before the expiry of a period of fourteen days after the date of the publication of the Order in the *Gazette*, lodge with the Director a written objection to such Order on the ground that such property is not property liable to vesting. Such objection shall be referred by the Director for determination by arbitration as hereinafter provided in this Act.

6. Effect of Vesting Order.

A Vesting Order shall have the effect of vesting the property in respect of which such Order is made absolutely in Her Majesty, free from all encumbrances, with effect from the date specified in such Order.

7. Property vested in the Crown may be used for the purpose of a school.

(1) Any property vested in the Crown by a Vesting Order may be used by the Director for and on behalf of the Crown for the purpose of conducting and maintaining a school. The provisions of the principal Act shall not apply to a school so conducted and maintained.

(2) Where, at the date of the Vesting Order in respect of any property, that property was used for any religious purpose by any religious body which is the owner of any place of public worship, abutting, or situated in the immediate vicinity of that property, the Director shall make available to such body

the use of that property for that purpose during such hours as that property is not required for the educational and extramural activities of that school, but shall not permit the use of such property for any religious observance or worship by anybody other than the body which at the date of such Order was the owner of that property.

8. Vesting Orders not to be void or invalid by reason of any determination on a reference to arbitration.

No Vesting Order shall be deemed to be void or invalid by reason of any determination on a reference to arbitration under this Act that any part of the property in respect of which the Order was made was not property liable to vesting.

9. Vesting Orders to be final and conclusive.

Subject to any determination on arbitration under this Act, a Vesting Order shall be final and conclusive and shall not be called in question in any court whether by way of writ, order, mandate, or otherwise.

10. Divesting Orders.

(1) Notwithstanding that any property used for the purpose of any school to which this Act applies has vested in the Crown by virtue of a Vesting Order, the Minister, by subsequent Order published in the *Gazette* (in this Act referred to as a “Divesting Order”)—

- (a) shall, if such property ceases to be used, or is not needed for the purpose of a school conducted and maintained by the Director for and on behalf of the Crown, revoke that Vesting Order in so far as it relates to such property with effect from the date on which such property so ceased to be used or was not so needed; or
- (b) shall, if the Director ceases to be Manager of that school by virtue of the operation of any Order made under the principal Act, revoke that Vesting Order with effect from the date on which the Director so ceased to be the Manager; or
- (c) shall, if a determination is made on a reference to arbitration under this Act that any property in respect of which that Vesting Order was made is not property liable to vesting, revoke that Vesting Order in so far as it relates to such property with effect from the date on which that Vesting Order took effect.

(2) Where a Vesting Order in respect of any property is revoked by a Divesting Order in whole or in part, the property in respect of which the Divesting Order is made shall be deemed never to have vested in the Crown by virtue of that Vesting Order, and any question which might arise as to any right, title or interest in or over that property shall be determined accordingly.

11. No compensation payable in respect of any property vested in or divested by the Crown or for any loss incurred by any person by reason of such vesting or divesting.

No person shall be entitled to any compensation from the Crown—

- (a) in respect of any property which has vested in the Crown by a Vesting Order; or

- (b) in respect of the possession or use by the Crown of any property which, having been vested in the Crown by a Vesting Order, is subsequently made the subject of a Divesting Order; or

- (c) for any loss incurred by him, whether directly or indirectly, by way of business or otherwise by reason of the vesting of such property in the Crown, or the possession or use of such property prior to such divesting, as the case may be.

12. Taking possession of property vested in the Crown.

(1) Any person authorised in that behalf by the Director may take possession of any property vested in the Crown by a Vesting Order.

(2) Any person authorised in that behalf by the Director shall, by notice published in the *Gazette*, in respect of any property vested in the Crown by a Vesting Order—

- (a) inform all persons interested in that property that such authorised person intends to take possession of that property for and on behalf of the Crown on such date and at such time and place as shall be specified in the notice; and
- (b) require such interested persons or their authorised agents to be present on the date and at the time and place so specified, and to allow and assist such officer to take possession of that property for and on behalf of the Crown.

13. Prevention of, or obstruction or resistance to, taking possession of property for and on behalf of the Crown.

(1) Every person who prevents or obstructs or resists any person from or in taking possession, under section 12, of any property for and on behalf of the Crown shall be guilty of an offence under this Act.

(2) Where any person authorised by the Director under section 12 to take possession of any property for and on behalf of the Crown is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an ex-parte application in that behalf to the Magistrate’s Court having jurisdiction over the place where that property is kept or situated, be entitled to an ex-parte order of the court directing the Fiscal to deliver possession of that property to him for and on behalf of the Crown.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate’s Court, he shall forth with execute that order and shall in writing report to the court the manner in which that order was executed.

(4) For the purpose of executing an order issued by a Magistrate’s Court under subsection (2), the Fiscal or any person acting under his direction may use: such force as may be necessary to enter any place where any movable property to which that order relates is kept and seize such movable property, or to enter any land, building or other structure to which that order relates and to eject any person

in occupation thereof, and to deliver possession of such movable property, land, building or other structure to the person who is authorised to take possession thereof for and on behalf of the Crown.

14. Authorised person entitled to enter and take possession of any property notwithstanding that the requirements of any notice under section 12 are not complied with.

Any person authorised in that behalf by the Director under section 12 to take possession of any property vested in the Crown by a Vesting Order may, if such property is movable property, enter any place where such property is kept and seize such property or, where such property is immovable property, enter and take possession of such property, notwithstanding that the requirements of any notice given to any person under subsection (2) of that section have not been duly complied with, or that arbitration proceedings, or proceedings before any court in pursuance or supposed pursuance of any other law, are pending in respect of such property.

PART II
GENERAL

15. Director may exercise, perform and discharge the powers, duties and functions of the proprietor of any school to which this Act applies.

The Director may exercise, perform or discharge any power, duty or function vested in or imposed on the proprietor of any school to which this Act applies by the Education Ordinance or by any other law, and such proprietor shall cease to exercise, perform or discharge any such power, duty or function.

16. Power of entry to schools to which this Act applies.

(1) Any of the following persons shall be entitled to enter the premises of any school to which this Act applies during such hours as may be determined by the Director from time to time—

- (a) The Director or any person authorised by him in that behalf.
- (b) Any teacher in such school.
- (c) The pupils attending such school for instruction.
- (d) The parents of pupils attending such school.
- (e) Employees of such school.

(2) Any person who obstructs or resists any other person in the exercise of such other person's right of entry to any school to which this Act applies conferred by subsection (1) shall be guilty of an offence under this Act.

17. Ejection by the Fiscal of persons in occupation of the premises of any school to which this Act applies, and prohibition of undesirable persons from entering such premises.

- (1) Where the Director—
- (a) is unable to conduct and maintain any school to which this Act applies; or

(b) is unable to conduct and maintain a school for and on behalf of the Crown under this Act,

by reason of the presence of or occupation by any person or persons or by reason of any obstruction or resistance offered by any person or persons in occupation of any premises used for the purpose of such school, the Director shall, on his making an ex parte application in that behalf to the Magistrate's Court having jurisdiction over the place in which such premises are situated, be entitled to an ex-parte order of the court directing the Fiscal to deliver possession of such premises to him for the purpose of conducting and maintaining such school.

(2) Where an order under subsection (1) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the court the manner in which that order was executed.

(3) For the purpose of executing an order issued by a Magistrate's Court under subsection (1), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any premises to which such order relates and to eject any person or persons in occupation of such premises.

(4) —

(a) Where the presence of any person in the precincts of any school to which this Act applies, or of any school which is conducted and maintained by the Director for and on behalf of the Crown under this Act, is undesirable, the Director, after giving such person all opportunity of being heard, may, by writing under his hand served on such person, prohibit such person from entering or remaining within such precincts or within such part thereof as may be specified in such writing. Such prohibition shall be and remain in force until revoked by the Director.

(b) A certificate under the hand of the Director to the effect that any person named in the certificate has been prohibited, in accordance with the provisions of subsection (1), from entering or remaining within the precincts of any school or any specified part thereof, shall be received and accepted by a court as evidence of the facts stated in such certificate until the contrary is proved,

(c) A document purporting to be a certificate issued by the Director and to be signed by him, shall be received in evidence, and shall, until the contrary is proved, be deemed to be a certificate issued by the Director under the preceding provisions of this sub-section.

(d) Any person who is prohibited under the preceding provisions of this subsection from entering or remaining within the precincts of any school or part thereof and who, without reasonable cause, enters or remains within such precincts or part thereof in contravention of such prohibition shall be guilty of an offence under this Act.

18. Obstruction or resistance to any person in the exercise of any power under sub-section (2) of section 3.

Where any person is unable or apprehends that he will be unable to exercise, perform or discharge any power, duty

or function under subsection (2) of section 3 by reason of any obstruction or resistance offered or likely to be offered by any person or persons in occupation of any premises, the provisions of subsections (1) to (3) of section 17 shall, *mutatis mutandis*, apply in the case of such officer and such premises in like manner and to the same extent as they apply in the case of the Director and the premises of any school.

19. Power of Director to make good any loss or repair any damage, or to prepare an estimate of the cost of making good such loss or repairing such damage, to school property and to recover the cost or the estimated cost of making good such loss or repairing such damage from the proprietor of that school.

(1) Where at any time, after July 21, 1960, but before the date of commencement of this Act, or after the date of such commencement, any loss or damage has been or is caused to any property which had prior to the date of such loss or damage been used for the purposes of any school to which this Act applies or which is being conducted and maintained by the Director for and on behalf of the Crown, the Director may make good such loss or repair such damage, or may prepare an estimate of the cost of making good such loss or repairing such damage.

(2) Where any loss or damage has been caused to any property referred to in subsection (1) and such loss or damage has been made good or repaired, or an estimate of the cost of making good such loss or repairing such damage has been prepared, by the Director, he may issue a certificate containing the particulars of the loss or damage and the amount incurred by him, in making good such loss or repairing such damage, or of such estimated cost, as the case may be, and the name and address of the person who was the proprietor of the school in respect of which such loss or damage was caused, to the Magistrate's Court having jurisdiction over the place in which such person is resident. The Magistrate shall thereupon summon such person before him to show cause why proceedings for the recovery of the amount specified in the certificate should not be taken against him, and such sum shall by order of the Magistrate be recovered from such person as if it were a fine imposed on such person by such Magistrate unless such person proves that such loss or damage was caused without his consent or connivance, and that he, if he was the proprietor exercised all such diligence to prevent the causing of such loss or damage as he ought to have exercised having regard to the nature of his functions in his capacity as such proprietor and in all the circumstances.

20. Arbitration.

(1) Where the Director is required by section 5 to refer any objection for determination by arbitration, the arbitration shall be conducted—

- (a) by a single arbitrator nominated by agreement between the Director and the person who lodged the objection (in this section referred to as "the objector"); or
- (b) in default of such agreement, by two arbitrators nominated respectively by the Director and the objector.

(2) Where in any case referred to in paragraph (b) of subsection (1), there is a difference of opinion among the two arbitrators in respect of any matter, the matter shall be referred to a decision by an umpire chosen by them, or, if they are unable to agree as to the choice of an umpire, by an umpire appointed for the purpose by the Minister, on application made by any party to the arbitration proceedings.

(3) The decision of a single arbitrator, or, where there are two arbitrators, their agreed decision, or, where there is a difference of opinion among the two arbitrators on any matter referred to in subsection (2), the decision of an umpire, shall be final and conclusive for the purposes of this section and shall not be called in question in any court whether by way of writ, order, mandate, or otherwise, and shall be binding on the persons who are parties to the objection determined by such arbitration.

(4) Regulations may be made in respect of all matters relating to or connected with the conduct of proceedings on arbitration under this section, including the fees to be paid to arbitrators and umpires.

21. Certain sales, disposals of property to be deemed to be null and void.

Any sale or other disposal of, or any charge or hypothecation or lien or other encumbrance created on, any property liable to vesting shall, if such sale or other disposal was effected, or such charge or hypothecation or lien or other encumbrance was so created, on or after July 21, 1960, be deemed to be null and void for all purposes.

22. Amendment of the principal Act.

(1) The principal Act shall be amended in the manner and to the extent specified in the Second Schedule to this Act.

(2) The amendments made to the principal Act by the Second Schedule to this Act shall be deemed to have come into operation on the date of commencement of that Act.

23. Discontinuance from service of teachers on the staff of unaided schools within the meaning of the principal Act.

Where the proprietor of a school which, by virtue of an election made under section 5 of the principal Act, is an unaided school has, at any time after the date of commencement of the principal Act and before the date of commencement of this Act, terminated, without the prior approval of the Director, the services of any teacher on the staff or any employee of that school, such termination of services shall be deemed to be invalid and such proprietor shall, within fourteen days after the date of commencement of this Act—

- (a) reinstate such teacher or such employee on terms and conditions (including terms relating to salary, allowances and leave) not less favourable than the terms and conditions which were enjoyed by such teacher or such employee prior to the date of the termination of the services of such teacher or such employee, and
- (b) shall pay such teacher or employee any arrears of Salary and allowances which the Director considers to be due

to him in respect of the period that his services were terminated.

24. Manner of effecting service of notices.

Save as otherwise provided in this Act, any notice which is required to be served on or given to any person under this Act shall be deemed to be served or given if it is sent to such person by registered letter through the post.

25. Regulation of establishment of new schools.

(1) No person shall, on or after the date of the commencement of this Act—

- (a) establish any school for the education of persons who are between the age of five years and the age of fourteen years (both ages inclusive); or
- (b) establish any school, other than a school referred to in paragraph (a), for the education of persons who are below the age of eighteen years without the prior approval of the Director.

(2) Regulations may be made under this Act for the conduct and regulation of schools which are established with the approval of the Director given under paragraph (b) of subsection (1).

(3) The preceding provisions of this section shall not apply to the establishment of a school solely for religious instruction.

26. Regulations.

(1) The Minister may make regulations under this Act for or in respect of all or any of the following matters—

- (a) any matter for which regulations are authorised or required to be made by this Act;
- (b) for all matters necessary to give effect to the principles and provisions of this Act;
- (c) for the determination of any question, or the resolution of any doubts, which may arise as to any right, title or interest, in or over any property which is the subject of a Divesting Order; and
- (d) for the amendment of any Schedule to this Act.

(2) Every regulation made under this Act by the Minister shall be published in the *Gazette* and shall have effect from the date of such publication or from such later date as may be specified therein.

(3) Every regulation made by the Minister under this Act shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) Every such regulation shall on its taking effect as herein before provided have the same force and effect as if it were herein enacted, but shall cease to have such force and effect if it is not approved as required by subsection (3).

27. Penalties for offences.

Every person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable

to imprisonment of either description for a term of six months with or without a fine not exceeding five hundred rupees.

28. Offences committed by body corporate.

Where an offence under this Act is committed by a body corporate, every person who at the time of the commission of that offence was a member of that body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity and in all the circumstances.

29. Offences to be cognizable offences. Cap. 20.

Notwithstanding anything in the First Schedule to the Criminal Procedure Code, every offence under this Act shall be a cognizable offence within the meaning and for the purposes of that Code.

30. No prosecution or suit to lie against the Minister, Director or any officer or other person.

No suit or prosecution shall lie against the Minister, Director or any officer or other person for any act which is in good faith done or purported to be done by him under this Act.

31. Provisions of this Act to prevail over other written law.

In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall prevail over the provisions of such other written law.

32. Power of Director to delegate powers, duties and functions.

Any power, duty or function of the Director under this Act may be exercised, performed or discharged by any other officer of the Department of Education authorised by the Director in writing in that behalf.

33. Interpretation.

In this Act, unless the context otherwise requires—

“assisted school” has the same meaning as in the principal Act;

“Director” means the Director of Education, and includes any Additional Director of Education, any Deputy Director of Education, any Additional Deputy Director of Education, any Assistant Director of Education or any Additional Assistant Director of Education;

“person interested”, in relation to—

- (a) any immovable property, means a person having an interest in such property as owner, co-owner, mortgagee, lessee or otherwise, whether absolutely for himself or in trust for any other person or for any charitable, religious, educational or other purpose; or
- (b) any movable property, means a person having an interest in such property as owner, co-owner, pledgee or otherwise, whether absolutely for himself or in trust for any other person or for any charitable, religious, educational or other purpose;

“property liable to vesting” means any property belonging to any class or description of property for the time being specified in the First Schedule to this Act, but does not include—

(a) any temple, mosque, kovil, church, chapel, or other place (by whatsoever name called) which was, on July 21, 1960, and is on the date of commencement of this

Act, used for the purpose of public religious worship ; or
 (b) any movable property which is, on the date of such commencement, kept in such temple, mosque, kovil, church, chapel, or other place, for exclusive use for that purpose;
 “religious observance or worship” does not include any religious instruction given during school hours.

FIRST SCHEDULE
 [SECTION 3(1)]

1. The premises in which any school to which this Act applies, or any branch of such school, was conducted and maintained as an assisted school on July 21, 1960, including all appurtenances to such premises, whether or not the proprietor of such assisted school on that date was the owner of such premises.
2. Any premises, not being premises referred to in subsection (1), which were on July 21, 1960, used or intended to be used for any purpose incidental to, or connected with, the conduct and maintenance, as an assisted school, of any school to which this Act applies, if but only if the proprietor of such assisted school on that date was the owner of such premises.
3. All movable property, other than money, which on the day immediately prior to the date of commencement of this Act, was used, or intended to be used, for the conduct and maintenance of any school to which this Act applies, or for any purpose incidental to or connected with such conduct and maintenance, whether or not the proprietor of such school on that date was the owner of such property.
4. All assets consisting of moneys derived from the conduct and maintenance of any school to which this Act applies, whether by way of grants or fees or donations or otherwise, which, on the day immediately prior to the date of commencement of this Act, were held for and on behalf of such school by the proprietor of such school (whether in his capacity as proprietor or trustee or otherwise), or by any other person (whether in the capacity of trustee or any other capacity whatsoever).
5. For the purposes of this Schedule, the expression “premises” means land and includes all buildings, or structures in or on such land.

SECOND SCHEDULE
 [SECTION 22]

Amendments to the principal Act.

(1) Section 5 of the principal Act is hereby amended (1) the addition of the following new sub-section after subsection (2)—

“(3) A proprietor of an assisted school who has elected in terms of subsection (1) of this section to administer his school as an unaided school may at any time serve notice on the Director that he has revoked such election and from the date on which such notice is received by the Director such school shall be administered in the same manner as if the Director had become the Manager of such school in terms of section 4 of this Act”.

(2) Section 6 of the principal Act is hereby amended as follows—

(a) in paragraph (g) of that section by the substitution, for the full stop, of a semi-colon, and

(b) by the addition at the end of that section of the following new paragraphs—

“(h) shall not, except with the prior approval of the Director, terminate the services of any teacher or employee who is on the staff of such school on or after the twenty-first day of July, 1960;

(i) shall pay to every teacher and employee who is on the staff of such school the salary and allowances due to such teacher or employee in respect of any month not later than the tenth day of the subsequent month;

(j) shall not, except with the prior approval of the Director, alter the terms and conditions (including terms relating to salary, allowances and leave) of service of any teacher or employee who is on the staff of such school on or after the twenty-first day of July, 1960;

(k) shall satisfy the Director that necessary funds to conduct and maintain the school will be available and shall conduct such school to the satisfaction of the Director; and

(l) shall not directly or indirectly by himself or any other person cause or permit any other person to have any strike or lockout within or about the school premises which would have the effect of preventing such school being conducted to the satisfaction of the Director.”

(3) Section 14 of the principal Act is hereby amended as follows—

(a) by the substitution for subsection (2) of that section of the following new subsection—

“(2) Every regulation made under this Act by the Minister shall be published in the *Gazette* and shall have effect from the date of such publication or from such later date as may be specified therein”; and

(b) by the insertion at the end of that section of the following new subsections—

“(3) Every regulation made by the Minister under this Act shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval and without prejudice to anything previously done thereunder.

(4) Every such regulation shall on its taking effect as herein before provided have the same force and effect as if it were herein enacted, but shall cease to have such force and effect if it is not approved as required by subsection (3)”.

(4) The Schedule to the principal Act is hereby amended as follows:

(a) by the omission of the words “Any night school, that is to say, any school providing education for pupils over fourteen years of age whose circumstances prevent them from receiving instruction in a day school”; and

(b) by the substitution, for the word “Pirivenas”, of the words “Any school which was conducted on July 21, 1960, mainly for persons over fourteen years of age”.