



September 2016

Reactions to the Proposed Education Act

GENERAL POINTS

- a) The Union believes that the draft legislation, in principle, reflects several of its proposals as well as the current needs in the education sector. However the Union notes that this draft legislation also presents a missed opportunity to create an inclusive structure whereby education is protected from the partisan wrangling of politicians and political parties prior to and following each general election, often reducing education to a farce.
- b) Continuous development – The Union notes that this section in the proposed law prejudices the Sectoral Agreement which is being negotiated. Both should complement each other.
- c) The MUT is wary about the apparent empowerment of homeschooling. The Union believes that schools are not only centres for formal learning but are also places where children are exposed to vast amounts of informal and non formal education which are proven to be essential for any child's development. Moreover, the Union is highly concerned that homeschooling might be a catalyst for teaching of subjects that are not approved by the authorities and may lead to extremism and fanaticism as is the experience in various other countries including the UK. Added to this there is a danger for homeschooled children to be isolated from the rest of the community with little or no protection from the possibility of abuse or neglect. Schools are able to identify children who are suffering abuse at home and take action accordingly. If these children are put in a situation where they may be prevented from even reaching the school they are potentially doomed to suffer abuse for their whole childhood life. On the other hand, the union believes that the current setup where children are provided with home education if they cannot attend school due to serious medical or other reasons should be maintained.
- d) The Union congratulates the government for proposing, within the Education Act framework, clauses that highlight the responsibility of parents in the education of their children.
- e) MUT notes that there is incongruence on the nomenclature of College Principal between the proposal of the Education Act and proposals for the Sectoral Agreement.
- f) The MUT is very wary of the implications of clauses 16 and 17 of the main text of the education act proposal, whereby state schools are potentially being targeted with duties that they cannot possibly carry out, which duties are the responsibility of a central directorate. Devolving such duties to schools may potentially undermine the advantages of state schools, create inequalities, and open wide doors to abuse and nepotism.
- g) The Union disagrees that the functions, and job descriptions, of a College Principal and the Head of School are included in legislation. Experience shows that very often these job descriptions need to be updated to reflect advances in the educational scenario, or to reflect

sudden realities that need to be catered for. The Union reminds the Government that job descriptions are usually placed in sectoral agreements and this ensures that any necessary tweaking can be done quickly enough and with the proper consultation. Job descriptions in legislation are next to impossible to update or tweak when needed, since it requires a lengthy parliamentary process.

- h) The MUT notes that the draft legislation proposed includes, once again, the mention of College Boards. Originally these boards were introduced in legislation in 2006 by Hon. Louis Galea. Since 2006, and 10 years down the line, these boards have never been implemented and for good reason, as they make little sense given their composition. The Union believes that these College Boards should be scrapped, and replaced by what is currently the practice, the College of Heads.
- i) The Union believes that the legislation should include a proviso that empowers Heads of Schools to take the final decisions on matters of behaviour and discipline in their own schools. Moreover the Union is disappointed that this legislation makes no mention of the need to deploy personnel in schools that are trained in security.
- j) In clause 44 the MUT notes that various financial measures are being put into place. The Union reminds that the majority of state schools are not equipped with personnel specialized in accounting or financial auditing and henceforth appeals to the Government to modify the legislation to either empower schools with such personnel or else to avoid heaping such tasks on schools.
- k) The Union is also disappointed to note that in this legislation the Government is reinforcing the idea that the Religion syllabus is being left up to the Church Authorities to be designed, rather than its own experts in consultation with the Church Authorities. The MUT strongly believes that this practice has shown to be a failure on many levels, not least the level of safeguarding children from pedantic and useless information above values and skills. The Union believes that all curricula, and syllabi, should be the responsibility of the Curriculum Directorate, which may choose to consult with any organization it deems fit.
- l) The Union also notes that the legislation, especially in clauses like 56b, fail to enshrine the practice of collective bargaining and social dialogue.

Council for the Teaching Profession

- m) The MUT agrees that all professions and allied professions are covered by warrants / licenses, and notes that this is congruent with its original suggestions.
- n) The MUT notes, and applauds the decision to give the final decision on warranting issues to the Council for the Teaching Profession rather than the Minister, a move which reflects proper democratic credentials of such a structure.
- o) The MUT does not agree with sub-article 2 of the document entitled Professions in the Education Act. The Union believes that if vacancies arise in the CTP these should be filled in according to the exercise carried out in the respective sector, example if the vacancy arises from elected teachers, the next in line is appointed.

- p) There should be a subcommittee to decide upon the awarding of licenses to KGs and LSAs. There should be a process for the formation of this committee. The chairperson shall be chosen by the CTP and the subcommittee shall be composed of four other members, two of which LSAs and two KGs, one LSA and KG from the CTP and one KG and LSA to be elected by registered KGs and LSAs respectively. The CTP shall also nominate two teachers from within the council to sit on this committee.
- q) The Board of Inquiry (Ref sub article 7) should be formed to take care of breach of ethics cases. The subcommittee should be chaired by the CTP Chairperson, one member of the CTP nominated by the ministry, one member of the CTP nominated by the union, one member of the CTP elected by professionals and one member of the CTP from the allied professions.
- r) The Union believes that the CTP should have access to the sex offenders register.
- s) The Union proposes that the term profession is changed to Allied Professions vis-à-vis KGs and LSAs, for correctness' sake.
- t) MUT proposes that the CTP shall have the power to order the recovery of inquiry and legal expenses from the employer of the reporting officer where it results that the complaint was of a frivolous or vexatious nature.
- u) The Union asks for a change in the clause which defines its representatives from two registered practicing educators to registered educators (to avoid excluding union officials chosen by union members)

Commission for General Education

- v) The MUT notes that the proposed act provides for the creation of an autonomous authority. The MUT agrees that for regulatory purposes an autonomous authority should, at least in theory, be more effective. The current set up may indeed provide a conflict of interest for the regulatory body, currently under the DQSE, since they end up regulating schools owned by the same body. On the other hand the Union is not convinced that the set up of the board as proposed in the law, with the leading persons appointed directly by the Minister, allows this authority to be able to maintain its autonomy since key appointees will directly depend on the same Ministry from which autonomy is being sought for reappointment.
- w) Further to the above the MUT believes that it would be a substantial mistake for all stake holders if the Curriculum Department were to be part of this Commission. The Commission should be empowered to take all tasks related to regulation of pre-compulsory, compulsory, and post-compulsory education, but the curriculum design and support should remain in the hands of the Ministry of Education. The Union believes that support and regulation are distinct and should remain so. The proposal as formulated means that eventually the personnel currently giving support to schools in curriculum implementation will evolve into nothing much more than the old fashioned inspectorate system, which is counterproductive. Added to this, it is inconceivable that the Ministry of Education in Malta will be devoid of the duty, and perhaps the right, to design and implement curricula.
- x) The MUT, while agreeing in principle, is wary of the creation of further bodies and authorities. Past experience has shown that the creation of foundations and authorities has increased bureaucracy and increased difficulties in coordination.

- y) With regards to the composition of this Commission, the MUT is in disagreement with the clause that states “two members who in the opinion of the minister are representative of social partners”. First of all, in a democratic country it is social partners that decide who should represent them and not Ministers. Secondly, if the government wants social partners to be represented it should make reference to the MCESD, which after all is an official umbrella body for social partners. On the same line, and given the generous amount of people on this commission, the MUT believes that educators should at least be represented by two persons and therefore asks for two representatives instead of one.
- z) The Union also believes that the representatives of state schools on this Commission should be chosen by the Directorate for Educational Services, or the directorate in force from time to time that is responsible for the running and staffing of state schools.
- aa) The MUT disagrees completely with the issue of licenses on an individual basis to state schools. Heads of School of state schools cannot possibly be able to ensure that all the obligations to the license are observed at all times since a wide variety of decisions effecting schools are beyond their control. Moreover, there is an agreement across the board that recruitment and deployment remain centrally based and the MUT strongly believes that this setup should remain.
- bb) Clause 16 on page 13 of the document entitled Education Regulatory Act gives a time window of 5 days for reactions or appeal following an investigation. MUT believes that this time window is too short and we propose the wording “10 school days”. This is in case some investigations are terminated during the recess period and the schools in question cannot react, or else the reaction comes from the head alone, which would be counterproductive.