



ANALYSIS

Title

1. Short Title and commencement
2. Interpretation

PART I

CENTRAL ADMINISTRATION

Department of Education

3. Department of Education
4. Minister of Education
5. Delegation of Minister's powers
6. Director-General of Education
7. Appointment of other officers
8. Delegation of Director-General's powers
9. Expenses of administration to be appropriated by Parliament

PART II

LOCAL ADMINISTRATION

Education Districts

10. Education districts
11. Education Districts Boundaries Commissioner
12. Constitution of new education districts
13. Alteration of boundaries of education districts
14. Division of districts into wards

Education Boards

15. Constitution of Education Boards
16. Appointment of Commission to act as Education Board of new district
17. Qualification of members of Board
18. Disqualification of members of Boards
19. Extraordinary vacancies on Boards
20. Acts of Board not to be questioned for informality, etc.
21. Boards incorporated
22. Board may appoint officers
23. Meetings of Boards

24. Annual allowances to Chairmen of Education Boards
25. Refund of members' travelling expenses
26. General powers and duties of Board
27. Borrowing powers of Education Boards
28. Board may insure members and pay subscriptions to Education Boards' Association
29. Board may establish special committees

Accounts of Boards

30. Board Fund
31. Education Board Account
32. Board may establish Imprest Accounts
33. Procedure for payment by Education Boards of salaries and allowances to teachers
34. Disposal of funds of Board
35. Accounts to be kept
36. Board to forward annual report of proceedings to Director-General
37. Unauthorised expenditure of Education Board

School Committees

38. School districts
39. School Committees
40. School Committees of normal schools
41. Committees for intermediate schools
42. Qualification of members of School Committees
43. Meetings of Committees
44. Committee failing to meet to cease to exist
45. Appearance in legal proceedings
46. Committee to have management of schools, etc.
47. School Fund and property
48. Audit of Committee's accounts
49. Committee to forward annual report to Board

Governing Bodies of Secondary Schools

50. Governing bodies of certain secondary schools
51. Governing bodies of other secondary schools
52. Appointment and election of members
53. Certain secondary schools not placed under separate Boards of Governors
54. Change in control of secondary schools to provide separate Boards of Governors
55. Vesting of assets on change in control
56. Governing bodies of secondary schools incorporated
57. Control of groups of secondary schools
58. Control and management of district high schools
59. Control of secondary schools
60. Insurance of members of governing body and refund of members' travelling expenses
61. General powers of governing bodies of secondary schools
62. General borrowing powers of governing bodies of secondary schools
63. Accounts and audit
64. Annual reports as to secondary schools
65. Grants to governing bodies of secondary schools
66. General expenses
67. Unauthorised expenditure of governing bodies of secondary schools

Governing Bodies of Technical Institutes

68. Governing bodies of certain technical institutes
69. Technical institutes to be placed under Boards of Governors

PART III

ESTABLISHMENT OF SCHOOLS

Pre-school Education

70. Provision of pre-school education

Primary Education

71. Schools for primary education
72. Normal schools and model schools
73. Intermediate schools and departments
74. Selection of contributing schools
75. Organisation and conduct of State primary schools and intermediate departments of secondary schools
76. Regulations

77. State primary schools to be kept open at certain times
78. Religious instruction and observances in State primary schools
79. Attendance at religious instruction or observances not compulsory
80. Teachers may be freed from duties to take part in religious instruction or observances
81. Schools other than public schools not affected

Secondary Education

82. Saving of schools already established
83. Secondary schools
84. Courses of study in secondary schools
85. Free education in secondary schools

Composite Schools

86. Composite schools
87. Regulations
88. Certain provisions to apply to composite schools

Further Education—Technical and Continuation

89. Saving of technical institutes already established
90. Establishment and disestablishment of technical institutes
91. Recognition of classes or courses in further education
92. Revocation of recognition of classes or courses
93. Free further education
94. Fees for further education
95. Report on further education
96. Correspondence schools and classes for further education
97. Administration of further education

Special Education

98. Special schools and classes
99. Other special classes or services providing special education
100. Administration of special education

Maori Schools

101. Maori schools
102. Control of Maori schools

Chatham Islands Schools

103. Chatham Islands schools
104. Management and control of Chatham Islands schools

Correspondence Schools

105. Correspondence schools and classes

Teachers Colleges

106. Establishment of teachers colleges
107. Regulations

PART IV

ENROLMENT AND ATTENDANCE OF PUPILS

Enrolment and Attendance

108. Children enrolled at State primary schools to be of school age
109. Every child between six and fifteen years of age to be enrolled
110. Enrolment with correspondence school
111. Certificate of exemption from enrolment
112. Exemption from enrolment by Director-General
113. Ascertainment of suitability of education of certain children
114. Compulsory enrolment in special school, etc., of certain children
115. Director-General may in certain circumstances direct that a child be sent to special school, etc.
116. Penalty for failure to enrol child
117. Every child required to be enrolled must attend school
118. Certificate of exemption from attendance
119. Director-General may require certain children exempted from attendance to enrol at correspondence school
120. Penalty for irregular attendance at school
121. Employment of children of school age
122. Parents not to permit employment of children of school age
123. Appointment of Attendance Officers
124. Hearing of proceedings
125. Evidence of school roll, etc.
126. Onus of proof on parents
127. Fines to be paid into School or Board Funds
128. Maori and Chatham Islands schools
129. Restriction on enrolment
130. Suspension and expulsion of children in certain cases

PART V

APPOINTMENT AND EMPLOYMENT OF TEACHERS

Registration of Teachers

131. Teachers to be registered
132. Teachers Register
133. Publication of Register

134. Removal of certain names from Register
135. Cancellation of registration for misconduct
136. Notification of removal of name from Register

Constitution of Committees for Primary Appointments

137. Appointments Committees
138. Central Advisory Committee
139. Extraordinary vacancies on Committees
140. Deputies of members
141. Members' travelling expenses

Appointment of Primary Teachers

142. Appointments to positions
143. School Committees to be notified of proposed appointments

Primary Teachers Appointment Appeal Boards

144. Primary Teachers Appointment Appeal Boards
145. Right of appeal
146. Notices to teachers with right of appeal
147. Notices of appeal, jurisdiction, etc.

Appointment of Secondary Teachers and Teachers in Technical Institutes

148. Governing body may appoint teachers

Appointment and Employment of Teachers—General

149. Teachers for special purposes
150. Married women as teachers
151. Restriction upon transfer of teachers
152. Provisions regarding proposed transfers of teachers
153. Payment of overgrade salaries, etc.
154. Protection of teachers in certain cases
155. Duration of appointment of teacher
156. Interpretation
157. Disciplinary action where teacher charged with serious offence
158. Disciplinary offences
159. Steps to be taken where offence alleged
160. Notice of imposition of penalty
161. Appeals
162. Teachers to take oath of allegiance
163. Teachers not to engage in other employment in certain circumstances
164. Control of officers of Public Service engaged as teachers
165. Salaries and conditions of employment of teachers

PART VI

TEACHERS INCORPORATION AND COURT
OF APPEAL

166. Interpretation

Incorporation of Societies of Teachers

- 167. Applications for registration of societies
- 168. Registration and incorporation
- 169. Powers of incorporated societies
- 170. Rules of society
- 171. Effect of resignation of member
- 172. Returns by society
- 173. Restrictions on registration

Appeals by Teachers

- 174. Court of Appeal
- 175. Right of appeal from dismissal, suspension, or transfer
- 176. Appearance of parties
- 177. When teachers deemed to be dismissed
- 178. Decision of Court
- 179. Effect of decision in favour of appellant
- 180. Costs
- 181. Effect of non-attendance of members of Court
- 182. Procedure on appeals

PART VII

INSPECTION OF SCHOOLS

- 183. Inspection of schools
- 184. Inspection of technical institutes

- 185. Schools to be open for inspection
- 186. Registration and inspection of private schools

PART VIII

GENERAL PROVISIONS

- 187. Exemptions from taxation
- 188. Exemptions from rating
- 189. Trustees of school may agree to place it under control of Board
- 190. Vesting of assets of school placed under control of Board
- 191. Controlling authority of a school may receive property for foundation of scholarships
- 192. Grants to registered private schools
- 193. Bursaries for secondary, further, or higher education
- 194. Temporary or permanent closing of schools in cases of emergency
- 195. Wilful disturbance of school
- 196. Leaving certificates
- 197. Bonds for entry to teaching
- 198. Right of Head Teachers and Principals to attend meetings of School Committees and school governing bodies
- 199. Occupation of teacher's house
- 200. Teacher refusing to give up a teacher's house on demand
- 201. Establishment of community centres
- 202. Annual report
- 203. Regulations
- 204. Repeals and amendment Schedule

1964, No. 135

**An Act to consolidate and amend certain enactments of the
General Assembly relating to the education of the people
of New Zealand**

[4 December 1964]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Education Act 1964.

(2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Appointments Committee” means, in relation to any appointment of a teacher to a position in a school,

or as an itinerant teacher, under the control of the Education Board of any district, the Appointments Committee constituted under section 137 of this Act for that district; in relation to any teacher appointed by the Director-General to a position in a Maori school, the Appointments Committee constituted under that section for that class of position; and in relation to any other teacher appointed by the Director-General, the Appointments Committee constituted under that section for that class of position:

“Board” or “Education Board” means the Education Board of any education district constituted under this Act:

Provided that in sections 156 to 161 and 163 of this Act the term “Board” shall have the meaning specified in section 156 of this Act; and in Part VI of this Act the term “Board” shall have the meaning specified in section 166 of this Act:

“Bylaws” means the bylaws made by an Education Board in accordance with this Act:

“Central Advisory Committee” means the Central Advisory Committee constituted under section 138 of this Act:

“Committee” or “School Committee” means the School Committee elected for a school district:

“Continuation education” means, in relation to any person, further education which is not directly related to the trade or profession in which the person may be engaged; and includes further education which is similar to or an extension of some part of primary or secondary education:

“Contributing school” means a State primary school that is for the time being established under this Act without provision for classes for pupils of forms one and two or either of those forms:

“Correspondence school” or “correspondence classes” means any school or any classes established by the Minister to provide instruction by correspondence:

“Department” means the Department of Education constituted under this Act:

“Director-General” means the Director-General of Education; and includes any person for the time being directed under the State Services Act 1962 to exercise and perform the powers and duties of the Director-General:

- “District” or “education district” means an education district constituted under this Act:
- “District high school” means a State primary school or a Chatham Islands school having a primary department in which primary education is provided, and a secondary department in which secondary education is provided:
- “Former Education Act” means the Education Act 1914 and its amendments, or any Act thereby repealed, or any Act or Ordinance repealed by any such last-mentioned Act or by any former Education Act:
- “Further education” means education provided for persons who have passed the school leaving age and are not enrolled for secondary education in any school or department; but does not include education at a University or University College of Agriculture or teachers college:
- “Householder”, in relation to the election of members of the School Committee of any school district, means—
- (a) Every adult male or adult female person who has for the period of three months next before the day of the election resided in any dwelling (not being a tent or other temporary shelter) within the school district as owner or tenant thereof; and
 - (b) The father (wherever resident) or, if he is dead or absent from New Zealand, the guardian or other person (wherever resident) who has the actual custody of any child attending any State primary school under the management of the School Committee; and
 - (c) In any school district situated within a mining district under the Mining Act 1926, every adult holder of a miner’s right who for the period of three months next before the day of the election has resided in the school district and is not an alien; and
 - (d) The husband or wife of any person referred to in paragraph (a), paragraph (b), or paragraph (c) of this definition:
- “Intermediate department” means a department or division, attached to a secondary school or a district high school, to which are admitted, from one or more State primary schools, pupils who belong to the senior division:
- “Intermediate school” means a State primary school to which are admitted, from one or more other State

primary schools, pupils who belong to the senior division:

“Kindergarten” means a school or institution providing pre-school education and recognised as a kindergarten in accordance with regulations made under this Act:

“Kindergarten teacher” means any person engaged in teaching in a kindergarten:

“Kindergarten trainee” means any person attending a kindergarten training centre for the purpose of being trained as a kindergarten teacher:

“Maori” means any person belonging to the aboriginal race of New Zealand; and includes a half-caste and a person intermediate in blood between half-castes and persons of pure descent from that race:

“Maori school” means any school established by the Minister under this Act as a Maori school:

“Minister” means the Minister of Education:

“Parent”, in relation to any child, includes the child’s guardian, and the householder in whose family the child resides:

“Pre-school education” means education for children under the age of five years:

“Prescribed” means prescribed by this Act or by regulations made under this Act:

“Primary education” means education for pupils in a primary or intermediate school or department:

“Primary school” means a school providing a six-year course or an eight-year course for pupils entering between the ages of five and seven years:

“Private school” means any private school where there are more than eight children over five years of age receiving instruction:

“Private primary school” means any private school where there are enrolled for the purpose of receiving primary education more than eight children of school age:

“Private secondary school” means any private school where more than eight pupils are enrolled for the purpose of receiving secondary education:

“Property” means real and personal property of every description:

“Public conveyance” includes any transport approved by the Director-General, whether by railway, bus, ferry, or other means of conveyance, available to children for the purpose of attending school:

- “Public notice” means a notice published in some newspaper circulating in the district, and “publicly notified” means notified by means of a public notice:
- “Registered school” means a school established under Part III of this Act, or a school registered in accordance with section 186 of this Act:
- “Salary order” means any salary order or determination applicable to the Education service made pursuant to the Government Service Tribunal Act 1948:
- “School age”, in relation to any child, means any age between the age of five years and the age of fifteen years or any earlier age at which the child ceases to be required to have his name enrolled on the register of a school in accordance with Part IV of this Act; or, in the case of any child who is deemed by the Director-General (after special examination by a medical officer or other officer appointed for the purpose) to require special tuition, between such ages as the Director-General may from time to time determine, but in no case shall any person who has attained the age of twenty-one years be deemed to be of school age:
- “School district” means a school district constituted under section 38 of this Act:
- “School year” means the period of twelve months ending with the thirty-first day of January in any year:
- “Secondary education” means full-time education for pupils in a secondary school or department:
- “Secondary school or department” means a school or department established or deemed to be established under Part III of this Act and providing a full-time course beyond the primary school course:
- “Secondary teacher” means a teacher classified in accordance with regulations made under this Act as a secondary teacher:
- “Senior division”, in relation to a State primary school, includes such classes or forms therein as may from time to time be prescribed by regulations:
- “Senior Inspector” or “District Senior Inspector” means an Inspector of Schools appointed under section 7 of this Act to discharge the duties of the Senior Inspector of Primary Schools for an education district; and where appropriate, includes an Inspector of Schools so appointed to discharge the duties of the Senior Inspector of Secondary Schools for an area specified by the Director-General:

- “Special education” means education for children who, because of physical or mental handicap or of some educational difficulty, require educational treatment beyond that normally obtained in an ordinary class in a school providing primary, secondary, or further education:
- “State primary school” means any school providing primary education established under Part III of this Act by an Education Board; and includes any intermediate school or district high school subject to the control and management of an Education Board; and also includes a Maori school:
- “Teacher” means a schoolmaster or schoolmistress, or an assistant schoolmaster or assistant schoolmistress, engaged in teaching or eligible for appointment to a teaching position in any State primary school or correspondence school, or in a teachers college, or in a secondary school, or technical institute, or in an intermediate department, or engaged or eligible to be engaged as a teacher of a special subject (including manual training), or in any specialist training service, but does not include a probationary assistant, a junior assistant in a Maori school, or a student at a teachers college:
- “Teacher appointed by the Director-General” means a teacher appointed by the Director-General under powers for the time being delegated by the State Services Commission or placed under his control by an Order in Council made under section 164 of this Act:
- “Teachers Register” means the Teachers Register kept by the Director-General under section 132 of this Act:
- “Technical education” means further education which is directly related to or in preparation for the trade or profession in which the pupil gains or expects to gain his livelihood:
- “Technical institute” means a school established under Part III of this Act which is either devoted solely to the provision of technical and continuation education, or provides such a volume of advanced technical education as to warrant, in the opinion of the Minister, being designated as a technical institute; and includes any correspondence school so far as it is deemed to be a technical institute within the meaning of that Part of this Act:

(2) Unless the context otherwise requires, every reference in any other enactment or document existing at the commencement of this Act to—

- (a) The Director of Education shall be read as a reference to the Director-General of Education:
- (b) A public school shall be read as a reference to a State primary school subject to the control and management of an Education Board:
- (c) A technical school, technical high school, or combined school shall be read as a reference to a secondary school:
- (d) A teachers training college shall be read as a reference to a teachers college.

Cf. 1914, No. 56, s. 2; 1919, No. 29, s. 2; 1936, No. 44, s. 2; 1955, No. 87, s. 2; 1963, No. 27, s. 2

PART I

CENTRAL ADMINISTRATION

Department of Education

3. Department of Education—There shall be a Department of State to be known as the Department of Education, which shall be the same Department as that existing under the same name at the commencement of this Act.

Cf. 1914, No. 56, s. 3

4. Minister of Education—The Minister shall have the control and direction of the Department and of the officers thereof, and, subject to the provisions of this Act, shall generally administer this Act.

Cf. 1914, No. 56, s. 4

5. Delegation of Minister's powers—(1) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the Director-General all or any of the powers which are conferred on him as Minister of Education by this Act or any other enactment, including powers delegated to him under any enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 8 of this Act.

(2) Subject to any general or special directions given or conditions or restrictions attached by the Minister, the Director-General may exercise any powers delegated to him

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-General purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with 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) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. 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-General to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Director-General or, if there is no Director-General in office or if the Director-General is absent from duty, to the person for the time being directed under the State Services Act 1962 to exercise and perform the powers and duties of the Director-General.

6. Director-General of Education—There shall from time to time be appointed under the State Services Act 1962 a Director-General of Education, who shall be the administrative head of the Department of Education.

Cf. 1914, No. 56, s. 5

7. Appointment of other officers—There may from time to time be appointed under the State Services Act 1962 as officers of the Department such Assistant Directors-General, Inspectors of Schools, and other officers and employees as may be necessary for the purposes of this Act.

Cf. 1914, No. 56, s. 5

8. Delegation of Director-General's powers—(1) The Director-General may from time to time, by writing under his hand, 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:

Provided that the Director-General shall not delegate any power delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the State Services Act 1962 without the written consent of the State Services Commission.

(2) Subject to any general or special directions given or conditions or restrictions attached by the Director-General, the officer or employee to whom any powers are 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 person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Director-General 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-General.

9. Expenses of administration to be appropriated by Parliament—(1) All amounts payable for the expenses of the Department, and all amounts payable under this Act to Education Boards and to other controlling authorities for educational and other prescribed purposes, and all amounts payable for such other purposes as may be necessary to give effect to the provisions of this Act, shall be paid out of money from time to time appropriated by Parliament for the purposes of this Act.

(2) Subject to any such appropriation, regulations may be made prescribing the times at and the manner in which the said amounts shall be paid or applied.

Cf. 1914, No. 56, s. 6

PART II

LOCAL ADMINISTRATION

Education Districts

10. Education districts—(1) The education districts of Auckland, Canterbury, Hawke's Bay, Nelson, Otago, South Auckland, Southland, Taranaki, Wanganui, and Wellington, as they exist at the commencement of this Act, and any other education districts duly constituted between the date of the passing of this Act and the date of its commencement, as those districts exist at the commencement of this Act, are hereby declared to be education districts.

(2) The foregoing provisions of this section shall not prevent the boundaries of any education district from being altered at any time in accordance with this Act.

(3) Where the boundaries of any education district are described with reference to any county, borough, town district, or road district, and the boundaries of the county, borough, town district, or road district are altered, the alteration shall operate with respect to the education district and shall take effect accordingly.

(4) Where the boundaries of any education district are described with reference to the counties, boroughs, town districts, and road districts comprised therein, and a new county, borough, town district, or road district is created which is wholly within that education district as it was theretofore described, the new county, borough, town district, or road district shall be deemed to be within that education district.

Cf. 1952, No. 39, s. 2

11. Education Districts Boundaries Commissioner—(1) For the purpose of advising and making recommendations on all matters pertaining to the constitution of education districts and the alteration of the boundaries of existing education districts, the Minister may appoint an Education Districts Boundaries Commissioner.

(2) Every such Commissioner shall hold office for a term of three years, but may from time to time be reappointed.

(3) Any such appointment or reappointment may be made to take effect on a date specified by the Minister, which date may be the date on which the Minister makes the appointment or any earlier or later date. If no date is so specified in respect of any such appointment or reappointment, it shall take effect immediately on the termination of the term

of office of the Commissioner who is then in office, or if no Commissioner is then in office on the date on which the Minister makes the appointment.

(4) The functions of every such Commissioner shall be—

(a) To investigate the various factors that make for education districts of desirable size and, in the light of such criteria as he may establish, to recommend to the Minister such alterations of boundaries of education districts and such new education districts as he considers necessary:

(b) To investigate, report, and make recommendations, as the Minister may from time to time require, on any proposal for the alteration of the boundaries of education districts or for the constitution of a new education district or on any matter relevant thereto:

Provided that the Commissioner shall, before making any recommendation to the Minister for the alteration of the boundaries of an education district or for the constitution of a new education district, consult with the Education Board of every district whose boundaries will be affected.

(5) There shall be paid out of money appropriated by Parliament for the purpose to the Education Districts Boundaries Commissioner remuneration by way of fees or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Commissioner were a member of a statutory Board within the meaning of that Act.

(6) There shall be appointed in accordance with the State Services Act 1962 such officers and servants as may be necessary for the Education Districts Boundaries Commissioner to exercise and perform his functions efficiently.

Cf. 1962, No. 54, s. 2

12. Constitution of new education districts—(1) The Minister may, after consideration of the recommendations (if any) of the Education Districts Boundaries Commissioner, by notice published in the *Gazette*, constitute part of the district or districts of one or more Education Boards as a new education district.

(2) The notice constituting the new education district shall set forth the name and boundaries of the new district, and the situation of the office of the Board of the district, and the

date on which the district is to come into existence. The notice shall take effect and the new education district shall be constituted and come into existence on the date specified in the notice in the *Gazette*. The notice so gazetted shall for all purposes be conclusive proof of the due constitution of the new education district and of all matters so set forth in the notice.

(3) At any time after the constitution of a new education district, the Governor-General may, by Order in Council,—

(a) Apportion or provide for the apportionment of any money held by any Board whose district, immediately before the constitution of the new district, included the whole or part of the new district:

(b) Provide or make regulations providing for all matters which become necessary because of the establishment of the new district.

(4) As from such date as the Minister by notice in the *Gazette* may specify, all school sites situated within the new education district and all other real or personal property vested in any other Education Board and held by it for the purposes of any school within the new district shall, without conveyance or transfer or assignment, vest in the Education Board of the new district. The District Land Registrar shall, on request by the new Education Board and without payment of any fee, make such entries in the register books and in any outstanding documents of title as may be necessary to give effect to the provisions of this subsection.

Cf. 1952, No. 39, ss. 4, 5; 1962, No. 54, s. 2

13. Alteration of boundaries of education districts—(1) The Governor-General, on the recommendation of the Minister given after consideration of the recommendations (if any) of the Education Districts Boundaries Commissioner and after the Minister has consulted with the Boards concerned, may by Order in Council alter the boundaries of any two contiguous education districts by the exclusion of any defined area from one such district and its inclusion in the other district.

(2) On the coming into force of any Order in Council under this section, all school sites situated within any area that, by virtue of the Order in Council, has been excluded from any district, and any other real or personal property vested in the Board of the district from which that area has been so excluded, and held by it for the purposes of any school within

that area, shall, without conveyance or transfer or assignment, vest in the Board of the district within which the area has been included for the estate or interest therein of the Board in which the property was theretofore vested. On application by the Board in which any land or any estate or interest in land is vested pursuant to this section, the District Land Registrar, on being satisfied as to the title of that Board, shall, without payment of any fee, make such entries in the register books and in any outstanding documents of title as may be necessary to give effect to the provisions of this section.

(3) The Governor-General may, by Order in Council, declare that any island which is within the territorial limits of New Zealand, and which does not form part of any county, borough, or town district, shall be deemed to be within and to form part of such education district as may be specified in that behalf in the order.

Cf. 1919, No. 29, s. 4; 1944, No. 25, s. 15; 1962, No. 54, s. 2

14. Division of districts into wards—The Education Board of each district shall from time to time, when it thinks fit or when so directed by the Minister, cause the district to be divided into wards in the manner prescribed by regulations made under this Act.

Cf. 1953, No. 70, s. 2

Education Boards

15. Constitution of Education Boards—(1) There shall be an Education Board of each education district.

(2) Every Education Board shall consist of—

(a) One member to represent each ward which does not form part of a combined group of wards; and

(b) A number of members to represent each combined group of wards equal to the number of wards in that group.

(3) The member or members to represent any ward or combined group of wards on any Education Board shall be elected, in accordance with regulations made under this Act, by—

(a) The members of the Committees, and the Commissioners (if any) appointed under this Act, of the State primary schools (including intermediate schools) that are under the control of the Board and are within the ward or combined group of wards; and

- (b) The members of the special Committees appointed under section 53 of this Act of the secondary schools that are under the control of the Board and are within the ward or combined group of wards:

Provided that where, after the first election of members of the Board for the district, any redivision of a district into wards is made, or two or more wards are combined to form a group of wards, or any ward which has been included in a group is re-established as a separate ward, the following matters shall be determined by or under regulations made under this Act, namely, the member or members to represent any reconstituted ward or group of wards, the period for which members who cease to represent any ward or combined group of wards shall continue to be members of the Board, and the filling of any vacancies on the Board which may arise out of any redivision of its district into wards:

Provided also that where any vacancy arises, either as a result of a smaller number of candidates having been nominated than is required to fill the vacancies in any ward or combined group of wards, or as a result of an extraordinary vacancy within the meaning of section 19 of this Act, the vacancy shall be filled in accordance with regulations made under this Act.

Cf. 1953, No. 70, s. 3

16. Appointment of Commission to act as Education Board of new district—(1) Where a new education district has been constituted, the Minister shall, as soon as practicable, by notice in the *Gazette*, appoint such persons as may be specified in the notice as a Commission to take all steps necessary to arrange for the holding of an election of members of the Board of the new district and generally to act as Education Board of the new district until the first elected members of the Board of the new district come into office; and the Minister may from time to time in like manner appoint additional persons to the Commission:

Provided that the number of persons on the Commission shall not at any time be less than three nor more than nine.

(2) Where a new education district has been constituted, every Education Board whose district previously included the whole or part of the new district shall continue to be the Education Board of the whole of its district as previously constituted until a Commission is appointed as aforesaid for

the new district; and the powers and duties of every such Education Board in respect of the new district shall then cease.

(3) While a Commission acts as Education Board of a district in accordance with this section, it shall be deemed for all purposes to be the Education Board of the district; and its members shall be deemed for all purposes to be members of the Education Board of the district.

Cf. 1952, No. 39, s. 7

17. Qualification of members of Board—Every person, male or female, who has attained the age of twenty-one years, and is not disqualified as mentioned in section 18 of this Act, and is resident in the education district, shall be qualified to become a member of the Education Board.

Cf. 1914, No. 56, s. 19

18. Disqualification of members of Boards—A person shall be incapable of becoming a member of an Education Board if he is—

- (a) A mentally defective person within the meaning of the Mental Health Act 1911; or
- (b) A bankrupt who has not obtained his 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 had received a full pardon or has served his sentence or otherwise suffered the penalty imposed upon him.

Cf. 1914, No. 56, s. 20

19. Extraordinary vacancies on Boards—(1) The office of any member of an Education Board shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy, if the member—

- (a) Dies; or
- (b) Resigns his office by writing under his hand delivered to the Chairman of the Board; or
- (c) Receives any salary from the Board, or accepts or holds any office or employment from or under the Board to which any salary, fee, or emolument is attached, except as authorised by section 24 of this Act; or

(d) Is absent without leave from three consecutive meetings of the Board; or

(e) Ceases to reside in the education district; or

(f) Becomes a mentally defective person within the meaning of the Mental Health Act 1911; or

(g) Is adjudged a bankrupt; or

(h) Is convicted of an offence punishable by imprisonment.

(2) Every extraordinary vacancy on a Board 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.

Cf. 1914, No. 56, s. 20

20. Acts of Board not to be questioned for informality, etc.—The powers of any Education Board shall not be affected by any vacancy in the membership thereof, or in consequence of the subsequent discovery of any error or defect in the election of a member of the Board, or of the fact that any member of the Board is disqualified or has forfeited his seat.

Cf. 1914, No. 56, s. 22

21. Boards incorporated—(1) Each Board shall be a body corporate under the name of “The Education Board of the District of.....”, and shall have perpetual succession and a common seal, and may hold real and personal property for the purposes of this Act, and sue and be sued, and do and suffer all such acts and things as bodies corporate may do and suffer.

(2) The common seal of a Board shall not be affixed to any document except pursuant to a resolution of the Board, and the execution of any document so sealed shall be attested by two members of the Board.

Cf. 1914, No. 56, s. 24

22. Board may appoint officers—(1) Subject to the provisions of subsection (2) of this section, every Education Board may from time to time appoint and remove a Chief Executive Officer and such other officers as the Board considers necessary.

(2) The Governor-General may from time to time, by Order in Council, make regulations prescribing, in respect of persons employed by any Education Board whose conditions of employment are not fixed by any award or industrial agreement or apprenticeship order, the conditions of employment,

the conditions on which leave of absence may be granted, and the scales of salaries, the rates of overtime, and the travelling, meal, and other allowances and expenses payable.

Cf. 1914, No. 56, s. 26; 1949, No. 17, s. 2

23. Meetings of Boards—(1) An Education Board shall hold its meetings at such times and places as the Board from time to time appoints:

Provided that the first meeting of the Board of a newly constituted district shall be held at a time and place to be fixed by the Minister.

(2) The Chairman of the Board may at any time call a special meeting of the Board.

(3) It shall be the duty of the Chief Executive Officer or the Chairman of the Board to call a special meeting of the Board at any time when requested to do so by a requisition in writing under the hands of five members of the Board.

(4) The powers given to Boards by this Act shall be exercised at meetings convened as aforesaid, and every Board shall elect a chairman and conduct its business at such meetings in accordance with regulations made under this Act.

Cf. 1914, No. 56, s. 28

24. Annual allowances to Chairmen of Education Boards—

(1) Any Education Board or Commission appointed under section 16 of this Act may, if it thinks fit, pay to its Chairman such annual allowance not exceeding in any year the amount which the Minister of Education, with the concurrence of the Minister of Finance, approves in that behalf:

Provided that in no case shall the sum so approved exceed five hundred pounds in any year.

(2) Payments under this section may be made by monthly or other instalments as the Board thinks fit, but in no case shall any such payment be made more than one month in advance.

Cf. 1963, No. 27, s. 8

25. Refund of members' travelling expenses—(1) An Education Board may pay out of its General Fund to the Chairman and to each member travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly:

Provided that, where (pursuant to a resolution of the Board) the Chairman or any member is making an official visit or is attending as a representative of the Board any conference summoned or approved by the Minister, the Chairman or member shall be deemed to be travelling in the service of the Board and to be transacting business of the Board for the purposes of the Fees and Travelling Allowances Act 1951.

(2) A Commission appointed to act as Education Board of a new district may, with the approval of the Minister, and in addition to any travelling allowances and expenses to which the members of the Commission may be entitled, pay out of its General Fund to its members remuneration by way of fees, salary, or allowances in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the members of the Commission were members of a statutory Board within the meaning of that Act.

Cf. 1952, No. 39, s. 7; 1954, No. 56, s. 3

26. General powers and duties of Board—(1) Subject to the provisions of this Act and of regulations thereunder, the Education Board of each district shall—

- (a) Establish, maintain, and control State primary schools, other than Maori schools, within its district and the secondary schools and classes in further education of which it is the controlling authority under Part III of this Act:
- (b) Appoint teachers for the said schools and classes:
- (c) Subject to the approval of the Minister, arrange for the conveyance of children to and from school:
- (d) Establish school districts, and define or alter the limits thereof:
- (e) Generally have and exercise all the duties and functions imposed upon Boards by this Act.

(2) Any Board may make such bylaws in accordance with this Act and regulations thereunder as in its opinion are necessary or desirable to enable it to exercise the duties and functions imposed on it by this Act, and to direct and control its officers and the schools in its district.

Cf. 1914, No. 56, s. 32

27. Borrowing powers of Education Boards—(1) Any Education Board may, with the prior written consent of the Minister of Education, given with the concurrence of the Minister of Finance, borrow money from the Minister of Education or any other source.

(2) The Minister of Education is hereby authorised to make advances on such terms as the Minister of Finance may approve to any Board out of money appropriated by Parliament for the purpose.

(3) Any Education Board may, with the prior written approval of the Minister, in anticipation of its revenue, from time to time borrow money from its bankers by way of overdraft.

(4) Any approval given by the Minister under subsection (3) of this section shall be for a specified amount and shall be limited to a specified period:

Provided that it shall not be lawful for any Board to owe under the authority of subsection (3) of this section at the end of any year any sum greater than such part of its revenue of the year then ended as remains outstanding and unpaid.

Cf. 1914, No. 56, s. 35A; 1949, No. 17, s. 4; 1957, No. 101, s. 3

28. Board may insure members and pay subscriptions to Education Boards' Association—(1) It shall be lawful for any Board from time to time to enter into contracts of insurance insuring members of the Board against loss from personal accident arising out of and in the course of the exercise of their duties as members of the Board, and to pay the premiums payable in respect of the contracts.

(2) An Education Board that is affiliated to the Education Boards' Association of New Zealand may pay out of its General Fund to that Association such amounts as the Minister may approve by way of annual subscription towards expenses incurred by that Association in carrying out its purposes.

Cf. 1957, No. 101, s. 4

29. Board may establish special committees—(1) Any Education Board may, from time to time, by resolution, establish special committees of Board members for particular purposes to which the Board may delegate such of its functions and powers in respect of those purposes as it thinks fit.

(2) Subject to any general or special directions given or conditions attached by the Board, any special committee established under this section may perform and exercise any functions and powers delegated to it in the same manner and with the same effect as if they had been conferred on it directly by this Act and not by delegation.

(3) Where any special committee purports to act pursuant to any delegation under this section, it shall be presumed to be acting in accordance with 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 performance or exercise of any function or power by the Board.

(5) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Board or special committee.

Accounts of Boards

30. Board Fund—(1) The Board Fund of each Education Board shall consist of the General Fund and the special funds.

(2) The General Fund of each Board shall consist of grants from the public funds not allocated to any special purpose, and of any other money which the Board may receive and which is not required to be allocated to a special fund.

(3) The special funds of each Board shall consist of grants from the public funds or otherwise allocated to any special purposes and of any other money which the Board may receive for special purposes from donations, subscriptions, or otherwise.

(4) Subject as aforesaid, the said funds shall be established, maintained, applied, and expended by each Board in accordance with regulations made under this Act.

Cf. 1914, No. 56, s. 33; 1949, No. 17, s. 5

31. Education Board Account—Subject to the provisions of sections 32, 33, and 53 of this Act, all money received by or belonging to any Board shall be paid forthwith into such bank as the Board from time to time appoints to an account to be called the [*Name*] Education Board Account; and no money shall be drawn out of the bank except by authority of the Board and by cheque signed by two persons from a panel of Board members and officers authorised by the Board to sign cheques:

Provided that it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Board by cheque bearing a facsimile of the signature of one of the persons authorised pursuant to the provisions of

this section to sign cheques, and every cheque bearing such a facsimile shall be deemed to have been duly signed and countersigned in accordance with the provisions of this section.

Cf. 1914, No. 56, s. 35; 1961, No. 56, s. 2

32. Board may establish Imprest Accounts—(1) An Education Board may, pursuant to a resolution in that behalf, establish and maintain Imprest Accounts which shall, as the Board may determine, be kept in the Post Office Savings Bank or in any bank within the meaning of the Banking Act 1908.

(2) Each Imprest Account may be held jointly in the names of, and be operated on by, two responsible persons to be appointed in that behalf by the Board, or may, with the express approval in writing of the Audit Office but not otherwise, be in the sole name of, and be operated on by, the Chief Executive Officer or other approved officer of the Board.

(3) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in each Imprest Account, and the amount so fixed shall not exceed such amount as the Audit Office may from time to time approve.

(4) Money in each Imprest Account shall be available only for the payment of salaries, wages, emergency expenditure, and such other expenditure as the Board and the Audit Office may jointly approve. A statement of all payments made from each Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of money out of any Imprest Account for any purpose not hereby authorised shall be deemed to be a misappropriation of the funds of the Board.

Cf. 1948, No. 68, s. 8

33. Procedure for payment by Education Boards of salaries and allowances to teachers—An Education Board may keep at any bank or banks an account to be known as the Teachers' Salaries Account, and the money for the time being in any such account shall be available in accordance with regulations made under this Act for the payment of the salaries and allowances of teachers and other persons employed by the Board in connection with the schools under its control.

Cf. 1914, No. 56, s. 35B; 1959, No. 23, s. 2

34. Disposal of funds of Board—Subject to the provisions of this Act and of regulations thereunder, each Education Board shall, out of its General Fund or its several special funds, as the case may be, pay such amounts as are required to meet the expenses necessarily incurred by the Board in carrying out the provisions and requirements of this Act and regulations thereunder affecting the Board.

Cf. 1914, No. 56, s. 36

35. Accounts to be kept—(1) Each Education Board shall keep full and true accounts in the manner prescribed by regulations made under this Act, or (if the manner is not for the time being so prescribed) in the manner approved by the Minister.

(2) Each Board shall cause its accounts for each year ending with the thirty-first day of January to be balanced, and a true statement of account to be prepared, in a form approved by the Minister showing—

(a) The income and expenditure of the Board for the year; and

(b) All assets and liabilities of the Board at the end of the year.

(3) A true copy of such annual statement of account shall, before the last day of May in each year, be sent by the Board to the Director-General.

(4) For the purposes of the audit of its accounts each Board shall be deemed to be a local authority within the meaning of Part XII of the Public Revenues Act 1953.

Cf. 1914, No. 56, s. 38; 1963, No. 27, s. 9

36. Board to forward annual report of proceedings to Director-General—(1) Every Education Board shall, before the last day of May in each year, forward to the Director-General a report of its proceedings during the previous year.

(2) The report shall contain such information relative to the State primary schools and other institutions and services under its control and to educational matters within the district as the Minister may direct.

Cf. 1914, No. 56, s. 39; 1920, No. 64, s. 5 (2)

37. Unauthorised expenditure of Education Boards—An Education Board may, in any year ending with the thirty-first day of January, expend out of its General Fund for purposes not authorised by any Act or law for the time being in force

any sum or sums not amounting in the whole to more than one per cent of such portion of its income for that year as is payable to the General Fund, nor in any case to more than two hundred pounds.

Cf. 1921–22, No. 27, s. 5 (1); 1960, No. 56, s. 2

School Committees

38. School districts—(1) All school districts constituted under any former Education Act and in existence at the commencement of this Act shall be deemed to have been constituted under this Act.

(2) The Board may, subject to the provisions of this Act and the regulations made thereunder,—

(a) Define the boundaries of the school district of every State primary school other than a Maori school established under this Act:

(b) Alter the limits of any such school district:

(c) Divide any such school district into two or more school districts:

(d) Combine two or more such school districts.

(3) The Director-General may, subject to the provisions of this Act and the regulations made thereunder,—

(a) Define the boundaries of the school district of every Maori school established under this Act:

(b) Alter the limits of any such school district:

(c) Divide any such school district into two or more school districts:

(d) Combine two or more such school districts.

Cf. 1914, No. 56, s. 40; 1957, No. 101, s. 8

39. School Committees—(1) Subject to the provisions of subsection (2) of this section, for every school district constituted under this Act of a State primary school other than an intermediate school there shall be a School Committee consisting of such number of householders, being not less than five nor more than nine, as may be prescribed by regulations made under this Act; and members of School Committees shall be elected by the householders of the school district, and hold office, as so prescribed.

(2) If at any time the householders of any school district refuse or neglect to elect a Committee as aforesaid, or if for any cause whatever there is no School Committee for the district, one or more Commissioners may be appointed for the district; and any Commissioner or Commissioners so

appointed shall hold office until a school committee is elected for the district unless, in the case of any Commissioner, he is removed from office by the Board before that date. Any such Commissioner or Commissioners shall have all the powers and shall perform all the duties by law assigned to a School Committee. Any such appointment may be made by the Director-General in the case of the school district of a Maori school, and by the Board in the case of the school district of any other State primary school.

Cf. 1914, No. 56, s. 41 ; 1933, No. 37, s. 5 (2)

40. School Committees of normal schools—(1) Notwithstanding anything in section 39 of this Act, in any case where a normal or practising school has been established consisting of a main school and model schools, and, immediately before the establishment of that school, the main and model schools were established as separate public schools with School Committees for their respective school districts, the Minister may require, for the purpose of the election of the School Committee for the school district of the normal or practising school, that the school district of that school shall be divided into wards corresponding to the former school districts of the main and model schools.

(2) The powers of the Minister under subsection (1) of this section shall be exercised only where the Education Board of the district makes application to him for the division of the school district of the normal or practising school into wards, and the Minister is of the opinion that special local circumstances warrant that course.

(3) Where, in accordance with the foregoing provisions of this section, the school district of a normal or practising school has been divided into wards, the Minister shall determine the number of members of the School Committee to be elected by each ward within the school district, but in no case shall the number of members to be elected for all wards exceed the number of members that may be elected for a School Committee in accordance with the provisions of section 39 of this Act.

(4) Except as otherwise provided in this section, the provisions of section 39 of this Act shall apply with the appropriate modifications to the election of members of the School Committee for the school district of a normal or practising school.

Cf. 1963, No. 27, s. 10

41. Committees for intermediate schools—(1) For every intermediate school, there shall be a committee consisting of nine members elected by the parents or guardians of the pupils attending the school:

Provided that the Minister may, where he considers it necessary, by notice in the *Gazette*, increase or reduce the number of members to be so elected to any such committee.

(2) The members of the committee of an intermediate school shall be elected by the parents or guardians of pupils and shall hold office in such manner as may be prescribed by regulations made under this Act.

(3) Subject to the foregoing provisions of this section, the provisions of this Act relating to School Committees shall, so far as they are applicable and with the necessary modifications, apply to all committees of intermediate schools and the members thereof.

Cf. 1934–35, No. 46, s. 8

42. Qualification of members of School Committees—(1) A person shall be incapable of becoming a member of a School Committee for a school district, if under section 18 of this Act he is incapable of becoming a member of an Education Board.

(2) The office of any member of a School Committee for a school district shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy if,—

(a) Under any provision of paragraphs (a), (b), (f), (g), and (h) of subsection (1) of section 19 of this Act, the member would have vacated office as a member of an Education Board if he had been a member of a Board; or

(b) He is absent without leave from three consecutive meetings of the School Committee.

(3) Every householder in a school district shall be qualified to be elected a member of the School Committee for the district, and no other person shall be so qualified.

Cf. 1914, No. 56, s. 42

43. Meetings of Committees—Subject to the provisions of any regulations made under this Act, the Committee of each school district shall hold its meetings, elect a Chairman, appoint officers, and conduct its proceedings in such manner as it may determine.

Cf. 1914, No. 56, ss. 44–46

44. Committee failing to meet to cease to exist—If at any time any Committee fails from any cause for a period of three months to hold a meeting it shall cease to exist, and one or more Commissioners may be appointed for the district in accordance with subsection (2) of section 39 of this Act as if there had been a failure of the householders to elect a Committee.

Cf. 1914, No. 56, s. 47

45. Appearance in legal proceedings—A Committee may appear in all legal proceedings by its Secretary or Chairman, or by counsel.

Cf. 1914, No. 56, s. 48

46. Committee to have management of schools, etc.—
(1) Subject to the general supervision and control, as provided in this Act, of the Director-General in the case of any Maori school, and of the Education Board in the case of any other State primary school,—

(a) The Committee for the school district of every Maori school shall have the management of the Maori school or Maori schools within the school district:

(b) The Committee of the school district of every State primary school, other than a Maori school, shall have the management of the school or schools, other than Maori schools, within the school district.

(2) Except as provided in section 26 of this Act, it shall be the duty of each School Committee to keep every school under its management in good repair and order, and to provide for the proper cleaning of every such school and the outbuildings thereof, and for the heating of every such school, and to make all necessary arrangements in regard to sanitary matters, and to the care of the school grounds, gates, and fences.

(3) Notwithstanding anything to the contrary in Part V of this Act, every School Committee may from time to time, with the approval of the Director-General in the case of any Maori school, and of the Education Board in the case of any other State primary school, appoint teachers of sewing in any school under its control in which there is not a female teacher. The salaries of all such teachers shall be paid in the manner provided by regulations made under this Act.

(4) Every School Committee shall expend, in accordance with the instructions of the Director-General in the case of any Maori school, and in accordance with the bylaws of the

Education Board in the case of any other State primary school,—

(a) The grants made to it by the Director-General or the Board, as the case may be, for incidental expenses as defined by regulations made under this Act:

(b) The grants made to it by the Director-General or the Board, as the case may be, for special purposes.

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

(6) Subject to any directions given by the Director-General in the case of Maori schools and to the bylaws of the Board in the case of other State primary schools, the school buildings may be used at times other than those fixed for purposes of primary, secondary, or technical instruction, or for continuation classes, upon such terms as the Committee may from time to time prescribe:

Provided that nothing in this section or in any direction given by the Director-General or in any bylaws of the Board shall prevent the Committee from granting as it deems fit the use of the school buildings as aforesaid for the purpose of moral and religious instruction.

Cf. 1914, No. 56, s. 49

47. School Fund and property—(1) The School Fund shall consist of—

(a) In the case of State primary schools, other than Maori schools, money granted out of the Board Fund for incidental expenses and for any special purposes:

(b) In the case of Maori schools, money which the Director-General, out of money appropriated by Parliament for the purpose, may pay into the Fund for incidental expenses and for any special purposes:

(c) In all cases, donations, subscriptions, and all other money which may be received by the Committee for the purposes of this Act.

(2) Every such School Fund shall be kept in accordance with regulations made under this Act.

(3) Where any School Committee ceases to function owing to the closing of the school—

(a) The whole of the School Fund in the hands of the Committee, after meeting its outstanding liabilities, shall—

(i) In the case of any State primary school other than a Maori school, be paid to the Board and credited to its special fund for grants to Committees for incidental expenses:

(ii) In the case of a Maori School, be disposed of in such manner as the Minister may determine:

(b) All furniture, equipment, and property of the school shall,—

(i) In the case of any State primary school, other than a Maori school, remain under the ownership and control of the Board:

(ii) In the case of a Maori school, remain under the ownership and control of the Department of Education.

Cf. 1914, No. 56, s. 50; 1926, No. 53, s. 3; 1949, No. 17, s. 8; 1957, No. 101, ss. 10, 12

48. Audit of Committee's accounts—(1) The Committee shall keep such accounts as may be required by the Director-General in the case of a School Committee for a Maori school, or by the Education Board in the case of the School Committee for any other State primary school.

(2) The Committee shall cause the said accounts to be balanced to the last day of January, or such other date as the Minister may from time to time determine, in every year, and a statement of account to be prepared, in the form so required, of the receipts and payments of the Committee during the twelve months preceding that date.

(3) All such accounts shall be audited in such manner as may be prescribed.

Cf. 1914, No. 56, s. 52; 1957, No. 101, s. 13

49. Committee to forward annual report to Board—

(1) Every Committee shall, before the fourth Monday in April in each year, forward a report of its proceedings during the immediately preceding year ending with the date to which its accounts are balanced to the Director-General in the case of a Maori school under his control, and to the Education Board in the case of any other State primary school.

(2) The report shall contain a full account of the receipts and payments of the Committee, audited in the prescribed manner, and also such information relative to the schools under its control and to educational matters within the school district as may be directed by the Director-General in the

case of a Maori school under his control, and by the Education Board in the case of any other State primary school.

Cf. 1914, No. 56, s. 53; 1957, No. 101, s. 14

Governing Bodies of Secondary Schools

50. Governing bodies of certain secondary schools—

(1) Where, in accordance with subsection (2) of section 82 of this Act, at the commencement of this Act any school was deemed to have been established as a secondary school, and immediately before the commencement of this Act the school was under the control of a Board of Governors or a Board of Managers, constituted by any former Education Act or other Act or any Order in Council as the governing body for that school,—

- (a) In the case of a Board of Governors, the governing body shall continue under its existing name and as then constituted to control the school:
- (b) In the case of a Board of Managers, the governing body shall become a Board of Governors and its name shall be amended accordingly, and it shall continue as then constituted to control the school:

Provided that, notwithstanding anything to the contrary in this Act or any other Act, the Governor-General, on the advice of the Minister given after consultation with the governing body, may, by Order in Council, from time to time vary the constitution of the governing body of any such secondary school so as to constitute the governing body in accordance with the requirements specified in section 51 of this Act.

(2) In every case where section 5 of the Education Amendment Act 1961 applied to any provision in any Act or regulation or Order in Council immediately before the commencement of this Act, that section shall continue to apply, notwithstanding its repeal, to that provision while that provision continues in force:

Provided that, where (pursuant to the said section 5) any member of a Board of Governors is to be appointed by the Board itself, every such appointment which is made after the commencement of this Act shall, notwithstanding anything in this Act or in any other Act, be made by the Board at the first meeting of the Board for the term of office for which the appointment is to be made.

Cf. 1914, No. 56, ss. 89, 90; 1952, No. 39, s. 10; 1961, No. 56, s. 5

51. Governing bodies of other secondary schools—Every secondary school established after the commencement of this Act shall, unless the Minister requires the school to be controlled by the Education Board of the district or by the governing body of some other secondary school or schools, be controlled by a Board of Governors, which shall be constituted, and may from time to time be reconstituted, by the Governor-General, by Order in Council, in accordance with the following requirements:

- (a) The Board of Governors shall consist of not fewer than nine and not more than eleven members:

Provided that there may be more than eleven members of any such Board of Governors if that Board controls more than one school or there are special reasons which render it desirable to have more than eleven members on that Board:

- (b) At least one member shall be appointed by the Education Board of the district:

- (c) At least five members shall be elected by the parents of the pupils attending the school:

- (d) The remaining members may comprise any of the following:

(i) Representatives of any of the following, namely, the Education Board of the district, and the parents of the pupils appointed or elected, as the case may be, in addition to those appointed or elected under paragraphs (b) and (c) of this subsection:

(ii) A member or members co-opted by the Board of Governors itself:

(iii) Representatives of any of the following, namely, the local authority of any district or the local authorities of any districts from which pupils will attend the school, the employers in local industries, the employees in local industries, the old pupils' association of the school, the School Committees of the schools from which pupils are enrolled, a University which serves the area, and such additional local groups and organisations approved by the Minister as are appropriate in the case of any particular school:

Provided that, where a newly-established secondary school is to be controlled by a Board of Governors as aforesaid, it shall, until the school is opened and

the election of members by the parents of the pupils is held, be controlled by a Board consisting of the remaining members of the Board of Governors for the school.

Cf. 1914, No. 56, s. 90; 1952, No. 39, s. 10; 1954, No. 56, s. 4

52. Appointment and election of members—Notwithstanding anything to the contrary in any other Act, the Governor-General may from time to time, by Order in Council, make regulations prescribing the manner in which members of Boards of Governors of secondary schools shall be appointed or elected and hold office.

53. Certain secondary schools not placed under separate Boards of Governors—(1) Where the Minister requires a secondary school to be controlled by the Education Board of the district or the governing body of some other secondary school or schools, the Education Board or governing body may delegate such powers over the school as it thinks fit to the Committee of the school district in which the secondary school is situated, or to a special Committee elected or appointed in such manner as may be prescribed.

(2) The provisions of section 60 of this Act shall apply to any Committee or special Committee to which powers are delegated under subsection (1) of this section as if it were the governing body of the school.

(3) Where any Education Board has, pursuant to subsection (1) of this section, delegated financial control in respect of a school to a Committee or special Committee, all money received by or belonging to the Committee or special Committee shall be paid into such bank as the Committee or special Committee from time to time appoints to the credit of one or more accounts, and no money shall be drawn out of the bank except by authority of the Committee or special Committee and by cheque signed by the Secretary and by a member or members appointed by the Committee or special Committee for the purpose.

(4) Notwithstanding anything to the contrary in this section, the Governor-General may, by Order in Council, make regulations defining the powers of control and management possessed respectively by the Education Board or governing body and the special Committee or other Committee to which is delegated the management of the school.

Cf. 1924, No. 50, s. 10

54. Change in control of secondary schools to provide separate Boards of Governors—(1) Where any secondary school is under the control of the Education Board of the district, the Governor-General, on the advice of the Minister, given on the joint recommendation of the Education Board and the special Committee or any other Committee of the school to which powers have been delegated by the Board, or given at any time after three years from the date on which the school was established on the recommendation of such special Committee or such other committee of the school, may by Order in Council direct that, as from a date fixed in the order, the Board shall cease to exercise control over that school, and that the sole control thereof shall be vested in a Board of Governors to be constituted by Order in Council in accordance with the requirements specified in section 51 of this Act.

(2) Where any secondary school is under the control of the governing body of some other secondary school or schools, the Governor-General, on the advice of the Minister, given after he has consulted that governing body, may by Order in Council remove that school from the control of that governing body and vest the sole control of the school in a Board of Governors to be constituted by Order in Council in accordance with the requirements specified in section 51 of this Act.

(3) As from the date specified in any such Order in Council under this section which vests the control of the school in a separate Board of Governors, all the provisions of this Act relating to Boards of Governors of secondary schools shall apply to the Board of Governors of the School.

Cf. 1924, No. 50, s. 12; 1952, No. 39, s. 12; 1954, No. 56, s. 4 (1); 1961, No. 56, s. 4 (1)

55. Vesting of assets on change in control—All the property, rights, and liabilities of the original governing body in respect of the school shall, as from the date specified in the Order in Council aforesaid, vest in and become the property, rights, and liabilities of the Board of Governors, save so far as the property, rights, and liabilities may be expressly limited or excepted in the Order in Council, and every such Order in Council shall have effect according to its tenor.

Cf. 1924, No. 50, s. 12 (5); 1952, No. 39, s. 12

56. Governing bodies of secondary schools incorporated—The governing body of every secondary school shall be a body corporate with perpetual succession and a common seal, and

may hold real and personal property for the purposes of this Act, and sue and be sued, and do and suffer all such acts and things as bodies corporate may do and suffer.

Cf. 1914, No. 56, s. 91

57. Control of groups of secondary schools—(1) Notwithstanding anything in this Act or any other Act, the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister after application to him by the governing bodies of three or more secondary schools, establish for the purpose of this section, as from a date to be specified in the Order in Council, a Secondary Schools Council in respect of those schools.

(2) Every such Council shall be known by such name as may be specified in the order.

(3) Every such Council shall be a body corporate with power to hold real and personal property, and to sue and be sued, and to do and suffer all such acts and things as bodies corporate may do and suffer.

(4) Every such Council shall consist of—

(a) One member appointed by the Board of Governors of each of the schools under the Council:

Provided that where any Board of Governors controls more than one school, the number of members appointed by it under this paragraph shall be equal to the number of schools it controls:

(b) Two members appointed by the Council.

(5) The Council itself may from time to time, if and when it thinks fit, appoint for such period not exceeding three years as it may specify when making the appointment, one or two additional persons to be members of the Council (hereinafter referred to as co-opted members).

(6) Every member of any such Council (other than a co-opted member) shall be appointed for a term of three years, but may from time to time be reappointed.

(7) The functions of every such Council shall be—

(a) To take such steps as it thinks fit to ascertain the requirements of the district surrounding the schools under the Council in respect of secondary and further education; to make recommendations to the Minister and the Boards of Governors of the schools to which this section applies, or to any of them, regarding the coordination of secondary education; and to make

recommendations to the Minister regarding the building of new secondary schools in that district, and the making of additions to the schools under the Council:

- (b) To establish, maintain, and control a central office and a staff to perform the clerical and accounting work for the Boards of Governors of the schools under the Council:
- (c) To hold all real and personal property used for the purposes of each of the schools under the Council and all money appropriated from time to time by Parliament for the purposes of each of those schools, and, subject to the provisions of this section, to apply all property and money from time to time so held by it for each of the schools in such manner as the Board of Governors of the school may direct:

Provided that money raised by local effort for any school shall not be held by the Council under this paragraph unless the Board of Governors of the school so directs:

- (d) To establish, build, maintain, repair, rebuild, or reinstate, as it thinks fit, out of money appropriated by Parliament for the purpose, any school buildings, teacher's residence, house for any member of the staff, or any other building required for the purposes of the Council.

(8) For the purposes of section 65 of this Act every such Council shall be the governing body of each of the schools under the Council.

(9) All salaries and wages payable to the staff of the office of any such Council, and all expenses properly incurred by that Council in establishing and maintaining its office, shall be paid out of the money from time to time appropriated by Parliament for the incidental expenses of those schools rateably in proportion to the amounts so appropriated to each school.

(10) At the request of the governing body of the school concerned, the Minister may from time to time, by notice in the *Gazette*, place any other school under any Secondary Schools Council established under this section:

Provided that, at any time before the establishment of a new secondary school, the Minister may by notice in the *Gazette* place the school from the date of its establishment under any Secondary Schools Council established under this section.

(11) Notwithstanding anything in this Act or any other Act, there shall be a Board of Governors for each school which is for the time being under any such Council. Any such Board of Governors may control one or more schools. Subject to the provisions of this section, every such Board of Governors shall be constituted in the manner in which it would be constituted if this section did not apply to the school:

Provided that the Governor-General may from time to time, by Order in Council, make regulations constituting or providing for the constitution, election, or appointment of the Board of Governors of any such school.

(12) The Board of Governors of each school which is placed under any such Council shall control and be the governing body of the school, except in respect of matters which come within the functions of the Council in accordance with this section.

(13) Subject to the provisions of this section, every school to which this section applies shall be controlled in accordance with regulations made under this Act for the control of secondary schools.

(14) Subject to the provisions of this section, all the provisions of this Act relating to secondary schools shall apply to every secondary school which is placed under any such Council and to its governing body.

(15) Upon any school coming under a Secondary Schools Council established under this section—

(a) All real and personal property (other than money raised by local efforts) which is then vested or thereafter vests, for any purpose in connection with the school, in any Board, governing body, or managers which had control of the school at any time before it came under the Council shall vest without conveyance or assignment in the Council for like purposes, and the District Land Registrar for the land registration district in which the land is situated shall, on written application by the Council and on deposit with him of such plans and documents as he may require, make such entries in the register and generally do such things as may be necessary to give full effect to the provisions of this paragraph:

(b) Any property or income which, under any gift, devise, bequest, or trust, is to be transferred or paid for any purpose in connection with the school to any Board, governing body, or managers which had control of

the school at any time before it came under the Council shall be transferred or paid to the Council for a like purpose; and, where (under any gift or devise or bequest or trust) any executor, trustee, or other person is required or empowered to transfer or pay property or income to any such Board, governing body, or managers for any such purpose, that requirement or power shall be deemed a requirement or power to pay or transfer the property or income to the Council for a like purpose.

(16) Where a secondary school is controlled by the Education Board of the district or the governing body of some other secondary school, that controlling authority of the school or the special committee or other committee set up by the controlling authority for the management of the school shall be deemed to be, for the purposes of subsections (1) and (10) of this section, the governing body of the school.

(17) Any council for the control of a group of secondary schools established under a former Education Act and in existence immediately before the commencement of this Act shall, from the commencement of this Act, be deemed to have been established with its then existing name under this section of this Act, and any regulations made under a former Education Act constituting or providing for the constitution or election or appointment of the Board of Governors of each school under the control of such a Council shall from the commencement of this Act be deemed to have been made under this section of this Act.

Cf. 1953, No. 70, s. 7

58. Control and management of district high schools—Subject to the control of the Director-General in the case of any Maori district high school, and of the Education Board in the case of any other district high school, every district high school shall be managed by the Committee of the school district.

Cf. 1914, No. 56, s. 90 (3)

59. Control of secondary schools—(1) Subject to the provisions of this Act, the Governor-General may from time to time, by Order in Council, make all such regulations as are necessary and expedient for the due control and administration of secondary schools.

(2) Without limiting the general power conferred by subsection (1) of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

(a) Prescribing the courses of study in secondary schools:

Provided that no such regulations shall place any restriction upon the method of teaching any subject included in any course of study so long as the method is consistent with the general aims of the course:

(b) Providing for the management of the school; and, where the governing body is not the Education Board of the district, the manner in which the governing body shall conduct its meetings, elect a Chairman, appoint and delegate to standing or special committees, provide and maintain an office, appoint a Secretary and staff, control its funds, and keep proper accounts:

(c) Prescribing the provision that may be made by the governing body of a secondary school for the accommodation of pupils living away from home.

(3) Except as otherwise provided in section 57 of this Act, which section relates to the control of groups of secondary schools, all secondary schools shall be controlled by the governing body thereof in accordance with regulations made under this section.

Cf. 1914, No. 56, s. 92

60. Insurance of members of governing body and refund of members' travelling expenses—(1) It shall be lawful for the governing body of any secondary school from time to time to enter into contracts of insurance insuring members of the governing body against loss from personal accident arising out of and in the course of the exercise of their powers or duties as members of the governing body, and to pay the premiums payable in respect of the contracts.

(2) The governing body of any secondary school may pay to its members travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if every such governing body were a statutory Board within the meaning of that Act:

Provided that, where (pursuant to a resolution of the governing body) any member is making an official visit or is attending as representative of the governing body any conference summoned or approved by the Minister, the member shall be deemed to be travelling in the service of the governing body and to be transacting business of the governing body for the purposes of that Act.

Cf. 1914, No. 56, s. 93 ; 1954, No. 56, s. 3 (2)

61. General powers of governing bodies of secondary schools—(1) Subject to the provisions of this Act and of any regulations made thereunder, the governing body of every secondary school—

- (a) Shall have the control and management of the school:
- (b) May from time to time, as may be necessary, appoint or suspend or dismiss a Secretary, teachers, and other necessary officers and servants:
- (c) May keep at any bank or banks an account to be known as the Teachers' Salaries Account; and the money for the time being in any such account shall be available in accordance with regulations made under this Act for the payment of the salary and allowances of teachers and other persons employed by the governing body in connection with the school or schools under its control:
- (d) May, pursuant to a resolution in that behalf, establish and maintain in accordance with subsections (3) and (4) of this section Imprest Accounts for such amount as may from time to time be determined by the Audit Office:
- (e) Shall generally have and exercise all the duties and functions conferred on governing bodies of secondary schools by this Act or by any regulations made thereunder.

(2) Subject to the provisions of this Act and any regulations made thereunder, the governing body of every secondary school may make such bylaws as are necessary or desirable to enable it to exercise the duties and functions conferred on it by this Act, and to direct and control its Secretary, teachers, and other officers, and the school.

(3) Any Imprest Account that is established by the governing body of any secondary school as aforesaid may be held jointly in the names of, and be operated on by, the Secretary and one other person to be appointed in that behalf by the governing body, or may, with the express approval

in writing of the Audit Office but not otherwise, be in the sole name of, and be operated on by, the Secretary or other approved officer of the governing body. Where the Imprest Account is held jointly in the names of the Secretary and one other person as aforesaid, the last-mentioned person shall be either a responsible officer of the governing body or a member of the governing body.

(4) Money in any such Imprest Account shall be available only for the payment of salaries, wages, emergency expenditure, and such other expenditure as the governing body and the Audit Office may jointly approve. A statement of all payments made from the Imprest Account shall be submitted to the governing body for approval at its first ordinary meeting thereafter. The payment of money out of the Imprest Account for any purpose not hereby authorised shall be deemed to be a misappropriation of the funds of the governing body.

62. General borrowing powers of governing bodies of secondary schools—(1) Any governing body of a secondary school may, with the prior written consent of the Minister of Education, given with the concurrence of the Minister of Finance, borrow money from the Minister of Education or any other source.

(2) The Minister of Education is hereby authorised to make advances on such terms as the Minister of Finance may approve to any governing body of a secondary school out of money appropriated by Parliament for the purpose.

(3) The power hereby conferred on any governing body of a secondary school shall be in addition to and not in derogation of any power conferred on that governing body under section 12 of the Education Lands Act 1949.

Cf. 1957, No. 101, s. 3

63. Accounts and audit—(1) The governing body of a secondary school shall provide for full and true accounts to be kept in the manner prescribed by regulations made under this Act, or (if the manner of keeping the accounts is not so prescribed) in a manner approved by the Minister.

(2) For the purpose of the audit of its accounts, the governing body of a secondary school shall be deemed to be a local authority within the meaning of Part XII of the Public Revenues Act 1953.

Cf. 1914, No. 56, s. 126

64. Annual reports as to secondary schools—(1) The governing body of every secondary school shall cause to be forwarded to the Director-General, before the last day of May in each year, a report for the previous year containing a statement of accounts in the form approved by the Director-General setting out its income and expenditure for the year ending with the thirty-first day of January preceding, and its assets and liabilities, and such other information as the governing body may consider appropriate.

(2) Where the Education Board of the district is the governing body of more than one secondary school, a separate report for the purposes of this section shall be forwarded in respect of each secondary school under its control; but in all other cases where a governing body controls more than one secondary school, one report may be forwarded for the purposes of this section in respect of all schools under the control of that governing body.

Cf. 1914, No. 56, s. 99

65. Grants to governing bodies of secondary schools—

(1) There shall be paid to the governing body of every secondary school, out of money appropriated from time to time by Parliament as aforesaid, the sum required for the following purposes:

(a) The payment of the salaries of teachers and of the fees of occasional lecturers; and

(b) The payment of such an allowance as may be prescribed for general expenses.

(2) The Minister may, out of money appropriated for that purpose by Parliament, pay to the governing body of each secondary school—

(a) Grants for the erection of buildings and for school ground development and school site improvements:

(b) Grants for the acquisition of equipment:

(c) Grants in aid of the establishment and maintenance of classes in technical and continuation education and for manual instruction, and all other general expenses in connection therewith:

(d) Grants for the training of instructors of classes:

(e) Grants for the provision of free textbooks for pupils, and for the payment of boarding allowances and bursaries.

(3) For the purpose of determining the grants which may be paid to a governing body under paragraph (c) of subsection (2) of this section, regard shall be had only to those

classes or courses which have been recognised by the Director-General pursuant to section 91 of this Act.

Cf. 1914, No. 56, ss. 100, 123

66. General expenses—The Governor-General may from time to time, by Order in Council, make regulations prescribing the purposes for which all or any of the grants for general expenses payable to the governing bodies of secondary schools in accordance with section 65 of this Act may be expended.

67. Unauthorised expenditure of governing bodies of secondary schools—Out of its income received for general or incidental purposes, the governing body of any secondary school may, in any year ending with the thirty-first day of January, expend for purposes not authorised by any Act or law for the time being in force, any sum or sums not amounting in the whole to more than one per cent of such portion of its income for that year as is chargeable with general or incidental expenses, nor in any case to more than one hundred pounds for each school controlled by it.

Cf. 1921–22, No. 27, s. 5 (2); 1959, No. 23, s. 5

Governing Bodies of Technical Institutes

68. Governing bodies of certain technical institutes—Where, in accordance with section 89 of this Act, at the commencement of this Act any school was deemed to have been established as a technical institute, and immediately before the commencement of this Act the school was under the control of a Board of Managers constituted by any former Education Act or any Order in Council as the governing body for that school, that governing body shall become a Board of Governors and its name shall be amended accordingly, and it shall continue as then constituted to control the school:

Provided that the Governor-General may, by Order in Council, from time to time vary the constitution or name of the governing body of any such technical institute.

69. Technical institutes to be placed under Boards of Governors—(1) Every technical institute established for the provision of further education under Part III of this Act shall, unless the Minister requires the institute to be controlled by the Board or governing body of some other technical

institute or of some secondary school, be controlled by a Board of Governors.

(2) The Governor-General may from time to time, by Order in Council, provide for the constitution or reconstitution, for the purposes of this section, of a Board of Governors to control a technical institute.

(3) Every such Board of Governors shall be known by such name and shall consist of such members as may be specified in that order.

(4) Every such Board of Governors shall be a body corporate, and may hold real and personal property, and sue and be sued, and do and suffer all such acts and things as bodies corporate may do and suffer.

(5) Subject to the provisions of this Act, the Governor-General may from time to time, by Order in Council, make all such regulations as are necessary and expedient for the due control and administration of technical institutes.

(6) Without limiting the general power conferred by subsection (5) of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

(a) Prescribing the manner in which members of Boards of Governors of technical institutes shall be appointed or elected and hold office:

(b) Prescribing the respective powers of the Board of Governors and of the Principal of a technical institute, the manner in which the Board of Governors shall conduct its business, and other matters relating to the control and management of a technical institute:

(c) Prescribing the courses of instruction in technical institutes:

(d) Prescribing the provision that may be made by the Board of Governors of a technical institute for the accommodation of students living away from home.

(7) The provisions of sections 60 to 67 of this Act relating to the governing bodies of secondary schools, shall, with the necessary modifications, apply to every Board of Governors of a technical institute as if every reference in those sections to the governing body of a secondary school was also a reference to the Board of Governors of a technical institute:

Provided that section 67 of this Act shall, in its application to the Board of Governors of a technical institute, be read as if the words "one hundred pounds" were omitted, and the words "two hundred pounds" were substituted therefor.

Cf. 1963, No. 27, ss. 4, 5

PART III

ESTABLISHMENT OF SCHOOLS

Pre-school Education

70. Provision of pre-school education—The Governor-General may from time to time, by Order in Council, make regulations providing for all or any of the following matters:

- (a) The expenditure of such money as may from time to time be appropriated by Parliament for the purposes of pre-school education and for the establishment, maintenance, and management of kindergartens and other institutions providing pre-school education:
- (b) The conditions for the recognition for purposes of financial assistance of kindergartens and other institutions providing pre-school education:
- (c) The grading and staffing of kindergartens and other institutions providing pre-school education:
- (d) The conditions of the employment of teachers employed in kindergartens and other institutions providing pre-school education:
- (e) The general control, organisation, management, and inspection of kindergartens and other institutions providing pre-school education:
- (f) The training of teachers for purposes of pre-school education:
- (g) The provision of such reports and returns in respect of kindergartens and other institutions providing pre-school education as the Director-General may from time to time require.

Primary Education

71. Schools for primary education—(1) The Education Board of each district shall take such steps as it thinks fit to ascertain the requirements of the district in respect of primary education, and may take the necessary steps, in accordance with this Act and regulations thereunder, for the establishment of State primary schools or classes accordingly.

(2) Wherever there are or may be provided (in the opinion of the Board) suitable and sufficient means of public conveyance, or (in the cases hereafter mentioned in this section) when directed by the Minister, the Education Board shall, instead of establishing a new school, arrange for the conveyance of the children to and from an existing school.

(3) If it appears to the Education Board and the Senior Inspector that the children attending any State primary school, other than a Maori school, could conveniently attend any other such school or should be enrolled in any correspondence school, and that it is expedient that the first-mentioned school should be closed, the Board, after consultation with the School Committee, may close that school:

Provided that no such school shall be closed by a Board under this subsection on any grounds other than the falling roll of the school without the approval of the Minister.

(4) If it appears to the Minister on the grounds mentioned in subsection (3) of this section that any State primary school, other than a Maori school, should be closed, he may bring the matter under the notice of the Education Board, and the school shall thereupon be closed by the Board, unless within one month after the matter has been brought under its notice, the Board, by resolution in that behalf, objects to closing the school and transmits a copy of the resolution to the Minister. If the Board so objects, the Minister shall consider the objection, and if he then directs the closing of the school the Board shall take all action necessary for the closing of the school as from a date specified by the Minister. After that date no further grants shall be payable on account of the school so directed to be closed.

(5) On the closing of any school under subsection (4) of this section, the Education Board, if so directed by the Minister but not otherwise, shall arrange for the conveyance of the children to and from such other school as aforesaid, or the Minister may direct that the children shall be enrolled in a correspondence school.

(6) Where it appears that, in the event of a State primary school being established, the number of children to be enrolled in the school will be less than nine, the Education Board may, on the advice of the Senior Inspector, either establish a State primary school or require the children to receive instruction from any correspondence school established by the Minister for the purpose.

(7) If it appears to the Education Board and the Senior Inspector that any school closed under this section should be reopened, the Education Board may reopen the school:

Provided that any school closed in accordance with subsection (4) of this section shall not be reopened without the consent of the Minister.

Cf. 1914, No. 56, s. 54; 1958, No. 54, s. 4

72. Normal schools and model schools—With the prior approval of the Minister, an Education Board may establish and maintain in connection with any teachers college established under this Act and placed under the control of the Board—

- (a) One or more State primary schools as normal schools:
- (b) A model school or class in any State primary school to provide instruction under one teacher or a group of teachers.

Cf. 1914, No. 56, s. 56 (2); 1917, No. 28, s. 3

73. Intermediate schools and departments—Having due regard to the educational requirements of pupils resident in any locality or in any education district, and after consultation with the governing body or governing bodies affected, the Minister may, in the locality or district, either establish an intermediate school under the control of an Education Board or create an intermediate department of an existing secondary school or district high school, and with the like regard may disestablish any such intermediate school or intermediate department.

Cf. 1932–33, No. 49, s. 3 (2)

74. Selection of contributing schools—The Minister shall, after consultation with the Education Board in relation to an intermediate school, or with the Education Board and the Secondary School Board concerned in relation to an intermediate department, determine the schools which are to be contributing schools in relation to any intermediate school or intermediate department, and shall thereafter direct the Board to limit the instruction given in the contributing schools to that prescribed for classes not higher than standard four or not higher than form one, as he may determine.

Cf. 1932–33, No. 49, s. 3 (4)

75. Organisation and conduct of State primary schools and intermediate departments of secondary schools—(1) Every State primary school and every intermediate department attached to a secondary school shall be organised and conducted in accordance with regulations made under this Act, and shall include in its programme of instruction, in the manner and to the extent prescribed by regulations so made, such studies and activities as may be so prescribed.

(2) No fees for tuition shall be payable at any intermediate school or intermediate department or at any other State primary school, except in respect of further education as provided under this Act.

Cf. 1914, No. 56, s. 56

76. Regulations—The Governor-General may, by Order in Council, make regulations providing for the general control, management, organisation, and conduct of State primary schools and intermediate departments attached to secondary schools, including the admission of pupils, their attendance, and their courses of study.

77. State primary schools to be kept open at certain times—Every State primary school shall be kept open five days in each week for at least four hours each day, of which hours two in the morning and two in the afternoon shall be consecutive; and the teaching shall be entirely of a secular character.

Cf. 1914, No. 56, s. 56 (4)

78. Religious instruction and observances in State primary schools—Notwithstanding anything to the contrary in section 77 of this Act and notwithstanding the hours defined under section 26 of this Act for the opening and closing of any State primary school, if the School Committee for the school district in which the school is situated, after consultation with the Head Teacher, so determines, any class or classes at the school, or the school as a whole, may be closed at any time or times of the school day for a period not exceeding thirty minutes for any class in any week for the purposes of religious instruction given by voluntary instructors approved by the School Committee and of religious observances conducted in a manner approved by the School Committee or for either of those purposes; and the school buildings may be used for those purposes or for either of them.

Cf. 1962, No. 129, s. 2

79. Attendance at religious instruction or observances not compulsory—(1) No pupil enrolled at a State primary school shall be required to attend or take part in any such

instruction or observances if any parent or guardian of the pupil does not wish the pupil to take part therein and makes his or her wishes known in writing to the Head Teacher of the school.

(2) Any parent or guardian who has given such an indication of wishes may at any time withdraw it.

Cf. 1962, No. 129, s. 3

80. Teachers may be freed from duties to take part in religious instruction or observances—Any teacher at a State primary school shall, if the School Committee for the school district in which the school is situated so approves, at his request be freed from school duties for up to thirty minutes a week to allow him to take part in his own school in religious instruction and religious observances or either, but no person shall directly or indirectly bring any pressure to bear on a teacher to induce the teacher to take any such part, and the position of any teacher and his opportunities for appointments and for promotion shall not be adversely affected because he does not take part in religious instruction and religious observances or either.

Cf. 1962, No. 129, s. 4

81. Schools other than public schools not affected—Nothing in this Act shall affect religious instruction or religious observances in schools other than State primary schools.

Cf. 1962, No. 129, s. 5

Secondary Education

82. Saving of schools already established—(1) Every district high school established under any former Education Act and existing at the commencement of this Act shall be deemed to have been established under this Act.

(2) Every school (other than a private school) that was in existence immediately before the commencement of this Act and was then a secondary school, technical high school, technical school, or combined school shall be deemed to have been established as a secondary school under this Act.

Cf. 1914, No. 56, s. 87

83. Secondary schools—(1) Having due regard to the provision for secondary education in any locality or in any education district, the Minister may,—

- (a) After consultation with the Education Board of the district, establish in the locality or district a district high school; and, with the like regard, he may disestablish any district high school:
- (b) After consultation with any Secondary Schools Council of the locality established under section 57 of this Act, or, where no such Council has been established, after such consultation as the Minister considers desirable with the Education Board of the district and any governing body of a secondary school he may consider appropriate, establish in the locality or district a secondary school; and, with the like regard, he may disestablish any secondary school other than a school established by any Act other than a former Education Act.

(2) The Board of any education district may make application to the Minister for the establishment of a district high school in any locality in the district, if there are not fewer than twenty pupils who are qualified in accordance with regulations made under this Act to be admitted to the secondary department of the district high school, and whose parents have expressed in writing their intention of enrolling them in the secondary department.

(3) In any locality where a Secondary Schools Council has not been established under section 57 of this Act with powers to make recommendations to the Minister regarding the establishment of new secondary schools in the locality, the Education Board of the district or the governing body of any secondary school partly or wholly serving that locality may make application to the Minister for the establishment of a secondary school in the locality.

(4) In general, a secondary school may be disestablished in accordance with subsection (1) of this section if, in the opinion of the Minister, the number of pupils therein is such as to warrant disestablishment, and a district high school may be disestablished if there are therein fewer than twelve pupils qualified in accordance with regulations to attend the school or if a secondary school or technical school is to be established in its place; and without restricting the generality of the foregoing provisions of this subsection it is hereby declared that the Minister may disestablish any such school if he considers that sufficient means of secondary education are already provided in the same locality by another secondary school or district high school.

(5) Where any secondary school or district high school is disestablished in accordance with this Act, or for any other reason ceases to be maintained or carried on, the Minister may direct that the property and the income thereof shall be devoted in whole or in part to the maintenance of another secondary school or district high school in the locality, and account shall be kept of the property and income in the manner prescribed.

Cf. 1914, No. 56, s. 88

84. Courses of study in secondary schools—Every secondary school and every secondary department shall provide such courses of study in secondary education as may be prescribed in regulations made under this Act.

Cf. 1914, No. 56, s. 94

85. Free education in secondary schools—(1) Every secondary school and every secondary department shall, subject to such conditions as may be prescribed, give free secondary education to pupils who have completed a year's work in form two or who have attained the age of fourteen years not later than the thirty-first day of March in the year of their enrolment at the secondary school or department; and the free education shall be available, subject to such conditions as may be prescribed, to any pupil so qualified until the end of the year in which the pupil attains the age of nineteen years or, in special circumstances, for such longer period as the Director-General may determine.

(2) A secondary school may also admit to a lower department thereof pupils who have not qualified for admission under subsection (1) of this section, if they are taught in a separate building or classroom, and if it can be shown to the satisfaction of the Minister that no part of the actual cost of their instruction, or of the establishment, management, or maintenance of the lower department, is met out of any money appropriated by Parliament:

Provided that no pupil shall be admitted to the lower department if in the opinion of the Minister there is not room in the school for all the pupils qualified for free places under subsection (1) of this section, unless the cost of the buildings or classrooms occupied by the lower department has been met otherwise than out of any money appropriated by Parliament.

Cf. 1914, No. 56, s. 97; 1936, No. 44, s. 9 (2) (d)

Composite Schools

86. Composite schools—(1) Notwithstanding anything in this Act, the Minister may, after having due regard to the educational requirements of pupils resident in any locality and after such consultation as he considers desirable with the Education Board of the district and any other local Education Authority he considers appropriate, establish a composite school in the locality providing primary education and secondary education.

(2) The extent to which primary education and secondary education are to be provided in any composite school so established shall be determined by the Minister, who may, where he considers circumstances warrant and after consultation with the Education Board of the district, direct that State primary schools under the control of the Board are to be contributing schools in relation to the composite school.

(3) Where, in accordance with subsection (2) of this section, the Minister has determined that certain schools are to be contributing schools in relation to any composite school, he shall thereafter direct the Board to limit the instruction given in the contributing schools to that prescribed for those classes which are not provided for in the composite school.

(4) Every composite school established under this section shall be known by such designation as the Minister may approve as appropriate having regard to the range of instruction provided for in the particular school.

87. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for the general control, management, organisation, and conduct of schools established under section 86 of this Act, including the admission of pupils, their attendance, and their courses of study.

88. Certain provisions to apply to composite schools—The provisions of this Act and of all regulations thereunder relating to State primary schools and secondary schools shall, subject to the provisions of section 86 of this Act and (in the case of any such regulations) to any regulation made under section 87 of this Act, apply to every composite school, as if in this Act and in any regulations made thereunder—

(a) Every reference to a State primary school were also a reference to any classes in a composite school providing primary education:

- (b) Every reference to a secondary school were also a reference to any classes in a composite school providing secondary education.

Further Education—Technical and Continuation

89. Saving of technical institutes already established—Every school established as a technical institute under any former Education Act and existing at the commencement of this Act shall be deemed to have been established as a technical institute under this Act.

90. Establishment and disestablishment of technical institutes—(1) Having regard to the provision of further education for the whole of New Zealand or in any locality, and after such consultation as he may deem necessary with the governing body of any technical institute or secondary school or with any other appropriate educational authority, the Minister may establish at such place as he thinks fit a technical institute; and with the like regard may disestablish any such technical institute.

(2) The Minister may, by notice in the *Gazette*, declare the extent to which and the purposes for which any correspondence school shall be deemed to be a technical institute or part of a technical institute within the meaning of this Act.

Cf. 1963, No. 27, s. 3

91. Recognition of classes or courses in further education—(1) The Director-General may recognise classes or courses in further education in secondary schools, in secondary departments of district high schools, and in technical institutes in such manner and subject to compliance with such conditions as may be prescribed by regulations made under this Part of this Act.

(2) Where a controlling authority proposes to provide a class or course in further education providing instruction not previously provided by that authority, it shall consult the Director-General before making any arrangements for the establishment of the class or course.

Cf. 1914, No. 56, s. 110; 1921–22, No. 27, s. 2 (2)

92. Revocation of recognition of classes or courses—(1) The Director-General may revoke the recognition

granted to any class or course in further education if he considers that more economical or effective or appropriate provision for the instruction being given in the class or course is being, or will shortly be, otherwise provided, or if he is dissatisfied with the manner in which the class or course is being conducted or is of the opinion that the needs in response to which the class was provided no longer exist or have diminished to an extent no longer warranting the continuance of the class:

Provided that, where the Director-General intends to revoke recognition of any class or course in further education on any grounds other than his dissatisfaction with the manner in which the class or course is being conducted, he shall, if the controlling authority of the class or course so requires, give six months' notice of his intention to cancel the recognition.

(2) Notwithstanding anything to the contrary in this section, the Governor-General may, by Order in Council, make regulations prescribing the conditions under which the recognition of classes or courses in further education may be revoked.

Cf. 1914, No. 56, s. 112

93. Free further education—(1) Any pupil who is qualified to receive free education in terms of section 85 of this Act, and who is not at the time receiving full-time instruction without payment of fees for tuition in terms of that section, may, subject to such conditions as may be prescribed, attend without payment of fees for tuition a secondary school or technical institute for full-time further education until the end of the year in which he attains the age of nineteen years or, in special circumstances, for such longer period as the Director-General may determine.

(2) Subject to the provisions of subsection (3) of this section, any pupil who is qualified to receive free education in terms of section 85 of this Act, and who is not at the time receiving full-time instruction without payment of fees for tuition in terms of that section or in terms of subsection (1) of this section, may attend without payment of fees for tuition a secondary school, or technical institute, or recognised classes in further education in a secondary school or department for part-time further education in any case where—

- (a) The pupil is under the age of nineteen years and is taking a course which is defined as such by the Principal of the school or institute attended and is approved by the Director-General; or
- (b) The pupil is over the age of nineteen years, and the instruction provided is part of an organised course for learners in any branch of art or commerce or industry, and he obtains the approval of the Principal of the school attended; or
- (c) The pupil is over the age of nineteen years, and the class is defined by the Principal of the school attended and approved by the Director-General as a senior class, and he obtains the approval of the Principal.

(3) The maximum period for which a pupil shall be entitled to part-time further education without payment of fees under subsection (2) of this section shall be until the end of the year in which he attains the age of nineteen years, or in special circumstances for such longer period as the Director-General may determine, or for the period of five years (including in that period of five years any period of full-time instruction in a secondary school or technical institute), whichever is the longer.

(4) Notwithstanding anything in the foregoing provisions of this section, no free place shall be tenable in a technical institute for the purpose of instruction in classes or courses deemed by the Minister to be of a special or advanced character, unless the Minister otherwise determines.

Cf. 1914, No. 56, s. 97

94. Fees for further education—The tuition fees for those students attending a technical institute, or classes in further education in a secondary school or department, who are not entitled to free education under section 85 or section 93 of this Act shall be on a scale approved by the Minister.

Cf. 1914, No. 56, s. 119

95. Report on further education—Within four months after the date of the close of the instruction in any year, the controlling authority shall forward to the Director-General such details of the work and attendance, and of the receipts and expenditure, of classes in further education under its control as are prescribed by regulations under this Act, or (if no such details are so prescribed) as the Minister may determine.

Cf. 1914, No. 56, s. 121 (2)

96. Correspondence schools and classes for further education—(1) Having regard to the provision of further education, the Minister may establish any school or classes to provide instruction by correspondence for that purpose; and any school or class so established shall be controlled in such manner, and shall charge such fees for the instruction provided, as the Minister may determine.

(2) Any correspondence school or classes established by the Minister for the provision of further education under any former Education Act and existing at the commencement of this Act shall be deemed to have been established under this Act.

97. Administration of further education—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Defining the branches of further education, and the subjects to be taught in classes in further education, and the course and number of hours of instruction therein, and providing for examinations therein:
- (b) Providing for the mode in which applications for sums payable in respect of classes, scholarships, subsidies, and grants in aid under the provisions of this Act relating to further education shall be made:
- (c) Providing for the establishment of bursaries in any subjects of instruction under the provisions of this Act relating to further education, and prescribing the amounts and tenure thereof, and the conditions subject to which they may be awarded and held:
- (d) Such other matters as he deems necessary in order to give full effect to the intention of the provisions of this Act relating to further education.

Special Education

98. Special schools and classes—(1) Having regard to the provision of special education in any locality or localities, the Minister may—

- (a) Establish any special school:
- (b) Establish, or authorise the establishment of, any special class, clinic, or service, either as a separate unit or in connection with any State primary school, secondary school, or technical institute, or in connection with any public institution approved for the purpose by him:

- (c) Make provision for special educational facilities to be provided by any correspondence school established under section 105 of this Act:

Provided that any special school established under paragraph (a) of this subsection may be placed under the control of the Education Board of the district and shall, where so placed, be deemed to be a State primary school, save that it may, on the recommendation of the Education Board and with the approval of the Minister, be placed under the control of any person or persons appointed by the Education Board for the purpose instead of a School Committee.

(2) The Minister may likewise disestablish any special school, class, clinic, or service established under subsection (1) of this section, if he is dissatisfied with the manner in which the school, class, clinic, or service is being conducted, or if he considers that sufficient provision is made by another similarly established special school, class, clinic, or service, or by any other school or class in or reasonably near to the same locality:

Provided that in the last-mentioned case he shall, if the controlling authority of the school, class, clinic, or service so requires, give three months' notice of his intention to disestablish the same.

Cf. 1914, No. 56, s. 56; 1921-22, No. 27, s. 6

99. Other special classes or services providing special education—In addition to the establishment of special schools classes, clinics, and services as provided for under section 98 of this Act, the Minister may recognise for purposes of financial assistance such other classes or services providing special education or facilities supplementing special education as may from time to time be prescribed.

Cf. 1914, No. 56, s. 128

100. Administration of special education—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Defining the categories of children requiring special education; providing for the mode of determining which children come within any category and for the examination of children who come within that category; and prescribing the general type of special education appropriate to children who come within any category:

- (b) Prescribing the conditions for the recognition for purposes of financial assistance under section 99 of this Act of special classes or services providing special education or services or facilities supplementing special education:
- (c) Providing for the expenditure of such money as may from time to time be appropriated by Parliament for the purposes of special education and for the establishment, maintenance, and management of special schools, classes, clinics, and services established under section 98 of this Act:
- (d) Providing for the grading and staffing of special schools, classes, clinics, and services providing special education:
- (e) Providing for the general control, organisation, management, and inspection of special schools, classes, clinics, and services providing special education, and defining the courses of instruction therein:
- (f) Providing for the training of teachers for the purposes of special education:
- (g) Providing for the furnishing of such reports and returns in respect of special schools, classes, clinics, and services providing special education as the Director-General may from time to time require:
- (h) Providing for such other matters as may be deemed necessary in order to give full effect to the intention of the provisions of this Act relating to special education.

Maori Schools

101. Maori schools—(1) Every Maori school existing and under the control of the Department at the commencement of this Act shall be deemed to have been established under this Act.

(2) Having regard to the better or more suitable provision of primary or secondary education in any locality, the Minister may, in any locality, establish a Maori school for purposes of primary education, or for purposes of primary and secondary education, and in the last-mentioned case the school shall be known as a Maori district high school. The Minister may, with the like regard, disestablish any such Maori school.

102. Control of Maori schools—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) For the provision of such reports and returns in respect of Maori schools as the Director-General may from time to time require:
- (b) For the award of scholarships for Maori children tenable at private secondary schools, secondary schools, technical institutes, and other educational institutions, being schools and institutions which have boarding accommodation approved by the Minister.

Chatham Islands Schools

103. Chatham Islands schools—(1) Every Chatham Islands school established under any former Education Act and existing at the commencement of this Act shall be deemed to have been established under this Act.

(2) Having regard to the provision of primary or secondary education in the Chatham Islands, the Minister may, as the case may be, establish primary schools for the purpose of primary education or district high schools for the purposes of primary and secondary education; and the Minister may, with the like regard, disestablish any such primary school or district high school.

Cf. 1929, No. 29, s. 55

104. Management and control of Chatham Islands schools—(1) Every Chatham Islands school established or deemed to be established under this Act shall be controlled, organised, managed, and conducted as if it were a Maori school, and the provisions of this Act relating to Maori schools shall, with the necessary modifications, apply accordingly.

(2) In so far as the provisions of this Act as to the control or management of Maori schools are inadequate or unsuitable in relation to Chatham Islands schools, the Governor-General may from time to time, by Order in Council, make regulations providing for the control and management of Chatham Islands schools and defining the courses of instruction therein.

Cf. 1929, No. 29, s. 55

Correspondence Schools

105. Correspondence schools and classes—(1) Having regard to the education of children who cannot conveniently attend any other suitable school, the Minister may, in addition to the powers conferred upon him by section 96 of this Act, establish any school or any classes to provide instruction by correspondence.

(2) Any correspondence school or classes established by the Minister under any former Education Act and existing at the commencement of this Act shall be deemed to have been established under this Act.

Teachers Colleges

106. Establishment of teachers colleges—(1) For the purpose of ensuring the better education and training of teachers, the Minister may establish teachers colleges and classes at such places as he may from time to time determine, and having due regard to the maintenance of the standard of that education and training, may disestablish any such teachers college or class, whether established before or after the commencement of this Act.

(2) Where the Minister has directed that a teachers college shall be disestablished, the land, buildings, and equipment of that college shall, without conveyance or transfer, vest in the Crown or in such other public authority as the Governor-General may, by Order in Council, determine, and shall be utilised for such educational or other public purposes as the Governor-General by the same or a subsequent Order in Council may direct.

Cf. 1932–33, No. 49, s. 6

107. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Providing for the control, organisation, management, and conduct of teachers colleges:
- (b) Prescribing the divisions into which students of teachers colleges are to be classified, and the conditions for the selection of students for those divisions, and for their admission to teachers colleges in those divisions:
- (c) Prescribing the courses and curricula for students of the various divisions in teachers colleges:
- (d) Providing for the certification of teachers completing courses of training.

PART IV

ENROLMENT AND ATTENDANCE OF PUPILS

Enrolment and Attendance

108. Children enrolled at State primary schools to be of school age—No child who has not attained school age shall be enrolled in any State primary school; and no child over school age shall, without the special leave of the Director-General in the case of a Maori school or of the Board given on the recommendation of the Senior Inspector in the case of any other school, be allowed to attend any State primary school, other than a district high school:

Provided that, in any case where the Director-General considers that a child who has not attained school age is in need of special education, he may approve the enrolment of the child in any special school, class, clinic, or service established under section 98 of this Act; and the child may thereupon be so enrolled, whether or not the special school is established as a State primary school or the special class, clinic, or service is established in connection with a State primary school.

Cf. 1936, No. 44, s. 2 (2); 1952, No. 39, s. 14

109. Every child between six and fifteen years of age to be enrolled—(1) Subject to the provisions of this Act, every child is hereby required to have his name enrolled on the register of some State primary school, secondary school, correspondence school established under this Act, or other registered school from the time when he attains the age of six years until he attains the age of fifteen years:

Provided that any such child who has completed the work of form two shall be deemed not to be enrolled at any such school unless he is enrolled on the register of some such school which provides instruction in advance of form two:

Provided also that, in the case of a child who is in any prescribed category which requires special education, enrolment in any school or class which provides special education and is approved for the purpose by the Director-General shall be deemed to meet the requirements of this subsection.

(2) Notwithstanding anything in subsection (1) of this section, no child shall be required to be enrolled on the register of a school in accordance with that subsection during any period before the child attains the age of seven years when the total distance that the child would be required to walk from

his place of residence to the school, or from his place of residence to the railway or other public conveyance or from the railway or other public conveyance to the school, is more than two miles, the distance being estimated by the nearest road.

(3) It shall be the duty of every Education Board to take all necessary steps to ensure that all children resident in the district of the Board who are required to be enrolled at a State primary school or some other school or class in accordance with subsection (1) of this section are so enrolled unless they are known to the Board to be exempted in accordance with this Act.

Cf. 1914, No. 56, s. 59

110. Enrolment with correspondence school—(1) No child shall be enrolled as a pupil of any correspondence school established under this Act, except by direction of or with the approval of the Director-General.

(2) The approval of the Director-General of the enrolment of any child as a pupil of any such school shall be given only if, in the opinion of the Director-General, there is no other suitable school which the child could conveniently attend; and any such approval may be revoked at any time by the Director-General if he considers the circumstances that justified the approval have ceased to exist.

111. Certificate of exemption from enrolment—(1) The parent of any child who has not completed his primary education may apply for and receive, from the Head Teacher of any State primary school in that district, 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 or district high 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 registered 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 under the foregoing provisions of this section may appeal,—

- (a) In respect of a child who has not completed his primary education, to the Education Board for the education district in which the child resides:
- (b) In respect of a child who has completed his primary education, to the governing body of the secondary school or district high school nearest to his place of residence.

(6) The Education Board or governing body to which any such appeal is made may confirm or overrule the refusal, and its decision shall be final.

(7) Every certificate of exemption given under this section shall, unless and until it is revoked, exempt the parent and any other person or persons from the obligation to have the child enrolled as a pupil of any school.

(8) Every certificate of exemption given under this section shall state the ground of exemption; and a copy of every such certificate shall be forwarded by the Head Teacher or Principal to the Education Board of the education district within fourteen days after its issue.

(9) The Education Board of the education district may at any time, on the advice of the Senior Inspector of Primary Schools of the education district in the case of any child who has not completed his primary education, and on the advice of the Senior Inspector of Secondary Schools for the area in the case of any child who has completed his primary education, cancel any certificate of exemption from enrolment granted under this section if it 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.

(10) Where any certificate of exemption from enrolment is granted on the ground specified in paragraph (b) of subsection (4) of this section, the Education Board of the district in which the child is resident shall forthwith report to the Director-General the name, address, and age of the child; and the Director-General 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 classes established under this Act, or of any recognised occupational group providing special facilities for the education of such children.

Cf. 1914, No. 56, s. 60

112. Exemption from enrolment by Director-General—

(1) A certificate of exemption from the obligation to be enrolled as a pupil of some school may be granted by the Director-General to or in respect of any child if the Director-General, after having regard to the pupil's level of progress, his conduct, and the degree of benefit he may gain from the education facilities available at any convenient school, or at any correspondence school, is of the opinion that the exemption is desirable:

Provided that no such certificate of exemption shall be granted to any child if the child has not attained the age of fourteen years and has neither completed the work of form two, as prescribed in the syllabus of instruction for public schools, nor enrolled for any higher form.

(2) The Director-General may at any time revoke a certificate of exemption granted under this section if he considers that it is in the best interests of the child that it should be revoked.

(3) Where a certificate of exemption from the obligation to be enrolled as a pupil of any school is granted to or in respect of any child in accordance with this section, the Director-General shall, if he considers the action desirable in the interests of the child, notify the Superintendent of Child Welfare of the name and address of the child so exempted.

113. Ascertainment of suitability of education of certain children—

The Minister may provide such means as he thinks fit to satisfy himself that every child of school age who is suffering from disability of body or mind of such magnitude as to require special education, and is receiving tuition privately, is receiving efficient and suitable education.

Cf. 1914, No. 56, ss. 127, 129

114. Compulsory enrolment in special school, etc., of certain children—

(1) Subject to the provisions of this Act, the parent of any child of school age who is deemed by the Director-General, after such special examination as the Director-General may require, including examination by a medical

officer authorised for the purpose by the Minister of Health or examination by some other person so authorised, to require special tuition may be required to enrol the child in any special school or special class established under this Act, or in any recognised occupational group providing special facilities for the education of such children, unless in the opinion of the Education Board of the district the child is unable conveniently to attend the special school, class, clinic, service, or recognised occupational group, or would be required to live away from home in order to do so.

(2) If the parent of any such child fails to enrol that child in a special school, class, clinic, service, or recognised occupational group as aforesaid, if and when required by the Director-General so to do, he commits an offence and is liable on summary conviction to the penalty prescribed by section 116 of this Act as for failure under that section to enrol the child on the register of a school.

Cf. 1932-33, No. 49, s. 9

115. Director-General may in certain circumstances direct that a child be sent to special school, etc.—(1) It shall be the duty of the parent of every child who has attained the age of seven years and 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-General to be unable to provide that education, the Director-General may direct that the child be sent to such special school or other institution providing special education as he thinks fit.

(3) Where any such direction is given by the Director-General in respect of any child, any parent of the child may, within twenty-eight days after the date on which a parent of the child has been informed of the direction, appeal to a Magistrate against the direction, and the Magistrate may suspend or vary or rescind or confirm the direction.

(4) Where a direction is so given in respect of any child, the parent to whom subsection (2) of this section applies shall contribute to the cost of the maintenance of the child as may be agreed upon between that parent and the Director-General:

Provided that, if the agreement so made provides for payment at a rate that will not meet the full cost of the maintenance and education of the child at the special school or institution, a further agreement or agreements may be made between the Director-General and any person who is a parent within the meaning of this Act to meet the balance unpaid for the maintenance and education of the child at the school or institution.

(5) If no such agreement is made, and the direction of the Director-General that the child be sent to the special school or institution is not complied with by the parent of the child, or where any payment agreed to be made is in arrear for one month, then a Magistrate may, on application in that behalf, make an order for the admission of the child to such special school or institution as he deems fit, and may make a further order or orders under the provisions of the Destitute Persons Act 1910 directing any person or persons liable under that Act to contribute towards the maintenance and education of the child at that special school or institution to which the child may thereafter be sent by direction of the Director-General, and the provisions of that Act shall apply to the order or orders accordingly.

(6) For the purposes of this section every special school shall be deemed to be a public institution within the meaning of the Destitute Persons Act 1910.

(7) If any child is sent to a special school or institution, the Principal of that school or institution shall thereupon be entitled to the exclusive custody and control of the child.

(8) Any child sent to an institution under subsection (2) or subsection (5) of this section may at any time, by direction of the Director-General, be boarded out with duly qualified persons under such conditions as will secure that he will receive proper care and will be under efficient and suitable instruction and control; and while so boarded out he shall be deemed to be at the institution to which he was sent.

(9) Any child who has been admitted to a special school or institution may, by direction of the Director-General, be transferred to any other school or institution.

(10) If the person by whom money is payable under any agreement does not pay it at the times stated in the agreement, the money may be recovered as a debt in any Court of competent jurisdiction by the persons entitled thereto.

(11) If the full cost of maintenance, education, and training at a special school of a child suffering from disability of mind

of such magnitude as to require special education is not being paid, and the child is or becomes at any time entitled to any real or personal property in New Zealand or to any interests therein, whether the property is vested in the child or in any trustee on his behalf, or otherwise howsoever, then and in any such case, and whether or not any agreement or order for contributions to the support of the child at the special school has been made, and whether or not the money payable under any such agreement or order (if made) has been duly paid, the provisions of section 38 of the Child Welfare Act 1925 shall, so far as they are applicable and with the necessary modifications, apply:

Provided that, in defraying the cost of maintenance of a child at a special school or other institution, the Public Trustee may make payment at a rate not exceeding twenty-one shillings a week.

(12) Any application to a Magistrate under subsection (5) of this section may be made either by the Principal of the institution concerned or by any person authorised by the Director-General for the purpose, either generally or in any particular case.

Cf. 1914, No. 56, s. 127

116. Penalty for failure to enrol child—(1) Where a child who is required to be enrolled on the register of some State primary school, secondary school, special school, or correspondence school established under this Act, or other registered school is not so enrolled, the parent of the child commits an offence and is liable on summary conviction to a fine not exceeding twenty pounds.

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

Cf. 1914, No. 56, s. 61

117. Every child required to be enrolled must attend school—(1) Subject to the provisions of this Act, every child required to be enrolled in accordance with section 109 of this Act on the register of some school other than a correspondence school, is hereby required to attend the school whenever it is open; and the attendance register of the school shall be open at all times when the school is open to the Attendance Officer or other person appointed by the Board or the Committee or other controlling authority for the purpose of ensuring the attendance of children at school.

(2) A child shall be deemed to be attending any such school, and an attendance may be counted to him, if he is present at the time prescribed by regulations for marking the register and remains present until the closing of the school, unless he is compelled to leave earlier in order to return home by public conveyance.

(3) On any day on which a secondary school has been open for four hours or upwards, a child shall for the purposes of this section be deemed to have attended that school if he has been in attendance thereat for not less than four hours.

(4) A child who has attended for four hours in any school day may, under special circumstances, be allowed by the Head Teacher or Principal to leave before the close of the school.

Cf. 1914, No. 56, s. 59

118. Certificate of exemption from attendance—(1) The parent of any child may apply for and receive a certificate of exemption from attendance from the authority or person entitled under section 111 of this Act to grant a certificate of exemption from enrolment.

(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 total distance that the child would be required to walk from his place of residence to the school, or from his place of residence to the railway or other public conveyance and from the railway or other public conveyance to the school, is more than two miles in the case of a child under ten years of age, or more than three miles in any other case, the distance being estimated by the nearest road; or

(b) 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

(c) 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,—

- (a) In respect of any child who has not completed his primary education, to the Education Board for the education district in which the child resides:
- (b) In respect of any child who has completed his primary education, to the governing body of the secondary school or district high school nearest to his place of residence.
- (5) The Education Board or governing body to which any such appeal is made may confirm or overrule the refusal; and its decision shall be final.
- (6) During the period specified in any certificate of exemption granted in terms of this section, the holder thereof shall be freed from the operation of section 120 of this Act in respect of the child named therein.
- (7) Every certificate of exemption from attendance shall state the grounds of the exemption and shall be for such period only as the circumstances may require; and no such certificate of exemption shall be granted on the grounds specified in paragraph (a) of subsection (3) of this section for a longer period than one year nor on any other grounds specified in that subsection for a longer period than seven school days, but any such certificate may be from time to time renewed for a like period during the continuance of the conditions for which the exemption has been granted:
- Provided that the Education Board of the district may at any time, on the advice of the Senior Inspector of Primary Schools of the education district in the case of any child who has not completed his primary education, and on the advice of the Senior Inspector of Secondary Schools for the area in the case of any child who has completed his primary education, cancel any such certificate of exemption.
- (8) Where any certificate of exemption from attendance is granted on the grounds specified in paragraph (a) of subsection (3) of this section, the Education Board of the district in which the child is resident shall forthwith report the name, address, and age of the child to the Director-General.
- (9) A child may be exempted from attendance for a period not exceeding five school days notwithstanding that no certificate exempting him from attendance has been granted under this section, if the Head Teacher or Principal of the school attended by him is satisfied that the child has been absent for good and sufficient reason. A certificate signed by the Headmaster or Principal of the school attended by a child certifying that he has not been so satisfied shall be sufficient proof of that fact in the absence of evidence to the contrary. In con-

nection with any such certificate, notice shall be taken judicially without further proof of the appointment and signature of every such Principal and Headmaster.

Cf. 1914, No. 56, s. 60

119. Director-General may require certain children exempted from attendance to enrol at correspondence school—(1) The Director-General may, by notice in writing, call upon the parent of any child exempted from attendance at school under paragraph (a) of subsection (3) of section 118 of this Act to have the name of the child enrolled on the register of any correspondence school for the period of the exemption, and to ensure the carrying out by the child of the requirements of the course of instruction.

(2) A parent who fails to have the name of his child enrolled as aforesaid, or who, having so enrolled the name of his child, allows the child to make default in carrying out the requirements of the course of instruction, commits an offence and is liable on summary conviction, in respect of the failure to enrol, to a penalty not exceeding twenty pounds, or in respect of any such default to the same penalty as in the case of non-attendance of a child at school.

Cf. 1931, No. 44, s. 37

120. Penalty for irregular attendance at school—(1) Where any child required by this Act to attend school has been enrolled on the register of a school as required by this Act and does not attend as provided in section 117 of this Act, the parent of the child commits an offence and is liable on summary conviction in the case of the first proceedings taken against him to a fine not exceeding two pounds, and in the case of any subsequent proceedings to a fine not exceeding two pounds for every day on which the child fails to attend school as required by this Act:

Provided that no parent shall be liable in any one proceedings under this section to a fine exceeding twenty pounds.

(2) Proceedings under this section for the recovery of any fine incurred by reason of insufficient attendance during any part of any month shall not be instituted except during that month or the two months next following.

(3) The imposition of a penalty under this section shall not restrict the operation of section 13 of the Child Welfare Act 1925.

Cf. 1914, No. 56, s. 62; 1958, No. 54, s. 5

121. Employment of children of school age—No person shall, after the commencement of this Act, employ or continue to employ any child of school age at any time within school hours or at any other time if the employment of the child would prevent or interfere with his attendance at school, or the carrying out of the requirements of a course of instruction for which he is in accordance with section 119 of this Act enrolled at a correspondence school, unless there is produced to that person a certificate of exemption or other satisfactory evidence that the child is exempted (otherwise than on the ground that he is under suitable instruction elsewhere than at school) from the obligation to be enrolled as a pupil at any school.

122. Parents not to permit employment of children of school age—The parent or guardian of any child of school age who permits that child to be employed contrary to the provisions of section 121 of this Act, and any person who so employs any such child commits an offence and is liable on summary conviction to a fine not exceeding twenty pounds.

123. Appointment of Attendance Officers—(1) It shall be lawful for the Education Board of each education district to appoint Attendance Officers.

(2) The governing body of any school that is not under the control of an Education Board may appoint one or more Attendance Officers for the purpose of ensuring the attendance of children enrolled as pupils of that school.

(3) It shall be the duty of every such Education Board and governing body, by the appointment of Attendance Officers or by such other means as it deems sufficient, to take steps to ensure that all children enrolled as pupils of any school under its control are regular in their attendance at school.

(4) The Director-General may appoint any officer of the Education Department to be an Attendance Officer for the purposes of this section.

(5) Any Attendance Officer appointed under this section, on production of a distinctive badge or other evidence of his appointment, may at any time during school hours detain any child who appears to him to be of school age and is not then present at school, and may question him as to his age, name, and address, the school at which he is enrolled, and the reason of his absence from school. If in any such case the child fails to give a satisfactory reason for his absence from

school, the Attendance Officer may take the child to his home or to the school at which the Attendance Officer believes that he is or should be enrolled, and shall report the matter to a Child Welfare Officer.

(6) Any person who, after production by the Attendance Officer of evidence of his appointment, obstructs or interferes with him in the exercise of his powers under this Act commits an offence and is liable on summary conviction to a fine not exceeding twenty pounds.

(7) Any Attendance Officer appointed under this section, or the Chief Executive Officer of the Education Board of the education district, or any person appointed for the purpose by the governing body of a secondary school, may lay informations, conduct prosecutions, and take all other proceedings under this Part of this Act.

(8) A certificate under the hand of the Chairman or the Chief Executive Officer of the Education Board or other authority concerned showing that the person named in the certificate has been duly appointed for any of the purposes mentioned in this section shall be sufficient evidence of his appointment, and the election or the appointment of the person acting as such Chairman or Chief Executive Officer or the signature to any such certificate shall not in any proceedings be inquired into or disputed.

Cf. 1914, No. 56, s. 64; 1920, No. 64, s. 12

124. Hearing of proceedings—Any proceedings under this Part of this Act shall, if the Magistrate so orders, be heard with closed doors.

Cf. 1914, No. 56, s. 63

125. Evidence of school roll, etc.—(1) For the purpose of any proceedings under this Part of this Act, a certificate by the Head Teacher or Principal as to the enrolment of any child, the number of times the school was open during any period, the number of attendances made by any child during that period, the age of any pupil, and the name and address of any parent of a pupil shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate.

(2) Notice shall be taken judicially without further proof of the signature of the Head Teacher or Principal on any such certificate and of his appointment.

Cf. 1914, No. 56, s. 66

126. Onus of proof on parents—In any proceedings under this Part of this Act, the onus shall be on the parent or guardian of any child of showing that the child has enrolled at or is enrolled at, or (as the case may be) has attended or is attending a school in accordance with the requirements of this Act, or that the child is exempted from enrolment or attendance at a school.

Cf. 1914, No. 56, s. 67

127. Fines to be paid into School or Board Funds—Every fine recovered under this Part of this Act shall be paid to the Education Board or other authority which instituted the proceedings in which the fine is recovered without any deduction under section 109 of the Public Revenues Act 1953, as inserted by section 3 of the Public Revenues Amendment Act 1958, and shall thereupon become part of the School Fund or the General Fund of the Board or other authority, as the case may be.

Cf. 1914, No. 56, s. 68

128. Maori and Chatham Islands schools—(1) The provisions of this Part of this Act relating to enrolment and attendance shall apply to Maori schools and, subject to any regulations relating to the attendance at school of children in the Chatham Islands, to Chatham Islands schools.

(2) All the powers and functions possessed by the Education Board, or by the Chairman, Chief Executive Officer, or Attendance Officer thereof, under those provisions shall, with the necessary modifications, be possessed in the case of Maori and Chatham Islands schools by any person appointed in that behalf by the Minister.

(3) Subject to the provisions of subsection (2) of section 109 of the Public Revenues Act 1953, as inserted by section 3 of the Public Revenues Amendment Act 1958, all fines recovered as a result of proceedings taken under the said provisions by virtue of the powers referred to in subsection (2) of this section shall be paid into the Public Account or applied and expended for the benefit of the Maori or Chatham Islands school, as the case may be, as the Minister from time to time directs.

(4) The Governor-General may from time to time, by Order in Council, make regulations for the attendance at school of children in the Chatham Islands.

Cf. 1914, No. 56, s. 69

129. Restriction on enrolment—(1) In addition to the powers conferred on it by section 26 of this Act, an Education Board may, with the approval of the Minister, in order to avoid overcrowding at any State primary school (other than a Maori school) limit the attendance at the school in such manner as it determines.

(2) Where the accommodation available at any secondary school or technical school is not sufficient for all the children qualified for free education and applying for admission thereto, the Minister may, by notice in writing, direct the governing body of the school to restrict the admission of pupils to the school in the manner set out in the notice.

(3) The power conferred by subsection (1) of this section shall not be exercised, and no direction under subsection (2) of this section shall be given, so as to exclude any child qualified for free education from admission as a pupil unless there is adequate and reasonably convenient accommodation for the child available at a State primary school (other than a Maori school), or at another secondary school, as the case may be.

Cf. 1924, No. 50, s. 19; 1932–33, No. 49, s. 10

130. Suspension and expulsion of children in certain cases—

(1) It shall be lawful for the Head Teacher or Principal of any State primary school or secondary 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 a detrimental effect upon himself or upon the other pupils:

Provided that no such suspension of a pupil under fifteen years of age shall be for a period exceeding one week, except where extended as hereafter provided in this section.

(2) Where any pupil under the age of fifteen years is suspended from attendance under subsection (1) of this section, the following provisions shall apply:

(a) The Head Teacher or Principal shall immediately notify the parents or guardian of the pupil and the School Committee or Committee of Management (if any) of the school of the suspension and the reasons therefor, and shall forward forthwith to the Board or governing body of the school a full report of the suspension:

(b) The Board or governing body on receiving the report may, after such inquiry as it considers necessary,

either reinstate the pupil conditionally or unconditionally, or extend the term of the suspension for such period as it deems fit:

- (c) The Board or governing body may depute any one or more of its members to receive reports of suspensions on its behalf; and any member or members so deputed may reinstate a pupil or extend the term of a suspension as if the member or members were the Board or governing body itself, but any action so taken shall be subject to confirmation by resolution of the Board or governing body at its next meeting:
- (d) In any case where the Board or governing body (or any member or members thereof deputed to act on its behalf) extends the term of suspension of a pupil for any reason, other than to allow time to complete inquiries in the matter, it shall immediately advise the appropriate Senior Inspector of the suspension and the reasons for its extension:
- (e) Where the suspended pupil is enrolled at a secondary school or in the secondary department of a district high school, the Senior Inspector to be notified in accordance with paragraph (d) of this subsection shall be the Senior Inspector of Secondary Schools for the area if he can be reached without delay, but in every other case he shall be the Senior Inspector of Primary Schools for the district:
- (f) The Senior Inspector shall first endeavour to have the suspended pupil re-established in some suitable school, which school may, subject to the agreement of the Board or governing body, be the school from which the pupil was suspended, or it may be some other school providing education of the same kind which the pupil can conveniently attend, or a correspondence school established under this Act:
- (g) The Senior Inspector, in any case where he is unable to make suitable arrangements in accordance with paragraph (f) of this subsection for the education of a suspended pupil who has attained the age of fourteen years and has completed the work of form two, shall recommend to the Director-General that the pupil be granted a certificate of exemption from the obligation to be enrolled as a pupil of any school:
- (h) The Director-General, on receiving any such recommendation from the Senior Inspector of Schools,

shall, if he considers the circumstances warrant, grant the pupil a certificate of exemption from the obligation to be enrolled as a pupil of any school:

- (i) 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 with a correspondence school established under this Act, or has been granted by the Director-General exemption from the obligation to be enrolled as a pupil of any school.
- (3) Where any pupil fifteen years of age or over is suspended from attendance under subsection (1) of this section, the following provisions shall apply:
- (a) The Head Teacher or Principal shall immediately notify the parents or guardian of the pupil and the School Committee or Committee of Management (if any) of the school of the suspension and the reasons therefor, and shall forward forthwith to the Board or governing body of the school a full report of the suspension:
 - (b) The Board or governing body, on receiving the report, shall thereupon investigate the matter; and, after such consultation with Senior Inspectors and Child Welfare Officers as it considers necessary in any case, may direct that the pupil be reinstated conditionally or unconditionally, or it may expel the child.
- (4) Where a child under fifteen years of age is suspended or expelled from a private school, the Head Teacher of that school shall immediately notify the Education Board of the District.
- (5) The Head Teacher or Principal of any State primary school or secondary school, may suspend from attendance any child for want of cleanliness, or any child who may be likely to communicate any contagious disease; and in any such case the following provisions shall apply:
- (a) The Head Teacher or Principal shall forthwith report to the parents or guardian of the pupil and to the School Committee or Committee of Management (if any) of the school and to the Board or governing body of the school the action taken by him and the reasons therefor:
 - (b) The Board or governing body shall thereupon investigate the matter and may direct the child to be reinstated or forbid his attendance until the cause of complaint has been remedied or no longer exists:

- (c) Where a child has been forbidden to attend school for want of cleanliness, it shall be a defence in any proceedings under section 120 of this Act only if the parent satisfies the Court that the child was not absent from school for a longer period than was necessary in order to remove the cause for which he was so forbidden to attend school.

Cf. 1914, No. 56, s. 58; 1961, No. 56, s. 3

PART V

APPOINTMENT AND EMPLOYMENT OF TEACHERS

Registration of Teachers

131. Teachers to be registered—Without derogating from any other requirement of this Act or of any regulation thereunder, it is hereby declared that no person shall be eligible to be appointed to be, or to continue to be, a teacher, unless his name is registered in the Register of teachers hereinafter required to be kept:

Provided that nothing in this section shall require persons who are appointed temporarily, or in any probationary capacity, to positions as teachers to be registered:

Provided also that a person whose registration has been cancelled on the grounds set out in section 135 of this Act shall not be appointed temporarily to a position as a teacher unless his name has been reinstated on the Register.

Cf. 1924, No. 50, s. 13

132. Teachers Register—(1) The Director-General shall keep, in such manner as may be prescribed, a Register of teachers, which shall be known as the Teachers Register.

(2) In addition to the names that are entered on the Teachers Register at the commencement of this Act, the names of the following persons shall be entered by the Director-General in the Teachers Register:

- (a) Every person whose name is not for the time being on the Teachers Register but who is the holder of a teacher's certificate recognised in accordance with regulations made under this Act and who applies to be registered:
- (b) Every person to whom is issued on or after the commencement of this Act any such teacher's certificate:

- (c) Every person who applies in the prescribed manner to be registered and who satisfies the Director-General that he has the prescribed qualifications and is in other respects a fit and suitable person to be appointed as a teacher:

Provided that a person who has been refused registration for any reason other than that of lack of the prescribed educational qualifications may, within forty-two days of the date of the refusal, appeal in the manner prescribed in the case of the cancellation of registration in section 135 of this Act, the provisions of which shall apply so far as they are applicable and with the necessary modifications.

Cf. 1924, No. 50, s. 14

133. Publication of Register—(1) For the purposes of publication under this section the Teachers Register shall be divided into three Parts, of which Part A shall contain the names of primary teachers, Part B shall contain the names of teachers classified in accordance with regulations made under this Act as secondary teachers, and Part C shall contain the names of teachers appointed to positions in technical institutes.

(2) A copy of each Part of the Teachers Register, corrected to a date specified in that copy, shall be published in the *Gazette* within thirty days after the date of the commencement of this Act; and thereafter Part A shall be published in the *Gazette* in each third year, and Parts B and C shall be published in the *Gazette* in each year, before the thirtieth day of April:

Provided that the Director-General may from time to time publish in the *Gazette* a supplementary list of names added to the Teachers Register subsequently to the date of the last publication of any names.

Cf. 1924, No. 50, s. 15

134. Removal of certain names from Register—The Director-General shall from time to time remove from the Teachers Register the names of all persons recorded therein who are deceased, or who have notified their resignation or retirement from the teaching profession, or who have not within the preceding three years held any appointment as a teacher and have not applied for the retention of their names on the Register.

Cf. 1924, No. 50, s. 16

135. Cancellation of registration for misconduct—(1) If in the opinion of the Director-General any person whose name appears on the Teachers Register has been guilty of immorality or gross misbehaviour, or gross inefficiency or other conduct unfitting him for employment as a teacher, the Director-General may, with the approval of the Minister, and subject to the succeeding provisions of this section, cancel the certificate and registration of that person and remove his name from the Teachers Register.

(2) On the complaint of any society of teachers, being a society that is registered or deemed to be registered under this Act and is approved by the Minister for the purposes of this section, that any person whose name appears on the Teachers Register has been guilty of any such conduct as aforesaid, the Director-General may, with the approval of the Minister and subject to the succeeding provisions of this section, cancel the certificate and registration of that person and remove his name from the Teachers Register.

(3) Before the cancellation of the certificate and registration of any person under the provisions of subsection (1) or subsection (2) of this section takes effect, the Director-General shall give not less than forty-two days' notice of the cancellation to the person affected, setting out in the notice with sufficient particularity the grounds of the cancellation.

(4) Any person receiving notice of the cancellation of his registration as aforesaid may, at any time before the date on which the cancellation takes effect, appeal in the prescribed manner against the cancellation.

(5) The appeal shall be heard and determined by a Magistrate nominated for the purpose by the Minister of Justice.

(6) On any such appeal the appellant and the Director-General, as respondent, may appear personally, or may be represented by some other person or by counsel. Where the registration of a teacher is cancelled on the complaint of any registered society, that society may be represented by counsel or some other person.

(7) The Magistrate shall make such order as he thinks proper, having regard to the merits of the case and the public welfare.

(8) If an appeal is not made, or, if made, is dismissed by the Magistrate, the cancellation of the certificate and registration shall take effect as from the date specified by the Director-General in his notice of cancellation.

Cf. 1924, No. 50, s. 17

136. Notification of removal of name from Register—Where the name of any person has been removed from the Teachers Register for immorality or gross misbehaviour, or for gross inefficiency or other conduct unfitting him for employment as a teacher, a notice of the removal shall be published in the *Gazette*, and such other notification shall be made to any Board or other body employing the person as a teacher as the Director-General deems necessary.

Cf. 1924, No. 50, s. 18

Constitution of Committees for Primary Appointments

137. Appointments Committees—(1) There shall be the following Appointments Committees:

- (a) An Appointments Committee for each education district:
- (b) An Appointments Committee for all positions in Maori schools to which teachers may be appointed by the Director-General:
- (c) Such other Appointments Committees as the Minister may approve for all other positions to which teachers may be appointed by the Director-General.

(2) Every such Appointments Committee shall be constituted and shall conduct its proceedings in accordance with regulations made under this Act, and the members of every such Appointments Committee shall hold office in the manner so prescribed.

Cf. 1955, No. 87, s. 3

138. Central Advisory Committee—(1) For the purposes specified in this section and in any other enactment there shall be a Central Advisory Committee.

(2) The Central Advisory Committee shall consist of—

- (a) Two members appointed by the Executive of the New Zealand Education Boards' Association:
- (b) Two members appointed by the Dominion Executive of the New Zealand Educational Institute:
- (c) Two members appointed by the Director-General of Education:
- (d) One member appointed by the Minister of Education to represent other educational interests.

(3) The functions of the Central Advisory Committee shall be—

- (a) To compile a list of State primary schools which shall be approved by the Director-General as country

schools for the purpose of country service, and a list of State primary schools which shall be approved by the Director as very remote for the purpose of transfers and appointments of teachers:

- (b) To decide whether any recommended appointment of a teacher which is referred to it by an appointing authority in accordance with regulations made under this Act should be approved or whether the Appointments Committee should be required to reconsider the matter and make a different recommendation to the appointing authority:
 - (c) To report each year to the Director-General concerning the operation of the system under which primary teachers are appointed and transferred and their work as teachers is assessed, and to make such recommendations as it thinks fit concerning the system:
 - (d) As soon as practicable after the first day of February in the year nineteen hundred and sixty-six and in every fifth year thereafter, to review the operation of the said system and report to the Minister thereon.
- (4) The Central Advisory Committee shall hold its meetings and conduct its proceedings in accordance with regulations made under this Act, and the members of that Committee shall hold office in the manner so prescribed.

Cf. 1955, No. 87, s. 4

139. Extraordinary vacancies on Committees—(1) Any appointed member of the Central Advisory Committee or of any Appointments Committee may at any time be removed from office by the authority which appointed him for disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of that authority, or may at any time resign his office by written notice given to that authority and to the Committee.

(2) If any member of any such Committee dies or resigns or is removed from office, his office shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of an extraordinary vacancy on any such Committee, the authority which made the original appointment may appoint some fit person to fill the vacancy. Every such appointment shall be made in the same manner as the appointment of the vacating member.

(4) Any member appointed to fill an extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

Cf. 1955, No. 87, s. 5

140. Deputies of members—(1) The authority entitled to appoint any member or advisory member of the Central Advisory Committee or of any Appointments Committee may at any time appoint another suitably qualified person to act as deputy for that member or advisory member at any time while the member or advisory member is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office.

(2) Any person who is a member or advisory member of any Appointments Committee by reason of being the holder for the time being of any office may appoint an appropriate person to act as his deputy on that Appointments Committee at any time while he is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office.

(3) Where a deputy of a member or advisory member of a Committee is appointed under this section the deputy shall, while he acts as such, be deemed to be a member or advisory member of the Committee, as the case may be.

(4) No acts done by any deputy appointed under this section as such, and no acts done by the Central Advisory Committee or any Appointments Committee while any deputy of a member or advisory member thereof is acting as such, shall in any proceedings be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

Cf. 1955, No. 87, s. 6

141. Members' travelling expenses—There shall be paid, out of money appropriated by Parliament for the purpose, to the members of the Central Advisory Committee remuneration by way of fees, and to the members of that Committee and of each Appointments Committee travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and every such Committee shall be a statutory Board within the meaning of that Act.

Cf. 1955, No. 87, s. 7

Appointment of Primary Teachers

142. Appointments to positions—Appointments of teachers to positions in State primary schools under the control of an Education Board or as itinerant teachers in those schools, and appointments of teachers to positions in intermediate schools and intermediate departments, being intermediate schools and

intermediate departments under the control of the governing body of a secondary school, and appointments of teachers appointed by the Director-General, whether the appointments are made by the transfer of a teacher from one position to another or otherwise, shall be made by the Board or other appointing authority or the Director-General (as the case may be) in accordance with regulations made under this Act, and the powers of Appointments Committees and the Central Advisory Committee in respect of those appointments shall be as prescribed by regulations so made; but, except as otherwise provided in this section or in cases where classification in accordance with regulations under this Act as a secondary teacher is required for the position, no person shall be eligible for appointment who does not hold such teacher's certificate and such other certificates of fitness as are required by regulations so made:

Provided that, in cases where a certificated teacher cannot be obtained for any position, the applicant for the position having otherwise the best qualifications may be temporarily appointed until a certificated teacher can be obtained:

Provided also that an uncertificated teacher with qualifications of a particular type may, with the prior approval of the Director-General, be appointed to a position requiring qualifications of that type:

Provided further that, except in special cases for which prior consent of the Minister has been obtained, no person who is in receipt of a retiring allowance from the Government Superannuation Fund shall be eligible for appointment.

Cf. 1955, No. 87, s. 8

143. School Committees to be notified of proposed appointments—The Director-General in the case of a Maori School, and the Education Board in the case of any other State primary school, shall send to the Chairman of the School Committee having the management of the school in which the vacant position exists notice of the name and academic qualifications of the teacher recommended by the Appointments Committee and of the date on which the teacher is to be appointed, and shall invite the School Committee to make comments if it so wishes; but, except where the appointing authority, the Chairman of the School Committee, and the teacher recommended for appointment agree that the appointment shall be made on an earlier date, no

appointment shall be made before the expiry of ten days from the date on which the said notice would in the ordinary course of post reach the Chairman of the Committee.

Cf. 1914, No. 56, s. 72; 1955, No. 87, s. 11; 1962, No. 54, s. 5

Primary Teachers Appointment Appeal Boards

144. Primary Teachers Appointment Appeal Boards—

(1) For the purposes of this Part of this Act there shall be a Primary Teachers Appointment Appeal Board for each education district to be called the (*Name of district*) Primary Teachers Appointment Appeal Board.

(2) Each Primary Teachers Appointment Appeal Board shall consist of—

(a) One person appointed as Chairman thereof:

(b) One person appointed on the recommendation of the Education Board for the district:

(c) One person appointed on the recommendation of the New Zealand Educational Institute.

(3) The members of every such Appeal Board shall be appointed by the Minister, and shall hold office for a term of three years, and may from time to time be reappointed.

(4) In the event of the incapacity of any member of any such Appeal Board by reason of illness, or if from any other cause whatever any member of any such Appeal Board is not available, another person may be appointed in the same manner as that member to act in the place of that member while he is incapacitated or not available.

(5) There shall be paid to the members of any such Appeal Board, out of money appropriated by Parliament for the purpose, remuneration by way of fees, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and every such Appeal Board shall be a statutory Board within the meaning of that Act.

(6) Each Primary Teachers Appointment Appeal Board shall hold its sittings at such times and places as the Chairman may from time to time determine and shall regulate its procedure in accordance with regulations made under this Act.

Cf. 1948, No. 68, s. 2

145. Right of Appeal—(1) Where applications are invited for a position which may be filled by the appointing authority only after first receiving the recommendation of the Appointments Committee, any appointment to the position shall be deemed to be a provisional appointment if any other applicant may appeal against the appointment.

(2) An applicant may appeal against any such appointment if he has a higher general assessment according to his personal report than the applicant provisionally appointed to the position:

Provided that, where applications are invited by teachers of a particular description or with particular qualifications, only applicants who, in the opinion of the Appointments Committee, satisfy the description or possess the qualifications and have such higher general assessments, may appeal against the appointment.

(3) In the case of every provisional appointment, the following provisions shall apply:

(a) The appointment shall continue to be provisional until the time allowed for appeal under this Part of this Act has expired and, in the event of an appeal against the appointment, until every such appeal has been decided:

(b) The teacher appointed to the position shall not commence duty until the time allowed for appeal has expired and, in the event of an appeal against the appointment, until every such appeal has been dismissed or withdrawn:

(c) Every appellant shall be granted leave of absence if necessary in order to attend the hearing of his appeal.

(4) No person shall be entitled to appeal to any Board of Appeal established under the State Services Act 1962 against any appointment to a position to which this section applies.

Cf. 1948, No. 68, s. 4; 1955, No. 87, s. 12

146. Notices to teachers with right of appeal—Where an appointing authority makes a provisional appointment against which an appeal lies under section 145 of this Act, that authority shall, as soon as possible after making the appointment, give notice by registered letter requiring an acknowledgment receipt to every person who has a right of appeal under that section against the appointment, and shall state in the notice the reason for not appointing that person.

Cf. 1948, No. 68, s. 5

147. Notices of appeal, jurisdiction, etc.—(1) Notice of appeal under this Part of this Act against a provisional appointment to any position in any school or department shall be accompanied by a statement of the grounds for the appeal, and shall be forwarded to the appointing authority not later than seven days after the date on which a receipt for the said registered letter, signed or purporting to be signed by or on behalf of the person to whom the letter is addressed, is given to an officer or employee of the Post Office.

(2) Every notice of appeal received by an appointing authority shall forthwith be forwarded by that authority to the Chairman of the Primary Teachers Appointment Appeal Board for the district in which that school or department is situated.

(3) The appointing authority shall, as soon as practicable after receipt of a notice of appeal, send to the Chairman of the said Primary Teachers Appointment Appeal Board a statement in reply to the appeal.

(4) The Primary Teachers Appointment Appeal Board to which any notice of appeal is forwarded under this section shall determine that appeal in accordance with the provisions of this Part of this Act.

(5) In the event of any appeal to any Primary Teachers Appointment Appeal Board against any appointment, that Appeal Board, after considering every appeal against the appointment, shall either allow or dismiss each appeal.

(6) In considering any appeal the Appeal Board shall not be bound by the opinion of the appointing authority or the Appointments Committee or the Central Advisory Committee as to the suitability for the position of the person provisionally appointed or of any other person who appealed against the appointment; and the Appeal Board shall allow the appeal of any appellant, unless in its opinion—

(a) The person provisionally appointed or any other person who appealed against the appointment is more suitable for the position under consideration than the appellant; or

(b) Any other person who appealed against the appointment, and who has a higher general assessment according to his personal report, is as suitable for the position under consideration as the appellant.

(7) If any such appeal is allowed the appropriate appointing authority shall forthwith appoint the successful appellant

to the position and shall cancel the provisional appointment. No appeal shall lie against any appointment under this subsection.

Cf. 1948, No. 68, s. 6; 1950, No. 77, s. 4; 1955, No. 87, s. 13

Appointment of Secondary Teachers and Teachers in Technical Institutes

148. Governing body may appoint teachers—The governing body of a secondary school or secondary department, or of a technical institute, shall, in accordance with regulations made under this Act, appoint such teachers as may be required for each secondary school, secondary department, or technical institute under its control; but, except in the case of appointments to positions in technical institutes, no teacher shall be eligible for permanent appointment who is not classified in accordance with regulations so made as a secondary teacher, nor, except in special cases for which the prior consent of the Minister has been obtained, shall any person who is in receipt of a retiring allowance from the Government Superannuation Fund be eligible for appointment.

Appointment and Employment of Teachers—General

149. Teachers for special purposes—(1) There may from time to time be appointed, with the approval of the Minister, in connection with any State primary school or secondary school, or group of such schools, or in connection with any one or more technical institutes, teachers for special purposes.

(2) Persons appointed as teachers for special purposes under this section shall receive such salaries as may be lawfully appointed in that behalf.

Cf. 1918, No. 10, s. 36

150. Married women as teachers—Neither an Education Board nor the governing body of any secondary school or technical institute, nor the Director-General in a case where the appointment is made by the Director-General, shall refuse to appoint a married woman as a teacher in any school on the ground only that she is a married woman, and no married woman shall be dismissed from a position as a teacher in any school on the ground that she is a married woman.

Cf. 1938, No. 14, s. 6

151. Restriction upon transfer of teachers—(1) This section applies with respect to teachers who, whether before or after the commencement of this Act, have been permanently appointed as teachers by the Director-General, or have been permanently appointed as teachers in a teachers training college, or in a State primary school, or in a secondary school, or in any other position as a teacher under the control of an Education Board or the governing body of a secondary school:

Provided that the Governor-General may from time to time, by Order in Council, make regulations providing that the provisions of this section shall not apply to a specified class or to specified classes of the said teachers during a specified period or specified periods.

(2) Except as provided in subsection (3) of this section, no teacher with respect to whom this section applies shall be eligible to be appointed to a new permanent position as a teacher before the expiry of a period of two years from the date on which he commenced duty in the position to which he was last permanently appointed; and no such teacher shall be eligible to apply for a new permanent position at any time within the period before the commencement of the school term immediately before that in which he is eligible to be appointed to the position.

(3) In special circumstances a teacher with respect to whom this section applies may at any time within the period specified in subsection (2) of this section apply for or receive a new permanent appointment in accordance with the following provisions, that is to say:

- (a) With the approval of the Director-General in the case of a teacher appointed by the Director-General:
- (b) With the approval of the Education Board by which the teacher is employed, given with the concurrence of the Senior Inspector, in the case of a teacher in a teachers college or a State primary school other than a Maori school:
- (c) With the approval of the Director-General, given on the recommendation of the governing body or the controlling authority of any secondary school, in the case of a teacher employed in any such school, or, in the case of a teacher employed at a manual training centre, given on the recommendation of the authority controlling that centre.

(4) Where a teacher is appointed permanently to a position immediately following a period of relieving in that position,

the period of two years referred to in this section shall commence on the date on which he commenced duty as a relieving teacher in the position.

(5) Where a teacher is appointed permanently to a position immediately following his provisional appointment to that position under section 145 of this Act, and there has been an appeal against the appointment, the period of two years referred to in this section shall commence on the day on which in the opinion of the appointing authority he would have commenced duty in the position if there had been no appeal against the appointment.

Cf. 1941, No. 26, s. 12; 1948, No. 68, s. 14; 1958, No. 54, s. 7

152. Provisions regarding proposed transfers of teachers—

(1) Where an Education Board or the governing body of a secondary school, or the Director-General in the case of a teacher appointed by the Director-General, proposes to transfer a teacher from one position to another, whether in the same or in a different school under its control, the Board or governing body, by writing under the hand of its Chief Executive Officer or Secretary (as the case may be), or the Director-General in the case of a teacher appointed by the Director-General, shall give to that teacher not less than twenty-one days' notice of the intention so to transfer him.

(2) The teacher may, within fourteen days after the date of the receipt of the said notice, object to the proposed transfer. Every such objection shall be in writing addressed to the Chief Executive Officer of the Education Board or the Secretary of the governing body of the secondary school, or the Director-General, as the case may be, and shall state the grounds of his objection.

(3) The Board or governing body, or the Director-General, as the case may be, shall, as soon as practicable thereafter, take the objection into consideration, and shall, if it decides to proceed with the transfer, give notice of its decision to the teacher, and thereupon the teacher may appeal against the transfer in accordance with the provisions of Part VI of this Act.

(4) Upon the hearing of any such appeal the Teachers Court of Appeal may, in its discretion, having regard to all the circumstances of the case, either confirm the transfer or order the appellant to be reinstated.

(5) The transfer of a teacher shall be held to be reasonable—

- (a) If the salary attached to the position to which the Board or governing body or the Director-General proposes to transfer him is higher than that of the grade of salary pertaining to the position from which it is proposed to transfer him; or
- (b) In any case where a teacher is receiving a salary higher than the salary pertaining to the position occupied by him, or where a teacher has lost or is about to lose his position through a change in grade or status or the closing of the school, or where a teacher through no fault of his own has suffered or is about to suffer a reduction in salary, or where a teacher is not promoted when his position rises in grade, if he is being transferred without reduction of salary, other than that represented by any additional salary payable in respect of his former position by reason of his being appointed an associate teacher; or
- (c) If in any special case (to be defined by regulations made under this Act) he is being transferred from a normal school without reduction of salary other than that represented by the special allowance attached to the position at the normal school.

Cf. 1914, No. 56, s. 73

153. Payment of overgrade salaries, etc.—(1) If any school has been or is reduced in grade or altered in status, every teacher who remains in the position therein which he held at the time of that reduction or alteration (being a position the salary and allowances for which have been reduced in consequence of that reduction or alteration) shall continue, for a period to be determined in accordance with subsection (2) of this section or for a period of two years after the date of the reduction in grade or alteration in status of the school, whichever period is the greater, to receive the same salary and allowances as if no such reduction in grade or alteration in status had taken place; and after the termination of the relevant period until new conditions arise he shall receive as his salary and allowances the maximum salary and allowances prescribed for his position according to the grade to which the school has been reduced or according to its altered status:

Provided that, in the case of a teacher to whom paragraph (c) of subsection (2) of this section applies, the period for which the teacher shall continue to receive the same salary and allowances as aforesaid shall be determined in accordance with that paragraph.

(2) The period first-mentioned in subsection (1) of this section shall be as follows:

(a) Where at the time of the reduction in grade or alteration in status of the school the teacher, being a contributor to the Government Superannuation Fund, is within four years of the date on which (if he remains a contributor to that Fund) he will be entitled to retire on superannuation, he shall continue to receive the same salary and allowances up to that date:

(b) Where at the time of the reduction in grade or alteration in status of the school the teacher, not being a contributor to the Government Superannuation Fund,—

(i) Has been employed in the Government service within the meaning of the Superannuation Act 1956 continuously from a date before the first day of January, nineteen hundred and forty-six, and is within four years of the date on which (if he remains a teacher) he will complete a period or periods of such Government service (including any period of training or as an assistant on probation) totalling forty years or will sooner attain the age of sixty-five years, he shall continue to receive the same salary and allowances up to that date:

(ii) Has not been employed in the said Government service continuously from a date before the first day of January, nineteen hundred and forty-six, and will (if he remains a teacher) complete a period or periods of such Government service (including any period of training or as an assistant on probation) totalling forty years on or before the date on which he will attain the age of sixty years, and is within four years of that date, he shall continue to receive the same salary and allowances up to that date:

(iii) Has not been employed in the said Government service continuously from a date before the first day of January, nineteen hundred and forty-six,

and will (if he remains a teacher) complete a period or periods of such Government service (including any period of training or as an assistant on probation), totalling forty years at some time after attaining the age of sixty years but before attaining the age of sixty-five years, and is within four years of the date on which (if he remains a teacher) he will complete forty years of such Government service, he shall continue to receive the same salary and allowances up to that date:

(iv) Has not been employed in the said Government service continuously from a date before the first day of January, nineteen hundred and forty-six, and will not have completed a period or periods of such Government service (including any period of training or as an assistant on probation) totalling forty years before the date on which he will attain the age of sixty-five years, and is within four years of that date, he shall continue to receive the same salary and allowances up to that date:

- (c) In every other case, the teacher shall continue for a period of two years after the date of the reduction in grade or alteration in status of the school to receive the same salary and allowances, but such period of two years may be extended by the Director-General in any case where he is satisfied that it has not been possible for the teacher to obtain in a State primary school, secondary school, technical institute, or any school under the control of the Department, any position the salary and allowances attached to which are not less than the salary and allowances then being received by him:

Provided that if at any time any such teacher is offered and declines to accept, in a State primary school, secondary school, technical institute, or any school under the control of the Department, any position the salary and allowances attached to which are not less than the salary and allowances then being received by him, he shall continue to receive the last-mentioned salary and allowances for not more than three months after the date on which the offer is made to him.

- (3) Notwithstanding anything in the foregoing provisions of this section, while any person continues to hold the position

of Head Teacher or Principal in any school, not more than one reduction in the rate of salary and allowances payable to him shall be made by reason of any reduction or reductions in the grade of that school, whether any such reduction occurred before or after the commencement of this Act.

(4) Nothing in this section shall have any application to any teacher employed for a specific limited term of office pursuant to a contract made out of New Zealand.

Cf. 1962, No. 54, s. 3

154. Protection of teachers in certain cases—(1) In any case where a boys' school and a girls' school are established in place of a secondary school for both sexes, and in any case where a secondary school is established in the place of a secondary department of a district high school, or of one or more secondary schools, or in any case where any secondary school takes over the functions of any other secondary school or secondary department of a district high school which is consequentially disestablished, the following provisions shall apply to the teachers on the staff of the former school or department:

- (a) Every such teacher shall be offered a transfer to a position on the staff of the schools or school so established:
- (b) In the case of a teacher who is employed in any school so established or in any other secondary school or in the secondary department of a district high school, he shall while so employed continue to receive the same salary as he received in the former school or department if that salary is higher than the salary for his new position, but in no case after the expiration of two years from the date on which he ceased duty in his former position.

(2) In any case where a State primary school that is not a Maori school is established in place of a Maori school, or where an intermediate school is established in place of an intermediate department attached to a secondary school or a district high school, the following provisions shall apply to the teachers on the staff of the former school or intermediate department:

- (a) Every such teacher shall be offered a transfer to a position on the staff of the school so established:
- (b) In the case of a teacher who is employed in any school so established, he shall while so employed continue

to receive the same salary as he received in the former school or intermediate department if that salary is higher than the salary for his new position, but in no case after the expiration of two years from the date on which he ceased duty in his former position.

(3) In any case where a State primary school is established in connection with a teachers college as a normal school, every teacher on the staff of that State primary school shall, while employed in any other State primary school, continue to receive the same salary as he received in the former school if that salary is higher than the salary for his new position, but in no case after the expiration of two years from the date on which he ceased duty in his former position.

Cf. 1954, No. 56, s. 2; 1957, No. 101, s. 7; 1959, No. 23, s. 4

155. Duration of appointment of teacher—(1) No teacher appointed to a permanent position, or whose appointment to a permanent position is confirmed under this Act, shall be at liberty to relinquish his engagement without giving, to the Chief Executive Officer of the Board, or the Secretary of the governing body, under which he holds his appointment, or to the Director-General in the case of a teacher appointed by the Director-General, notice in writing of his intention to do so; and the notice shall be given, in the case of a teacher who in accordance with regulations made under this Act is classified as a secondary teacher, at least two months before the date on which the appointment is to be relinquished, and in all other cases at least one month before that date:

Provided that where a teacher has been appointed to a permanent position in a State primary school other than a Maori school, or has been confirmed in such a position, he shall, where he is required to give notice of his intention to relinquish his engagement to the Chief Executive Officer of the Board under which he holds his appointment, give notice in the same way to the Chairman of the School Committee.

(2) No teacher appointed to a permanent position or whose appointment to a permanent position is confirmed under this Act shall have his engagement determined by the Board or governing body under which he holds his appointment, or by the Director-General in the case of a teacher appointed by the Director-General, except on being given three months' notice

signed by the Chief Executive Officer of the said Board, or the Secretary of the governing body, or the Director-General, as the case may be.

(3) Where any notice given under this section expires during the currency of any holidays prescribed by regulations made under this Act or fixed or sanctioned by the Board or governing body of the school under which the teacher holds his appointment, or by the Director-General in the case of a teacher appointed by the Director-General, the teacher shall be entitled to receive salary until the end of those holidays at the rate at which he was being paid at the time of the expiry of the notice.

(4) Nothing in this section shall apply to any teacher in a technical institute during any probationary period which, in accordance with regulations made under this Act, he is required to serve on being appointed for the first time to a permanent teaching position in a technical institute.

Cf. 1914, No. 56, s. 82

156. Interpretation—In sections 156 to 161 and 163 of this Act, unless the context otherwise requires,—

“Board” means the Education Board of any district constituted under this Act, or the Board or governing body of a secondary school or technical institute, as the case may be; or, in relation to a teacher appointed by the Director-General, means the Director-General.

“Teachers’ organisation”, in relation to any teacher, means whichever one of the following organisations the teacher may nominate, namely—

- (a) The New Zealand Education Institute; or
- (b) The New Zealand Post-primary Teachers’ Association; or
- (c) Any other organisation of teachers approved by the Minister for the purpose:

Provided that, if a teacher fails to make such a nomination after being given a reasonable opportunity to do so, the Director-General may make the nomination.

Cf. 1932–33, No. 49, s. 4

157. Disciplinary action where teacher charged with serious offence—(1) A teacher who is charged with having committed any offence for which the maximum punishment is

not less than two years imprisonment, whether on indictment or on summary conviction, may be suspended by the Board employing him, and if convicted (whether or not he has been suspended) may either be peremptorily dismissed by the Board, or may if the Board so determines, be deemed to have committed an offence under this Act, and the Board may impose on him one or more of the following penalties:

(a) Transfer the teacher to any other position of the same or a lower salary or grading in the same school or in any other school under the control of the Board:

(b) Reduce the rate of salary of the teacher for such period as the Board, subject to the approval of the Minister, may determine.

(2) If, in any case to which subsection (1) of this section applies, the Board is of the opinion that, pending the hearing of the charge against him, the teacher should be removed from his position but need not be suspended, the teacher may be transferred temporarily to other duties.

(3) Any teacher who is dismissed or otherwise punished, or who is suspended, by the Board under this section may appeal to the Teachers Court of Appeal in accordance with the provisions of Part VI of this Act against the decision of the Board.

(4) Where a teacher who is dismissed or otherwise punished or suspended under this section is subsequently acquitted of the charges made against him, he shall be reinstated in his position and shall receive his full salary in respect of the period for which he did not receive that salary; but, subject to any decision of the Teachers Court of Appeal, a teacher shall in no other case receive any salary or payment in respect of any period of suspension imposed under this section unless the Board otherwise directs.

(5) Nothing in sections 158 to 161 of this Act shall apply with respect to any action taken under this section.

Cf. 1932-33, No. 49, s. 4

158. Disciplinary offences—(1) Every teacher commits an offence against this section who—

(a) By any act or omission fails to comply with the requirements of this Act:

(b) In the course of his duties disobeys, disregards, or makes wilful default in carrying out any lawful order or instruction given by any person or Board having authority to give such order or instruction:

- (c) Is negligent, careless, or indolent in the discharge of his duties:
 - (d) Is grossly inefficient or incompetent in the discharge of his professional duties:
 - (e) Improperly uses property, stores, or equipment for the time being in his official custody or under his control or fails to take reasonable care of any such property or equipment:
 - (f) Absents himself from his duties without leave or valid excuse:
 - (g) Is guilty of conduct in his capacity as a teacher or otherwise which is unbecoming to a member of the teaching service or shows his unfitness to remain in his present position or in the service.
- (2) A teacher who is alleged to have committed an offence under this section shall be dealt with in accordance with section 159 of this Act.

Cf. 1932-33, No. 49, s. 4

159. Steps to be taken where offence alleged—(1) Where it is alleged that any teacher has committed an offence against section 158 of this Act the Board shall forthwith advise the teacher in writing of the full details of the charge against him, and in that event the following provisions of this section shall apply.

(2) The teacher concerned shall, by notice in writing delivered to the teacher or sent to him by post in a registered letter addressed to him at his usual or last known place of abode, be required to state in writing within a reasonable time to be specified in the notice whether he admits or denies the truth of the charge.

(3) In any case where the Board decides to proceed with the charge it shall refer the matter for investigation to a committee consisting of not more than three members appointed by the Board and one member appointed by the teachers' organisation. Every such committee shall for the purpose of the investigation have the same powers and authority to summon witnesses and receive evidence as are conferred upon Commissions of Inquiry by the Commissions of Inquiry Act 1908 and the provisions of that Act shall apply accordingly. The committee shall, after hearing the case, report to the Board its opinion thereof including any minority opinion and forward to the Board, with the relative report, notes of the evidence received in the inquiry. Copies of the

said report and notes of evidence shall be delivered to the teacher or sent to him by post in a registered letter addressed to him at his usual or last known place of abode.

(4) A committee appointed under the authority of subsection (3) of this section may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matter before it, whether or not the same would be admissible in a Court of law.

(5) If the Board, after considering the reports relating to the charge, the reply or explanation, if any, furnished by the teacher, and the report and notes of the evidence forwarded by the committee appointed to investigate the charge, is satisfied as to the truth of the charge, then, subject to any right of appeal conferred on the teacher by this Act, it may caution or reprimand the teacher, and may (in addition) impose one of the following penalties:

- (a) Transfer the teacher to some other position for which the salary scale is equivalent to or lower than that of his former position:
- (b) Peremptorily dismiss the teacher from its service or require him to resign within a specified time (in which case the teacher shall be deemed to be dismissed unless he so resigns):

Provided that the Board, in imposing any penalty under this subsection involving a loss of salary, shall take into account any loss of salary that the teacher may suffer under subsection (8) of this section.

(6) As soon as practicable after the conclusion of any investigation or inquiry under this section, the Board shall, by notice in writing, inform the teacher concerned of the Board's decision and of the penalty (if any) imposed by it.

(7) Any teacher against whom a charge is made under this section may, pending the hearing and determination of such charge, be suspended or transferred by the Board.

(8) Except with the express approval in writing of the Board, no teacher who has been suspended under the foregoing provisions of this section shall be entitled to receive any salary or payment in respect of the period of suspension if the charge made against him is sustained on inquiry or investigation as hereinbefore provided.

(9) At any inquiry or investigation held under this section with respect to any charge made against a teacher, the teacher shall be entitled to be represented by counsel or agent.

(10) In any case where after inquiry or investigation the charges made against a teacher are held not to have been proved, the Board shall allow the teacher such legal costs actually incurred by the teacher as the Minister may determine.

Cf. 1932-33, No. 49, s. 4

160. Notice of imposition of penalty—Notice of every penalty imposed on a teacher under section 157 or section 159 of this Act together with a full report of the circumstances shall be forthwith given to the Minister by the Board having the control of the school in which the teacher was employed.

Cf. 1932-33, No. 49, s. 4

161. Appeals—Any teacher who is aggrieved by any finding of the Board, or any penalty it imposes on him, under section 159 of this Act may appeal in accordance with the provisions of Part VI of this Act against the finding or penalty or both.

Cf. 1932-33, No. 49, s. 4

162. Teachers to take oath of allegiance—(1) No person shall be employed or shall continue to be employed, or shall act as a teacher, in any State primary school, secondary school, technical institute, endowed school, or private school or in any teaching position under the control of the Department of Education or under an Education Board unless, in the case of a New Zealand citizen, he has made and subscribed an oath or affirmation of allegiance, and, in any other case, he has made and subscribed such an oath or affirmation or has made and subscribed in the prescribed form an oath or affirmation that he will not, directly or indirectly, use words or be concerned in any act which would be disloyal to Her Majesty if those words were spoken or written, or that act was committed, by a New Zealand citizen.

(2) Any oath or affirmation required to be made under this section may be made and subscribed before a Justice of the Peace, or a solicitor of the Supreme Court, or the Chairman of an Education Board or of the governing body or controlling authority of a secondary school or technical institute or of a School Committee, and every such Justice, solicitor, and Chairman shall have authority to administer and receive any such oath or affirmation.

(3) If any person is employed or continues to be employed, or acts, in a private school in contravention of this section, the managers of that private school commit an offence, and shall be jointly and severally liable on summary conviction to a fine not exceeding fifty pounds.

Cf. 1921-22, No. 27, s. 11

163. Teachers not to engage in other employment in certain circumstances—(1) No teacher shall engage for pecuniary gain or profit in any profession, occupation, or business which lies beyond the scope of his duties as a teacher and which, in the opinion of the Board, after consultation with the teachers' organisation, is likely to affect adversely the efficiency of the teacher.

(2) Any teacher who acts in contravention of subsection (1) of this section may be deemed by the controlling authority under which he holds his appointment to be guilty of an offence against section 158 of this Act.

(3) Nothing in the State Services Act 1962 shall require any teacher appointed by the Director-General to obtain the express permission of the State Services Commission before engaging in any occupation which lies beyond the scope of his duties as a teacher or to notify the State Services Commission that he is engaged in any such occupation.

164. Control of officers of Public Service engaged as teachers—(1) The Governor-General may, by Order in Council, declare that the officers of the Public Service who are employed as teachers in any Maori school or in any other school or position under the control of the Department of Education shall, on a date to be specified in that behalf, cease to be subject to the State Services Act 1962, and thereafter the teachers for the time being employed in any school or position to which any such Order in Council relates (whether appointed before or after the date when the Order in Council takes effect) shall be under the control of the Director-General.

(2) Any Order in Council under subsection (1) of this section may relate to all schools and teaching positions under the control of the Department of Education or may relate to any specified school or any specified teaching position or to schools of any specified class.

Cf. 1939, No. 39, s. 17

165. Salaries and conditions of employment of teachers—

(1) Subject to the provisions of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Providing for the issue of certificates to teachers:
- (b) Providing for the appointment, transfer, and promotion of teachers, the assessment and classification of teachers and teaching positions, and the making of personal reports on teachers:
- (c) Providing for the grading of State primary schools and intermediate schools and departments; prescribing the number and grades of teachers to be employed in those schools, and also the number of probationary assistants to be so employed; and requiring that certain positions in those schools be filled only by male teachers or female teachers, as the case may be:
- (d) Prescribing the staffs of teachers (including part-time teachers) to be employed in secondary schools and technical institutes:
- (e) Prescribing rates and conditions of payment of salaries, allowances, increments, and fees that may be paid to teachers (including relieving teachers, temporary teachers, and occasional lecturers), probationary assistants, kindergarten teachers, and teachers-college students and kindergarten trainees in so far as those rates and conditions are not determined by any salary order:
- (f) Prescribing conditions subject to which leave of absence may be granted to teachers, probationary assistants, kindergarten teachers, and teachers-college students and kindergarten trainees; and authorising, subject to such conditions as may be prescribed, the payment of salaries and allowances, in whole or in part, during such leave:
- (g) Prescribing rates of allowances that may be paid towards the cost of, or incidental to, the removal of teachers on transfer from one school to another:
- (h) Authorising the making of advances in assistance of teachers-college students and kindergarten trainees during their period of training, and prescribing the conditions as to repayment and any other conditions subject to which such advances may be made:
- (i) Prescribing the procedure to be followed at meetings of Primary Teachers Appointment Appeal Boards:

(j) Prescribing such other matters relating to the conditions of employment of teachers as may be necessary to give definition to the administration of this Part of this Act.

(2) Any regulations made under this section may, in so far as they prescribe any rates of salaries or allowances, be made to come into force before or after the date of the making thereof or on that date.

Cf. 1914, No. 56, s. 161; 1919, No. 29, s. 15; 1920, No. 64, ss. 23, 34; 1932-33, No. 49, s. 3 (5); 1936, No. 44, s. 10; 1944, No. 31, s. 38; 1955, No. 87, s. 14

PART VI

TEACHERS INCORPORATION AND COURT OF APPEAL

166. Interpretation—In this Part of this Act, unless the context otherwise requires,—

“Board” means the Education Board of any district constituted under this Act, or the Board of Governors of a secondary school or technical institute, as the case may be:

“Corporation” means a society registered under this Part of this Act or the corresponding provisions of any former Education Act:

“Court” means the Teachers Court of Appeal constituted under this Part of this Act:

“Transfer” means the transfer of a teacher from one position to another within the meaning of section 152 of this Act.

Cf. 1914, No. 56, s. 137

Incorporation of Societies of Teachers

167. Applications for registration of societies—(1) Any society consisting of any number of teachers, not being less than twenty-five, who reside in any one education district and are associated for any lawful purpose connected with their profession (not being for purposes of gain) may be registered under this Act on compliance with the following provisions:

(a) An application for registration, stating the name of the proposed society and signed by two or more officers thereof, shall be made to the Director-General of Education (hereafter in this Part of this Act called the Registrar):

(b) The application shall be accompanied by—

(i) A list of the members and officers of the society:

(ii) A copy of a resolution passed by a majority of the members present at a meeting of the society specially called for that purpose only, being a resolution desiring registration under this Act:

(iii) An address (to be called the registered office) at which the business of the society is conducted:

Provided that any society may be so registered although its members are not all resident in the same education district if each district from which its members are drawn adjoins every other such district.

(2) Any society consisting of any number of teachers, not less than twenty-five, in secondary schools or technical institutes who are associated for any lawful purpose connected with their profession (not being for purposes of gain) may be in like manner and on the like conditions registered under this Act.

(3) Any society of teachers registered under any former Education Act and in existence immediately before the commencement of this Act shall be deemed to have been properly registered under this Act.

Cf. 1914, No. 56, s. 138; 1950, No. 77, s. 2

168. Registration and incorporation—(1) On being satisfied that the provisions of section 167 of this Act have been complied with, and on payment of a fee of one pound, the Registrar shall register the society in a register to be kept for the purpose, and thereupon the society shall become a body corporate by the name mentioned in the application for registration of that society, with the addition of the word "Registered"; and the name so registered shall be its corporate style and title.

(2) The Registrar shall issue to the society a certificate of incorporation in the prescribed form, and that certificate shall be evidence that the society named therein is duly incorporated under this Act. Every society when incorporated shall have perpetual succession and a common seal, and may hold real and personal property, and sue and be sued, and do and suffer all such acts and things as bodies corporate may do and suffer.

Cf. 1914, No. 56, ss. 139, 142

169. Powers of incorporated societies—Without restricting the powers conferred by section 168 of this Act it is hereby declared that every such society which becomes a body corporate shall have power to do all or any of the following things, namely:

- (a) Purchase, take on lease, or otherwise acquire, hold, exchange, transfer, lease, or otherwise dispose of land, buildings, easements, shares, or any other property whatsoever (whether real or personal):
- (b) Borrow money, whether on mortgage, debenture, bonds, overdraft, or otherwise; and (for the purpose of securing any money so borrowed) mortgage, charge, or pledge any of its real or personal property, whether present or future, in such manner as it thinks fit:
- (c) Invest any money forming part of the funds of the society in making loans and advances, or give guarantees in respect of loans or advances to or for the performance of contracts or the payment of money by any person or persons, upon such security and upon such terms and conditions as the society may think fit.

170. Rules of society—(1) The members of a society incorporated under this Act, and their successors, in general meeting assembled, may make rules for the government of the society, and alter and annul any such rules; and, without restricting the generality of the foregoing provisions of this subsection, it is hereby declared that any such society may by its rules provide for all or any of the following matters:

- (a) The qualification and subscription for membership:
- (b) The method of election of new members:
- (c) The number and designation and the powers of the officers:
- (d) The control, investment, and disposition of the funds and property of the society:
- (e) The method of enforcing observance of the rules by members of the society:
- (f) The control and use of the common seal.

(2) A copy of the rules of any such society, sealed with what purports to be the seal of the corporation and signed by the President or Chairman thereof, shall be sufficient proof of those rules in the absence of proof of the incorrectness of that copy.

Cf. 1914, No. 56, ss. 140, 141

171. Effect of resignation of member—Any member who resigns, or in any other way ceases to be a member of the corporation, shall, unless the rules of the society otherwise provide, thereupon cease to have any right or interest in its property and concerns, but shall not thereby be freed from any then existing liability to the corporation, whether for subscriptions or otherwise.

Cf. 1914, No. 56, s. 143

172. Returns by society—(1) Every such society shall forward to the Registrar, at prescribed periodical intervals, prescribed returns containing prescribed particulars.

(2) If any such society fails or neglects to furnish any such return, or otherwise to comply with the provisions of this Part of this Act, the Minister may cancel its incorporation.

Cf. 1914, No. 56, s. 144

173. Restrictions on registration—It shall not be lawful for any society to be registered under this Part of this Act without the previous consent of the Minister, nor for any society to be registered under a name so similar to that of any registered society as, in the opinion of the Registrar, to lead to confusion.

Cf. 1914, No. 56, s. 145

Appeals by Teachers

174. Court of Appeal—(1) For the purpose of hearing and determining appeals by teachers who have, in accordance with this Act, a right of appeal in accordance with this Part of the Act; there shall be a Court of Appeal to be known as the Teachers Court of Appeal.

(2) For the purposes of each appeal as it arises the Court shall consist of three persons, as follows:

(a) Such Magistrate as the Minister appoints:

(b) One person of either sex (not being a teacher employed in a State primary school, secondary school, or technical institute) to be nominated in the prescribed manner by a corporation situate in the district, or by the New Zealand Educational Institute:

Provided that, in the case of an appeal by a teacher in a secondary school or technical institute, the person may either be nominated in accordance with the foregoing provisions of this paragraph or be

nominated in the prescribed manner by one of the corporations of teachers in secondary schools or technical institutes:

- (c) One such person, not being a member or officer of the Board concerned, to be similarly nominated by the respondent Board whose decision gave rise to the appeal:

Provided that, in the case of an appeal by a teacher appointed by the Director-General, the person shall be nominated by the Director-General of Education.

(3) The Magistrate shall be Chairman of the Court, and shall have an original and, in the event of an equality of voting, a casting vote.

(4) At all sittings of the Court the quorum shall be two, of whom the Chairman shall be one.

(5) Notwithstanding anything in this Act or in any other Act, no teacher appointed by the Director-General who appeals or is entitled to appeal under this Part of the Act to the Teachers Court of Appeal shall be entitled to appeal in respect of the same matter to any Board of Appeal established under the State Services Act 1962.

(6) Subject to the provisions of this Act and of any regulations made under this Act, the Teachers Court of Appeal may regulate its procedure in such manner as it thinks fit.

Cf. 1914, No. 56, ss. 147, 148

175. Right of appeal from dismissal, suspension, or transfer—Any teacher who has received a notice of dismissal, suspension, or transfer, or of any other decision in respect of which he is entitled to appeal under this Part of the Act, may, within forty-two days after the date of the receipt of the notice, appeal in the prescribed manner to the Court.

Cf. 1914, No. 56, s. 149

176. Appearance of parties—On any such appeal the appellant may himself appear, or may be represented by some other person; and the Board, as respondent, shall be represented by its Chairman or some other person appointed by it for the purpose:

Provided that, in the case of an appeal by a teacher appointed by the Director-General, the Director-General may either appear himself or be represented by some other officer of the Department appointed by him for the purpose.

Cf. 1914, No. 56, s. 150

177. When teachers deemed to be dismissed—For all the purposes of this Part of this Act a teacher shall be deemed to be dismissed in any case where his engagement is determined by notice from the Board, or the Director-General (in the case of a teacher appointed by the Director-General), or where his salary is reduced by the Board or the Director-General, as the case may be:

Provided that any such dismissal shall not be deemed to be wrongful if the Board or the Director-General, as the case may be, satisfies the Court that the determination of the engagement was reasonable, having regard to any of the following circumstances:

- (a) The efficient and economical administration of the Board's affairs, or (in the case of a teacher appointed by the Director-General) of the educational services controlled by the Department:
- (b) The fitness of the teacher:
- (c) His conduct:
- (d) Any other special circumstances, irrespective of the mere legal right of the Board or the Director-General to determine the engagement by notice:

Provided also that the determination, by the Board or the Director-General, of the engagement of any teacher on the ground that the teacher has reached the age of sixty-five years, shall be deemed to be reasonable without regard to any other circumstances.

Cf. 1914, No. 56, s. 151

178. Decision of Court—(1) Every appeal under this Part of this Act shall be by way of rehearing, and on the rehearing the Court shall hear or rehear all evidence that either party wishes to present for the purpose of the appeal.

(2) The decision of the Court shall be in writing, signed by the Chairman, and a copy thereof shall be given to each of the parties, and shall also be forwarded to the Minister.

(3) The decision of the Court shall be final and binding on both parties.

Cf. 1914, No. 56, s. 152

179. Effect of decision in favour of appellant—(1) If by such decision it appears that the appellant has been wrongfully dismissed or suspended or transferred, or otherwise punished he shall, unless the Court otherwise orders, be entitled to be reinstated, or to be appointed to another position

to which the same salary is attached; or if by the decision it appears that the appellant is fit to be appointed to another position to which a lower salary is attached, he shall, unless the Court otherwise orders be entitled to be appointed to that lower position. In either of these cases he shall also, unless the Court otherwise orders be entitled to receive such reasonable compensation for loss of salary as the Court directs.

(2) The compensation shall in no case exceed a continuance of his salary from the date of his suspension or dismissal or transfer or other punishment until the date of his reinstatement or appointment as aforesaid, and also, in case of transfer to another position, the reasonable expenses of removal entailed thereby.

Cf. 1914, No. 56, s. 153

180. Costs—(1) The Court may award costs, fix the amount thereof, and direct by and to whom they shall be paid and in what proportions, and they shall be payable accordingly.

(2) In such costs shall be included witnesses' expenses, the actual expenses incurred by or on behalf of the Court and its members in holding the sittings of the Court, and such payments to members of the Court as may be prescribed.

(3) All costs awarded against the appellant shall be payable by the corporation nominating the member of the Court as aforesaid, and when so paid may be recovered by that corporation from the appellant.

Cf. 1914, No. 56, s. 154

181. Effect of non-attendance of members of Court—If any nominated member of the Court neglects or refuses to attend the sittings of the Court, the appeal shall be heard and determined in his absence.

Cf. 1914, No. 56, s. 155

182. Procedure on appeals—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) For enforcing the attendance of witnesses at the Court, and providing a fine not exceeding ten pounds in case of the non-attendance of any witness:
- (b) For the procedure on appeal, and the conduct of the sittings of the Court:
- (c) For the time and mode of doing anything prescribed by this Part of this Act:

- (d) For any other purpose that he thinks necessary in order to give full effect to this Part of this Act.

Cf. 1914, No. 56, s. 156

PART VII

INSPECTION OF SCHOOLS

183. Inspection of schools—(1) Every State primary school and secondary school, and every registered school, and every special school, shall be inspected by an Inspector or Inspectors of Schools at such times and in such manner as may be prescribed.

(2) It shall be the duty of the District Senior Inspector of Primary Schools, in conjunction with other Inspectors as may be arranged, to inspect the State primary schools and the registered private primary schools in the district, to give such assistance and guidance to the teachers as may promote the good conduct and efficiency of the schools, to advise the Education Board in the case of State primary schools, and the Managers in the case of other registered primary schools, in regard to schools and teachers and in regard to such other educational matters as may arise from time to time, and to report on the schools to the Board or Managers, as the case may be, and to the Director-General:

Provided that, in the case of Maori schools, the duty imposed by this subsection shall be undertaken by the Senior Inspector of Maori Schools, in conjunction with other Inspectors of Maori Schools, and the report shall be made to the Director-General only.

(3) It shall be the duty of the District Senior Inspector of Secondary Schools, in conjunction with other Inspectors, as may be arranged, to inspect the secondary schools and registered private secondary schools in the district, to give such assistance and guidance to the teachers as may promote the good conduct and efficiency of the schools, to advise the Principal of each school on matters pertaining to its welfare and development, and to report on each school to its controlling authority and to the Director-General.

Cf. 1914, No. 56, s. 132

184. Inspection of technical institutes—The Director-General shall make such arrangements as he considers appropriate for the inspection of technical institutes; and every

person engaged in the inspection of a technical institute shall give such assistance and guidance to the teachers as may promote the good conduct and efficiency of the institute, shall advise the Principal of the institute on matters pertaining to its welfare and development, and shall report on the institute to its controlling authority and to the Director-General.

185. Schools to be open for inspection—(1) Every State primary school, secondary school, and technical institute shall be open at all times to visits or inspections by the Minister or the Director-General or an Assistant Director-General, or by the appropriate Inspector or Inspectors of Schools, or by any other person directed by the Minister to visit or inspect the school. The inspection may include examination of the pupils in the subjects of instruction taught in the school.

(2) Every State primary school, other than a Maori school, shall be open at all times to the visits of any officer appointed by the Board to visit the school.

Cf. 1914, No. 56, ss. 56 (6), 96, 120

186. Registration and inspection of private schools—

(1) For the purposes of this section—

“Efficient”, in relation to any private school, means that the premises, staffing, equipment, and curriculum of the school are suitable; the instruction afforded therein is as efficient as in a State primary school, secondary school, or special school, as the case may be, of the same class; and that suitable provision is made for the inculcation in the minds of the pupils of sentiments of patriotism and loyalty:

“Managers”, in relation to a private school, means all persons who have the control and management of the school, whether they have a proprietary interest therein or not.

(2) Every private school registered under any former Education Act and so registered immediately before the commencement of this Act shall be deemed to have been registered under this section.

(3) No private school shall be established unless application for registration has been made to the Director-General of Education, and he is satisfied that the premises, staffing, equipment, and curriculum are satisfactory.

(4) On receipt of the application for the registration of a private school, the Director-General shall cause the school to be inspected by an Inspector. If on the report of the Inspector the Director-General is satisfied that the school is efficient, but in no other case, he shall cause the school to be registered as a private primary school, a private secondary school, or a private special school, as the case may be.

(5) The Director-General shall cause to be prepared annually a list of all registered private schools, which shall be available for inspection at any office of the Department.

(6) Every private school, whether registered under this section or not, shall be inspected at least once in every three years, and a copy of the Inspector's report shall be sent to the Head Teacher and to the Managers thereof.

(7) If at any time it appears to the Director-General that any registered private school has ceased to be an efficient private school, within the meaning of this section, the Director-General shall remove the name of the school from the list of registered schools, and shall notify the Head Teacher and the Managers accordingly.

(8) The Managers of any private school established without application for registration having been made as required by this section shall be jointly and severally liable on summary conviction to a fine not exceeding fifty pounds.

(9) Every private school shall keep such registers of attendances and such other records as may be prescribed, and shall furnish such annual and other returns as may be required.

Cf. 1921-22, No. 27, s. 7

PART VIII

GENERAL PROVISIONS

187. Exemptions from taxation—Every Education Board and every governing body of a secondary school or technical institute, being a school or institute established or deemed to have been established under Part III of this Act, shall be deemed to be the agent of the Crown in respect of its property and the exercise of its functions, and shall be entitled accordingly to all the privileges which the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations.

Cf. 1934, No. 31, s. 29

188. Exemptions from rating—(1) No rates shall be levied by any local authority within the meaning of the Rating Act 1925 on any land held by or on behalf of any education authority and reserved or set apart, or otherwise in any manner acquired, for any purpose of the education authority and held otherwise than as an endowment.

(2) For the purpose of this section the term “education authority” means an Education Board, the governing body of a secondary school or technical institute (being a school or institute established or deemed to have been established under Part III of this Act), and any free kindergarten association recognised by the Minister.

Cf. 1931, No. 44, s. 40

189. Trustees of school may agree to place it under control of Board—Any persons having the management and control of any school not established under this Act or any former Education Act may, with the consent of the persons in whom the school buildings, lands, and endowments pertaining thereto are vested, and with the assent of the Governor-General, agree with the Education Board of the district in which the school is situated that the said school shall be subject to the management and control of that Board, and that the said buildings, lands, and endowments shall be vested in that Board instead of such persons as aforesaid.

Cf. 1914, No. 56, s. 55 (1)

190. Vesting of assets of school placed under control of Board—(1) If the Governor-General assents under section 189 of this Act to the agreement, and a notification of his assent is gazetted, the school buildings, lands, and endowments to which the agreement relates are hereby vested without conveyance or assignment in the Board for or towards the maintenance of the school as a school under this Act, of such character or class as the Governor-General directs, but under and subject to the provisions of this Act; and the said persons shall thenceforth be freed and discharged from the trust imposed on them as trustees or Governors of the school and of the buildings, lands, and endowments pertaining thereto.

(2) In any case where any land vests in a Board under this section, the District Land Registrar for the land registration district in which the land is situated, on deposit with him

of such plans and documents as he may require, shall make such entries in the register and generally do all such things as may be necessary to give full effect to the provisions of this section.

Cf. 1914, No. 56, s. 55 (2)

191. Controlling authority of a school may receive property for foundation of scholarships—(1) An Education Board or the governing body of a secondary school or technical institute may receive from any local authority, or any other body or person, gifts of real or personal property, to be applied by it towards founding scholarships or bursaries, or for other educational purposes in connection with any school under its control, and all such property shall be held by the Board or governing body for the specific purposes declared in connection with the gift.

(2) Subject to any special trust, every scholarship or bursary mentioned in this section shall be open to any child on the roll of the school; and, in the event of any school for which a scholarship or bursary is founded being discontinued, the Minister may direct that the scholarship or bursary shall attach to some other school under the control of the Board or governing body.

(3) The Board or governing body may from time to time make bylaws or rules under which scholarships or bursaries founded by any local authority or any other body or person may be competed for and held at any school under its control.

Cf. 1914, No. 56, s. 108

192. Grants to registered private schools—(1) The Governor-General may from time to time, by Order in Council, make regulations providing for the making of grants, out of money appropriated by Parliament for the purpose, to the governing bodies of registered private schools.

(2) Without limiting the general power conferred by subsection (1) of this section, regulations may be made under this section for all or any of the following purposes:

- (a) Providing for the manner in which grants under this section are to be calculated:
- (b) Prescribing conditions governing the making of grants under this section:
- (c) Specifying the purposes for which grants made under this section may be spent:

(d) Providing for the keeping of appropriate accounts and the inspection of those accounts by officers of the Department:

(e) Providing for the disposal of equipment provided wholly or partly from money appropriated by Parliament in the event of the closure of the school or of the equipment being no longer required for school or teaching purposes.

(3) Regulations made under this section may be so made as to apply to all registered private schools or to any registered private school or to any class or classes of those schools.

193. Bursaries for secondary, further, or higher education—

(1) For the purpose of enabling qualified persons to pursue courses of secondary, further, or higher education, the Minister may establish bursaries which shall be awarded in accordance with regulations in that behalf, and shall be of such annual value as is prescribed.

(2) All payments in connection with bursaries so established shall be made out of money appropriated by Parliament for the purpose.

Cf. 1931, No. 5, s. 36

194. Temporary or permanent closing of schools in cases of emergency—(1) Where the buildings or any of them used in connection with any State primary school, intermediate school, secondary school, or technical institute are wholly or partially destroyed by earthquake, fire, or flood, 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 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.

(2) The appointment of every teacher in any school so closed shall terminate on the expiration of thirty days from the date of the Minister's direction as aforesaid, but every such teacher shall, as soon as may be practicable after the date of the Minister's direction, and without loss of salary, be transferred to another position, and shall be accepted by any Education Board or governing body of a secondary school for temporary or permanent appointment to any other position which in the opinion of the Director-General he is capable of filling:

Provided that the appointment of any such teacher who refuses to accept any appointment or transfer offered to him pursuant to this subsection shall, subject to confirmation by the Minister, be immediately terminated, notwithstanding that the aforesaid period of thirty days from the date of the Minister's decision may not have expired.

(3) Any teacher appointed or transferred pursuant to subsection (2) of this section may, with the approval of the Minister, be paid the actual and reasonable expenses of transfer to his new position, and in the case of a married man who satisfies the Director-General that he will be obliged to live away from home while holding a temporary position, a boarding allowance at a rate approved by the Minister.

(4) The annual grant to the General Fund of an Education Board, or for the incidental expenses of a School Committee, or of the governing body of a secondary school, controlling any school or schools from or to which pupils are temporarily transferred as the result of the total or partial destruction of school buildings as aforesaid or of the temporary or permanent closing of a school under this section may, for such period as the Minister decides, be of such amount as he may determine; and the staffing of any such school as aforesaid and the salaries payable to the teachers employed therein shall, for such period as the Minister deems necessary, be such as he shall determine.

(5) The powers conferred by this section are in addition to, and not in substitution for, any powers with respect to any of the matters aforesaid conferred elsewhere under this Act or under any other Act.

Cf. 1931, No. 5, s. 32

195. Wilful disturbance of school—(1) Any person who wilfully disturbs any school, or who upbraids, insults, or abuses any teacher or other person engaged in the instruction of pupils in the presence or 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 summary conviction to a fine not exceeding twenty pounds.

(2) For the purpose of this section "school" means any State primary school, secondary school, or technical institute, or any special school, or any other registered school, and in each case includes the playgrounds and premises thereof.

Cf. 1914, No. 56, s. 157

196. Leaving certificates—Leaving certificates attesting the courses of instruction completed may be issued by or under the authority of the Director-General in accordance with regulations made under this Act to pupils of any secondary school, or registered private secondary school or any other school approved for the time being by the Director-General for the purpose.

Cf. 1914, No. 56, s. 95

197. Bonds for entry to teaching—(1) Any student accepted for admission to a teachers college or to a centre approved by the Minister for the training of teachers for purposes of pre-school education may be required as a condition of acceptance to sign a bond in a form to be determined by the Director-General requiring the student to pay to the Crown the sum therein specified if he makes default in the performance of any condition of the bond.

(2) The Director-General may require that such a bond shall also be signed by a parent or guardian or by some other person approved by the Director-General as surety; and the parent or guardian or person who signs such a bond shall be jointly and severally liable thereunder.

(3) Every such bond shall be enforceable against the student and the surety who signs it notwithstanding anything in this Act or any other Act or any rule of law.

Cf. 1961, No. 56, s. 8; 1962, No. 54, s. 7

198. Right of Head Teachers and Principals to attend meetings of School Committees and school governing bodies—

(1) The Head Teacher of any State primary school shall be entitled to be present at any meeting of the School Committee for the school; and the Principal of any secondary school shall be entitled to be present at any meeting of a special Committee or any other committee of the school to which powers have been delegated by the Board in accordance with subsection (1) of section 53 of this Act:

Provided that, where the Head Teacher of a State primary school or the Principal of a secondary school attends a meeting in accordance with the right conferred by this subsection, he shall not be entitled to be present at that meeting at any time when—

(a) The meeting is deliberating on the course of action to be taken following the hearing of a complaint which has been made against the Head Teacher or Principal:

(b) The matter under discussion is one in which the Head Teacher or Principal has a pecuniary interest.

(2) The Principal of any secondary school shall be entitled to be present at any meeting of the governing body of the school:

Provided that, where the Principal of a secondary school attends a meeting in accordance with the right conferred by this subsection, he shall not be entitled to be present at that meeting at any time when—

(a) The meeting is deliberating on the course of action to be taken following the hearing of a complaint which has been made against the Principal:

(b) The matter under discussion is one in which the Principal has a pecuniary interest:

(c) The governing body, being the governing body of some other school or schools, has matters relating to such school or schools solely under consideration.

Cf. 1963, No. 27, s. 7

199. Occupation of teacher's house—(1) Where an Education Board or the governing body of a secondary school or a technical institute provides a house for a teacher, or any other person in the full-time employment of the Board or governing body, or where (in the case of a teacher appointed by the Director-General) the Director-General provides a house for the teacher, the occupation of the house and of the land for the time being allotted to the teacher's or other employee's use in connection therewith is hereby declared to be a tenancy at will only.

(2) The conditions for the occupancy of a house so provided shall be such as are for the time being prescribed, or (while no such conditions are prescribed) such as the Minister for the time being determines.

Cf. 1914, No. 56, ss. 81, 83

200. Teacher refusing to give up a teacher's house on demand—(1) In any case where a teacher or other full-time employee refuses or neglects to deliver up possession of a house and the land attached thereto provided as aforesaid by an Education Board or the governing body of a secondary school or technical institute, after demand in writing made by or on behalf of the Board or governing body, the Magistrate whose Court is nearest to the locality may, on the application of the Board or governing body,

order the teacher to give up possession of the premises, and issue a warrant to the bailiff of the Court commanding him to enter into the premises and give possession of the same to the Board or governing body.

(2) Every such warrant shall be enforced as a warrant for the recovery of the possession of land under the Magistrates' Courts Act 1947.

Cf. 1914, No. 56, s. 84

201. Establishment of community centres—(1) For the purpose of providing educational and cultural activities for persons resident in any locality, the Minister may establish a community centre either separately or in connection with any school.

(2) The Minister may recognise any existing community centre for the purposes of this section.

(3) The Minister may from time to time pay, out of money appropriated by Parliament for the purpose, such sum or sums as he approves towards the payment of the whole or part of the salaries of the staff of any community centre established or recognised under this section and of the expenses incurred in the conduct of any such community centre.

(4) The Governor-General may from time to time, by Order in Council, make regulations not inconsistent with this section, providing for the staffing and maintenance of community centres.

202. Annual report—(1) The Director-General shall, before the thirtieth day of June in each and every year, present to the Minister a report upon the progress and condition of public education in New Zealand during the year ending with the thirty-first day of December immediately preceding, and also a general statement of accounts.

(2) A copy of the report and statement shall be laid before Parliament within twenty-eight days after the date on which it is presented to the Minister, if Parliament is then in session, and, if not, then within twenty-eight days after the date of the commencement of the next ensuing session.

Cf. 1914, No. 56, s. 163

203. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Providing for the organisation and management of the Department:

- (b) Prescribing the accounts to be kept by Education Boards, and by the governing bodies of secondary schools, and technical institutes:
- (c) Defining the courses of study which may be given in accordance with this Act:
- (d) Providing for the registration of the colours and uniforms and the badges or monograms of State primary schools, secondary schools, private schools, and other registered schools:
- (e) Providing for the fixing of rentals of houses provided for teachers and other full-time employees of governing bodies of State primary schools, secondary schools, and technical institutes; the method of payment of such rentals; and the conditions of occupancy of such houses:
- (f) Fixing the terms and holidays to be observed in State primary schools, secondary schools, technical institutes, and teachers colleges; and defining the public holidays and other occasions on which any such school or teachers college may be closed, and the conditions under which the controlling authority of any such school or teachers college may grant holidays on special occasions:
- (g) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

Cf. 1914, No. 56, s. 161; 1932-33, No. 49, s. 11; 1947, No. 53, s. 3 (2)

204. Repeals and amendment—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) The Third Schedule to the State Services Act 1962 is hereby amended by repealing the item relating to the Department of Education, and substituting the following item:

“Education Director-General.
 Assistant Director-General.
 Assistant Director-General
 (Administrative).”

SCHEDULE

Section 204

ENACTMENTS REPEALED

- 1914, No. 56—The Education Act 1914. (1931 Reprint, Vol. II, p. 1007.)
- 1915, No. 7—The Education Amendment Act 1915. (1931 Reprint, Vol. II, p. 1087.)
- 1915, No. 73—The Education Amendment Act 1915 (No. 2). (1931 Reprint, Vol. II, p. 1087.)
- 1917, No. 28—The Statute Law Amendment Act 1917 (1957 Reprint, Vol. 15, p. 121.)
- 1918, No. 10—The War Legislation and Statute Law Amendment Act 1918: Sections 36 and 37.
- 1919, No. 29—The Education Amendment Act 1919. (1931 Reprint, Vol. II, p. 1087.)
- 1920, No. 64—The Education Amendment Act 1920. (1931 Reprint, Vol. II, p. 1092.)
- 1921–22, No. 27—The Education Amendment Act 1921–22. (1931 Reprint, Vol. II, p. 1097.)
- 1924, No. 50—The Education Amendment Act 1924. (1931 Reprint, Vol. II, p. 1101.)
- 1926, No. 53—The Education Amendment Act 1926. (1931 Reprint, Vol. II, p. 1108.)
- 1929, No. 29—The Finance Act 1929: Section 55. (1931 Reprint, Vol. II, p. 1109.)
- 1931, No. 5—The Finance Act 1931 (No. 2): Sections 29 to 37. (1931 Reprint, Vol. II, p. 1110.)
- 1931, No. 44—The Finance Act 1931 (No. 4): Part III. (1931 Reprint, Vol. II, p. 1113.)
- 1932, No. 11—The Finance Act 1932: Part V, and so much of the First Schedule as relates to the Education Act 1914.
- 1932–33, No. 49—The Education Amendment Act 1932–33: Sections 2 to 11.
- 1933, No. 37—The Education Law Amendment Act 1933: Part I.
- 1934, No. 31—The Finance Act (No. 3) 1934: Section 29.
- 1934–35, No. 46—The Education Law Amendment Act 1934–35: Sections 2 to 10.
- 1936, No. 44—The Education Amendment Act 1936.
- 1937, No. 17—The Finance Act 1937: Section 55.
- 1938, No. 14—The Education Amendment Act 1938.
- 1939, No. 39—The Statutes Amendment Act 1939: Section 17.
- 1941, No. 4—The Finance Act 1941: Section 16.
- 1941, No. 26—The Statutes Amendment Act 1941: Sections 10 and 12.
- 1944, No. 25—The Statutes Amendment Act 1944: Sections 14 to 20.
- 1944, No. 31—The Finance Act (No. 3) 1944: Section 38.
- 1945, No. 40—The Statutes Amendment Act 1945: Section 24.
- 1945, No. 45—The Finance Act (No. 2) 1945: Sections 16 and 46.
- 1947, No. 53—The Education Amendment Act 1947.
- 1948, No. 68—The Education Amendment Act 1948.
- 1949, No. 17—The Education Amendment Act 1949.
- 1949, No. 24—The Education Lands Act 1949: So much of the Second Schedule as relates to the Education Act 1914, the Education Amendment Act 1920, and the Finance Act 1931 (No. 4).

SCHEDULE—*continued*

- 1950, No. 77—The Education Amendment Act 1950.
1951, No. 78—The Finance Act 1951: Section 37.
1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the Second Schedule as relates to the Education Amendment Act 1920 and the Education Amendment Act 1926.
1951, No. 81—The Statutes Amendment Act 1951: Section 24 (2).
1952, No. 39—The Education Amendment Act 1952.
1953, No. 70—The Education Amendment Act 1953.
1954, No. 56—The Education Amendment Act 1954.
1955, No. 87—The Education Amendment Act 1955.
1955, No. 93—The Adoption Act 1955: So much of the First Schedule as relates to the Education Act 1914.
1957, No. 62—The Marlborough College Amendment Act 1957: Section 2 (2).
1957, No. 101—The Education Amendment Act 1957.
1958, No. 54—The Education Amendment Act 1958.
1959, No. 22—The Whangarei High School Amendment Act 1959: Section 5.
1959, No. 23—The Education Amendment Act 1959.
1960, No. 56—The Education Amendment Act 1960.
1961, No. 56—The Education Amendment Act 1961.
1962, No. 54—The Education Amendment Act 1962.
1962, No. 129—The Religious Instruction and observances in Public Schools Act 1962.
1963, No. 27—The Education Amendment Act 1963.
1964, No. 48—The Education Amendment Act 1964.

This Act is administered in the Department of Education.
