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1975, No. 26

**An Act to amend the Education Act 1964**

[22 August 1975]

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**—This Act may be cited as the Education Amendment Act 1975, and shall be read together with and deemed part of the Education Act 1964 (hereinafter referred to as the principal Act).

**2. General powers and duties of Board**—(1) The principal Act is hereby amended by repealing section 26, and substituting the following section:

“26. (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 within its district and the secondary schools and classes in continuing education of which it is the controlling authority under Part III of this Act;
- “(b) Appoint teachers for the said schools and classes;
- “(c) Establish school districts, and define or alter the limits thereof;
- “(d) Take such steps as it considers necessary for the provision and supply (whether by sale or otherwise) of books, class materials, equipment, furniture, and demountable buildings, for use by schools under its control; but no Board may require any School Committee or Head Teacher to purchase or obtain out of money held by or allocated to the Committee or Head Teacher books, class materials, equipment, furniture, or demountable buildings from any specified source;
- “(e) Generally have and exercise all the duties and functions imposed on Boards by this Act.

“(2) Subject to the adequate provision and supply of books, class materials, equipment, furniture, and demountable buildings under paragraph (d) of subsection (1) of this section, the Education Board may supply, whether within or outside its District and whether by sale or otherwise, books, class materials, equipment, furniture, and demountable buildings to any Department of State or, at the request of the controlling authority of any school, educational institution, or educational service, to that school, educational institution, or educational service, in accordance with such conditions (if any) as the Minister may impose.

“(3) In any case where the controlling authority for the time being of any school, educational institution, or educational service is responsible for the provision of any proposed building work or ground work or for the removal or maintenance or improvement of any building, and the cost involved will be met wholly or partly out of money appropriated by Parliament for the purpose, any Education Board may, at the request of that controlling authority and in accordance with such conditions (if any) as the Minister may impose, do within or outside its District, all or any of the following:

- “(a) Prepare plans for the provision of the proposed building work or ground work, or for the removal, maintenance, or improvement of the building;
- “(b) Let and supervise contracts for the provision of the proposed building work or ground work, or for the removal, maintenance, or improvement of the building;
- “(c) Undertake on behalf of the controlling authority the doing of the proposed building work or ground work, or the removal, maintenance, or improvement of the building.

“(4) Notwithstanding anything in subsection (3) of this section, an Education Board may prepare such plans and let and supervise such contracts and undertake the doing of any proposed building work or ground work or the removal or maintenance or improvement of any building on behalf of the controlling authority of any kindergarten or playcentre which is responsible for the provision of any proposed building work or ground work or for the removal or maintenance or improvement of any building, whether or not any of the cost of the work which is the responsibility of the controlling authority to provide is to be met from money appropriated by Parliament.

“(5) Any Board may make such bylaws in accordance with this Act and any 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.”

(2) The Education Amendment Act 1965 is hereby consequentially amended by repealing section 3.

(3) The Education Amendment Act 1967 is hereby consequentially amended by repealing section 5.

**3. Teachers' representatives on Boards of Governors—**  
The principal Act is hereby amended by inserting, after section 51, the following section:

“51A. (1) Notwithstanding anything in this Act or in any other Act, or in any regulation, order, notice, or other instrument, in every case where a secondary school Board of Governors was constituted before the 8th day of November 1974 and the constitution of the Board has remained unchanged since that date, the constitution of the Board is hereby varied so as to include, in addition to the members otherwise specified, one member to be elected by the teachers

of all the schools controlled by the Board of Governors; but no member so elected may be appointed as Chairman or Deputy Chairman of the Board.

“(2) In any case where the constitution of a secondary school Board of Governors has been preserved by the provisions of section 50 of this Act, it shall not be necessary to reconstitute the Board in accordance with the requirements of section 51 of this Act by reason only of the inclusion of an additional member of the Board pursuant to subsection (1) of this section.

“(3) Any regulations made pursuant to section 52 of this Act may include provisions relating to the qualifications, election, and holding of office of any member elected pursuant to subsection (1) of this section.

“(4) If on the coming into force of this section any Board of Governors that is constituted in accordance with section 51 of this Act would, by the election of a member pursuant to subsection (1) of this section, have more members than would otherwise be permitted, the election of the member shall be deemed to be a special reason for the purposes of the proviso to paragraph (a) of subsection (1) of the said section 51.

“(5) Notwithstanding anything in subsection (1) of this section, each Board of Governors controlling any secondary school in accordance with the provisions of section 50 or of section 51 of this Act at the commencement of this section shall continue to control the school, and the members of each Board shall continue to hold office in terms of the tenure of their office.

“(6) Notwithstanding that any vacancy in the membership of any Board of Governors controlling any secondary school under section 50 or section 51 of this Act may exist or arise on the commencement of this section by reason of the non-appointment of a member pursuant to subsection (1) of this section, no act or proceeding of the Board or of any committee of the Board shall be in any way invalid.

“(7) This section shall come into force on such date as may be appointed for the purpose by the Governor-General by Order in Council.”

**4. Minor textual amendments**—(1) Section 1 of the Education Amendment Act (No. 2) 1974 is hereby amended, as from its passing, by omitting from subsection (3) the word “commencement”, and substituting the word “passing”.

(2) The principal Act, as amended by section 9 of the Education Amendment Act (No. 2) 1974, is hereby further amended, as from the passing of the last-mentioned Act,—

- (a) By omitting from subsection (5) of section 67E the expression “paragraph (h) or paragraph (i)”, and substituting the expression “paragraph (i) or paragraph (j)”;
- (b) By omitting from paragraph (e) of subsection (1) of section 67G the expression “paragraph (h)”, and substituting the expression “paragraph (i)”;
- (c) By omitting from paragraph (f) of subsection (1) of section 67G the expression “paragraph (i)”, and substituting the expression “paragraph (j)”;
- (d) By omitting from subsection (2) of section 67H the expression “paragraph (i)”, and substituting the expression “paragraph (j)”.

**5. Free education in secondary schools**—Section 85 of the principal Act is hereby amended by adding the following subsection:

“(3) Notwithstanding anything in subsection (1) or subsection (2) of this section, any secondary school or department may for the purposes of section 93 of this Act provide free continuing education.”

**6. Free continuing education**—(1) The principal Act is hereby amended by repealing section 93 (as substituted by section 16 of the Education Amendment Act (No. 2) 1974), and substituting the following section:

“93. (1) Any pupil who is qualified to receive free education in accordance with 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, technical institute, or community college, for full-time continuing education until the end of the year in which he attains the age of 19 years or, in special circumstances, for such longer period as the Director-General may determine.

“(2) Subject to subsection (3) of this section, any pupil who is qualified to receive free education in accordance with section 85 of this Act, and who is not at the time receiving full-time instruction without payment of fees for tuition in accordance with that section or in accordance with subsection

(1) of this section, may attend without payment of fees for tuition a secondary school, technical institute, community college, or recognised classes in continuing education in a secondary school or department for part-time continuing education in any case where—

- “(a) The pupil is under the age of 19 years and is taking a course which is defined as such by the Principal of the school, institute, or college attended and is approved by the Director-General; or
- “(b) The pupil is over the age of 19 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 19 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 continuing 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 19 years, or in special circumstances for such longer period as the Director-General may determine, or for the period of 5 years (including in that period of 5 years any period of full-time instruction in a secondary school, technical institute, or community college) whichever is the longer.

“(4) Any pupil who is qualified to receive free education in accordance with subsection (1) of section 85 of this Act and is at the time receiving full-time or part-time instruction in a secondary school without payment of fees for tuition may attend without payment of fees for tuition a recognised class or course in continuing education in a secondary school or department, or in a technical institute or community college, subject to such conditions, if any, as the Director-General may specify.

“(5) Any person may, for the purposes of receiving continuing education and for such period and on such conditions as the Director-General shall specify, attend without payment of fees for tuition a secondary school or department and receive full-time or part-time instruction in the classes conducted for the pupils in the school or department.

“(6) Notwithstanding anything in the foregoing provisions of this section, no free place shall be tenable in a technical

institute or community college for the purposes of instruction in classes or courses deemed by the Minister to be of a special or advanced character, unless the Minister otherwise determines."

(2) Section 16 of the Education Amendment Act (No. 2) 1974 is hereby consequentially repealed.

**7. New sections (as to schools to be controlled by Director-General) inserted in principal Act**—The principal Act is hereby amended by inserting, after section 106, the following sections and heading:

*"Schools Controlled by Director-General"*

**"106A. Schools controlled by Director-General**—(1) Notwithstanding any other provision of this Act, the Minister may by notice in the *Gazette* establish—

“(a) Anywhere in New Zealand; or

“(b) In accordance with any arrangement made between the Government of New Zealand and the Government of any other country in whose territory an institution or school is to be established under this section, anywhere outside of New Zealand,—

an educational institution providing pre-school education or a primary school or a secondary school or a composite school, and vest the control and management of the institution or school in the Director-General.

(2) The Minister may by notice in the *Gazette* disestablish any educational institution or school established under this section or transfer the control and management of it to some other lawful authority, or direct that the control and management of an existing educational institution or school established under this section and vested in some lawful authority other than the Director-General, be vested in the Director-General.

**"106B. Regulations for schools under control of Director-General**—(1) 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 manner in which the powers of control and management over educational institutions and schools established under section 106A of this Act are to be exercised by the Director-General or any other lawful authority in whom the control and management over these institutions and schools is vested:

- “(b) Providing for the Director-General, or any other lawful authority, in whom the control and management of any educational institution or school established under section 106A of this Act is vested from time to time, as may be necessary for the purposes of the control and management of the institution or school, to appoint, suspend, and dismiss teachers, officers, and servants, including, in the case of teachers, officers, and servants employed or to be employed outside New Zealand, provisions to take effect notwithstanding any enactment relating to the appointment, suspension, or dismissal of teachers and other employees in New Zealand;
- “(c) Prescribing the manner in which the number of teachers in any institution or school established under section 106A of this Act is to be determined;
- “(d) Prescribing the manner in which courses of study and curricula in institutions and schools established under section 106A of this Act are to be determined, organised, and conducted;
- “(e) Providing for the control, organisation, management and conduct of teachers, pupils, and classes in institutions and schools established under section 106A of this Act;
- “(f) Providing that, in the case of an institution or school established outside New Zealand, the Minister may determine the categories of children permitted to attend such institution or school, and, notwithstanding any other provisions of this Act, establish the scale of fees, if any, to be charged in respect of such attendance;
- “(g) Prescribing in respect of persons employed in New Zealand in institutions and schools established under section 106A of this Act by the Director-General, being persons whose conditions of employment are not for the time being fixed by any award of the Industrial Commission or any agreement registered under the Industrial Relations Act 1973, or by any order made under section 13 of the Apprentices Act 1948, or by any order or determination made under the State Services Remuneration and Conditions of Employment Act 1969, the conditions of employment (including appeals

against dismissal), 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:

“(h) Providing for such other matters as are contemplated by or are necessary to give full effect to the provisions of this Act relating to educational institutions and schools established under section 106A of this Act.

“(2) In making any regulations under paragraph (g) of subsection (1) of this section, regard shall be had to the provisions of section 6 of the State Services Remuneration and Conditions of Employment Act 1969.”

**8. Assistance to registered private schools**—The principal Act is hereby amended by repealing section 192, and substituting the following section:

“192. (1) The Minister may from time to time, with the concurrence of the Minister of Finance, approve the granting of loans out of such money as may from time to time be appropriated by Parliament for the purpose, to the governing bodies of registered private schools. The loans shall be made on such terms and subject to such conditions, including the provisional writing-off of any amount repayable, as the Minister, with the concurrence of the Minister of Finance, determines.

“(2) 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 making of grants, other than by way of loan, out of such money as may from time to time be appropriated by Parliament for the purpose, to the governing bodies of registered private schools;

“(b) Providing for the manner in which the grants are to be calculated;

“(c) Prescribing conditions governing the making of the grants;

“(d) Specifying the purposes for which the grants may be spent;

“(e) Providing for the granting of assistance to the governing bodies of registered private schools and to the pupils of those schools by way of their using

services and facilities provided for the use of the governing bodies of State schools and the pupils of those schools:

“(f) Prescribing the services and facilities which may be made available for use solely by the governing bodies and pupils of registered private schools and prescribing the extent and conditions under which such use may be made;

“(g) Providing for the keeping of appropriate accounts and the inspection of those accounts by officers of the Department;

“(h) Providing for the disposal of equipment provided to the governing bodies of registered private schools 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 made so as to apply to all registered private schools or to any registered private school or to any class or classes of those schools.”

**9. Forbidding attendance of pupil on grounds of want of cleanliness or suspicion of communicable disease—**(1) The principal Act is hereby amended by inserting, after section 193A (as inserted by section 35 of the Education Amendment Act (No. 2) 1974), the following section:

“193B. (1) Notwithstanding any other provision of this Act, it shall be lawful for the Principal of any State primary school or secondary school in accordance with this section to forbid the attendance at the school of any pupil on the grounds of want of cleanliness or on the grounds that the Principal has reasonable cause to suspect the pupil is suffering from any communicable disease within the meaning of the Health Act 1956.

“(2) Immediately on forbidding the attendance of any pupil under this section the Principal shall report to the parents of the pupil, the School Committee or Committee of Management (if any) of the school, and the Education Board or governing body of the school, the action taken by him and the grounds for taking it.

“(3) In the case of a pupil whose attendance is forbidden on the grounds that the Principal has reasonable cause to suspect that he is suffering from any communicable disease the

Principal shall, in addition to making the reports required by subsection (2) of this section, give immediate notice of the case to the Medical Officer of Health.

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

“(5) The Board or governing body may in its discretion refuse to permit the readmission of a pupil whose attendance at school has been forbidden on the grounds that the Principal has reasonable cause to believe that the pupil is suffering from any communicable disease until the parent of the pupil supplies the certificate of a registered medical practitioner to the effect that the pupil is fit to return to school.

“(6) Notwithstanding anything in subsections (1) to (5) of this section, where the attendance of a pupil has been forbidden on the grounds of 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 pupil was not absent from school for a longer period than was necessary in order to remedy the cause for which his attendance was forbidden.

“(7) No Principal, Education Board, or governing body of a school that acts in accordance with this section shall be liable for that action, whether on the ground of mistake of fact or on any other ground, unless the action was done in bad faith or without reasonable care.”

(2) Section 130 of the principal Act is hereby consequentially amended by repealing subsection (5).

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This Act is administered in the Department of Education.

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