



ANALYSIS

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1979, No. 148

An Act to amend the Education Act 1964

[14 December 1979]

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 1979, and shall be read together with and deemed part of the Education Act 1964 (hereinafter referred to as the principal Act).

2. Payment of fees by private foreign students in certain cases—(1) The principal Act is hereby amended by inserting, after section 9, the following section:

“9A. (1) For the purposes of this section,—

“‘Tertiary institution’ means a university, a community college, a teachers college, or a technical institute; and also has the extended meaning given it by subsection (2) of this section:

“ ‘University’ means a University or University College of Agriculture, within the meaning of the Universities Act 1961.

“(2) For the purposes of this section, where a secondary school offers a course or class under section 96A (1) of this Act,—

“(a) That school, in relation to the students undertaking that course or class, shall be deemed to be a tertiary institution; and

“(b) To that extent, its governing body shall be deemed to be the governing body of a tertiary institution.

“(3) Where the Director-General is satisfied that any person undertaking or proposing to undertake a course of study at a tertiary institution—

“(a) Is not a citizen or permanent resident of a country declared by regulations made under this Act to be a South Pacific country; and

“(b) Is not the holder of a scholarship or bursary awarded by the New Zealand Government or any international intergovernmental organisation or agency for the purpose of enabling him to study at a tertiary institution in New Zealand; and

“(c) Is not undertaking or proposing to undertake that course—

“(i) Under a reciprocal exchange scheme approved by the Minister; or

“(ii) Under the Commonwealth Post-Graduate Scholarship Scheme; or

“(iii) With financial assistance that is in the opinion of the Director-General, provided directly or indirectly from Government funds; and

“(d) Was not before the 1st day of January 1980 enrolled at a secondary school in New Zealand; and

“(e) Has been granted a temporary permit to enter New Zealand for the purposes of study or training which permit has not subsequently been replaced by a permit of any other kind,—

he shall notify the governing body of the tertiary institution that the person is a private foreign student, and in that case subsection (4) of this section shall apply to that person; but where he ceases so to be satisfied in respect of any person he shall withdraw that notice, and in that case that subsection shall cease to apply to that person.

“(4) Notwithstanding anything in any other enactment, but subject to subsection (5) of this section,—

“(a) The governing body of a tertiary institution shall not permit a person to whom this subsection applies to undertake in any year any part of any course of study that commenced after the 31st day of December 1979 unless that person has paid to that body, in respect of the part of that course to be undertaken in that year, the tuition fee (if any) for the time being prescribed in that behalf; and

“(b) Any student who pays such a fee shall not be required to pay to that body any other tuition fees in respect of that part of that course of study.

“(5) For the purposes of subsection (4) of this section, the following courses of study shall be deemed to have commenced before the 1st day of January 1980:

“(a) A course of study at a tertiary institution commenced after the 31st day of December 1979 by a person who was enrolled at a secondary school or tertiary institution before that day, where that person has, with the approval of the Principal or Professorial Board of the tertiary institution concerned, granted for academic reasons, changed to that course of study from some other course of study at that tertiary institution that he has undertaken for no more than 2 years:

“(b) A post-graduate course commenced before the 1st day of January 1981 by a person who in the year 1979 completed some other course of study that was, in the opinion of the Director-General, a preparatory bridging course that that person needed to do in order to undertake that post-graduate course.

“(6) Where the Director-General is satisfied that any person undertaking or proposing to undertake a course of study at a technical institute or community college—

“(a) Is not a person to whom subsection (4) of this section applies; but

“(b) Has been granted a temporary permit to enter New Zealand for the purposes of study or training which permit has not subsequently been replaced by a permit of any other kind,—

he shall notify the governing body of that institute or college that the person is a person to whom subsection (7) of this section applies; but where he ceases so to be satisfied in respect of any person, he shall withdraw that notice, and in that case that subsection shall cease to apply to that person.

“(7) The governing body of a technical institute or community college shall not permit a person to whom this subsection applies to undertake in any year any part of any course of study unless that person has paid to that body, in respect of the part of that course to be undertaken in that year, in addition to any fee payable by students who are New Zealand citizens, the tuition fee (if any) for the time being prescribed in that behalf.

“(8) All money paid under subsection (4) or subsection (7) of this section to the governing body of a tertiary institution that is not a university shall be dealt with by that body in all respects as if it were a grant made to that body under this Act.

“(9) For the purposes of subsection (4) and subsection (7) of this section, or either of them, fees may be prescribed that vary according to—

“(a) The class of course of study; or

“(b) The size of the course of study, or part of a course of study—

proposed to be undertaken in the year concerned by the student by whom the fee is payable, or according to both of those matters.”

(2) All actions taken before the commencement of this Act by any person, requiring persons who—

(a) Had been granted temporary permits to enter New Zealand for the purposes of study or training; and

(b) Were enrolled or proposed to be enrolled at any technical institute or community college—

to pay to the governing body of that institute or college a tuition fee in addition to the fees payable to that body by students who were New Zealand citizens, are hereby deemed to be as valid and lawful as if—

(c) Section 9A of the principal Act (as inserted by subsection (1) of this section) were then in force; and

(d) Those students were persons to whom subsection (7) of that section applied; and

(e) The prescribed annual rate of the tuition fee required to be paid by those students under the said subsection (7) were a rate of \$60 per year.

3. Enrolment schemes for secondary schools—(1) Section 129A of the principal Act (as inserted by section 3 of the Education Amendment Act 1978) is hereby amended by repealing subsection (3), and substituting the following subsections:

“(2A) Where a meeting arranged under subsection (2) of this section is adjourned (whether for a first or subsequent time) until a day before the following 1st day of June, it shall be deemed to be 1 meeting; but on that 1st day of June that meeting shall be deemed to have ended.

“(3) Without limiting the generality of any provision of this section, it is hereby declared that an enrolment scheme, in respect of each school to which the notice under subsection (1) of this section related,—

“(a) Shall specify either—

“(i) An area the students residing permanently within which are to be entitled to enrol at that school; or

“(ii) The number of students who are to be permitted to enrol at that school, and the criteria to be used in selecting them; and

“(b) Where an area is specified under paragraph (a) (i) of this subsection, shall specify either—

“(i) The number of students not residing permanently within that area who are to be permitted to enrol at that school, and the criteria to be used in selecting them; or

“(ii) That no such students are to be permitted to enrol at that school.”

(2) The said section 129A is hereby further amended by repealing subsection (7), and substituting the following subsection:

“(7) Where a Regional Superintendent of Education has purported to notify the Minister of the details of an enrolment scheme under subsection (6) of this section,—

“(a) Subject to section 129B of this Act, the Minister may—

“(i) Refuse to approve the scheme; or

“(ii) Approve it; or

“(iii) Approve it as modified by him; and

“(b) If the Minister approves the scheme (whether as modified by him or not), his approval shall have

effect accordingly, notwithstanding that the scheme may have been determined otherwise than in accordance with this section.”

(3) Where any enrolment scheme approved by the Minister before the 1st day of January 1980 does not specify the number of students not residing permanently within the area specified in respect of any school who are to be permitted to enrol at that school in each year, it shall be deemed to have been specified in that scheme that no such students are to be admitted to that school in any year.

4. Bursaries, scholarships, etc.—(1) The principal Act is hereby further amended by repealing section 193, and substituting the following section:

“193. (1) For the purpose of enabling persons to pursue courses of primary, secondary, continuing, technical, community college, university, or higher education, or courses forming part of their training as teachers or kindergarten teachers (in the case of secondary education, whether within or outside New Zealand), the Governor-General may, by Order in Council, make regulations establishing bursaries, scholarships, grants, awards, and allowances, (however described), or any of them; and every bursary, scholarship, grant, award, and allowance, so established shall be—

“(a) Awarded in accordance with; and

“(b) Of such annual or other specified value as is prescribed by—

the regulations that established it.

“(2) All payments in connection with bursaries, scholarships, grants, awards, and allowances, so established shall be made out of money appropriated by Parliament for the purpose.

“(3) Regulations relating to bursaries, scholarships, grants, awards, or allowances, for courses of primary, secondary, or continuing education may be made under subsection (1) of this section so as to apply to all registered private schools or to any specified registered private school or class or classes of registered private school.”

(2) Every bursary, scholarship, grant, award, or allowance, established by the Minister before the commencement of this Act shall, for the purposes of section 193 (1) of the principal Act (as substituted by subsection (1) of this section) be deemed to have been established by the regulations in which is prescribed its annual or other specified value.

(3) The following provisions are hereby consequentially repealed:

- (a) Section 15 of the Education Amendment Act 1971:
- (b) Section 14 of the Education Amendment Act (No. 2) 1974:
- (c) Section 7 of the Education Amendment Act (No. 2) 1975.

5. Bursary appeals—The principal Act is hereby amended by inserting, after section 193, the following sections:

“193^{AA}. **Tertiary Assistance Grants Appeal Authority**—

(1) There is hereby established the Tertiary Assistance Grants Appeal Authority (in this section and section 193^{AB} of this Act referred to as the authority).

“(2) Subject to subsection (3) of this section, the authority shall comprise 1 member (in this section and section 193^{AB} of this Act referred to as the member) who shall be appointed by the Minister for a term of 3 years from the date of his appointment, but shall be eligible for reappointment.

“(3) The member may at any time be removed from office by the Minister by notice in the *Gazette* for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister, and may at any time resign his office by writing addressed to the Minister.

“(4) There shall be paid to the member, out of money appropriated by Parliament for the purpose, remuneration by way of salary, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and

“(a) That Act shall apply accordingly; and

“(b) The authority is hereby declared to be a statutory Board within the meaning of that Act.

“(5) The function of the authority shall be to hear and determine appeals made to it in accordance with this Act.

“(6) This subsection applies to every decision under this Act (being a decision that the person or body making it had power to make in some other way)—

“(a) Fixing the amount of any bursary, scholarship, grant, award, or allowance paid or payable to any person by reason of hardship; or

“(b) Declining to award such a bursary, scholarship, grant, award, or allowance to any person; or

- “(c) Approving as a full-time programme for any person in any year any specified part of a course of study; or
- “(d) Refusing so to approve any part of a course of study for any person; or
- “(e) Refusing to extend the period in respect of which any person may receive payments under any bursary, scholarship, grant, award, or allowance; or
- “(f) Refusing to recognise the amount of work passed in any year by any person as being sufficient to entitle that person to the reinstatement of any bursary, scholarship, grant, award, or allowance; or
- “(g) Refusing to recognise any qualification or amount of work gained or passed by any person as being equivalent of any other qualification or amount of work.

“(7) Where any person enrolled or intending to enrol at a tertiary institution is aggrieved by a decision to which subsection (6) of this section applies, being a decision the making of which has been delegated to the Principal, Professorial Board, or Council of that tertiary institution by the Director-General, that person may request the Director-General to review that decision; and in that case the Director-General shall review that decision and shall either—

- “(a) Confirm it; or
- “(b) Substitute for it any other decision that the person or body that made it might have made.

“(8) Where any person is aggrieved by—

- “(a) The decision by the Director-General under subsection (7) (a) of this section to confirm any decision relating to that person; or
- “(b) Any decision relating to that person substituted by the Director-General under subsection 7 (b) of this section for any other decision; or
- “(c) Any decision relating to that person made by the Director-General to which subsection (6) of this section applies—

that person may appeal against that decision; and in that case the authority shall consider that appeal and, in the light of all the circumstances it considers relevant, shall either—

- “(a) Confirm that decision; or
- “(b) Substitute for it any other decision that the Director-General might have made;—

and that confirmation or decision shall have effect as if it were the decision of the Director-General.

“(9) Every decision of the authority shall be accompanied by written reasons for it.

“193AB. **Procedure to be prescribed**—(1) The Governor-General may from time to time, by Order in Council, make regulations prescribing the manner in which—

“(a) Appeals are to be made to the authority; and

“(b) The authority is to deal with appeals and conduct its proceedings.

“(2) Subject to subsection (1) of this section, the authority shall conduct its proceedings as it thinks fit.

“(3) The Department of Justice shall provide for the authority such administrative and secretarial services as may be necessary to enable it to perform its functions.”

6. Repeal of Timaru High School Act 1878—The Timaru High School Act 1878 is hereby repealed.

This Act is administered in the Department of Education.
