



## ANALYSIS

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1983, No. 57

### An Act to amend the Education Act 1964

[6 December 1983]

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 1983, and shall be read together with and deemed part of the Education Act 1964 (hereinafter referred to as the principal Act).

**2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the term “school year” the expression “31st”, and substituting the expression “27th”.

(2) Notwithstanding the definition of the term “school year” contained in the said section 2 (1) (as amended by subsection (1) of this section), the period commencing on the 1st day of February 1983 and ending with the 27th day of January 1984 is hereby deemed to be a school year.

**3. Appointment of other officers**—Section 7 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Any person who for the time being holds the office of District Senior Inspector of Primary Schools or District Senior Inspector of Secondary Schools may, by notice in writing, delegate to any other officer or officers of the Department the exercise and performance of all or any of the powers and functions of that office (not being a power or function the exercise or performance of which has been delegated to that Inspector under this Act or any other enactment); and the following provisions shall apply to every such delegation:

“(a) The delegation may be general or particular:

“(b) The delegation may be unconditional or subject to any conditions and restrictions the Inspector thinks fit:

“(c) The Inspector may give general or special directions relating to the exercise or performance of any power or function concerned:

“(d) Subject to any general or special directions given, or any conditions or restrictions imposed, the person to whom the exercise or performance of any power or function is delegated may exercise or perform that power or function in the same manner and with the same effect as if it had been conferred on him directly by this Act and not by delegation:

“(e) Every person purporting to act under the delegation shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation:

“(f) The delegation shall be revocable at will, and shall not prevent or affect the exercise or performance by the Inspector of any power or function delegated:

“(g) The delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Inspector by whom it was made may have ceased to hold office, and shall continue to have effect as if made by that Inspector’s successor in office for the time being.”

**4. Director-General may appoint advisory and technical committees**—The principal Act is hereby amended by inserting, after section 8, the following section:

“8A. (1) The Director-General may from time to time, in accordance with regulations made under this Act, appoint such advisory and technical committees as he thinks fit to advise

him for any of the purposes of this Act, and may from time to time determine the functions of any such committee.

“(2) There may be paid out of money appropriated by Parliament for the purpose to the members of any committee appointed under this section remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly as if that committee were a statutory Board within the meaning of that Act.

“(3) Subject to this Act and to any regulations made under this Act, each advisory or technical committee appointed under this section may regulate its own procedure.

“(4) No person appointed to an advisory or technical committee appointed under this section shall by virtue of that appointment be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962, or of the Government Superannuation Fund Act 1956.”

**5. General powers and duties of Board**—(1) Section 26 of the principal Act (as substituted by section 2 (1) of the Education Amendment Act 1975) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Subject to the provisions of this Act, an Education Board may take such steps as are desirable to encourage parents in its district to involve their pre-school children in pre-school education.”

(2) Every action by any Education Board relating to the employment of persons to encourage parents in its district to involve their pre-school children in pre-school education is hereby deemed to be as valid and effectual as if—

- (a) Section 7 of the Education Amendment Act 1981; and
- (b) Section 2 of the Education Amendment Act 1975; and
- (c) Subsection (1) of this section—

had come into force on the 1st day of January 1975.

**6. Qualification of members of secondary school board**—(1) The principal Act is hereby amended by inserting, before section 52, the following section:

“51c. (1) A person shall be incapable of becoming a member of the Board of Governors of a secondary school if, under section 18 of this Act, he is incapable of becoming a member of an Education Board.

“(2) Subject to subsection (3) of this section, the office of any member of the Board of Governors of a secondary school shall become vacant, and that vacancy shall be deemed to be an extraordinary vacancy, if that member—

- “(a) Dies; or
- “(b) Resigns his office by writing under his hand delivered to the secretary of that Board; or
- “(c) Receives any salary from that Board, or accepts or holds any office or employment from or under that Board to which any salary, fee, or emolument is attached; or
- “(d) Is absent without leave from 3 consecutive meetings of that Board; or
- “(e) Becomes a mentally disordered person within the meaning of the Mental Health Act 1969; or
- “(f) Is adjudged a bankrupt; or
- “(g) Is convicted of any offence punishable by imprisonment for 2 years or more; or
- “(h) Is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence.

“(3) Nothing in subsection (2) (c) of this section shall have the effect that the office of any member of the Board of Governors of a secondary school who is elected by the teachers of all the schools controlled by that Board becomes vacant.”

(2) The following regulations are hereby consequentially revoked:

- (a) Regulations 16 and 21 of the Secondary School Boards Administration and Employment Regulations 1965:
- (b) Regulations 4 and 5 of the Secondary School Boards Administration and Employment Regulations 1965, Amendment No. 4:
- (c) The Secondary School Boards Administration and Employment Regulations 1965, Amendment No. 6.

**7. Membership of teachers college councils**—Section 67E (2) of the principal Act (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) One officer of the Department appointed by the Minister:”.

**8. Extraordinary vacancies on councils**—Section 67G (1) (b) of the principal Act (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by omitting the word “Minister”, and substituting the words “secretary of the council”.

**9. Appeals against selection in certain cases**—The principal Act is hereby amended by inserting, after section 67s (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974), the following section:

“67T. (1) Where regulations made under section 67s of this Act provide that, in the event that the entitlement of a teachers college to lecturers is reduced, one or more of the lecturers employed at that college is to be selected to lose his position (whether immediately or at some future date or upon the happening of some future event), those regulations may do the following things:

“(a) Establish boards to be known as the Teachers College Selection Appeal Boards:

“(b) Provide for the making of appeals to such boards by lecturers so selected:

“(c) Empower any such board hearing any such appeal to select in place of the appellant any other lecturer employed at the college concerned who—

“(i) Might lawfully have been selected in place of the appellant; and

“(ii) Has been notified of the appeal concerned, and given the right to be a party to that appeal, and to appear and be heard to the same extent as the appellant in relation to the original selection of the appellant and the proposition that any other lecturer be selected in place of the appellant:

“(d) Prescribe the procedures of such boards:

“(e) Prescribe the circumstances in which such such appeals are to be deemed to have lapsed;—

and any lecturer so selected (whether before or after the commencement of section 9 of the Education Amendment Act 1983) shall, in accordance with those regulations, have a right to appeal to such a board against selection.

“(2) Every decision of a Teachers College Selection Appeal Board shall be final and binding on all persons.

“(3) No person who has a right of appeal under subsection (1) of this section shall have any other right of appeal against selection, or any right of appeal against—

“(a) The refusal of a Teachers College Selection Appeal Board to select some other lecturer in his place; or

“(b) Any dismissal that flows directly from selection.

“(4) No lecturer selected by a Teachers College Selection Appeal Board in place of a person who has a right of appeal under subsection (1) of this section shall have any right of appeal against—

“(a) Selection; or

“(b) Any dismissal that flows directly from it.

“(5) There shall be paid to the members of every Teachers College Selection 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 that Act shall apply accordingly as if that board were a statutory Board within the meaning of that Act.”

**10. Provision of pre-school education**—(1) Section 70 (2) (a) of the principal Act (as added by section 4 of the Education Amendment Act (No. 2) 1982) is hereby amended by omitting the words “a Kindergarten Teachers’ Appointments Committee”, and substituting the words “one or more Kindergarten Teachers’ Appointments Committees”.

(2) Paragraph (g) of the said section 70 (2) is hereby consequentially amended by omitting the words “either or both”, and substituting the word “any”.

**11. Religious instruction and observances in State primary schools**—Section 78 of the principal Act is hereby amended—

(a) by omitting the words “Head Teacher”, and substituting the word “Principal”;

(b) By omitting the words “a period not exceeding 30 minutes for any class in any week”, and substituting the words “any period or periods exceeding in the aggregate neither 60 minutes in any week nor 20 hours in any school year, for any class,”.

**12. Functions of technical institutes and community colleges**—Section 90D of the principal Act (as substituted by section 14 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by adding, as subsections (2) to (4), the following subsections:

“(2) Without limiting the generality of subsection (1) of this section, but subject to subsection (3) of this section, any technical institute or community college that conducts any training programme that involves knowledge, and experience in the serving, of alcoholic liquor, and tuition in procedures relating to its sale, may apply for and hold a food and entertainment licence in accordance with section 67A of the Sale of Liquor Act 1962.

“(3) Without limiting the generality of subsection (4) or subsection (6) of the said section 67A, a food and entertainment licence issued to a technical institute or community college shall be deemed to be issued subject to the condition that liquor shall be supplied only to persons who are—

“(a) Members of the staff of that technical institute or community college; or

“(b) Students enrolled at that technical institute or community college; or

“(c) Visiting that technical institute or community college on official business, and authorised by its principal to be supplied with liquor.

“(4) Notwithstanding section 110 of the Sale of Liquor Act 1962, in considering any application under section 67A of that Act by a technical institute or community college, the Licensing Control Commission shall not take into account the matters referred to in subsection (1) (a) of the said section 110.”

**13. Central Advisory Committee**—Section 138 (3) of the principal Act is hereby amended—

(a) By omitting from paragraph (a) the words “as country schools for the purpose of country service and a list of State primary schools which shall be approved by the Director-General”:

(b) By repealing paragraph (d).

**14. Appeals against selection in certain cases**—The principal Act is hereby amended by inserting, after section 165, the following section:

“165AA. (1) Where regulations made under this Act provide that, in the event that any teacher entitlement of any State primary school or intermediate department is or is to be affected by a reduction in the roll of that school, one or more of the teachers employed at that school or department, or appointed by the Director-General and employed in connection with that school or department, is to be selected to lose his position (whether immediately or at some future date or upon the happening of some future event), those regulations may do the following things:

“(a) Establish boards to be known as Protected Teachers Appeal Boards:

“(b) Provide for the making of appeals to such boards by teachers so selected:

“(c) Empower any such board hearing any such appeal to select in place of the appellant any other teacher employed at or in connection with the school or department concerned who—

“(i) Might lawfully have been selected in place of the appellant; and

“(ii) Has been notified of the appeal concerned, and given the right to be a party to that appeal, and to appear and be heard to the same extent as the appellant in relation to the original selection of the appellant and the proposition that any other teacher be selected in place of the appellant:

“(d) Prescribe the procedures of such boards:

“(e) Prescribe the circumstances in which such appeals are to be deemed to have lapsed;—

and any teacher so selected (whether before or after the commencement of section 14 of the Education Amendment Act 1983) shall, in accordance with those regulations, have a right to appeal to such a board against selection.

“(2) Every decision of a Protected Teachers Appeal Board shall be final and binding on all persons.

“(3) No person who has a right of appeal under subsection (1) of this section shall have any other right of appeal against selection, or any right of appeal against—

“(a) The refusal of a Protected Teachers Appeal Board to select some other teacher in his place; or

“(b) Any dismissal that flows directly from selection.

“(4) No teacher selected by a Protected Teachers Appeal Board in place of a person who has a right of appeal under subsection (1) of this section shall have any right of appeal against—

“(a) Selection; or

“(b) Any dismissal that flows directly from it.

“(5) There shall be paid to the members of every Protected Teachers 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 that Act shall apply accordingly as if that board were a statutory Board within the meaning of that Act.”

**15. When teachers deemed to be dismissed**—Section 177 of the principal Act is hereby amended by omitting the expression “65”, and substituting the expression “60”.



**16. Registration and inspection of courses of study at private colleges**—(1) The principal Act is hereby amended by repealing section 186A (as inserted by section 3 of the Education Amendment Act 1970 and amended by section 14 (2) of the Education Amendment Act (No. 2) 1974), and substituting the following section:

“186A. (1) For the purposes of this section—

“ ‘Managers’, in relation to a private college, means every person who has, or has any part of, the control and management of that college, whether or not that person has any proprietary interest in it or in any of its property:

“ ‘Private college’ means any private establishment that offers or intends to offer continuing education:

“ ‘Satisfactory’, in relation to any course of study offered or intended to be offered at a private college, means that the premises, staffing, equipment, and curriculum of that college are suitable to afford that course, and that the instruction afforded or intended to be afforded in that course is as complete and efficient as the instruction that would be afforded in a similar course of study in a technical institute or community college.

“(2) The managers of a private college may apply to the Director-General for the registration of any course of study offered, or intended to be offered, at that college.

“(3) Subject to subsection (5) of this section, the Director-General shall refuse to register any course of study if, in his opinion, that course—

“(a) Relates predominantly to recreation, religion, theology, physical fitness, self-grooming, health, anthropology, psychology, or sociology, or to any matter that involves neither the acquisition or improvement of some capacity on the part of the students or proposed students concerned to use or understand the English language nor the acquisition of some occupational skill or knowledge; or

“(b) Involves or will involve,—

“(i) Less than 15 hours of tuition every week; or

“(ii) Less than 50 hours of tuition in total; or

“(c) Is or will be exclusively industry based, and has or will have all its costs met by an employer, or organisation of employers, based in New Zealand.

“(4) The Director-General shall refuse to register any course of study unless he is satisfied that—

“(a) The printed and other information made available by the managers of the college concerned to prospective students gives full details of—

“(i) The total fees for that course, including fees for class materials, books, special clothing, safety equipment, tools, and any other items that are or may be provided by those managers to students enrolled for that course; and

“(ii) The class materials, books, special clothing, safety equipment, tools and other items that are or may be required by those managers to be purchased or provided by students enrolled for that course; and

“(b) Those managers—

“(i) Provide, and intend to provide, every prospective student with a written statement of the total course costs and other financial commitments of that course before accepting that student’s enrolment; and

“(ii) Allow, and intend to allow, every student enrolled for that course to withdraw from it without penalty at any time within 7 days of enrolment; and

“(iii) Refund, and intend to refund, to every student who so withdraws, without deduction, all payments made to those managers in respect of that course and, where withdrawal from that course results in withdrawal from that college as a whole, in respect of enrolment at that college.

“(5) The Director-General may, if he is satisfied that any course of study at a private college is supported, directly or indirectly, by public money or resources, or provides primarily for persons normally resident overseas, exempt that course from the effects of subsection (3) of this section; and in that case, subsection (6) of this section shall apply to that course as if the Director-General were of the opinion that that course was not a course to which subsection (3) of this section applies.

“(6) Where the managers of a private college apply to the Director-General for the registration of a course of study at that college, and pay to him such fee (if any) as is prescribed in respect of applications for such registration,—

“(a) He shall cause that college and course to be inspected by an Inspector; and

“(b) Subject to subsections (3) and (4) of this section, if and only if, on the report of that Inspector, he is satisfied that that course is satisfactory, he shall register it.

“(7) The Director-General shall cause to be prepared annually a list of every private college that has one or more courses of study registered, and of every such course; and shall ensure that a copy of that list is available for inspection at every office of the Department.

“(8) The managers of a private college that has a registered course of study shall ensure that that college is open at all times to visits and inspections, including the examination of students enrolled for any such course, by the Minister, the Director-General, or any officer of the Department authorised by the Director-General in that behalf; but no such visit or inspection shall be made in respect of any unregistered course of study.

“(9) The manager of a private college that has a registered course of study shall keep such registers of enrolments and other records, and shall furnish such annual and other returns, as the Director-General requires.

“(10) Where the Director-General is no longer satisfied that a registered course of study is satisfactory, or is satisfied that the managers of a private college that has such a course have failed or refused to comply with any provision of this section, he shall—

“(a) Cancel the registration of that course; and

“(b) Remove the reference to that course from the list referred to in subsection (7) of this section; and

“(c) If no other course of study at that college is registered, remove the reference to that college from that list; and

“(d) Inform those managers of the actions he has taken.”

(2) Where, immediately before the commencement of this Act, any private college or establishment was registered under section 186A of the principal Act (as repealed by subsection (1) of this section) in respect of any course of study, that course shall be deemed to have been registered under section 186A of the principal Act (as substituted by subsection (1) of this section); and that latter section shall apply to that course, that college or establishment, and its managers, accordingly.

(3) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 186A of the principal Act is hereby consequentially repealed.

**17. Exemptions from taxation**—(1) Section 187 of the principal Act (as amended by section 14 of the Education Amendment Act 1971 and section 14 (2) of the Education

Amendment Act (No. 2) 1974) is hereby amended by inserting, after the words “Education Board”, the words “and Secondary Schools Council,”.

(2) Subsection (1) of this section shall be deemed to have come into force on the commencement of the principal Act.

**18. Validation of regulations**—No regulations made before the commencement of this Act under the principal Act or under any former Education Act shall be, or shall be deemed to have been, invalid by virtue only of the fact that they confer or place on the principals of secondary schools powers and duties in relation to the control and management of their schools.

**19. Repeal of Waimate High School Act 1883**—The Waimate High School Act 1883 is hereby repealed.

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This Act is administered in the Department of Education.

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