



ANALYSIS

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1987, No. 177

An Act to amend the Education Act 1964

[20 July 1987]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Education Amendment Act (No. 2) 1987, and shall be read together with and deemed part of the Education Act 1964 (hereinafter referred to as the principal Act).

(2) Sections 2, 14, 15, and 21 of this Act shall come into force on a date specified by the Governor-General by Order in Council; and a different date may be specified for each section.

(3) Subject to subsection (2) of this section and to sections 11 (3) and 12 (2) of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

2. New sections substituted—(1) The principal Act is hereby amended by repealing section 9, and substituting the following sections:

“9. Money to be appropriated by Parliament—All amounts payable for the expenses of the Department, and all amounts payable for such other purposes as are necessary to give effect to this Act, shall be paid out of money from time to time appropriated by Parliament for the purpose.

“9AA. Grants to controlling authorities—(1) Grants shall be paid to Education Boards, the governing bodies of secondary schools, Teachers College Councils, the Boards of Governors of Technical Institutes, the Boards of Governors of Community

Colleges, and education centre councils, for the following purposes:

“(a) Subject to section 165A of this Act, the payment of salaries of academic and administrative staff (including the fees of occasional academic lecturers) and, in the case of Teachers College Councils, student allowances:

“(b) The payment of an allowance for general expenses.

“(2) There may be paid to Education Boards, the governing bodies of secondary schools, Teachers College Councils, the Boards of Governors of Technical Institutes, the Boards of Governors of Community Colleges, and education centre councils, or any of them, grants for all or any of the purposes specified in that behalf by regulations made under this Act.

“(3) The amount of any grant paid under subsection (1) (b) or subsection (2) of this section shall be calculated in a manner for the time being approved by the Minister.

“(4) Without limiting the generality of section 203 of this Act, regulations may be made under this Act specifying the conditions subject to which grants under subsection (2) of this section may be paid.

“(5) The Minister may, in accordance with regulations made under this Act, pay grants to the governing bodies of registered private schools.

“(6) Without limiting the generality of section 203 of this Act, regulations made under this Act may prescribe the purposes for which any grants made under subsection (1) (b) of this section may be spent.

“(7) Without limiting the generality of section 203 of this Act, regulations may be made under this Act in respect of any grants under subsection (5) of this section, for all or any of the following purposes:

“(a) Prescribing the manner in which the amount of those grants is to be calculated:

“(b) Prescribing conditions governing the making of those grants:

“(c) Specifying the purposes for which those grants 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 purchased wholly or partly out of those grants in the event of the closure of any school, or of the equipment's

being no longer required for school or teaching purposes.

“9AB. Expenditure not otherwise authorised—Any Education Board, any Teachers College Council, the governing body of any secondary school, the Board of Governors of any Technical Institute, the Board of Governors of any community college, or any education centre council may, in any school year, expend for purposes not authorised by this Act or by any other enactment, any sum or sums not exceeding in the aggregate the higher of—

“(a) One percent of the total of the amounts paid or payable in respect of the year under section 9AA of this Act as an allowance for general expenses; and

“(b) The amount (if any) prescribed in that behalf;—
and different amounts may be prescribed for different classes of Board, Council, and body.

“9AC. Borrowing powers—(1) Without limiting section 12 of the Education Lands Act 1949, but subject to subsection (3) of this section, any Education Board, the governing body of any secondary school, any Teachers College Council, the Board of Governors of any Technical Institute, the Board of Governors of any community college, or any education centre council may—

“(a) With the written consent of the Minister, borrow from its bankers by way of overdraft such sum or sums, and for such period or periods, as the Minister specifies in the consent:

“(b) With the written consent of the Minister, given with the concurrence of the Minister of Finance, and subject to such terms and conditions (if any) as the Minister specifies in the consent, borrow such sum from such source as the Minister so specifies.

“(2) Subject to subsection (1) (b) of this section, the Minister may, out of money appropriated by Parliament for the purpose, make advances to any body of a kind specified in that subsection.

“(3) At any meeting of a body of a kind specified in subsection (1) of this section at which any proposal is made for the borrowing of money, the following provisions shall apply:

“(a) Any member of the body may demand a division to be taken on the proposal; and in that case a division shall be taken on the proposal, and the person presiding at the meeting shall make and keep a record of the votes of the members voting on the

division and shall instruct the secretary or other proper officer to enter that record in the minutes of that body:

“(b) If the proposal is carried without a division being taken on it, every member of the body present at the time the proposal is carried shall be deemed to consent to it.”

(2) The following provisions are hereby consequentially repealed:

(a) Sections 27, 37, 62, 65, 66, 67, 67M, 67P, and 67Q of the principal Act:

(b) Paragraphs (a), (b), (c), (d), (g), and (h) of section 192 (2) of the principal Act.

3. Board of Studies—(1) The principal Act is hereby amended by inserting, after section 49, the following section:

“49A. (1) There is hereby established the Board of Studies (hereafter in this section referred to as the board).

“(2) The general function of the board is to consider and make recommendations to the Minister concerning—

“(a) The secondary curriculum and secondary syllabuses and guidelines; and

“(b) The assessment of secondary students; and

“(c) Awards that are or may be made to secondary students, and the subjects and prescriptions for those awards.

“(3) In performing its general function, the board may—

“(a) Consider any matter relating to secondary education:

“(b) Recommend action to maintain or improve standards of secondary education:

“(c) Consult with any person or organisation it thinks fit:

“(d) Initiate and consider research or development relating to secondary education.

“(4) The Minister and the Director-General shall seek and consider the board’s recommendations in that behalf, before taking any action that would have the effect of changing, or changing the effect of, the secondary curriculum, any secondary syllabus or guidelines, the awards available to secondary students, any subjects or prescriptions for any such awards, or the fees payable in respect of any such award administered by the Director-General.

“(5) The Minister or the Director-General (as the case may be) shall, as soon as is practicable after—

“(a) Acting otherwise than in accordance with a recommendation of the board made under this section; or

“(b) Deciding not to act in respect of any such recommendation,—

give the board notice in writing of the reasons for doing so.

“(6) The board comprises—

“(a) A person appointed as Chairperson:

“(b) Two teachers employed at secondary schools, nominated by the New Zealand Post-Primary Teachers Association (Registered):

“(c) One principal of a secondary school, so nominated:

“(d) One person nominated by the New Zealand Secondary School Boards’ Association (Inc.):

“(e) Two persons nominated by the Universities Entrance Board:

“(f) One person nominated by the Minister of Labour, after consultation with any organisations representing the interests of New Zealand employers that Minister thinks appropriate:

“(g) One person nominated by the Minister of Labour after consultation with any organisations representing the interests of the New Zealand trade union movement that Minister thinks appropriate:

“(h) One person nominated by the Minister of Maori Affairs, after consultation with any organisations representing the interests of the Maori people that Minister thinks appropriate:

“(i) One person nominated by the Minister of Pacific Island Affairs, after consultation with any organisations representing the interests of the Pacific Island peoples living in New Zealand that Minister thinks appropriate:

“(j) One person appointed after consultation with any organisations representing the interests of the controlling authorities of, or teachers employed at, technical institutes the Minister thinks appropriate:

“(k) One person appointed after consultation with any organisations (other than the Universities Entrance Board) representing post-school certification authorities the Minister thinks appropriate:

“(l) One person appointed after consultation with any organisations representing the interests of the

proprietors of or teachers employed at private schools the Minister thinks appropriate:

“(m) One person appointed after consultation with any organisations representing the interests of persons living in rural areas the Minister thinks appropriate:

“(n) One person appointed after consultation with any organisations representing the interests of the parents of secondary school students the Minister thinks appropriate:

“(o) One person appointed after consultation with any organisation representing the interests of persons involved in primary education the Minister thinks appropriate:

“(p) Two persons appointed after consultation with any organisations representing the interests of students undertaking tertiary education the Minister thinks appropriate:

“(q) Two other persons appointed after consultation with the Director-General.

“(7) The Minister, in appointing members of the board, and all other persons in nominating persons for appointment to the Board or consulting as to who should be nominated for appointment, shall have regard to the desirability of the board's reflecting the gender and ethnicity of that part of the New Zealand population undertaking primary or secondary education.

“(8) Every member of the board shall be appointed by the Minister; and shall hold office for a term of 3 years, but may from time to time be reappointed.

“(9) As the position becomes vacant the board shall elect a Deputy Chairperson from among its members; and the position shall become vacant when the person holding it ceases to be a member of the board.

“(10) If the office of Chairperson is vacant, the Deputy Chairperson shall have and may exercise and perform, all the powers and duties of the Chairperson.

“(11) At meetings of the board,—

“(a) The Chairperson, if present, shall preside:

“(b) If the Chairperson is absent, the Deputy Chairperson, if present, shall preside:

“(c) If the Chairperson and Deputy Chairperson are both absent, the members present shall elect one of their number to preside.

“(12) A member of the board may, by notice in writing under the member’s hand, resign the office.

“(13) The Minister may, by notice in the *Gazette*, for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister, remove any member of the board from office.

“(14) If a member of the board dies, resigns, or is removed from office, the Minister shall fill the resulting vacancy in the same manner as that in which that member was appointed; and, notwithstanding subsection (8) of this section, the person appointed shall hold office for the residue of that member’s term.

“(15) The board may establish committees, which may include persons who are not members of the board, to advise it on any matter related to its general function.

“(16) The quorum of the board shall be 10 members.

“(17) Except as provided in this section, the board shall determine its own procedures.

“(18) Every member of the board except the Chairperson may, by writing under the member’s hand, appoint any person (being a person eligible to be appointed a member of the board in place of the member) to be that member’s alternate; and at any meeting of the board from which any member is absent, that member’s alternate, if present, shall be deemed to be a member of the board.

“(19) As soon as is practicable after every 31st day of March, the board shall give the Minister a written report on its activities during the year that ended with that day.

“(20) The board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(21) Every member of the board or of any committee of the board is entitled to receive—

“(a) Remuneration by way of fees, salary, or allowances for that member’s services as a member of the board or committee:

“(b) Payment of travelling allowances or expenses in respect of time spent travelling in the service of the board or committee.”

(2) Notwithstanding anything in section 49A of the principal Act (as inserted by subsection (1) of this section) the Minister may, for the purposes of ensuring continuity in the membership of the Board of Studies, appoint any of its initial

members for any term (not exceeding 3 years) the Minister thinks fit.

4. Governing bodies of secondary schools—(1) Section 51 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) At least 5 members shall be elected by the parents of students attending schools controlled by that Board of Governors.”

(2) The said section 51 is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) Without limiting the generality of subsection (1) of this section, it is hereby declared that the constitution of the Board of Governors of any secondary school or secondary schools may provide—

“(a) For different members elected under paragraph (c) of that subsection to be elected by those parents of the pupils attending that school or those schools who reside in different geographically defined areas; or

“(b) In the case of the Board of Governors that controls 2 or more secondary schools, for different members so elected to be elected by the parents of pupils attending different secondary schools controlled by that Board of Governors.”

(3) Section 51 (3) of the principal Act is hereby amended—

(a) By omitting the word “both”; and

(b) By omitting the word “and” after the word “opened” where it first appears, and substituting the word “or”.

(4) For the avoidance of doubt it is hereby declared that where the Minister has, before the commencement of this Act, approved or varied the constitution of any Board of Governors, the following matters shall be deemed to have been, and to continue to be, as valid and effectual as if section 51 (1A) of the principal Act (as inserted by subsection (2) of this section) had been in force at the time of that approval or variation:

(a) That approval or variation:

(b) The constitution of that Board of Governors as approved or varied:

(c) The election of all members of that Board of Governors after that approval or variation:

(d) All actions after that approval or variation of that Board of Governors and its members.

5. Qualification of members of secondary school board—Section 51C of the principal Act (as inserted by section

6 (1) of the Education Amendment Act 1983) is hereby amended by adding the following subsection:

“(4) The office of a member of the Board of Governors of a secondary school who is elected by the teachers of all the schools controlled by that Board shall become vacant, and that vacancy shall be deemed to be an extraordinary vacancy, if that member ceases to be eligible to be elected to that office by those teachers.”

6. 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 paragraphs (i) and (j), and substituting the following paragraphs:

“(i) Either—

“(i) One member, or more, as the Minister determines, each being a member of the academic staff of a teachers college that the council controls, to be elected by the academic staff of all the teachers colleges that the council controls; or

“(ii) If the Minister so directs, 2 or more members, each being a member of the academic staff of a school forming part of a teachers college, or a teachers college, or one of a group of teachers colleges, that the council controls, specified by the Minister in that behalf, to be elected by the academic staff of that school or college or those colleges:

“(j) Either—

“(i) One member, or more, as the Minister determines, each being a student of a teachers college that the council controls, to be elected by the students of all the teachers colleges that the council controls; or

“(ii) If the Minister so directs, 2 or more members, each being a student of a school forming part of a teachers college, or a teachers college, or one of a group of teachers colleges, that the council controls, specified by the Minister in that behalf, to be elected by the students of that college or those colleges.”

7. Governing bodies of technical institutes and community colleges—(1) The principal Act is hereby amended by inserting, after section 69 (as substituted by

section 10 (1) of the Education Amendment Act (No. 2) 1974), the following sections:

“69AA. Sections to apply to technical institutes and community colleges—In sections 69AB to 69AL of this Act, ‘specialist institution’ means an institution that is a technical institute or community college.

“69AB. Insurance of members of governing body of specialist institution and refund of members’ travelling expenses—(1) It shall be lawful for the governing body of any specialist institution 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 specialist institution 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 a 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.

“69AC. General powers of governing bodies of specialist institutions—(1) Subject to the provisions of this Act and of any regulations made thereunder, the governing body of every specialist institution—

“(a) Shall have the control and management of the institution:

“(b) May from time to time, as may be necessary, appoint or suspend or dismiss teachers, tutors, and other necessary officers and servants:

“(c) May keep at any bank or banks an account to be known as the Tutors’ 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, tutors, and other persons employed by the

governing body in connection with the institution or institutions 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:

“(e) Shall generally have and exercise all the duties and functions conferred on governing bodies of technical institutes or community colleges (as the case may be) 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 specialist institution 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 teachers, tutors, and other officers, and the institution.

“(3) Any imprest account established by the governing body of a specialist institution as aforesaid shall be held jointly in the name of the Registrar and 2 other persons from time to time appointed in that behalf by the governing body, and may be operated on by any 2 of them. Where the Imprest Account is held jointly in the names of the Registrar 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, and any other expenditure the governing body approves. 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.

“69AD. **Governing bodies of specialist institutions may appoint special committees**—(1) The governing body of a specialist institution may for any particular purpose or purposes from time to time by resolution establish special committees of its members to which the governing body may delegate such of its functions and powers (other than any power under section 9AC of this Act to borrow money) in respect of those purposes as it thinks fit.

“(2) Subject to any general or special directions given or conditions attached by a governing body establishing a special committee under this section, the special committee 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) Any special committee purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

“(4) Every delegation made to a special committee shall be revocable at will, and no delegation shall prevent the performance or exercise of any function or power by the governing body.

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

“69AE. **Accounts and audit**—(1) The governing body of a specialist institution shall provide for true and fair 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 specialist institution shall be deemed to be a local authority within the meaning of the definition of that term in the Public Finance Act 1977.

“69AF. **Annual reports as to specialist institutions**—(1) The governing body of every specialist institution shall cause to be forwarded to the Director-General, before the 30th day of April 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 31st day of December preceding, and its assets and liabilities, and such other information as the governing body may consider appropriate.

“(2) Where the governing body of a specialist institution is the governing body of more than one specialist institution, a separate report for the purposes of this section shall be forwarded in respect of each specialist institution under its control.

“69AG. **Grants to governing bodies of specialist institutions**—(1) There shall be paid to the governing body of every specialist institution, out of money appropriated from time to time by Parliament, the sum required for the following purposes:

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

“(b) The payment of grants for general expenses.

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

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

“(b) Grants for the acquisition of equipment:

“(c) Grants for the establishment and maintenance of classes in continuing education and all other general expenses in connection therewith:

“(d) Grants for special expenses on such basis as may be approved by the Minister of Finance.

“(3) For the purposes of determining the grants which may be paid to a governing body under subsection (2) (c) of this section, regard shall be had only to those classes or courses that have been recognised by the Director-General pursuant to section 91 of this Act.

“69AH. **General expenses of specialist institutions**—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 specialist institutions in accordance with section 69AG of this Act may be expended.

“69AI. **Unauthorised expenditure of governing bodies of specialist institutions**—Out of its income received for general expenses, the governing body of any specialist institution may, in any year ending with the 31st day of December, expend for purposes not otherwise 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 percent of such portion of its income for that year as is chargeable with general expenses, nor in any case to more than such amount for each institution controlled by it as may be prescribed by regulations made under this Act.

“69AJ. **Specialist institutions may provide closed courses**—(1) Subject to subsection (2) of this section, the governing body of a specialist institution may, with the written approval of the Director-General, agree in writing with any person or organisation that—

“(a) There will be provided at the institution a course (being a course recognised under section 91 of this Act) of a specified kind or description; and

“(b) Either—

“(i) The course will be open only to students nominated by the person or organisation; or

“(ii) The course will be open to students nominated by the person or organisation, and will not be open to other students except to the extent and subject to the conditions (if any) specified in the agreement;—

and every such agreement shall have effect according to its tenor.

“(2) The Director-General shall not approve an agreement under subsection (1) of this section unless it contains provisions specifying—

“(a) The extent to which the person or organisation concerned will pay the costs of the course concerned; and

“(b) The manner in which those costs are to be ascertained or calculated; and

“(c) The terms and conditions upon and subject to which students are to be admitted to the course concerned; and

“(d) The extent (if any) to which persons employed by or contracted to the person or organisation concerned are to be involved in teaching the course concerned;—

and unless the Director-General is satisfied that the agreement in general, and those provisions in particular, are such that the provision of the course concerned will be in the public interest.

“69AK. **Specialist institutions may provide courses in other premises**—With the approval of the governing body of a specialist institution, all or any part of any course at the institution may be taught outside its premises.

“69AL. **Specialist institutions may award diplomas**—(1) Subject to subsection (3) of this section, the governing body of a specialist institution may award diplomas to students who have satisfactorily completed a course there.

“(2) Any such diploma may be awarded by the governing body alone, or jointly with any other person or body.

“(3) Every such diploma shall be called by a name approved by the Director-General; and no such diploma of any particular name shall be awarded to any student unless the governing

body concerned is satisfied that the student has met criteria specified by the Director-General for the award of a diploma of that name.”

(2) Section 69 (9) of the principal Act (as substituted by section 10 (1) of the Education Amendment Act (No. 2) 1974) is hereby consequentially repealed.

8. Regulations relating to composite schools—(1) The principal Act is hereby amended by repealing section 87 and section 88 (as amended by section 2 (3) of the Education Amendment Act 1976), and substituting the following section:

“87. (1) Without limiting the generality of any provision of this Act, where any provisions of this Act empower the making of regulations relating to both State primary schools and secondary schools, or to State primary schools or secondary schools only, or to the staff or students of both State primary schools and secondary schools or to the staff or students of State primary schools or secondary schools only, any regulations made under those provisions may be limited in their application to composite schools or composite schools of any specified class or classes or, as the case may be, to staff or students of composite schools or composite schools of any specified class or classes.

“(2) Subject to any regulations to which subsection (1) of this section applies, this Act shall apply to every composite school as if—

“(a) Every reference in this Act to a State primary school were a reference to those classes and courses in that composite school providing primary education; and

“(b) Every reference in this Act to a secondary school were a reference to those classes and courses in the composite school providing secondary education.”

(2) Every regulation made under the principal Act before the commencement of this Act is hereby declared to be and to have been, as from its commencement, as valid and effectual as if this section had been in force when it was made.

9. New sections inserted—(1) The principal Act is hereby amended by inserting, before Part IV, the following heading and sections:

“Education Centres

“107A. **Establishment of education centres**—(1) Subject to subsections (2) and (4) of this section, the Minister may from time to time, either separately or as part of any State primary

school, secondary school, technical institute, community college, or teachers college, establish education centres and may at any time disestablish any education centre.

“(2) Before establishing an education centre, the Minister shall consult the controlling authorities of all the existing educational institutions of the classes specified in subsection (1) of this section situated in the area concerned as to whether the proposed centre should be established as part of one of those institutions or separately.

“(3) Subject to section 107B (2) (d) of this Act, an education centre may perform all or any of the following functions:

“(a) The provision of educational services of any kind for persons residing in a particular locality, or for any classes of such persons:

“(b) The provision of advisory and guidance services relating to education of any kind:

“(c) The development and preparation of materials, equipment, and other resources for teachers, kindergarten teachers, early childhood workers, or any of them:

“(d) The provision of classes and courses for teachers, kindergarten teachers, early childhood workers, or any of them:

“(e) Such other functions as the Governor-General may from time to time by Order in Council specify.

“(4) The Minister shall, before disestablishing any education centre, consult its controlling authority.

“107B. Centres to have controlling authorities—

(1) Where an education centre is established as part of a State primary school, secondary school, technical institute, community college, or teachers college,—

“(a) That centre shall be under the control of the Education Board, Board of Governors, or Teachers College Council, (as the case may be) of that school, institute, or college; and

“(b) The controlling authority concerned shall, after consultation with the Minister, appoint a committee to assist it in the administration of that centre; and in that case, subject to subsection (4) of this section, section 61A of this Act, so far as it is applicable and with the necessary modifications, shall apply to that committee as if—

“(i) Every reference to a secondary school were a reference to that centre; and

“(ii) Every reference to the governing body of a secondary school were a reference to that controlling authority.

“(2) The Minister shall, by notice in the *Gazette*,—

“(a) Constitute an education centre council for each separately established education centre; and

“(b) Subject to subsection (4) of this section, specify the name and membership of that council; and

“(c) Specify the terms of office of members of that council, and provide for their removal from office; and

“(d) Specify the functions of that centre.

“(3) The Minister may from time to time, by notice in the *Gazette*, do all or any of the following things:

“(a) Reconstitute or otherwise vary the constitution of any education centre council:

“(b) Subject to subsection (4) of this section, vary the membership of any such council:

“(c) Vary the function of any education centre.

“(4) Subject to subsection (5) of this section, where a substantial part of the activities of an education centre involves teachers of a particular class (that is, kindergarten teachers, primary teachers, secondary teachers, technical institute tutors, or teachers college lecturers), the committee assisting the controlling authority of which it is part or, as the case requires, its education centre council shall so be constituted as to require one member to be a teacher of that class.

“(5) Where teachers of more than 2 classes are involved in a substantial part of the activities of an education centre, subsection (4) of this section shall apply only to the 3 classes of teacher most so involved.

“(6) Every notice under this section shall have effect according to its tenor.

“(7) Every education centre council shall be a body corporate, and may hold real and personal property, and sue and be sued, and do and suffer all such things as bodies corporate may do and suffer.

“(8) Where a separately established education centre is disestablished, all the property, rights, and liabilities of its education centre council vest in the Crown.

“107C. **General powers of education centre councils—**

(1) Sections 9AA to 9AC and 61 to 67 of this Act, so far as they

are applicable and with the necessary modifications, shall apply to every education centre council as if—

“(a) Every reference to the governing body of a secondary school were a reference to an education centre council; and

“(b) Every reference to a secondary school were a reference to an education centre that is under the control of an education centre council.

“(2) With the prior written consent of the Minister, given on and subject to such terms and conditions as the Minister thinks fit, any education centre council may accept money from any source and expend it for any lawful purpose.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Education centre’ means an education centre established under section 107A (1) of this Act:

“ ‘Education centre council’ means an education centre council constituted under section 107B (2) of this Act:”.

(3) The following provisions are hereby repealed:

(a) Section 201 of the principal Act:

(b) Section 8 of the Education Amendment Act (No. 2) 1975.

(4) Every community centre established under section 201 of the principal Act that was in existence immediately before the commencement of this Act is hereby deemed to have been established as an education centre on that date; and sections 107A to 107C of this Act (as inserted by subsection (1) of this section), so far as they are applicable and with the necessary modifications, shall apply to every such community centre accordingly.

10. Certificate of exemption from enrolment—The principal Act is hereby amended by repealing section 111, and substituting the following section:

“111. (1) The parent of a child who has not completed primary education may apply to the appropriate District Senior Inspector of Primary Schools for a certificate of exemption.

“(2) The parent of a child who has completed primary education but not attained the age of 15 years may apply to the District Senior Inspector of Secondary Schools for a certificate of exemption.

“(3) If, and only if, satisfied that the child concerned—

“(a) Is, or will be, elsewhere than in a registered school or an integrated school, under instruction at least as regular and efficient as that available in a registered school of the appropriate kind; or

“(b) Is unable to attend school regularly, or unable to be educated, because of some physical or mental handicap,—

the District Senior Inspector concerned shall give an applicant under subsection (1) or subsection (2) of this section a certificate of exemption.

“(4) A certificate of exemption shall continue in force until revoked under this section or, in the case of a child who has not completed primary education, until one month after the child ceases to reside in the district of the Inspector who gave it.

“(5) For so long as a certificate of exemption continues in force—

“(a) The name of the child concerned needs not be enrolled on the register of a school; and

“(b) Neither the parent of the child nor any other person needs have the child enrolled as a pupil of any school.

“(6) A parent who is dissatisfied with a refusal to grant a certificate of exemption may appeal—

“(a) In respect of a child who has not completed primary education, to the Education Board of the district in which the child resides:

“(b) In respect of any other child, to the appropriate Regional Superintendent of Education.

“(7) An Education Board or Regional Superintendent to which or whom an appeal is made under subsection (6) of this section shall confirm or overrule the refusal concerned; and that decision shall be final.

“(8) Every certificate of exemption shall specify the ground upon which it was given; and the inspector granting it shall forthwith send a copy to the appropriate Education Board and a copy to the Director-General.

“(9) The Education Board of the district where a child in respect of whom a certificate of exemption has been given resides may, on the advice of the appropriate District Senior Inspector, revoke the certificate.

“(10) A District Senior Inspector shall not advise the revocation of a certificate of exemption unless, after having made reasonable attempts to obtain the necessary information, the Inspector is not or no longer satisfied of whichever of the

grounds specified in subsection (3) of this section the certificate was granted on.

“(11) If the Director-General considers that a child in respect of whom a certificate of exemption is in force would benefit from special education, the Director-General may, by notice in writing to the child’s parent, revoke the certificate and require the parent to enrol the child in a special school, class, or clinic, or receive special tuition or assistance from a service, established under this Act.”

11. Equal rights to education—(1) The principal Act is hereby amended by inserting, after section 112, the following section:

“112A. (1) Except as provided in section 114 of this Act (which empowers the Director-General to require a child to enrol in a special school, class, or clinic, or receive tuition or assistance from a special service), persons with special educational needs (whether by reason of disability or otherwise) have the same rights to enrol and receive education at institutions established under this Act as persons without such needs.

“(2) Nothing in subsection (1) of this section affects or limits the effect of sections 129 and 129A of this Act (which relate to limitations on enrolment at schools) or sections 130 to 130DA of this Act (which relate to the suspension and expulsion of pupils).”

(2) Section 111 of the principal Act (as substituted by section 10 of this Act) is hereby consequentially amended by repealing subsection (3), and substituting the following subsection:

“(3) If, and only if, satisfied—

“(a) That the child concerned is or will, be elsewhere than in a registered school or an integrated school, under instruction at least as regular and efficient as that available in a registered school of the appropriate kind; or

“(b) In the case of a child who would otherwise be likely to be enrolled at a special school, class, or clinic established under this Act, that the child concerned is or will be, elsewhere than in such a school, class, or clinic, under instruction at least as regular and efficient as that available in a special school, class, or clinic of the kind at which the child would otherwise be likely to be required to be enrolled,—

the District Senior Inspector concerned shall give an applicant under subsection (1) or subsection (2) of this section a certificate of exemption.”

(3) Subsections (1) and (2) of this section shall come into force on the sooner of—

(a) The 1st day of January 1990; and

(b) A date specified in that behalf by the Governor-General by Order in Council.

12. New sections substituted—(1) The principal Act is hereby amended by repealing sections 113 to 115, and substituting the following sections:

“114. **Special education**—(1) Subject to the provisions of this Act, where the Director-General is satisfied (after any special examination of the child concerned that the Director-General requires by any person authorised by the Director-General for the purpose) that any child requires special tuition or assistance in a special school, class, or clinic, or from a service, established under this Act, the Director-General shall—

“(a) Agree with the child’s parents that the child should be enrolled there or, as the case may be, receive tuition or assistance from the service; or

“(b) Require them to enrol the child there or, as the case may be, ensure that the child receives tuition or assistance from the service.

“(2) Subject to section 115 (3) of this Act, a parent who, after the expiration of one month after the making of a requirement under subsection (1) (b) of this section, fails or refuses to comply with the requirement commits an offence, and is liable on summary conviction to the penalty prescribed by section 116 of this Act for failure to enrol a child on the register of a school.

“(3) An agreement or requirement under subsection (1) of this section shall have effect notwithstanding anything in section 129 or section 129A of this Act.

“(4) No child shall be enrolled at a special school, class, or clinic, or receive tuition or assistance from a service, established under this Act except pursuant to an agreement or requirement under subsection (1) of this section.

115. Right of reconsideration—(1) Subject to paragraphs (m) and (n) of subsection (6) of this section, a child’s parent may, in accordance with this section, require the reconsideration of—

“(a) Any requirement in respect of the child under section 111 (11) or section 114 (1) (b) of this Act; or

“(b) The refusal of the Director-General to agree under section 114 (1) (a) of this Act to the child’s enrolment at a special school, class, or clinic, or receiving tuition or assistance from a service, established under this Act.

“(2) Every requirement under subsection (1) of this section shall be made to the Director-General in writing within one month of the requirement or refusal concerned.

“(3) Subject to subsection (4) of this section, where a requirement is made under subsection (1) of this section in respect of a requirement by the Director-General under section 114 (1) (b) of this Act,—

“(a) The Director-General’s requirement shall not take effect—

“(i) Until the Director-General has reconsidered it and confirmed it; or

“(ii) Where a requirement is made under subsection (5) (c) of this section, until that requirement has been considered by an arbitrator, and the arbitrator’s decision has been made known to the parent concerned; and

“(b) No offence is committed under section 114 (2) of this Act for so long as the Director-General’s requirement has not taken effect.

“(4) Where—

“(a) A requirement has been made under subsection (5) (c) of this section; and

“(b) The period of one month has expired since the Director-General notified the parent concerned of the name of a person to represent the Director-General in the appointment of an arbitrator; and

“(c) The Director-General’s representative and the parent’s nominee have not appointed an arbitrator,—

the Director-General’s requirement under section 114 (1) (b) shall forthwith take effect; and section 114 (2) of this Act shall have effect accordingly.

“(5) When a requirement under subsection (1) of this section is made, the following provisions shall apply:

“(a) Where the requirement is in respect of a requirement by the Director-General, the Director-General shall reconsider it, and, after the reconsideration, shall—

“(i) Confirm it; or

“(ii) Rescind it and issue another; or

“(iii) Rescind it and refuse to issue another;—

as seems appropriate, and shall notify the parent concerned in writing of the result of the reconsideration and the reasons for it:

“(b) Where the requirement is in respect of a refusal to agree to enrolment or to the receipt of tuition or assistance, the Director-General shall reconsider the desirability of the enrolment of the child concerned or, as the case may be, of the child’s receiving the tuition or assistance concerned, and, after the reconsideration, shall—

“(i) Agree or refuse to agree to the child’s enrolment or receiving tuition or assistance, as seems appropriate; and

“(ii) Notify the parent concerned in writing of the result of the reconsideration and the reasons for it:

“(c) A parent who is dissatisfied with the result of the reconsideration may, within 60 days of receiving notice of the result, by notice in writing to the Director-General, require the result to be considered by an arbitrator.

“(6) When a requirement under subsection (5) (c) of this section is made, the following provisions shall apply:

“(a) The Director-General shall forthwith submit to the parent the names of 3 persons—

“(i) None of whom shall be an officer or employee of the Department, or of an Education Board, Board of Governors, or Secondary Schools Council; and

“(ii) All of whom shall be, in the opinion of the Director-General, persons with experience in or expert knowledge of special education:

“(b) The parent shall within 14 days of the submission of the names either notify the Director-General that one of the nominees is acceptable to the parent, or notify the Director-General—

“(i) That none of them is acceptable; and

“(ii) Of the name of a person who is acceptable to the parent:

“(c) If the parent notifies the Director-General that one of the nominees is acceptable, or fails or refuses within 14 days of the submission of the names to notify the Director-General under paragraph (b) of this subsection, a nominee specified by the Director-General shall act as arbitrator:

- “(d) If the parent notifies the Director-General that none of the nominees is acceptable, and of the name of the person who is acceptable to the parent, the Director-General shall forthwith accept or reject the parent’s nominee:
- “(e) If the Director-General accepts the parent’s nominee, the nominee shall act as arbitrator:
- “(f) If the Director-General rejects the parent’s nominee,—
- “(i) The Director-General shall forthwith notify the parent’s nominee of the name of a person to represent the Director-General in the appointment of an arbitrator; and
- “(ii) The Director-General’s representative and the parent’s nominee shall, as soon as is possible, appoint a person to act as arbitrator:
- “(g) Forthwith after the identity of the arbitrator has been ascertained, the Director-General shall give the arbitrator and the parent a copy of all the relevant documents:
- “(h) The arbitrator shall give the parent notice in writing that—
- “(i) The arbitrator has been appointed; and
- “(ii) The parent has a right to make written submissions:
- “(i) Upon receiving written submissions from the parent, or upon the expiration of 21 days after giving the parent notice, whichever is the sooner, the arbitrator shall notify the parent and the appropriate District Senior Inspector of the time, date, and place at which the arbitrator will consider the matter:
- “(j) The District Senior Inspector (or a nominee), a representative of the District Senior Inspector, the parent, and a representative of the parent, shall be entitled to appear and be heard, and the parent shall be entitled to produce the child concerned, at the consideration:
- “(k) Except as provided in this subsection, the arbitrator shall determine the procedure to be adopted at the consideration:
- “(l) After considering the matter, the arbitrator shall either—
- “(i) Confirm the decision of the Director-General;
- or
- “(ii) Direct the Director-General to make some other decision that the Director-General would have

been entitled to make (and in that case the Director-General shall do so):

“(m) There shall be no right of reconsideration or reference to an arbitrator of any decision made by the Director-General pursuant to a direction under paragraph (l) (ii) of this subsection:

“(n) If—

“(i) The arbitrator confirms the decision of the Director-General; and

“(ii) The decision was a refusal to agree under section 114 (1) (a) of this Act to a child’s enrolment or receiving tuition or assistance,—
there shall be no right of reconsideration or reference to an arbitrator of any refusal by the Director-General so to agree arising from a request made within 12 months of the confirmation.”

(2) Subsection (1) of this section shall come into force on the sooner of—

(a) The 1st day of January 1990; and

(b) A date specified in that behalf by the Governor-General by Order in Council.

13. Attendance at other schools of suspended or expelled pupils—The principal Act is hereby amended by inserting, after section 130D (as substituted by section 2 of the Education Amendment Act (No. 2) 1976), the following section:

“130DA. (1) Except as provided in this section, the suspension or expulsion of any pupil shall not limit or affect the pupil’s right to attend any school.

“(2) The governing body of a school from which a pupil has been suspended or expelled under section 130C or section 130D of this Act may refuse an application for enrolment at the school made on behalf of the pupil.

“(3) Except as provided in subsection (4) of this section, the governing body of any secondary school may refuse an application for enrolment at the school made on behalf of a pupil suspended or expelled from any other school under section 130C or section 130D of this Act.

“(4) Subject to subsections (2) and (5) of this section, the Regional Superintendent of Education—

“(a) May, in the case of a pupil who—

“(i) Has at any time held a certificate of exemption under section 112 of this Act; or

“(ii) Has attained the age of 15 years; and

“(b) Shall, in the case of a pupil who—

“(i) Has never held a certificate of exemption under section 112 of this Act; and

“(ii) Has not attained the age of 15 years,—

direct the controlling authority of a specified secondary school to accept any application for enrolment at the school made on behalf of a pupil suspended or expelled from some other secondary school under section 130C or section 130D of this Act; and in that case any such application shall be accepted and the pupil shall be enrolled at the school.

“(5) The Regional Superintendent of Education shall not give a direction under subsection (4) of this section except on the recommendation of the appropriate District Senior Inspector of Secondary Schools, who shall not make a recommendation without first making all reasonable attempts to consult—

“(a) The parent of the pupil concerned; and

“(b) The governing body of the school concerned; and

“(c) Any other person or organisation that, in the opinion of the District Senior Inspector, may be interested in or able to provide useful advice or assistance in respect of the pupil’s education or welfare.

“(6) A direction under subsection (4) of this section shall have effect notwithstanding any enrolment scheme under section 129A of this Act.

“(7) Nothing in section 129 of this Act shall prevent the enrolment at any State primary school of a pupil who has been suspended from any other State primary school under section 130C of this Act.”

14. Registration of teachers—The principal Act is hereby amended by repealing sections 131 to 136, and substituting the following sections:

“131. **Teacher Registration Board established**—(1) There is hereby established a board to be known as the Teacher Registration Board.

“(2) The Registration Board shall comprise the following members, appointed by the Minister:

“(a) A Chairperson; and

“(b) One member nominated by the Director-General; and

“(c) Two registered teachers nominated by the New Zealand Educational Institute Registered; and

“(d) Two registered teachers nominated by the New Zealand Post Primary Teachers Association Registered; and

- “(e) A registered teacher nominated jointly by the 2 organisations specified in paragraphs (c) and (d) of this subsection; and
 - “(f) A registered teacher nominated by the New Zealand Teachers Colleges Association Incorporated; and
 - “(g) A registered teacher nominated by the New Zealand Free Kindergarten Teachers Association Incorporated; and
 - “(h) One member appointed after consultation with any organisations representing the interests of principals of or teachers at schools registered under section 186 of this Act the Minister thinks appropriate; and
 - “(i) Four members nominated, respectively, by—
 - “(i) The New Zealand Education Boards Association Incorporated:
 - “(ii) The New Zealand Secondary School Boards Association (Incorporated):
 - “(iii) The Association of Teachers College Councils:
 - “(iv) The New Zealand Free Kindergarten Union (Incorporated); and
 - “(j) One member appointed after consultation with any organisations representing the proprietors of schools registered under section 186 of this Act the Minister thinks appropriate.
- “(3) The Minister shall appoint persons to be alternates of the members of the Registration Board referred to in subsection (2) of this section; and the following provisions shall apply to each such alternate:
- “(a) On appointing the alternate, the Minister shall specify the member of the Registration Board whose alternate the person is:
 - “(b) No person shall be appointed an alternate unless eligible to be appointed a member of the Registration Board in place of the member whose alternate the person is:
 - “(c) Subject to subsection (4) of this section, no person shall be appointed an alternate unless nominated by the same body or bodies as is required by subsection (2) of this section in respect of the appointment of the member of the Registration Board whose alternate the person is:
 - “(d) Every reference in section 133 or section 134 of this Act to a member of the Registration Board shall be

deemed to include a reference to an alternate of a member of the Registration Board:

“(e) The alternate of a member of the Registration Board who dies, resigns, or is absent from any meeting of the Registration Board may attend any meeting or, as the case requires, that meeting and act in all respects as if a member of the Registration Board.

“(4) The Minister may by notice in writing to the organisation or organisations concerned request any organisation or, as the case requires, any 2 or more organisations jointly, to nominate persons under subsection (2) or subsection (3) of this section; and where, within 28 days of the giving of that notice—

“(a) The organisation or organisations concerned have failed or neglected to nominate a person; or

“(b) In the case of 2 or more organisations requested jointly to nominate a person, those organisations have been unable to agree on a joint nomination,—

the Minister may thereafter appoint to be a member of the Registration Board or, as the case requires, an alternate, any person the Minister thinks fit.

“(5) No person shall be deemed to be in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason only of being a member of the Registration Board.

“132. Eligibility for appointment to Registration Board—(1) Subject to section 131 (2) of this Act and to subsection (2) of this section, any person who has attained the age of 18 years is eligible to be a member of the Registration Board.

“(2) None of the following persons is eligible to be a member of the Registration Board:

“(a) A mentally disordered person within the meaning of the Mental Health Act 1969:

“(b) A bankrupt who has not yet obtained an order of discharge, or whose discharge is suspended for a term not yet expired or is subject to conditions not fulfilled:

“(c) A person convicted of an offence punishable by imprisonment who has neither received a full pardon, nor served the sentence or otherwise suffered the penalty imposed, in respect of that offence.

“133. **Term of office**—(1) Subject to this Act, every member of the Registration Board shall be appointed for a term of 3 years but shall be eligible for reappointment from time to time.

“(2) Unless sooner vacating office under section 134 of this Act, every member of the Registration Board shall continue in office until a successor comes into office, notwithstanding that the term for which the member was appointed has expired.

“(3) Notwithstanding subsection (1) of this section, the members of the Registration Board first appointed after the commencement of this section shall be appointed for such term not exceeding 3 years as the Minister, at the time of the appointment, in each case decides.

“134. **Extraordinary vacancies**—(1) Subject to subsection (2) of this section, any member of the Registration Board may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct proved to the satisfaction of the Minister.

“(2) The Minister shall not recommend to the Governor-General the removal from office under subsection (1) of this section of any member of the Registration Board without first having consulted with the organisation or organisations by which the member was nominated.

“(3) Any member of the Registration Board appointed under any of paragraphs (c) to (j) of section 132 (2) of this Act may at any time be removed from office by the Minister on the recommendation or, as the case may be, joint recommendation of the organisation or organisations by which the member was nominated.

“(4) Any appointed member of the Registration Board may at any time resign office by writing addressed to the Minister.

“(5) If any member of the Registration Board—

“(a) Dies; or

“(b) Is removed from office; or

“(c) Resigns; or

“(d) Becomes ineligible to become a member of the Registration Board; or

“(e) Is absent without leave of the Registration Board from 4 consecutive meetings of the Board,—

the member's office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

“(6) Where an extraordinary vacancy has arisen, the Minister shall, in the same manner as the vacating member was appointed, appoint some other person to be a member of the

Registration Board for the residue of the term for which the vacating member was appointed.

“(7) The powers of the Registration Board shall not be affected by any vacancy in its membership.

“**135. Registration Board meetings**—(1) The first meeting of the Registration Board shall be held on a day appointed by the Minister.

“(2) Subsequent meetings of the Registration Board shall be held at such times and places as the Registration Board or its Chairperson from time to time appoints.

“(3) The Chairperson or any 3 members of the Registration Board may at any time call a special meeting of the Registration Board.

“(4) At any meeting of the Registration Board the quorum necessary for the transaction of business shall be 8 members.

“(5) Every question before the Registration Board shall be decided by a majority of the votes cast by the members present at the meeting.

“(6) A resolution in writing signed, or assented to by letter or telegram, by all the members of the Registration Board shall be as valid and effectual as if it had been passed at a meeting of the Registration Board duly called and constituted.

“(7) The Chairperson of the Registration Board shall preside at all meetings of the Registration Board if present.

“(8) If the Chairperson is absent from any meeting of the Registration Board the members present shall appoint one of their number to preside at the meeting.

“(9) At any meeting of the Registration Board the Chairperson or member presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

“(10) Subject to this Act the Registration Board may regulate its procedures in such manner as it thinks fit.

“**136. Remuneration and expenses of members of Registration Board**—(1) The Registration Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(2) Every member of the Registration Board, and every alternate of a member, is entitled to receive—

“(a) Remuneration by way of fees, salary, or allowances, for the service of the member or alternate as a member of the Board or alternate; and

“(b) Payment of travelling allowances or expenses in respect of time spent travelling in the service of the Board.

“136A. **Powers of Registration Board**—The Registration Board shall have all powers, rights, and authorities reasonably necessary to enable it to perform its functions under this Act.

“136B. **Annual report**—(1) As soon as is practicable after the 30th day of June in every year the Registration Board shall send to the Minister—

“(a) A report of its proceedings and operations for the year ended with that day; and

“(b) Any recommendations it sees fit to make in relation to the registration of teachers and the teaching profession.

“(2) The Minister shall, as soon as is practicable after their receipt, lay before the House of Representatives a copy of the report and recommendations.

“136C. **Register of Teachers**—The Registration Board shall cause to be kept a register to be called the Register of Teachers.

“136D. **Applications for registration**—(1) Any person may apply to the Registration Board for registration.

“(2) Every application shall be made in the form provided by the Registration Board for the purpose.

“136E. **Registration**—(1) The Registration Board shall register every applicant for registration who satisfies it that the applicant—

“(a) Has—

“(i) Been awarded a Teachers’ College Diploma by a teachers college established or deemed to have been established under this Act, in respect of a course of training at the college; or

“(ii) To the satisfaction of the Registration Board, completed some other suitable training; and

“(b) Is of good character and a fit and proper person to be a teacher; and

“(c) Has made and subscribed an oath or affirmation as prescribed by section 162 of this Act; and

“(d) Has completed either 2 years’ satisfactory full-time teaching in New Zealand, or some other period or kind of teaching that is, in the opinion of the Registration Board, equivalent.

“(2) The Registration Board shall register provisionally every applicant for registration who—

“(a) Has never previously been registered; and

“(b) Has satisfied it of all the matters specified in subsection (1) of this section other than that specified in paragraph (d) of that subsection.

“(3) The Registration Board may, if it is satisfied that the circumstances of the applicant concerned so justify, register provisionally any applicant for registration—

“(a) Who—

“(i) Has satisfied it of the matters specified in paragraphs (b) and (c) of subsection (1) of this section; and

“(ii) Holds academic qualifications acceptable to the Registration Board; or

“(b) Who has previously been provisionally registered.

“(4) Any person who is for the time being provisionally registered may apply to the Registration Board to be registered under subsection (1) of this section.

“(5) The provisional registration of any teacher under this section shall expire—

“(a) If the teacher is registered under subsection (1) of this section; or

“(b) Unless it sooner is cancelled, or expires under paragraph (a) of this subsection, after 5 years.

“(6) Subject to section 136F of this Act, no teacher shall be registered otherwise than pursuant to this section.

“(7) Where the Registration Board refuses to register any applicant for registration, it shall inform the applicant of its reasons for doing so, and that the applicant may make representations to it concerning them; and in the light of any representations the applicant makes to it, it may grant the applicant’s application.

“(8) Where the Registration Board registers provisionally an applicant from whose application it appears that the applicant wishes to be registered otherwise than provisionally, it shall—

“(a) Inform the applicant of its reasons for doing so, and that the applicant may make representations to it concerning them; and

“(b) Consider any such representations the applicant makes to it within one month of being informed of those reasons;—

and if, in the light of those representations, it is satisfied that the applicant should have been registered otherwise than provisionally—

“(c) It shall so register the applicant; and

“(d) The applicant shall be deemed so to have been registered on the date of the applicant’s provisional registration; and

“(e) That provisional registration shall be deemed not to have occurred.

“(9) Where, under this section, it is provided that a person may make representations to the Registration Board, those representations may be made—

“(a) In writing; or

“(b) In person by the person, either alone or assisted by any other person; or

“(c) By some other person on the person’s behalf.

“136F. **Transitional**—(1) This section applies to every person who—

“(a) Immediately before the commencement of section 14 of the Education Amendment Act (No. 2) 1987, held a permanent position of a kind that, on that commencement, was required by section 136L of this Act to be held by a registered teacher; and

“(b) Has not thereafter—

“(i) Been registered under section 136E of this Act; or

“(ii) Had the person’s registration cancelled.

“(2) Subject to section 136H of this Act, every person to whom this section applies shall be deemed to be a registered teacher.

“136G. **Annual publication of Register**—(1) Every year the Registration Board shall cause to be published in the *Gazette*—

“(a) The full names of all registered teachers as at a specified date during that year; and

“(b) The names of the establishments at which those registered teachers who were at that date teaching were then employed; and

“(c) An address for each of those registered teachers who was not at that date teaching; and

“(d) An indication as to which of those registered teachers had the teacher’s registration suspended at that date, and the date upon which each suspension was due to expire; and

“(e) In respect of each registered teacher, an indication as to whether the teacher was at that date deemed under section 136F (2) of this Act to be a registered teacher; and

“(f) In respect of each such registered teacher (not being a person deemed under section 136F of this Act to be a registered teacher), the date on which the teacher was registered.

“(2) The Registration Board may at any time cause to be published in the *Gazette* all or any of the following matters:

“(a) The matters specified in subsection (1) of this section in respect of any person who has been registered since the last publication under that subsection or this paragraph:

“(b) The full name of any person whose registration has been cancelled or suspended since the last publication under subsection (1) of this section, together with the name of the last establishment at which the person was employed before the cancellation or suspension and, in the case of any teacher whose registration has been suspended, the date upon which the suspension was due to expire.

“136H. **Cancellation and suspension of registration—**

(1) Where—

“(a) The Registration Board is satisfied that a teacher has died; or

“(b) Any teacher so requests,—

the Registration Board shall cancel the teacher’s registration.

“(2) Subject to subsection (3) of this section, where—

“(a) A teacher has been convicted of an offence—

“(i) Punishable by imprisonment for a term of 12 months or more; or

“(ii) Against section 136M of this Act; or

“(b) Any organisation specified in section 131 (2) of this Act requests that a teacher’s registration be cancelled; or

“(c) The cancellation of a teacher’s registration has been requested under section 159A (9) of this Act,—

the Registration Board may cancel or suspend the teacher’s registration.

“(3) The Registration Board shall take no action under subsection (2) of this section in respect of any teacher until it has—

“(a) Notified the teacher (at the last known residential address) of—

“(i) Its intention to suspend or cancel the registration; and

“(ii) Its reasons for intending to do so; and

“(iii) The fact that the teacher may within one month of being notified make representations to it concerning them; and

“(b) Considered any representation made by the teacher within that time.

“(4) Notwithstanding subsection (3) of this section, after—

“(a) Notifying a teacher of its intention to cancel the teacher’s registration; and

“(b) Considering any representation the teacher has made to it within one month of being notified,—

the Registration Board may, without further notice, suspend the teacher’s registration; but in that case it shall notify the teacher of its reasons for doing so.

“(5) Where—

“(a) After considering representations from a teacher, the Registration Board suspends or cancels the teacher’s registration; but

“(b) Its reasons for doing so differ in any respect from those it gave to the teacher initially,—

it shall again notify the teacher under subsection (3) of this section.

“(6) Where, under this section, it is provided that a teacher may make representations to the Registration Board, those representations may be made—

“(a) In writing; or

“(b) In person by the teacher, either alone or assisted by any other person; or

“(c) By some other person on the teacher’s behalf.

“(7) Where a teacher has been charged with an offence under section 158 of this Act and has resigned or left the teacher’s position before the charge has been heard by the Disciplinary Board, the Registration Board may suspend the teacher’s registration.

“(8) The suspension of the registration of any teacher for any reason shall not prevent the later cancellation of the teacher’s registration for the same reason.

“(9) The cancellation of a teacher’s registration shall be effected by the removal from the Register of Teachers kept under section 136C of this Act of every entry that relates to the teacher.

“(10) The suspension of a teacher’s registration shall be for a period determined by the Registration Board, and shall be effected by the insertion in the Register against the entry relating to the teacher of a further entry stating that the

teacher's registration has been suspended until a specified date; and for so long as a teacher's registration is suspended the teacher shall be deemed not to be a registered teacher.

“136I. Appeals against decisions of Registration Board—Where the Registration Board has—

“(a) Refused to register any person; or

“(b) Cancelled or suspended the registration of any teacher,—

the person or teacher shall have a right to appeal against the refusal, cancellation, or suspension in accordance with Part VI of this Act.

“136J. Notification of decisions—(1) Where under subsection (2) or subsection (4) of section 136H of this Act the Registration Board cancels or suspends the registration of any teacher, it may give any notice it thinks fit of the cancellation or suspension to any person or body by whom or by which the teacher is or has been employed.

“(2) Where an appeal against the cancellation or suspension of any teacher's registration is successful, the Registration Board shall give, as aforesaid, notice to that effect.

“136K. Administrative and secretarial services—The Department shall provide the Registration Board with all administrative and secretarial services necessary to enable it to exercise its functions and powers, and perform its duties, under this Act.

“136L. Only registered teachers to be employed—(1) Subject to the provisions of this Act, no person who is not a registered teacher shall be employed, or continue to be employed, as a teacher in any kindergarten, State primary school, composite school, secondary school, or teachers college.

“(2) Subsection (1) of this section shall not apply to the employment of any person—

“(a) If no registered teacher is available, and the person is temporarily employed as a relieving teacher—

“(i) In the temporary absence of a permanent teacher; or

“(ii) To fill a vacant position until a permanent teacher can be appointed to it; or

“(iii) With the approval for the time being of the Registration Board, given either generally or in any particular case; or

“(b) Who is a specialist in a particular subject and is engaged under the general supervision of a registered teacher;—

but nothing in this subsection shall authorise the employment or continued employment of any person—

“(c) Who, by virtue of section 136H (10) of this Act, is deemed not to be a registered teacher; or

“(d) Whose name was at any time removed from the former Teachers Register by the Director-General for reasons other than resignation or retirement from the teaching profession, or the fact that for 3 years before the removal the person had not held any appointment as a teacher and had not applied for the retention of the person’s name on that register.

“(3) The Registration Board may at any time, by notice in writing to the governing body of the school concerned, withdraw any approval given under this section.

136M. Offences in respect of persons who are not registered teachers—Every person commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding \$1,000, who—

“(a) Makes to the Registration Board any statement as to any person’s qualifications or teaching experience that would amount to perjury if made on oath in any judicial proceedings; or

“(b) Not being a registered teacher, uses, or permits to be used, in connection with the person’s name or business, the words ‘registered teacher’, or any words or initials intended or likely to cause any other person to believe that the person is a registered teacher; or

“(c) Wilfully makes or causes to be made any false entry, or falsification of any entry, in the Register; or

“(d) Is employed contrary to section 136L of this Act; or

“(e) Knowing that any other person is not a registered teacher, employs or continues to employ that other person contrary to section 136L of this Act.”

15. Consequential amendments—(1) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Former Teachers Register’ means the register kept by the Director-General under section 132 of this Act

before the commencement of section 14 of the Education Amendment Act (No. 2) 1987:

“‘Registered teacher’ means a person whose name for the time being appears on the Register of Teachers kept under section 136C of this Act:

“‘Registration Board’ means the Teacher Registration Board established by section 131 (1) of this Act (as substituted by section 14 of the Education Amendment Act (No. 2) 1987):”.

(2) The First Schedule to the Official Information Act 1982 is hereby amended by inserting, after the item “Shipping Corporation of New Zealand Limited”, the item “Teacher Registration Board”.

16. Primary Teacher Appointment Appeal Board—

(1) Section 144 of the principal Act (as substituted by section 14 of the Education Amendment Act 1968) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) For the purpose of this Part of this Act the Minister shall constitute one or more Primary Teacher Appointment Appeal Boards, each of which shall comprise—

“(a) A Chairperson appointed from the panel referred to in subsection (1A) (a) of this section:

“(b) One member appointed from the panel referred to in subsection (1A) (b) of this section:

“(c) One member appointed from the panel referred to in subsection (1A) (c) of this section.

“(1A) The Minister shall, from time to time,—

“(a) Appoint persons to a panel of persons suitable to act as Chairperson of an Appeal Board:

“(b) After consultation with the Education Board’s Association of New Zealand, appoint persons to be a panel of persons suitable to act as members of an Appeal Board:

“(c) On the recommendation of the New Zealand Educational Institute, appoint persons to be a panel of persons suitable to act as members of an Appeal Board.

“(2) Except as otherwise provided in this section, every member of an Appeal Board shall be appointed by the Minister for a term of 3 years, and may from time to time be reappointed.”

(2) Subsections (3) to (8) of the said section 144 are hereby consequentially amended by omitting the word “the”, wherever it appears immediately before the word “Appeal”, and substituting the word “an”.

(3) Section 144 (8) of the principal Act is hereby amended by omitting the word “Chairman”, and substituting the word “Chairperson”.

(4) Section 147 of the principal Act is hereby consequentially amended—

- (a) By omitting from subsection (2) (as amended by section 16 (a) of the Education Amendment Act 1968), the words “the Chairman of”, and substituting the words “the Director-General, who shall forthwith forward it to the Chairperson of a”; and
- (b) By omitting from subsection (3) the words “the Chairman”, and substituting the words “Director-General, and the Director-General shall forthwith send to the Chairperson”.

17. Dual appointments—(1) Section 145A of the principal Act (as inserted by section 14 of the Education Amendment Act 1976), is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where—

“(a) In accordance with regulations made under this Act, 2 positions at a school have been advertised as dual appointment positions; and

“(b) A dual appointment has been made to the positions; and

“(c) One of 2 other applicants who applied for dual appointment to the positions has a right of appeal against the appointment of one of the appointees,—
subject to subsections (4) and (5) of this section, the other of the other applicants has a right of appeal against the appointment of the other appointee.”

(2) Section 147 of the principal Act is hereby amended by adding the following subsection:

“(8) Notwithstanding the foregoing provisions of this section, where 2 persons appeal against the appointment of 2 other persons to positions advertised in accordance with regulations made under this Act as dual positions, the following provisions shall apply:

“(a) Where one of those positions is that of Principal or is a position of responsibility, the appeal against the appointment to that position shall be determined in

accordance with this Act, and the other appeal shall not be heard but shall be deemed to have been allowed or disallowed (as the case may be) according to whether that first-mentioned appeal has been allowed or disallowed; and

“(b) Subject to paragraph (a) of this subsection, both appeals shall be determined as if the appellant were one person, and the persons provisionally appointed were one person provisionally appointed to a Division A position within the meaning of the said regulations; and this Act, so far as it is applicable with the necessary modifications, shall apply to those appeals accordingly.”

18. Restriction upon eligibility of teachers for appointment—Section 151 (3) (e) of the principal Act is hereby amended by omitting the words “subsection (5) of section 152”, and substituting the words “section 152 (3)”.

19. Payment of overgrade salaries, etc.—Section 153 (3A) of the principal Act (as inserted by section 12 of the Education Amendment Act 1971 and amended by section 14 (2) of the Education Amendment Act (No. 2) 1974) is hereby further amended by inserting, after the word “entitled”, the words “(except where the lower salary is a result of the new position’s being a permanent part-time position)”.

20. Protection of teachers in certain cases—Section 154 of the principal Act is hereby amended by inserting, after subsection (1B) (as substituted by section 11 of the Education Amendment Act (No. 2) 1982), the following subsection:

“(1C) This section shall apply to every special class, clinic, service, or establishment under section 98 (1) (b) of this Act, as if it is a department of a school.”

21. Teacher discipline—The principal Act is hereby amended by repealing sections 156 to 161A, and substituting the following sections:

“156A. **Teacher charged with offence to inform employing authority**—A teacher who is charged with any offence shall, as soon as reasonably practicable after being charged, inform the teacher’s employing authority of the fact and nature of the charge.

“157. Teacher charged with serious offence—(1) Where a teacher is charged with an offence punishable by imprisonment for a term of 12 months or more, the teacher’s employing authority may, without hearing the teacher, at any time before the charge is determined,—

“(a) Suspend the teacher—

“(i) On full pay; or

“(ii) Without pay; or

“(iii) Without such part of the teacher’s pay as the authority decides; or

“(b) Transfer the teacher temporarily to other duties.

“(2) A teacher suspended or transferred under subsection (1) of this section may request the teacher’s employing authority to reconsider its decision; and in that case the following provisions shall apply:

“(a) The authority shall reconsider its decision at the meeting next following the teacher’s request:

“(b) At that meeting, the authority shall consider any representations made to it—

“(i) By the teacher in writing; or

“(ii) By the teacher in person; or

“(iii) By any other person on behalf of the teacher:

“(c) Where the teacher was suspended, the authority shall—

“(i) Confirm the suspension; or

“(ii) Annul the suspension and authorise the teacher to return to the teacher’s former duties; or

“(iii) Annul the suspension and transfer the teacher temporarily to other duties:

“(d) Where the teacher was transferred, the authority shall—

“(i) Confirm the transfer; or

“(ii) Annul the transfer and authorise the teacher to return to the teacher’s former duties:

“(e) Where the teacher remains suspended, the authority shall—

“(i) Confirm the original decision relating to the teacher’s pay; or

“(ii) Substitute for it any other decision the authority might originally have made.

“(3) Where an employing authority is considering—

“(a) Whether or not to suspend or transfer a teacher under subsection (1) of this section; or

“(b) Whether to confirm or annul any suspension or transfer under that subsection; or

“(c) Whether to substitute for the suspension of a teacher under that subsection the transfer of the teacher to other duties,—
the welfare and interests of the students attending the institution concerned shall be the paramount consideration of the employing authority.

“(4) The employing authority of a teacher suspended or transferred under subsection (1) of this section shall forthwith notify the Registration Board of—

“(a) The offence with which the teacher has been charged; and

“(b) The action the employing authority has taken.

“(5) A teacher who has been suspended under subsection (1) of this section and is acquitted of the charge in respect of which the teacher was suspended shall, unless the teacher has previously resigned or taken up another teaching position, be entitled forthwith to resume teaching duties; and in that case the employing authority shall pay to the teacher the amount (if any) by which the salary that would have been payable to the teacher during the period of suspension exceeds the sum of—

“(a) Any earnings from other employment during that period (not being earnings the teacher would have earned even if not suspended); and

“(b) Any benefits under Part I of the Social Security Act 1964 (other than national superannuation) received during that period; and

“(c) Any part of the teacher’s pay in fact received.

“(6) Notwithstanding anything in subsection (2) of this section, if a teacher’s employing authority directs that the teacher be suspended without all or any part of the teacher’s pay, the teacher or any person appointed to represent the teacher may within 7 days after the teacher receives notice of the direction, make oral or written representations to the authority as to why the teacher should receive full or more pay.

“(7) Within 21 days after the receipt of any representation made under subsection (6) of this section the employing authority concerned shall consider the representation and inform the teacher or the representative concerned of its decision; and if it decides that the teacher should receive full or more pay, the teacher shall be entitled to receive pay accordingly.

“157A. **Teacher convicted of serious offence**—(1) For the purposes of this section, ‘the relevant date’, in relation to any

teacher convicted of an offence punishable by imprisonment for 12 months or more, means the later of—

“(a) The day on which the teacher’s employing authority is notified of the conviction; and

“(b) Either—

“(i) The day with which the period within which the teacher may appeal against the conviction expires, if the teacher does not appeal against the conviction; or

“(ii) The day on which the appeal against the conviction is finally disposed of, if the teacher appeals against the conviction.

“(2) Subject to subsection (3) of this section, where a teacher is convicted of an offence punishable by imprisonment for 12 months or more, the employing authority shall within 20 working days of the relevant date take one of the following steps:

“(a) Peremptorily dismiss the teacher:

“(b) Transfer the teacher to another position, whether of the same salary and grading or not, at the same school or any other school under its control:

“(c) Charge the teacher with a disciplinary offence in respect of any circumstances—

“(i) Out of which the conviction arose; or

“(ii) Revealed in the course of the proceedings leading to the conviction:

“(d) Inform the teacher that it intends to take no action in respect of the conviction.

“(3) Where the employing authority of a teacher convicted of an offence punishable by imprisonment for a term of 12 months or more fails to comply with subsection (2) of this section in respect of the conviction within the time specified, or informs the teacher under subsection (2) (d) of this section that it intends to take no action in respect of the conviction, it shall not thereafter be capable of dismissing or transferring the teacher because of the conviction, or of charging the teacher with a disciplinary offence in respect of any circumstance to which subsection (2) (c) of this section applies.

“(4) Notwithstanding subsection (2) of this section, where a teacher is convicted of an offence punishable by imprisonment for a term of 12 months or more, the employing authority may without hearing the teacher, suspend the teacher—

“(a) For the period within which it may dismiss the teacher;
or

“(b) Until it has decided whether or not to dismiss or transfer the teacher under subsection (2) of this section.

“(5) Except as provided in paragraph (b) of this subsection, no dismissal or transfer under subsection (2) of this section shall take effect until 20 working days after the employing authority’s decision; and the authority—

“(a) Shall give the teacher concerned an opportunity to make representations to it; and

“(b) Shall consider any representations made to it within 10 working days of the decision—

“(i) By the teacher in writing; or

“(ii) By the teacher in person; or

“(iii) By any other person on behalf of the teacher; and

“(c) May, in the light of any such representations, within 20 working days of receiving the representations, substitute for the decision any other decision it might originally have come to; but in that case the other decision shall have immediate effect.

“158. **Disciplinary offences**—(1) Every teacher commits a disciplinary offence who—

“(a) In the course of the teacher’s duties, wilfully neglects or refuses to perform any duty or obligation imposed by any enactment, or arising out of any contract, in respect of the teacher’s employment as a teacher; or

“(b) In the course of the teacher’s duties, disobeys, disregards, or wilfully neglects to comply with a lawful order or instruction given by any person having the authority to give it; or

“(c) Is, in the carrying out of the duties of the teacher’s position, indolent, inefficient, incompetent, or negligent; or

“(d) Is guilty of conduct, within the teacher’s professional capacity or otherwise, that is unbecoming to a member of the teaching profession, or that demonstrates that the teacher is unfit to be a teacher or to remain in the teacher’s present position; or

“(e) Contrary to section 163 (1) of this Act, engages or continues to engage in any profession, occupation, business, or work.

“(2) An act or omission on the part of a teacher may constitute a disciplinary offence, notwithstanding that the

teacher has been acquitted or convicted of an offence in respect of the act or omission.

“158A. Disciplinary Board—(1) There is hereby established a board to be known as the Teachers’ Disciplinary Board.

“(2) The Chairperson of the Disciplinary Board shall be a barrister or solicitor of the High Court of not less than 7 years practice, appointed by the Minister, after consultation with the Minister of Justice, for a term not exceeding 3 years; but may from time to time be reappointed.

“(3) The Chairperson of the Disciplinary Board may at any time be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General; and may at any time resign from office by notice in writing to the Minister.

“(4) The Minister may appoint to be Deputy Chairperson of the Disciplinary Board any person qualified to be its Chairperson; and where any person is so appointed—

“(a) The person may act in the place of the Chairperson if the Chairperson is unable, by reason of illness, absence, or other sufficient cause, to perform the duties of Chairperson; or if there is no Chairperson; and

“(b) While so acting, the person shall be deemed to be a member of the Disciplinary Board; and

“(c) No acts done by the person, or by the Disciplinary Board, while the person so acts shall, in any proceedings, be questioned on the ground that the occasion for the person’s so acting had not arisen or had ceased.

“(5) When considering any matter relating to any teacher the Disciplinary Board shall comprise—

“(a) The Chairperson; and

“(b) The person for the time being nominated under section 158B of this Act by an organisation approved by the Minister to represent teachers of the class to which the teacher belongs; and

“(c) The person for the time being nominated under section 158B of this Act by an organisation approved by the Minister to represent the class of employer of teachers to which the employer of the teacher when the matter arose belongs.

“(6) A person who is an alternate nominated under section 158B (1) of this Act,—

“(a) Where the member of the Disciplinary Board whose alternate the person is dies or has the member’s nomination withdrawn; and

“(b) At any other time, unless the member otherwise directs,—

shall have and may exercise all the rights and powers as a member of the Disciplinary Board of the member; and while exercising any of those powers shall be deemed to be a member of the Disciplinary Board.

“(7) No person shall be deemed to be in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason only of being a member of the Disciplinary Board.

“(8) Before taking part in the consideration of any matter, each person who is a member of the Disciplinary Board, the Deputy Chairperson of the Disciplinary Board, or an alternate nominated under section 158B (1) of this Act, shall take an oath or make an affirmation before a Judge of the High Court that the person will faithfully and impartially perform the duties of the office and that, except in the discharge of the person’s duties, the person will not disclose to any person any evidence or other matter brought before the Disciplinary Board.

“(9) In the performance of its functions under this Act, the Disciplinary Board shall have the same powers as are conferred on Commissions of Inquiry by the Commissions of Inquiry Act 1908; and the provisions of that Act shall apply accordingly.

“(10) The Disciplinary Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(11) Every member of the Disciplinary Board and every alternate appointed under section 158B (1) of this Act is entitled to receive—

“(a) Remuneration by way of fees, salary, or allowances, for the services of the member or alternate as a member or alternate:

“(b) Payment of travelling allowances or expenses in respect of time spent travelling in the service of the Board.

“(12) The Department of Justice shall provide for the Disciplinary Board all administrative and secretarial services necessary to enable it to exercise its functions and powers and perform its duties under this Act.

“158B. **Nomination of members of Disciplinary Board**—(1) Within 2 months of the commencement of section 21 of the Education Amendment Act (No. 2) 1987—

“(a) Every organisation approved by the Minister to represent any class of teacher; and

“(b) Every organisation approved by the Minister to represent any class of employer of teachers—

shall notify the Registrar of the name of a person whom the organisation wishes to be a member of the Disciplinary Board when it considers disciplinary offences alleged to have been committed by a teacher of that class or, as the case may be, by a teacher while employed by an employer of that class, and the name of a person whom the organisation wishes to be that first-mentioned person’s alternate.

“(2) Any such organisation as aforesaid may at any time withdraw the nomination of either of the persons for the time being nominated by it under subsection (1) of this section and nominate another person in the person’s place; and the nomination of every person under that subsection shall lapse after 3 years, but the person may from time to time be renominated.

“(3) The same person may be nominated by 2 or more classes of organisation representing teachers or 2 or more organisations representing employers of teachers.

“159. **Procedure where disciplinary offence alleged—**

(1) Where, pursuant to regulations made under subsection (2) of this section, a teacher is charged with a disciplinary offence, the charge shall be dealt with by the teacher’s controlling authority unless the teacher or the authority wishes it to be dealt with by the Disciplinary Board.

“(2) Subject to subsection (1) of this section, and without limiting the generality of section 203 of this Act, the Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

“(a) Providing for the making of complaints against teachers alleged to have committed disciplinary offences:

“(b) Prescribing the manner in which such complaints are to be dealt with:

“(c) Prescribing the circumstances and manner in which disciplinary charges are to be laid against teachers alleged to have committed such offences:

“(d) Prescribing the manner in which such charges are to be heard and disposed of.

“(3) Notwithstanding section 158 (2) of this Act, where a complaint has been made that a teacher has committed a disciplinary offence, the teacher’s employing authority may at any time before the complaint has finally been disposed of, if it

is satisfied that the welfare and interests of students, or any student, attending the institution at which the teacher is employed so requires,—

“(a) Suspend the teacher—

“(i) On full pay; or

“(ii) Without pay; or

“(iii) Without such part of the teacher’s pay as the authority decides; or

“(b) Transfer the teacher to other duties—
without first hearing the teacher.

“(4) A teacher suspended or transferred under subsection (3) of this section may request the teacher’s employing authority to reconsider its decision; and in that case the following provisions shall apply:

“(a) The authority shall reconsider its decision at the meeting next following the teacher’s request:

“(b) At that meeting, the authority shall consider any representations made to it—

“(i) By the teacher in writing; or

“(ii) By the teacher in person; or

“(iii) By any other person on behalf of the teacher:

“(c) Where the teacher was suspended, the authority shall—

“(i) Confirm the suspension; or

“(ii) Annul the suspension and authorise the teacher to return to the teacher’s former duties; or

“(iii) Annul the suspension and transfer the teacher temporarily to other duties:

“(d) Where the teacher was transferred, the authority shall—

“(i) Confirm the transfer; or

“(ii) Annul the transfer and authorise the teacher to return to the teacher’s former duties:

“(e) Where the teacher remains suspended, the authority shall—

“(i) Confirm the original decision relating to the teacher’s pay; or

“(ii) Substitute for it any other decision the authority might originally have made.

“(5) While investigating or hearing any disciplinary charge, an employing authority or, as the case may be, a committee of members of an employing authority, shall have the same powers and functions as those conferred on the Disciplinary Board by this Act.

“159A. **Penalties for disciplinary offences**—(1) Where a disciplinary offence has been held to have been proved—

“(a) By the Disciplinary Board, any penalty in respect of the offence shall be imposed on the teacher concerned by the Disciplinary Board:

“(b) By an employing authority, or a committee of members of an employing authority, any penalty in respect of the offence shall be imposed on the teacher concerned by the authority.

“(2) Neither the Disciplinary Board nor an employing authority shall impose any penalty on a teacher in respect of a disciplinary offence without—

“(a) Taking into account any period of suspension already imposed; and

“(b) Giving the teacher the opportunity to make representations to it—

“(i) In writing; or

“(ii) In person; or

“(iii) Through any other person acting on behalf of the teacher; and

“(c) Considering any representations; and

“(d) Where any representations are made by the teacher, requiring representations from the person who laid the charge concerned, and considering any received within a reasonable time.

“(3) Before hearing any representations pursuant to subsection (2) of this section, the Disciplinary Board or, as the case may be, an employing authority,—

“(a) May, if it thinks fit, cause the Registrar to make inquiries about the character and previous conduct of the teacher concerned; and

“(b) Where it has caused such inquiries to be made, shall give the teacher notice of the information received as a result.

“(4) Subject to subsection (2) of this section and to any regulations made under this Act, where a disciplinary charge against a teacher has been held to be proved, the teacher’s controlling authority or the Disciplinary Board (as the case may be) may—

“(a) Order the teacher to be dismissed; and in that case the teacher shall be deemed forthwith to have been peremptorily dismissed; or

“(b) Require the teacher to resign before a specified date; or

“(c) Order the teacher (if employed at a primary school) to be transferred to another position (whether or not of a lower salary, or grading, or both) at a school under

the control of the employing authority concerned; and in that case the employing authority shall forthwith so transfer the teacher; or

“(d) Censure the teacher; or

“(e) Fine the teacher such sum not exceeding \$1,000 as it thinks fit; and in that case the amount of the fine shall be deemed to be a debt due to the Crown and may be recovered by deduction from the teacher’s salary or in any Court of competent jurisdiction; or

“(f) Order the teacher to pay any legal costs and expenses of the investigation and hearing of the charge it thinks fit; and in that case the amount ordered to be paid may be recovered as aforesaid.

“(5) Where a teacher charged with a disciplinary offence has been suspended, and subsequently the offence is held not to have been proved, the teacher shall, unless the teacher has sooner resigned or taken up another teaching position, be entitled forthwith to resume teaching duties; and the employing authority concerned shall pay to the teacher the amount (if any) by which the salary that would have been payable to the teacher during the period of the teacher’s suspension exceeds the sum of—

“(a) Any earnings from other employment during that period (not being earnings that the teacher would have earned even if not suspended); and

“(b) Any benefits under Part I of the Social Security Act 1964 (other than national superannuation) received during that period; and

“(c) Any part of that teacher’s pay in fact received.

“(6) The Disciplinary Board, or an employing authority if it holds that a disciplinary offence has not been proved, may order the person who laid the charge concerned to pay to the teacher concerned any costs and expenses it thinks fit; and in that case the amount directed to be paid shall be a debt due to the teacher, and recoverable accordingly.

“(7) Where a teacher charged with a disciplinary offence has been suspended, and subsequently the offence is held by the Disciplinary Board or an employing authority to have been proved, the Disciplinary Board, if it is satisfied that the amount of the salary that would have been payable during the period of suspension is disproportionate to the gravity of the offence may (after taking into account all other income earned, and all benefits as aforesaid received, during that period) order the employing authority to pay to the teacher a specified part or

proportion of that amount; and in that case payment shall be made accordingly.

“(8) A teacher who has been required under this section to resign before a specified date shall, if the teacher has not died or resigned before that date, be deemed to have been peremptorily dismissed on that date.

“(9) Where—

“(a) Under section 157A (2) of this Act an employing authority has peremptorily dismissed a teacher or required a teacher to resign before a certain date; or

“(b) Under subsection (4) of this section the Disciplinary Board or an employing authority has ordered that a teacher be dismissed or required a teacher to resign before a certain date,—

it may also request the Registration Board to cancel the teacher’s registration.

“159B. Employing authority may appeal against penalty—An employing authority that is dissatisfied with a penalty imposed on a teacher by the Disciplinary Board may, in accordance with regulations made under this Act, appeal to the Teachers Court of Appeal against the penalty; and in that case the appeal shall be dealt with in accordance with regulations made under this Act.

“161B. Contracts of employment not affected—Nothing in this Act shall prevent the dismissal or suspension of a teacher employed in a private school or kindergarten where the dismissal or suspension is in accordance with a contract of employment between the teacher and the teacher’s employing authority; and any such teacher who is so suspended or dismissed shall have no right of appeal against the suspension or dismissal.”

22. Regulations relating to the appointment of staff by Education Authorities—(1) Section 165D (2) of the principal Act (as inserted by section 7 of the Education Amendment Act 1981) is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Prescribe the manner in which Education Authorities may subdelegate to their officers or employees, or any of them, any powers or functions delegated to the Authorities from the Grading Committee, and the matters that may be so subdelegated:”.

(2) Paragraph (d) of the said section 165D (2) is hereby consequentially amended by omitting the word “Board”, and

substituting the words “Education Authorities, or any Education Authority of the class or classes concerned”.

23. Court of Appeal—(1) Section 174 (2) of the principal Act is hereby amended by repealing paragraph (b) (as amended by section 14 (2) of the Education Amendment Act (No. 2) 1974 and section 83 (13) of the Private Schools Conditional Integration Act 1975), and substituting the following paragraph:

“(b) One person (being a person who is not an employee of the appellant’s employing authority) to be nominated by an organisation approved by the Minister to nominate members in respect of appeals by teachers employed by a class of employing authority to which the appellant’s employing authority belongs.”

(2) Section 174 (4) of the principal Act is hereby amended by omitting the expression “2”, and substituting the expression “3”.

(3) Section 83 (13) of the Private Schools Conditional Integration Act 1975 is hereby consequentially repealed.

(4) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 174 (2) (b) of the principal Act is hereby consequentially repealed.

24. Rights of appeal—The principal Act is hereby amended by repealing section 175, and substituting the following section:

“175. (1) Subject to section 161B of this Act and to subsection (2) of this section, any teacher who has received a notice of dismissal, suspension, or transfer, or of any other decision against which the teacher is entitled to appeal under this Part of this Act, may within 20 working days after receiving the notice, give the Court notice of intention to appeal; and in that case may within 25 working days after receiving the notice appeal to the Court in the prescribed manner.

“(2) No teacher suspended under section 159 of this Act shall have a right of appeal against the suspension unless—

“(a) A period of 10 working days has elapsed since the suspension; and

“(b) No charge has within that time been laid in respect of the matters out of which the suspension arose;—
and in that case the references in subsection (1) of this section to the periods of 20 working days and 25 working days shall be

deemed to be references to the periods of 30 working days and 35 working days.”

25. Decisions of Court—Section 178 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Every appeal under this Part of this Act shall be by way of rehearing; but where any question of fact is involved in an appeal, the evidence taken by the employing authority of the teacher concerned bearing on that question shall be brought before the Court,—

“(a) In the case of evidence given orally, by the production of such notes or other materials as the Court thinks fit; and

“(b) In the case of written evidence or exhibits, by the production of that written evidence or those exhibits.

“(1A) Notwithstanding subsection (1) of this section, the Court may, in its discretion, and shall if the decision concerned was made by the appellant’s employing authority and the appellant so requires, rehear the whole or any part of the evidence.

“(1B) The Court shall have full discretionary power to hear and receive evidence on questions of fact.”

26. Consequential amendments—(1) Section 2 of the principal Act is hereby consequentially amended by repealing the definition of the expression “Teachers Register”, and inserting in their appropriate alphabetical order, the following definitions:

“ ‘Disciplinary Board’ means the Teachers’ Disciplinary Board established by section 158A of this Act:

“ ‘Disciplinary offence’ means a disciplinary offence specified in section 158 (1) of this Act:

“ ‘Employing authority’, in relation to any teacher, means the Education Board, Board of Governors, or other body or person, that controls the kindergarten, school, institute, or college, in which the teacher is employed:

“ ‘Working day’ means a working day within the meaning of the Public Works Act 1981:”.

(2) Section 2 of the principal Act is hereby further amended by inserting in the definition of the term “teacher” (as amended by section 2 (7) of the Education Amendment Act (No. 2) 1974), after the words “specialist training service”, the

words “; and, in sections 157 to 161B of this Act, includes a kindergarten teacher”.

(3) The enactments specified in the first column of the Schedule to this Act are hereby consequentially amended in the manner indicated in the second column of that Schedule.

27. Consequential repeals—The following enactments are hereby consequentially repealed:

- (a) Sections 163 (2) and 166 of the principal Act:
- (b) Section 13 of the Education Amendment Act 1967:
- (c) Sections 6 and 7 of the Education Amendment Act 1969:
- (d) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 156 of the principal Act.

28. Registration and inspection of private schools—

(1) The principal Act is hereby amended by repealing section 186 (as amended by section 14 of the Education Amendment Act (No. 2) 1982), and substituting the following section:

“186. (1) In this section,—

“ ‘Efficient’, in relation to a private school, means—

“(a) Having suitable premises, staffing, equipment, and curriculum; and

“(b) Providing suitably for the inculcation in the minds of students of sentiments of patriotism and loyalty; and

“(c) Affording to students instruction of a standard not lower than that of the instruction afforded to students at—

“(i) State primary schools of the same class, where the school’s managers wish it to be a registered primary school:

“(ii) Secondary schools of the same class, where the school’s managers wish it to be a registered secondary school:

“(iii) Special schools of the same class, where the school’s managers wish it to be a registered special school:

“ ‘Managers’, in relation to a private school, means all the persons who control and manage it, whether or not they have a proprietary interest in it.

“(2) The managers of an unregistered or proposed private school may apply to the Director-General for its provisional

registration as a primary, secondary, or special school, or as a school of 2 or all of those descriptions.

“(3) If, and only if, satisfied that the premises, staffing, equipment, and curriculum of a school in respect of which an application is made under subsection (2) of this section are likely to be satisfactory, the Director-General shall provisionally register the school as a school of the description or descriptions concerned.

“(4) Provisional registration of a school under subsection (3) of this section shall (unless earlier revoked) continue in force for 6 months only and then expire; but its managers may at any time (whether before or after the expiry) apply again under subsection (2) of this section.

“(5) The managers of a private school provisionally registered under subsection (3) of this section as a primary, secondary, or special school, or a school of 2 or all of those descriptions, may apply to the Director-General for its full registration as a school of the description, or all or any of the descriptions, concerned.

“(6) As soon as is practicable after receiving any application under subsection (5) of this section, the Director-General shall cause the school concerned to be inspected by an Inspector.

“(7) If, and only if, satisfied, on the basis of the Inspector’s report, that a school in respect of which an application under subsection (5) of this section has been made is, in relation to registration as a school of any description, efficient, the Director-General shall fully register it as a school of that description.

“(8) The Director-General shall cause to be prepared annually a list specifying—

“(a) The names and locations of all schools registered under this section; and

“(b) In respect of each such school, the description or descriptions of school as which it has been registered; and

“(c) In respect of each such description, whether registration is provisional or full; and

“(d) Where any registration is provisional, the date on which it will expire.

“(9) The Director-General shall cause every registered private school to be inspected by an Inspector at least once every 3 years.

“(10) Where a registered private school has been inspected by an Inspector, the Director-General shall send to its Principal and managers a copy of the Inspector’s report.

“(11) If at any time the Director-General is satisfied that, in relation to registration as a school of a particular description,—

“(a) A registered private school is not efficient; or

“(b) The managers of a registered private school have so prevented or hindered the school’s inspection by an Inspector that it is impossible for the Director-General to be satisfied that the school is efficient,—
the Director-General may cancel the school’s registration as a school of that description.

“(12) Where—

“(a) A private school that is not registered under this section commences operations; or

“(b) A private school whose registration as a school of a particular description has expired under subsection (4) of this section or has been revoked under subsection (11) of this section continues or recommences its operations as a school of that description after the expiry or revocation and before it has again become registered under this section as a school of that description; or

“(c) A private school ceases operations before informing the Director-General of the date of its closure,—
every manager of that school shall be deemed to commit an offence against this Act, and shall be liable on summary conviction to a fine not exceeding \$200 for every day or part of a day upon which the school has continued or, as the case requires, ceased operations.

“(13) Every private school—

“(a) Registered under any former Education Act and so registered immediately before the commencement of this Act; or

“(b) Registered under this section and so registered immediately before the commencement of section 14 of the Education Amendment Act (No. 2) 1982,—

shall be deemed to have been fully registered under subsection (7) of this section, on that commencement, as a school of the description or descriptions assigned to it under section 28 (2) of the Education Amendment Act (No. 2) 1987.

“(14) Every private school on any day registered under the former subsection (13) of this section and so registered immediately before the commencement of the Education Amendment Act (No. 2) 1987 shall be deemed to have been provisionally registered under subsection (3) of this section, on

that day, as a school of the description or descriptions assigned to it under section 28 (2) of the Education Amendment Act (No. 2) 1987.”

(2) As soon as is practicable after the commencement of this Act, the Director-General shall, by notice to its managers, assign to every private school to which subsection (13) or subsection (14) of section 186 of the principal Act (as substituted by subsection (1) of this section) applies one or more of the following descriptions:

- (a) Registered primary school:
- (b) Registered secondary school:
- (c) Registered special school:

(3) Section 14 of the Education Amendment Act (No. 2) 1982 is hereby consequentially repealed.

29. Bursaries, scholarships, etc.—Section 4 (3) of the Education Amendment Act 1979 is hereby amended, as from its commencement, by repealing paragraph (b), and substituting the following paragraph:

- “(b) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 193 of the principal Act:”.

30. Regulations—Section 203 of the principal Act is hereby amended by adding the following subsections:

“(3) Regulations made under this Act relating to the classification of secondary teachers may do all or any of the following things:

- “(a) Establish appeal boards to hear and determine appeals made in respect of the classification, reclassification, or failure or refusal to classify or reclassify secondary teachers:

“(b) Provide for the making of such appeals to such boards, and the manner in which those appeals are to be dealt with and disposed of:

“(c) Declare every such board to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951, and that every member or alternate of any such board is entitled to receive—

“(i) Remuneration by way of fees, salary, or allowances, for the member’s or alternate’s services as a member or alternate of the board; and

“(ii) Payment of travelling allowances or expenses in respect of time spent travelling in the service of the board—

and every such declaration shall have effect according to its tenor.

“(4) Where any regulations made under this Act increase the staffing entitlement of schools or kindergartens (whether directly or by reducing maximum class sizes) those regulations may do either or both of the following things:

“(a) Provide for the increase to be implemented in respect of some schools or kindergartens before it is implemented in respect of others:

“(b) Empower the Minister to direct the implementation of the increase in respect of some schools or kindergartens before its implementation in respect of others.”

31. Validation—Every notice in the *Gazette* constituting the Board of Governors of an integrated secondary school that became an integrated secondary school before the commencement of this Act is hereby deemed to have been published on the day before the school became an integrated secondary school.

SCHEDULE

Section 26 (3)

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Section Amended	Amendment
Section 69B (1) ..	By inserting, after the words "teachers college council" where they first occur, the words " ", any education centre council". By inserting after the words "teachers college council" where they secondly occur, the words " ", education centre council,".
Section 69B (2) ..	By inserting after the words "teachers college council" in both places where they occur, the words " ", any education centre council".
Section 184 ..	By inserting, after the words "teachers colleges" (as inserted by section 6 (1) (a) of the Education Amendment Act 1977), the words "education centres,".
Section 185 (1) ..	By inserting, after the words "teachers college" (as inserted by section 6 (2) of the Education Amendment Act 1977), the words " ", education centre,". By inserting, before the words "or college", in both places where they appear, the word "centre,".
Section 185A ..	By inserting, after the words "Part III of this Act", the words " ", of any education centre council,".
Section 187 ..	By inserting, after the words "Part III of this Act", the words " ", and every education centre council,".

This Act is administered in the Department of Education.
