



ANALYSIS

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1991, No. 90

An Act to amend the Education Act 1989

[8 August 1991]

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) 1991, and shall be read together with and deemed part of the Education Act 1989 (hereinafter referred to as the principal Act).

(2) Except as provided in section 2 (4) of this Act, this Act shall come into force on the day on which it receives the Royal assent.

2. Parent Advocacy Council dissolved—(1) The Parent Advocacy Council established by section 49 (1) of the principal Act is hereby dissolved.

(2) All rights, assets, liabilities, and debts that the said council had immediately before the commencement of this section shall be deemed to have become rights, assets, liabilities, and debts of the Minister of Education.

(3) The following enactments are hereby consequentially repealed:

(a) Part VI of, and the Fourth Schedule to, the principal Act:

(b) Section 14 of the Education Amendment Act 1990.

(4) This section shall come into force on the 1st day of October 1991.

3. Staff—(1) The principal Act is hereby amended by repealing section 65 (as amended by section 16 of the

Education Amendment Act 1990), and substituting the following section:

“65. (1) Subject to subsection (3) of this section, a Board may from time to time, in accordance with the State Sector Act 1988, appoint, suspend, and dismiss staff.

“(2) The Secretary may from time to time, by notice in the *Gazette* (which may apply to a particular school or institution or schools or institutions, or schools or institutions of a particular kind or description) specify—

“(a) A minimum permissible number of teachers; or

“(b) A means of calculating or ascertaining a minimum permissible number of teachers,—

to be employed at schools and institutions administered by Boards.

“(3) Every Board shall take all reasonable steps to ensure that the number of teachers employed at any school or institution it administers does not drop below the minimum number for the time being prescribed for it under subsection (2) of this section.”

(2) The following provisions are hereby repealed:

(a) Paragraphs (e) and (f) of section 137 (as added by section 27 of the Education Amendment Act 1990), and subsections (2) to (4) of section 139, of the principal Act:

(b) Section 315 of the principal Act (as enacted by section 49 of the Education Amendment Act 1990):

(c) Sections 16 and 27 of the Education Amendment Act 1990.

4. Boards may borrow money—(1) Section 67 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 18 (1) of the Education Amendment Act 1990), and substituting the following subsections:

“(1AA) For the purposes of subsection (1) of this section, the Minister may, after consultation with the Minister of Finance, by notice in the *Gazette* specify an annual cost, or a means of calculating or ascertaining an annual cost.

“(1AB) A notice may be expressed to apply to all Boards, Boards of a specified kind or description, or a specified Board or Boards.

“(1) Without the consent of the Minister, a Board may in any year borrow any sum denominated in New Zealand dollars from any source it thinks fit, if the effect of borrowing the sum would be that the total annual cost to the Board of repaying all

outstanding borrowings (including both principal and interest repayments) would not be greater than the annual cost, or (as the case may be) the annual cost calculated or ascertained by a means, specified in a notice under subsection (1AA) of this section then applying to the Board.”

(2) Section 18 (1) of the Education Amendment Act 1990 is hereby consequentially repealed.

5. Grants for Boards—(1) The principal Act is hereby amended by repealing sections 79 (as amended by section 13 (1) of the Education Amendment Act 1989), 80, and 81 (as amended by section 13 (2) of the Education Amendment Act 1989), and substituting the following section:

“79. (1) Subject to subsection (2) of this section, in each financial year, a Board shall be paid, out of public money appropriated by Parliament for the purpose, such grants, of such amounts, as the Minister determines.

“(2) In determining the amount of any grant, the Minister shall take no account of foreign students (other than students exempted under section 4A (1) of this Act) enrolled or likely to be enrolled at any school or institution the Board concerned administers.”

(2) Section 4A (6) of the principal Act (as inserted by section 5 (1) of the Education Amendment Act 1989) is hereby consequentially amended by omitting the words “a Board’s operational activities grant for”, and substituting the words “any grant for a Board in respect of”.

(3) Section 13 of the Education Amendment Act 1989 is hereby consequentially repealed.

6. Transitional arrangements for payment of teacher salaries—(1) Section 91 of the principal Act (as substituted by section 22 of the Education Amendment Act 1990) is hereby amended by adding to subsection (1) the words “at schools to which this section applies”.

(2) Subsection (4) of the said section 91 is hereby amended—

(a) By omitting from paragraph (a) the words “teacher salaries grant”, and substituting the words “grant in respect of the salaries of teachers employed at a school to which this section applies”; and

(b) By inserting in paragraph (b), after the word “Boards”, the words “at schools to which this section applies and institutions”; and

(c) By inserting in paragraph (c), after the word “schools” where it last occurs, the words “to which this section applies”; and

(d) By inserting in paragraph (d), after the word “school” where it first occurs, the words “to which this section applies”.

(3) The said subsection (4) is hereby further amended by repealing paragraphs (e) and (f), and substituting the following paragraph:

“(e) In determining for the purposes of section 79 of this Act the amount of any grant for any year of a school or institution, the Minister—

“(i) Shall have regard to the extent (if any) to which, in respect of any periods during any earlier year, the Secretary paid to teachers at the school or institution total amounts greater than the amounts that would have been payable in respect of those periods if the school had during those periods been staffed in accordance with a notice under paragraph (c) of this subsection applicable to that school or institution; and

“(ii) May determine for the grant an amount that is (to that extent or some lesser extent) less than it would otherwise have been.”

(4) The said section 91 is hereby further amended by repealing subsections (5) to (10), and substituting the following subsections:

“(5) Notwithstanding subsection (2) of section 65 of this Act, at a time during the period described in subsection (1) of this section (as from time to time extended) no notice under that subsection has any effect in relation to a school to which this section then applies or to any institution.

“(6) The Minister and a Board may agree in writing that this section should not apply to a school administered by the Board while the agreement is in force; and while any such agreement is in force, this section does not apply to the school to which it relates.

“(7) Except as provided in subsection (6) of this section, this section applies to all schools and institutions administered by Boards.

“(8) An agreement under subsection (6) of this section, may provide that—

“(a) Specified employees of the Board concerned; or

“(b) Holders of specified positions at the school concerned,—

should continue to be paid directly by the Secretary; and in that case, while the agreement is in force, the salaries of those employees or (as the case may be) the holders of those positions shall be paid as if this section applies to the school.

“(9) No Board shall pay all or any part of the salary of a teacher in respect of employment at a school it administers during any period during which this section continuously applies or applied to the school except—

“(a) With the Minister’s consent; and

“(b) In accordance with any conditions subject to which the consent was given.”

This Act is administered in the Ministry of Education.
