



ANALYSIS

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1981, No. 3

An Act to consolidate and amend the Music Teachers Registration Act 1928, and to make better provision for the registration and control of music teachers and the advancement of music teaching

[9 July 1981]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Music Teachers Act 1981.

(2) This Act shall come into force on the 1st day of January 1982.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Board” or “Registration Board” means the Music Teachers Registration Board:

“Council” means the Council of the Institute:

“Director-General” means the Director-General of Education appointed under the Education Act 1964:

“Federation” means the Federation of Societies of Registered Music Teachers of New Zealand (Incorporated) a society incorporated immediately before the passing of this Act under the Incorporated Societies Act 1908:

“Institute” means the Institute of Registered Music Teachers of New Zealand:

“Minister” means the Minister of Education:

“Registered” means registered under this Act, and “registration” has a corresponding meaning:

PART I

INSTITUTE OF REGISTERED MUSIC TEACHERS OF NEW ZEALAND

3. Constitution of Institute of Registered Music Teachers of New Zealand—(1) There is hereby constituted an Institute, to be called the Institute of Registered Music Teachers of New Zealand.

(2) The members of the Institute shall be such persons as are for the time being registered as music teachers under this Act, and such other persons as are members in accordance with the rules of the Institute.

(3) The Institute shall be a body corporate with perpetual succession and a common seal, and with power to sue and be sued and to hold real and personal property and to do and suffer all that bodies corporate may do and suffer.

4. Purposes of Institute—The purposes of the Institute shall be—

(a) To promote the general advancement of music teaching, and the acquisition and dissemination of knowledge and skills connected with music teaching:

- (b) To protect the interests of music teachers in New Zealand:
- (c) To protect and promote the interests of the public in relation to music teaching:
- (d) To hold conferences on music teaching and related subjects:
- (e) To publish a year book, giving an account of the proceedings of the Institute, the names of persons currently registered under this Act, and such other matters as may be of interest to members of the Institute:
- (f) To grant prizes, scholarships, and financial or other assistance to any person or organisation that may further the aims of the Institute:
- (g) To administer the fund known as the Helen Macgregor Tizard Benevolent Fund, previously administered by the Music Teachers Registration Board of New Zealand.

5. Council of Institute—(1) The ordinary business of the Institute shall be conducted by a Council, whose members shall be elected or appointed in accordance with the rules of the Institute.

(2) The rules of the institute may authorise the Council to delegate to a committee or committees such of its powers as the rules may prescribe, or such of its powers as it may elect to so delegate.

(3) The Council shall ensure that proper minutes of its proceedings are kept.

6. Registrar—The Council shall appoint a Registrar who shall act as Registrar of the Institute and of the Board.

7. Powers of Institute—The Institute may—

- (a) Acquire, lease, sell, exchange, or mortgage, for the purposes of the Institute, any real or personal property:
- (b) Borrow money for such of the purposes of the Institute as the Council considers desirable:
- (c) Invest any money in any investment for the time being authorised as a trustee investment by or under section 4 of the Trustee Act 1956:
- (d) Do all things that are reasonably necessary to carry out the purposes of the Institute.

8. Contracts of Institute—Contracts on behalf of the Institute may be made as follows:

- (a) A contract that, if made by private persons would be required by law to be by deed, may be made on behalf of the Institute in writing under the common seal of the Institute:
- (b) A contract that, if made between private persons would be required by law to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Institute in writing signed by any person acting under its authority:
- (c) A contract that, if made between private persons would by law be valid although made orally and not put into writing, may be made orally on behalf of the Institute by any person acting under its authority.

9. Rules of Institute—(1) The Institute may make, amend, and rescind rules in accordance with section 10 of this Act, and not inconsistent with the provisions of this Act, relating to any of the following matters:

- (a) The constitution of the Institute:
- (b) The admission of members of the Institute, and the circumstances under which persons shall cease to be members of the Institute:
- (c) The constitution of the Council:
- (d) The election, tenure of office, qualifications, and disqualification, of members of the Council and office holders of the Institute:
- (e) The powers, duties, and functions of the Council and of the office holders, Registrar, and other employees of the Institute:
- (f) The establishment of branches of the Institute, the establishment of branch committees, the definition of the functions, powers, and duties of branch committees, and the rules governing their proceedings:
- (g) The holding of meetings of the Council and of the members of the Institute:
- (h) The manner of voting at any meeting of the Council, or of the members of the Institute, and at any election:
- (i) The use and custody of the common seal of the Institute:

- (j) The classification of members of the Institute and the voting rights of the members in each classification:
- (k) The custody, investment, and expenditure of the funds and property of the Institute:
- (l) The establishment of scholarships and prizes:
- (m) The appointment and removal of members of the Registration Board:
- (n) The procedure of the Registration Board:
- (o) The regulation and good government of the Institute in all matters within its powers.

(2) In making any rules under subsection (1) (f) of this section the Institute may make rules permitting any branch to charge an annual membership fee not exceeding such amount as shall be stated in those rules.

10. Procedure for making, altering, and rescinding rules—

(1) No rule of the Institute shall be made, altered, or rescinded otherwise than in accordance with this section.

(2) No rule shall be made, amended, or rescinded unless notice in writing of the proposed rule, or amendment, or rescission of the rule, has been given at a previous general meeting, or has been forwarded to the Registrar at least 70 clear days before the date of the meeting at which the proposed rule, amendment, or rescission is to be brought forward.

(3) On receipt of a notice given in accordance with subsection (2) of this section, the Registrar shall forthwith send a copy to every member of the Institute.

(4) No rule shall be made, amended, or rescinded unless the rule, or the amendment or rescission of the rule has been approved by a general meeting at which at least 30 members are present and not less than 75 percent of the members present vote in favour of the making, amendment or rescission of the rule.

(5) Nothing in this section or section 9 of this Act shall be construed as affecting or limiting any provision of the Commerce Act 1975, or the exercise of any power under that Act.

11. Proof of rules—In any proceedings the production of any document purporting to be a copy of any rules made by the Institute and to be sealed with the seal of the Institute shall, until the contrary is proved, be sufficient proof that those rules have been duly made and are then in force.

12. Fees—(1) The Institute shall in each year, at its annual general meeting or at a special general meeting, set the fees for—

- (a) Applications for registration; and
- (b) Annual registration; and
- (c) Membership of all or any of the classifications of membership of the Institute by persons who are not registered.

(2) Where any annual registration fee is set pursuant to subsection (1) of this section, that fee shall take effect from the 1st day of April next following the date on which it is set.

(3) No fee for membership of the Institute, other than a fee set under section 9 of this Act for membership of a branch of the Institute, shall be payable by any person in respect of any period during which he is registered and has paid the annual registration fee fixed under subsection (1) of this section.

13. Registered office of Institute and Board—(1) The Institute and Board shall at all times have a registered office, and notice of its situation and of any change in its situation shall be given by the Council to the Registrar of Companies at Wellington and shall be registered by him.

(2) All writs, notices, or other documents required or authorised to be served on or delivered or sent to the Institute, Council, or Board shall be deemed to be duly served, delivered, or sent if left at the registered office.

PART II

REGISTRATION OF MUSIC TEACHERS

Registration Board

14. Music Teachers Registration Board constituted—

(1) There is hereby constituted a Board to be known as the Music Teachers Registration Board.

(2) The Board shall consist of 6 persons, of whom 1 shall be appointed by the Minister and 5 shall be appointed by the Council in accordance with the rules of the Institute.

(3) Every member appointed by the Council shall be a member of the Council.

(4) Every member shall hold office for a term of 3 years, and shall be eligible for reappointment from time to time.

(5) The member appointed by the Minister may be removed from office at any time by the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister, or may at any time resign his office by notice in writing to the Registrar.

(6) Any member appointed by the Council may be removed from office in accordance with the rules of the Institute or may at any time resign his office by notice in writing to the Registrar.

(7) If any member of the Board dies or resigns or is removed from office,—

(a) The vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made; and

(b) The person appointed to fill the vacancy shall be appointed for the residue of the term for which his predecessor was appointed.

(8) Unless he sooner vacates his office in accordance with subsection (5) or subsection (6) of this section, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

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

15. Functions of Board—The functions of the Board shall be—

(a) To determine the categories of registration:

(b) To receive and consider applications for registration:

(c) To direct registration where the conditions of registration have been complied with:

(d) To direct, in accordance with section 24 of this Act, that the name of any person shall be removed from the register:

(e) To exercise such other functions as may be conferred upon it by this Act.

16. Chairman—(1) At its first meeting in 1982, and thereafter as necessary, the Board shall elect one of its members to be its chairman for a term of 3 years.

(2) Every person elected as chairman, unless he sooner resigns that office or vacates his office as a member of the Board, shall hold office until his successor is elected under this section, and shall be eligible for re-election.

(3) If any person who is for the time being holding office as chairman of the Board vacates office as a member of the Board, an election to fill the vacancy in the office of chairman shall be held at the first meeting of the Board held after the vacancy on the Board has been filled.

(4) Where the office of chairman becomes vacant in any other case, the Board shall, as soon as practicable, elect one of its members to fill that vacancy.

17. Meetings of Board—(1) The first meeting of the Board shall be held at such time and place as the Council shall appoint.

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

(3) At any meeting of the Board 4 members shall form a quorum.

(4) Every question before the Board shall be determined by a majority of the votes of the members present at the meeting of the Board.

(5) The presiding member shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(6) The chairman shall preside at all meetings of the Board at which he is present.

(7) If the chairman is absent from any meeting, the members present shall elect one of their number to be chairman for that meeting.

(8) Subject to this Act and to any rules made under section 9 of this Act, the Board may regulate its procedure in such manner as it thinks fit.

18. Qualifications for registration—(1) No person shall be registered under this Act unless he has attained the age of 20 years, and satisfies the Board that he is of good character.

(2) Subject to subsection (1) of this section, every person shall be entitled to be registered as a music teacher who—

(a) Immediately before the commencement of this Act was registered as a music teacher under the Music Teachers Registration Act 1928; or

(b) Satisfies the Board that he is competent to teach in each category of music for which he is applying to be registered; or

(c) Obtains an order of a District Court under section 26 of this Act directing that he shall be registered.

19. Application for registration—Every application for registration shall—

- (a) Be made in writing addressed to the Registrar; and
- (b) Contain a postal address for communications from the Board; and
- (c) Set out the grounds on which the applicant claims to be entitled to registration; and
- (d) Set out the category or categories of musical study or performance in respect of which the applicant wishes to be registered; and
- (e) Be accompanied by the prescribed application fee and the annual subscription fee for that year.

20. Categories of registration—(1) In directing the registration of any person, the Board shall direct that the person be registered as a teacher of any 1 or more categories of musical study or performance.

(2) The Board shall, on being satisfied that the registration of any person should be extended to any other categories of musical study or performance, direct that the registration be so extended.

21. Application for registration to be application for membership of Institute—(1) Every application for registration shall also constitute an application for membership of the Institute.

(2) Upon registration of any person, the Registrar shall forward the name and qualifications of that person to the Council for classification as a member of the Institute.

22. Certificate of registration—The Registrar shall, on request by any person registered under this Act, send that person a certificate of his registration showing each category of musical study or performance in respect of which he is registered.

23. Register of music teachers—(1) The Registrar shall maintain a register containing the following particulars in respect of every person registered—

- (a) His name and postal address:
- (b) The categories in respect of which he is registered:
- (c) His relevant qualifications:
- (d) Such other particulars as the Board may direct.

(2) The register shall be available for inspection without fee at all reasonable times at the registered office.

24. Removal of name from register—(1) The Board shall direct the Registrar to remove from the register the name of any person who has died, or has been registered in error, or has requested in writing that his name be so removed.

(2) Subject to subsection (3) of this section, if the Board is satisfied that any person registered—

(a) Has been convicted of an offence punishable by imprisonment that the Board believes on reasonable grounds renders the person unfit to be a music teacher; or

(b) Has been guilty of misconduct related to the practice of music teaching,—

the Board may, after giving the person reasonable opportunity to appear before the Board and be heard, direct that the name of that person be removed from the register.

(3) The Board shall not act under subsection (2) of this section in respect of any offence committed by any person before the date of his registration, if at that date the Board or the Institute was aware of his conviction in respect of the offence.

(4) The Board may direct, either generally or in any specific case, that the name of any person shall be removed from the register if, being in arrears for more than 3 months in respect of the payment of his annual registration fee, that person does not pay that fee within 1 month after the Registrar has posted to him, at the address stated in his application for registration (or such other current address as he may have given in substitution for that address), a notice demanding payment of that fee.

25. Re-registration—(1) Subject to subsection (2) of this section, the Board may at any time direct that the name of any person that has been removed from the register shall, on payment of the annual registration fee, be restored to the register.

(2) Where the name of any person has been removed from the register pursuant to a direction made under section 24 (4) of this Act, the name of that person shall not be restored to the register until a further application fee has been paid by that person.

26. Appeals—(1) Any person who is dissatisfied with any direction of the Board relating to his registration or non-registration or the removal of his name from the register,

other than a decision made pursuant to section 24 (4) of this Act, may, within 1 month after notice of such direction has been given to him by the Registrar, appeal to a District Court against that direction.

(2) The decision of a District Court Judge on any such appeal shall be final and binding on the appellant and the Board.

PART III

MISCELLANEOUS PROVISIONS

27. Application of fees and other income of Board and Institute—(1) All fees and other money received by the Registrar on behalf of the Institute or the Board shall be paid into such bank account as the Council shall determine.

(2) All such money so received may be expended by the Institute or the Board only in the exercise of their functions and powers under this Act.

(3) The Institute shall, at each annual general meeting, appoint an auditor or auditors to audit the accounts of the Institute and the Board.

(4) The auditor or auditors shall hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.

28. Dissolution of Federation—(1) The Federation is hereby dissolved.

(2) Notwithstanding anything in the Incorporated Societies Act 1908 or the rules of the Federation, the assets, liabilities, and rights of the Federation shall vest, in accordance with section 29 of this Act, in the Institute.

29. Assets, liabilities, and rights of Federation and former Board—(1) All real and personal property that, immediately before the commencement of this Act, was vested in the Federation or the Music Teachers Registration Board established under section 3 of the Music Teachers Registration Act 1928 (in this section referred to as "the former Board") shall on that date vest in the Institute subject to all charges and trusts affecting that property.

(2) All liabilities, contracts, and engagements, and all rights and authorities of any nature whatever, of the Federation or the former Board shall, on that date, become liabilities, contracts, engagements, rights, and authorities of the Institute.

(3) All proceedings pending by or against the Federation or the former Board may be carried on, completed, and enforced by or against the Institute.

(4) All money that was or would have been payable to the Federation or the former Board shall become payable to the Institute.

(5) Subject to subsection (7) of this section, the District Land Registrar, on receiving a written request from the Institute under its seal, incorporating a reference to this section, shall make such entries in his registers and on any outstanding documents of title and generally do all such things as may be necessary to give effect to the provisions of subsection (1) of this section in respect of land and interests in land specified in the request.

(6) All references to the Federation or the former Board in any security or other document whatever which is subsisting immediately before the date of commencement of this section, or in any notice or other communication served, given, or sent before, on, or after that date in relation to any such security or other document shall, unless the context otherwise requires, be read as references to the Institute.

(7) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged, solely by the provisions of this section, to change the name of the Federation or the former Board to that of the Institute in his books or registers or in any document in his charge; but the presentation to any such Registrar or other person of any instrument—

- (a) Executed or purporting to be executed by the Institute; and
- (b) Relating to any property held immediately before the commencement of this section by the Federation or the former Board; and
- (c) Containing a recital that the property has become vested in the Institute by virtue of the provisions of this section—

shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the Institute.

(8) Except as provided in subsections (5) and (7) of this section, nothing in this section shall derogate from the provisions of the Land Transfer Act 1952.

30. Affairs of Institute to be managed temporarily by officers of Federation—Until the Council is first constituted in accordance with the rules of the Institute as first approved

after the commencement of this Act by the Director-General, the affairs of the Institute shall be managed by the persons who immediately before the commencement of this Act were the officers of the Federation and those persons shall, until the constitution of the Council, have all the powers of the Council.

31. Offences—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who—

- (a) Supplies any information to the Board or Registrar in relation to an application for registration knowing that the information is misleading or incorrect; or
- (b) Not being currently registered under this Act, uses or causes to be used or exhibited any certificate, words, titles, or initials that might reasonably cause any other person to believe that he is so registered.

32. Repeals, consequential amendment, and revocations—

(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) The Statutes Amendment Act 1950 is hereby consequentially amended by repealing section 23.

(3) The Music Teachers Registration Regulations 1966 and the Music Teachers Registration Regulations 1966, Amendment No. 3 are hereby revoked.

SCHEDULE

Section 32 (1)

ENACTMENTS REPEALED

- 1928, No. 31—The Music Teachers Registration Act 1928 (1957 Reprint, Vol. 10, p. 605).
- 1953, No. 30—The Music Teachers Registration Amendment Act 1953 (1957 Reprint, Vol. 10, p. 613).
- 1955, No. 74—The Music Teachers Registration Amendment Act 1955 (1957 Reprint, Vol. 10, p. 614).
- 1976, No. 104—The Music Teachers Registration Amendment Act 1976.

This Act is administered in the Department of Education.
