



## ANALYSIS

Title	
1. Short Title and commencement	16. Power to insure members, officers, and servants
2. Interpretation	17. Power to acquire land
<i>Constitution of New Zealand Council for Educational Research</i>	18. Power to sell or exchange land
3. New Zealand Council for Educational Research	19. Power to grant leases
4. Eligibility for membership of Council	20. Power to acquire plant, etc.
5. Disqualification from membership of Council	<i>Electoral College</i>
6. Constitution of Council	21. Electoral college
7. Extraordinary vacancies on Council	<i>Financial Provisions</i>
8. Term of office of members of Council	22. Grants to Council
9. Chairman, Deputy Chairman, and Treasurer	23. Funds and property of Council
10. Meetings of Council	24. Investment of money
11. Passing of resolutions by Council without a meeting	25. Borrowing powers
12. Powers of Council unaffected by informality, etc.	26. Money to be paid into bank
<i>Functions and Powers of Council</i>	27. Council may establish imprest accounts
13. Functions of Council	28. Audit of Council's accounts
14. Powers of Council	29. Exemption from land and income tax
15. Power to appoint officers and servants	30. Remuneration and travelling expenses of members of the Council and of committees
	31. Unauthorised expenditure
	<i>Miscellaneous Provisions</i>
	32. Annual report
	33. Rules
	34. Consequential amendments, savings, and repeals

1972, No. 35

**An Act to consolidate and amend the law relating to the powers and functions of the New Zealand Council for Educational Research**  
[20 October 1972]

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 New Zealand Council for Educational Research Act 1972.

(2) This Act shall come into force on the 1st day of January 1973.

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

“Council” means the New Zealand Council for Educational Research:

“Electoral college” means the electoral college constituted under this Act:

“Financial year” means a period of 12 consecutive months ending with the 31st day of March:

“Minister” means the Minister of Education.

Cf. 1945, No. 26, s. 2

### *Constitution of New Zealand Council for Educational Research*

**3. New Zealand Council for Educational Research**—

(1) For the purposes of this Act, there shall continue to be a body corporate to be known as the New Zealand Council for Educational Research, which shall, subject to this Act, be the same body corporate of the same name as was constituted under the New Zealand Council for Educational Research Act 1945.

(2) The Council shall continue to have perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, of suing and being sued, and of doing and suffering all that bodies corporate may do and suffer.

Cf. 1945, No. 26, s. 3

**4. Eligibility for membership of Council**—Every person having attained the age of 20 years who is not disqualified under section 5 of this Act from appointment as a member of the Council shall be eligible to be appointed as a member of the Council.

Cf. 1945, No. 26, s. 4 (3)

**5. Disqualification from membership of Council**—The following persons shall be disqualified from appointment as members of the Council:

- (a) A mentally disordered person within the meaning of the Mental Health Act 1969;
- (b) A bankrupt who has not obtained his order of discharge or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled;
- (c) A person convicted of any offence punishable by imprisonment, unless he has received a full pardon or has served his sentence or otherwise suffered the penalty imposed upon him;
- (d) An officer or servant of the Council employed by it in a full-time capacity for salary or other remuneration.

**6. Constitution of Council**—(1) The Council shall consist of—

- (a) One member to be appointed by the Governor-General on the recommendation of the Minister;
- (b) Six elective members to be appointed by the Governor-General on election in the prescribed manner by the electoral college.

(2) The Council itself may from time to time if and when it thinks fit appoint not more than 2 additional persons to be members of the Council (hereinafter referred to as co-opted members).

(3) The members of the Council in office on the passing of this Act shall continue to hold office for the term for which they had originally been appointed as though they had been appointed under this Act.

Cf. 1945, No. 26, s. 4

**7. Extraordinary vacancies on Council**—(1) The office of any member of the Council shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy, if the member—

- (a) Dies; or
- (b) Resigns his office by writing under his hand delivered to the Chairman of the Council; or
- (c) Becomes ineligible for appointment as a member of the Council under paragraph (a), paragraph (b), or paragraph (d) of section 5 of this Act; or
- (d) Is absent without leave from 3 consecutive meetings of the Council; or

- (e) Is convicted of any offence punishable by imprisonment for a term of 2 years or more; or
  - (f) Is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence.
- (2) In any case to which paragraph (e) of subsection (1) of this section applies—
- (a) The disqualification shall not take effect until the expiration of the time for appealing against the conviction and, in the event of an appeal against conviction, until the appeal is determined; and
  - (b) The member concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as a member during the period of that leave of absence.
- (3) In any case to which paragraph (f) of subsection (1) of this section applies—
- (a) The disqualification shall not take effect until the expiration of the time for appealing against the conviction or the sentence and, in the event of an appeal against conviction or against the sentence or both, until the appeal is determined; and
  - (b) The member concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as a member during the period of that leave of absence.
- (4) Every extraordinary vacancy on the Council shall be filled as soon as practicable after it occurs by the appointment of a new member in the same manner as the vacating member was appointed, and the member then appointed shall retain office for as long as the vacating member would have retained office if no such vacancy had occurred; but no extraordinary vacancy occurring within 6 months before the date set for the retirement of any other member of the Council need be filled before that date if the Council so resolves; and no extraordinary vacancy created by the death, resignation, or disqualification of any co-opted member need at any time be filled.

Cf. 1945, No. 26, s. 6

**8. Term of office of members of Council—**(1) Unless otherwise provided by this Act, every member of the Council, except a co-opted member, shall be appointed for a term of 4 years, commencing on the 1st day of October in the year of his appointment, and any member may from time to time be reappointed.

(2) Notwithstanding anything in this Act, every member of the Council except a co-opted member shall, unless he sooner vacates his office, continue to hold office until his successor comes into office.

(3) Every co-opted member shall retire on the first date after his appointment on which any other member of the Council goes out of office by reason of effluxion of time, but may be reappointed.

Cf. 1945, No. 26, s. 5

**9. Chairman, Deputy Chairman, and Treasurer—**(1) At the first meeting of the Council held after the 1st day of October in each year the Council shall appoint a Chairman, a Deputy Chairman, and a Treasurer.

(2) Each person appointed as the Chairman, Deputy Chairman, or Treasurer shall, while he continues to be a member of the Council, hold office until the appointment of his successor in accordance with this section, and may be reappointed.

Cf. 1945, No. 26, s. 7

**10. Meetings of Council—**(1) Meetings of the Council shall be held at such times and places as the Council determines.

(2) The Chairman of the Council or any 4 members of the Council may at any time call a special meeting of the Council.

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

(4) Subject to section 11 of this Act, every question before the Council shall be decided at a meeting of the Council by a majority of the valid votes recorded on the question.

(5) The Chairman shall preside at all meetings of the Council at which he is present.

(6) In the absence of the Chairman from any meeting of the Council, the Deputy Chairman, if present, shall preside. In the absence from any meeting of both the Chairman and the Deputy Chairman, the members present shall appoint 1 of their number to be the Chairman of that meeting.

(7) At any meeting of the Council the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

Cf. 1945, No. 26, s. 8

### **11. Passing of resolutions by Council without a meeting—**

(1) Anything that may be done by resolution passed at a meeting of the Council may be done by the Council by means of a resolution signed in accordance with subsection (2) of this section without a meeting or any prior notice being required; but any member of the Council, or his duly appointed deputy, entitled to sign that resolution may by notice in writing to the Chairman of the Council require that the matter be determined at a meeting of the Council, in which case a meeting of the Council to determine the matter shall be held as soon as a meeting can be called.

(2) Every resolution made without a meeting of the Council shall be signed by all the members of the Council who are for the time being in New Zealand and are not incapacitated by disability from attending the meeting.

(3) Every resolution of the Council made without a meeting of the Council shall be deemed to be passed as soon as it is delivered to the Chairman, or if it is constituted by several instruments as soon as all the instruments constituting it have been delivered to the Chairman, who shall note on the resolution or the last received instrument constituting the resolution the date of the passing of the resolution, and shall forthwith notify that date to each member of the Council.

(4) Notwithstanding that for the purposes of making a resolution without a meeting of the Council the signatures of all the members of the Council mentioned in subsection (2) of this section are required to the resolution, it shall be sufficient for the purposes of this section if those signatures are given on separate instruments having the same form and setting forth the same resolution, in which case, those instruments shall together constitute the resolution.

**12. Powers of Council unaffected by informality, etc.—**The powers of the Council shall not be affected by any vacancy in the membership of the Council, nor in consequence of the subsequent discovery of any error or defect in the appointment of any member of the Council, or of the fact that any member of the Council is disqualified or has forfeited his membership.

*Functions and Powers of Council*

**13. Functions of Council—**The functions of the Council shall be—

- (a) To foster the study of, and research into, educational and other like matters, and to prepare and publish such reports on these matters as may in its opinion be necessary or of value to teachers or other persons:
- (b) To furnish information, advice, and assistance to persons and organisations concerned with education and other similar matters.

Cf. 1945, No. 26, s. 9

**14. Powers of Council—**The Council shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions. Without limiting the generality of those powers, the Council may—

- (a) Expend funds for any of the purposes specified in section 13 of this Act, and for any purpose that in the opinion of the Council is ancillary to any of those specified purposes, in such manner as, subject to the terms of any trust or endowment, the Council thinks fit:
- (b) Make grants to any person or persons approved by the Council to assist him or them to make studies or investigations approved by the Council:
- (c) Appoint honorary officers from among its own members:
- (d) Appoint committees of its members and delegate to them such of its functions and powers as it may determine, except this power of delegation:
- (e) Appoint committees of suitable persons who would be eligible for membership of the Council and delegate to those committees such of its functions under section 13 of this Act as it may determine:

- (f) With a view to furthering the functions of the Council, co-operate with any persons, associations, or organisations outside New Zealand having functions similar to the functions of the Council.

Cf. 1945, No. 26, s. 10

**15. Power to appoint officers and servants—**(1) The Council may from time to time appoint, and may determine the appointment of, such officers and servants, including acting, temporary, or casual officers and servants, as it thinks necessary for the efficient exercise of its functions and powers under this Act, and may pay them remuneration and allowances at such rates as it may from time to time determine after consultation with the State Services Commission.

(2) The Council may out of its own funds make payments to subsidise or contribute to the National Provident Fund, or to any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and servants.

Cf. 1945, No. 26, s. 10 (c)

**16. Power to insure members, officers, and servants—**(1) The Council may from time to time enter into contracts of insurance to insure members, officers, and servants of the Council and members of any committee appointed under paragraph (e) of section 14 of this Act against loss from personal accident arising out of and in the course of the exercise of their powers and duties as members of the Council or of a committee so appointed, or, in the case of officers and servants, arising out of and in the course of their employment. The Council may pay the premium payable for those contracts of insurance.

(2) The Council may pay the net proceeds received by it under any such contract of insurance to the person affected or, as the case may require, to his personal representative.

**17. Power to acquire land—**With the approval of the Minister, the Council may, out of its funds, purchase, take on lease or licence, or otherwise acquire such land as in the opinion of the Council is necessary for the performance of its functions.

**18. Power to sell or exchange land**—(1) Subject to subsections (2) and (3) of this section, the Council may with the approval of the Minister sell or exchange any land vested in the Council, and in receiving any land by way of exchange may pay or receive any money by way of equality of exchange.

(2) Nothing in this section shall authorise the sale or exchange of any land granted by the Crown or under any Act as an endowment to the Council.

(3) The powers of selling or exchanging land which are conferred on the Council by this section in so far as they extend to land held in trust for any special purpose do so notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the same or similar trusts, so far as may be, as the land so disposed of.

**19. Power to grant leases**—The Council may grant leases of any land vested in the Council for such period or periods at such rent and generally on such terms and conditions as the Council considers advisable or expedient; but no lease shall be granted for a period, or periods in the aggregate, exceeding 10 years unless the consent in writing of the Minister has been previously given.

**20. Power to acquire plant, etc.**—The Council may, out of its funds, purchase, take on lease, hire, or otherwise acquire such plant, machinery, and equipment as in the opinion of the Council are necessary for the performance of its functions.

#### *Electoral College*

**21. Electoral college**—(1) For the purposes of this Act there shall be an electoral college which shall comprise all persons whose names are enrolled on an electoral roll to be compiled and kept by such officer of the Council in such form and in such manner as may be prescribed by rules under this Act.

(2) The following persons shall be entitled to have their names enrolled on the roll of the electoral college:

- (a) Each chairman or head of a department or school of education of a university in New Zealand:
- (b) Every principal of a State teachers college in New Zealand:

- (c) The principals of such technical institutes, being not more than 8 in number, as are nominated by the executive committee of the Technical Institutes Association of New Zealand:
- (d) Five officers of the Department of Education nominated by the Director-General of Education:
- (e) Every person who is the author or 1 of the authors of any volume published by the New Zealand Council for Educational Research in its "Research" series, "Studies in Education" series, or "Test" series:
- (f) One person nominated by the University Grants Committee:
- (g) One person nominated by the Senate or Professorial Board of each university in New Zealand:
- (h) Six persons nominated by the executive committee of the New Zealand Educational Institute (Registered):
- (i) Six persons nominated by the executive committee of the New Zealand Post-Primary Teachers' Association (Registered):
- (j) One person nominated by the executive committee of the Association of University Teachers of New Zealand:
- (k) One person nominated by the executive committee of the Association of Teachers in Technical Institutes (Incorporated):
- (l) One person nominated by the executive committee of the New Zealand Teachers' College Association:
- (m) Three persons nominated by each local institute that may be established pursuant to paragraph (f) of section 33 of this Act:
- (n) Three persons nominated by the executive committee of the New Zealand Education Boards' Association (Incorporated):
- (o) Three persons nominated by the executive committee of the Technical Institutes Association of New Zealand:
- (p) Three persons nominated by the Association of the Heads of Independent Schools of New Zealand (Incorporated):
- (q) Three persons nominated by the executive committee of the Secondary School Boards Association:

- (r) Two persons nominated by the National Council for Adult Education:
  - (s) Two persons nominated by any body or bodies that may be recognised by the Council as representing pre-school educational services:
  - (t) One person nominated by any body that may be recognised by the Council as representing the teachers employed in registered private primary schools:
  - (u) One person nominated by any body or bodies that may be recognised by the Council as representing the controlling authorities of registered private schools.
- (3) The electoral roll shall be conclusive evidence that any person whose name appears on it is a duly qualified member of the electoral college.
- (4) No person shall have more than 1 vote in any election by virtue of his being severally qualified to have his name enrolled on the electoral roll.
- (5) The nominated members of the electoral college shall be enrolled for a term of 2 years, but may from time to time be renominated.
- (6) Any nominated member may at any time resign his office by writing addressed to the Council. In that case, and in the case of a vacancy caused by the death of a nominated member, the vacancy shall, as soon as practicable after the resignation or death, be filled by the authority that nominated the member whose office has become vacant. The person nominated to fill the vacancy shall hold office only for the remainder of the term for which his predecessor in office was appointed.

Cf. 1945, No. 26, s. 12

#### *Financial Provisions*

**22. Grants to Council**—For the purpose of providing funds for the exercise of the functions of the Council,—

- (a) The Minister of Finance shall in each financial year pay to the Council, out of money appropriated by Parliament for the purpose, such sum as the Minister of Finance may approve:
- (b) Any education board, and the governing body of any secondary school, technical institute, or teachers college, may in any financial year, with the prior approval of the Minister, make a grant to the Council out of its general funds of such amount as it thinks fit:

- (c) Any university, local authority, or public body may from time to time make grants out of its general funds to the Council of such amounts as it thinks fit.

Cf. 1945, No. 26, ss. 14, 15

**23. Funds and property of Council**—The funds and property of the Council shall consist of—

- (a) All money paid to the Council out of money appropriated by Parliament for the purpose:
- (b) All money paid to the Council by way of grants, subsidies, donations, gifts, fees, subscriptions, royalties, rent, and interest:
- (c) All money derived from the sale of any property held by or on behalf of the Council:
- (d) All other money and property lawfully received by the Council:
- (e) All accumulations of income derived from any such property or money.

**24. Investment of money**—Subject to the terms of any trust or endowment, any money belonging to the Council and available for investment may be invested in any manner in which trustees are for the time being authorised to invest trust funds.

Cf. 1945, No. 26, s. 18

**25. Borrowing powers**—With the prior consent in writing of the Minister of Finance, the Council may borrow money from the Crown, from any local authority or public body, or from any person; and, for the purpose of securing that money, may mortgage, charge, or pledge any right, title, estate, or interest in any of its property.

Cf. 1945, No. 26, s. 17

**26. Money to be paid into bank**—(1) The Council may maintain and open from time to time at any branch or agency of the Bank of New Zealand (whether in New Zealand or elsewhere) such accounts as it may deem necessary.

(2) All money amounting to \$20 or more received or held by the Council shall, as soon as practicable, be paid into the appropriate bank account.

(3) No money shall be drawn out of the bank except by authority of the Council. All cheques on the account of the Council shall be signed by the Treasurer or other officer of the Council appointed for the purpose, and countersigned by a member, or an officer, authorised by the Council from time to time to countersign cheques.

Cf. 1945, No. 26, s. 16

**27. Council may establish imprest accounts—**(1) For the purposes of paying salaries, wages, and such other expenditure as the Audit Office may approve, the Council may, if it so resolves, establish and maintain any imprest account to be kept at a branch or agency of the Bank of New Zealand.

(2) Each imprest account shall be held jointly in the names of, and be operated by, 2 responsible persons to be appointed in that behalf by the Council, or, with the express approval in writing of the Audit Office, shall be in the sole name of, and be operated by, the Treasurer or other approved officer of the Council. At each ordinary meeting of the Council a statement of all payments from each imprest account that have not been approved by the Council at any previous meeting shall be submitted to the Council for its approval by that person or those persons in whose name or names the account stands.

(3) The Council shall from time to time by resolution fix the maximum amount not exceeding such amount as the Audit Office may from time to time approve, to be held at any time in each imprest account.

(4) The payment of money out of any imprest account for any purpose not authorised under this section shall be deemed to be a misappropriation of the funds of the Council.

**28. Audit of Council's accounts—**(1) The Council shall keep full and correct accounts of all money received and spent by it. The accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act 1953 in respect of public money and the audit of local authorities' accounts.

(2) As soon as practicable after the end of each financial year, the Council shall cause the accounts of the Council for that financial year to be balanced and shall prepare a

balance sheet as at the end of the financial year together with an account of income and expenditure showing the financial transactions for that year, which it shall submit to the Audit Office.

Cf. 1945, No. 26, s. 19

**29. Exemption from land and income tax—**(1) All land owned by the Council shall be exempt from land tax.

(2) The Council is hereby declared to be exempt from the payment of income tax.

**30. Remuneration and travelling expenses of members of the Council and of committees—**(1) The Council and any committee appointed by the Council under section 14 of this Act are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

(2) The Council shall pay to its members and to the members of any committee appointed under section 14 of this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Cf. 1945, No. 26, s. 22

**31. Unauthorised expenditure—**The Council may in any financial year out of its income available for general purposes expend for purposes not authorised by this or any other Act for the time being in force any sum or sums not amounting in the aggregate to more than \$100 or such other amount as may be prescribed by regulations made under this Act.

Cf. 1945, No. 26, s. 11

#### *Miscellaneous Provisions*

**32. Annual report—**(1) The Council shall, as soon as practicable after the end of each financial year, provide the Minister with a report of its proceedings and operations for the preceding financial year.

(2) The annual report shall contain the balance sheet of the Board as at the end of the financial year, together with an account of income and expenditure showing the financial transactions for that year, and shall also contain the report of the Audit Office on the balance sheet and account.

(3) A copy of the annual report shall, after its receipt by the Minister, be laid before Parliament as soon as practicable.

Cf. 1945, No. 26, s. 20

**33. Rules—**(1) The Council may from time to time, by resolution, make rules not inconsistent with this Act for all or any of the following purposes:

- (a) Regulating the proceedings of the Council and the conduct of its meetings:
- (b) Prescribing the method of election of members of the Council and matters incidental thereto:
- (c) Prescribing the form and manner of compiling and keeping the electoral roll of the electoral college:
- (d) Providing for the custody of the property and funds of the Council, and the custody and use of the common seal of the Council:
- (e) Prescribing the duties of officers and other servants of the Council:
- (f) Providing for the establishment of local branches, to be known as institutes, to further the work of the Council, and prescribing such other matters as may be necessary for the efficient functioning of the institutes:
- (g) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Council.

(2) Subject to section 11 of this Act, notice of every resolution proposed to be submitted to any meeting for the making, amendment, or revocation of any rule shall be given to every member of the Council not less than 14 clear days before the day fixed for the meeting.

Cf. 1945, No. 26, s. 23

**34. Consequential amendments, savings, and repeals—**

(1) Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The New Zealand Council for Educational Research

1972, No. 35—

The New Zealand Council for Educational Research Act 1972.”

(2) Part II of the First Schedule to the Local Authorities (Members' Interests) Act 1968 is hereby amended by omitting so much of that Part as relates to the New Zealand Council for Educational Research, and substituting the following item:

<p>“The New Zealand Council for Educational Research</p>		<p>1972, No. 35— The New Zealand Council for Educational Research Act 1972.”</p>
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(3) Section 73 of the Estate and Gift Duties Act 1968 (as amended by section 6 (1) of the Estate and Gift Duties Amendment Act 1971) is hereby further amended by adding to subsection (2) the following paragraph:

“(h) Any gift to the New Zealand Council for Educational Research for the purposes of the New Zealand Council for Educational Research Act 1972.”

(4) Section 13 of the Stamp and Cheque Duties Act 1971 is hereby amended by inserting in subsection (1), after paragraph (c), the following paragraph:

“(ca) The New Zealand Council for Educational Research for the purposes of the New Zealand Council for Educational Research Act 1972; or”

(5) Section 14 of the Stamp and Cheque Duties Act 1971 is hereby amended by inserting in subsection (1), after paragraph (c), the following paragraph:

“(ca) The New Zealand Council for Educational Research for the purposes of the New Zealand Council for Educational Research Act 1972; or”

(6) The New Zealand Council for Educational Research Act 1945 is hereby repealed.

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This Act is administered in the Department of Education.

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