



Education (2004 Intermediate School Staffing) Order 2003

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 11th day of August 2003

Present:

Her Excellency the Governor-General in Council

Pursuant to section 91H(1) of the Education Act 1989, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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Order

1 Title

This order is the Education (2004 Intermediate School Staffing) Order 2003.

2 Commencement

This order comes into force on 11 September 2003.

3 Application

This order applies only to state intermediate schools, and only to the 2004 school year.

Part 1 Preliminary

4 Interpretation

(1) In this order, unless the context otherwise requires,—

Act means the Education Act 1989

beginning teacher, at any time, means a teacher who,—

(a) at that time, has completed less than 12 months' teaching; and

- (b) at that time, holds a teaching position to which the teacher was appointed for a period of at least 10 weeks; and
- (c) before taking up that position, had completed a course of teacher training recognised by the Secretary for the purposes of this order

Board, in relation to a school, means the school's Board

confirmed March roll, in relation to a school, means the number of students on the March roll of the school as—

- (a) notified by the Secretary under clause 9 or clause 10(2); or
- (b) confirmed by the Secretary under clause 10(1)(b)

FTTE means full-time teacher equivalent

intermediate school has the same meaning as in section 145(1) of the Act

Maori-medium roll, in relation to a school, means the number of the school's Maori-medium students

Maori-medium student, in relation to a school, means a student of the school—

- (a) who is Maori; and
- (b) for whom the curriculum is taught in Maori for more than 12.5 and up to 25 hours per week

March roll, in relation to a school, means the sum of the number of full-time year 7 and year 8 students enrolled at the school as at 1 March 2004

non-Maori-medium roll, in relation to a school, means the number of the school's students left after the school's Maori-medium roll has been subtracted from its staffing roll (as determined under clauses 7 and 9)

other regular teacher means a regular teacher who is not a permanently appointed regular teacher

primary institution means an institution that is a primary school or an intermediate school (within the meanings in section 145(1) of the Act)

principal, in relation to a primary institution, means the institution's principal; and, in relation to a student who enrolls at a primary institution at any time, means the institution's principal at that time

provisional March roll, in relation to a school, means the number of students on the March roll of the school as estimated by the Secretary under clause 7(1)(a)

regular teacher means a teacher who is not a relieving teacher (within the meaning of section 91A(1) of the Act)

resource teacher means a teacher who provides specialist advice, guidance, and support to students, teachers, or both, whether at the teacher's school or at other schools

restricted composite school means an intermediate school that the Minister has authorised to enrol students up to, and including, year 10

salary unit, in relation to the holder of a teaching position at a school, means an entitlement to a salary element in addition to the salary otherwise payable to the holder, allocated to the holder by the Board

special education list or **list** means a list of special education students approved by the Secretary under the ongoing and reviewable resourcing schemes administered by the Ministry

special education student with high needs means a student who has been classified by the Secretary as having high needs

special education student with very high needs means a student who has been classified by the Secretary as having very high needs

teacher includes a principal and any deputy or assistant principal (however described).

- (2) In this order, unless the context otherwise requires, terms defined by section 91A(1) of the Act have the meanings given to them by that section.
- (3) A school's roll comprises all the students enrolled at the school, including Maori-medium students and special education students.
- (4) For the purposes of this order,—
 - (a) the employment of a teacher on the basis of employment for 10 half-days every full week is the employment of 1 FTTE:
 - (b) the employment of a teacher on the basis of employment for a specified number (smaller than 10) of half-days every full week is the employment of one-tenth of that number of FTTEs:

- (c) the employment of a teacher on the basis of employment for a specified number (smaller than 20) of half-days every full fortnight is the employment of one-twentieth of that number of FTTEs:
- (d) the employment of a teacher on the basis of employment for a specified number of teaching hours (or an average of that number of teaching hours) every full week is the employment of one twenty-fifth of that number of FTTEs.

5 Years of schooling

- (1) A student who first enrolls at a primary institution before the age of 7 and who is subsequently educated at primary institutions without substantial interruption—
 - (a) is a year 7 student in the year in which the student first enrolls at an intermediate school; and
 - (b) in every subsequent year, is a student of a year 1 greater than the year before.
- (2) A student to whom subsection (1) does not apply is a student of the year that, in the principal's opinion, is—
 - (a) most appropriate for a student of that student's maturity, and educational and intellectual achievements; and
 - (b) in every subsequent year, a student of a year 1 greater than the year before.

Part 2 Rolls

6 Boards must estimate likely rolls as at 1 March 2004.

As soon as practicable after the commencement of this order, the Board of every school must give the Secretary, on a form provided by the Secretary for the purpose, written notice of—

- (a) the school's likely March roll (in the Board's opinion); and
- (b) the school's likely Maori-medium roll (in the Board's opinion) as at 1 March 2004.

7 Secretary must estimate provisional March roll, Maori-medium roll, and special education list

- (1) As soon as practicable after the commencement of this order, the Secretary must—

- (a) estimate the March roll of every school; and
 - (b) estimate the Maori-medium roll as at 1 March 2004 of every school; and
 - (c) estimate the special education list as at 1 March 2004 of every school; and
 - (d) give the Board of every school written notice of the rolls and list estimated for that school.
- (2) The Secretary must not estimate the school's March roll, Maori-medium roll, or special education list under subclause (1) without considering—
- (a) the notice given by the school under clause 6; and
 - (b) all written evidence and argument the Board supplied with that notice.

8 Board must ascertain and notify actual March roll and actual March Maori-medium roll

As soon as practicable after 1 March 2004, the Board of every school must—

- (a) ascertain the school's March roll; and
- (b) ascertain the school's Maori-medium roll as at that day; and
- (c) give the Secretary written notice of those rolls on a form provided by the Secretary for that purpose.

9 Secretary must ascertain March roll, Maori-medium roll, and special education list if notice not received from Board

If a notice is not received from the Board of a school before 11 March 2004, the Secretary must, as soon as practicable, take any steps the Secretary thinks fit to ascertain the school's March roll, Maori-medium roll, and special education list, and give the school's Board written notice that—

- (a) a notice was not received (or received in time) from the Board; and
- (b) the numbers of students specified in the notice (being the Secretary's best estimate of the school's March roll, Maori-medium roll, and special education list) will have effect as the school's confirmed rolls and list.

10 Secretary must confirm March roll and Maori-medium roll if notice received from Board

- (1) If a notice from the Board of a school reaches the Secretary before 11 March 2004, the Secretary must,—
 - (a) as soon as practicable, take any steps the Secretary thinks fit to verify the numbers notified; and
 - (b) give the school's Board written notice confirming those numbers, unless subclause (2) applies.
- (2) If the Secretary is satisfied that the numbers are inaccurate, the Secretary may, at any time before 15 April 2004, give the Board written notice that—
 - (a) the Secretary is satisfied that those numbers are inaccurate; and
 - (b) the number of students specified in the notice (being the Secretary's best estimate of the school's March roll, Maori-medium roll, and special education list) will have effect as the school's confirmed rolls and list.

11 Certain students not counted

In determining any roll or special education list, no account may be taken of any foreign student (within the meaning of section 2(1) of the Act)—

- (a) who is not a student of a kind or description exempted (under a notice under section 4C of the Act having effect in 2003) from the payment of all the amount required by section 4B of the Act to be paid; or
- (b) in respect of whom all the amount required by section 4B of the Act to be paid has been or is to be paid by the Ministry of Foreign Affairs and Trade.

Part 3 Allowances and entitlement staffing

Allowances

12 Specialist instruction roll

- (1) In this clause,—

base school is an intermediate school

base students are students of years 7 or 8 who are enrolled at the base school but usually attend a different school for instruction in technology or some other specialist subject

visiting students are students of years 7 or 8 who are enrolled at a different school but usually attend a centre attached to the base school for instruction in technology or some other specialist subject.

- (2) A base school's specialist instruction roll is the number obtained by—
- (a) adding the number of students of years 7 and 8 included in the base school's staffing roll to the number of visiting students; and
 - (b) subtracting from the resulting sum the number of base students.

13 Curriculum delivery allowance

- (1) A school's curriculum delivery allowance (in FTTEs) is—

$$p + q$$

where—

p is the sum of—

- (a) the number of students on its Maori-medium roll divided by 20; and
- (b) the number of students on its non-Maori-medium roll divided by 29

q is the quotient obtained by dividing the school's specialist instruction roll by 120.

- (2) If the result of the calculation under subclause (1) is not exactly divisible by 0.1, the figure must be rounded up to 1 decimal place.
- (3) If a school's roll is less than 176, and if the quotient obtained by dividing the school's roll by the integer of the sum referred to in subclause (1) as p is over 26, p must be increased to the first whole number that will ensure the quotient obtained by dividing the school's roll by the integer value of p is equal to or less than 26.
- (4) If a school's roll is 176 or more, and if the value of p is less than 7, then p must be given the value of 7.

14 Weighted roll

A school's weighted roll at any time is the sum of—

- (a) the product of 3.5 and the number of students then included on its staffing roll; and

- (b) the product of 0.5 and the number of state students of years 7 and 8 who attend the school for instruction in technology or some other specialist subject.

15 Management time allowance

A school's management time allowance (in FTTEs) is the number obtained by—

- (a) adding—
 - (i) the product of 0.0003 and its weighted roll; and
 - (ii) the product of 0.017 and the square root of its weighted roll; and
 - (iii) the product of 0.05 and its special education staffing allowance; and
 - (iv) the product of 0.05 and the number of resource teachers: Maori employed at the school by virtue of an exemption granted under clause 33(1)(c); and
 - (v) either,—
 - (A) if the school's roll is 28 or less, 0.2; or
 - (B) if the school's roll is 29 or more but less than 61, 0.3; or
 - (C) if the school's roll is 61 or more, 0.4; and
- (b) if the resulting sum is not exactly divisible by 0.1, rounding it down to 1 decimal place.

16 Special education staffing allowance

A school's special education staffing allowance, if any, is the number of special education students on the school's special education list multiplied by the following FTTEs:

- (a) 0.1 for each special education student with high needs;
- (b) 0.2 for each special education student with very high needs.

17 Formula-generated staffing allowance

A school's formula-generated staffing allowance (in FTTEs) is the sum of—

- (a) its curriculum delivery allowance; and
- (b) its management time allowance; and
- (c) its special education staffing allowance.

18 Supplementary learning support teacher time allowance

A school's supplementary learning support teacher time allowance (in FTTEs), if any, is the product of 0.1 and the number of students enrolled at the school and identified and classified by the Secretary as being in need of supplementary learning support.

19 Beginning teacher allowance

- (1) In this clause, a **qualifying beginning teacher** is a beginning teacher who is employed for 0.5 of an FTTE or more.
- (2) If a school employs a qualifying beginning teacher, the school has a beginning teacher allowance (in FTTEs) calculated by adding—
 - (a) the product of—
 - (i) the number of qualifying beginning teachers then employed at the school full-time; and
 - (ii) 0.2; and
 - (b) the product of—
 - (i) the number of other qualifying beginning teachers then employed at the school; and
 - (ii) 0.1.

20 Resource teacher support allowance

A school has a resource teacher support allowance of 0.05 of an FTTE for each full-time teacher of the following kinds whom it employs:

- (a) resource teacher: learning and behaviour; or
- (b) resource teacher: literacy; or
- (c) resource teacher: literacy (Maori).

21 Transfer of staffing entitlements

- (1) The Boards of 2 schools (**school A** and **school B**) may enter into an **entitlement transfer agreement**, which is a written agreement to the effect that—
 - (a) school A will relinquish to school B a specified number of FTTEs, salary units, or both, of teacher entitlements (the **entitlements**); and
 - (b) school B will use the entitlements to sustain the employment at school B of 1 or more teachers to teach

- 1 or more specified subjects to students enrolled at school A.
- (2) Subject to subclauses (3) and (4), if an entitlement transfer agreement is given to the Secretary before 1 January,—
 - (a) the Secretary must deduct from the total regular staffing allowance of school A (the school relinquishing the entitlements) the number of FTTEs or salary units specified in the agreement; and
 - (b) the Secretary must add to the total regular staffing allowance of school B (the school receiving the entitlements) the number of FTTEs or salary units specified in the agreement.
 - (3) No school may enter into an entitlement transfer agreement relating to tuition in technology or another specialist subject.
 - (4) A school may enter into an entitlement transfer agreement relating to tuition in instrumental or vocal music only with one of the secondary schools or high schools listed in the first column of Schedule 4 of the Education (2004 Secondary School and Form 1 to 7 School Staffing) Order 2003.
 - (5) An agreement between 3 or more schools about the relinquishment and use of entitlements must be treated as a number of entitlement transfer agreements between various pairs of those schools.

22 Application of clause 21 to special education

Clause 21 applies to entitlements in relation to special education teachers in the same way as it applies to entitlements in relation to other teachers.

23 Total regular staffing allowance

A school's total regular staffing allowance (in FTTEs) is the sum obtained by—

- (a) adding—
 - (i) its entitlement staffing; and
 - (ii) any supplementary learning support teacher time allowance; and
 - (iii) any beginning teacher allowance; and
 - (iv) any resource teacher support allowance; and

- (v) the sum of any additional entitlements arising under clause 21 from an entitlement transfer agreement; and
- (b) subtracting from the resulting sum any entitlements that must be deducted under clause 21 as a result of an entitlement transfer agreement.

Entitlement staffing

24 Entitlement staffing

- (1) A school's entitlement staffing at a time in 2004 before its confirmed rolls and list have been notified by the Secretary under clause 9 or clause 10(2), or confirmed by the Secretary under clause 10(1)(b), is its formula-generated staffing allowance based on its rolls and list as estimated under clause 7.
- (2) A school's entitlement staffing at a time in 2004 after its confirmed rolls and list have been notified by the Secretary under clause 9 or clause 10(2), or confirmed by the Secretary under clause 10(1)(b), is the formula-generated staffing allowance confirmed for it in a notice sent to the Board by the Secretary.

Part 4

Limitations on employment

25 Limitation on employment of regular teachers

- (1) The Board of a school may not employ a permanently appointed regular teacher whose employment generates a number of FTTEs greater than—
 - (a) its entitlement staffing; and
 - (b) the number of FTTEs of staffing allocated by the Secretary to the attached secondary unit of a restricted composite school.
- (2) The Board of a school may not employ other regular teachers whose employment generates a number of FTTEs greater than the number of FTTEs by which the school's total regular staffing allowance at that time is greater than the number of FTTEs generated by the employment at the school at that time of permanently appointed regular teachers.
- (3) The Board of a school may not make a permanent appointment of a regular teacher without the consent of the Secretary

if the school's formula-generated staffing based on its rolls and list as estimated under clause 7 exceeds its formula-generated staffing allowance as generated by its rolls and list as confirmed under clauses 9 and 10, by 1.0 FTTE or more.

- (4) Despite subclause (2), the Board of a school may continue to employ any permanently appointed regular teacher who, following receipt of the Secretary's notice of the rolls and list estimated for the school under clause 7, has become supernumerary.
- (5) Despite subclauses (1) and (2), the Board of a school may employ more regular teachers than is permitted under subclause (1), and more other regular teachers than is permitted by subclause (2), if,—
 - (a) at some other time during the 2004 school year, the Board has employed, or will employ, fewer regular teachers than the prescribed number; and
 - (b) the employment of those teachers does not, at any time, cause the number of regular teachers employed by the Board at the school to exceed by more than 10% the number of FTTEs that the Board is entitled to employ at that school under subclause (1) or subclause (2); and
 - (c) the net effect during the 2004 school year of employing the additional teachers does not result in the school's Board employing regular teachers representing more FTTEs than it is entitled to employ over that school year.

26 No entitlement to carry over surplus

If, during a school year, a Board employs fewer regular teachers at a school than equate to the number of FTTEs that the Board is entitled to employ at that school under clause 25, there is no entitlement to carry the net surplus over to the next school year.

27 Suspension of clause 25(5) if 10% limit exceeded

- (1) If, contrary to clause 25(5)(b), a Board employs a regular teacher whose employment causes the number of regular teachers employed at a school to exceed by more than 10% the number of FTTEs that the Board is entitled to employ at that

school, the Secretary may notify the Board, in writing, that clause 25(5) does not apply to it.

- (2) A notice under subclause (1) applies from the date on which it is received by the Board until the date on which the number of regular teachers employed by the Board at the school during the year up to that date equals the number of FTTEs that the Board was entitled to employ at that school under clause 25(1) during that period.
- (3) If a Board receives a notice under subclause (1), clause 25(5) does not apply to that Board from the date of receipt of that notice until the date on which that notice ceases to apply in accordance with subclause (2).

28 Limitation on employment of principals

- (1) The Board of a school may not employ more than 1 principal for the school at any time.
- (2) A combined Board established under section 110 of the Act may not employ more than 1 principal for each school that the combined Board administers at any time.
- (3) Subclauses (1) and (2) do not prevent the appointment of a principal during the term of his or her predecessor in office.

29 Limitation on employment of deputy or assistant principals

The maximum number of deputy or assistant principals (however described) that may be employed at a school is,—

- (a) if the school has 21 or fewer FTTEs, 2;
- (b) if the school has more than 21 FTTEs, 3.

30 Limitation on employment involving salary units

- (1) Subject to clause 31, the Board of a school may not employ regular teachers to whom salary units have been allocated (whether permanently or otherwise) whose employment taken together is equivalent to the employment of teachers to whom there have been allocated a total number of salary units greater than the number calculated for the school under subclause (2).
- (2) The number referred to in subclause (1) is calculated by—
 - (a) adding, to get the first result,—
 - (i) its formula-generated staffing allowance; and

- (ii) any resource teacher: Maori exemption granted by the Secretary under clause 33(1)(c); and
- (b) subtracting 1 from the first result to get the second result; and
- (c) multiplying the second result by 0.72 to get the third result; and
- (d) subtracting 0.77 from the third result to get the fourth result; and
- (e) if the fourth result is not a whole number, correcting it to the nearest whole number.

31 Adjustment to calculation of limitation on employment involving salary units

In relation to a school that is a restricted composite school by way of the attachment of a secondary unit, clause 30 has effect as if the resulting sum calculated in accordance with that clause were increased by the number of salary units that the Secretary has, under clause 39, allocated to the attached secondary unit.

32 Limitation on grades for principals

- (1) The Board of a school may not employ a principal at a grade higher than the grade specified in the first column of the Schedule opposite the roll range that applies to that school.
- (2) For the purposes of determining the roll range for 2004, the special education list is determined as at 1 July 2003 and the following weightings apply:
 - (a) 1 special education student with high needs is the equivalent of 3 students;
 - (b) 1 special education student with very high needs is the equivalent of 6 students.
- (3) For the purposes of determining the roll range for 2004, the roll for a restricted composite school is the sum of the number of students (if any) in years 7 to 10 enrolled at the school.

Part 5

Exemptions

33 Resource teachers

- (1) The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order in any 1 or more of the following circumstances:
- (a) the students enrolled at the school have particular educational needs that can and should be met by the employment of 1 or more resource teachers: learning and behaviour:
 - (b) the students enrolled at the school have particular educational needs that can and should be met by the employment of 1 or more resource teachers: literacy or resource teachers: literacy (Maori):
 - (c) the students enrolled at the school have particular educational needs that can and should be met by the employment of 1 or more resource teachers: Maori.
- (2) The maximum number of FTTEs in respect of whom the Secretary may grant an exemption under subclause (1) (on a national basis and across all state schools of any type) is,—
- (a) in respect of resource teachers: learning and behaviour, the number obtained by dividing the total number of year 0 to year 10 students enrolled at schools by 750:
 - (b) in respect of resource teachers: literacy (which includes resource teachers: literacy (Maori)), 121:
 - (c) in respect of resource teachers: Maori, 53.

34 Board-funded teachers

The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order if the Minister has given consent to the Board under section 91F(b) of the Act.

35 Time allowance for teachers absent on long-term training

The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order if the Secretary considers that the school needs a long-term training course allowance of up to 1 FTTE for each teacher absent on a long-term training course.

36 Protection of supernumerary teachers

The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order if the exemption is necessary to preserve the continued employment of any permanently appointed regular teacher employed by the Board immediately before 1 January 2004 who is for the time being supernumerary, having been declared surplus by virtue of amalgamation, merger, change of status, closure, or a fall in the roll of the school.

37 Roll increases

The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order if there has been an unusual increase in the number of students enrolled at the school.

38 Normal schools

The Secretary may exempt a Board, in respect of any normal school it administers, from the limitations imposed by this order in order to ensure that the school is able—

- (a) to recruit and retain sufficient skilled and experienced teachers to carry out the special functions of normal schools; and
- (b) to carry out the extra work required by the performance of those functions.

39 Restricted composite schools

The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order if the school is a restricted composite school.

40 Special reason

The Secretary may exempt a Board, in respect of any school it administers, from the limitations imposed by this order if there is a special reason for an exemption for that school, being a reason that applies only to that school or to some other intermediate schools, but not being a reason that applies to all other intermediate schools.

41 Revocation

The Education (2002 Intermediate School Staffing) Order 2001 (SR 2001/207) is revoked.

Schedule
Grades for principals' positions

cl 32

Principal's grade	Roll range
U1	1–50
U2	51–100
U3	101–150
U4	151–300
U5	301–500
U6	501–675
U7	676–850
U8	851–1 025
U9	1 026–1 200
U10	1 201–1 400
U11	1 401–1 600
U12	1 601–1 800
U13	1 801–2 000
U14	2 001 and above

Martin Bell,
Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 11 September 2003, prescribes limitations on the numbers of regular (ie, non-relieving) teachers that may be employed at state intermediate schools in 2004. It sets out how the limitations are calculated, and the circumstances in which, and conditions on which, the Secretary may grant exemptions from the limitations.

The order is significantly different from the equivalent order for last year. The substantive changes are as follows:

- the previous provisions requiring an adjusted staffing roll to be determined (with an adjusted total staffing quotient being calculated later and resulting, for some schools, in a reduction in staffing from the notified day) are discontinued:
- provisions relating to a school's curriculum delivery allowance are amended to—
 - include provisions relating to Maori students for whom the curriculum is taught in Maori for more than 12.5 and up to 25 hours per week; and
 - reduce the maximum average class size to 26 for schools with fewer than 176 students; and
 - increase the minimum curriculum staffing to 7 FTTEs (full time teacher equivalents) where the school has 176 or more students:
- a greater management time allowance is provided for schools with rolls of 61 or more students:
- a new supplementary learning support teacher time allowance is included (*see* clause 18):
- the previous power to grant exemptions to ensure schools have a guaranteed staffing component is discontinued:
- the prohibitions, in certain circumstances, on the employment of regular teachers are modified (*see* clause 25):
- a new power to grant exemptions for reasons relating to teachers being absent on long-term training is included (*see* clause 35):
- the previous power to grant exemptions for reasons relating to community education co-ordination is discontinued.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 14 August 2003.

This order is administered in the Ministry of Education.
