

Hon. Mr. McCombs

EDUCATION AMENDMENT

ANALYSIS

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A BILL INTITULED

AN ACT to Amend the Education Act, 1914.

Title.

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

1. This Act may be cited as the Education Amendment Act, 1948, and shall be read together with and deemed part of the Education Act, 1914 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. II, p. 1007

PART I

PRIMARY TEACHERS APPEAL BOARDS

Primary
Teachers
Appeal Boards.

2. (1) There is hereby established for the purposes of this Part of this Act a Primary Teachers Appeal Board for each education district, to be called the [Name of district] Primary Teachers Appeal Board. 5

(2) Each Primary Teachers Appeal Board shall consist of—

- (a) One person appointed as Chairman thereof:
- (b) One person appointed on the recommendation of the Education Board for the district: 10
- (c) One person appointed on the recommendation of the New Zealand Educational Institute.

(3) The members of every such Appeal Board shall be appointed by the Minister for a term of three years, and may from time to time be reappointed. 15

(4) In the event of the incapacity of any member of any such Appeal Board by reason of illness, or if from any other cause whatever any member of any such Appeal Board is not available, another person may be appointed in the same manner as that member to act in the place of that member while he is incapacitated or not available. 20

(5) The members of any such Appeal Board may be paid out of moneys appropriated by Parliament for the purpose such fees, travelling-expenses, and allowances as the Minister of Finance may determine. 25

Procedure of
Primary
Teachers
Appeal Boards.

3. (1) Each Primary Teachers Appeal Board shall hold its sittings at such times and places as the Chairman may from time to time determine. 30

(2) The decision of any two members of any such Appeal Board shall be the decision of that Board.

(3) Except in exceptional circumstances, of which the Board determining the appeal shall be judge, no witnesses shall be heard on any appeal under this Part of this Act. In any case where any witnesses may be so heard the Primary Teachers Appeal Board may summon those witnesses and examine them on oath or otherwise. 35

(4) On any such appeal the applicant may appear in person or may be represented by any teacher or by any officer of the New Zealand Educational Institute or 40

of any society registered under section one hundred and thirty-eight of the principal Act ; and the authority which made the appointment shall be represented by a member or an officer of that authority.

5 (5) Subject to the provisions of this Part of this Act, every Primary Teachers Appeal Board may regulate its own procedure.

4. (1) Where applications are invited for a position in a public school, intermediate school, intermediate 10 department, Maori school, or any school under the control of the Department of Education, or for a position as teacher of a special subject in the Department of Education, and the position is to be filled by the applicant who is highest on the graded list of teachers 15 for the time being in force under the Education (Grading of Public-school Teachers) Regulations 1948 unless in the opinion of the appointing authority some other applicant is more suitable for the position—

Right of appeal.

Serial number 1948/63

(a) Any applicant for the position who is higher on 20 the said graded list than the applicant provisionally appointed to the position may appeal against the said provisional appointment :

25 Provided that where the applications are invited by teachers of a particular description or with particular qualifications only applicants who are higher on that list than the applicant provisionally appointed to the position, and who satisfy the description or possess the special qualifications, may appeal against the 30 provisional appointment :

(b) No person shall be entitled to appeal against that appointment to any Board of Appeal established under the Public Service Act, 1912, or any amendment of that Act.

See Reprint of Statutes, Vol. VII, p. 522

35 (2) Every appellant shall be granted leave of absence if necessary in order to attend the hearing of his appeal.

40 5. Where an appointing authority makes a provisional appointment against which an appeal lies under the *last preceding* section, that authority shall, as soon as possible after making the appointment, give notice Notices to teachers with right of appeal.

by registered letter requiring an acknowledgment receipt to every person who has a right of appeal under that section against the appointment and shall state in the notice the reason for not appointing that person.

Notices of
appeal,
jurisdiction, &c.

6. (1) Notice of appeal under this Part of this Act against a provisional appointment to any position in any school or department shall be forwarded to the appointing authority within *seven* days after the date on which a receipt for the said registered letter, signed or purporting to be signed by or on behalf of the person to whom the letter is addressed, is given to a Post officer. 5

(2) Every notice of appeal received by an appointing authority shall forthwith be forwarded by that authority to the Chairman of the Primary Teachers Appeal Board for the district in which that school or department is situated. 15

(3) The appointing authority shall, as soon as practicable after receipt of a notice of appeal, send to the Chairman of the said Primary Teachers Appeal Board a statement in reply to the appeal. 20

(4) The Primary Teachers Appeal Board to which any notice of appeal is forwarded under this section shall determine that appeal in accordance with the provisions of this Part of this Act. 25

(5) In the event of any appeal to any Primary Teachers Appeal Board against any appointment, that Appeal Board, after considering every appeal against the appointment, shall either allow or dismiss each appeal. If any appeal is allowed the appropriate appointing authority shall forthwith appoint the successful appellant to the position and shall cancel the provisional appointment. No appeal shall lie against any appointment under this subsection. 30

Appointments
to be
provisional in
first instance.

7. (1) Every appointment against which an appeal lies under this Part of this Act shall be deemed to be provisional until the time allowed for appeal has expired, and, in the event of any appeal against the appointment, until every such appeal has been decided. 35

(2) Where a right of appeal under this Part of this Act lies against any appointment the teacher 40

appointed shall not commence duty until the time allowed for appeal has expired, and, in the event of an appeal against the appointment, until every such appeal has been dismissed.

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PART II

MISCELLANEOUS

8. (1) Subsection six of section thirty-three of the principal Act, as substituted by section nine of the Statute Law Amendment Act, 1917, is hereby amended— **Building funds.**
- 10 (a) By omitting the words “shall form another special fund;”:
- (b) By omitting the words “a third special fund”, and substituting the words “a special fund to be called the building fund”.
- 15 (2) Subsection six A of section thirty-three of the principal Act, as inserted by section nine of the Statute Law Amendment Act, 1917, is hereby repealed, and the following subsections are substituted therefor :— **Repeals.**
- 20 “ (6A) All moneys and investments which, at the date of the passing of the Education Amendment Act, 1948, form part of any rebuilding fund existing under section four of the Education Amendment Act, 1921–22, shall on that date be deemed to form part of the said building fund. **See Reprint of Statutes, Vol. II, p. 1097.**
- 25 “ (6B) The Minister may at any time require a Board to pay or transfer the whole or any part of its building fund into the Public Account or for or towards any purpose for which the building fund exists.”
- (3) Section four of the Education Amendment Act, 30 1921–22, is hereby repealed.
9. (1) Notwithstanding the provisions of section thirty-five of the principal Act, any Education Board may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall, as the Board may determine, be kept in the Post Office Savings-bank or in any bank within the meaning of the Banking Act, 1908. **Board may establish an Imprest Account.**
- 35 (2) The Imprest Account may be held jointly in the names of, and be operated on by, the Secretary and one other person to be appointed in that behalf by the Board, or may, with the express approval in writing of **Ibid., Vol. I, p. 447**
- 40

the Audit Office but not otherwise, be in the sole name of, and be operated on by, the Secretary or other approved officer of the Board. Where the Imprest Account is held jointly in the names of the Secretary and one other person as aforesaid, the last-mentioned person shall be either a responsible officer of the Board or a member of the Board. 5

(3) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in the Imprest Account, and the amount so fixed shall not exceed such amount as the Audit Office may from time to time approve. 10

(4) Moneys in the Imprest Account shall be available only for the payment of wages and emergency expenditure. A statement of all payments made from the Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorized shall be deemed to be a misappropriation of the funds of the Board. 15 20

School and
class libraries.

10. Section thirty-seven of the principal Act is hereby amended:—

(a) By repealing subsections two and five:

(b) By omitting from subsection three the words “and subsidies”. 25

Qualification of
members of
school
committees.

11. Section forty-two of the principal Act is hereby amended by repealing paragraph (a). 25

Interim
appointments
of teachers.

12. Section seventy-two of the principal Act is hereby amended by adding the following subsection:—

“(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, the Board, before sending to the Chairman of the Committee the name of any teacher whom it is proposed to appoint to any position, may make an interim appointment of that teacher to the position. In any such case the Committee, if it desires to express any opinion or make any recommendation with respect to the appointment, shall do so within fourteen days after the date on which written notice of the interim appointment is sent by the Board to the Chairman of the Committee. If the Committee does not express any opinion or make any 30 35 40

recommendation, or if it recommends the confirmation of the interim appointment, or if the Board after considering the opinions and recommendations of the Committee confirms the interim appointment, that
 5 appointment shall, subject to the terms thereof, be deemed to be a provisional appointment if an appeal to a Primary Teachers Appeal Board lies against it, or a permanent appointment if no such appeal
 10 lies against it. Where an appeal so lies against any appointment made under this subsection upon it being deemed a provisional appointment, the teacher appointed shall not commence duty until the time allowed for appeal has expired, and, in the event of an appeal against the appointment, until every such appeal has
 15 been dismissed.”

13. (1) Section four of the Education Amendment Act, 1924, is hereby amended by repealing subsection two.

(2) Section four of the Education Amendment Act, 1924, is hereby further amended by adding the following
 20 subsection:—

“ (4) Without limiting or in any way affecting any other powers conferred upon any governing body by any Act or regulation it is hereby declared that, subject to the provisions of this Act and of any other Act,
 25 the governing body of any such combined schools, or of the New Plymouth Combined School, the Napier Combined School, the Wairarapa Combined College, or the Nelson Combined School may do all or any of the following things:—

30 “ (a) With the consent of the Minister, take or contract to purchase or take on lease any land, as for a public work under the Public Works Act, 1928, as a site for any school-house, teacher’s residence, house for any
 35 member of the staff, hostel for students, or other school building, or for any other purposes in connection with the combined schools, school, or college :

40 “ (b) Purchase, take on hire, or otherwise acquire any other property (whether encumbered or unencumbered) for any purposes in connection with the combined schools, school, or college:

Powers of governing body of combined schools.
 See Reprint of Statutes, Vol. II, p. 1102

Ibid., Vol. VII, p. 622

“ (c) Establish, build, maintain, repair, rebuild, re-instate, conduct, manage, and control any schoolhouse, teacher’s residence, house for any member of the staff, hostel for students, or any other building required for any purpose in connection with the combined schools, school, or college: 5

“ (d) Sell or let out on hire any property other than land.”

Honoraria to
Chairmen of
Education
Boards.
1936, No. 44

14. Section five of the Education Amendment Act, 1936, is hereby amended— 10

(a) By omitting from subsection one the words “ one hundred and fifty pounds ”, and substituting the words “ two hundred pounds ”:

(b) By omitting from subsection one the words “ seven hundred and eighty pounds ”, and substituting the words “ one thousand pounds ”. 15

Restriction on
transfer of
teachers within
two years after
receiving
permanent
appointment.
1941, No. 26

15. (1) Section twelve of the Statutes Amendment Act, 1941, is hereby amended by adding to subsection two the following proviso:— 20

“ Provided that if the period of two years ends during a school vacation he may apply for a new permanent position at any time during that vacation.”

(2) Section twelve of the Statutes Amendment Act, 1941, is hereby further amended by inserting, after subsection three, the following subsections:— 25

“ (3A) Where a teacher is appointed permanently to a position immediately following a period of relieving in that position, the period of two years referred to in this section shall commence on the date on which he commenced duty as a relieving teacher in the position. 30

“ (3B) Where a teacher is appointed permanently to a position immediately following his provisional appointment to that position under Part I of the Education Amendment Act, 1948, and there has been an appeal against the appointment the period of two years referred to in this section shall commence on the day on which in the opinion of the appointing authority he would have commenced duty in the position if there had been no appeal against the appointment.” 35 40

16. On and after the first day of February, nineteen hundred and fifty,— Schools of Art.

- (a) The Canterbury College School of Art shall cease to be a technical school, but shall continue to be controlled by the Canterbury University College Council:
- (b) The Elam School of Art shall cease to be a technical school, the Auckland Education Board shall cease to be the controlling authority thereof, and the Board of Managers of the Elam School of Art shall cease to be the managers thereof:
- (c) The Elam School of Art shall be known as the Elam School of Fine Arts, and every reference in any deed, will, or other instrument to the Elam School of Art or the Elam School of Art and Design shall be construed as a reference to the Elam School of Fine Arts:
- (d) The Elam School of Fine Arts shall be controlled by the Auckland University College Council:
- (e) Subsections three and four of section one hundred and thirteen of the principal Act, and section thirty-two of the Education Amendment Act, 1920, are hereby repealed.

See Reprint
of Statutes,
Vol. II, p. 1095

25 *Governing Bodies of Secondary Schools*

17. (1) Section three of the Whangarei High School Act, 1878, is hereby amended by omitting the words "seven persons, of whom one shall be the Chairman of the County Council for the time being, two shall be nominated from time to time by the Governors of the Auckland College and Grammar School", and substituting the words "nine persons, of whom one shall be nominated from time to time by the Whangarei County Council, one shall be nominated from time to time by the Whangarei Borough Council, three shall be elected from time to time by the parents of the pupils in the manner prescribed by the scheme referred to in section ninety-two of the Education Act, 1914".

Constitution of
Board of
Governors of
Whangarei
High School.
1878,
No. LXIII
(Local)

(2) Section four of the Whangarei High School Act, 1878, is hereby amended—

- (a) By omitting the words "elected member of the said Board", and substituting the words "member of the said Board elected by the said Board of Education":

(b) By omitting all words after the words
 “ nomination of the Governor”, and substituting the words “ or of the said Whangarei County Council, or of the said Whangarei Borough Council, as the case may be.” 5

Borrowing-
 powers of
 Education
 Boards, &c.
 1944, No. 25

18. Section seventeen of the Statutes Amendment Act, 1944, is hereby amended by omitting from subsection one the words “ for any purpose approved by him ”, and substituting the words “ from the Department for any purpose approved by him ; and the Department is hereby authorized to make advances to any Board for any such purpose out of moneys appropriated by Parliament for the purpose ”. 10

Parents'
 representatives
 on the
 governing
 bodies of
 certain
 secondary
 schools.

19. (1) Where the governing body of any secondary school (other than the Christchurch Secondary Schools Board) is in control of three or more schools, notwithstanding anything to the contrary in the principal Act or in any other Act or in the scheme for the control of the schools approved by the Minister under section ninety-two of the principal Act, the parents of the pupils of each of the schools shall elect one member of the governing body in the manner prescribed by the said scheme as modified by this subsection, and no other members shall be elected by the parents of the pupils of the schools. 15

(2) Except as provided in the *last preceding* subsection, all the provisions of the principal Act relating to the election of the members of the governing body by the parents of the pupils of the schools, and to the members so elected, shall apply to the election of members under the *last preceding* subsection and to those members. 20

(3) Notwithstanding anything to the contrary in this or any other Act or in any such scheme, the members of any governing body to which that subsection applies who have been elected by the parents of the pupils of the schools and are in office at the commencement of this Act shall continue in office until the thirty-first day of March, nineteen hundred and forty-nine, and they shall then all go out of office, and where any governing body is first in control of three or more schools after the passing of this Act the members of that body elected by the parents of the pupils of the schools shall continue in office until a date fixed in that behalf by the Minister and they shall then all go out of office. 25

20. (1) This section shall be deemed to form part of Part VII of the principal Act.

Control of
Christchurch
post-primary
schools.

(2) There is hereby established for the purposes of this section a Board to be called the Christchurch
5 Secondary Schools Board (in this section referred to as the Board).

(3) The Board shall consist of—

- (a) Two members appointed by the Governor-General of whom one shall be a woman :
- 10 (b) Two members appointed by the Canterbury Education Board :
- (c) One member appointed by the Canterbury University College Council :
- (d) One member appointed by the Christchurch City
15 Council :
- (e) One member appointed by the Councils of the boroughs of Lyttelton and Riccarton and of the counties of Heathcote, Waimairi, Halswell, and Paparua :
- 20 (f) One member elected by the parents of the pupils attending each of the schools placed under the control of the said Board by this section or by the Minister under this section :
- (g) One member elected by the employers in local
25 industries :
- (h) One member elected by the employees in local industries.

(4) Subject to the provisions of this section, the members of the Board shall be appointed or elected,
30 meetings of the Board shall be conducted, and the schools under its control shall be controlled, in accordance with a scheme approved by the Minister under section ninety-two of the principal Act; and until such a scheme has been so approved, subject to the provisions
35 of this section, the members of the Board shall be appointed or elected and shall hold office, meetings of the Board shall be conducted, and the schools under its control shall be controlled, in such manner as the Minister may approve.

(5) The first appointments of members of the said Board shall be made, and the first elections of members of the said Board shall be held, before the *first* day of *February*, nineteen hundred and *forty-nine*.

(6) The members of the said Board to be elected by the employers and employees in local industry shall be elected in the same manner as if they were being elected members of a technical school board.

(7) On and after the *first* day of *February*, nineteen 5
hundred and *forty-nine*, the Christchurch Boys' High School, the Christchurch Girls' High School, the Avonside Girls' High School, and the Christchurch West High School shall cease to be controlled by the Canterbury University College Council, and the Papanui 10
Technical School shall cease to be controlled by the Christchurch and Papanui Technical Schools Board, and the Christchurch Secondary Schools Board shall control and be the governing body of the said schools.

(8) The Minister may from time to time, by notice 15
in the *Gazette*, appoint the Christchurch Secondary Schools Board to control and be the governing body of any other school.

(9) On and after the *first* day of *February*, nineteen 20
hundred and *forty-nine*, the Christchurch Technical School shall be controlled in the manner provided in Part VIII of the principal Act.

(10) On and after the *first* day of *February*, nineteen 25
hundred and *forty-nine*, all the estate and interest of the Canterbury University College Council in any land which is held by the Council for any purpose in connection with the Christchurch Boys' High School, the Christchurch Girls' High School, the Avonside Girls' High School, and the Christchurch West High School, and which is not used as the site, ground, or playing 30
area of any of those schools, or for a residence or hostel for the teachers, staff, or pupils of any of those schools, or for outdoor classes, instruction, practical teaching, or experimentation in connection with any of those schools, or for any pur- 35
pose ancillary to any of those purposes, shall be free from all trusts in favour of those schools and shall be held by the Canterbury University College Council, subject to all other charges, encumbrances, estates, and interests then affecting the same, upon 40
trust to pay out of the income and if necessary the capital thereof all principal, interest, and other moneys

owing on the *first* day of *February*, nineteen hundred and forty-nine, to the Public Trustee under Memorandum of Mortgage number 176715, Canterbury Registry, and subject thereto upon trust for the general purposes of the Canterbury University College. In the event of any doubt or dispute as to whether this subsection applies to any estate or interest in any land held by the Canterbury University College Council, the question shall be referred to the Minister and his decision shall be final.

(11) On and after the first day of February, nineteen hundred and forty-nine, all other real and personal property of every description vested in the Canterbury University College Council for any purpose in connection with the schools mentioned in the *last preceding* subsection shall vest without conveyance or assignment in the Board, and the District Land Registrar for the Land Registration District of Christchurch shall, on written application by the said Board, make such entries in the register and generally do all such things as may be necessary to give full effect to the provisions of this subsection.

(12) Where under any gift, devise, bequest, or trust any property or income is to be transferred or paid to the Canterbury University College Council after the first day of February, nineteen hundred and forty-nine, for any purpose in connection with the schools mentioned in subsection *ten* of this section, that property or income shall be transferred or paid to the Board for a like purpose; and where under any gift, devise, bequest, or trust any executors, trustees, or other persons are empowered to transfer or pay property or income to the Canterbury University College Council after the first day of February, nineteen hundred and forty-nine, for any such purpose, that power shall be deemed a power to pay or transfer the property or income to the Board for a like purpose.

(13) The following enactments are hereby repealed as from the *first* day of *February*, nineteen hundred and forty-nine:—

- | | |
|---|---|
| <p>(a) The Christchurch Boys' High School Act, 1878:</p> <p>(b) Section nineteen of the Statutes Amendment Act, 1944.</p> | <p>1878, No. XXX
(Local)
1944, No. 25</p> |
|---|---|

Repeals.

Powers of University Colleges

Powers of
University
colleges.

21. (1) In this section, unless the context otherwise requires, the expression "University college" means the Auckland University College, the Victoria University College, the Canterbury University College, the University of Otago, the Massey Agricultural College, or the Canterbury Agricultural College; and includes any other college that may be established as part of or in connection with the University of New Zealand or the New Zealand School of Agriculture. 5 10

(2) Without limiting or in any way affecting any other powers conferred upon any University college by any Act or by law, and notwithstanding anything to the contrary in any Act, it is hereby declared that, subject to the provisions of this section, the Council, Board, or other governing body of any University college may do all or any of the following things on behalf of and for the purposes of that college, namely:— 15

(a) Establish, build, maintain, repair, rebuild, restate, conduct, manage, and control hostels for students, professors, lecturers, and teaching staff, and houses for professors, lecturers, teaching staff, and any other of its employees whatsoever, and buildings and rooms for the recreation or social use of students, professors, lecturers, and teaching staff: 20 25

(b) With the consent of the Minister, take or contract to purchase or take on lease any land, as for a public work under the Public Works Act, 1928, for any of the purposes mentioned in the *last preceding* paragraph, or for any purpose whatsoever in connection with that University college: 30

(c) With the consent of the Minister, sell any right, title, estate, or interest in land vested in that University college: 35

(d) Borrow money from the Crown or from any corporation or person; and for the purpose of securing any money so borrowed, mortgage, charge, or pledge any right, title, estate, or interest in any land vested in that University college: 40

See Reprint
of Statutes,
Vol. VII, p. 622

(3) Before the Council, Board, or other governing body of any University college exercises the power to borrow money conferred by this section it shall obtain the consent of the Minister of Education and the sanction
5 of the Local Government Loans Board. With respect to any application for its sanction, the Local Government Loans Board shall have the same powers of investigation as are conferred on it by the Local Government Loans Board Act, 1926, and may, if it grants its sanction,
10 impose such conditions as it thinks fit for the repayment of the money borrowed.

See Reprint
of Statutes,
Vol. V, p. 415

(4) The Council is hereby empowered to make advances to the governing body of any University college for the purposes of that college out of moneys
15 appropriated by Parliament for the purpose.