

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 19 October 1965

Words struck out by the Committee of the Whole are shown with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Hon. Mr Kinsella

EDUCATION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Education Act 1964

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

1. Short Title—This Act may be cited as the Education Amendment Act 1965, and shall be read together with and deemed part of the Education Act 1964* (hereinafter referred to as the principal Act).

10 **2. Salaries and allowances payable to officers of Board**—Section 22 of the principal Act is hereby amended by adding the following subsection:

*1964, No. 135

No. 109—2

“(3) Any regulations made under subsection (2) of this section may, in so far as they prescribe any scales of salaries or rates of overtime or allowances, be made to come into force before or after the date of the making thereof or on that date.”

3. General powers and duties of Board—Section 26 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (d), the following paragraph: 5

“(dd) Take such steps as it considers necessary for the provision and supply (whether by sale or otherwise) of books, furniture, equipment, and materials for use in schools under its control, and for the supply within its district (whether by sale or otherwise) of books, furniture, equipment, and materials, upon such conditions as the Minister may from time to time approve, for use in registered schools not under its control: 10 15

“Provided that the Board may not compel any School Committee or Head Teacher to purchase or obtain out of money held by or allocated to the Committee or Head Teacher books, equipment, or materials from any specified source:” 20

4. Qualification of members of School Committees—

(1) Section 42 of the principal Act is hereby amended by omitting from subsection (1) and also from subsection (2) the words “for a school district”. 25

(2) Section 42 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) Subject to the foregoing provisions of this section,—

“(a) Every householder in a school district shall be qualified to be elected a member of the School Committee for the district, and no other person shall be so qualified: 30

“(b) Any person shall be qualified to be elected a member of the School Committee for an intermediate school.” 35

5. Casual vacancies for parents’ representatives—Section 52 of the principal Act is hereby amended as from its commencement by adding, as subsection (2), the following subsection: 40

“(2) Any such regulations may provide that casual vacancies for parents’ representatives may be filled by appointment instead of election.”

New

5A. Regulations—Section 107 of the principal Act is hereby amended by adding to paragraph (a) the words “and classes”.

6. Appeal against the appointment of a primary teacher—

5 Section 145 of the principal Act is hereby amended as from its commencement by repealing the proviso to subsection (2), and substituting the following proviso:

10 “Provided that, where applications are invited for a special position, as defined in regulations, only applicants who, in the opinion of the Appointments Committee, possess the qualifications for the position and have such higher general assessments may appeal against the appointment.”

7. New sections inserted—The principal Act is hereby amended by inserting, after section 164, the following sections:

15 “164A. **Teachers determinations**—(1) The Director-General shall from time to time, in respect of employees of the Education service within the meaning of the Government Service Tribunal Act 1965, make determinations, to be known as teachers determinations, prescribing classes or grades of
20 teachers for the purpose of prescribing scales of salaries and allowances, and shall prescribe salary rates and allowances for those classes or grades not exceeding the amount for the time being prescribed by the Minister as the maximum amount that the Director-General may prescribe
25 under this subsection, and may also prescribe the terms and conditions under which those salaries and allowances are payable, but not including any terms and conditions relating to the staffing of schools.

30 “(2) In prescribing salary rates or scales of salary rates in accordance with subsection (1) of this section, the Director-General shall have regard—

35 “(a) To the levels of remuneration received by, and other matters affecting the remuneration of, persons doing work of comparable responsibility in employment outside the Education service:

“Provided that the rates may be adjusted, where proper, having regard to the maintenance of proper relativity within the Education service:

40 “(b) To the need to maintain adequate margins for skill and responsibility:

“ (c) To the need to promote the efficiency of the Education service and to provide sufficient inducement for recruitment:

“(d) In cases where comparison with the level of remuneration received by persons doing work of comparable responsibility in employment outside the Education service is not possible, or where conditions other than remuneration are such as to prevent a fair comparison, to the salary rates paid in respect of other classes or grades within the Education service: 5

“(e) To such other matters as may be agreed between the Director-General and the appropriate service organisation within the meaning of the Government Service Tribunal Act 1965. 10

“(3) The power to prescribe the matters set out in subsections (1) and (2) of this section shall not derogate in any manner from any other powers conferred on the Director-General by any other section of this Act or of any other enactment. 15

“(4) Every teachers determination shall be published in the *New Zealand Education Gazette*, and shall come into force on a date to be specified therein in that behalf, which date may be before, the same as, or after the date on which the determination is made, and if no such date is specified the determination shall come into force on the day on which it is made. 20

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“(5) At any time within two months, or such extended time as the Director-General may in any case notify in the *New Zealand Education Gazette*, after the date of the publication of any determination which contains any salary rates which do not exceed the amount for the time being prescribed by Order in Council as the maximum salary within the jurisdiction of the Tribunal, any such service organisation of which any member is affected by the determination may apply in writing to the Government Service Tribunal for an order varying the salary rates and allowances fixed by the determination under subsections (1) and (2) of this section. 25 30 35

“(6) Any such service organisation of which any member is affected may apply to the Director-General for a review of the salaries and allowances relating to any class of employees of the said Education service at any time after the expiration of ten months from the date on which any teachers determination or teachers order issued by the Government Service Tribunal relating to that class of employee comes into force, and if no determination relating to that class 40

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is issued within two months after the date of the lodgment of the application, the application may be forwarded to the Government Service Tribunal by the service organisation, and in that event shall be deemed to be an application under subsection (5) of this section for an order varying the determination or order for the time being governing the salary rates and conditions of that class:

New

“(5) At any time within two months, or such extended time as the Director-General may in any case notify in the *New Zealand Education Gazette*, after the date of the publication of any determination made by the Director-General under subsection (1) of this section, any such service organisation of which any member is affected may apply to the Government Service Tribunal for an order varying that determination:

“Provided that no such application may be made in respect of any salary rates which exceed the amount for the time being prescribed by Order in Council as the maximum salary within the jurisdiction of the Tribunal.

“(6) Any such service organisation of which any member is affected may apply to the Director-General for a review of any matter which may be prescribed in a determination made under subsection (1) of this section, other than salary rates which exceed the amount for the time being prescribed by Order in Council as the maximum salary within the jurisdiction of the Tribunal, at any time after the expiration of ten months from the date on which the teachers determination or teachers order issued by the Government Service Tribunal relating to that matter comes into force, and if no determination relating to that matter is issued within two months after the date of the lodgment of the application, the application may be forwarded to the Government Service Tribunal by the service organisation, and in that event shall be deemed to be an application under subsection (5) of this section for an order varying the determination or order for the time being governing the matter:

“Provided that, where the Director-General has made a determination following the application of a service organisation, the service organisation may apply to the Government Service Tribunal for an order in respect only of those parts (if any) of its application to which the determination of the Director-General has not given full effect.

Cf. 1962, No. 132, s. 41

“164B. **Amending determinations**—(1) Subject to the provisions of this Act, the Director-General may, at any time and from time to time during the currency of any teachers determination or teachers order, make determinations, to be known as amending determinations, for all or any of the following purposes: 5

“(a) To amend the provisions of the determination or order for the purpose of remedying any defect therein or giving fuller effect thereto:

“(b) To amend the provisions of the determination or order for such purpose and in such manner as may be agreed in writing between the Director-General and every service organisation within the meaning of the Government Service Tribunal Act 1965 having any member affected by the matters covered by the determination or order: 10 15

“(c) To amend the determination or order for the purpose of conforming with any decision of the Government of New Zealand which is conveyed to the Tribunal by the Minister and arises from a recommendation by the Advisory Committee on Higher Salaries in the State Services, or to make consequential adjustments to salary rates following any such decision: 20

“(d) To amend the determination or order for the purpose of conforming with any decision of the Government of New Zealand which is conveyed to the Tribunal by the Minister and arises in accordance with any provision in any Act relating to surveys of ruling rates of remuneration. 25 30

“(2) At any time within two months (or such extended time as the Director-General may in any case notify in the *New Zealand Education Gazette*) after the date of the publication of the amending determination made under subsection (1) of this section, any such service organisation of which any member is affected may apply in writing to the Government Service Tribunal for an order varying the amending determination. 35

“(3) The Government Service Tribunal shall have jurisdiction to hear and determine any application made to it under subsection (2) of this section, and may make an order varying, confirming, or cancelling the amending determination. In arriving at its decision the Tribunal shall have regard to the matters specified in subsection (1) of this section in relation to the matters which may be taken into account in making amending determinations. 40 45

“(4) Without restricting the foregoing provisions of this section, it is hereby declared that, at any time within two months after the date of the publication of any teachers determination, the Director-General may make an
5 amending determination cancelling or varying the previous determination.

“(5) Except as provided in this section, a teachers determination shall not be revoked until after the expiration of one year from the date on which it came into force.

10 Cf. 1962, No. 132, s. 41A

“164c. **Consolidating determinations**—Notwithstanding anything to the contrary in this Act, the Director-General may make determinations consolidating any existing teachers determinations or teachers orders or both:

15 “Provided that, where a consolidating determination is so made, all limitations of time applicable under this Act to the making of any teachers determination or teachers order, or to any matter ancillary thereto, shall apply to every provision of the consolidating determination in all respects as if the
20 consolidating determination had not been made.

Cf. 1962, No. 132, s. 41B

“164d. **Conciliation**—(1) No teachers determination other than a determination arising out of an application by a service organisation within the meaning of the Government Service
25 Tribunal Act 1965 under subsection (6) of section 164A of this Act (as inserted by section 7 of the Education Amendment Act 1965) shall be issued by the Director-General otherwise than as provided in this section.

30 “(2) Where the Director-General proposes to issue any such determination, he shall, before doing so, give to every such service organisation of which any member will be affected by the proposed determination notice of his intention to issue the determination, and the notice shall be accompanied by a copy of the proposed determination in draft form or shall
35 otherwise fully indicate the purpose and effect thereof.

“ (3) At any time within fourteen days after the date on which it receives notice of the intention to issue the determination as aforesaid, any such service organisation may advise the Director-General that it wishes to negotiate on the proposed
40 determination, and shall indicate the grounds on which it objects to the proposed determination. Any service organisation giving advice to the Director-General that it wishes to

negotiate on a proposed determination shall commence negotiations within fourteen days after the date on which the notice was given to the Director-General, and the determination to which objection has been raised shall not be issued until the negotiation has taken place. 5

“(4) If a service organisation does not advise the Director-General that it wishes to negotiate on a proposed determination, or if, having advised its intention to negotiate, it fails to commence negotiations within fourteen days after the date on which it gives the notice, or fails to pursue the negotiations with due diligence, the Director-General may proceed to issue the proposed determination. 10

“(5) At the request of any party to any matter or proceeding relating to a determination in respect of which an application has been made to the Government Service Tribunal under this Act, the Prime Minister shall appoint a conciliator whose duty it shall be to assist the service organisation and the Director-General to reach agreement on the subject matter of the application. 15

“(6) Every such request for the appointment of a conciliator shall be lodged with the Prime Minister before any order arising out of the application and relating to the matters covered by the application is issued by the Tribunal. 20

“(7) The conciliator shall appoint a day and place for the conciliation proceedings, and shall, in the prescribed manner, direct the service organisation and the Director-General to attend. 25

“(8) Subject to the provisions of this Act and of any regulations made under this Act, the conciliation proceedings shall be conducted in such manner as the conciliator thinks fit. 30

“(9) At the conclusion of the proceedings, or when the conciliator is satisfied that further progress is unlikely, he shall—

“(a) Report in writing to the Tribunal the results of the proceedings, including such recommendations as he may think fit regarding matters that are not the subject of agreement during conciliation: 35

“(b) Forward with his report a statement signed by the parties and himself of the matters upon which agreement has been reached: 40

“(c) Give copies of the report and statement to the Director-General and the service organisation.

“(10) Nothing in this section shall in any way affect the rights of any party in any application to or proceedings before the Tribunal in relation to the subject matter of the conciliation. 45

“(11) Nothing in this section shall operate to restrict consultation or discussion at any time between the parties to any matter by agreement of the parties. No such consultation or discussion shall prevent or influence any formal proceedings
5 or hearings under this Act, except as may be agreed upon by the parties.”

Cf. 1962, No. 132, s. 41c

8. Certificates as to education—The principal Act is hereby amended by repealing section 196, and substituting the
10 following section:

“196. Certificates attesting the courses of instruction completed, or the standards of education attained, may be issued by or under the authority of the Director-General in accordance with regulations made under this Act to pupils of any
15 secondary school or registered private secondary school or any other school approved for the time being by the Director-General for the purpose, or to any other persons who have, in the opinion of the Director-General, attained a standard of education warranting the issue of the certificates.”

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New

8A. Grants for free text books—Section 203 of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

25 “(bb) Providing for the making of grants out of money appropriated by Parliament, for the provision of free text books in schools, to Education Boards, the governing bodies of secondary schools, and the controlling authorities of other registered schools, or any of them; and prescribing the
30 conditions on which those grants may be made:”