

EDUCATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Education Act 1964.

Clause 1 relates to the Short Title.

Clause 2 enables the Minister to appoint advisory or technical committees to advise him for any of the purposes of the principal Act.

Clauses 3 to 8 amend the principal Act to enable any Secondary Schools Council, if so required by the Minister by notice in the *Gazette*, to undertake the control of any secondary school not having a Board of Governors.

Clause 9 amends section 106 of the principal Act by adding a new subsection. The effect is to apply to Teachers College Councils, as if they were governing bodies of secondary schools, sections 60 to 67 of the principal Act, dealing with insurance, travelling expenses, remuneration, borrowing powers, accounts and audit, annual reports, grants, and expenditure.

Clause 10 amends section 107 of the principal Act to provide express power to make regulations providing for the incorporation of any unincorporated governing body of a teachers college, and, in the event of the transfer of control of a teachers college from one governing body to another, providing for the property, rights, and liabilities of the former governing body to vest in the governing body to which control has been transferred. The new paragraph (ac), inserted by this clause, re-enacts existing provisions.

Clause 11 amends section 145 of the principal Act to provide that no appeal lies against the appointment of a teacher to a position in a State primary school at a salary no higher than that he was receiving for his previous position at some other State primary school if the appointment was made solely on the ground that he had lost or was about to lose his previous position because of a change in the grade or station of the school or because of the closing of the school.

Clause 12 inserts a new subsection (3A) in section 153 of the principal Act. The new subsection provides that if a position to which a teacher has been permanently appointed has been disestablished, thereby requiring the teacher to take another position in the same or in another State school at a lower salary than the salary he was receiving before losing his former position,

the teacher is entitled to be paid at the salary appropriate to his former position for a period of 2 years commencing from the date of his taking up the new position. The Director-General may extend that period for a further year, and from year to year, if he is satisfied that it is not possible, or with regard to any exceptional circumstances of the teacher not fair, to transfer the teacher to another position for which the salary is at least as high as that for his original position.

Clause 13 amends section 154 of the principal Act to afford rights to principals and tutors, in certain circumstances, whose employment or position is lost by reason of the grading of a technical institute being changed, or by reason of a technical institute being disestablished and 2 or more institutes being established in its place, or by reason of any course at a technical institute being transferred to another technical institute.

Clause 14 amends section 187 of the principal Act to exempt the governing bodies of teachers colleges from taxation.

Clause 15 re-enacts and amends the provisions of section 193 of the principal Act (as amended by section 19 of the Education Amendment Act 1968), and enables bursaries to be established by the Minister also for primary education, to be awarded in accordance with regulations. The clause enables regulations under section 193 now to be made so as to apply to all registered private schools or to any registered private school or to any class or classes of those schools.

Clause 16 amends section 203 of the principal Act to enable regulations to be made prescribing the accounts to be kept by the governing bodies of teachers colleges.

Clause 17 makes consequential repeals.

Hon. Mr Talboys

EDUCATION AMENDMENT

ANALYSIS

Title	
1. Short Title	8. Minister may require Secondary Schools Council to undertake control of secondary school
2. Advisory and technical committees	9. Establishment of teachers colleges
3. Governing bodies of certain secondary schools	10. Regulations
4. Certain secondary schools not placed under separate Boards of Governors	11. Right of Appeal
5. Change in control of secondary schools to provide separate Boards of Governors	12. Protection of teachers' salaries
6. Vesting of assets on change in control	13. Protection of teachers in certain cases
7. Control of groups of secondary schools	14. Exemptions from taxation
	15. Bursaries for primary, secondary, further, or higher education
	16. Regulations
	17. Repeals

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 1971 and shall be read together with and deemed part of the Education Act 1964* (hereinafter referred to as the principal Act).

*1964, No. 135

Amendments: 1965, No. 67; 1966, No. 59; 1967, No. 136; 1968, No. 11; 1969, No. 66; 1970, No. 147

2. Advisory and technical committees—The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. (1) The Minister may from time to time appoint such advisory or technical committees as he thinks fit to advise him for any of the purposes of this Act, and may from time to time determine the functions of any such committee. 5

“(2) There may be paid out of money appropriated by Parliament for the purpose to the members of any committee appointed under this section 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 as if the committee were a statutory Board within the meaning of that Act. 10 15

“(3) Subject to this Act and to any regulations made under this Act, each advisory or technical committee may regulate its own procedure.

“(4) No person appointed to an advisory or technical committee shall by virtue of that appointment be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962, or of the Superannuation Act 1956.” 20

3. Governing bodies of certain secondary schools—Section 51 of the principal Act is hereby amended by omitting from subsection (1) the words “requires the school to be controlled by the Education Board of the district”, and substituting the words “, by notice published in the *Gazette*, requires the school to be controlled by the Education Board of the district, by a Secondary Schools Council,”. 25 30

4. Certain secondary schools not placed under separate Boards of Governors—(1) Section 53 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) If the Minister by notice in the *Gazette* requires a secondary school to be controlled by the Education Board of a district, a Secondary Schools Council, or the governing body of some other secondary school or schools, the Education Board, Secondary Schools Council, or governing body may delegate such powers over the school as it thinks fit to the Committee of the school district in which the secondary school is situated, or to a special Committee elected or appointed in such manner as may be prescribed.” 35 40

(2) The said section 53 is hereby further amended by inserting in subsection (3), after the words "any Education Board", the words "or Secondary Schools Council".

5 (3) The said section 53 is hereby further amended by inserting in subsection (4), after the words "the Education Board", the words ", Secondary Schools Council,".

5. Change in control of secondary schools to provide separate Boards of Governors—The principal Act is hereby further amended by repealing section 54, and substituting the
10 following section:

"54. (1) If any secondary school is under the control of the Education Board of the district, the Minister, on the joint recommendation of the Education Board and such Committee to which powers have been delegated by the Board
15 pursuant to section 53 of this Act, or at any time after 3 years from the date on which the school was established, on the sole recommendation of that Committee, may by notice published in the *Gazette* direct that, as from a date fixed in the notice, the Board shall cease to exercise control over the
20 school, and that the sole control of it shall be vested in a Board of Governors to be constituted in accordance with the requirements specified in section 51 of this Act or shall be vested in the governing body of some other secondary school.

"(2) If any secondary school is under the control of a
25 Secondary Schools Council or of the governing body of some other secondary school or schools, the Minister, after he has consulted that Council or that governing body, may by notice published in the *Gazette* remove the school from the control of the Council or governing body and vest the sole control of
30 the school in a Board of Governors to be constituted in accordance with the requirements specified in section 51 of this Act.

"(3) As from the date specified in any notice under this section that vests the control of a school in a separate Board of Governors, all the provisions of this Act relating to Boards
35 of Governors of secondary schools shall apply to the Board of Governors of the school."

6. Vesting of assets on change in control—The principal Act is hereby amended by repealing section 55, and substituting the following section:

40 "55. As from the date specified in any notice under section 54 of this Act that vests the control of a school in a separate Board of Governors, all the property, rights, and liabilities of the original governing body in respect of the school shall vest

in and become the property, rights, and liabilities of the Board of Governors, except in so far as the property, rights, and liabilities may be expressly limited or excluded by the notice; and every notice so published shall have effect according to its tenor.”

5

7. Control of groups of secondary schools—(1) Section 57 of the principal Act is hereby amended by inserting, in paragraph (a) of subsection (4), after the words “the Council”, the words “that has a Board of Governors”.

(2) The said section 57 is hereby further amended— 10

(a) By inserting in paragraph (a) of subsection (7), after the word “applies”, the words “that have Boards of Governors”:

(b) By adding to paragraph (b) of subsection (7) the words “that have Boards of Governors, and also for 15 other schools under the Council:”.

(3) The said section 57 is hereby further amended by repealing paragraph (c) of subsection (7), and substituting the following paragraph:

“(c) To hold all real and personal property used for the 20 purposes of each of the schools under the Council and all money appropriated from time to time by Parliament for the purposes of each of those schools, and, subject to the provisions of this section, to apply all property and money from time 25 to time so held by it, for each of the schools having a Board of Governors in such manner as the Board of Governors of the school may direct, and for each school under the Council not having a Board of Governors as the Council itself determines: 30

“Provided that money raised by local effort for any school having a Board of Governors shall not be held by the Council under this paragraph unless the Board of Governors of the school so directs:”.

(4) The said section 57 is hereby further amended by omitting from subsection (11) the words “Notwithstanding anything”, and substituting the words “Subject to section 57A of this Act, but notwithstanding anything else”. 35

(5) The said section 57 is hereby further amended by inserting in subsection (12), after the words “each school”, 40 the words “having a Board of Governors”.

8. Minister may require Secondary Schools Council to undertake control of secondary school—The principal Act is hereby further amended by inserting, after section 57, the following section:

- 5 “57A. Notwithstanding anything in section 57 of this Act, the Minister may by notice in the *Gazette* require any Secondary Schools Council established for the purposes of section 57 of this Act to undertake the control of any secondary school not having a Board of Governors, in which case, as from
10 the date specified in the notice, for the purposes of this Act and regulations made under it, the Council shall be the governing body of the school and shall exercise control over the school in every way as if it were the Board of Governors of the school, and the school shall be placed under the Council.”
15

9. Establishment of teachers colleges—Section 106 of the principal Act is hereby amended by adding the following subsection:

- 20 “(3) The provisions of sections 60 to 67 of this Act relating to the governing bodies of secondary schools shall, with the necessary modifications, apply to every Teachers College Council constituted pursuant to regulations made under this Act as if every reference in those sections to the governing body of a secondary school was also a reference to a Teachers
25 College Council; but the said section 67 (as amended by section 7 of the Decimal Currency Act 1964) shall, in its application to a Teachers College Council, be read as if the words ‘two hundred dollars’ were omitted, and the expression ‘\$400’ was substituted.”

- 30 **10. Regulations**—Section 107 of the principal Act is hereby amended by repealing paragraph (aa) (as inserted by section 3 of the Education Amendment Act 1966), and substituting the following paragraphs:

- 35 “(aa) Providing for the incorporation of any unincorporated governing body of a teachers college so that the governing body may have such of the attributes of corporate personality as may be prescribed, including perpetual succession and a common seal, and the power to hold real and personal property for the purposes of the college, and to sue and be sued
40 and do and suffer all such acts and things as bodies corporate may do and suffer:

“(ab) Providing for more than one teachers college to be placed under the control of a single governing body and for that governing body to establish committees of management of its own members or representatives of its own members and for the governing body to delegate such of its powers of control and management over a teachers college to a committee of management as the Minister might in writing agree: 5

“(ac) Providing, in the event of the transfer of the control of a teachers college from one governing body to another, for all the property, rights, and liabilities of the former governing body in respect of the teachers college to vest in and become the property, rights, and liabilities of the governing body to which control of the teachers college has been transferred:” 10 15

11. Right of appeal—Section 145 of the principal Act (as amended by section 7 of the Education Amendment Act 1965 and section 15 of the Education Amendment Act 1968) is hereby further amended by adding to subsection (2) the following further proviso: 20

“Provided also that no appeal shall lie against any appointment of a teacher to a position in a State primary school at a salary no higher than the salary he was receiving for his previous position at some other State primary school if the appointment was made solely on the ground that he had lost or was about to lose his previous position because of a change in the grade or status of the school or because of the closing of the school.” 25 30

12. Protection of teachers' salaries—Section 153 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Notwithstanding anything in subsection (1) or subsection (2) of this section, if a position to which a teacher has been permanently appointed in a State primary school, secondary school, technical institute, or any school under the control of the Department, has been disestablished, and for that reason the teacher takes another position in the same or another State primary school, secondary school, technical institute, or any school under the control of the Department, 35 40

at a lower salary than the salary he was receiving before the loss of his former position, he shall be entitled to be paid at the salary appropriate to his former position for a period of 2 years commencing from the date of his taking up the new
5 position:

“Provided that the Director-General may, if he is satisfied that it is not possible, or with regard to any exceptional circumstances of the teacher not fair, to appoint or transfer the teacher to another position for which the salary is at least as
10 high as that for his original position, extend the said period of 2 years for a further year; and may from year to year continue to extend the period.”

13. Protection of teachers in certain cases—Section 154 of the principal Act is hereby amended by adding the following
15 subsections:

“(4) If the grading of a technical institute is changed in accordance with regulations under this Act, or a technical institute is disestablished and 2 or more technical institutes are established in its place, or any course at a technical institute
20 is transferred to another technical institute,—

“(a) A principal who can no longer be employed as a principal because of the change in grading of the technical institute shall be offered a position as a tutor on the staff of the technical institute:

25 “(b) A tutor who has lost his position because of the disestablishment of the technical institute shall be offered a position on the staff of such of the institutes established in its place as the Director-General in his discretion decides:

30 “(c) A tutor who has lost his position at the technical institute because of the transfer of a course from the institute to another institute shall be offered a position on the staff of the technical institute to which the course has been transferred.

35 “(5) Any principal to which paragraph (a) of subsection (4) of this section applies, and any tutor to which paragraph (b) or paragraph (c) of the said subsection applies, shall, while employed in any position that is offered to him under any of those paragraphs and that has a lower salary than his
40 former position, be entitled to be paid at the salary appropriate to his former position for a period of 2 years from the date of taking up his new position.”

14. Exemptions from taxation—Section 187 of the principal Act is hereby amended by omitting the words “or technical institute, being a school”, and substituting the words “, teachers college, or technical institute, being a school, college,”. 5

15. Bursaries for primary, secondary, further, or higher education—The principal Act is hereby further amended by repealing section 193, and substituting the following section:
 “193. (1) For the purposes of enabling qualified persons to pursue courses of primary, secondary, further, or higher education, or to pursue courses of study at a university as a prerequisite to or as part of their training as teachers, the Minister may establish bursaries which shall be awarded in accordance with regulations in that behalf, and shall be of such annual value as is prescribed. 10 15

“(2) All payments in connection with bursaries so established shall be made out of money appropriated by Parliament for the purpose.

“(3) Regulations made under this section relating to bursaries for courses of primary, secondary, or further education may be so made as to apply to all registered private schools or to any registered private school or to any class or classes of those schools.” 20

16. Regulations—Section 203 of the principal Act is hereby amended by omitting from paragraph (b) the words “and technical institutes”, and substituting the words “technical institutes, and teachers colleges”. 25

17. Repeals—The following enactments are hereby consequentially repealed—

- (a) The Education Amendment Act 1966: 30
- (b) Section 19 of the Education Amendment Act 1968.