

EDUCATION AMENDMENT BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill makes various amendments to the Education Act 1964, including a number that result from the report of the Committee on the Registration and Discipline of Teachers (the Marshall Report) made to the Minister of Education in December 1977.

Clause 1 relates to the Short Title and commencement. *Sections 136K to 136P* of the principal Act (as inserted by *clause 9* of this Bill) and *clause 10* of this Bill come into force on a date to be appointed in that behalf by the Governor-General by Order in Council; the remainder of the Bill comes into force on the day on which it receives the Governor-General's assent.

Clause 2 amends section 8 of the principal Act so as to ensure that the Director-General's power of delegation includes the power to delegate matters left to him to decide under determinations issued under the State Services Conditions of Employment Act 1977.

Clause 3 consolidates and amends various provisions in the principal Act relating to the payment of grants to various kinds of educational institution, and the expenditure of money by such institutions. It does so by repealing section 9 of the principal Act and substituting 4 new sections.

Section 9 provides that expenditure under the principal Act is to be out of money appropriated by Parliament.

Section 9A provides for the payment of grants to the controlling authorities of various kinds of educational institution, and provides for the making of regulations governing the calculation, payment, and expenditure, of those grants.

Section 9B substitutes for a number of existing specific provisions, a general provision relating to the amount of unauthorised expenditure that may be incurred by various kinds of educational institution.

Section 9C specifies the circumstances in which educational institutions may borrow money. Money may be borrowed on overdraft only with the consent of the Minister; and money may be borrowed from any other source only with the consent of both the Minister and the Minister of Finance. The section also deals with the consequences of illegal borrowing on the part of educational institutions.

Clause 4 provides for the replacement of educational bodies that fail to perform their duties properly by commissions appointed by the Minister. Where the Minister is satisfied that an educational body refuses or has failed to perform its duty, or is mismanaging its affairs, or has done or intends to do any illegal act, he may appoint a commission to act in that body's place. Before so appointing a commission the Minister is required to inform the body of the matters in respect of which it has failed, is failing, or intends to fail, in its duties or functions, and to allow the body a specified time within which to make submissions to him.

Clause 5 amends section 71 of the principal Act so as to require the Minister's approval to the closure of any State primary school. At present an Education Board may close a school without his consent if the closure is because of a falling roll.

Clause 6 removes certain doubts about the validity of some existing regulations relating to composite schools.

Clause 7 provides for the establishment of education centres. Education centres may be established by the Minister to perform any of a number of miscellaneous educational functions, either within the community or in relation to the advice, guidance, and assistance of teachers. Education centres may be established separately, or as part of a primary school, secondary school, technical institute, community college, or teachers college. Where an education centre is established as part of an existing educational institution, it is to be under the control of the governing body of that institution. Separately established education centres are to have controlling councils established by the Minister by notice in the *Gazette*. The general powers of an education centre council are to be the same as those of the governing body of a secondary school.

Clause 8 repeals certain provisions of the principal Act relating to community centres. With the enactment of *clause 7*, institutions that would formerly have been established as community centres will now be established as education centres; and all existing community centres are deemed so to have been established.

Clause 9 inserts into the principal Act a number of new sections which relate to the registration of teachers and which give effect to recommendations of the Marshall Report.

Section 131 establishes the Teacher Registration Board. All members of the Registration Board are to be appointed by the Minister. There is to be 1 member appointed by the Minister as chairman, 8 registered teachers appointed after consultation between the Minister and certain specified teacher organisations, 4 members appointed after consultation between the Minister and certain specified organisations representing employers of teachers, 1 other member, and the Director-General of Education.

Section 132 relates to the eligibility of persons for appointment to the Registration Board.

Section 133 specifies the term of office of members of the Registration Board.

Section 134 relates to extraordinary vacancies.

Section 135 relates to the meetings of the Registration Board.

Section 136 relates to the remuneration and expenses of members of the Registration Board.

Section 136A provides that it is to be a function of the Registration Board, after consultation with all branches of the teaching profession, to formulate and promulgate a code of ethics for teachers.

Section 136B relates to the general powers, rights, and authorities of the Registration Board.

Section 136C sets out the financial powers and obligations of the Registration Board.

Section 136D requires the Registration Board to keep true and regular accounts. Each year these accounts are to be balanced, and audited by the Audit Office. As soon as practicable after the close of each financial year the Registration Board is to send to the Minister a copy of its proceedings and operations for that year, a copy of its audited accounts for that year, and any recommendations it sees fit to make in relation to the registration of teachers and the teaching profession, all of which the Minister is required to lay before Parliament.

Section 136E relates to the appointment of a Registrar and other officers of the Registration Board.

Section 136F relates to the Register of Teachers.

Section 136G relates to the making of applications for registration.

Section 136H sets out the criteria for registration.

Section 136I relates to persons registered as teachers under existing legislation. Persons who apply for registration before 1 January 1981, and, at the time of application, are employed as teachers, are to be registered as of right if—

- (a) On 31 October 1980 they held positions of a kind required by *section 136O* of the principal Act to be held by registered teachers; or
- (b) They satisfy the Registration Board that they are of good character and fit and proper persons to be teachers and that they have held either a list 'B' classification or its equivalent; or
- (c) They hold a teacher's certificate or its equivalent.

Where such a person is not employed as a teacher at the time he applies for registration, he is to be registered as of right if the Registration Board receives a favourable report from either the Director-General or the person or body by whom or by which he was last employed as a teacher.

Section 136J requires the Registration Board to publish the Teachers Register annually in the *Gazette*. The Teachers Register is to specify the full names of all registered teachers at a specified date, the name of the establishment at which each such teacher was teaching at that date, an address for each such teacher who was not at that date teaching, an indication as to which of those teachers held a current practising certificate at that date, an indication as to which of those teachers had his registration suspended at that date, and the date upon which that registration was due to expire, and, in respect of each such teacher, the date on which he was registered and provisionally registered. The section also provides that the Registration Board may publish those matters in the *Gazette* in respect of any person who has been registered or provisionally registered since the last annual publication, and the name of any person whose registration has been cancelled or suspended since the last publication, together with the name of the last establishment at which he was employed before the cancellation or suspension, and, in the case of a suspension, the date upon which the suspension is due to expire.

Sections 136K to 136P come into force on a date to be specified by Order in Council.

Section 136K provides for the issue of annual practising certificates to teachers.

Section 136L provides for the cancellation and suspension of the registration of teachers, and the consequential cancellation of their practising certificates. A practising certificate can be cancelled where the teacher has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or of an offence against the principal Act, or where the Director-General for any teacher organisation has requested the cancellation of that registration, or where a teacher has had a disciplinary charge proved against him and been peremptorily dismissed or required to resign. A teacher's registration is not to be cancelled or suspended until he has been afforded a reasonable time to make representations to the Registration Board about the possible cancellation of his registration, and the Registration Board has considered any representations made by him within that time.

Section 136M gives a right of appeal against the refusal of the Registration Board to register any person as a teacher, or the cancellation or suspension of the registration of any teacher by the Registration Board.

Section 136N provides for the notification of decisions of the Registration Board.

Section 136O provides that except in the case of relieving or specialist teachers, no person is to be employed as a teacher in any kindergarten, registered school, teachers college, or other position specified by the Minister in the *Gazette*, unless he is registered under the new system.

Section 136P creates offences in respect of persons who are not registered teachers. It becomes an offence punishable by a fine not exceeding \$500 to make a false statement to the Registration Board, to use, or permit to be used, the words "registered teacher" in connection with any person who is not a registered teacher, to make or cause to be made a false entry or the falsification of an entry in the register, or to be employed or employ any person contrary to the requirement that teachers be registered.

Clause 10 effects consequential amendments.

Clause 11 relates to rights of appeal in respect of appointments to positions advertised as dual appointments—that is 2 appointments advertised together to be filled by a married couple. It is provided that where one couple is appointed to 2 positions so advertised, and either spouse of another couple who unsuccessfully applied for those positions has a right of appeal in respect of the position for which he or she applied, then both spouses are deemed to have rights of appeal. Where one of the dual positions is that of Principal or is a position of responsibility, the appeal is to be determined as if it related solely to that position; but otherwise appeals in respect of dual appointments are to be dealt with as if the positions were one position and the appointees and appellants were each one person.

Clause 12 amends the principal Act, in the light of the recommendations of the Marshall Report, so far as the principal Act relates to teacher discipline.

Sections 156 to 156A are repealed, and 8 new sections are substituted:

Section 157 relates to teachers charged with offences punishable by imprisonment for a term of 2 years or more. Any such teacher may, at any time before the charge is determined, be suspended or temporarily transferred to other duties. It is provided that where an employing authority is considering whether or not to suspend or transfer such a teacher, the welfare and interests of the students attending the institution at which he is employed are to be the paramount consideration. Where such a teacher is suspended or transferred the Registration Board is to be informed forthwith. Where a teacher has been suspended and is subsequently acquitted of the charge in respect of which he was suspended he shall, unless he has previously resigned or taken up some other teaching position, be entitled to resume his teaching duties forthwith and may be paid all or such part of the salary that would have been payable to him during the period of his suspension as his employing authority thinks fit.

Section 157A provides that a teacher convicted of an offence punishable by imprisonment for a term of 2 years or more, or in respect of which he is sentenced to a term of imprisonment, may, within 3 months of the conviction, be dismissed or transferred, or suspended until he is dismissed or transferred or until the expiration of 3 months from the date of the conviction.

Section 158 prescribes various disciplinary offences. It is provided that an act or omission on the part of a teacher may constitute a disciplinary offence notwithstanding that he may have been acquitted of a criminal offence in respect of that act or omission.

Section 158A establishes the Teachers Disciplinary Board. The chairman of the Board is to be a barrister or solicitor of not less than 7 years practice, and in relation to a matter concerning any particular teacher, the other 2 members of the Board are to be a person nominated by the appropriate teacher organisation, and a person nominated by the appropriate organisation representing employers of teachers.

Section 158B provides for the nomination by various organisations of members of the Disciplinary Board.

Section 159 provides for the making of regulations concerning the making of complaints relating to disciplinary offences, and the hearing and disposal of charges relating to alleged disciplinary offences. A teacher against whom a disciplinary offence has been alleged may be suspended or transferred pending the disposal of the allegation.

Section 159A specifies the penalties for disciplinary offences. A teacher against whom a disciplinary charge has been proved may be dismissed, required to resign, transferred, censured, fined, or ordered to pay costs. No penalty is to be imposed until the teacher has had the opportunity to make submissions concerning the penalty to be imposed on him and those submissions have been considered.

Section 161B provides that the disciplinary provisions of the Act are not to prevent the dismissal or suspension of a teacher employed in a private school where that dismissal or suspension is in accordance with the contract of employment between him and his employer.

Clause 13 adds the Registrar of the Registration Board to the list of persons before whom a teacher may take an oath of allegiance.

Clause 14 amends section 163 of the principal Act, which prohibits teachers from engaging in employment incompatible with their employment as teachers. At present the section prohibits them from doing so, and provides that they commit a disciplinary offence if they do so. It is now provided that no offence is committed unless a teacher's employing authority informs him that, in its opinion, reached after consultation with the appropriate teachers organisation, the employment is inappropriate, and the teacher, despite so being informed, continues in that employment.

Clause 15 amends section 174 of the principal Act, which relates to the constitution of a Court of Appeal to hear appeals by teachers, so as to provide that the Court, when considering an appeal relating to any teacher, is to include a member nominated by the appropriate organisation representing employers of teachers.

Clause 16 substitutes for section 175 of the principal Act, which gives certain rights of appeal to teachers, a new section specifying those rights in greater detail.

Clause 17 specifies the evidence that may be considered by the Court of Appeal in the course of an appeal made to it.

Clause 18 makes consequential amendments.

Clause 19 effects consequential repeals.



Hon. Mr Wellington

EDUCATION AMENDMENT (NO. 2)

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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, as follows:

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1. Short Title and commencement—(1) This Act may be cited as the Education Amendment Act (No. 2) 1979, and shall be read together with and deemed part of the Education Act 1964* (hereinafter referred to as the principal Act).

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the day on which it receives the Governor-General's assent.

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(3) Sections 136k to 136p of the principal Act (as inserted by section 9 of this Act) and section 10 of this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council; and one or more Orders in Council may be made bringing different provisions of those sections into force on different dates.

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2. Delegation of Director-General's powers—The principal Act is hereby amended by repealing section 8, and substituting the following section:

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“8. (1) Subject to subsection (2) of this section, the Director-General may from time to time by writing under his hand delegate to any officers of the Department, or to officers of the Department of a specified class, or to the holders of specified offices in the Department, either generally or particularly, all or any of the powers exercisable by him under this Act or any other enactment, including any powers—

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“(a) Delegated to him under this Act or any other Act;

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or

*Reprinted 1975, Vol. 3, p. 1699

Amendments: 1976, No. 42; 1976, No. 70; 1977, No. 91; 1978, No. 79

“(b) Conferred on, or delegated to, him by any determination under the State Services Conditions of Employment Act 1977,—

but not including this power of delegation.

5 “(2) The Director-General shall not delegate any power delegated to him by the Minister under section 5 of this Act without the written consent of the Minister; and shall not delegate any power delegated to him under the State Services Act 1962 without the written consent of the State
10 Services Commission.

“(3) A power may be delegated under this section either unconditionally or subject to such conditions, restrictions, and directions, as the Director-General at any time imposes or gives; and the person to whom any power is so delegated
15 shall exercise it in accordance with any such condition, restriction, or direction.

“(4) Subject to subsection (3) of this section, any person to whom a power is delegated under this section may exercise it in the same manner and with the same effect as if it had
20 been conferred on him directly by this section and not by delegation.

“(5) The delegation of any power to any person under this section shall not prevent its exercise by the Director-General.

25 “(6) The purported exercise by any person of any power delegated to him under this section shall, in the absence of proof to the contrary, be deemed to be in accordance with the terms of the delegation.

30 “(7) Every delegation under this section shall continue in force according to its tenor until revoked, notwithstanding that the Director-General by whom it was made may have ceased to hold office.”

3. New sections substituted—(1) The principal Act is hereby amended by repealing section 9, and substituting the
35 following sections:

“**9. Money to be appropriated by Parliament—**All amounts payable for the expenses of the Department, and all amounts payable for such other purposes as are necessary to give effect to this Act, shall be paid out of money from time to
40 time appropriated by Parliament for the purpose.

“**9A. Grants to controlling authorities—**(1) Grants shall be paid to Education Boards, the governing bodies of secondary schools, Teachers College Councils, the Boards of Gover-

nors of Technical Institutes, the Boards of Governors of Community Colleges, and education centre councils, for the following purposes:

“(a) Subject to section 165A of this Act, the payment of salaries of academic and administrative staff (including the fees of occasional academic lecturers) and, in the case of Teachers College Councils, student allowances: 5

“(b) The payment of an allowance for general expenses.

“(2) There may be paid to Education Boards, the governing bodies of secondary schools, Teachers College Councils, the Boards of Governors of Technical Institutes, the Boards of Governors of Community Colleges, and education centre councils, or any of them, grants for all or any of the purposes specified in that behalf by regulations made under this Act. 10 15

“(3) The amount of any grant paid under subsection (1) (b) or subsection (2) of this section shall be calculated in a manner for the time being approved by the Minister.

“(4) Without limiting the generality of section 203 of this Act, regulations may be made under this Act specifying the conditions subject to which grants under subsection (2) of this section may be paid. 20

“(5) The Minister may, in accordance with regulations made under this Act, pay grants to the governing bodies of registered private schools. 25

“(6) Without limiting the generality of section 203 of this Act, regulations made under this Act may prescribe the purposes for which any grants made under subsection (1) (b) of this section may be spent.

“(7) Without limiting the generality of section 203 of this Act, regulations may be made under this Act in respect of any grants under subsection (5) of this section, for all or any of the following purposes: 30

“(a) Prescribing the manner in which the amount of those grants is to be calculated: 35

“(b) Prescribing conditions governing the making of those grants:

“(c) Specifying the purposes for which those grants may be spent:

“(d) Providing for the keeping of appropriate accounts and the inspection of those accounts by officers of the Department: 40

5 “(e) Providing for the disposal of equipment purchased wholly or partly out of those grants in the event of the closure of any school, or of the equipment’s being no longer required for school or teaching purposes.

10 “9B. **Expenditure not otherwise authorised**—Any Education Board, any Teachers College Council, the governing body of any secondary school, the Board of Governors of any Technical Institute, the Board of Governors of any community college, or any education centre council may, in any school year, expend for purposes not authorised by this Act or by any other enactment, any sum or sums not exceeding in the aggregate an amount prescribed in that behalf; and different amounts may be prescribed for different classes
15 of Board, Council, and body.

20 “9c. **Borrowing powers**—(1) Without limiting section 12 of the Education Lands Act 1949, but subject to subsection (3) of this section, any Education Board, any Teachers College Council, the governing body of any secondary school, any Teachers College Council, the Board of Governors of any Technical Institute, the Board of Governors of any community college, or any education centre council may—

25 “(a) With the written consent of the Minister, borrow from its bankers by way of overdraft such sum or sums, and for such period or periods, as the Minister specifies in his consent:

30 “(b) With the written consent of the Minister, given with the concurrence of the Minister of Finance, and subject to such terms and conditions (if any) as the Minister specifies in his consent, borrow such sum from such source as the Minister so specifies.

35 “(2) Subject to paragraph (b) of subsection (1) of this section, the Minister may, out of money appropriated by Parliament for the purpose, make advances to any body of a kind specified in that subsection.

40 “(3) If any body of a kind specified in subsection (1) of this section at any time borrows any money otherwise than in accordance with this section, every member of that body who consents to that borrowing commits an offence and is liable on summary conviction to a fine not exceeding \$400.

“ (4) The Director-General shall, if he considers that the circumstances warrant it, institute the necessary proceedings against any person who commits an offence against subsection (3) of this section.

“(5) All costs incurred by the Director-General in proceedings against any person charged with an offence against subsection (3) of this section shall be paid out of the general funds of the body concerned; and all money recovered for fines and costs shall be deemed to be part of the general funds of the body concerned and shall be paid into the appropriate account accordingly. 5

“(6) At any meeting of a body of a kind specified in subsection (1) of this section at which any proposal is made for the borrowing of money, the following provisions shall apply: 10

“(a) Any member of the body may demand a division to be taken on the proposal; and in that case a division shall be taken on the proposal, and the person presiding at the meeting shall make and keep a record of the votes of the members voting on the division and shall instruct the secretary or other proper officer to enter that record in the minutes of that body: 15

“(b) If the proposal is carried without a division being taken on it, every member of the body present at the time the proposal is carried shall be deemed to consent to it: 20

“(c) If the person presiding at the meeting fails to make and keep a record of the votes on any such division, or if the secretary or other proper officer, being instructed as aforesaid, fails to enter that record in the minutes as aforesaid, the person presiding, secretary, or other proper officer, as the case may be, commits an offence and is liable on summary conviction to a fine not exceeding \$40.” 25 30

(2) The following provisions are hereby consequentially repealed:

(a) Sections 27, 37, 62, 65, 66, 67, 67M, 67P, and 67Q of the principal Act: 35

(b) Paragraphs (a), (b), (c), (d), (g), and (h) of section 192 (2) of the principal Act.

4. Failure of educational body to perform its duty—(1) The principal Act is hereby amended by inserting, after section 69B (as inserted by section 11 of the Education Amendment Act (No. 2) 1974), the following heading and section: 40

“Failure of Educational Body to Perform its Duty

“69c. **Appointment of commissions**—(1) Subject to subsection (2) of this section, if, in the opinion of the Minister, any Education Board, governing body of a secondary school,
 5 Teachers College Council, Board of Governors of a Technical Institute, Board of Governors of a Community College, or governing body of an education centre, (in this section referred to as the authority),—

10 “(a) Has failed, or wilfully refuses, or substantially refuses—

“*(i)* To perform any duty; or

“*(ii)* To exercise any function or power—
 imposed or conferred on it by this Act or any other enactment; or

15 “(b) Is mismanaging its affairs; or

“*(c)* Has done or intends to do any act in the execution of its functions that is, in his opinion, illegal,—

the Minister may, by notice in the *Gazette*, appoint a commission (in this section referred to as the commission) to
 20 act in the place of the authority; and may in like manner amend any part of that notice (whether by replacing any member of the commission or otherwise) or revoke it; but where that notice is amended or revoked, a copy of the notice effecting the amendment or revocation shall be sent to the
 25 authority.

“*(2)* The Minister shall not appoint a commission to act in the place of the authority unless—

30 “*(a)* He has first given the authority written notice specifying the matters in respect of which the authority has failed, is failing, or intends to fail (as the case may be) in its duties or functions; and

35 “*(b)* A time specified in that notice for the authority to make written submissions to the Minister has expired.

“*(3)* The commission shall comprise such persons as are for the time being specified in the notice; but where 2 or more persons are specified, one of them shall be specified as being appointed chairman of the commission.

“(4) Except so far as may for the time being be specified in the notice appointing it,—

“(a) The commission shall have and may exercise all the powers and functions of the authority; and

“(b) The chairman of the commission, or, where it comprises only 1 person, the commission, shall have and may exercise all the powers conferred on the chairman or any other member of the authority (whether solely or in conjunction with any other members of the authority).”

“(5) Without limiting the generality of subsection (4) of this section, cheques drawn on any account held by the authority in any bank and required by this Act to be countersigned by a member or officer of the authority shall be sufficiently countersigned if signed by the chairman of the commission or, as the case may be, by the commission.”

“(6) Any power or function of the authority the exercise or performance of which is not for the time being vested in the commission shall be capable of being exercised or performed by the authority as if the commission had not been appointed.”

“(7) Subject to subsection (4) of this section, while the commission is in office, all acts done by it in the purported exercise or performance of any of the powers or functions of the authority, whether that power or function is expressly included in the powers of the commission or not, shall, except in the case of fraud, be as valid as if the commission were not in office and the acts were done by the authority in the ordinary course of the conduct of its business.”

“(8) Subject to subsection (9) of this section, there shall be paid to every person who is for the time being a member of the commission remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly as if the commission were a statutory Board within the meaning of that Act.”

“(9) The Minister may direct that all or any part of the expenditure incurred by the commission under this section be paid out of money belonging to the authority; and in that case that expenditure shall so be paid, whether by deduction from any sums payable to the authority under this Act or otherwise.”

“(10) Nothing in this section shall so be construed as to exclude or affect the civil or criminal liability of, or any other remedy available against, an authority, or any member thereof, or any other person, in respect of any act illegally
5 done or omitted, or intended to be done or omitted, by the authority or any member thereof or any other person.”

(2) Section 5 (1) of the principal Act is hereby consequentially amended by inserting, after the words “or any other enactment”, the words “(other than the powers conferred on him by section 69c of this Act)”.

(3) Section 129A of the principal Act (as inserted by section 3 of the Education Amendment Act 1978) is hereby consequentially amended by inserting, after subsection (4), the following subsection:

15 “(4A) Notwithstanding subsection (4) of this section, where a commission appointed under section 69c of this Act is for the time being exercising the powers and functions under this section of any governing body of a secondary school,—

20 “(a) That school shall be represented at any meeting arranged under subsection (2) of this section by the chairman of that commission, or, as the case may be, by that commission; and

25 “(b) The chairman or commission, as the case may be, shall have 3 votes for each of the schools he represents, each of which shall, for the purposes of paragraph (c) of that subsection, be deemed to be the vote of a person present at the meeting as a representative of that school.”

(4) Section 185A (1) of the principal Act (as inserted by
30 section 33 of the Education Amendment Act (No. 2) 1974) is hereby consequentially amended—

(a) By omitting from subsection (1) the words “officer of the Department of Education appointed”, and substituting the words “persons authorised”; and

35 (b) By omitting from subsection (2) the word “officer”, and substituting the words “person authorised”.

5. Schools for primary education—Section 71 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

40 “(3) Where, after consultation with the School Committee of a State primary school, the Education Board and the Senior Inspector are satisfied that—

“(a) It is expedient that that school should be closed; and

“(b) Each child attending that school either can conveniently attend some other such school or should be enrolled in any correspondence school,—

that Board may, with the approval of the Minister, close that school.” 5

6. Regulations relating to composite schools—(1) The principal Act is hereby amended by repealing section 87 and section 88 (as amended by section 2 (3) of the Education Amendment Act 1976), and substituting the following section: 10

“87. (1) Without limiting the generality of any provision of this Act, any regulations made under any provision of this Act may be limited in their application to composite schools or, as the case may be, to staff or students of composite schools. 15

“(2) Subject to any regulations to which subsection (1) of this section applies, this Act shall apply to every composite school as if every reference in this Act to—

“(a) A State primary school were a reference to those classes and courses in that composite school providing primary education; or 20

“(b) A secondary school were a reference to those classes and courses in the composite school providing secondary education.” 25

(2) Every regulation made under the principal Act before the commencement of this Act is hereby declared to be and to have been, as from its commencement, as valid and effectual as if this section had been in force when it was made. 30

7. New sections inserted—(1) The principal Act is hereby amended by inserting, before Part IV, the following heading and section:

“Education Centres

“107A. **Establishment of education centres—**(1) The Minister may from time to time, either separately or as part of any State primary school, secondary school, technical institute, community college, or teachers college, establish education centres; and may at any time disestablish any education centre. 40

“(2) Subject to section 107B (2) (d) of this Act, an education centre may perform all or any of the following functions:

- 5 “(a) The provision of educational services of any kind (other than services of a kind provided, or capable of being provided, by a university) for persons residing in a particular locality, or for any classes of such persons:
- 10 “(b) The provision of advisory and guidance services relating to education of any kind:
- “ (c) The development and preparation of materials, equipment, and other resources for teachers and kindergarten teachers or either of them:
- 15 “(d) The provision of classes and courses for teachers and kindergarten teachers or either of them:
- “ (e) Such other functions as the Governor-General may from time to time by Order in Council specify.

“107B. Centres to have controlling authorities—(1) Where an education centre is established as part of a State primary school, secondary school, technical institute, community college, or teachers college,—

- 20 “(a) That centre shall be under the control of the Education Board, secondary school council (if any) and Board of Governors, Board of Governors, or Teachers College Council, (as the case may be) of that school, institute, or college; and
- 25 “(b) The controlling authority concerned shall, after consultation with the Minister, appoint a committee to assist it in the administration of that centre; and in that case section 61A of this Act, so far as it is applicable and with the necessary modifications, shall apply to that committee as if—
- 30 “(i) Every reference to a secondary school were a reference to that centre; and
- 35 “(ii) Every reference to the governing body of a secondary school were a reference to that controlling authority.
- “ (2) The Minister shall, by notice in the *Gazette*,—
- 40 “(a) Constitute an education centre council for each separately established education centre; and
- “ (b) Specify the name and membership of that council; and
- “ (c) Specify the terms of office of members of that council, and provide for their removal from office; and

“(d) Specify the functions of that centre.

“(3) The Minister may from time to time, by notice in the *Gazette*, do all or any of the following things:

“(a) Reconstitute or otherwise vary the constitution of any education centre council: 5

“(b) Vary the membership of any such council:

“(c) Vary the function of any education centre.

“(4) Every notice under this section shall have effect according to its tenor.

“(5) Every education centre council shall be a body corporate, and may hold real and personal property, and sue and be sued, and do and suffer all such things as bodies corporate may do and suffer. 10

“(6) Where a separately established education centre is disestablished, all the property, rights, and liabilities of its education centre council vest in the Crown. 15

“107c. **General powers of education centre councils**—(1) Sections 61 to 67 of this Act, so far as they are applicable and with the necessary modifications, shall apply to every education centre council as if— 20

“(a) Every reference to the governing body of a secondary school were a reference to an education centre council; and

“(b) Every reference to a secondary school were a reference to an education centre that is under the control of an education centre council. 25

“(2) With the prior written consent of the Minister, given on and subject to such terms and conditions as he thinks fit, any education centre council may accept money from any source and expend it for any lawful purpose.” 30

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Education centre’ means an education centre established under section 107A (1) of this Act: 35

“‘Education centre council’ means an education centre council constituted under section 107B (2) of this Act:”.

8. Community centres—(1) The following provisions are hereby repealed: 40

(a) Section 201 of the principal Act:

(b) Section 8 of the Education Amendment Act (No. 2) 1975.

(2) Every community centre established under section 201 of the principal Act that was in existence immediately before the commencement of this Act is hereby deemed to have been established as an education centre on that date; and 5 sections 107A to 107C of this Act, so far as they are applicable and with the necessary modifications, shall apply to every such community centre accordingly.

9. New sections substituted—The principal Act is hereby amended by repealing sections 131 to 136, and substituting 10 the following sections:

“131. Teacher Registration Board established—(1) There is hereby established a board to be known as the Teacher Registration Board.

“(2) The Registration Board shall comprise—

15 **“(a) One member appointed by the Minister as chairman:**

“(b) Eight members, who shall be registered teachers appointed by the Minister after consultation with the following bodies:

20 **“(i) The New Zealand Educational Institute Registered:**

“(ii) The New Zealand Post Primary Teachers Association Registered:

“(iii) The Association of Teachers in Technical Institutes Incorporated:

25 **“(iv) The New Zealand Teachers Colleges Association Incorporated:**

“(v) The New Zealand Free Kindergarten Teachers Association Incorporated:

30 **“(vi) Such organisations and associations representing teachers in schools registered under section 186 of this Act as the Minister thinks fit:**

“(c) Four members appointed by the Minister after consultation with the following bodies:

35 **“(i) The New Zealand Education Boards Association Incorporated:**

“(ii) The New Zealand Secondary School Boards Association (Incorporated):

“(iii) The Association of Teachers College Councils:

40 **“(iv) The New Zealand Free Kindergarten Union (Incorporated):**

“(v) The Technical Institutes Association:

“(d) One other member appointed by the Minister:

“(e) The Director-General.

“(3) In the absence from any meeting of the Registration Board of the Director-General, any officer of his Department authorised in that behalf by him may attend the meeting in his stead, and while so attending shall be deemed to be a member of the Registration Board; and the fact that any such officer attends and acts as a member at any such meeting shall be conclusive proof of his authority to do so. 5

“(4) The Registration Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, and suing and being sued, and otherwise doing and suffering all such things as bodies corporate may do and suffer. 10

“132. Eligibility for appointment to Registration Board—
(1) Subject to section 131 (2) (b) of this Act and to subsection (2) of this section, any person who has attained the age of 18 years shall be eligible to become a member of the Registration Board. 15

“(2) None of the following persons shall be eligible to become a member of the Registration Board: 20

“(a) A mentally disordered person within the meaning of the Mental Health Act 1969:

“(b) A bankrupt who has not yet obtained an order of discharge, or whose discharge is suspended for a term not yet expired or is subject to conditions not fulfilled: 25

“(c) A person convicted of an offence punishable by imprisonment who has neither received a full pardon, nor served his sentence or otherwise suffered the penalty imposed on him, in respect of that offence. 30

“133. Term of office—(1) Subject to this Act, every appointed member of the Registration Board shall be appointed for a term of 3 years but shall be eligible for re-appointment from time to time.

“(2) Unless he sooner vacates his office under section 134 of this Act, every appointed member of the Registration Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed has expired. 35

“(3) Notwithstanding subsection (1) of this section, the members of the Registration Board first appointed after the commencement of this section shall be appointed for such term not exceeding 3 years as the Minister, at the time of appointment, in each case decides. 40

“134. **Extraordinary vacancies**—(1) Any appointed member of the Registration Board may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct proved to the satisfaction of the
5 Minister.

“(2) Any appointed member of the Registration Board may at any time resign his office by writing addressed to the Minister.

“(3) If any member of the Registration Board—

10 “(a) Dies; or

“(b) Is removed from office; or

“(c) Resigns; or

“(d) Becomes ineligible to become a member of the
Registration Board; or

15 “(e) Is absent without leave of the Registration Board from
4 consecutive meetings of the Board;—

his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

“(4) Where an extraordinary vacancy has arisen, the
20 Minister shall, in the same manner as the vacating member was appointed, appoint some other person to be a member of the Registration Board for the residue of the term for which the vacating member was appointed.

“(5) The powers of the Registration Board shall not be
25 affected by any vacancy in its membership.

“135. **Registration Board meetings**—(1) The first meeting of the Registration Board shall be held on a day appointed by the Minister.

“(2) Subsequent meetings of the Registration Board shall
30 be held at such times and places as the Registration Board or its chairman from time to time appoint.

“(3) The chairman or any 3 members of the Registration Board may at any time call a special meeting of the Registration Board.

35 “(4) At any meeting of the Registration Board the quorum necessary for the transaction of business shall be 7 members.

“(5) Every question before the Registration Board shall be decided by a majority of the votes cast by the members present at the meeting.

40 “(6) A resolution in writing signed, or assented to by letter or telegram, by all the members of the Registration Board shall be as valid and effectual as if it had been passed at a meeting of the Registration Board duly called and constituted.

“(7) The chairman of the Registration Board shall preside at all meetings of the Registration Board at which he is present.

“(8) If the chairman is absent from any meeting of the Registration Board the members present shall appoint one of their number to preside at that meeting. 5

“(9) At any meeting of the Registration Board the chairman or member presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote. 10

“(10) Subject to this Act the Registration Board may regulate its procedures in such manner as it thinks fit.

“**136. Remuneration and expenses of members of Registration Board**—(1) The Registration Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 15

“(2) There shall be paid to members of the Registration Board remuneration by way of salaries, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly. 20

“**136A. Code of ethics**—It shall be a function of the Registration Board, after consultation with all branches of the teaching profession, to formulate and promulgate a code of ethics for teachers. 25

“**136B. Powers of Registration Board**—The Registration Board shall have all such powers, rights, and authorities as may be reasonably necessary to enable it to perform its functions under this Act.

“**136C. Financial provisions**—(1) The Minister may from time to time, out of money appropriated by Parliament for the purpose, make grants to the Registration Board for the purposes of this Act. 30

“(2) With the prior consent of the Minister, the Registration Board may accept any property by way of bequest, devise, or gift to be used for the purposes of its functions under this Act or for any other function that is, in the opinion of the Minister, compatible with those functions; and in that case that property shall be used accordingly. 35

“(3) Subject to the terms of any trust or endowment, any money belonging to the Registration Board that is not 40

immediately required to be expended may be invested in any manner in which trustees are for the time being authorised to invest trust funds.

5 “(4) Subject to subsection (3) of this section, all money belonging to the Registration Board shall be kept in such accounts at any branch of any trading bank in New Zealand as it thinks desirable to establish.

10 “(5) Every such account shall be operated on only by cheque or other instrument (not being a bill or promissory note) signed by such person or persons as are from time to time authorised by the Registration Board in that behalf.

15 “(6) In any financial year the Registration Board may spend, for purposes not otherwise authorised by any law for the time being in force, any sum or sums not exceeding \$200 in the aggregate.

20 “(7) With the prior consent of the Minister and the Minister of Finance, the Registration Board may from time to time raise or borrow such sums of money as it considers necessary or desirable for the performance of its functions under this Act.

“ (8) The Registration Board shall be exempt from land tax and income tax.

25 “136D. **Accounts and reports**—(1) The Registration Board shall cause true and regular accounts of all its receipts and payments to be kept.

30 “(2) As soon as is practicable, but not later than 3 months after the close of each financial year, the Registration Board shall cause those accounts to be balanced, and true statements of account to be prepared showing the operations of the Registration Board for that year and its financial position at the end of that year, and forward those statements of account to the Audit Office to be audited; and for that purpose the Audit Office shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and stores and persons dealing therewith.

35 “(3) As soon as practicable after the close of each financial year the Registration Board shall send to the Minister—

- 40 “(a) A report of its proceedings and operations for that year; and
“(b) A copy of its audited accounts for that year; and
“(c) Any recommendations it sees fit to make in relation to the registration of teachers and the teaching profession.

“(4) The Minister shall, as soon as is practicable after its receipt, lay before Parliament a copy of the report, accounts, and recommendations.

“136E. **Appointment of Registrar and other officers**—(1) The Registration Board shall appoint to be Registrar of the Teacher Registration Board a suitably qualified person who shall be the chief executive officer of the Registration Board. 5

“(2) The Registration Board may from time to time appoint such other officers and employees as it thinks necessary for the efficient performance of its functions. 10

“(3) For the purposes of the State Services Conditions of Employment Act 1977, the Registrar and all other officers and employees of the Registration Board shall be deemed to be employed in the Education Service.

“(4) The Registration Board may from time to time make payments to or subsidise the National Provident Fund or any fund or scheme approved by the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and employees and their dependants. 15

“136F. **Register of Teachers**—(1) The Registration Board shall cause to be kept a register to be called the Register of Teachers. 20

“(2) Any person may, at any time during ordinary office hours, inspect the Register and take notes from it.

“136G. **Applications for registration**—(1) Any person may apply to the Registration Board for registration. 25

“(2) Every such application shall be made in the form provided by the Registration Board for the purpose, and shall be accompanied by the prescribed fee.

“136H. **Registration**—(1) Subject to subsection (2) of this section and section 136I of this Act, where the Registration Board is satisfied that an applicant for registration— 30

“(a) Has—

“(i) Been awarded a Teachers’ College Diploma by a teachers college established or deemed to have been established under this Act in respect of a course of training at that college approved by the Registration Board for the purposes of this section; 35
or

“(ii) To the satisfaction of the Registration Board, completed some other training that is so approved; and 40

“(b) Holds academic qualifications acceptable to the Registration Board; and

“(c) Is of good character and a fit and proper person to be a teacher; and

5 “(d) Has made and subscribed an oath or affirmation as prescribed by section 162 of this Act; and

“(e) Has completed either 2 years satisfactory full-time teaching in New Zealand, or some other period or kind of teaching that is, in the opinion of the Registration Board, equivalent,—

10 but not otherwise, it shall register that applicant.

“(2) Where an applicant for registration has not satisfied the Registration Board of all the matters specified in subsection (1) of this section, but has satisfied it of the matters
15 specified in paragraphs (b) to (d) of that subsection, but not otherwise, it shall register that applicant provisionally; but he may apply again for registration.

“136r. **Transitional**—(1) Notwithstanding section 136H of this Act, but subject to subsection (3) of this section, the
20 Registration Board shall register every person who before the 1st day of January 1981 applies for registration if, on the 31st day of October 1980, that person held a permanent full-time position of a kind required by section 136o of this Act to be held by a registered teacher.

25 “(2) Notwithstanding section 136H of this Act, but subject to subsection (3) of this section, the Registration Board shall register every person who applies for registration and satisfies the Registration Board that he is of good character and is a fit and proper person to be a teacher and that he—

30 “(a) Has held—

“(i) A list B classification under the Education (Assessment, Classification, and Appointment) Regulations 1976; or

“(ii) A classification regarded by the Registration Board as equivalent; or

35 “(b) Holds—

“(i) A teacher’s certificate awarded under the Examination and Certification of Teachers Regulations 1961; or

40 “(ii) A qualification regarded by the Registration Board as equivalent.

“(3) The Registration Board shall not register any person pursuant to this section who is not at the time he applies for registration employed as a teacher until it has received a report on that person from the Director-General or the person or body by whom or by which that person was last employed as a teacher that is satisfactory to the Registration Board. 5

“136J. **Annual publication of Register**—(1) Every year the Registration Board shall cause to be published in the *Gazette*—

“(a) The full names of all registered teachers as at a specified date during that year; and 10

“(b) The names of the establishments at which those registered teachers who were at that date teaching were then employed; and

“(c) An address for each of those registered teachers who was not at that date teaching; and 15

“(d) An indication as to which of those registered teachers at that date held a current practising certificate; and

“(e) An indication as to which of those registered teachers had his registration suspended at that date, and the date upon which each suspension was due to expire; and 20

“(f) In respect of each such registered teacher, the date on which he was registered and, where before that date he was provisionally registered, the date on which he was provisionally registered. 25

“(2) The Registration Board may at any time cause to be published in the *Gazette* all or any of the following matters:

“(a) The matters specified in subsection (1) of this section in respect of any person who has been registered or provisionally registered since the last publication under that subsection or this paragraph: 30

“(b) The full name of any person whose registration has been cancelled or suspended since the last publication under subsection (1) of this section, together with the name of the last establishment at which he was employed before the cancellation or suspension and, in the case of any teacher whose registration has been suspended, the date upon which the suspension was due to expire.” 35 40

“136K. Annual practising certificates—(1) The Registration Board shall from time to time, in accordance with this section, issue annual practising certificates to teachers.

5 “(2) Any teacher who is registered may at any time apply to the Registration Board, on a form provided by the Registration Board for the purpose, for the issue of a practising certificate.

10 “(3) The Minister may from time to time by notice in the *Gazette*, after consultation with the Registration Board, fix a fee for the issue of a practising certificate; and every application under subsection 2 of this section shall be accompanied by the fee for the time being so fixed.

15 “(4) As soon as is practicable after receiving a duly completed application under subsection (2) of this section that is accompanied by the fee specified in subsection (3) of this section, the Registration Board shall issue a practising certificate to the applicant.

20 “(5) Every practising certificate shall specify the date upon which it expires and the full name of the teacher to whom it relates, and shall also specify whether or not that teacher is provisionally registered.

25 “(6) Where an application under subsection (2) of this section is received by the Board before the 1st day of September in any year it shall expire on the 31st day of December of that year.

“(7) Where an application under subsection (2) of this section is received by the Board on or after the 1st day of September in any year it shall expire on the 31st day of December of the following year.

30 “136L. Cancellation and suspension of registration—
(1) Where—

“ (a) The Registration Board is satisfied that a teacher has died; or

35 “ (b) Any teacher so requests,—
the Registration Board shall cancel that teacher’s registration.

“ (2) Subject to subsection (3) of this section, where—

“ (a) A teacher has been convicted of an offence—

40 “ (i) Punishable by imprisonment for a term of 2 years or more; or

“ (ii) Against this Act; or

“ (b) The Director-General, or any body specified in section 131 (2) (b) of this Act, requests that a teacher’s registration be cancelled; or

“(c) The cancellation of a teacher’s registration has been requested under section 159A (7) of this Act,—
the Registration Board may cancel that teacher’s registration, or suspend that teacher’s registration.

“(3) The Registration Board shall take no action under subsection (2) of this section in respect of any teacher until it has— 5

“(a) Afforded that teacher the opportunity and a reasonable time to make representations to it about the possible cancellation of his registration; and 10

“(b) Considered any representation made by that teacher within that time.

“(4) Where a teacher has been charged with an offence under section 159 of this Act and has resigned or left his position before the charge has been heard by the Disciplinary Board, the Registration Board may suspend that teacher’s registration. 15

“(5) The suspension of the registration of any teacher for any reason shall not prevent the later cancellation of his registration for the same reason. 20

“(6) The cancellation of a teacher’s registration shall be effected by the removal from the Register of every entry that relates to him.

“(7) Upon the cancellation of the registration of any teacher, any practising certificate held by him shall be deemed to have been cancelled, and, until he is again registered and holds a practising certificate, he shall be deemed not to be a registered teacher. 25

“(8) The suspension of a teacher’s registration shall be for such period as the Registration Board decides, and shall be effected by the insertion in the Register against the entry relating to that teacher of a further entry stating that his registration has been suspended until a specified date; and for so long as a teacher’s registration is suspended, any practising certificate held by him shall be deemed to have been cancelled and he shall be deemed not to be a registered teacher. 30 35

“136M. **Appeals against decisions of Registration Board—**
Where the Registration Board has—

“(a) Refused to register any person; or 40

“(b) Cancelled or suspended the registration of any teacher,—

that teacher shall have a right to appeal against that refusal, cancellation, or suspension in accordance with Part VI of this Act.

5 “136N. **Notification of decisions**—(1) Where under sub-
section (2) or subsection (4) of section 136L of this Act the
 Registration Board cancels or suspends the registration of any
 teacher, it shall—

- “(a) Cause to be published in the *Gazette* a notice of the
 cancellation or suspension; and
 10 “(b) Give such notice of the cancellation or suspension to
 any person or body by whom or by which that
 teacher is or has been employed as the Registration
 Board thinks fit.

“(2) Where an appeal against the cancellation or suspen-
 15 sion of any teacher’s registration is successful, the Registra-
 tion Board shall cause to be published and give, as aforesaid,
 notices to that effect.”

“136o. **Only registered teachers to be employed**—
 (1) Subject to the provisions of this Act, no person shall be
 20 employed, or continue to be employed, as a teacher in any
 kindergarten, registered school, or teachers college, unless he
 is a registered teacher.

“(2) Subsection (1) of this section shall not apply to the
 employment of any person—

25 “(a) As a relieving teacher under regulations made under
 this Act; or

“(b) Who is a specialist in a particular subject and is
 employed as a part-time teacher in that subject
 under the general supervision of a registered
 30 teacher;—

but nothing in this subsection shall authorise the employment
 or continued employment of any person—

“(c) Who, by virtue of section 130R of this Act, is deemed
 not to be a registered teacher; or

35 “(d) Whose name was at any time removed from the
 former Teachers Register by the Director-General
 for reasons other than his resignation or retirement
 from the teaching profession, or the fact that for
 40 3 years before the removal he had not held any
 appointment as a teacher and had not applied for
 the retention of his name on that register.

“(3) After consultation with the Registration Board, the Minister may, by notice in the *Gazette*, declare that any specified position or class of position in special education, continuing education, an education centre, a private commercial college, the armed forces, or any department of State should be filled only by registered teachers; and in that case subsections (1) and (2) of this section shall apply to that position or, as the case may be, positions of that class, as if it or they were a teaching position or positions in a registered school. 5

“136P. **Offences in respect of persons who are not registered teachers**—Every person commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding \$500, who— 10

“(a) Makes to the Registration Board any statement as to his or any other person’s qualifications or teaching experience that would amount to perjury if made on oath in any judicial proceeding; or 15

“(b) Not being a registered teacher, uses, or permits to be used, in connection with his name or business, the words ‘registered teacher’, or any words or initials intended or likely to cause any other person to believe that he is a registered teacher; or 20

“(c) Wilfully makes or causes to be made any false entry, or falsification of any entry, in the Register; or

“(d) Is employed contrary to section 136o of this Act; or 25

“(e) Employs any person contrary to section 136o of this Act.”

10. Consequential amendments—Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions: 30

“‘Former Teachers Register’ means the register kept by the Director-General under section 132 of this Act before the commencement of section 9 of the Education Amendment Act (No. 2) 1979:

“‘Practising certificate’ means a practising certificate issued under section 136k of this Act: 35

“‘Registered teacher’ means the holder of a current practising certificate:”.

- 11. Dual appointments**—(1) Section 145A of the principal Act (as inserted by section 14 of the Education Amendment Act 1976), is hereby amended by inserting, after subsection (3), the following subsection:
- 5 “(3A) Where—
- “(a) In accordance with regulations made under this Act, 2 positions at a school have been advertised as dual appointment positions; and
- “(b) Persons married to each other have been appointed
- 10 to those 2 positions; and
- “(c) One of 2 other persons who are married to each other, both of whom applied for those 2 positions, has a right of appeal against one of the appointments,—
- 15 subject to subsections (4) and (5) of this section, that other person’s spouse has a right of appeal against the other of the appointments.”
- (2) Section 147 of the principal Act is hereby amended by adding the following subsection:
- “(8) Notwithstanding the foregoing provisions of this
- 20 section, where 2 persons married to each other appeal against the appointment of 2 other such persons to positions advertised in accordance with regulations made under this Act as dual positions, the following provisions shall apply:
- “(a) Where one of those positions is that of Principal or is
- 25 a position of responsibility, the appeal against the appointment to that position shall be determined in accordance with this Act, and the other appeal shall not be heard but shall be deemed to have been allowed or disallowed (as the case may be)
- 30 according to whether that first-mentioned appeal has been allowed or disallowed; and
- “(b) Subject to paragraph (a) of this subsection, both appeals shall be determined as if the appellant were one person, and the persons provisionally appointed
- 35 were one person provisionally appointed to a Division A position within the meaning of the said regulations; and this Act, so far as it is applicable and with the necessary modifications, shall apply to those appeals accordingly.”
- 12. New sections substituted**—The principal Act is hereby
- 40 amended by repealing sections 156 to 161A, and substituting the following sections:

“157. **Teacher charged with serious offence**—(1) Where a teacher is charged with any offence punishable by imprisonment for a term of 2 years or more, his employing authority may, without hearing him, at any time before the charge is determined,—

“(a) Suspend him; or

“(b) Transfer him temporarily to other duties.

“(2) Where an employing authority is considering whether to suspend or transfer a teacher under subsection (1) of this section or to allow him to continue in his position, the welfare and interests of the students attending the institution concerned shall be the paramount consideration of that employing authority.

“(3) Where a teacher’s employing authority suspends or transfers him under subsection (1) of this section, it shall forthwith notify the Registration Board of—

“(a) The offence with which the teacher has been charged; and

“(b) The action the employing authority has taken.

“(4) Where a teacher who has been suspended under subsection (1) of this section is acquitted of the charge in respect of which he was suspended, he shall, unless he has previously resigned or taken up another teaching position, forthwith resume his teaching duties; and in that case his employing authority may pay to him all or such part of the salary that would have been payable to him during the period of his suspension as it thinks fit.

“157A. **Teacher convicted of serious offence**—(1) Subject to subsection (2) of this section, where a teacher is convicted of any offence punishable by imprisonment for a term of 2 years or more, or in respect of which he is sentenced to a term of imprisonment, his employing authority may, at any time within 3 months of the conviction,—

“(a) Peremptorily dismiss him; or

“(b) Transfer him to another position, whether of the same salary and grading or not, at the same school or any other school under its control.

“(2) Notwithstanding subsection (1) of this section, where a teacher is convicted of an offence punishable by imprisonment for a term of 2 years or more, or in respect of which he is sentenced to a term of imprisonment, his employing authority may, without hearing him, suspend him until—

“(a) The expiration of 3 months from the date of the conviction; or

“(b) It has decided whether or not to dismiss or transfer him under subsection (1) of this section—

5 whichever is the sooner.

“(3) No teacher shall be dismissed or transferred under subsection (1) of this section until the expiration of a reasonable time after—

10 “(a) The time for appealing against the conviction or sentence concerned has expired; or

“(b) Where an appeal has been lodged, the disposal of that appeal;—

and before so dismissing or transferring any teacher, that teacher’s employing authority shall consider all submissions
15 made to it by him during that reasonable time.

“158. **Disciplinary offences**—(1) Every teacher commits a disciplinary offence who—

20 “(a) In the course of his duties, wilfully neglects or refuses to perform any of this contractual obligations to his employer; or

“(b) In the course of his duties, disobeys, disregards, or wilfully neglects to comply with a lawful order or instruction given by any person having the authority to give that order or instruction; or

25 “(c) Is, in the carrying out of the duties of his position, indolent, inefficient, incompetent, or negligent; or

“(d) Is guilty of conduct, whether in his professional capacity or otherwise, that is unbecoming to a member of the teaching profession, or that demonstrates
30 that he is unfit to be a teacher or to remain in his present position; or

“(e) Contrary to section 163 (1) of this Act, engages or continues to engage in any profession, occupation, business, or work.

35 “(2) An act or omission on the part of a teacher may constitute a disciplinary offence notwithstanding that he may have been acquitted of any criminal offence in respect of that act or omission.

40 “158A. **Disciplinary Board**—(1) There is hereby established a board to be known as the Teachers’ Disciplinary Board.

“(2) The chairman of the Disciplinary Board shall be a barrister or solicitor of the Supreme Court of not less than 7 years practice, appointed by the Minister.

“(3) The Minister may appoint to be deputy chairman of the Disciplinary Board any person qualified to be its chairman; and where any person is so appointed—

“(a) He may act in the place of the chairman if the chairman is unable, by reason of illness, absence, or other sufficient cause, to perform the duties of chairman; or if there is no chairman; and 5

“(b) While he so acts he shall be deemed to be a member of the Disciplinary Board; and

“(c) No acts done by him, or by the Disciplinary Board, while he so acts shall, in any proceedings, be questioned on the ground that the occasion for his so acting had not arisen or had ceased. 10

“(4) When considering any matter relating to any teacher the Disciplinary Board shall comprise: 15

“(a) The chairman; and

“(b) The person for the time being nominated under section 158B of this Act by an organisation approved by the Minister to represent teachers of the class to which that teacher belongs; and 20

“(c) The person for the time being nominated under section 158B of this Act by an organisation approved by the Minister to represent the class of employer of teachers to which the employer of that teacher when that matter arose belongs. 25

“(5) No person shall be deemed to be in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason only of his being a member of the Disciplinary Board.

“(6) Before taking part in the consideration of any matter, each member of the Disciplinary Board shall take an oath or make an affirmation before a Judge of the Supreme Court that he will faithfully and impartially perform the duties of his office, and that, except in the discharge of his duties, he will not disclose to any person any evidence or other matter brought before the Disciplinary Board. 30 35

“(7) In the performance of its functions under this Act, the Disciplinary Board shall have the same powers as are conferred on Commissions of Inquiry by the Commissions of Inquiry Act 1908; and the provisions of that Act shall apply accordingly. 40

“(8) The Disciplinary Board is hereby deemed to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

5 “(9) There shall be paid to members of the Disciplinary Board, out of money appropriated by Parliament for the purpose, remuneration by way of salaries, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly.

10 “(10) The Registrar for the time being of the Teacher Registration Board shall be the registrar of the Disciplinary Board.

15 “(11) The Department of Education shall provide for the Disciplinary Board such administrative and secretarial services as may be necessary to enable it to exercise its functions and powers and perform its duties, under this Act.

“158B. **Nomination of members of Disciplinary Board—**

(1) Within 2 months of the commencement of section 12 of the Education Amendment Act (No. 2) 1979—

20 “(a) Every organisation approved by the Minister to represent any class of teacher; and

“ (b) Every organisation approved by the Minister to represent any class of employer of teachers—

25 shall notify the Registrar of the name of a person whom that organisation wishes to be a member of the Disciplinary Board when it considers disciplinary offences alleged to have been committed by a teacher of that class or, as the case may be, by a teacher while employed by an employer of that class.

30 “(2) Any such organisation as aforesaid may at any time notify the Registrar that it wishes to substitute for the person nominated pursuant to subsection (1) of this section or, as the case may be, substituted pursuant to this subsection, some other person whom it wishes to be a member of the Disciplinary Board as aforesaid.

35 “(3) The same person may be nominated by 2 or more classes of organisation representing teachers or 2 or more organisations representing employers of teachers.

“159. **Procedure where disciplinary offence alleged—**

40 (1) Without limiting the generality of section 203 of this Act, the Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- “(a) Providing for the making of complaints against teachers alleged to have committed disciplinary offences:
- “(b) Prescribing the manner in which such complaints are to be dealt with: 5
- “(c) Prescribing the circumstances and manner in which disciplinary charges are to be laid against teachers alleged to have committed such offences:
- “(d) Prescribing the manner in which such disciplinary charges are to be heard and disposed of. 10
- “(2) Where a disciplinary complaint has been laid against a teacher under regulations made under subsection (1) of this section, his employing authority may at any time before that complaint has finally been disposed of, if it is satisfied that the welfare and interests of students, or any student, attending the institution at which the teacher is employed so require,— 15
- “(a) Suspend that teacher; or
- “(b) Transfer him to other duties— 20
- without first hearing him.
- “(3) While investigating or hearing any disciplinary charge, an employing authority or, as the case may be, a committee of members of an employing authority, shall have the same powers and functions as those conferred on the Disciplinary Board by this Act. 25
- “159A. **Penalties for disciplinary offences**—(1) Where a disciplinary offence has been held to have been proved—
- “(a) By the Disciplinary Board, any penalty in respect of that offence shall be imposed on the teacher concerned by the Disciplinary Board: 30
- “(b) By an employing authority, or a committee of members of that employing authority, any penalty in respect of that offence shall be imposed on the teacher concerned by that employing authority.
- “(2) Neither the Disciplinary Board nor any employing authority shall impose any penalty on a teacher in respect of a disciplinary offence without— 35
- “(a) Giving that teacher the opportunity to make submissions to it; and
- “(b) Considering those submissions; and 40
- “(c) Where any submissions are made by that teacher, requiring and considering submissions from the prosecutor.

“(3) Before hearing any submissions pursuant to subsection (2) of this section, the Disciplinary Board or, as the case may be, an employing authority,—

5 “(a) May, if it thinks fit, cause inquiries to be made about the character and previous conduct of the teacher concerned; and

“(b) Where it has caused such inquiries to be made, shall give that teacher notice of the information received as a result of those inquiries.

10 “(4) Subject to subsection (2) of this section, an employing authority that has held a disciplinary charge to be proved against a teacher may—

“(a) Peremptorily dismiss the teacher; or

15 “(b) Require the teacher to resign from his position before a specified date; or

“(c) Transfer the teacher from his position to another (whether or not of a lower salary or grading or both) at a school under the control of that employing authority; or

20 “(d) Censure the teacher.

“(5) Subject to subsection (2) of this section and to any regulations made under this Act, where the Disciplinary Board has held a disciplinary charge against a teacher to have been proved, it may—

25 “(a) Order the teacher to be dismissed; and in that case the teacher shall be deemed forthwith to have been peremptorily dismissed; or

“(b) Require the teacher to resign from his position before a specified date; or

30 “(c) Order the teacher to be transferred from his position to another (whether or not of a lower salary or grading or both) at a school under the control of his employing authority; and in that case his employing authority shall forthwith so transfer him;

35 or

“(d) Censure the teacher; or

40 “(e) Fine the teacher such sum not exceeding 10 percent of the annual salary to which he was or, as the case may be, would have been, entitled at the time of conviction; and in that case the amount of that fine shall be deemed to be a debt due to the Crown and may be recovered by deduction from that teacher’s salary or in any Court of competent jurisdiction; or

“(f) Order the teacher to pay such legal costs and expenses of the investigation and hearing of the charge as it thinks fit; and in that case the amount ordered to be paid may be recovered as aforesaid.

“(6) Where, under subsection (4) (b) or subsection (5) (b) of this section a teacher has been required to resign before a specified date he shall, if he has not died or resigned before that date, be deemed to have been peremptorily dismissed on that date. 5

“(7) Where— 10

“(a) Under subsection (4) of this section an employing authority has peremptorily dismissed a teacher or required him to resign before a certain date; or

“(b) Under subsection (5) of this section the Disciplinary Board has ordered that a teacher be dismissed or required him to resign before a certain date,— 15
it may also request the Registration Board to cancel that teacher’s registration.

“161B. **Contracts of employment not affected**—Nothing in this Act shall prevent the dismissal or suspension of a teacher employed in a private school where that dismissal or suspension is in accordance with a contract of employment between that teacher and his employing authority; and where any such teacher is so suspended or dismissed, he shall have no right of appeal against his suspension or dismissal.” 20 25

13. Teachers to take oath of allegiance—Section 162 (2) of the principal Act (as amended by section 9 (2) of the Education Amendment Act 1972 and section 14 (2) of the Education Amendment Act (No. 2) 1974) is hereby further amended by inserting, after the words “Supreme Court”, the words “or the Registrar,”. 30

14. Teachers not to engage in other employment in certain circumstances—Section 163 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsection: 35

“(1) Where a teacher’s employing authority informs him that in its opinion (reached after consultation with an organisation approved by the Minister to represent teachers of the class to which that teacher belongs) a profession, occupation, business, or work, in which that teacher is engaged, or proposes to engage, for pecuniary gain or profit— 40

“(a) Lies outside the scope of his duties as a teacher; and

“(b) Is likely to affect his efficiency as a teacher adversely,—

that teacher shall not engage or, as the case may be, continue
5 to engage, in that profession, occupation, business, or work.”

15. Court of Appeal—(1) Section 174 (2) of the principal Act is hereby amended by repealing paragraph (b) (as amended by section 14 (2) of the Education Amendment Act (No. 2) 1974 and section 83 (13) of the Private Schools Conditional
10 Integration Act 1975), and substituting the following paragraph:

“(b) One person (being a person who is not a teacher) to be nominated by an organisation approved by the Minister to nominate members in respect of appeals
15 by teachers employed by the class of employing authority to which the appellant’s employing authority belongs.”

(2) Section 83 (13) of the Private Schools Conditional Integration Act 1975 is hereby consequentially repealed.

20 (3) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 174 (1) (b) of the principal Act is hereby consequentially repealed.

16. Rights of appeal—The principal Act is hereby amended by repealing section 175, and substituting the following
25 section:

“175. (1) Subject to section 161B of this Act, any teacher may, within 42 days or such further time as may be permitted by regulations made under this Act of receiving written notice of the decision, appeal in the prescribed manner
30 against any decision—

“(a) To dismiss him; or

“(b) Subject to subsection (2) of this section, to suspend him; or

“(c) To transfer him; or

35 “(d) Where he has been acquitted of a charge in respect of which he was suspended, not to pay to him all the salary that would have been payable to him during the period of his suspension; or

40 “(e) Against which he is given a right of appeal by this Act.

“(2) No teacher suspended under section 159 of this Act shall have a right of appeal against the decision to suspend him unless—

“(a) A period of 14 days has elapsed since the suspension; and

“(b) No charge has within that time been laid in respect of the matters out of which the suspension arose;— and in that case the reference in subsection (1) of this section to the period of 42 days shall be deemed to be a reference to the period of 56 days.”

17. Decision of Court—Section 178 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Every appeal under this Part of this Act shall be by way of rehearing; but where any question of fact is involved in an appeal, the evidence taken by the employing authority of the teacher concerned bearing on that question be brought before the Court—

“(a) In the case of evidence given orally, by the production of such notes or other materials as the Court thinks fit; and

“(b) In the case of written evidence or exhibits, by the production of that written evidence or those exhibits.

“(1A) Notwithstanding subsection (1) of this section, the Court may, in its discretion, rehear the whole or any part of the evidence.

“(1B) The Court shall have full discretionary power to hear and receive further evidence on questions of fact.”

18. Consequential amendments—(1) Section 2 of the principal Act is hereby consequentially amended by repealing the definition of the expression “Teachers Register”, and inserting, in their appropriate alphabetical order, the following definitions:

“‘Disciplinary Board’ means the Teachers’ Disciplinary Board established by section 158A of this Act:

“‘Disciplinary offence’ means a disciplinary offence specified in section 158 (1) of this Act:

5 “ ‘Employing authority’ , in relation to any teacher, means the Education Board, Board of Governors, or other body or person, that controls the kindergarten, school, institute, or college, in which that teacher is employed:

“ ‘Financial year’ means any year ending with the 31st day of March:

10 “ ‘Registrar’ means the Registrar of the Teacher Registration Board, appointed under section 130J (1) of this Act; and includes any person authorised by the Registration Board to perform the duties of the Registrar when he is absent or when there is no Registrar:

15 “ ‘Registration Board’ means the Teacher Registration Board established by section 131 of this Act:

20 “ ‘Teacher’ means a person employed (whether as a teacher, a tutor, or a lecturer) in a kindergarten, registered school, technical institute, community college, teachers college, or education centre, who is so employed in the instruction of persons enrolled there, or as a principal or a deputy principal.”

(2) The enactments specified in the first column of the Schedule to this Act are hereby consequentially amended in the manner indicated in the second column of that schedule.

25 **19. Consequential repeals**—The following enactments are hereby consequentially repealed:

(a) Section 166 of the principal Act:

(b) Section 13 of the Education Amendment Act 1967:

30 (c) Sections 6 and 7 of the Education Amendment Act 1969:

(d) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 156 of the principal Act.

SCHEDULE

Section 18 (2)

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Section Amended	Amendment
Section 69B (1)	By inserting, after the words "teachers college council" where they first occur, the words ", any education centre council".
	By inserting, after the words "teachers college council" where they secondly occur, the words ", education centre council,".
Section 69B (2)	By inserting after the words "teachers college council" in both places where they occur, the words ", any education centre council".
Section 184	By inserting, after the words "teachers colleges" (as inserted by section 6 (1) (a) of the Education Amendment Act 1977), the words "education centres,".
	By inserting after the words "teachers college" (as inserted by section 6 (1) (b) of the Education Amendment Act 1977) the words "education centre,".
Section 185 (1)	By inserting, after the words "teachers college" (as inserted by section 6 (2) of the Education Amendment Act 1977), the words ", education centre,".
	By inserting, before the words "or college", in both places where they appear, the word "centre,".
Section 185A	By inserting, after the words "Part III of this Act", the words ", or any education centre council,".
Section 187	By inserting, after the words "Part IV of this Act", the words ", and every education centre council,".