

EDUCATION AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

Clause 2 amends section 67N of the principal Act to provide for the payment of fees and allowances to members of interview panels and selection committees referred to in the following clause.

Clause 3 amends section 67S of the principal Act to provide for the establishment of interview panels and selection committees to interview and select the students to be admitted to teachers colleges.

Clause 4 inserts into the principal Act a new Part IIA, relating to the establishment and organisation of District Education Councils.

The new *section 69C* defines terms used in the new Part IIA.

The new *section 69D* relates to the establishment of District Education Councils. The Minister may by notice in the *Gazette* propose the establishment of a District Education Council in respect of the district of any Education Board. Each such notice will specify the district concerned, the name of the proposed District Education Council, the number of and manner of election or appointment of each of its members, the number, functions, and constitution of the sector boards proposed to be established under the District Education Council, and the name of the Education Board, and every Secondary Schools Council, that is to continue in existence. The Minister may only publish such a notice if he has within the previous 12 months been requested to do so by a controlling authority situated in the district concerned. The confirmation of the existing notice by a subsequent notice in the *Gazette* has the effect of creating a District Education Council.

The new *section 69E* relates to the effect of the establishment of a District Education Council on Education Boards and Secondary Schools Councils. Unless it has been specified that the Education Board of the district concerned, or a Secondary Schools Council whose schools are all within that district are to continue in existence, that Board and Council will go out of existence and all its rights, obligations, powers, functions, duties, employees, and property will be taken over by the District Education Council.

The new *section 69F* empowers the Minister to vary the constitution or membership of a District Education Council.

The new *section 69G* sets out the powers that every District Education Council will have. It is also provided that any controlling authority may, with the approval of the Minister, relinquish any of its powers and functions to the District Education Council. Similarly the Minister or the Director-General may delegate any of his powers to a District Education Council.

The new *section 69H* relates to sector boards. In addition to the sector boards provided by the notice establishing a District Education Council, there may be further sector boards under any District Education Council, established by the Minister by notice in the *Gazette*. The Minister may also dissolve any sector board. It is provided that a District Education Council may delegate any of its powers and functions to a sector board.

The new *section 69I* relates to administrative matters. It is provided that for the most part the administrative arrangements of a District Education Council will be the same as those of an Education Board.

Clause 5 inserts into the principal Act a new *section 70B* authorising the Minister of Education to recognise playcentres and other institutions providing pre-school education, and to give financial assistance to recognised organisations. The amount of any assistance must have the agreement of the Minister of Finance.

Clause 6 inserts into the principal Act a new *section 117A* relating to work exploration schemes. No student is to take part in any work exploration scheme otherwise than in accordance with conditions prescribed by the Minister of Education. While taking part in a work exploration scheme, a student will be covered by all the statutory and award provisions relating to the safety, health, and welfare of persons employed in workplaces of the kind concerned.

Clause 7 inserts into the principal Act a new Part VA providing for the making of short-term appointments in the Education Service. Where a short-term appointment is made, the appointee may resign at one month's notice, and will lose his job and have no rights of appeal or preferential reappointment when his term finishes.

Clause 8 inserts into the principal Act new *sections 165C and 165D* relating to the employment of employees of the various categories of education authority.

Hon. Mr Wellington

EDUCATION AMENDMENT

ANALYSIS

Title	69i. Administration
1. Short Title	5. Recognition of institutions providing pre-school education
2. Travelling allowances and expenses	6. Work exploration schemes
3. Regulations	7. New Part VA inserted
4. New Part IIA inserted	
	PART VA
PART IIA	SHORT-TERM APPOINTMENTS AT TECHNICAL INSTITUTES, COMMUNITY COLLEGES, AND TEACHERS COLLEGES
DISTRICT EDUCATION COUNCILS	165B. Governing bodies may make short-term appointments
69c. Interpretation	8. New Part VB inserted
69d. Establishment of District Education Councils	
69e. Effect of establishment of District Education Council on Education Boards and Secondary Schools Councils	PART VB
69f. Minister may vary constitution or membership of District Education Council	EMPLOYEES OF EDUCATION AUTHORITIES
69g. Powers of District Education Councils	165c. Education Authorities may appoint staff
69h. Sector boards	165d. Regulations relating to appointment of staff by Education Authorities

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
5 the same, as follows:

1. Short Title—This Act may be cited as the Education Amendment Act 1981, and shall be read together with and deemed part of the Education Act 1964* (hereinafter referred to as the principal Act).

2. Travelling allowances and expenses—Section 67N of the principal Act (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by adding, as subsection (2), the following subsection:

“(2) A Council may pay to members of any interview panel or selection committee established by regulations made under section 67s (1) (f) of this Act, in respect of attendance at meetings of that panel or committee, remuneration by way of fees 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 that panel or committee were a statutory Board within the meaning of that Act.”

3. Regulations—Section 67s of the principal Act (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Without limiting the generality of paragraph (f) of subsection (1) of this section, it is hereby declared that regulations made under that paragraph may:

“(a) Provide for the establishment of interview panels to interview applicants for admission to teachers colleges:

“(b) Provide for the establishment of selection committees to select students for admission to teachers colleges:

“(c) Prescribe the manner in which members of such panels and committees are to be appointed and hold office:

“(d) Prescribe the manner in which such panels and committees are to conduct their proceedings.”

4. New Part IIA inserted—(1) The principal Act is hereby amended by inserting, after Part II, the following Part:

*Reprinted 1975, Vol. 3, p. 1699

Amendments: 1976, No. 42; 1976, No. 70; 1977, No. 91; 1978, No. 79; 1979, No. 148

“PART IIA

“DISTRICT EDUCATION COUNCILS

“69c. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

5 “‘Controlling authority’ means a body that is an Education Board, the Board of Governors of a secondary school, technical institute or community college, a Secondary Schools Council, the controlling authority of any free kindergarten recognised by the
10 Minister under regulations made under this Act, or a recognised organisation:

 “‘Recognised organisation’ means a body declared under
15 section 70B (1) of this Act to be a recognised pre-school organisation or declared under section 97A (1) of this Act to be a recognised continuing education organisation.

69d. Establishment of District Education Councils—

(1) Subject to subsection (3) of this section, the Minister
20 may at any time, by notice in the *Gazette*, propose the establishment of a District Education Council in respect of the district of an Education Board.

 “(2) Every notice under subsection (1) of this section shall specify, in respect of each District Education Council proposed to be established,—

25 “(a) The district in respect of which it is to be established:

 “(b) Its name:

 “(c) The number of, and manner of election or appointment of each of, its members:

30 “(d) The functions and constitutions of the primary sector board and secondary sector board to be established under the proposed District Education Council:

 “(e) The number, functions, and constitutions of other sector boards to be established under the proposed District Education Council:

35 “(f) In respect of the Education Board concerned, and every Secondary Schools Council that controls schools situated within the district concerned, whether or not that Board or Council is to continue in existence,

“(3) The Minister shall not publish a notice under subsection (1) of this section unless he has, within the 12 months preceding the date of its publication, been requested to do so by—

“(a) The controlling authority of any institution situated within the district concerned; or

“(b) A recognised organisation operating within that district.

“(4) Subject to subsections (5) to (7) of this section, the Minister may, not earlier than 4 months from the date of the publication of any notice under subsection (1) of this section, by notice in the *Gazette* confirm that notice, either unamended, or subject to any amendments he thinks fit.

“(5) Where the Minister has not so confirmed a notice under subsection (1) of this section within 12 months of its publication, it shall not thereafter be capable of being confirmed.

“(6) The confirmation of a notice under subsection (1) of this section shall have the effect of establishing a District Education Council in respect of the district specified in that notice.

“(7) Every District Education Council shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, of suing and being sued, and of doing and suffering all such things as bodies corporate may do and suffer.

“69E. Effect of establishment of District Education Council on Education Boards and Secondary Schools Councils—

(1) Unless the notice establishing a District Education Council otherwise provides, where a District Education Council is established,—

“(a) The Education Board of the district concerned, and every Secondary Schools Council all the schools under the control of which are situated in that district, shall thereupon go out of existence; and

“(b) The members of that Board or Council shall thereupon go out of office; and

“(c) All the rights, liabilities, powers, functions, employees, and officers of that Board or Council shall thereupon become rights, liabilities, powers, functions, property, employees, and officers of the District Education Council concerned; and all property of that Board or Council shall vest in that District Education Council.

“(2) Where under subsection (1) (c) of this section any land vests in a District Education Council, the appropriate District Land Registrar shall, on application by that District Education Council and the production by it of such plans and documents as he requires, do all such things and make all such entries in his registers as are necessary to give effect to that vesting.

“(3) Where any property vested in a District Education Council under subsection (1) (c) of this section was held by a controlling authority subject to any trust or subject to any special conditions or for any special purpose, it shall be held by that Council subject to that trust, or subject to those conditions, or for that purpose, as the case requires.

“69F. **Minister may vary constitution or membership of District Education Council**—The Minister may from time to time, after consulting the District Education Council concerned or on its recommendation, by notice in the *Gazette*, do either or both of the following things:

“(a) Vary the constitution of the District Education Council:

“(b) Vary the membership of the District Education Council.

“69G. **Powers of District Education Councils**—(1) Every District Education Council shall have power—

“(a) To take any steps it thinks fit to ascertain the educational needs within its district:

“(b) To make any recommendations it thinks fit to the Minister or to any controlling authority operating within its district:

“(c) To plan and co-ordinate educational services, including advisory and guidance services relating to education, within its district:

“(d) To establish, maintain, and control offices, and employ staff, to perform clerical and accounting work for itself, and for other controlling authorities operating within its district who have requested it to do so:

“(e) To establish, build, maintain, repair, or reinstate any building required for the purposes of the Council.

“(2) Any controlling authority may at any time, with the approval of the Minister, relinquish to any District Education Council any power or function it has in respect of the district of that Council; and until that relinquishment or approval is withdrawn, that Council shall have and may exercise and perform that power or function.

“(3) The Minister or the Director-General may at any time delegate to a District Education Council any power he has in respect of the district of that Council.

“69H. Sector boards—(1) Where any notice under section 69D (1) of this Act specifies the functions and constitutions of sector boards to be established under a District Education Council, the confirmation of that notice shall have the effect of establishing those sector boards. 5

“(2) Subject to subsection (4) of this section, the Minister may at any time, after consulting the District Education Council concerned, by notice in the *Gazette*,— 10

“(a) Vary the function or constitution of any existing sector board:

“(b) Establish further sector boards under a District Education Council and specify their functions and constitution. 15

“(3) A District Education Council may at any time delegate to a sector board any power or function of that Council that is relevant to the functions of that board as specified.

“(4) There shall be deemed to be delegated to every primary sector board, all the powers and functions of its District Education Council to— 20

“(a) Maintain and control State primary schools within its district and the secondary schools and classes in continuing education of which it is the controlling authority under Part III of this Act: 25

“(b) Appoint teachers for those schools and classes:

“(c) Establish school districts, and define or alter their limits.

“(5) Subject to any special or general directions or conditions specified by the District Education Council concerned, every sector board may exercise and perform the powers and functions delegated to it as if they had been conferred directly by this Act and not by delegation. 30

“(6) In the absence of proof to the contrary, every sector board shall be presumed to be exercising or performing any power or function delegated to it in accordance with the delegation. 35

“(7) Every delegation to a sector board shall be revocable at will; and no delegation shall prevent the exercise or performance of any power or function by the District Education Council concerned other than those specified in section 69H (4) of this Act. 40

“(8) Any District Education Council may make such bylaws in accordance with this Act as in its opinion are necessary or desirable to enable it to exercise the duties and functions imposed on it by this Act, and to direct and control its officers
5 and the educational institutions under its control.

“69r. **Administration**—(1) Sections 9, 16 to 20, 22 to 25, 27 and 28, and 30 to 37 of this Act shall, so far as they are applicable and with any necessary modifications, apply to District Councils as if—

10 “(a) Every reference to an Education Board were a reference to a District Education Council:

“(b) Every reference to a Board Fund were a reference to a Council Fund.

“(2) Subject to subsection (3) of this section, a District
15 Education Council may from time to time by resolution establish special committees for particular purposes, and may delegate to any such committee any power or function it thinks fit other than those specified in section 69H (4) of this Act.

“(3) Subsections (5) to (7) of section 69H of this Act shall
20 apply to every special committee as if it were a sector board.”

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “district”, the following definition:

25 “‘District Education Council’ means a District Education Council established under section 69D of this Act:”.

(3) Section 69B of the principal Act is hereby consequentially amended by inserting, after the words “Education Board,” in each place where they appear, the words “District
30 Education Council,”.

(4) Section 165A (2) of the principal Act is hereby consequentially amended by inserting, after the words “Education Board”, the words “or District Education Council”.

**5. Recognition of institutions providing pre-school
35 education**—The principal Act is hereby amended by inserting, after section 70A, the following section:

40 “70B. (1) The Minister may, by notice in the *Gazette*, declare any institution providing pre-school education, or any body controlling any such institution, whether incorporated or not, to be a recognised pre-school organisation; and may similarly declare any recognised pre-school organisation so declared to cease to be a recognised pre-school organisation.

“(2) There may from time to time be paid to any recognised pre-school organisation so declared, out of money appropriated by Parliament for the purpose and subject to such conditions (if any) as the Minister imposes, such sum or sums towards the payment of staff salaries and other expenses incurred by it in the conduct of its activities as the Minister, with the concurrence of the Minister of Finance, approves.” 5

6. Work exploration schemes—The principal Act is hereby amended by inserting, after section 117, the following section:

“117A. (1) In this section, unless the context otherwise requires,— 10

“‘Award’ means an award within the meaning of the Factories and Commercial Premises Act 1981:

“‘Occupier’, in relation to any place, means the occupier of that place within the meaning of the Factories and Commercial Premises Act 1981: 15

“‘Workplace’ means any place where there is carried on for pecuniary gain any profession, trade, manufacture, occupation, or work; and includes any place where, whether for pecuniary gain or not, there is carried on any operation of a department of State, local authority, public body, society, or other body of persons of any kind, whether incorporated or not. 20

“(2) No principal or teacher at a State primary school or a secondary school shall allow any person enrolled at that school to go to any workplace, nor shall the occupier of any workplace allow any such person to remain in or about that workplace, for the purpose of acquiring work experience, otherwise than in accordance with conditions for the time being prescribed by the Minister in that behalf by notice in the *Gazette*. 25 30

“(3) Subject to subsections (4) and (5) of this section, every person enrolled at a State primary school or secondary school who remains in or about a workplace for the purpose of acquiring work experience, whether or not he remains there in accordance with conditions prescribed as aforesaid, shall be deemed to be employed in or about that workplace; and every enactment and award shall, to the extent that it relates to the safety, health, or welfare, of persons employed in or about workplaces of that kind, apply to that person accordingly. 35 40

- “(4) Nothing in subsection (3) of this section shall—
- “(a) Entitle any person to any payment of any kind:
- “(b) Require any person to join or belong to any union:
- 5 “(c) Entitle any person to enter or remain in any work-
place:
- “(d) Require any person to pay any levy, fee, or charge,
of any kind whatsoever.
- “(5) Subsection (3) of this section shall not apply to any
10 person who remains in or about a workplace that is an under-
taking within the meaning of the Factories and Commercial
Premises Act 1981 on or after the commencement of that
Act.”

7. **New Part VA inserted**—The principal Act is hereby amended by inserting, after Part V, the following Part:

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“PART VA

“SHORT-TERM APPOINTMENTS AT TECHNICAL INSTITUTES,
COMMUNITY COLLEGES, AND TEACHERS COLLEGES

“165B. **Governing bodies may make short-term appoint-
ments**—(1) At the time of advertising any position for a
20 teacher, tutor, or lecturer, the governing body of a technical
institute, community college, or teachers college, or (in
relation to any position in a senior technical division) the
governing body of a secondary school, may specify that that
position may be filled by the making of a short-term appoint-
25 ment.

“(2) Notwithstanding anything in this Act to the con-
trary,—

30 “(a) Where a governing body offers any person appoint-
ment to a position in respect of which it has been
specified that that position may be filled by the
making of a short-term appointment (hereafter in
this section referred to as a short-term position),
it shall specify whether or not it intends that
35 appointment to be a short-term appointment, and
if so, shall specify the length of the term concerned;
and

“(b) If that person declines that appointment he shall in
all respects be treated as if he had never applied
for it.

“(3) Notwithstanding anything in this Act to the contrary, where any person accepts appointment to a short-term position in respect of which the governing body concerned has specified that it intends that appointment to be a short-term appointment, and has specified the length of the term concerned, the following provisions shall apply: 5

“(a) That person may at any time give the governing body concerned not less than one month’s notice in writing of his intention to relinquish his engagement, and, unless he sooner withdraws that notice, he shall be entitled to relinquish, and shall be deemed to have relinquished, his engagement upon the expiration of that notice: 10

“(b) Unless he sooner relinquishes his engagement in accordance with paragraph (a) of this subsection, that person shall be deemed to have relinquished his engagement upon the expiration of the term for which he was appointed, and he shall neither have any right of appeal in respect of his having so lost his engagement nor be entitled thereby to any special preference in respect of any position in the Education Service for which he may subsequently apply. 20

“(4) Subject to subsection (3) of this section, this Act shall apply to every person appointed to a short-term position as if that position had not been a short-term position.” 25

8. New Part VB inserted—(1) The principal Act is hereby amended by inserting, after Part VA (as inserted by section 7 of this Act), the following Part: 30

“PART VB

“EMPLOYEES OF EDUCATION AUTHORITIES

“165C. **Education Authorities may appoint staff**—Subject to any regulations made under section 165D of this Act, every Education Authority may from time to time appoint and remove such officers and servants (other than teachers) as it thinks necessary. 35

“165D. **Regulations relating to appointment of staff by Education Authorities**—(1) The Governor-General may from time to time, by Order in Council, make regulations—

- 5 “(a) Prescribing, in respect of persons (other than teachers) employed by Education Authorities or by Education Authorities of any specified class, conditions of employment to the extent that the conditions of employment of those persons or of any of those persons are not for the time being fixed by—
- 10 “(i) Any award of the Arbitration Court; or
“(ii) Any agreement registered under the Industrial Relations Act 1973; or
“(iii) Any order made pursuant to section 13 of the Apprentices Act 1948; or
15 “(iv) Any order or determination made under the State Services Conditions of Employment Act 1977:
- 20 “(b) Relating to the conduct of persons (other than teachers) employed by Education Authorities, and the prevention or control of activities that are or may be detrimental to the proper performance by those persons of their official duties:
- 25 “(c) Prescribing offences in respect of the contravention of or non-compliance with any regulation made under paragraph (b) of this subsection:
- 30 “(d) Prescribing the manner in which any such offence alleged to have been committed is to be dealt with; and the manner in which a person alleged to have committed such an offence is to be held to have committed or not committed that offence:
- 35 “(e) Prescribing, in respect of any such offence that is, in the opinion of the Education Authority concerned, an offence of a minor nature, either or both of the following penalties:
“(i) The caution or reprimand of the offender:
“(ii) The payment of a fine:
- 40 “(f) Prescribing, in respect of any such offence that is not, in the opinion of the Education Authority concerned, an offence of a minor nature, all or any of the following penalties:

- “(i) The caution or reprimand of the offender:
- “(ii) The reduction of the offender’s salary by a specified amount or proportion (not exceeding a prescribed amount or proportion) for a specified period (not exceeding a prescribed period): 5
- “(iii) The transfer of the offender to a position the grade, salary, or maximum salary relating to which is equal to or lower than that of the position he held at the time of the offence:
- “(iv) The dismissal of the offender from the service of the Education Authority concerned: 10
- “(g) Providing for investigations where persons are charged with such offences and, in respect of persons so charged, providing for their suspension from duties or transfer to other duties during those investigations and pending the determination of the charges, and providing for appeals against any findings reached or penalties imposed in respect of those charges. 15
- “(2) Without limiting the generality of subsection (1) of this section, regulations made under that subsection may, in respect of all Education Authorities or any specified class or classes of Education Authority,— 20
- “(a) Provide for the establishment of a committee (in this subsection referred to as a Grading Committee): 25
- “(b) Prescribe the manner in which the members of the Grading Committee are to be appointed and hold office:
- “(c) Prescribe the manner in which the Grading Committee is to conduct its proceedings: 30
- “(d) Prescribe the manner in which the Grading Committee may establish subcommittees (either with or without members who are not members of the Grading Committee) and delegate to any such subcommittee or member thereof, or to any Board or any member of the Grading Committee, any of its powers and functions, and the matters that may so be delegated: 35
- “(e) Provide for the payment to all, or any class of, the members of the Grading Committee or of any subcommittee established by it, out of money appropriated by Parliament for the purpose, of remuneration by way of fees, salary, or allowances, and 40

- travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 as if they were members of a statutory Board:
- 5 “(f) Provide for the making of recommendations to the Minister on any matter authorised to be prescribed by those regulations:
- “ (g) Provide for the inspection by the Grading Committee of the offices of Education Authorities, or the class or classes of Education Authority concerned:
- 10 “(h) Provide for the prescription by the Grading Committee of the grading of persons employed by, and positions in the employment of, Education Authorities, or the class or classes of Education Authority concerned:
- 15 “(i) Provide for the promulgation of matters prescribed by the Grading Committee or subcommittee of the Grading Committee or member of the Grading Committee.
- “ (3) Without limiting the generality of subsection (1) of
20 this section, regulations made under that subsection may, in respect of all Education Authorities or any specified class or classes of Education Authority,—
- “ (a) Provide for establishment of a committee (in this subsection referred to as the Appeal Authority):
- 25 “(b) Prescribe the manner in which members of the Appeal Authority are to be appointed and hold office:
- “ (c) Confer on employees of Education Authorities, or the class or classes of Education Authority concerned,
30 rights on appeal to the Appeal Authority against being held to have committed an offence arising out of contravention of or non-compliance with any regulation made under subsection (1) (b) of this section; against any penalty imposed in respect of any such offence; and against the appointment of some person other than the appellant to a position in the employment of an Education Authority for which the appellant applied:
- 35 “(d) Prescribe the manner in which the Appeal Authority is to hear and dispose of appeals made to it:
- 40 “(e) Provide for the payment to all, or any class of, the members of the Appeal Authority, out of money appropriated by Parliament for the purpose of remuneration by way of fees, salary, or allowances,

and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 as if they were members of a statutory Board.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, after the definition of the term “district high school”, the following definition: 5

“ ‘Education Authority’ means a body that is an Education Board, a District Education Council, the governing body of a secondary school, technical institute, or community college, a Secondary Schools Council, a teachers college council, or a body declared to be an Education Authority by the Governor-General by Order in Council:”.

(3) The following enactments are hereby consequentially repealed: 15

(a) Sections 22 and 60A of the principal Act:

(b) Subsections (1) (b) and (2) to (4) of section 67s of the principal Act:

(c) Sections 3, 8, and 10 of the Education Amendment Act 1976: 20

(d) So much of the Second Schedule to the State Services Conditions of Employment Act 1977 as relates to the principal Act.

(4) The repeal by subsection (3) of this section of section 3 (3) of the Education Amendment Act 1976 shall not affect the validity of the Education Boards Employment Regulations 1958 or of anything done under those regulations. 25