

EDUCATION AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title and commencement.

Clause 2 amends section 2 (1) of the principal Act, so that the school year will in future commence on 28 January in every year.

Clause 3 empowers District Senior Inspectors of Schools to delegate their powers and functions.

Clause 4 amends the principal Act by inserting in it a new *section 8A*, empowering the Director-General to appoint, in accordance with regulations made under that Act, advisory and technical committees to advise him for the purposes of that Act.

Clause 5 amends section 26 of the principal Act so as to empower Education Boards to encourage parents to involve their pre-school children in pre-school education. *Subclause (2)* validates the actions of some Boards in employing persons to do so.

Clause 6 inserts into the principal Act a new *section 51c* concerning disqualification of members of the Boards of Governors of secondary schools. Equivalent provisions are at present contained in the Secondary School Boards Administration and Employment Regulations 1965.

Clause 7 inserts into the principal Act a new *section 61AA*, which gives power for the making of regulations relating to the control and management of secondary schools. Such regulations already appear in Part V of the Secondary School Boards Administration and Employment Regulations 1965, but it now appears that there may have been no power to make them and thus derogate from statutory power of control and management at present vested in the governing bodies of secondary schools.

Clause 8 amends section 67E of the principal Act to reduce from 2 to 1 the number of members of a teachers college council who are to be officers of the Department of Education.

Clause 9 amends section 67G of the principal Act to provide that resignations of members of a teachers college council are to be made to the secretary of the council. At present resignations must be made to the Minister.

Clause 10 inserts into the principal Act a new *section 67T*, empowering the making of regulations establishing Teachers College Selection Appeal Boards. A protected lecturer is a training college lecturer who has been selected to lose his or her existing position when a teachers colleges' entitlement to lecturers is reduced. The new section will empower the making of regulations enabling a lecturer selected to appeal to a Teachers College Selection Appeal Board, and empowering that board to reconsider all the lecturers who might have been chosen and decide which of them should become the protected lecturer. No other right of appeal will be available.

Clause 11 amends section 70 (2) of the principal Act so as to enable regulations made under that section to provide for the constitution and functions of more than one Kindergarten Teachers' Appointments Committee. At present, provision is made for only one.

Clause 12 authorises technical institutes and community colleges that offer training programmes that include aspects of the serving and sale of alcohol to apply for and hold food and entertainment licences under section 67A of the Sale of Liquor Act 1962.

Clause 13 dissolves the Central Advisory Committee, repeals sections 138 to 141 of the principal Act (which relate to the Central Advisory Committee), and removes from section 152A of the principal Act a reference to the Central Advisory Committee. Because it will be necessary first to amend certain regulations that refer to the Central Advisory Committee, it is provided that the clause will not come into force until a day specified by Order in Council.

Clause 14 is consequential upon *clause 13*, and comes into force on its commencement. It inserts into the principal Act a new *section 141A*, which requires the Director-General to maintain the list of very remote schools at present compiled and maintained by the Central Advisory Committee.

Clause 15 inserts into the principal Act a new *section 165AA*, empowering the making of regulations establishing Protected Teachers Appeal Boards. A protected teacher is a primary teacher who has been given special advantages in relation to appointment to other positions. This is, however, because that teacher has been selected to lose his or her existing position when a school's teacher entitlement reduces as a result of a fall in its roll. The Education (Assessment, Classification, and Appointment) Regulations 1976, provide that where the fall in roll reduces a school's entitlement to teachers of a particular grade, and it has 2 or more teachers of that grade, one of them must be selected to become the protected teacher. The new section will empower the making of regulations enabling a teacher selected to appeal to a Protected Teachers Appeal Board, and empowering that board to reconsider all the teachers of that grade and decide which of them should become the protected teacher. No other right of appeal will be available.

Clause 16 amends section 177 of the principal Act, which at present provides (*inter alia*) that the dismissal of a teacher who has attained the age of 65 years is to be deemed to be reasonable, regardless of the circumstances. The amendment reduces that age to 60.

Clause 17 repeals section 186A of the principal Act, which relates to the registration of private commercial colleges, and substitutes an amended section. The amendments have 2 effects. First, registration is extended to courses other than "commercial" courses: now any course other than those described in the

new *section 186A(3)* (abstract and recreational courses, courses of short duration, and “in house” courses) will be eligible for registration. Secondly, a course may be refused registration unless prospective students will be fully informed of costs, and given the right to withdraw from the course without penalty during its first week.

Clause 18 amends section 187 of the principal Act, which confers on certain classes of educational body the status of an agent of the Crown. While that section applies both to Education Boards and to the governing bodies of secondary schools, it has recently been realised that it does not apply to Secondary Schools Councils. The amendment adds such Councils to the bodies deemed to be agents of the Crown, with effect from the commencement of the principal Act.

Clause 19 repeals the Waimate High School Act 1883, and thus enables the reconstitution of the Board of Governors of Waimate College.

Hon. Mr Wellington

EDUCATION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Education Act 1964

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

- 1. Short Title and commencement**—(1) This Act may be cited as the Education Amendment Act 1983, and shall be read together with and deemed part of the Education Act 1964* (hereinafter referred to as the principal Act).
- 10 (2) Except as provided in **sections 13 (4) and 14 (2)** of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

*Reprinted 1975, Vol. 3, p. 1699

Amendments: 1976, No. 42; 1976, No. 70; 1977, No. 91; 1978, No. 79; 1979, No. 148; 1981, No. 124; 1982, No. 19; 1982, No. 155; 1982, No. 170

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the term “school year” the expression “31st”, and substituting the expression “27th”.

(2) Notwithstanding the definition of the term “school year” 5
contained in the said section 2 (1) (as amended by **subsection (1)** of this section), the period commencing on the 1st day of February 1983 and ending with the 27th day of January 1984 is hereby deemed to be a school year.

3. Appointment of other officers—Section 7 of the 10
principal Act is hereby amended by adding, as **subsection (2)**, the following subsection:

“(2) Any person who for the time being holds the office of District Senior Inspector of Primary Schools or District Senior Inspector of Secondary Schools may, by notice in writing, 15
delegate to any other officer or officers of the Department, the exercise and performance of all or any of the powers and functions of that office (not being a power or function the exercise or performance of which has been delegated to that Inspector under this Act or any other enactment); and the 20
following provisions shall apply to every such delegation:

“(a) The delegation may be general or particular:

“(b) The delegation may be unconditional or subject to any conditions and restrictions the Inspector thinks fit:

“(c) The Inspector may give general or special directions 25
relating to the exercise or performance of any power or function concerned:

“(d) Subject to any general or special directions given, or any conditions or restrictions imposed, the person to whom the exercise or performance of any power 30
or function is delegated may exercise or perform that power or function in the same manner and with the same effect as if it had been conferred on him directly by this Act and not by delegation:

“(e) Every person purporting to act under the delegation 35
shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation:

“(f) The delegation shall be revocable at will, and shall not prevent or affect the exercise or performance by 40
the Inspector of any power or function delegated:

“(g) The delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Inspector by whom it was made may have ceased to hold office, and shall continue to have effect as if made by that Inspector’s successor in office for the time being.”

4. Director-General may appoint advisory and technical committees—The principal Act is hereby amended by inserting, after section 8, the following section:

“8A. (1) The Director-General may from time to time, in accordance with regulations made under this Act, appoint such advisory and technical committees as he thinks fit to advise him for any of the purposes of this Act, and may from time to time determine the functions of any such committee.

“(2) There may be paid out of money appropriated by Parliament for the purpose to the members of any committee appointed under this section remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly as if that committee were a statutory Board within the meaning of that Act.

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

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

5. General powers and duties of Board—(1) Section 26 of the principal Act (as substituted by section 2 (1) of the Education Amendment Act 1975) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Subject to the provisions of this Act, an Education Board may take such steps as are desirable to encourage parents in its district to involve their pre-school children in pre-school education.”

(2) Every action by any Education Board relating to the employment of persons to encourage parents in its district to involve their pre-school children in pre-school education is hereby deemed to be as valid and effectual as if—

(a) Section 7 of the Education Amendment Act 1981; and

(b) Section 2 of the Education Amendment Act 1975; and

(c) **Subsection (1)** of this section—

had come into force on the 1st day of January 1975.

6. Qualification of members of secondary school board—(1) The principal Act is hereby amended by inserting, before section 52, the following section:

“51c. (1) A person shall be incapable of becoming a member of the Board of Governors of a secondary school if, under section 18 of this Act, he is incapable of becoming a member of an Education Board. 5

“(2) Subject to **subsection (3)** of this section, the office of any member of the Board of Governors of a secondary school shall become vacant, and that vacancy shall be deemed to be an extraordinary vacancy, if that member— 10

“(a) Dies; or

“(b) Resigns his office by writing under his hand delivered to the secretary of that Board; or

“(c) Receives any salary from that Board, or accepts or holds any office or employment from or under that Board to which any salary, fee, or emolument is attached; or 15

“(d) Is absent without leave from 3 consecutive meetings of that Board; or 20

“(e) Becomes a mentally disordered person within the meaning of the Mental Health Act 1969; or

“(f) Is adjudged a bankrupt; or

“(g) Is convicted of any offence punishable by imprisonment for 2 years or more; or 25

“(h) Is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence.

“(3) Nothing in **subsection (2) (c)** of this section shall have the effect that the office of any member of the Board of Governors of a secondary school who is elected by the teachers of all the schools controlled by that Board becomes vacant.” 30

(2) The following regulations are hereby consequentially revoked:

(a) Regulations 16 and 21 of the Secondary School Boards Administration and Employment Regulations 1965*:

(b) Regulations 4 and 5 of the Secondary School Boards Administration and Employment Regulations 1965, Amendment No. 4:

*S.R. 1965/177

Amendment No. 1: S.R. 1968/158

Amendment No. 2: S.R. 1972/250

Amendment No. 4: S.R. 1975/251

Amendment No. 5: S.R. 1976/286

Amendment No. 6: S.R. 1977/232

Amendment No. 7: S.R. 1978/120

Amendment No. 8: S.R. 1978/186

Amendment No. 9: S.R. 1981/160

Amendment No. 10: S.R. 1983/68

(c) The Secondary School Boards Administration and Employment Regulations 1965, Amendment No. 6.

7. Management of secondary schools—The principal Act is hereby amended by inserting, after section 61, the following section:

“61AA. (1) Notwithstanding that the control and management of secondary schools is by this Act vested in their governing bodies, regulations made under this Act may provide in any respect for any matters relating to the control and management of secondary schools; and where any such regulations are made, the powers of control and management of the governing bodies of secondary schools shall be modified accordingly.

“(2) Without limiting the generality of subsection (1) of this section, regulations made under this Act may grant to the Principals of secondary schools any powers of control and management of those schools.”

8. Membership of teachers college councils—Section 67E (2) of the principal Act (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) One officer of the Department appointed by the Minister:”.

9. Extraordinary vacancies on councils—Section 67G (1) (b) of the principal Act (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by omitting the word “Minister”, and substituting the words “secretary of the council”.

10. Appeals against selection in certain cases—The principal Act is hereby amended by inserting, after section 67s (as inserted by section 9 (1) of the Education Amendment Act (No. 2) 1974), the following section:

“67t. (1) Where regulations made under section 67s of this Act provide that, in the event that the entitlement of a teachers college to lecturers is reduced, one or more of the lecturers employed at that college is to be selected to lose his position (whether immediately or at some future date or upon the happening of some future event), those regulations may do the following things:

“(a) Establish boards to be known as the Teachers College Selection Appeal Boards:

“(b) Provide for the making of appeals to such boards by lecturers so selected:

“(c) Empower any such board hearing any such appeal to select in place of the appellant any other lecturer employed at the college concerned who might law- 5 fully have been selected in place of the appellant:

“(d) Prescribe the procedures of such boards:

“(e) Prescribe the circumstances in which such appeals are to be deemed to have lapsed;—

and any lecturer so selected (whether before or after the 10 commencement of **section 10** of the Education Amendment Act 1983) shall, in accordance with those regulations, have a right to appeal to such a board against selection.

“(2) Every decision of a Teachers College Selection Appeal Board shall be final and binding on all persons. 15

“(3) No person who has a right of appeal under **subsection (1)** of this section shall have any other right of appeal against selection, or any right of appeal against—

“(a) The refusal of a Teachers College Selection Appeal Board to select some other lecturer in his place; or 20

“(b) Any dismissal that flows directly from selection.

“(4) No lecturer selected by a Teachers College Selection Appeal Board in place of a person who has a right of appeal under **subsection (1)** of this section shall have any right of appeal against— 25

“(a) Selection; or

“(b) Any dismissal that flows directly from it.

“(5) There shall be paid to the members of every Teachers College Selection Appeal Board, out of money appropriated by Parliament for the purpose, remuneration by way of fees, 30 and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly as if that board were a statutory Board within the meaning of that Act.”

11. Provision of pre-school education—(1) Section 70 (2) 35 (a) of the principal Act (as added by section 4 of the Education Amendment Act (No. 2) 1982) is hereby amended by omitting the words “a Kindergarten Teachers’ Appointments Committee”, and substituting the words “one or more Kindergarten Teachers’ Appointments Committees”. 40

(2) Paragraph (g) of the said section 70 (2) is hereby consequentially amended by omitting the words “either or both”, and substituting the word “any”.

12. Functions of technical institutes and community colleges—Section 90D of the principal Act (as substituted by section 14 (1) of the Education Amendment Act (No. 2) 1974) is hereby amended by adding, as **subsections (2) to (4)**, the following subsections:

“(2) Without limiting the generality of subsection (1) of this section, but subject to **subsection (3)** of this section, any technical institute or community college that conducts any training programme that involves knowledge, and experience in the serving, of alcoholic liquor, and tuition in procedures relating to its sale, may apply for and hold a food and entertainment licence in accordance with section 67A of the Sale of Liquor Act 1962.

“(3) Without limiting the generality of subsection (4) or subsection (6) of the said section 67A, a food and entertainment licence issued to a technical institute or community college shall be deemed to be issued subject to the condition that liquor shall be supplied only to persons who are—

“(a) Members of the staff of that technical institute or community college; or

“(b) Students enrolled at that technical institute or community college; or

“(c) Visiting that technical institute or community college on official business, and authorised by its principal to be supplied with liquor.

“(4) Notwithstanding section 110 of the Sale of Liquor Act 1962, in considering any application under section 67A of that Act by a technical institute or community college, the Licensing Control Commission shall not take into account the matters referred to in subsection (1) (a) of the said section 110.”

13. Dissolution of Central Advisory Committee—(1) The Central Advisory Committee established under section 138 of the principal Act is hereby dissolved.

(2) Sections 138 to 141 of the principal Act are hereby consequentially repealed.

(3) Section 152A (2) (b) (i) of the principal Act (as inserted by section 10 of the Education Amendment Act (No. 2) 1982) is hereby consequentially amended by omitting the words “compiled by the Central Advisory Committee and approved by the Director-General”, and substituting the words “maintained by the Director-General under **section 141A (1)** of this Act”.

(4) **Subsections (1) to (3)** of this section shall come into force on a day appointed for the purpose by the Governor-General by Order in Council.

14. Director-General to maintain list—(1) The principal Act is hereby amended by inserting, before section 142, the following section:

“141A. (1) The Director-General shall, from the commencement of **section 13** of the Education Amendment Act 5 1983, maintain a list of State primary schools that should, in his opinion, be regarded as very remote for the purpose of the transfer and appointment of teachers.

“(2) The list referred to in **subsection (1)** of this section is hereby declared to be the list secondly referred to in section 10 138 (3) (a) of the principal Act immediately before the commencement of the said **section 13.**”

(2) **Subsection (1)** of this section shall come into force on the commencement of **subsections (1) to (3) of section 13** of this Act.

15. Appeals against selection in certain cases—The 15 principal Act is hereby amended by inserting, after section 165, the following section:

“165AA. (1) Where regulations made under this Act provide that, in the event that any teacher entitlement of any State primary school or intermediate department is or is to be 20 affected by a reduction in the roll of that school, one or more of the teachers employed at that school or department, or appointed by the Director-General and employed in connection with that school or department, is to be selected to lose his position (whether immediately or at some future date or upon 25 the happening of some future event), those regulations may do the following things:

“(a) Establish boards to be known as Protected Teachers Appeal Boards:

“(b) Provide for the making of appeals to such boards by 30 teachers so selected:

“(c) Empower any such board hearing any such appeal to select in place of the appellant any other teacher employed at or in connection with the school or department concerned who might lawfully have 35 been selected in place of the appellant:

“(d) Prescribe the procedures of such boards:

“(e) Prescribe the circumstances in which such appeals are to be deemed to have lapsed;—

and any teacher so selected (whether before or after the 40 commencement of **section 15** of the Education Amendment Act 1983) shall, in accordance with those regulations, have a right to appeal to such a board against selection.

“(2) Every decision of a Protected Teachers Appeal Board shall be final and binding on all persons.

“(3) No person who has a right of appeal under **subsection (1)** of this section shall have any other right of appeal against selection, or any right of appeal against—

“(a) The refusal of a Protected Teachers Appeal Board to select some other teacher in his place; or

“(b) Any dismissal that flows directly from selection.

“(4) No teacher selected by a Protected Teachers Appeal Board in place of a person who has a right of appeal under **subsection (1)** of this section shall have any right of appeal against—

“(a) Selection; or

“(b) Any dismissal that flows directly from it.

“(5) There shall be paid to the members of every Protected Teachers Appeal Board, out of money appropriated by Parliament for the purpose, remuneration by way of fees, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and that Act shall apply accordingly as if that board were a statutory Board within the meaning of that Act.”

16. When teachers deemed to be dismissed—Section 177 of the principal Act is hereby amended by omitting the expression “65”, and substituting the expression “60”.

17. Registration and inspection of courses of study at private colleges—(1) The principal Act is hereby amended by repealing section 186A (as inserted by section 3 of the Education Amendment Act 1970 and amended by section 14 (2) of the Education Amendment Act (No. 2) 1974), and substituting the following section:

“186A. (1) For the purposes of this section—

“ ‘Managers’, in relation to a private college, means every person who has, or has any part of, the control and management of that college, whether or not that person has any proprietary interest in it or in any of its property:

“ ‘Private college’ means any private establishment that offers or intends to offer continuing education:

“ ‘Satisfactory’, in relation to any course of study offered or intended to be offered at a private college, means that the premises, staffing, equipment, and curriculum of that college are suitable to afford that course, and that the instruction afforded or intended to be

afforded in that course is as complete and efficient as the instruction that would be afforded in a similar course of study in a technical institute or community college.

“(2) The managers of a private college may apply to the Director-General for the registration of any course of study offered, or intended to be offered, at that college. 5

“(3) Subject to **subsection (5)** of this section, the Director-General shall refuse to register any course of study if, in his opinion, that course— 10

“(a) Relates predominantly to recreation, religion, theology, physical fitness, self-grooming, health, anthropology, psychology, or sociology, or to any matter that involves neither the acquisition or improvement of some capacity on the part of the students or proposed students concerned to use or understand the English language nor the acquisition of some occupational skill or knowledge; or 15

“(b) Involves or will involve,—

“(i) Less than 15 hours of tuition every week; or 20

“(ii) Less than 50 hours of tuition in total; or

“(c) Is or will be exclusively industry based, and has or will have all its costs met by an employer, or organisation of employers, based in New Zealand.

“(4) The Director-General shall refuse to register any course of study unless he is satisfied that— 25

“(a) The printed and other information made available by the managers of the college concerned to prospective students gives full details of—

“(i) The total fees for that course, including fees for class materials, books, special clothing, safety equipment, tools, and any other items that are or may be provided by those managers to students enrolled for that course; and 30

“(ii) The class materials, books, special clothing, safety equipment, tools and other items that are or may be required by those managers to be purchased or provided by students enrolled for that course; and 35

“(b) Those managers— 40

“(i) Provide, and intend to provide, every prospective student with a written statement of the total course costs and other financial commitments of that course before accepting that student’s enrolment; and 45

“(ii) Allow, and intend to allow, every student enrolled for that course to withdraw from it without penalty at any time within 7 days of enrolment; and

5 “(iii) Refund, and intend to refund, to every student who so withdraws, without deduction, all payments made to those managers in respect of that course and, where withdrawal from that course results in withdrawal from that college as a whole, in respect of enrolment at that college.

10 “(5) The Director-General may, if he is satisfied that any course of study at a private college is supported, directly or indirectly, by public money or resources, or provides primarily for persons normally resident overseas, exempt that course from the effects of **subsection (3)** of this section; and in that case,
15 **subsection (6)** of this section shall apply to that course as if the Director-General were of the opinion that that course was not a course to which **subsection (3)** of this section applies.

 “(6) Where the managers of a private college apply to the Director-General for the registration of a course of study at
20 that college, and pay to him such fee (if any) as is prescribed in respect of applications for such registration,—

 “(a) He shall cause that college and course to be inspected by an Inspector; and

25 “(b) Subject to **subsections (3) and (4)** of this section, if and only if, on the report of that Inspector, he is satisfied that that course is satisfactory, he shall register it.

 “(7) The Director-General shall cause to be prepared annually a list of every private college that has one or more courses of study registered, and of every such course; and shall ensure
30 that a copy of that list is available for inspection at every office of the Department.

 “(8) The managers of a private college that has a registered course of study shall ensure that that college is open at all times to visits and inspections, including the examination of
35 students enrolled for any such course, by the Minister, the Director-General, or any officer of the Department authorised by the Director-General in that behalf; but no such visit or inspection shall be made in respect of any unregistered course of study.

40 “(9) The manager of a private college that has a registered course of study shall keep such registers of enrolments and other records, and shall furnish such annual and other returns, as the Director-General requires.

“(10) Where the Director-General is no longer satisfied that a registered course of study is satisfactory, or is satisfied that the managers of a private college that has such a course have failed or refused to comply with any provision of this section, he shall—

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“(a) Cancel the registration of that course; and

“(b) Remove the reference to that course from the list referred to in **subsection (7)** of this section; and

“(c) If no other course of study at that college is registered, remove the reference to that college from that list; 10 and

“(d) Inform those managers of the actions he has taken.”

(2) Where, immediately before the commencement of this Act, any private college or establishment was registered under section 186A of the principal Act (as repealed by **subsection (1)** 15 of this section) in respect of any course of study, that course shall be deemed to have been registered under section 186A of the principal Act (as substituted by **subsection (1)** of this section); and that latter section shall apply to that course, that college or establishment, and its managers, accordingly. 20

(3) So much of the Schedule to the Education Amendment Act (No. 2) 1974 as relates to section 186A of the principal Act is hereby consequentially repealed.

18. Exemptions from taxation—(1) Section 187 of the principal Act (as amended by section 14 of the Education 25 Amendment Act 1971 and section 14 (2) of the Education Amendment Act (No. 2) 1974) is hereby amended by inserting, after the words “Education Board”, the words “and Secondary Schools Council,”.

(2) **Subsection (1)** of this section shall be deemed to have come 30 into force on the commencement of the principal Act.

19. Repeal of Waimate High School Act 1883—The Waimate High School Act 1883 is hereby repealed.