

[AS REPORTED FROM THE LABOUR AND EDUCATION COMMITTEE]

House of Representatives, 13 May 1982.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

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 28th day after the day on which it receives the Governor-General's assent.

*Struck Out*

(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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*New*

(3) Sections 9, 10, and 12 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and different dates may so be appointed—

- (a) In respect of different provisions of this Act:  
 (b) In respect of different provisions inserted into the principal Act by section 9 of this Act.

25

**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

\*Reprinted 1975, Vol. 3, p. 1699

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

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—

- “ (a) Delegated to him under this Act or any other Act; or  
5 “ (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.

“ (2) The Director-General shall not delegate any power  
10 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 Services Commission.

15 “ (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 shall exercise it in accordance with any such condition,  
20 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 been conferred on him directly by this section and not by  
25 delegation.

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

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

“ (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  
35 ceased to hold office.”

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

“ **9. Money to be appropriated by Parliament**—All  
40 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 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 Governors of Technical Institutes, the Boards of Governors of Community Colleges, and education centre councils, for the following purposes: 5

“(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: 10

“(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. 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. 20

“(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. 25

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

“(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. 30

“(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: 35

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

“(b) Prescribing conditions governing the making of those grants: 40

“(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: 45

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  
15 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 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  
25 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—

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

“ (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  
30 Minister specifies in his consent, borrow such sum from such source as the Minister so specifies.

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

“ (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  
40 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.

“(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:

“(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:

“(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:

“(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.”

(2) The following provisions are hereby consequentially repealed:

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

(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:

*“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, 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),—

“(a) *(Has)* Without reasonable cause, 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

“(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 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 authority.

*Struck Out*

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

“(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

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

*New*

“(2) Subject to subsection 2B of this section, the Minister shall not appoint a commission to act in place of the authority unless—

“(a) He has first given the authority written notice 5 specifying the failure, refusal, mismanagement, action, or intended action, that is the basis of the proposed appointment; and

“(b) Since the day that notice was given to the authority, a time specified in it for the authority to make 10 written submissions to the Minister (being not less than 14 days) has expired; and

“(c) The Minister has considered all submissions from the authority received by him within that time.

“(2A) The Director-General shall take all reasonable steps 15 to arrange and undertake during the time specified for the making of submissions to the Minister, consultation between officers of the Department and the authority (or representatives of the authority) on the proposed appointment of the 20 commission.

“(2B) Where the Minister is satisfied that the consequences of the authority’s failure, refusal, mismanagement, action, or intended action, are so serious that it is in the public interest to appoint a commission to act in the authority’s place 25 forthwith, he may do so; but in that case he shall, as soon as is practicable, give the authority written notice specifying the failure, refusal, mismanagement, action, or proposed action, that is the basis of the appointment.

“(3) The commission shall comprise such persons as are for the time being specified in the notice; but where 2 or more 30 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 35 powers and functions of the authority; and

*New*

“(ab) The authority shall continue in existence, but until the notice appointing the commission is revoked shall not have any powers or functions other than 40 consultation with the Minister, and officers of the Department, on the possible revocation of the notice appointing the commission; and



5 “(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).

10 “(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.

15 “(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.

20 “(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.

25 “(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 30 1951; and that Act shall apply accordingly as if the commission were a statutory Board within the meaning of that Act.

35 “(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.

40 “(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 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:

“(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,—

“(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

“(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 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
- (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:

“(3) Where, after consultation with the School Committee of a State primary school, (*the Education Board and the Senior Inspector are*) the Senior Inspector, and the Minister, the Education Board is 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.”

**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:

“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.

“(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

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

(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.

**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)* Subject to subsections (1A) and (3) of this section, 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.

*New*

“(1A) Before establishing an education centre, the Minister shall consult all the existing educational institutions of the classes specified in subsection (1) of this section situated in the area concerned as to whether the proposed centre should be established as part of one of those institutions or separately.

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

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

*New*

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|--|
| “(3) The Minister shall, before disestablishing any<br>education centre, consult its controlling authority. 20 |
|--|

“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,—

- “(a) That centre shall be under the control of the 25  
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
- “(b) The controlling authority concerned shall, after 30  
consultation with the Minister, appoint a commit-  
tee to assist it in the administration of that centre;  
and in that case, subject to subsection (3A) of this  
section, section 61A of this Act, so far as it is  
applicable and with the necessary modifications, 35  
shall apply to that committee as if—
- “(i) Every reference to a secondary school were  
a reference to that centre; and
- “(ii) Every reference to the governing body of a  
secondary school were a reference to that 40  
controlling authority.

“(2) The Minister shall, by notice in the *Gazette*,—

“(a) Constitute an education centre council for each separately established education centre; and

“(b) (*Specify*) Subject to subsection (3A) of this section,  
5 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.

10 “(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:

“(b) (*Vary*) Subject to subsection (3A) of this section, vary  
15 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  
20 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.

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

*New*

“(3A) Subject to subsection (3B) of this section, where a substantial part of the activities of an education centre involves teachers of a particular class (that is, kindergarten  
30 teachers, primary teachers, secondary teachers, technical institute tutors, or teachers college lecturers), the committee assisting the controlling authority of which it is part or, as the case requires, its education centre council shall so be constituted as to require one member to be a teacher of that  
35 class.

“(3B) Where teachers of more than 2 classes are involved in a substantial part of the activities of an education centre, subsection (3A) of this section shall apply only to the 3 classes of teacher most so involved.

**“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—

“(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. 10

“(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.”

(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:

“‘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:

(a) Section 201 of the principal Act: 25

(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 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 the following sections: 35

**“131. Teacher Registration Board established—**

(1) There is hereby established a board to be known as the Teacher Registration Board. 40

*Struck Out*

- “(2) The Registration Board shall comprise—
- “(a) One member appointed by the Minister as chairman:
- 5 “(b) Eight members, who shall be registered teachers appointed by the Minister after consultation with the following bodies:
- “(i) The New Zealand Educational Institute Registered:
- 10 “(ii) The New Zealand Post Primary Teachers Association Registered:
- “(iii) The Association of Teachers in Technical Institutes Incorporated:
- “(iv) The New Zealand Teachers Colleges Association Incorporated:
- 15 “(v) The New Zealand Free Kindergarten Teachers Association Incorporated:
- “(vi) Such organisations and associations representing teachers in schools registered under section 186 of this Act as the Minister thinks fit:
- 20 “(c) Four members appointed by the Minister after consultation with the following bodies:
- “(i) The New Zealand Education Boards Association Incorporated:
- “(ii) The New Zealand Secondary School Boards Association (Incorporated):
- 25 “(iii) The Association of Teachers College Councils:
- “(iv) The New Zealand Free Kindergarten Union (Incorporated):
- 30 “(v) The Technical Institutes Association:
- “(d) One other member appointed by the Minister:
- “(e) The Director-General.

*New*

- “(2) The Registration Board shall comprise—
- 35 “(a) One member appointed by the Minister as chairman; and
- “(b) Thirteen other members appointed by the Minister; and
- “(c) The Director-General.

## New

“(2A) Subject to subsection (2C) of this section, of the members appointed under subsection (2) (b) of this section,—

“(a) Two shall be registered teachers nominated by the 5  
New Zealand Educational Institute Registered:

“(b) Two shall be registered teachers nominated by the  
New Zealand Post Primary Teachers Association  
Registered:

“(c) One shall be a registered teacher nominated jointly by 10  
those 2 organisations:

“(d) One shall be a registered teacher nominated by the  
New Zealand Teachers Colleges Association  
Incorporated:

“(e) One shall be a registered teacher nominated by the 15  
New Zealand Free Kindergarten Teachers Association  
Incorporated:

“(f) One shall be a registered teacher nominated by such  
organisation, or jointly by such organisations,  
representing teachers in schools registered under 20  
section 186 of this Act as the Minister thinks fit:

“(g) Four shall be nominated, respectively, by:

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

“(ii) The New Zealand Secondary School 25  
Boards Association (Incorporated):

“(iii) The Association of Teachers College  
Councils:

“(iv) The New Zealand Free Kindergarten  
Union (Incorporated): 30

“(h) One shall be appointed after consultation with such  
organisations and associations representing the  
proprietors of schools registered under section 186  
of this Act as the Minister thinks fit.

“(2B) The Minister shall appoint persons to be alternates 35  
of the members of the Review Committee referred to in  
subsection (2A) of this section; and the following provisions  
shall apply to each such alternate:

“(a) On appointing the alternate, the Minister shall specify  
the member of the Registration Board whose 40  
alternate he is:

“(b) No person shall be appointed an alternate unless he is  
eligible to be appointed a member of the  
Registration Board in place of the member whose  
alternate he is: 45



*New*

- 5 “(c) Subject to subsection (2C) of this section, no person shall be appointed an alternate unless he has been nominated by the same body or bodies or, as the case requires, unless there has been consultation with the same body or bodies, as is required by subsection (2A) of this section in respect of the appointment of the member of the Review Committee whose alternate he is:
- 10 “(d) Where a member of the Registration Board dies, resigns, or is absent from any meeting of the Registration Board, his alternate may attend any meeting or, as the case requires, that meeting and act in all respects as if he were a member of the
- 15 Registration Board.
- “(2C) The Minister may by notice in writing to the organisation or organisations concerned request any organisation or, as the case requires, any 2 or more organisations jointly, to nominate persons under subsection
- 20 (2A) or subsection (2B) of this section; and where, within 28 days of his giving that notice—
- “(a) The organisation or organisations concerned have failed or neglected to nominate a person; or
- 25 “(b) In the case of 2 or more organisations requested jointly to nominate a person, those organisations have been unable to agree on a joint nomination,—
- the Minister may thereafter appoint to be a member of the Registration Board or, as the case requires, an alternate, such person as he thinks fit.
- 30 “(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
- 35 officer attends and acts as a member at any such meeting shall be conclusive proof of his authority to do so.
- “(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
- 40 property, and suing and being sued, and otherwise doing and suffering all such things as bodies corporate may do and suffer.

**“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. 5

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

“(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 10 discharge, or whose discharge is suspended for a term not yet expired or is subject to conditions not fulfilled:

“(c) A person convicted of an offence punishable by imprisonment who has neither received a full 15 pardon, nor served his sentence or otherwise suffered the penalty imposed on him, in respect of that offence.

**“133. Term of office—**(1) Subject to this Act, every appointed member of the Registration Board shall be 20 appointed for a term of 3 years but shall be eligible for reappointment 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, 25 notwithstanding that the term for which he was appointed has expired.

“(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 30 term not exceeding 3 years as the Minister, at the time of appointment, in each case decides.

**“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, 35 neglect of duty, or misconduct proved to the satisfaction of the Minister.

“(2) Any appointed member of the Registration Board may at any time resign his office by writing addressed to the Minister. 40

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

“(a) Dies; or

“(b) Is removed from office; or

“(c) Resigns; or

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

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

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

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

“(5) The powers of the Registration Board shall not be 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  
15 by the Minister.

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

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

“(4) At any meeting of the Registration Board the quorum necessary for the transaction of business shall be (7) 8  
25 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.

30 “(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.

35 “(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.

40 “(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.

45 “(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.

“(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. 5

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**“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.

**“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. 15

**“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. 20

“(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. 25

“(3) Subject to the terms of any trust or endowment, any money belonging to the Registration Board that is not immediately required to be expended may be invested in any manner in which trustees are for the time being authorised to invest trust funds. 30

“(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. 35

“(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. 40

“(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.

5 “(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.

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

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

15 “(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  
20 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.

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

“(a) A report of its proceedings and operations for that year; and

“(b) A copy of its audited accounts for that year; and

30 “(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)* their receipt, lay before Parliament a copy of the report,

35 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  
40 Board.

“(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.

“(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 5 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.

“136F. **Register of Teachers**—(1) The Registration 10 Board shall cause to be kept a register to be called the Register of Teachers.

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

“136G. **Applications for registration**—(1) Any person 15 may apply to the Registration Board for registration.

“(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.

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20

“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—

*New*

“136H. **Registration**—(1) The Registration Board shall 25 register every applicant for registration who satisfies it that he—

“(a) Has—

“(i) Been awarded a Teachers’ College Diploma by a teachers college established or deemed to have 30 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; or

“(ii) To the satisfaction of the Registration 35 Board, completed some other training that is so approved; and

“(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

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

5 “(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,—) Registration Board, equivalent.

10 *Struck Out*

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.

*New*

“(2) The registration Board shall register provisionally  
20 every applicant for registration who—

“(a) Has never previously been registered; and

“(b) Has satisfied it of all the matters referred to in subsection (1) of this section other than that specified in paragraph (e) of that subsection.

25 “(3) The Registration Board may, if it is satisfied that the circumstances of the applicant concerned so justify, register provisionally any applicant for registration who—

“(a) Has satisfied it of all the matters specified in subsection (1) of this section other than those  
30 specified in paragraphs (a) and (e) of that subsection; or

“(b) Has previously been provisionally registered.

“(4) Any person who is for the time being provisionally registered may apply to the Registration Board to be  
35 registered under subsection (1) of this section.

“(5) The provisional registration of any teacher under this section shall expire—

“(a) If he is registered under subsection (1) of this section;  
or

40 “(b) Unless it sooner is cancelled, or expires under paragraph (a) of this subsection, after 5 years.

*New*

“(6) Subject to section 136I of this Act, no teacher shall be registered otherwise than pursuant to this section.

“(7) Where the Registration Board refuses to register any applicant for registration, it shall inform him of its reasons for doing so, and that he may make representations to it concerning them; and in the light of any representations he makes to it, it may grant his application.

“(8) Where the Registration Board registers provisionally an applicant from whose application it appears that he wishes to be registered otherwise than provisionally, it shall—

“(a) Inform the applicant of its reasons for doing so, and that he may make representations to it concerning them; and

“(b) Consider any such representations he makes to it within a reasonable time;—

and if, in the light of those representations, it is satisfied that he should have been registered otherwise than provisionally—

“(c) It shall so register him; and

“(d) He shall be deemed so to have been registered on the date of his provisional registration; and

“(e) That provisional registration shall be deemed not to have occurred.

*Struck Out*

25

“136I. **Transitional**—(1) Notwithstanding section 136H of this Act, but subject to subsection (3) of this section, the 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.

“(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—

“(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



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“(b) Holds—

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

5 “(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  
10 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.

*New*

“136I. **Transitional**—(1) This section applies to every  
15 person who—

“(a) Immediately before the commencement of section 136O of this Act, held a permanent full-time position of a kind that, on that commencement, was required by that section to be held by a  
20 registered teacher; and

“(b) Has not thereafter—

“(i) Been registered under section 136H of this Act; or

“(ii) Had his registration cancelled.

25 “(2) Subject to subsection (3) of this section, every person to whom this section applies shall be deemed to be a registered teacher.

“(3) Notwithstanding any provision of this Act, no person to whom this section applies shall be capable of being  
30 appointed to any position (being a position required by section 136O of this Act to be held by a registered teacher) that—

“(a) Is of a grade higher than the position he held immediately before the commencement of that  
35 section; or

“(b) Is not a position of the same kind as that position.

“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
- “(b) The names of the establishments at which those registered teachers who were at that date teaching were then employed; and 5
- “(c) An address for each of those registered teachers who was not at that date teaching; and
- “(d) An indication as to which of those registered teachers at that date held a current practising certificate; and 10
- “(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

*New*

15

- 
- “(ea) In respect of each such registered teacher, an indication as to whether he was at that date—
- “(i) Provisionally registered; or
- “(ii) Deemed under section 136I of this Act to be a registered teacher; and 20
- 

- “(f) In respect of each such registered teacher (not being a person deemed under section 136I of this Act to be a registered teacher), the date on which he was registered and, where before that date he was provisionally registered, the date on which he was 25 provisionally registered.
- “(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 30 provisionally registered since the last publication under that subsection or this paragraph:
- “(b) The full name of any person whose registration has been cancelled or suspended since the last publication under subsection (1) of this section, 35 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.” 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.

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

*Struck Out*

“(3) The Minister may from time to time by notice in the 10 *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.

“(4) As soon as is practicable after receiving a duly 15 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.

“(5) Every practising certificate shall specify the date upon 20 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.

“(6) Where an application under subsection (2) of this section is received by the Board before the 1st day of 25 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 30 December of the following year.

“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—

*Struck Out*

- “(a) A teacher has been convicted of an offence—  
 “(i) Punishable by imprisonment for a term of 2  
 years or more; or  
 “(ii) Against this Act; or 5  
 “(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

*New*

- “(a) A teacher has been convicted of an offence— 10  
 “(i) Punishable by imprisonment for a term of  
 12 months or more; or  
 “(ii) Against section 136P of this Act; or  
 “(c) The cancellation of a teacher’s registration has been  
 requested under section 159A (7) of this Act,— 15  
 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— 20

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

*New*

- “(a) Notified that teacher (at his last known residential  
 address) of— 25  
 “(i) Its intention to suspend or cancel his  
 registration; and  
 “(ii) its reasons for intending to do so; and 30  
 “(iii) The fact that he may within a reasonable  
 time make representations to it concerning them;  
 and  
 “(b) Considered any representation made by that teacher 35  
 within that time.

*New*

“(3A) Notwithstanding subsection (3) of this section, after,—

“(a) Notifying a teacher of its intention to cancel his registration; and

“(b) Considering any representation he has made to it within a reasonable time,—

the Registration Board may, without further notice to him, suspend his registration; but in that case it shall notify him of its reasons for doing so.

“(3B) Where—

“(a) After considering representations from a teacher, the Registration Board suspends or cancels his registration; but

“(b) Its reasons for doing so differ in any respect from those it gave to him initially,—

it shall notify him of those first-mentioned reasons.

“(3C) Where, under this section, it is provided that a teacher may make representations to the Registration Board, those representations may be made—

“(a) In writing; or

“(b) In person by that teacher, either alone or assisted by any other person; or

“(c) By some other person on his behalf.

“(4) Where a teacher has been charged with an offence under section (159) 158 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.

“(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.

“(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.

“(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. 5

“136M. **Appeals against decisions of Registration Board**—Where the Registration Board has— 10

“(a) Refused to register any person; or

“(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. 15

“136N. **Notification of decisions**—(1) Where under subsection (2) or subsection (4) of section 136L of this Act the Registration Board cancels or suspends the registration of any teacher, it shall— 20

“(a) Cause to be published in the *Gazette* a notice of the cancellation or suspension; and

“(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. 25

“(2) Where an appeal against the cancellation or suspension of any teacher’s registration is successful, the Registration Board shall cause to be published and give, as aforesaid, notices to that effect. 30

*New*

“136NA. **Administrative and secretarial services**—The Department shall provide the Registration Board with 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. 35

“136O. **Only registered teachers to be employed**—  
(1) Subject to the provisions of this Act, no person shall be employed, or continue to be employed, as a teacher in any kindergarten, registered school, or teachers college, unless he is a registered teacher. 40

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

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

5 “(b) Who is a specialist in a particular subject and is (employed as a part-time teacher in that subject) engaged on a part-time basis to use his specialist skills under the general supervision of a registered teacher;—

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

“(c) Who, by virtue of section (130R) 136L (8) of this Act, is deemed not to be a registered teacher; or

15 “(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 3 years before the removal he had not held any appointment as a teacher and had not applied for  
20 the retention of his name on that register.

*Struck Out*

“(3) After consultation with the Registration Board, the Minister may, by notice in the *Gazette*, declare that any  
25 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  
30 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.

“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  
35 a fine not exceeding \$500, who—

“(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

- “(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 5
- “(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

*Struck Out*

“(e) Employs any person contrary to section 136O of this Act.” 10

*New*

“(e) Knowing that any other person is not a registered teacher, employs, or continues to employ, that other person contrary to section 136O of this Act.” 15

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

- “‘Former Teachers Register’ means the register kept by 20  
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: 25
- “‘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 30  
(3), the following subsection:

“(3A) Where—

- “(a) In accordance with regulations made under this Act, 2  
positions at a school have been advertised as dual  
appointment positions; and 35
- “(b) Persons married to each other have been appointed 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,— 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 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 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) 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 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 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)~~ 12 months 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.

## New

“(1A) Where a teacher is suspended or transferred under subsection (1) of this section he may request his employing authority to reconsider its decision; and in that case the following provisions shall apply: 5

“(a) The employing authority shall reconsider its decision at the meeting next following the teacher’s request:

“(b) At that meeting, the employing authority shall consider any representations made to it—

“(i) By the teacher in writing; or 10

“(ii) By the teacher in person; or

“(iii) By any other person on behalf of the teacher:

“(c) Where the teacher was suspended, the employing authority shall— 15

“(i) Confirm the suspension; or

“(ii) Annul the suspension and authorise the teacher to return to his former duties; or

“(iii) Annul the suspension and transfer the teacher temporarily to other duties: 20

“(d) Where the teacher was transferred, the employing authority shall—

“(i) Confirm the transfer; or

“(ii) Annul the transfer and authorise the teacher to return to his former duties. 25

*“(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)*

“(2) Where an employing authority is considering whether— 30

“(a) To suspend or transfer a teacher under subsection (1) of this section or allow him to continue in his position; or

“(b) To confirm or annul any suspension or transfer under that subsection; or 35

“(c) To substitute for the suspension of a teacher under  
that subsection his transfer to other duties,—  
the welfare and interests of the students attending the  
institution concerned shall be the paramount consideration of  
 5 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—

10 “(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  
 15 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) resigned or

taken up another teaching position, be entitled forthwith to  
 20 resume his teaching duties; and in that case his employing  
authority shall pay to him the amount (if any) by which the  
salary that would have been payable to him during the period  
of his suspension exceeds the sum of—

25 “(a) Any earnings from other employment during that  
period; and

“(b) Any benefits under Part I of the Social Security Act  
1964 (other than national superannuation)  
received during that period.

“157A. **Teacher convicted of serious offence—**

30 *Struck Out*

“(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  
 35 employing authority may, at any time within 3 months of the conviction,—

*Struck Out*

“(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. 5

“(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 10 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— 15 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—

“(a) The time for appealing against the conviction or 20 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 25 made to it by him during that reasonable time.

*New*

“(1) Subject to subsection (2) of this section, where a teacher is convicted of an offence punishable by imprisonment for 12 months or more, his employing authority shall 30 within 20 working days of the expiration of the time within which he may appeal against the conviction or, where he so appeals, within that period of the final disposal of the appeal, take one of the following steps:

“(a) Peremptorily dismiss him: 35

“(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:

“(c) Charge him with a disciplinary offence in respect of any circumstances— 40

“(i) Out of which the conviction arose; or

“(ii) Revealed in the course of the proceedings leading to the conviction:

*New*

“(d) Inform him that it intends to take no action in respect of the conviction.

“(2) Where the employing authority of a teacher convicted of an offence punishable by imprisonment for a term of 12 months or more fails to comply with subsection (1) of this section in respect of the conviction within the time specified, or informs him under subsection (1) (d) of this section, it shall not thereafter be capable of dismissing or transferring him because of the conviction, or of charging him with a disciplinary offence in respect of any circumstance to which subsection (1) (c) of this section applies.

“(3) Notwithstanding subsection (1) of this section, where a teacher is convicted of an offence punishable by imprisonment for a term of 12 months or more, his employing authority may without hearing him, suspend him—

“(a) For the period within which it may dismiss him; or

“(b) Until it has decided whether or not to dismiss or transfer him under subsection (1) of this section.

“(4) Except as provided in paragraph (b) of this subsection, no suspension or transfer under subsection (1) of this section shall take effect until 20 working days after the employing authority’s decision; and the employing authority—

“(a) Shall consider any representations the teacher concerned makes to it within 10 working days of the decision; and

“(b) May, in the light of any representation so made, within 20 working days of that decision substitute for it any other decision it might originally have come to; but in that case that other decision shall have immediate effect.

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

“(a) In the course of his duties, wilfully neglects or refuses to perform any *(of his contractual obligations to his employer)* duty or obligation imposed on him by any enactment, or arising out of any contract entered into by him, in respect of his employment as a teacher; 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

“(c) Is, in the carrying out of the duties of his position, 5  
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 that he is unfit to be a teacher or to 10  
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.

“(2) An act or omission on the part of a teacher may 15  
constitute a disciplinary offence notwithstanding that he may have been acquitted (*of any criminal*) or convicted of any  
offence in respect of that act or omission.

“158A. **Disciplinary Board**—(1) There is hereby established a board to be known as the Teachers’ Disciplinary 20  
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 for a term not  
exceeding 3 years; but he may from time to time be 25  
reappointed.

“(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 30  
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

“(b) While he so acts he shall be deemed to be a member of the Disciplinary Board; and 35

“(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.

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

“(a) The chairman; and

5 “(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

10 “(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.

*New*

15 “(4A) An alternate nominated under section 158B (1) of this Act,—

“(a) Where the member of the Disciplinary Board whose alternate he is dies or has his nomination withdrawn; and

20 “(b) At any other time, unless that member otherwise directs,—

shall have and may exercise all the rights and powers as a member of the Disciplinary Board of that member; and while exercising any of those powers shall be deemed to be a member of the Disciplinary Board.

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.

30 “(6) Before taking part in the consideration of any matter, each member of the Disciplinary Board, the deputy chairman of the Disciplinary Board, and every alternate nominated under section 158B (1) of this Act, 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, 35 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.

40 “(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.

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

“(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. 5

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

“(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. 15

“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—

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

“(b) Every organisation approved by the Minister to represent any class of employer of teachers— 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 and the name of a person whom that organisation wishes to be that first-mentioned person’s alternate. 25 30

*Struck Out*

“(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



## New

“(2) Any such organisation as aforesaid may at any time withdraw the nomination of either of the persons for the time being nominated by it under subsection (1) of this section and  
 5 nominate another person in his place; and the nomination of every person under that subsection shall lapse after 3 years, but he may from time to time be renominated.”

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

“159. **Procedure where disciplinary offence alleged—**  
 ((1) Without limiting the generality of section 203 of this)  
 (1) Where, pursuant to regulations made under subsection  
(1A) of this section, a teacher is charged with a disciplinary  
 15 offence, the charge shall be dealt with by the Disciplinary  
Board unless he and his employing authority agree that it  
should be dealt with by that authority, in which case it shall  
be dealt with by that authority.”

“(1A) Subject to subsection (1) of this section, and without  
 20 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  
 25 teachers alleged to have committed disciplinary  
 offences:

“(b) Prescribing the manner in which such complaints are  
 to be dealt with:

“(c) Prescribing the circumstances and manner in which  
 30 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.

“(2) *(Where a disciplinary complaint has been laid against a teacher  
 under regulations made under subsection (1) of this section)*

Notwithstanding section 158 (2) of this Act, where a complaint has been made that a teacher has committed a disciplinary offence, 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,—

“(a) Suspend that teacher; or

“(b) Transfer him to other duties—  
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.

“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:

“(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.

*Struck Out*

“(2) Neither the Disciplinary Board nor any employing authority shall impose any penalty on a teacher in respect of a disciplinary offence without—

*New*

“(2) The Disciplinary Board shall not impose any penalty on a teacher in respect of a disciplinary offence without—

“(aa) taking into account any period of suspension already imposed on him; and

“(a) Giving that teacher the opportunity to make submissions to it; and

“(b) Considering those submissions; and

“(c) Where any submissions are made by that teacher, requiring and considering submissions from the (prosecutor) person who laid the charge concerned.

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

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

10 “(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.

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

*Struck Out*

“(a) Peremptorily dismiss the teacher; or

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

20 “(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

“(d) Censure the teacher.

25 “(5) Subsection 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—

30 “(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

35 “(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; or

40 “(d) Censure the teacher; or

- “(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)* \$400 as it thinks fit; and in that case the account 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 5
- “(f) Order the teacher to pay such legal costs and expenses of the investigation and hearing of the charge as it 10 thinks fit; and in that case the amount ordered to be paid may be recovered as aforesaid.

*New*

“(5A) Where a teacher charged with a disciplinary offence has been suspended, and subsequently the offence is held not 15 to have been proved, he shall, unless he has sooner resigned or taken up another teaching position, be entitled forthwith to resume his teaching duties; and his employing authority shall pay to him the amount (if any) by which the salary that would have been payable to him during the period of his 20 suspension exceeds the sum of—

- “(a) Any earnings from other employment during that period; and
- “(b) Any benefits under Part I of the Social Security Act 1964 (other than national superannuation) 25 received during that period.

“(5B) Where a teacher charged with a disciplinary offence has been suspended, and subsequently the offence is held by the Disciplinary Board to have been proved, the Disciplinary Board may, if it is satisfied that the amount of the salary that 30 would have been payable to him during the period of his suspension is disproportionate to the gravity of the offence may (after taking into account all other income earned, and all benefits as aforesaid received, by him during that period) order his employing authority to pay to him a specified part 35 or proportion of that amount; and in that case payment shall be made accordingly.

“(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 40 that date, be deemed to have been peremptorily dismissed on that date.

“(7) Where—

“(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

5 “(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,—  
it may also request the Registration Board to cancel that teacher’s registration.

10 “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  
15 any such teacher is so suspended or dismissed, he shall have no right of appeal against his suspension or dismissal.”

**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  
20 Education Amendment Act (No. 2) 1974) is hereby further amended by inserting, after the words “Supreme Court”, the words “or the Registrar,”.

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

“(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  
30 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—

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

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

that teacher shall not engage or, as the case may be, continue 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 Integration Act 1975), and substituting the following paragraph: 5

“(b) One person (being a person who is not *(a teacher)* an employee of the appellant’s employing authority) to be nominated by an organisation 10 approved by the Minister to nominate members in respect of appeals 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. 15

(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 20 amended by repealing section 175, and substituting the following section:

*Struck Out*

“175. (1) Subject to section 161B of this Act, any teacher may, within 42 days or such further time as may be permitted 25 by regulations made under this Act of receiving written notice of the decision, appeal in the prescribed manner against any decision—

“(a) To dismiss him; or

“(b) Subject to subsection (2) of this section, to suspend 30 him; or

“(c) To transfer him; or

“(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 35 the period of his suspension; or

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

*New*

“175 (1) Subject to section 161B of this Act and to subsection (2) of this section, any teacher who has received a notice of dismissal, suspension, or transfer, or of any other  
5 decision in respect of which he is entitled to appeal under this Part of this Act, may within 20 working days after receiving the notice, appeal to the Court in the prescribed manner.”

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

“(a) A period of ~~(14)~~ 10 working 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;—  
15 and in that case the reference in subsection (1) of this section to the period of ~~(42)~~ 20 days shall be deemed to be a reference to the period of ~~(56)~~ 30 days.”

**17. Decision of Court**—Section 178 of the principal Act is hereby amended by repealing subsection (1), and substituting  
20 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 shall be

25 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

30 “(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, and shall if the decision concerned was made by the appellant’s employing authority  
35 and the appellant so requires, 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: 5
- “ ‘Disciplinary offence’ means a disciplinary offence specified in section 158 (1) of this Act:
- “ ‘Employing authority’, in relation to any teacher, 10 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 15 day of March:
- “ ‘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 20 the Registrar when he is absent or when there is no Registrar:
- “ ‘Registration Board’ means the Teacher Registration Board established by section 131 of this Act:
- “ ‘Teacher’ means a person employed (whether as a 25 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: 30

*New*

|   |
|---|
| <p>“ ‘Working day’ means a working day within the meaning of the Public Works Act 1981.</p> |
|---|

(2) The enactments specified in the first column of the Schedule to this Act are hereby consequentially amended in 35 the manner indicated in the second column of that schedule.

**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: 40
- (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. 45



## 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".<br>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,".<br>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,".<br>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,".  |