

[AS REPORTED FROM THE GOVERNMENT ADMINISTRATION
COMMITTEE]

House of Representatives, 7 September 1989.

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 single rule, or with single rule before first line and after last line.

Hon. Stan Rodger

STATE SECTOR AMENDMENT

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No. 177—2

*Price
incl. GST \$2.20*

A BILL INTITULED

An Act to amend the State Sector Act 1988

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the State Sector Amendment Act 1989, and shall be read together with and deemed part of the State Sector Act 1988* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of October 1989.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Education service”, and substituting the following definition:

Struck Out

“ ‘Education service’ means service in the employment of any institution.”

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New

“ ‘Education service’ means service in the employment of—

“(a) Any State school; or

“(b) Any integrated school within the meaning of the Private Schools Conditional Integration Act 1975; or

“(c) Any kindergarten within the meaning of the Education Act 1964; or

“(d) Any other educational institution for which a separate employer for the purpose of this Act is designated by any enactment or by the Minister.”

25

(2) The said section 2 (1) is hereby further amended by inserting, after the definition of the term “employee”, the following definition:

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“ ‘Employer’,—

“(a) In relation to any institution that is subject to the School Trustees Act 1989, means—

“(i) The Board of Trustees; or

“(ii) Where a Commissioner has been appointed under the School Trustees Act 1989 to act in place of the Board of Trustees, that Commissioner:

5 “(b) In relation to any kindergarten recognised as a free kindergarten by the Minister of Education, means the free kindergarten association by which that kindergarten is controlled:

10 “(c) In relation to any other institution, means—
“(i) The person or body designated by any enactment as the employer for the purposes of this Act in respect of that institution; and

15 “(ii) Where no such person or body is so designated, means any person or body designated for that purpose by the Minister:”.

(3) The said section 2 (1) is hereby further amended by inserting in paragraph (b) of the definition of the term
20 “employer party”, and also in paragraph (c) of that definition, after the words “acting general manager”, the words “or the employer in the Education service”.

Struck Out

25 (4) The said section 2 (1) is hereby further amended by inserting, after the definition of the term “Health Service”, the following definition:

“ ‘Institution’, in relation to the Education service,—

“(a) Means—

30 “(i) Any school; or

“(ii) Any kindergarten within the meaning of the Education Act 1964; and

35 “(b) Includes any other institution in the Education service for which a separate employer for the purpose of this Act is designated by any enactment or by the Minister:”.

(5) The said section 2 (1) is hereby further amended by inserting, after the definition of the term “remuneration”, the following definition:

Struck Out

“‘Secondary school’ includes a composite school”.

New

“‘Secondary school’ means a secondary school within the meaning of the Education Act 1964, but does not include a composite school.” 5

3. New Parts VII, VIIA, and VIIB substituted—The principal Act is hereby amended by repealing Part VII, and substituting the following Parts:

“PART VII

10

“EDUCATION SERVICE

“**73. Application of Labour Relations Act 1987**—Except as otherwise provided in this Act, the Labour Relations Act 1987 shall apply in relation to the Education service.

“**74. Negotiation of conditions of employment**—(1) The State Services Commission shall be responsible for negotiating under Part VII of the Labour Relations Act 1987 awards and agreements that cover or that are proposed to cover any group of employees of the Education service. 15

“(2) The negotiations, which shall be conducted by the State Services Commission with the union party, shall be conducted in consultation with— 20

“(a) The chief executive of the Ministry of Education; and

“(b) Representatives of the employer or employers who will be bound by the proposed award or agreement, which representatives shall be employers, or organisations of employers, of persons employed in the Education service. 25

“**74A. Delegation of State Services Commission’s powers**—(1) The State Services Commission may from time to time delegate, in writing, to— 30

“(a) An employer; or

“(b) Any organisation of employers of persons employed in the Education service—

any of the Commission’s powers under **section 74** of this Act. 35

“(2) Where the Commission, acting under **subsection (1)** of this section, delegates to an employer or an organisation of

employers the function, under **section 74 (1)** of this Act, of conducting negotiations with the union party, the employer or organisation of employers shall conduct those negotiations in consultation with—

- 5 “(a) The State Services Commission; and
 “(b) The chief executive of the Ministry of Education.
 “(3) Nothing in this section limits the provisions of section 23 of this Act.

10 **“75. Compulsory arbitration and agreement not to strike or lock out—**(1) This section applies to any award or agreement—

“(a) Negotiated under Part VII of the Labour Relations Act 1987; and

“(b) Applying only to employees of the Education service.

15 “(2) Any award or agreement to which this section applies may include a clause under which—

“(a) Both the union party and the State Services Commission agree to accept compulsory arbitration; and

20 “(b) The union party agrees that such of its members as are bound by the award or agreement will not take part in any strike of a kind described in paragraph (a) or paragraph (b) or paragraph (c) of section 233 (1) of the Labour Relations Act 1987; and

25 “(c) The State Services Commission agrees, on behalf of the employers, that the employers will not, by a lockout of a kind described in paragraph (a) or paragraph (b) or paragraph (c) of section 233 (1) of the Labour Relations Act 1987, lock out such of its employees as are bound by the award or agreement.

30 “(3) Where a clause is inserted in an award or agreement pursuant to this section, that clause shall also be inserted in the award or agreement that is subsequent to the award or agreement in which the clause was inserted.

35 “(4) The provisions of the Fourth Schedule to this Act shall apply in relation to compulsory arbitration under the clause.

40 **“76. Contravention of agreement not to strike or lock out—**(1) Where any party to an award or agreement alleges that a strike or lockout has taken place in contravention of a clause included in the award or agreement pursuant to **section 75** of this Act, that party may apply to the Labour Court for a declaration that such a contravention has taken place.

“(2) If the Labour Court is satisfied that such a contravention has taken place, it may declare the strike or lockout to be, by

reason of that contravention, an unlawful strike or an unlawful lockout.

“(3) Where the declaration relates to a strike, the State Services Commission may request the Arbitration Commission to cancel the clause included in the award or agreement pursuant to **section 75** of this Act, and an Arbitration Commissioner shall cancel that clause accordingly. 5

“(4) Where the declaration relates to a lockout, the union party which negotiated the award or agreement may request the Arbitration Commission to cancel the clause included in the award or agreement pursuant to **section 75** of this Act, and an Arbitration Commissioner shall cancel the clause accordingly. 10

“(5) Any request made under **subsection (3)** or **subsection (4)** of this section shall—

“(a) Include particulars of the relevant declaration of the Labour Court; and 15

“(b) Be filed in the office of the Arbitration Commission.

“(6) On the cancellation of the clause, any arbitration or other proceedings that are then in progress under that clause shall cease and shall not be renewed. 20

“(7) Nothing in section 242 (3) or section 243 (3) of the Labour Relations Act 1987 applies in relation to a strike or lockout that takes place in contravention of a clause included in an award or agreement pursuant to **section 75** of this Act.

“**77. Actual conditions of employment**—The Commission may declare that all or any part of the conditions of employment fixed by an award or agreement registered under Part VII of the Labour Relations Act 1987 for persons employed in the Education service are to be the actual conditions of employment. 25 30

“PART VIIA

“PERSONNEL PROVISIONS IN RELATION TO EDUCATION SERVICE

“**77A. General principles**—(1) Every employer in the Education service shall operate a personnel policy that complies with the principle of being a good employer. 35

“(2) For the purposes of this section a ‘good employer’ is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring— 40

“(a) Good and safe working conditions; and

“(b) An equal employment opportunities programme; and

- “(c) The impartial selection of suitably qualified persons for appointment; and
- “(d) Recognition of—
- 5 “(i) The aims and aspirations of the Maori people; and
- “(ii) The employment requirements of the Maori people; and
- “(iii) The need for greater involvement of the Maori people in the Education service; and
- 10 “(e) Opportunities for the enhancement of the abilities of individual employees; and
- “(f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- “(g) Recognition of the employment requirements of women; and
- 15 “(h) Recognition of the employment requirements of persons with disabilities.
- “(3) In addition to the requirements specified in **subsections (1) and (2)** of this section, each employer shall ensure that all
- 20 employees maintain proper standards of integrity, conduct, and concern for—
- “(a) The public interest; and
- “(b) The wellbeing of students attending the institution.
- “77B. **Code of conduct**—(1) The chief executive of the
- 25 Ministry of Education may from time to time issue a code of conduct covering the minimum standards of integrity and conduct that are to apply in the Education service.
- “(2) The chief executive of the Ministry may issue separate codes of conduct under this section to apply to different parts
- 30 of the Education service.
- “(3) Before the chief executive of the Ministry issues a code of conduct under this section, the chief executive of the Ministry shall consult with—
- “(a) Representatives of the employers whose employees will
- 35 be bound by the code of conduct, which representatives shall be employers or organisations of employers, of persons employed in the Education service; and

Struck Out

- 40 “(b) Such organisations of employees of persons employed in the Education service which are representatives of

Struck Out

the employees who will be bound by the code of
conduct; and

New

“(b) The organisations of employees employed in the
Education service that represent the employees who
will be bound by the code of conduct; and 5

“(c) The State Services Commission.

(4) Nothing in this section prevents the prescribing by an
employer of standards of integrity or conduct that are to apply 10
to that employer’s employees (being standards which are not
inconsistent with any code of conduct issued by the chief
executive of the Ministry under this section and which apply in
relation to employees of that employer).

“77c. **Performance of teachers**—(1) The chief executive of 15
the Ministry of Education may from time to time, with the
agreement of the State Services Commission, prescribe matters
that are to be taken into account by employers in assessing the
performance of teachers.

“(2) Before the chief executive of the Ministry of Education 20
prescribes any matters under **subsection (1)** of this section, the
chief executive of the Ministry shall consult with—

“(a) The Teacher Registration Board; and

“(b) The chief executive of the Education Review Office; and

“(c) Representatives of employers of teachers; and 25

Struck Out

“(d) Representatives of teachers.

New

“(d) The organisations of teachers that represent teachers
who will be subject to the matters prescribed under 30
this section.

“(3) Nothing in this section prevents the prescribing by an
employer of matters to be taken into account in assessing the

performance of teachers employed by that employer (being matters which are not inconsistent with any matters prescribed under this section by the chief executive of the Ministry and which apply to teachers employed by that employer).

5 “77D. **Equal employment opportunities**—(1) The chief executive of the Ministry of Education shall be responsible for ~~(promoting and developing)~~ promoting, developing, and monitoring equal employment opportunities policies and programmes in the Education service.

10 “(2) Every employer—

“(a) Shall in each year develop and publish an equal employment opportunities programme:

“(b) Shall ensure in each year that the equal opportunities programme for that year is complied with.

15 “(3) Every employer shall report annually to the chief executive of the Education Review Office providing—

“(a) A summary of the equal employment opportunities programme for the year to which the report relates; and

20 “(b) An account of the extent to which the employer was able to meet, during the year to which the report relates, the equal employment opportunities programme for that year.

25 “(4) The chief executive of the Education Review Office shall incorporate a summary of the reports received under **subsection (3)** of this section in the annual report of that department.

30 “(5) For the purposes of this section and **section 77A** of this Act, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons.

35 “77E. **Employees of institutions**—(1) Subject to the provisions of any Act relating to the registration of teachers, each employer—

40 “(a) May from time to time appoint such employees (including acting or temporary or casual or relieving employees) as the employer thinks necessary for the efficient exercise of the functions, duties, and powers of the institution; and

“(b) May, subject to any conditions of employment included in any award or agreement, at any time remove any employee from that employee’s employment.

“(2) Unless expressly provided to the contrary in this Act, the employer shall have all the rights, duties, and powers of an ordinary employer in respect of the persons employed in that institution.

“77F. **Duty to act independently**—In matters relating to 5
decisions on individual employees (whether matters relating to the appointment, promotion, demotion, transfer, disciplining, or the cessation of the employment of any employee, or other matters), the employer shall act independently.

“77G. **Appointments on merit**—An employer in making 10
an appointment under this Act shall give preference to the person who is best suited to the position.

“77H. **Obligation to notify vacancies**—Where an employer intends to fill a position that is vacant or is to become 15
vacant in the institution (other than with an acting or temporary or casual or relieving employee), the employer shall, wherever practical, notify the vacancy or prospective vacancy in a manner sufficient to enable suitably qualified persons to apply for the position.

“77I. **Acting appointments**—(1) In the case of absence 20
from duty of any employee (from whatever cause arising) or on the occurrence from any cause of a vacancy in any position with an employer (whether by reason of death, resignation, or otherwise) and from time to time while the absence or vacancy continues, all or any of the powers and duties of the employee 25
or pertaining to the position may be exercised and performed by any other employee for the time being directed by the employer to exercise and perform them, whether the direction has been given before the absence or vacancy occurs or while it 30
continues.

“(2) No such direction and no acts done by any employee 30
acting pursuant to any such direction shall in any proceedings be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that the employee has not been appointed to any position to which the 35
direction relates.

“PART VIIb

“SENIOR APPOINTMENTS IN EDUCATION SERVICE

“77J. **Appointments of senior staff**—(1) This section shall 40
apply to—

“(a) The position of principal in every secondary school; and

5 “(b) Such positions in any secondary school as may from time to time be designated by the State Services Commission, after consultation with the employer, as being senior positions within the secondary school (which positions shall not, without the agreement of the appropriate union, exceed 4 in respect of any one secondary school); and

“(c) Positions designated under subsection (2) of this section.

10 “(2) Notwithstanding anything in subsection (1)(b) of this section, the State Services Commission may from time to time, after consultation with representatives of employers of persons employed in secondary schools (which representatives shall be employers, or organisations of employers, of persons employed in secondary schools) designate positions that are senior

15 positions within all secondary schools:

“Provided that the number of positions designated under this subsection and the number of positions designated under subsection (1)(b) of this section shall not, without the agreement of the appropriate union, exceed 4 in respect of any one

20 secondary school.

“(3) The employer shall in respect of any position to which this section applies notify the vacancy or the impending vacancy of any such position in such manner as the employer thinks sufficient to enable suitably qualified persons to apply for

25 the position.

“(4) The employer shall give preference to the person who is best suited for the position.

Struck Out

30 “77k. **Conditions of employment of senior staff—**
(1) Except where specific conditions of employment are provided in this Act, the conditions of employment of every person appointed to a position to which section 77j applies shall be determined in each case by agreement between the employer and the person to be appointed, but the employer

35 shall obtain the written concurrence of the State Services Commission to the conditions of employment with that person.

“(2) The State Services Commission, in carrying out its function under subsection (1) of this section, may promulgate in writing to employers, either generally or specifically, the

40 conditions of employment for persons who are to have their conditions of employment determined in accordance with this

Struck Out

section. Where the conditions of employment agreed between the employer and the person to be appointed comply with the conditions of employment promulgated by the Commission, then the employer shall, without any further action, be deemed to have obtained the written concurrence of the Commission to those conditions of employment. 5

“77L. Application of Labour Relations Act 1987 in respect of senior positions—(1) No award or agreement that applies to or purports to apply to any position to which **section 77J** of this Act applies shall be registered under the Labour Relations Act 1987. 10

“(2) Nothing in this Act—

“(a) Prevents a union membership rule from covering a position to which **section 77J** of this Act applies; or 15

“(b) Prevents a person appointed to a position to which **section 77J** of this Act applies belonging to the union whose membership rule covers that position.”

New

“77K. Conditions of employment of principals— 20
(1) Except where specific conditions of employment are provided in this Act, the conditions of employment of every person appointed to a position to which **section 77J (1) (a)** of this Act applies shall be determined in each case by agreement between the employer and the person to be appointed, but the employer shall obtain the written concurrence of the State Services Commission to the conditions of employment with that person. 25

“(2) The State Services Commission, in carrying out its function under **subsection (1)** of this section, may promulgate in writing to employers, either generally or specifically, the conditions of employment for persons who are to have their conditions of employment determined in accordance with this section. Where the conditions of employment agreed between the employer and the person to be appointed comply with the conditions of employment promulgated by the Commission, then the employer shall, without any further action, be deemed 35

New

to have obtained the written concurrence of the Commission to those conditions of employment.

5 “77L. **Conditions of employment of senior staff (other than principals)**—(1) Except where specific conditions of employment are provided in this Act, the conditions of employment of every person appointed to a position to which **section 77J (1) (b) or section 77J (2)** of this Act applies shall be determined in the following manner—

10 “(a) Matters relating to remuneration, discipline, or performance of any such person shall be determined in each case by agreement between the employer and the person to be appointed, but the employer shall obtain the written concurrence of the State Services Commission to the remuneration to be received by that person:

15 “(b) All other matters shall be determined in accordance with the award or agreement registered under the Labour Relations Act 1987 and applying to the position, which award or agreement shall, subject to **paragraph (a)** of this subsection, have effect according to its tenor.

20 “(2) The State Services Commission in carrying out its function under **subsection (1) (a)** of this section may promulgate to employers, either generally or specifically, guidelines in relation to the remuneration of persons who are to have their conditions of employment determined in accordance with this section. Where the remuneration agreed between the employer and the person to be appointed is within the guidelines promulgated in relation to the position by the Commission, the employer shall, without any further action, be deemed to have obtained the written concurrence of the Commission to that remuneration.

35 “77M. **Application of Labour Relations Act 1987 in respect of senior positions**—(1) No award or agreement that applies or purports to apply to any position to which **section 77J (1) (a)** of this Act applies shall be registered under the Labour Relations Act 1987.

40 “(2) No award or agreement which applies or purports to apply to any position to which **section 77J (1) (b) or section 77J (2)** of this Act applies and which contains provisions determining

New

matters in relation to the remuneration, discipline, or performance of the holder of any such position shall be registered under the Labour Relations Act 1987.

“(3) Where, at the commencement of this section, any award or agreement registered under the Labour Relations Act 1987 applies to any position to which **subsection (1)** of this section applies, that award or agreement shall cease to apply to that position. 5

“(4) Where, at the commencement of this section, any award or agreement registered under the Labour Relations Act 1987 applies to any position to which **section 77J (1) (b) or section 77J (2)** of this Act applies, any provisions of that award or agreement that determine matters in relation to the remuneration, discipline, or performance of the holder of that position shall cease to apply in relation to that position. 10 15

“(5) Nothing in this Act—

“(a) Prevents a union membership rule from covering a position to which **section 77J** of this Act applies; or

“(b) Prevents a person appointed to a position to which **section 77J** of this Act applies belonging to the union whose membership rule covers that position.” 20

4. Teacher discipline—Sections **(156A to 159B)** 156 to 161A and sections 174 to 182 of the Education Act 1964 shall apply only to teachers in technical institutes, community colleges, and teachers colleges. 25

New

*Consequential Amendments to Private Schools Conditional
Integration Act 1975*

4A. Requirements in respect of appointments—The Private Schools Conditional Integration Act 1975 is hereby amended by repealing section 63, and substituting the following section: 30

“63. (1) The controlling authority of an integrated school shall appoint teachers in that school in accordance with the provisions of the State Sector Act 1988. 35

New

“(2) When a controlling authority delegates to a committee the power to appoint a teacher or to recommend the appointment of a teacher, that committee must contain at least one of the persons appointed to the controlling authority by the proprietor.”

4b. Requirements in respect of appointments—The Private Schools Conditional Integration Act 1975 is hereby amended by repealing section 68, and substituting the following section:

“68. (1) Before appointing any person to a position in an integrated primary school, being a position specified in section 65 (1) or section 66 of this Act, the controlling authority shall consult with the proprietor who shall report to the controlling authority the names of those applicants (if any) who, in terms of the special character of the school, or, in terms of the advertisement calling for applicants with particular capabilities, are acceptable for appointment.

“(2) On receipt of the report required by subsection (1) of this section, the controlling authority shall consider for appointment only those applicants who are stated in the report to be acceptable for appointment.”

Consequential Amendment to Labour Relations Act 1987

4c. Interpretation—Section 2 (1) of the Labour Relations Act 1987 is hereby amended by inserting in the definition of the term “compliance order” (as substituted by section 2 of the Labour Relations Amendment Act 1988), after subparagraph (iii) of paragraph (a), the following subparagraph:

“(iiiia) Sections 77A and 77D of the State Sector Act 1988; or”.

5. Repeals and revocations—(1) The enactments specified in the **First** Schedule to this Act are hereby repealed.

(2) The regulations specified in the **Second** Schedule to this Act are hereby revoked.

(3) The Education (Salaries and Staffing) Regulations 1957 are hereby amended by revoking regulations 3 to 17.

(4) The Secondary and Technical Institute Teachers Disciplinary Regulations 1969 are hereby amended by revoking paragraph (a) of regulation 3.

Transitional Provisions

6. Transitional provisions in relation to senior officers—(1) Any person who at the commencement of this Act holds any position to which **section 77J** of the principal Act (as enacted by **section 3** of this Act) applies shall be offered 5 employment in that position by the employer as from the date of the commencement of this Act or from the date of designation as the case may be, on terms and conditions of employment that, except where inconsistent with this Act, are no less favourable than the terms and conditions of 10 employment that, immediately before the commencement of this Act, apply in relation to that person's position in the Education service.

(2) Nothing in **sections 77G and 77J** of the principal Act (as enacted by **section 3** of this Act) shall apply to an appointment 15 made under this section.

(3) Until such time as the conditions of employment have been agreed upon, under **subsection (1)** of this section, between the person appointed and the employer, the person appointed shall continue to be employed on conditions of employment 20 identical to those conditions of employment that applied in relation to that person immediately before the 1st day of October 1989 except to the extent that any such conditions of employment are specifically repealed or revoked by this Act or are inconsistent with any of the provisions of this Act in which 25 case the provisions of this Act shall prevail.

7. Transitional provisions in respect of appointments to Education service—Every person who, at the commencement of this Act, holds any position in the Education service shall continue to hold that position as if that person had 30 been appointed under this Act.

8. Awards and agreements—Every award and every agreement relating to the terms and conditions of employment of employees in the Education service which was in force immediately before the commencement of this Act shall 35 continue in force in accordance with the Labour Relations Act 1987 after the commencement of this Act notwithstanding any of the other provisions of this Act. Any such award or agreement shall have effect according to its tenor.

9. Identical conditions of employment in respect of Education service—(1) The terms and conditions of 40 employment of every person who, at the commencement of

this Act, holds any position in the Education service shall, on the 1st day of October 1989 (and thereafter until varied) be identical with the terms and conditions of that person's employment in the Education service immediately before the
5 1st day of October 1989.

New

(1A) The terms and conditions of employment of every person who commences employment in the Education service
10 on or after the 1st day of October 1989 shall, until varied, be identical with the terms and conditions of employment of persons who were employed in the Education service immediately before the 1st day of October 1989.

(2) Notwithstanding anything in **subsection (1) or subsection (1A)**
15 of this section, the provisions of any repealed Act, or of any regulation that has been revoked by this Act, shall continue to apply for the purposes of this Act only to the extent that they are expressly referred to and expressly applied by this Act or any other Act.

20 **10. Appeal rights of employees of Education service—**

(1) Notwithstanding anything in this Act, if, immediately before the commencement of this Act, any person has an appeal pending under the Education Act 1964 or any regulations made under that Act against an appointment to a position as a
25 teacher, or against any disciplinary action in respect of that person, or if there is a right to such an appeal, the provisions of the Act or of the regulations so far as those provisions are applicable, shall continue to apply to that appeal as if the Education Act 1964 had not been repealed and the regulations
30 had not been revoked.

(2) The decision on any appeal to which **subsection (1)** of this section applies shall be binding on both the employee and the employer and shall be implemented as far as practicable in the same manner as if the Education Act 1964 and the regulations
35 made under it were still in force.

11. Disciplinary action—(1) Any disciplinary proceedings commenced under the Education Act 1964 against any employee shall continue to be dealt with under that Act as if the disciplinary provisions of that Act had not been repealed.

40 (2) The decision in any proceedings to which **subsection (1)** of this section applies shall be binding on both the employee and

the employer and shall be implemented as far as practicable in the same manner as if the Education Act 1964 and the regulations made under it were still in force.

12. Priority rights protected—(1) Where at the date of the commencement of this Act any teacher had become entitled to any priority right under the Education Act 1964 or any regulation made under that Act, that priority right shall, notwithstanding the repeal of the Act or the revocation of the regulations, be given effect to in the following manner:

(a) Where the priority right relates to service as a primary school teacher, that priority right shall remain in effect for the same period and on the same conditions as applied immediately before the commencement of this Act:

(b) Where the priority right relates to service as a secondary teacher, that priority right shall expire not later than the 30th day of September 1991, but in all other respects shall remain in effect on the same conditions as applied immediately before the commencement of this Act.

(2) Every employer shall, as far as possible, give effect to any priority right in the same manner and to the same extent as was required immediately before the commencement of this Act.

(3) For the purposes of this section,—

(a) The term “priority right” includes priority rights, supernumerary positions (*and preference in appointment rights*), preference in appointment rights, and salary protection under the Education Act 1964 or any regulation made under that Act:

(b) References in any regulations made under the Education Act 1964 to an Education Board shall be read as references to the employer, and the employer shall have all the rights and duties of an Education Board.

13. Application of Wages Protection Act 1983—For the avoidance of doubt, employment in the Education service is hereby declared to be employment by the Crown for the purposes of the Wages Protection Act 1983.

SCHEDULES

Section 5 (1)

FIRST SCHEDULE

ENACTMENTS REPEALED

- 1964, No. 135—The Education Act 1964: Sections 61 (1) (b), 70 (d), 137 to 147, 150 to 155, 165AA, 167 to 173, 203 (3) and (4). (Reprinted 1975, Vol. 3, p. 1699.)
- 1968, No. 11—The Education Amendment Act 1968: Section 17. (Reprinted 1975, Vol. 3, p. 1881.)
- 1975, No. 129—The Private Schools Conditional Integration Act 1975: (*Sections 61, 63, and 68.*) Section 61.
- 1975, No. 130—The Education Amendment Act (No. 2) 1975. (Reprinted 1975, Vol. 3, p. 1896.)
- 1978, No. 79—The Education Amendment Act (*1968*) 1978: Sections 4 and 5.
- 1982, No. 155—The Education Amendment Act (No. 2) 1982: Sections 9 (2), 9 (3), 10, 11, and 12.
- 1983, No. 57—The Education Amendment Act 1983: (*Section 13.*) Sections 10, 13, and 14.
- 1987, No. 177—The Education Amendment Act (No. 2) 1987: Sections 14, 15, 16, 17, 18, 19, 20, and 30.
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SECOND SCHEDULE
REGULATIONS REVOKED

Section 5 (2)

Title	Statutory Regulations Serial Number
The Teachers' Leave of Absence Regulations 1951	1951/128
The Teachers' Leave of Absence Regulations 1951, Amendment No. 2	1958/173
The Teachers' Leave of Absence Regulations 1951, Amendment No. 3	1963/29
The Teachers' Leave of Absence Regulations 1951, Amendment No. 4	1967/207
The Teachers' Leave of Absence Regulations 1951, Amendment No. 5	1971/191
The Teachers' Leave of Absence Regulations 1951, Amendment No. 6	1974/24
The Education (Assessment, Classification, and Appointment) Regulations 1976	1976/287
The Teachers' Leave of Absence Regulations 1951, Amendment No. 7	1977/241
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 1	1977/275
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 2	1978/334
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 3	1979/220
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 4	1980/186
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 5	1980/233
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 6	1981/179
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 7	1981/330
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8	1982/12
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 9	1982/80
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 10	1982/275
The Kindergarten Appointments Regulations 1983	1983/145
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 11	1983/213
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 12	1984/28
The Education Employment (Personal Grievance) Reg- ulations 1984	1984/40
The Kindergarten Appointments Regulations 1983, Amendment No. 1	1984/134

SECOND SCHEDULE—*continued*
REGULATIONS REVOKED—*continued*

Title	Statutory Regulations Serial Number
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 13	1984/284
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 14	1985/131
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 15	1986/158
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 16	1986/270
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 17	1987/173
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 18	1987/299
The Kindergarten Appointments Regulations 1983, Amendment No. 2	1987/343
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 19	1987/398
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 20	1988/212
The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 21	1988/240