



EDUCATION (1998 AREA SCHOOL STAFFING) ORDER 1997

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of May 1997

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 91H (1) of the Education Act 1989, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following order.

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ORDER

1. Title and commencement—(1) This order may be cited as the Education (1998 Area School Staffing) Order 1997.

(2) This order comes into force on 1 July 1997.

PART 1

PRELIMINARY

2. Interpretation—(1) In this order, unless the context otherwise requires,—

“The Act” means the Education Act 1989:

“Area school” means a school, established under section 146 of the Act as a composite school, that offers education at a level below Form I:

“Beginning teacher”, at any time, means a teacher who—

(a) At that time has completed less than 12 months' teaching; and

(b) At that time holds a teaching position to which the teacher was appointed for a period of at least 10 weeks; and

(c) Before taking up that position, had completed a course of teacher training recognised by the Secretary for the purposes of this order:

“FTTE” means full-time teacher equivalent:

“Intermediate department” has the same meaning as in section 145 (1) of the Act:

“Junior staffing roll”, in relation to an area school, means the roll determined for it under clause 5 (1):

“Level of full-time senior students”, in relation to an area school, means any of the following:

(a) 1 or more full-time students of year 9 enrolled at the school:

(b) 1 or more full-time students of year 10 enrolled at the school:

(c) 1 or more full-time students of year 11 enrolled at the school:

(d) 1 or more full-time students of year 12 enrolled at the school:

(e) 1 or more full-time students of year 13 or above enrolled at the school:

“Other regular teacher” means a regular teacher who is not a permanently appointed regular teacher:

“Registered school” has the meaning given to that expression by section 2 (1) of the Act:

“Regular teacher” means a teacher who is not a relieving teacher (within the meaning of section 91A (1) of the Act):

“Salary unit”, in relation to the holder of a teaching position at an area school, means an entitlement to a salary element in addition to the salary otherwise payable to the holder, allocated to the holder by the Board for the purpose of reward, responsibility, recruitment, or retention:

“Secretary” means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Part VIIIA of the Act:

“Senior staffing roll”, in relation to an area school, means the roll determined for it under clause 6 (1):

“Special education roll”, in relation to an area school, means the roll (if any) determined for it under clause 7 (1):

“Teacher” includes a principal, and any deputy principal (however described):

“Total grading roll”, in relation to an area school, means the sum of the school’s junior grading roll, senior staffing roll, and special education roll (if any).

(2) In this order, unless the context otherwise requires, terms defined in section 91A of the Act have the meanings given to them by that section.

(3) For the purposes of this order,—

(a) The employment of a teacher on the basis of employment for a specified number of half-days every full week is the employment of one tenth of that number of FTTEs; and

(b) The employment of a teacher on the basis of employment for a specified number of teaching hours (or an average of that number of teaching hours) every full week is the employment of one twenty-fifth of that number of FTTEs.

(4) This order has effect as if every student who turns or turned 19 before 1998 is a full-time student.

3. Years of schooling—(1) This subclause applies to every student enrolled at an area school who—

(a) First enrolled at an area school before turning 7; and

(b) Since first enrolling at an area school, has been educated at area schools without any substantial interruption (other than normal holidays).

(2) For the purposes of this order, a student to whom subclause (1) applies who first enrolled at an area school after 30 June in any year (whether before or after the commencement of this order)—

(a) Is or was a year 0 student in that year:

(b) Is or was a year 1 student in the next year:

(c) In every subsequent year, is a student of a year 1 greater than the year before.

(3) For the purposes of this order, a student to whom subclause (1) applies who first enrolled at an area school before 1 July in any year (whether before or after the commencement of this order)—

(a) Is or was a year 1 student in that year:

(b) In every subsequent year, is a student of a year 1 greater than the year before.

(4) This subclause applies to a student enrolled at an area school (being a student to whom subclause (1) does not apply) between the time the student first enrolls (or enrolled) at an area school and the earlier of—

- (a) Ceasing permanently to be enrolled at any area school;
- (b) Any substantial interruption (other than normal holidays) in the student's education at area schools.

(5) For the purposes of this order, a student to whom subclause (4) applies,—

- (a) In the year in which the student first enrolls at an area school, is (or was) a student of the year that, in the principal's opinion, is (or was) most appropriate for a student of that student's maturity, and educational and intellectual achievements;
- (b) In every subsequent year, is (or was) a student of a year 1 greater than the year before.

(6) This subclause applies to a student enrolled at an area school (being a student to whom subclause (1) does not apply) between the time the student again enrolls (or enrolled) at an area school after any substantial interruption (other than normal holidays) in the student's education at area schools and the earlier of—

- (a) Ceasing permanently to be enrolled at any area school;
- (b) Any further such interruption.

(7) For the purposes of this order, a student to whom subclause (6) applies,—

- (a) In the year in which the student again enrolls at an area school, is (or was) a student of the year that, in the principal's opinion, is (or was) most appropriate for a student of that student's maturity, and educational and intellectual achievements;
- (b) In every subsequent year, is (or was) a student of a year 1 greater than the year before.

PART 2

ROLLS

4. Boards to estimate 1998 rolls—(1) Before 16 July 1997, the Board of every area school must give the Secretary, on a form provided by the Secretary for the purpose,—

- (a) Written notice of—
 - (i) The number of ordinary students of year 1; and
 - (ii) The number of ordinary students of year 2; and
 - (iii) The number of ordinary students of year 3; and
 - (iv) The number of ordinary students of year 4; and
 - (v) The number of ordinary students of year 5; and
 - (vi) The number of ordinary students of year 6; and
 - (vii) The number of ordinary students of year 7; and
 - (viii) The number of ordinary students of year 8; and
 - (ix) The number of ordinary students of year 9,—
 likely (in the Board's opinion) to be enrolled at the school on 1 March 1998; and
- (b) Written notice of the number of students likely (in the Board's opinion) to be enrolled in special education classes at the school on 1 March 1998.

(2) In subclause (1), "ordinary student" means student not enrolled in special education classes.

5. Junior staffing rolls—(1) As soon as may be after 15 July 1997, the Secretary must determine for every area school a roll of junior students for 1998 by—

(a) Adding—

(i) The Secretary's best estimate of the number of students of year 1 (other than students enrolled in special education classes) likely to be enrolled at the school on 1 March 1998; and

(ii) Seven eighths of that number; and

(iii) The Secretary's best estimate of the number of students of year 2, year 3, year 4, year 5, year 6, year 7, or year 8 (other than students enrolled in special education classes) likely to be enrolled at the school on 1 March 1998; and

(b) If the resulting sum is not a whole number, increasing it to the next whole number.

(2) If before 16 July 1997 an area school's Board has given the Secretary notice under clause 4, the Secretary must not determine the junior staffing roll for the school without considering—

(a) That notice; and

(b) All written evidence and argument the Board supplied with it.

(3) As soon as may be after determining an area school's junior staffing roll, the Secretary must give the Board written notice of it.

6. Senior staffing rolls—(1) As soon as may be after 15 July 1997, the Secretary must determine for every area school a roll of senior students for 1998 by estimating the number of students of year 9 or above (other than students enrolled in special education classes) likely to be enrolled at the school on 1 March 1998.

(2) If before 16 July 1997 an area school's Board has given the Secretary notice under clause 4, the Secretary must not determine the senior staffing roll for the school without considering—

(a) That estimate; and

(b) All written evidence and argument the Board supplied with it.

(3) As soon as may be after determining an area school's senior staffing roll, the Secretary must give the Board written notice of it.

7. Special education rolls—(1) As soon as may be after the commencement of this order, the Secretary must determine for each area school (other than Hawarden Area School and Tolaga Bay Area School) a roll of special education students as at 1 March 1998, by estimating the number of students likely to be enrolled in special education classes at the school on that day.

(2) If before 16 July 1997 the Board of an area school gave the Secretary notice under clause 4, the Secretary must not determine the special education staffing roll for the school without considering—

(a) The Board's estimate; and

(b) All supporting written evidence and argument that the Board gave to the Secretary with its estimate.

(3) As soon as may be after determining an area school's special education roll, the Secretary must give the Board written notice of it.

8. Certain students not to be counted—In the determination of any roll for the purposes of this order, no account may be taken of any foreign student (within the meaning of section 2 (1) of the Act)—

- (a) Who is not a student of a kind or description exempted (under a notice under section 4C of the Act having effect in 1997) from the payment of all the amount required by section 4B of the Act to be paid; or
- (b) In respect of whom all the amount required by section 4B of the Act to be paid has been or is to be paid by the Ministry of Foreign Affairs and Trade.

9. Part-time students—For the purposes of this order, every part-time student enrolled or to be enrolled at an area school must be treated as a fraction of a full-time student calculated by dividing by 20 the number of hours of tuition the student receives or is to receive in a normal week. This rule applies notwithstanding clause 2 (4), but is subject to clause 8.

PART 3

LIMITATION ON EMPLOYMENT OF PERMANENTLY APPOINTED REGULAR TEACHERS

Entitlement Staffing

10. Junior student specialist instruction rolls—(1) In this clause,—

“Junior students instructed elsewhere”, in relation to an area school at any time, means the number of students enrolled there who are at that time usually attending some other school for—

- (a) Instruction in home economics or workshop craft; or
- (b) Other specialist instruction approved by the Secretary:

“Junior students instructed internally”, in relation to an area school at any time, means the sum of—

- (a) The number of students below year 9 enrolled there; and
- (b) The number of students below year 9 enrolled there who are at that time usually attending any special education unit or class attached to it; or
- (c) The number of students below year 9 enrolled at any primary school who at that time are usually attending a centre for instruction in home economics or workshop craft attached to the school.

(2) When the number of junior students instructed internally at an area school is greater than the number of junior students instructed elsewhere, its junior student specialist instruction roll is the difference between them.

(3) When the number of junior students instructed internally at an area school is not greater than the number of junior students instructed elsewhere, its junior student specialist instruction roll is 0.

11. Curriculum delivery time allowances—An area school’s curriculum delivery time allowance (in FTTEs) is the sum obtained by adding—

- (a) The greater of 1 and the sum of—
 - (i) The number of year 0, year 1, year 2, and year 3 students on its junior staffing roll, divided by 23; and
 - (ii) The number of year 4, year 5, year 6, year 7, and year 8 students on its junior staffing roll, divided by 29; and
- (b) If—
 - (i) The school has a junior staffing roll of less than 160; and
 - (ii) The quotient obtained by dividing that roll by the integer of the sum referred to in paragraph (a) is over 28,—

the difference between that sum and the next whole number; and

- (c) The quotient obtained by dividing by 120 its junior student specialist instruction roll calculated or ascertained under clause 10; and
- (d) The sum of—
 - (i) The number of year 9 and year 10 students enrolled there on its senior staffing roll, divided by 25; and
 - (ii) The number of year 11 students on its senior staffing roll, divided by 23; and
 - (iii) The number of year 12 students on its senior staffing roll divided by 18; and
 - (iv) The number of students of year 13 or above on its senior staffing roll, divided by 17; and
- (e) If its senior staffing roll is greater than 200, the number of levels of full-time senior students on its secondary staffing roll; and
- (f) If its senior staffing roll is not greater than 200, the number obtained by—
 - (i) Dividing that roll by 200; and
 - (ii) Multiplying the resulting quotient by 0.6; and
 - (iii) Adding 0.4 to the resulting product; and
 - (iv) Multiplying the resulting sum by the number of levels of full-time senior students on its senior staffing roll,—
 and, if the resulting sum is not exactly divisible by 0.1, rounding it up to 1 decimal place.

12. Weighted rolls—An area school's weighted roll at any time is the sum of—

- (a) The product of 4 and the number of year 0, year 1, year 2, and year 3 students then included in its staffing roll; and
- (b) The product of 3.5 and the number of year 4, year 5, year 6, year 7, and year 8 students then included in its staffing roll; and
- (c) The product of 7 and the number of year 9 and year 10 students then included in its staffing roll; and
- (d) The product of 9 and the number of year 11 students then included in its staffing roll; and
- (e) The product of 15 and the number of year 12 students then included in its staffing roll; and
- (f) The product of 16 and the number of students of year 13 or above then included in its staffing roll; and
- (g) Half its junior student specialist instruction roll calculated or ascertained under clause 10.

13. Management teacher time allowances—An area school's management teacher time allowance (in FTTEs) is the number obtained by adding—

- (a) The product of 0.0003 and its weighted roll calculated under clause 12; and
- (b) The product of 0.017 and the square root of that weighted roll; and
- (c) In the case of Hawarden Area School and Tolaga Bay Area School, 0.05,—

and, if the resulting sum is not exactly divisible by 0.1, rounding it down to 1 decimal place.

Additional Staffing Allowances

14. Te Atakura time allowances—The Te Atakura time allowance (if any) of an area school in 1998 (in FTTEs) is a number calculated by adding—

- (a) The product of 0.3 and the number of permanently employed beginning teachers then employed at the school in the teaching of Te Reo Maori who before 1993 successfully completed training at a College of Education under the Te Atakura scheme; and
- (b) The product of 0.5 and the number of permanently employed teachers (other than beginning teachers) then employed at the school in the teaching of Te Reo Maori who before 1993 successfully completed training at a College of Education under the Te Atakura scheme.

15. Beginning teacher time allowances—At any time when there is employed at an area school any beginning teacher whose employment is, by virtue of clause 2 (3), the employment of 0.5 of an FTTE or more (in this clause referred to as a qualifying beginning teacher), it has a beginning teacher time allowance (in FTTEs) calculated by adding—

- (a) The product of 0.2 and the number of qualifying beginning teachers then employed at the school full time; and
- (b) The product of 0.1 and the number of qualifying beginning teachers then employed at the school otherwise than full-time.

16. Additional staffing allowances—In 1998 the additional staffing allowance (if any) of an area school must be calculated by adding—

- (a) Its Te Atakura time allowance (if any), calculated in accordance with clause 14; and
- (b) Its beginning teacher time allowance (if any), calculated in accordance with clause 15 (2); and
- (c) In the case of Hawarden Area School and Tolaga Bay Area School, 1.0.

Transfer of Staffing Entitlement

17. Agreements between Boards to transfer staffing entitlement—

- (1) In this clause and clause 18,—

“Entitlement transfer agreement” means written agreement between the Boards of 2 State schools to the effect that in 1998—

(a) 1 of the schools (or an intermediate department attached to it) will relinquish to the other (or an intermediate department attached to it) a specified number of FTTEs of teacher entitlement; and

(b) Either—

(i) The entitlement will be used to sustain the employment at the other (or the department attached to it) of 1 or more teachers whose duties will include the tuition in a specified subject of students enrolled at the school or department relinquishing the entitlement; or

(ii) Each of 2 or more specified portions of the entitlement will be used to sustain the employment at the other (or the department attached to it) of 1 or more teachers whose duties will include the tuition in a specified

subject of students enrolled at the school or department relinquishing the entitlement:

“Lender institution”, in relation to an entitlement transfer agreement, means the school that is to relinquish entitlement under the agreement:

“Recipient institution”, in relation to an entitlement transfer agreement, means the school or department at which the teachers whose employment is to be sustained by the use of the entitlement to be relinquished under the agreement are to be employed.

(2) Subject to clause 18, if an entitlement transfer agreement (or a duplicate of it) has been given to the Secretary before 1 January 1998,—

- (a) If the lender school is an area school, it has an entitlement deduction of the number of FTTEs specified in the agreement; and
- (b) If the recipient school is an area school, it has an entitlement addition of the number of FTTEs specified in the agreement.

(3) For the purposes of the definition in subclause (1) of the term “entitlement transfer agreement”, an agreement between the Boards of 3 or more schools relating to the relinquishment and use of teacher entitlement must be treated as a number of agreements between various pairs of them.

18. Restrictions on transfer of staffing entitlement—(1) In this clause,—

“Music tuition provision” means a provision (or provisions) in an entitlement transfer agreement to the effect that that entitlement will be used to sustain the employment of 1 or more teachers whose duties will include tuition in instrumental or vocal music:

“Specialist tuition provision” means a provision (or provisions) in an entitlement transfer agreement to the effect that that entitlement will be used to sustain the employment of 1 or more teachers whose duties will include tuition in home economics or workshop craft.

(2) No area school has an entitlement addition under clause 17 (2) (b) arising out of a music tuition provision.

(3) No area school has an entitlement deduction under clause 17 (2) (a) arising out of a music tuition provision unless—

- (a) The recipient institution’s name appears in the first column of Schedule 1 of the Education (1998 Secondary and Form I to VII School Staffing) Order 1997; and

(b) The sum of—

(i) The number of FTTEs to be relinquished under the provision; and

(ii) The number (if any) of FTTEs of entitlement to be relinquished to the recipient institution in 1998 under music tuition provisions contained in entitlement transfer agreements already entered into, or entered into at the same time as the agreement containing the provision,—

does not exceed the number specified in the second column of that schedule opposite its name.

(4) No area school has an entitlement addition or entitlement deduction under clause 17 arising out of a specialist tuition provision.

Limitation

19. Limitation on employment of permanently appointed regular teachers—There must not be employed, at any area school at any time in 1998, permanently appointed regular teachers whose employment generates a number of FTTEs greater than the number obtained by—

- (a) Adding—
 - (i) Its curriculum delivery time allowance, calculated in accordance with clause 11; and
 - (ii) Its management teacher time allowance, calculated in accordance with clause 13; and
 - (iii) The sum of its entitlement additions (if any) under clause 17 (2) (b); and
 - (iv) In the case of Hawarden Area School and Tolaga Bay Area School, 1.0; and
- (b) Subtracting from the resulting sum the sum of its entitlement deductions (if any) under clause 17 (2) (a).

PART 4

LIMITATIONS ON EMPLOYMENT OF OTHER REGULAR TEACHERS

20. Total staffing entitlements—(1) An area school's total staffing entitlement is a number calculated by—

- (a) Adding—
 - (i) Its curriculum delivery time allowance, ascertained in accordance with clause 11; and
 - (ii) Its management teacher time allowance, ascertained in accordance with clause 13; and
 - (iii) Its additional staffing allowance (if any), calculated in accordance with clause 16; and
 - (iv) Its community education co-ordination time allowance (if any) calculated in accordance with subclause (2); and
 - (v) If in 1997 the Secretary has approved an allowance for instrumental, vocal, or instrumental and vocal, tuition at the school, an instrumental and vocal tuition allowance that is the product (correct to 2 decimal places) of 0.001 and the sum of the school's senior staffing roll and the number of year 7 and year 8 students on its junior staffing roll; and
 - (vi) The sum of its entitlement additions (if any) under clause 17 (2) (b); and
 - (b) Subtracting from the resulting sum the sum of its entitlement deductions (if any) under clause 17 (2) (a).
- (2) An area school that offers a continuing education programme has a community education co-ordination time allowance calculated by adding—
- (a) The quotient (correct to 2 decimal places) obtained by dividing the number of tutor hours in the 1998 programme by 3800, if there are no more than 200 tutor-hours in the programme in 1998; and
 - (b) 0.1, if there are more than 200 but no more than 1000 tutor-hours in the programme in 1998; and
 - (c) 0.2, if there are more than 1000 but no more than 1500 tutor-hours in the programme in 1998; and
 - (d) 0.3, if there are more than 1500 but no more than 4000 tutor-hours in the programme in 1998; and

- (e) 0.4, if there are more than 4000 but no more than 5000 tutor-hours in the programme in 1998; and
- (f) 0.5, if there are more than 5000 tutor-hours in the programme in 1998.

21. Limitation on employment of other regular teachers at area schools—There must not be employed at any area school, at any time in 1998, other regular teachers whose employment generates a number of FTTEs greater than the number of FTTEs by which—

- (a) The number of FTTEs generated by the employment at the school at that time of permanently appointed regular teachers—
is less than—
- (b) The total staffing entitlement referred to in clause 20.

22. Limitation on employment involving salary units—(1) There must not be employed at an area school, at any time in 1998, regular teachers to whom salary units have been allocated (whether permanently or for an indefinite or fixed period that includes that time) whose employment taken together is equivalent to the employment of teachers to whom there have been allocated a total number of salary units greater than a number calculated for the school in accordance with subclause (2).

(2) The number referred to in subclause (1) must be calculated for an area school by—

- (a) Subtracting 1 from its entitlement staffing (referred to in clause 20);
and
- (b) Multiplying the resulting remainder by 0.96; and
- (c) Adding 2 to the resulting product; and
- (d) If the resulting sum is not a whole number, correcting it to the nearest whole number.

PART 5

EXEMPTIONS

23. Board-funded teachers—The Secretary must, in exempting an area school's Board from the limitations imposed by this order, have regard to—

- (a) Consents given to the Board under section 91F (b) of the Act; and
- (b) The need to ensure that payment of the salaries, or parts of salaries, to which the consents relate are paid out of public money appropriated by Parliament.

24. Protection of programmes—The Secretary must, in exempting an area school's Board from the limitations imposed by this order, have regard to—

- (a) Whether the school's staffing has been (or but for the exemption would be) affected by a fall in its roll; and
- (b) Whether it is desirable to grant an exemption (sufficient to restore the school's staffing to its 1997 level or some lower level) in order to protect a specified programme of instruction whose continued provision would otherwise be at risk.

25. Protection of teachers' allocated salary units—The Secretary must, in exempting an area school's Board from the limitations imposed by this order, have regard to—

- (a) Whether the calculation for the school under clause 22 (2) of a number of salary units has been (or but for the exemption would be) affected by a re-organisation, change in attendance, closure, amalgamation, or change in class of the school; and
- (b) Whether it is desirable to exempt the Board from the limitation in order to preserve the continued allocation of a salary unit or salary units to the holder of a teaching position at the school.

26. Protection of supernumerary teachers—The Secretary must, in exempting an area school's Board from the limitations imposed by this order, have regard to whether it is necessary to do so in order to preserve the continued employment in 1998 of any permanently appointed teachers employed by the Board immediately before 1 January 1998 who are for the time being supernumerary, having been declared surplus by virtue of the amalgamation, merger, change of status, closure, or a fall in the roll, of the schools at which the teachers were employed (whether the school at which they are now employed or any other school).

27. Roll increases—The Secretary must, in exempting an area school's Board from the limitations imposed by this order, have regard to the extent, if any, to which the school's total roll is less than it would be if calculated as at the day on which the Secretary is considering whether or not to grant the exemption.

28. Special problems—The Secretary must, in exempting an area school's Board from the limitations imposed by this order, have regard to the extent, if any, to which, in the Secretary's opinion, there are special teaching problems at the school, being problems not common at area schools, or problems more acute or widespread at the school than is common at area schools.

29. Revocation—The Education (1996 Area School Staffing) Order 1995 is revoked.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 July 1997, prescribes limitations on the numbers, and kinds and descriptions, of regular (that is to say non-relieving) teachers to be employed at area schools in 1998, and criteria to which the Secretary of Education is to have regard in exempting Boards of area schools from those limitations.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 29 May 1997.
This order is administered in the Ministry of Education.