



**THE EDUCATION AUTHORITIES EMPLOYMENT  
REGULATIONS 1982**

—

DAVID BEATTIE, Governor-General

**ORDER IN COUNCIL**

At the Government House at Wellington this 20th day of December 1982

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 165D and 203 of the Education Act 1964, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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**ANALYSIS**

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Education Authorities Employment Regulations 1982.

(2) These regulations shall come into force on the 14th day after the date of their notification in the *Gazette*.

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“Appeal Authority” means the Education Authority Appeal Authority established under regulation 32 of these regulations:

“Basic grade”, in relation to any occupational class, means the lowest grade within that class; and where a qualification or some other criterion relevant to that class entitles any person to be appointed as a probationer to some position in that class at a grade that is not the lowest within that class, means that grade in relation to that person:

“Education Authority”, in relation to any employee, means the Education Authority by which he is employed:

“Employee” means a person employed by an Education Authority who is not employed to advise teachers or as—

(a) A teacher:

(b) A teacher-aide employed in a primary school:

(c) A teacher-aide, teacher-assistant, library-assistant, laboratory-assistant, audio-visual technician, or nurse-aide, employed in a secondary school or composite school:

(d) A technical assistant employed in a teachers college:

(e) An occupational therapist, physiotherapist, or speech therapist:

(f) A community worker:

(g) A pre-school worker:

(h) A caretaker, cleaner, or groundsman:

“Employee organisation” means a service organisation within the meaning of section 5 of the State Services Conditions of Employment Act 1977:

“Grade” means a division of a salary scale in respect of which a particular salary or range of salaries is payable:

“Grading Committee” means the committee established by regulation 23 of these regulations:

“Limited-time officer” means an officer in a position that requires him to work normal hours for less than a full year but not less than 40 weeks:

“Normal hours of work”, in relation to a position of any class, means the hours specified in a determination made under the State Services Conditions of Employment Act 1977 for positions of that class:

“Officer” means an employee who is neither a probationer nor a temporary employee:

“Part-time officer” means an officer who undertakes the duties of the position he holds for—

(a) More than 20 hours per week; but

(b) Less than the normal hours of work for positions of the class to which that position belongs:

“Part-time worker” means an employee who holds a position the available hours of work for which are—

(a) Twenty hours or less; or

(b) More than the hours for which that person is available to undertake the duties of that position:

“Position” means a position in the employment of an Education Authority:

“Probationer” means an employee who—

(a) Is not a temporary employee; and

(b) Has not had his appointment confirmed under regulation 11 of these regulations:

“Promotion” means appointment to a grade of a higher maximum salary than that of one’s former grade:

“Salary step” means one of 2 or more rates of salary specified in a determination under the State Services Conditions of Employment Act 1977 in respect of any grade:

“Service”, in relation to any person, means the aggregate of—

(a) All periods of employment, whether continuous or intermittent, with Education Authorities:

(b) Any other periods of employment recognised by the Director-General as service for the purposes of these regulations:

(c) Where that person was employed by an Education Authority immediately before the commencement of those regulations, any other periods of employment then recognised by that Education Authority as service for the purposes of his employment by that Education Authority:

“Temporary employee” means an employee who is—

(a) A part-time worker; or

(b) Had attained the age of 55 years before he last became an employee; or

(c) Available only, or intended to be employed for, less than a year or less than 40 weeks each year:

“Whole-time officer” means an officer who undertakes the duties of his position for the normal hours of work of that position.

**3. Application**—These regulations shall not apply to any employee whose conditions of employment are fixed by an award of the Arbitration Court, by any agreement registered under the Industrial Relations Act 1973, or by any order made pursuant to section 13 of the Apprentices Act 1948.

*Advertising and Filling Vacancies*

**4. Advertisements**—(1) Except as provided in these regulations, no officer or probationer shall be appointed to a position that has a maximum salary higher than the basic grade of the occupational class concerned unless that position has been advertised in the *Education Gazette*.

(2) Notwithstanding subclause (1) of this regulation, an Education Authority may appoint with an open right of appeal to vacancies graded up to and including grade 3 in the Executive/Clerical Occupational Class that have not been advertised in the *Education Gazette*.

(3) Where an advertised position is part-time or limited-time, details shall be included in the advertisement.

(4) No position shall be deemed to be vacant by virtue only of its having been regraded.

(5) When a vacancy is advertised, the Education Authority concerned may also advertise that consequential vacancies in the same occupational class and not more than 2 grades below the advertised position may also be filled.

**5. Applications**—Applications for a vacant position shall be received by the Education Authority concerned up to such date (being no earlier than 14 days from the date of publication of its advertisement) as the Education Authority may decide.

**6. Appointment criteria**—(1) Subject to subclauses (3) and (4) of this regulation, where 2 or more persons apply for a vacant position, preference shall be given to the person who, in the opinion of the Education Authority concerned, has the most merit for appointment to that position.

(2) Merit shall be determined by—

- (a) Work experience, and competence shown in the performance of duties previously carried out; and
- (b) Personal qualities, characteristics, and attributes relevant to the position applied for; and
- (c) Relevant educational or other qualifications.

(3) Subject to subclause (4) of this regulation, where 2 or more applicants for a position have, in the opinion of the Education Authority concerned, equivalent merit for appointment to it, preference shall be given to the one who has the longest period of continuous service as an employee, whether with one or more Education Authorities.

(4) Where an officer has applied for a position, no probationer shall be appointed to it unless, in the opinion of the Education Authority concerned, he has clearly more merit for appointment to that position than that officer.

**7. Advice of appointment**—(1) Every appointee to a vacancy shall be notified in writing of—

- (a) The appointment; and
- (b) Whether it is as a probationer, an officer, or temporary employee; and
- (c) The commencing and maximum grade and salary for the position; and
- (d) If they are to be less than the normal hours of work, the hours of work for the position and the weeks to be worked each year; and
- (e) Whether or not the appointment is subject to appeal and therefore provisional.

(2) Every unsuccessful applicant for a vacancy who has a right of appeal against an appointment shall be advised by notice in writing to him at the address specified in his application of his right of appeal; and may within 14 days of the dispatch of the notice appeal against that appointment.

**8. Notice of appointment**—(1) As soon as possible after making an appointment to a position graded above the basic grade of any occupational class, the Education Authority concerned shall publish in the *Education Gazette* the name of the appointee.

(2) If the position had not been advertised in the *Education Gazette* the notice shall indicate this and state that there is an open right of appeal.

**9. Provisional appointments**—Every appointment or promotion that is subject to a right of appeal under regulation 37 (1) of these regulations shall be provisional until all appeals lodged against it have been duly determined, or, if no appeal is lodged, until the time for lodging of appeals has expired.

**10. Confirmation of appointment**—(1) After the expiration of the period for lodging an appeal against any appointment, the Education Authority concerned shall notify the appointee if an appeal has been lodged, and if no appeal has been lodged, shall confirm the appointment.

(2) Following a decision of the Appeal Board, the Education Authority concerned shall—

- (a) If an appeal was allowed, cancel the appointment appealed against and appoint the successful appellant to the position concerned;
- (b) If all appeals were disallowed but the appointment appealed against was not sustained, cancel that appointment and readvertise the position concerned;
- (c) Subject to paragraph (b) of this subclause, if all appeals were disallowed, confirm the appointment.

**11. Reappointment after absence due to child care**—(1) An officer who resigns from a position in an Education Authority in order to care for his pre-school child may, on satisfaction of such terms and conditions as for the time being apply in respect of officers of the Public Service, apply to the Education Authority for reappointment; and if those terms and conditions are met, and at the time of application the applicant has the necessary skills to fill competently a vacancy available in his former Education Authority, and the position is substantially the same in

character and at no higher salary and grading than the position previously held, the applicant shall be appointed in preference to any other applicant for the position.

(2) Notwithstanding subclause (1) of this regulation, where an applicant to whom that subclause refers applies for a vacancy and the Education Authority considers that preference should not be accorded to him, the approval of the Grading Committee shall be obtained before an appointment is made to the vacancy; and, with the consent of the Grading Committee, some other applicant may be appointed.

(3) On appointment to a position under this regulation the appointee shall resume officer status on the date of taking up the appointment but shall not have any retrospective rights as an officer in respect of the period of absence, which shall not count as service in respect of entitlement to leave.

(4) Regulation 37 (1) of these regulations shall not apply to any appointment made under this regulation.

**12. Appointment on probation—**(1) Every person first appointed as an employee (not being a temporary employee) shall be on probation for a period of between 6 and 12 months.

(2) Notwithstanding subclause (1) of this regulation, an Education Authority may extend the period of probation of any probationer for specified periods (not exceeding 12 months in the aggregate) by notice in writing to him.

(3) An Education Authority may at any time after 6 months, by notice in writing, confirm or annul the appointment of any probationer.

(4) Every such confirmation shall take effect on the date of the notice, or on such earlier or later date as is specified in it.

(5) Subject to subclause (6) of this regulation, notwithstanding that the period of probation of any probationer may have expired, and whether or not he is appointed to any other position in the employment of an Education Authority, he shall, while he remains in the employment of an Education Authority, be deemed to be employed on probation until his appointment is confirmed or annulled under this regulation.

(6) If, at the expiration of 6 months after the expiration of his period of probation (including any extension), a probationer's appointment has been neither confirmed nor annulled, his appointment shall thereupon be deemed to be confirmed.

(7) The probationary period for an employee who, while still on probation, transfers from one Education Authority to another shall continue to be calculated from the date of appointment to the former Education Authority.

**13. Appointment of officers of other branches of State Services—**

Any person who is employed, and has been employed continuously for an immediately preceding period of not less than 2 years, as an officer of the Public Service or the Post Office or the Government Railways Corporation or the Legislative Department or the Hospital Service as defined in the State Services Act 1962, may be appointed to any position as if he is an officer, and regulation 12 (1) of these regulations shall not apply to the appointment; but he shall have no rights of appeal, nor shall he be deemed to be an officer of the Education Authority concerned for any other purpose, until he has been so appointed.

**14. Variation of employment for part-time and limited-time employees**—(1) All part-time and limited-time employees, whether officers or temporary employees, shall be employed for such hours per week and such weeks per year as the Education Authority decides.

(2) The Education Authority may at any time alter the hours or weeks to be worked by such an employee if there is a change in a school's administrative entitlement or to meet an Education Authority's educational or administrative requirements; but it shall not do so within the employee's first year in the position, and thereafter not more frequently than once each year except by agreement between the Education Authority and the employee.

**15. Temporary employees**—(1) No person shall be appointed to any position as a temporary employee if a suitable person is available for appointment as an officer or probationer.

(2) Without the consent of the Grading Committee, no person shall be appointed as a temporary employee to a position above basic grade for a period longer than is necessary to advertise that position and make an appointment to it.

(3) The Grading Committee shall not give its consent under subclause (2) of this regulation unless—

(a) It considers that there are special circumstances justifying its doing so; and

(b) It has given the appropriate employee organisation an adequate time to make representations to it on the matter and considered all representations made within that time.

(4) An Education Authority may dismiss a temporary employee without notice in the case of misconduct, and in all other cases by giving 7 days' notice in writing signed by the Chairman or Chief Executive Officer of the Education Authority.

(5) Subject to the provisions of this regulation, a temporary employee may be employed whenever, for such hours as, and for such period as, an Education Authority thinks fit.

(6) At least every 12 months an Education Authority shall consider, in respect of every temporary employee, the necessity of his continued employment as a temporary employee; and unless, after that consideration, it is satisfied that his continued employment as a temporary employee is required in the public interest, it shall forthwith take steps to dismiss him.

**16. Transfers**—(1) An Education Authority may transfer an employee from one position within its employment to another that has the same maximum salary.

(2) Within 21 days of having been informed of the decision to transfer him, an employee may request the Education Authority to reconsider its decision.

(3) The Education Authority shall as soon as practicable, hear the employee's objections and any representations which may be made by the appropriate employee organisation.

#### *Salaries*

**17. Salary dependent on grade**—(1) An employee shall be paid an annual salary according to the grade of the position he holds.

(2) An Education Authority shall determine the commencing salary for an employee in the basic grade of an occupational class.

(3) No employee shall be paid less than the salary step specified in any relevant determination made under the State Services Conditions of Employment Act 1977.

**18. Employees working less than full-time**—Where an employee is working less than the normal hours of work or for less than a full year, the salary paid shall be the appropriate proportion of the normal salary for the position.

**19. Salary where grading reduced**—Where the regrading of a position would otherwise have the effect of reducing the annual salary paid to the officer who held that position at the time the regrading took effect, the Education Authority shall continue to pay that officer the annual salary to which he would be entitled if that position had not been regraded until he leaves that position.

**20. Salary increments**—(1) Unless a determination under the State Services Conditions of Employment Act 1977 otherwise provides, an employee holding a position of a grade to which 2 or more salary steps apply who is not being paid at the highest of those steps shall, after being paid at any salary step for 12 months, be paid at the salary step above.

(2) Notwithstanding subclause (1) of this regulation,—

- (a) An Education Authority may withhold such a salary increment if in the Education Authority's opinion the employee is inefficient; but in that case its reasons for thinking the employee inefficient shall be given to him in writing;
- (b) Any employee aggrieved by the withholding of a salary increment may apply to the Grading Committee for reconsideration; and the Grading Committee's decision shall be final and binding on that employee and the Education Authority;
- (c) An Education Authority may allow an employee one additional or accelerated salary step annually if it is satisfied that the employee shows superior merit or ability or is performing duties that warrant a higher salary;
- (d) The Grading Committee, on the recommendation of an Education Authority, may in special circumstances grant additional or accelerated increments in addition to those provided for in paragraph (c) of this subclause;
- (e) Where—
  - (i) A position has a range of grades; and
  - (ii) An employee who has for 12 months or more held that position at the top step of some lower grade is qualified for promotion to the next of those grades; and
  - (iii) His Education Authority is satisfied that his performance has been satisfactory,—it may with the concurrence of the Grading Committee (given generally or in any particular case, and unconditionally or subject to any conditions it thinks fit) promote him to the lowest higher step in that next grade.

**21. Salary on promotion**—An officer appointed to a higher grade shall commence on the salary step in that grade that is next higher than the salary step in the grade from which the officer has been promoted or, where he has been paid under regulation 17 (2) or regulation 19 of these regulations, next higher than the salary at which he has so been paid.



*Grading*

**22. Classification and grading—**(1) The Grading Committee shall place every position on a grade or range of grades in one of the occupational classes determined by the Director-General.

(2) Each position shall retain the grading it held immediately before the commencement of these regulations, until it is graded in accordance with these regulations.

(3) The Grading Committee shall not determine for any position a salary that is higher or lower than that provided for the position or for the occupational class under a relevant determination issued under the State Services Conditions of Employment Act 1977:

Provided that the Grading Committee may authorise the payment of an adjustment allowance to preserve an employee's salary upon transfer to a lower graded position or translation to a new salary scale.

(4) The Grading Committee shall not alter the classification or grading of a position designated as a benchmark position under the State Services Conditions of Employment Act 1977.

(5) The Grading Committee shall not alter the classification or grading of any position specified in the First Schedule to these regulations otherwise than by unanimous decision.

(6) Positions shall be graded according to the level of responsibility and skill required to be exercised in the performance of the duties allocated to them; but where a position has been placed in an occupational class, the weight that is to be given to the nature and importance of the duties and responsibilities of the position shall be assessed only in relation to similar positions within the particular occupational class.

(7) Applications to the Grading Committee for a review of the grading or classification of any position may be made—

(a) By an Education Authority at any time:

(b) By the officer holding that position at any time through the Education Authority, which shall forward it to the Grading Committee if, and only if, that officer has not applied to the Grading Committee for a review of the grading of that position within the preceding 5 years.

(8) An officer may make representations at any time to the Education Authority on the grading of his position.

(9) The Grading Committee may review the grading of any position at any time it thinks fit.

(10) Every decision on the classification or grading of a position shall specify the date and salary step on which the decision is to take effect.

(11) Nothing in the foregoing provisions of this regulation shall apply to a position the salary for which is prescribed by the Higher Salaries Commission, or if the classification and grading of that position has been determined under the State Services Conditions of Employment Act 1977.

**23. Grading Committee—**There is hereby established a committee to be known as the Education Authorities Grading Committee.

**24. Membership of Grading Committee—**(1) The Grading Committee shall comprise the Director-General, and the following persons, who shall be appointed by the Minister:

(a) One officer of the Department nominated by the Director-General:

(b) One person nominated by the Education Boards Association:

- (c) One person nominated by the Secondary School Boards Association:
- (d) One person nominated by the Technical Institutes Association of New Zealand:
- (e) One person nominated by the Association of Teachers College Councils.
- (2) The Director-General may authorise any officer of the Department to attend meetings of the Grading Committee in his stead; and—
  - (a) The fact that any officer of the Department attends any such meeting shall be conclusive proof of his having been authorised to do so; and
  - (b) While attending any such meeting, that officer shall be deemed to be a member of the Grading Committee.
- (3) The Director-General or, as the case requires, the officer of the Department attending any meeting in his stead, shall be the Chairman of the Grading Committee.

**25. Deputies**—On the nomination of each body or person concerned, the Minister shall appoint a suitably qualified person to act as deputy to the member of the Grading Committee nominated by that body or person; and every such deputy shall be deemed to be a member of the Grading Committee at any meeting not attended by the member whose deputy he is.

**26. Term of office**—(1) Subject to subclause (2) of this regulation every appointed member of the Grading Committee shall hold office at the pleasure of the Minister for a term not exceeding 3 years, but shall be eligible for reappointment.

(2) Unless he sooner dies, resigns his office, or is dismissed, an appointed member shall continue in office until his successor is appointed, notwithstanding that 3 years have expired since his appointment.

**27. Functions of Grading Committee**—The functions of the Grading Committee shall be—

- (a) To determine for every position a classification appropriate to the nature of the duties performed, and a grading appropriate to the level of responsibility and skill required:
- (b) Continuously to review and determine the classification and grading of all positions:
- (c) To review and determine the classification and grading of positions on application made under these regulations:
- (d) To make such submissions to the Appeal Authority as it thinks fit when an appeal against a determination of the Grading Committee is being heard:
- (e) To determine applications from Education Authorities to—
  - (i) Appoint temporary employees to positions above the basic grade; or
  - (ii) Appoint persons other than employees who have preference to any appointments because of absence due to child care; or
  - (iii) Grant increments in addition to those that may be granted by an Education Authority under regulation 20 (2) (c) of these regulations; or

- (iv) Extend the employment of an officer under regulation 44 (6) of these regulations:
- (f) To carry out all other functions conferred on it by these regulations or any other enactment.

**28. Meetings of Grading Committee**—(1) Meetings of the Grading Committee shall be held at such times and places as the Chairman from time to time determines; but the Chairman shall call a meeting within 14 days of being requested to do so by any member of the Grading Committee.

(2) The Chairman shall preside at every meeting; and business shall not be transacted unless at least 4 members or their deputies are present.

(3) Every question before the Grading Committee shall be decided by the votes of the majority of the members present; and the Chairman shall have a deliberative vote and, in the case of equality, he shall also have a casting vote.

(4) The Grading Committee may from time to time set up such sub-committees, or co-opt such persons, as it thinks fit, to advise it on any matters.

(5) The Grading Committee may authorise any of its members, any member of a subcommittee, or any person co-opted by it, to carry out an inspection of the duties and responsibilities of any officer or position; and any person so authorised may at all reasonable times for that purpose enter the office of the Education Authority concerned.

(6) Subject to these regulations, the Grading Committee may conduct its procedure as it sees fit.

**29. Delegation of powers**—(1) The Grading Committee may from time to time, either generally or particularly, and subject to such conditions as it may specify, delegate to one or more of its members or to any Education Authority, any of its powers other than the power of delegation conferred by this subclause; and subject to the conditions (if any) subject to which any such power has been delegated, the member or members or the Education Authority to whom that power has been delegated may exercise it as if it had been conferred directly by these regulations and not by delegation.

(2) The Grading Committee shall decide, with respect to each Education Authority, whether or not to delegate any of its powers to that Education Authority.

(3) Every delegation under this regulation shall be revocable at will by the Grading Committee; and no such delegation shall prevent the exercise by the Grading Committee of any of its powers.

(4) Notwithstanding any change in the membership of the Grading Committee, every delegation under this regulation shall continue in force according to its tenor until it is revoked.

**30. Application for review of grading**—Where an officer applies to the Grading Committee for a review of the grading of the position he holds—

- (a) The application shall be made to the Grading Committee through the Education Authority:

- (b) The Education Authority shall forward the application together with a statement of the Education Authority's view of the application, a copy of which shall be provided to the officer concerned if he so requests:
- (c) The Grading Committee shall consider and decide the application as soon as is possible:
- (d) If any decision of the Grading Committee is contrary to a grading decided by an Education Authority, the Grading Committee shall direct the Education Authority to alter the grading at a date specified by the Grading Committee, and the Education Authority shall do so.

**31. Remuneration of Grading Committee**—There shall be paid to appointed members of the Grading Committee, their deputies, co-opted members, and members of subcommittees, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply as if the Grading Committee were a statutory Board within the meaning of that Act.

#### *Appeal Authority*

**32. Appeal Authority established**—(1) There is hereby established, in respect of all Education Authorities, the Education Authority Appeal Authority, which shall comprise the following persons who shall be appointed by the Minister:

- (a) A Chairman who shall not be an employee of an Education Authority or of the Department, or a member of an Education Authority, and who shall be appointed only after consultation with the employee organisations and the organisations specified in paragraph (b) of this subclause, and the Department:
- (b) Four persons nominated, respectively, by the Education Boards Association, the Secondary School Boards Association, the Technical Institutes Association, and the Association of Teachers College Councils as employer members; but on any particular appeal only one of them, agreed among them or, in default of agreement, determined by the Chairman, shall sit:
- (c) Two persons nominated by the employee organisations as service members; but on any particular appeal only one of them, agreed between them or, in default of agreement, determined by the Chairman, shall sit.

(2) No employee shall sit to consider an appeal affecting himself or a person employed by the same Education Authority, nor shall any member of an Education Authority sit to consider an appeal affecting it.

(3) Members of the Appeal Authority shall be appointed for a term not exceeding 3 years or until a successor is appointed, but shall be eligible for reappointment.

(4) Every question before the Appeal Authority shall be decided by the votes of the majority of the 3 members sitting on that question.

**33. Deputies**—At the time of appointing the Chairman or a member of the Appeal Authority the Minister shall in like manner appoint a deputy to act in any appeal where the Chairman or that member is for any reason unable to attend a meeting of the Appeal Authority.

**34. Extraordinary vacancies**—(1) Where the Minister is satisfied that a member of the Appeal Authority has refused or without sufficient cause neglected to attend a meeting of the Appeal Authority, he may dismiss that member.

(2) If any member or deputy member of the Appeal Authority dies, or resigns his office, or is dismissed, or being a service member becomes employed by the same Education Authority as the other service member, or being an employer member becomes a member or officer of an Education Authority of the same kind as that of another employer member, his office shall become vacant and that vacancy shall be filled in the same manner as the appointment of the vacating member was originally made.

**35. Assessors**—If, in the opinion of the Appeal Authority, an appeal will involve consideration of matters of a professional, technical, or specialised nature, it may, with the consent of parties to the appeal, appoint any person as an assessor to sit with the Appeal Authority as an extra member; but the assessor shall have no vote.

**36. Remuneration of Appeal Authority members**—There shall be paid to members of the Appeal Authority, out of money appropriated by Parliament for the purpose, such remuneration by way of fees, salary or allowances, and travelling allowance and expenses, in accordance with the Fees and Travelling Allowances Act 1951 as if they were members of a statutory Board.

**37. Rights of appeal**—(1) Subject to subclauses (2) and (3) of this regulation, every officer shall, if his appointment to the position concerned would be a promotion, have a right of appeal against—

(a) The promotion of any officer or probationer:

(b) The appointment of any person to any position, if that person was neither an officer nor a probationer immediately before that appointment.

(2) Unless the vacancy to which the appointment appealed against was made was not advertised in accordance with these regulations, no person shall have a right to appeal against an appointment to any vacancy unless he was an applicant for that vacancy.

(3) There shall be no right of appeal against any appointment to the position of General Manager of any Education Authority specified in the Second Schedule to these regulations.

(4) Where an appeal is lodged against any appointment, that appeal shall be deemed to include an undertaking on the part of the appellant that he is willing to work the hours of the position concerned.

(5) Subject to subclause (6) of this regulation, an officer may appeal against any decision of the Grading Committee (or of any other person or body acting under a delegation from the Grading Committee) to regrade or reclassify, or refuse to regrade or reclassify, that officer's position.

(6) There shall be no right of appeal under subclause (5), of this regulation in respect of any position—

(a) The salary for which is determined by the Higher Salaries Commission; or

(b) The classification and grading of which has been determined under the State Services Conditions of Employment Act 1977.

(7) Any officer may appeal against a decision, made under regulation 42 or regulation 43 (2) of these regulations, to dismiss that officer; but such an appeal shall not be upheld except on the grounds that the dismissal concerned was unjustified.

(8) Any officer may appeal against a decision to transfer him from one locality to another; but such an appeal shall not be upheld except on the grounds that the transfer concerned imposes, or would impose, extraordinary personal hardship on the appellant.

**38. Notice of appeal**—(1) Written notice of appeal stating the grounds of the appeal shall be forwarded to the secretary of the Appeal Authority in time to be received within 14 days of the date of the written notice of the decision being appealed against or within such extended time as the Appeal Authority allows after good and sufficient reason has been shown in writing by the appellant.

(2) The Appeal Authority shall acknowledge in writing the receipt of a notice of appeal immediately it is received.

(3) As soon as is practicable after being satisfied that the appeal lies, the Appeal Authority shall formally accept the appeal and give notice in writing to the appellant and the relevant Education Authority of the time and place fixed for the hearing.

(4) In the case of an appeal brought under regulation 37 (1) of these regulations, the appointing Education Authority shall provide the appellant with details of the provisional appointee's identity, relevant qualifications, and experience.

**39. Powers of Appeal Authority**—The Appeal Authority shall have power to hear and determine appeals, to examine witnesses under oath or otherwise, and to receive any evidence, statement, document, information or matter that in the opinion of the Appeal Authority may assist it to deal with the appeal, whether or not that evidence would be admissible in a Court of law.

**40. Hearings**—(1) The Appeal Authority shall meet at such times and places as the Chairman fixes; and he shall ensure that meetings are frequent enough to avoid unreasonable delay in dealing with appeals.

(2) Except as provided in these regulations, the Appeal Authority shall determine its own procedure.

(3) Proceedings of the Appeal Authority shall not be open to the public; but any person authorised by the Appeal Authority may attend.

(4) The Appeal Authority shall record its decisions in a Minute Book, which shall be at all times open to inspection by any Education Authority, the Grading Committee, and any employee organisation.

(5) In any appeal, the onus of proof shall rest upon the appellant except in the case of an appeal against the appointment of a person who is not an officer or against dismissal or termination of employment.

(6) At any hearing, the Education Authority or the Grading Committee, and the appellant, may be represented by an advocate.

(7) Where evidence is required from witnesses who cannot conveniently attend a hearing or where the expenses of attending would be undue, that evidence may be given on oath to any competent person or persons appointed by the Chairman of the Appeal Authority for the purpose.

**41. Decisions of Appeal Authority**—(1) The Appeal Authority shall—

- (a) In the case of an appeal under regulation 37 (1) of these regulations,—
  - (i) Allow the appeal and direct that the successful appellant be appointed to the position; or
  - (ii) Disallow the appeal; or
  - (iii) Hold that the appointment is not sustained and direct that it be reviewed by the Education Authority, having regard to such matters as the Appeal Authority specifies:
- (b) In the case of an appeal under regulation 37 (5) of these regulations,—
  - (i) Subject to subclause (2) of this regulation, direct the Education Authority or the Grading Committee to alter the decision appealed against; or
  - (ii) Direct the Education Authority or the Grading Committee to confirm that decision:
- (c) In the case of an appeal under regulation 37 (7) of these regulations,—
  - (i) Sustain the dismissal concerned; or
  - (ii) Direct the Education Authority to reinstate the appellant who shall be entitled to be paid by his Education Authority for the period between his dismissal and reinstatement:
- (d) In the case of an appeal under regulation 37 (8) of these regulations, either confirm or cancel the transfer.

(2) The Appeal Authority shall have no jurisdiction to approve a grading for any position that is higher than the maximum salary for that position, or the class to which it belongs, determined under the State Services Conditions of Employment Act 1977.

(3) Immediately after a decision of the Appeal Authority, it shall notify both parties in writing of its decision, which shall be binding on the Education Authority or the Grading Committee, as the case may be.

(4) Where an appellant appears in person to present his case to the Appeal Authority, the Appeal Authority shall, unless it considers the appeal concerned to have been frivolous, direct the Education Authority in whose employment the position to which that appeal relates is to pay his reasonable expenses in doing so; and in that case, payment shall be made accordingly.

#### *Termination of Employment, Retirement, and Resignation*

**42. Dismissal of employees**—An Education Authority may summarily dismiss an employee for dereliction of duty, gross misconduct, or insubordination; but in every case shall give the employee notice in writing, signed by the Chairman or Secretary of that Education Authority, of the dismissal and the reasons for it.

**43. Termination of employment**—(1) No officer shall resign from his employment without having given to the Education Authority at least 3 months' notice in writing, unless the Education Authority has accepted some lesser period of notice.

(2) Subject to subclause (3) of this regulation, an Education Authority may terminate the employment of an officer if it becomes necessary as a

result of a change in the Education Authority's administration entitlement or for other good cause, by giving that officer notice in writing, which notice shall be given not less than 3 months in advance.

(3) An Education Authority may, before the expiration of any notice given under subclause (2) of this regulation, pay to the officer concerned the salary he would have earned during the unexpired portion of that notice; and the termination shall then take effect immediately.

(4) Where an employee provisionally appointed to a position in another Education Authority has given notice to his present Education Authority of his intention to resign to take up the new position, that notice shall not take effect unless the appointment to the new position is confirmed.

(5) Nothing in this regulation shall affect the powers of Education Authorities under regulation 42 of these regulations.

**44. Retirement**—(1) An employee who was employed by an Education Board, the governing body of a secondary school, a Secondary Schools Council, or a teachers' college council, on the 1st day of December 1967, and has continuous service as an employee since that day, shall retire upon attaining the age of 65 years.

(2) An employee who was employed by the governing body of a technical institute or community college on the 23rd day of December 1976 and has continuous service as an employee since that day, shall retire upon attaining the age of 65 years.

(3) An employee who was employed in some other branch of the State Services (within the meaning of regulation 13 of these regulations) on the 1st day of August 1964, immediately after ceasing so to be employed became an employee, and since becoming an employee has continuous service as an employee, shall retire upon attaining the age of 65 years.

(4) Subject to subclauses (1) to (3) of this regulation, every employee shall retire upon attaining the age of 60 years.

(5) Notwithstanding subclauses (1) to (4) of this regulation, an officer who has elected to contribute to the Government Superannuation Fund in respect of notional service in accordance with section 23A of the Superannuation Act 1965, shall retire on the earlier of the following days:

(a) A day that is the same period before the age (65 or 60 years, as the case requires) on which he would otherwise be required to retire as the aggregate of all periods of notional service as aforesaid:

(b) The day upon which he completes 40 years of contributory service (including the aggregate of all periods of notional service) as aforesaid.

(6) Upon the application of an officer's Education Authority, with the consent of that officer, and after considering any representations from the appropriate employee organisation, the Grading Committee may, for the efficiency of the Education Authority and where it is considered necessary in the public interest to do so, authorise the officer to continue in the employment of the Education Authority beyond the normal retirement date; but every extension of service under this subclause shall be reviewed annually, and in no case shall an officer be retained beyond the age of 65 years.



**45. Retirement leave**—(1) Whole-time and limited-time officers shall be granted retirement leave in accordance with the following provisions:

- (a) Those eligible to retire in accordance with paragraph (a) or paragraph (b) of subclause (2) of this regulation shall be entitled to retirement leave on full pay calculated in accordance with the Third Schedule to these regulations:
- (b) Those eligible to retire in accordance with paragraph (c) or paragraph (d) of subclause (2) of this regulation shall be entitled to retirement leave on full pay of 65 working days where the length of service does not exceed 25 years, and retirement leave on full pay calculated in accordance with the Third Schedule to these regulations in all other cases.
- (2) No officer shall be entitled to retirement leave unless he retires—
  - (a) After attaining the age of 60 years and completing at least 10 years' service; or
  - (b) After completing 40 years' service, if that service commenced before the 1st day of January 1946; or
  - (c) On medical grounds in terms of section 36 of the Superannuation Act 1956; or
  - (d) If not a contributor to the Superannuation Fund, medical evidence is produced to satisfy the Education Authority that retirement would be accepted on medical grounds as aforesaid if he were a contributor.

(3) Female staff appointed before the 1st day of April 1962 who did not receive a benefit by way of increase in either salary or maximum from the implementation of the Government Service Equal Pay Act 1960, shall, on the establishment of eligibility, be entitled to 131 days of retirement leave on completion of 35 years' service.

(4) The retirement leave to which a limited time officer is entitled shall be the appropriate proportion of the full allowance.

**46. Anticipated retirement leave**—(1) Subject to subclauses (2) and (3) of this regulation, a whole-time or limited-time officer who has over 20 years' service shall be entitled to leave on full pay in anticipation of retirement leave calculated in accordance with the Fourth Schedule to these regulations.

(2) Every approval to anticipate retirement leave shall be conditional on the giving of a written undertaking by the employee that, if he resigns before completing the full term of service he will refund the value of any number of days' retirement leave taken in anticipation (calculated at the gross salary rate applicable at the time when anticipated leave was taken) that are in excess of the number of days' leave then due.

(3) An officer shall give 3 months' notice of intention to take anticipated retirement leave, and the actual period of the leave shall be subject to the convenience of the Education Authority; but it shall in no case be less than one month at any one time, and the Education Authority shall not withhold the granting of the leave beyond 12 months from the date of application.

(4) Anticipated retirement leave taken shall not be counted as service for retirement purposes.

(5) A whole-time or limited-time officer with less than 20 years' service who would be entitled to retirement leave if he retired from the Education Authority's service may, at the discretion of the Education Authority, be permitted to anticipate up to one-half of that retirement leave.

**47. Retirement leave in cases of termination**—An Education Authority may grant retirement leave on full pay to whole-time and limited-time officers who are not otherwise eligible for retirement leave, and whose services are dispensed with through no fault of their own before retiring age, according to the following table:

Qualification required	Maximum amount of retirement leave (in working days)
Completion of 15 years' service	65 days
Completion of 10 and less than 15 years' service	44 days
Completion of 5 and less than 10 years' service	22 days

**48. Reduction of leave entitlement in certain cases**—In calculating an officer's entitlement to leave in accordance with any of the provisions of regulations 45, 46, 47, and 50 of these regulations, an Education Authority shall not take account of any continuous period exceeding 3 months during that service in which the officer has been absent otherwise than for sickness, rehabilitation leave, study leave on pay, or military service.

**49. Cash grant instead of leave**—(1) Instead of granting leave under any of the provisions of regulations 45 and 47 of these regulations, an Education Authority may, on the application of an employee, grant that employee a lump sum gratuity equivalent in value to that leave.

(2) An Education Authority may approve a cash payment to the spouse or dependents of a deceased employee of a sum the equivalent in money to the leave that could have been granted to the deceased employee under regulation 45 of these regulations had he retired from the Education Authority's employment on the day he died.

**50. Resigning leave**—(1) Subject to subclause (3) of this regulation, an Education Authority may grant, in accordance with the Fifth Schedule to these regulations, resigning leave on full pay to whole-time and limited-time officers who have completed 20 years' continuous service, but who have not reached their optional retiring age, irrespective of age at the time of resignation.

(2) Subject to subclause (3) of this regulation, in special circumstances an Education Authority may, with the approval of the Director-General, grant resigning leave on full pay to a whole-time or limited-time officer with less than 20 years' continuous service who is less than 60 years of age.

(3) The amount of resigning leave granted to any person under subclause (1) or subclause (2) of this regulation shall be reduced by the amount of any long-service leave taken by that person under these regulations.

(4) The resigning leave to which a limited time officer is entitled shall be the appropriate proportion of the full allowance.

**51. Pro-rata reduction of leave in certain cases**—Notwithstanding anything in these regulations, where, but for this regulation, an employee would be entitled by these regulations to any period of leave in respect of any period of employment,—

(a) He shall, in respect of any part of that period of employment during which his hours of work were shorter than the normal hours of work for the position he held, be entitled to only the appropriate

proportion of the period of leave to which he would be entitled if he had worked the normal hours of work for that position during that period of employment; and

- (b) He shall, in respect of any part of that period of employment that fell within a year during which he worked for less than a full year be entitled to only the appropriate proportion of the period of leave (calculated, if appropriate, in accordance with paragraph (a) of this regulation) to which he would be entitled if he had worked for the full year.

*Miscellaneous*

**52. Education Authorities to make legislation available to employees**—Every Education Authority shall ensure that sufficient copies of the Education Act 1964, regulations made under that Act, all relevant departmental circulars, and every issue of the *Education Gazette* for the previous 2 years are kept available at each branch or workplace for perusal by any employee affected by them.

**53. Revocations and consequential amendment**—(1) The regulations specified in the Sixth Schedule to these regulations are hereby revoked.

(2) Regulation 2 of the Secondary School Boards Administration and Employment Regulations 1965\* is hereby amended by omitting the words “Parts II, III, and VI” (as substituted by regulation 3 of the Secondary School Boards Administration and Employment Regulations 1965, Amendment No. 2†), and substituting the words “Parts II and III”.

\*S.R. 1965/177

†S.R. 1972/250

FIRST SCHEDULE

Reg. 22 (5)

POSITIONS WHOSE CLASSIFICATION AND GRADING TO BE ALTERED BY  
UNANIMOUS DECISION ONLY

*Education Boards*

The positions of General Manager of the Education Board of each of the following Districts: Auckland, Canterbury, Hamilton, Hawkes Bay, Nelson, Otago, Southland, Taranaki, Wanganui, and Wellington.

*Technical Institutes*

The positions of Registrar of the Auckland, Manukau, and Waikato Technical Institutes, the Christchurch and Wellington Technical Institutes, and the Central Institute of Technology at Heretaunga.

*Teachers Colleges*

The positions of Registrar of the teachers college at each of the following places: Auckland, Christchurch, Dunedin, Hamilton, Palmerston North, and Wellington.

FIRST SCHEDULE—*continued**Secondary Schools Councils*

The positions of General Manager of the Christchurch Secondary Schools Council and Secretary of the Wellington Secondary Schools Council.

*Boards of Governors of Secondary Schools*

The positions of Secretary of the following Boards of Governors of secondary schools: Auckland Grammar Schools Board, Eastern Secondary Schools Board, New Plymouth High Schools Board.

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Reg. 37 (3)

## SECOND SCHEDULE

## EDUCATION AUTHORITIES WHOSE GENERAL MANAGER EXEMPT FROM APPEAL

The Education Board of the District of Auckland  
The Education Board of the District of Canterbury  
The Education Board of the District of Hamilton  
The Education Board of the District of Hawkes Bay  
The Education Board of the District of Nelson  
The Education Board of the District of Otago  
The Education Board of the District of Southland  
The Education Board of the District of Taranaki  
The Education Board of the District of Wanganui  
The Education Board of the District of Wellington

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## THIRD SCHEDULE

Reg. 45 (1)

## RETIREMENT LEAVE ENTITLEMENT IN WORKING DAYS

Years of Service	Months of Service						
	0	2	4	6	8	10	
10...	...	22	23	24	24	25	26
11...	...	26	27	28	29	29	30
12...	...	31	31	32	33	34	34
13...	...	35	36	36	37	38	39
14...	...	39	40	41	41	42	43
15...	...	44	44	45	46	46	47
16...	...	48	49	49	50	51	51
17...	...	52	53	54	54	55	56
18...	...	56	57	58	59	59	60
19...	...	61	61	62	63	64	64
20 to 25	...	65	65	65	65	65	65
25...	...	65	66	66	67	68	69
26...	...	69	70	71	71	72	73
27...	...	74	74	75	76	76	77
28...	...	78	79	79	80	81	81
29...	...	82	83	84	84	85	86
30...	...	86	87	88	89	89	90
31...	...	91	91	92	93	94	94
32...	...	95	96	96	97	98	99
33...	...	99	100	101	101	102	103
34...	...	104	104	105	106	106	107
35...	...	108	109	109	110	111	111
36...	...	112	113	114	114	115	116
37...	...	116	117	118	119	119	120
38...	...	121	121	122	123	124	124
39...	...	125	126	126	127	128	129
40 or more	...	131	..	..	..	..	..

Reg. 46 (1)

**FOURTH SCHEDULE**

**ANTICIPATED RETIREMENT LEAVE ENTITLEMENT IN  
WORKING DAYS**

Years of Service	Months of Service			
	0	3	6	9
20 ... ..	65	66	66	67
21 ... ..	68	69	69	70
22 ... ..	71	71	72	73
23 ... ..	74	74	75	76
24 ... ..	76	77	78	79
25 ... ..	79	80	81	81
26 ... ..	82	83	84	84
27 ... ..	85	86	86	87
28 ... ..	88	89	89	90
29 ... ..	91	91	92	93
30 ... ..	94	94	95	96
31 ... ..	96	97	98	99
32 ... ..	99	100	101	101
33 ... ..	102	103	104	104
34 ... ..	105	106	106	107
35 ... ..	108	109	109	110
36 ... ..	111	111	112	113
37 ... ..	114	114	115	116
38 ... ..	116	117	118	119
39 ... ..	119	120	121	121
40 or more ...	122	..	..	..

## FIFTH SCHEDULE

Reg. 50 (1)

## RESIGNING LEAVE

Years of Service	Leave in Working Days	Years of Service	Leave in Working Days
20	32	30	46
20½	33	30½	47
21	34	31	48
21½	34	31½	49
22	35	32	49
22½	36	32½	50
23	36	33	51
23½	37	33½	51
24	38	34	52
24½	39	34½	53
25	39	35	54
25½	40	35½	54
26	41	36	55
26½	41	36½	56
27	42	37	56
27½	43	37½	57
28	44	38	58
28½	44	38½	59
29	45	39	59
29½	46	39½	60

## SIXTH SCHEDULE

Reg. 53 (1)

## REGULATIONS REVOKED

Regulations	Serial Number
The Education Boards Employment Regulations 1958 ... ..	S.R. 1958/106
The Education Boards Employment Regulations 1958, Amendment No. 2 ... ..	S.R. 1960/50
The Education Boards Employment Regulations 1958, Amendment No. 3 ... ..	S.R. 1961/30
The Education Boards Employment Regulations 1958, Amendment No. 4 ... ..	S.R. 1962/70
The Education Boards Employment Regulations 1958, Amendment No. 6 ... ..	S.R. 1963/220
The Secondary School Boards Administration and Employment Regulations 1965: Part VI... ..	S.R. 1965/77
The Education Boards Employment Regulations 1958, Amendment No. 7 ... ..	S.R. 1965/94

SIXTH SCHEDULE—*continued*REGULATIONS REVOKED—*continued*

Regulations	Serial Number
The Education Boards Employment Regulations 1958, Amendment No. 9 ... ..	S.R. 1966/70
The Education Boards Employment Regulations 1958, Amendment No. 10 ... ..	S.R. 1966/212
The Education Boards Employment Regulations 1958, Amendment No. 11 ... ..	S.R. 1968/13
The Education Boards Employment Regulations 1958, Amendment No. 12 ... ..	S.R. 1968/136
The Education Boards Employment Regulations 1958, Amendment No. 13 ... ..	S.R. 1970/33
The Secondary School Boards Administration and Employment Regulations 1965, Amendment No. 2: Regulations 3 and 4 ... ..	S.R. 1972/250
The Education Boards Employment Regulations 1958, Amendment No. 14 ... ..	S.R. 1973/28
The Education Boards Employment Regulations 1958, Amendment No. 15 ... ..	S.R. 1975/212
The Technical Institute and Community College Boards Employment Regulations 1976 ... ..	S.R. 1976/326
The Education Boards Employment Regulations 1958, Amendment No. 16 ... ..	S.R. 1977/199
The Technical Institute and Community College Boards Employment Regulations 1976, Amendment No. 1 ... ..	S.R. 1977/242
The Education Boards Employment Regulations 1958, Amendment No. 17 ... ..	S.R. 1980/101

P. G. MILLEN,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations prescribe terms and conditions of employment of non-teaching employees of Education Boards, the governing bodies of secondary schools, technical institutes, and community colleges, and Secondary Schools Councils and teachers college councils. They replace the Education Boards Employment Regulations 1958, Part VI of the Secondary School Boards Administration and Employment Regulations 1965, and the Technical Institute and Community College Boards Employment Regulations 1976.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 21 December 1982.

These regulations are administered in the Department of Education.