



THE EDUCATION (ASSESSMENT, CLASSIFICATION, AND APPOINTMENT) REGULATIONS 1976, AMENDMENT NO. 10

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 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.

ANALYSIS

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| <p>1. Title and commencement
 2. Appointment procedures
 3. Priority rights for teachers returning from certain armed forces establishments</p> | <p>4. New regulations inserted
 78A. Deemed service in respect of periods of child care
 78B. Credit for service during child care.
 5. Transitional</p> |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 10, and shall be read together with and deemed part of the Education (Assessment, Classification, and Appointment) Regulations 1976* (hereinafter referred to as the principal regulations).

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

*S.R. 1976/287

- Amendment No. 1: S.R. 1977/275
- Amendment No. 2: S.R. 1978/334
- Amendment No. 3: S.R. 1979/220
- Amendment No. 4: S.R. 1980/186
- Amendment No. 5: S.R. 1980/233
- Amendment No. 6: S.R. 1981/179
- Amendment No. 7: S.R. 1981/330
- Amendment No. 8: S.R. 1982/12
- Amendment No. 9: S.R. 1982/80

2. Appointment procedures—(1) Regulation 45 (5) of the principal regulations (as substituted by regulation 4 (1) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8) is hereby amended by revoking paragraph (a), and substituting the following paragraphs:

“(a) Has held full-time positions at State primary schools, or positions as a primary teacher under the control of the Director-General, continuously for the previous 36 months; or

“(aa) Having been a teacher with continuous service in terms of paragraph (a) of this subclause, ceased to be such a teacher no longer than 15 weeks ago; or”.

(2) The said regulation 45 is hereby further amended by inserting, after subclause (5), the following subclauses:

“(5A) For the purposes only of subclause (5) of this regulation, a teacher who, immediately before any period during which he has continuously—

“(a) Held full-time positions at composite schools; or

“(b) Held a teaching position with Volunteer Service Abroad (Incorporated),—

held a full-time position at a State primary school or as a primary teacher under the control of the Director-General shall be deemed during that period to have continuously held full-time positions at State primary schools.

“(5B) For the purposes only of subclause (5) of this regulation, where—

“(a) With the approval of the Director-General,—

“(i) During his first 3 years of service; or

“(ii) Having continuously held full-time positions at State primary schools or composite schools, or positions as a primary teacher under the control of the Director-General, since completing a course of training at a teachers college,— a teacher resigns from the Education Service in order to complete a course of training commenced previously; and

“(b) Within 15 weeks of completing or abandoning that course of study, that teacher applies for a teaching position,—

he shall be deemed to have continuously held a full-time position at a State primary school during the period between resigning and applying for that position.

“(5C) For the purposes of subclause (6) of this regulation, an applicant shall be deemed to be a teacher with recent service who—

“(a) During the previous 24 months was employed as a full-time relieving teacher at State primary schools or as a primary teacher under the control of the Director-General—

“(i) At no more than 3 schools; and

“(ii) For a period amounting in the aggregate to at least 26 weeks; or

“(b) Does not hold a permanent appointment at a State primary school or as a primary teacher under the control of the Director-General, but held such an appointment within the previous 24 months; or

“(c) Is employed as a part-time teacher at a State primary school or as a primary teacher under the control of the Director-General, and has been continuously so employed for at least 24 months; or

“(d) Ceased to be employed as a part-time teacher at a State primary school or as a primary teacher under the control of the Director-General less than 15 weeks ago, and was continuously so employed for at least 24 months immediately before ceasing to be so employed.

“(5D) Where the Minister is satisfied that,—

“(a) But for a break in service, any person would, for the purposes of subclause (6) of this regulation, be deemed to be a teacher with continuous service or a teacher with recent service; and

“(b) The circumstances of that break are such that—

“(i) It would be unreasonable for that person not to continue to be deemed to be a teacher of that class; and

“(ii) It would not be unfair to other persons with breaks in their teaching service for that person to continue so to be deemed,—

he may give that teacher notice in writing that the break concerned may be disregarded for the purposes of that subclause; and in that case, that break shall not be taken into account for the purpose of calculating any period under subclause (5) or subclause (5c) of this regulation or for the purpose of determining whether any period of employment is or was continuous.”

(3) The said regulation 45 is hereby further amended by inserting in subclause (6) after paragraph (h), the following paragraphs:

“(ha) Where—

“(i) No applicant for any such position has a relevant national priority right or a relevant board priority right, or is a teacher with continuous service; and

“(ii) That position is a basic scale position; and

“(iii) Only one applicant for that position is a teacher with recent service,—

the Appointments Committee shall recommend that applicant for appointment to that position:

“(hb) Where—

“(i) No applicant for any such position has a relevant national priority right or a relevant board priority right, or is a teacher with continuous service; and

“(ii) That position is a basic scale position; and

“(iii) Two or more applicants for that position are teachers with recent service,—

the Appointments Committee shall recommend the most suitable of them for appointment to that position.”

(4) Subclause (6) (i) of the said regulation 45 is hereby consequentially amended by omitting the expression “paragraphs (a) to (h)”, and substituting the expression “paragraphs (a) to (hb)”.

(5) Subclause (6) (j) of the said regulation 45 is hereby consequentially amended by inserting, after the expression “paragraphs (a) to (g)”, the expression “and (ha)”.

(6) Subclause (8) of the said regulation 45 is hereby consequentially amended by inserting, after the words “continuous service,”, the words “or who is a teacher with recent service,”.

(7) Regulation 47 of the principal regulations is hereby consequentially amended by omitting from subclauses (1) and (2) the expression “(h)” (as substituted by regulation 4 (2) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8), and substituting, in each case, the expression “(hb)”.

(8) Regulation 49 (1) of the principal regulations is hereby amended by omitting the expression “(h)” (as substituted by regulation 4 (3) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8), and substituting the expression “(hb)”.

(9) Regulation 50 (2) of the principal regulations is hereby consequentially amended by omitting the expression “(h)” (as substituted by regulation 4 (4) (a) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8), and substituting the expression “(hb)”.

3. Priority rights for teachers returning from certain armed forces establishments—(1) The principal regulations are hereby amended by inserting, after regulation 59E (as inserted by regulation 6 of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8), the following regulation:

“59EA. Every person who,—

“(a) Immediately before the commencement of a contract of service at a school established pursuant to section 106A (1) (b) of the Act, held a position as a full-time permanently or provisionally appointed primary teacher; and

“(b) Has completed or will complete the full term of that contract—shall have a national priority right until the expiration of 2 years from the 1st day of October in the year in which he completed or will complete that contract, or until he is appointed to a position in the Education Service, whichever is the sooner.”

(2) Regulation 45 (4) (a) of the principal regulations (as substituted by regulation 4 (1) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 3) is hereby consequentially amended by adding the words “or, in the case of a right acquired under regulation 59EA of these regulations, than the position held by that holder immediately before he commenced the contract of service concerned”.

4. New regulations inserted—The principal regulations are hereby amended by inserting, after regulation 78 (as substituted by regulation 14 (1) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 6), the following regulations:

“78A. **Deemed service in respect of periods of child care—**
(1) Where—

“(a) A teacher classified in List A or List B resigns from a full-time teaching position at a secondary school, or a position that is, in the opinion of the Director-General, equivalent to such a position; and

“(b) The Director-General is satisfied that the resignation was to enable the teacher concerned to prepare for, or undertake, a period of child care,—

that teacher may be credited with a period of service (hereafter in this regulation referred to as notional service), calculated in accordance with subclause (3) of this regulation, for the purposes of regulations 73, 74, and 77 of these regulations.

“(2) A period of child care in respect of which notional service may be calculated—

“(a) Shall be deemed to commence—

“(i) Where the teacher concerned resigns to care for a child yet unborn, on the birth of that child; and

“(ii) Where the teacher concerned resigns to care for a child proposed to be adopted, on obtaining lawful custody of that child; and

“(iii) In every other case, upon the resignation concerned:

“(b) Shall be deemed to end when the teacher concerned is appointed to a full-time position in the Education Service:

“(c) Shall be reduced by the aggregate of all periods between its commencement and end during which the teacher concerned was in paid employment or was not undertaking child care.

“(3) For the purposes of regulations 73 (1), 73 (2) (a), 74, and 77 of these regulations, a teacher who is classified in List B shall be credited with a period of notional List B service in a teaching position in a secondary school, that is the lesser of one-third of the aggregate of any periods of child care calculated under subclause (2) of this regulation and—

“(a) One year for the purposes of regulation 73 (1):

“(b) Two years for the purposes of regulation 73 (2) (a):

“(c) Three years for the purposes of regulation 74:

“(d) Four years for the purposes of regulation 77.

“78B. **Credit for service during child care**—Where, between the commencement and end (as specified in regulation 78A (2) of these regulations) of any period of child care in respect of which a teacher might otherwise be entitled to be credited with notional service, that teacher undertakes full-time or part-time teaching employment, that employment shall, for the purposes of regulations 73 (1), 73 (2) (a), 74, and 77 of these regulations be counted to the same extent as if it were service in a full-time position to which that teacher had been permanently appointed; but in the case of part-time employment, shall be counted only as the period of full-time employment to which it is equivalent.”

5. Transitional—Regulation 7 (3) of the *Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 8* is hereby amended by omitting the expression “36 (1)”, and substituting the expression “36 (2)”.

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 have 5 main effects. First, they extend the categories of teachers who are deemed to have continuous service. Teachers who have taught continuously for 36 months before losing their positions continue to be teachers with continuous service for a further 15 weeks; service with Volunteer Service Abroad is now to be taken into account; and breaks in service resulting from resignations to undertake approved study will now be disregarded.

Secondly, a new category of service, to be known as "recent service", is introduced. Teachers with recent service will rank after teachers with continuous service. A teacher will be deemed to have recent service if—

- (a) During the previous 2 years he was employed as a full-time relieving teacher, at no more than 3 schools, for 26 weeks or more;
- (b) At any time in the previous 2 years he held a permanent appointment;
- (c) He is now, or within 15 weeks ceased to be, continuously employed for 2 years as a part-time teacher.

Thirdly, for the purposes of determining whether or not a teacher has continuous or recent service, the Minister is empowered to disregard breaks in service in certain limited circumstances.

Fourthly, teachers returning to New Zealand from the Armed Forces School in Singapore are given a national priority right.

Fifthly, teachers who have resigned for child care purposes are granted certain limited service credits in respect of the period of child care concerned for the purpose of determining whether or not they have the service requirements for appointment to some positions of responsibility.

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.