



**THE EDUCATION (ASSESSMENT, CLASSIFICATION, AND APPOINTMENT) REGULATIONS 1976, AMENDMENT NO. 21**

RONALD DAVISON  
Administrator of the Government

ORDER IN COUNCIL

At Wellington this 10th day of October 1988

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL  
PURSUANT to the Education Act 1964, His Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 21, 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).

\*S.R. 1976/287

- Amendment No. 1: S.R. 1977/275
- Amendment No. 2: S.R. 1978/234
- Amendment No. 3: S.R. 1979/200
- 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
- Amendment No. 10: S.R. 1982/273
- Amendment No. 11: S.R. 1983/213
- Amendment No. 12: S.R. 1984/28
- Amendment No. 13: S.R. 1984/284
- Amendment No. 14: S.R. 1985/131
- Amendment No. 15: S.R. 1986/158
- Amendment No. 16: S.R. 1986/270
- Amendment No. 17: S.R. 1987/173
- Amendment No. 18: S.R. 1987/299
- Amendment No. 19: S.R. 1987/398
- Amendment No. 20: S.R. 1988/212

(2) Regulation 2 of these regulations shall come into force on the 1st day of November 1988.

(3) The rest of these regulations shall come into force on the 11th day of October 1988.

**2. New regulations substituted**—(1) The principal regulations are hereby amended by revoking regulation 59AA (as substituted by regulation 2 (1) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 20), and substituting the following regulations:

**“59B. Underscale teachers**—(1) Where—

“(a) In any year a school is, by virtue of its teacher entitlement, entitled to a single position of a particular grade; and

“(b) By virtue of its teacher entitlement for the following year, the school will cease to be entitled to a position of that grade but will become entitled to a position of a higher grade; and

“(c) A permanently appointed teacher who held the former position on the 1st day of July in the former year is still employed by the appointing authority concerned at the commencement of the following year without having been reassigned,—

the teacher shall be appointed to the latter position on the commencement of the school year next following.

“(2) If, in circumstances to which subclause (1) of this regulation does not apply,—

“(a) The grade of any position at a school is raised; and

“(b) A permanently appointed teacher who held the position immediately before its grade was raised is not forthwith re-assigned but continues in the employment of the appointing authority concerned,—

the teacher shall be appointed to the position.

**“59C. Overscale teachers**—(1) Where—

“(a) In any year a school is, by virtue of its teacher entitlement, entitled to a single position of a particular grade; and

“(b) By virtue of its teacher entitlement for the following year, the school will cease to be entitled to a position of that grade but will become entitled to a position of a lower grade; and

“(c) A permanently appointed teacher (not being a teacher who holds a priority right acquired under former regulation 59C of these regulations or regulation 3 of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 21 before the 2nd day of January 1989) who held the former position on the 1st day of July in the former year is still employed by the appointing authority concerned at the commencement of the following year without having been reassigned,—

the teacher shall be appointed to the latter position.

“(2) If, in circumstances to which subclause (1) of this regulation does not apply,—

“(a) The grade of any position at a school is reduced; and

“(b) A permanently appointed teacher (not being a teacher who holds a priority right acquired under former regulation 59C of these regulations or regulation 3 of the Education (Assessment,

Classification, and Appointment) Regulations 1976, Amendment No. 21 before the 2nd day of January 1989) who held the position immediately before its grade was reduced is not forthwith re-assigned but continues in the employment of the appointing authority concerned,—

the teacher shall be appointed to the position on the commencement of the school year next following.”

(2) Regulation 2 (1) of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 20 is hereby consequentially revoked.

**3. Transitional arrangements for certain teachers—**(1) This subclause applies to a teacher if—

- (a) In 1988 a school was, by virtue of its teacher entitlement for that year, entitled to a single position of a particular grade; and
- (b) By virtue of its teacher entitlement for 1989, the school will cease to be entitled to a single position of that grade, but will become entitled instead to a position of a higher grade; and
- (c) On the 1st day of July 1988, the teacher held the first-mentioned position as a permanently appointed teacher.

(2) Unless a teacher to whom subclause (1) of this regulation applies was reassigned or left after the 30th day of June 1988 and before the 1st day of November 1988,—

- (a) The teacher shall have on the 1st day of November 1988 a national priority right that shall continue until—

- (i) The teacher is reassigned; or
  - (ii) The teacher leaves; or
  - (iii) The 31st day of December 1989,—
- whichever is the soonest; and

- (b) The principal regulations shall apply to the making after the 31st day of October 1988 of appointments to positions for which the teacher has applied as if the right had been acquired on the 1st day of October 1988.

- (3) This subclause applies to a teacher if—

- (a) After the 29th day of September 1988 and before the 31st day of October 1988, in circumstances to which subclause (1) of this regulation did not apply, the grade of any position at a school was raised; and

- (b) The teacher held the position (as a permanently appointed teacher) immediately before its grade was raised, and was not forthwith reassigned but continued in the employment of the appointing authority.

(4) Unless a teacher to whom subclause (3) of this regulation applies was reassigned or left after the grade of the position concerned was raised and before the 1st day of November 1988,—

- (a) The teacher shall have on the 1st day of November 1988 a national priority right that shall continue until—

- (i) The teacher is reassigned; or
  - (ii) The teacher leaves; or
  - (iii) The 31st day of December 1989,—
- whichever is the soonest; and

- (b) The principal regulations shall apply to the making after the 31st day of October 1988 of appointments to positions for which the

teacher has applied as if the right had been acquired on the day the grade of the position was raised.

- (5) This subclause applies to a teacher if—
- (a) In 1988 a school was, by virtue of its teacher entitlement for that year, entitled to a single position of a particular grade; and
  - (b) By virtue of its teacher entitlement for 1989, the school will cease to be entitled to a single position of that grade, but will become entitled instead to a position of a lower grade; and
  - (c) On the 1st day of July 1988, the teacher held the first-mentioned position as a permanently appointed teacher.
- (6) Subject to section 153 (3) of the Act, unless a teacher to whom subclause (5) of this regulation applies was reassigned or left after the 30th day of June 1988 and before the 1st day of November 1988,—
- (a) The teacher shall have on the 1st day of November 1988 a board priority right that shall continue until—
    - (i) The teacher is reassigned; or
    - (ii) The teacher leaves; or
    - (iii) The 1st day of July 1989,—whichever is the soonest; and
  - (b) The principal regulations shall apply to the making after the 31st day of October 1988 of appointments to positions for which the teacher has applied as if the right had been acquired on the 1st day of October 1988.
- (7) This subclause applies to a teacher if—
- (a) After the 29th day of September 1988 and before the 31st day of October 1988, in circumstances to which subclause (5) of this regulation did not apply, the grade of any position at a school was lowered; and
  - (b) The teacher held the position (as a permanently appointed teacher) immediately before its grade was lowered, and was not forthwith reassigned but continued in the employment of the appointing authority.
- (8) Subject to section 153 (3) of the Act, unless a teacher to whom subclause (7) of this regulation applies was reassigned or left after the grade of the position concerned was lowered and before the 1st day of November 1988,—
- (a) The teacher shall have on the 1st day of November 1988 a board priority right that shall continue until—
    - (i) The teacher is reassigned; or
    - (ii) The teacher leaves; or
    - (iii) The 1st day of July 1989,—whichever is the soonest; and
  - (b) The principal regulations shall apply to the making after the 31st day of October 1988 of appointments to positions for which the teacher has applied as if the right had been acquired on the day the grade of the position was lowered.
- (9) Where—
- (a) A board priority right acquired under this regulation or the former regulation 59c of the principal regulations expires; and
  - (b) The teacher concerned has not before then been reassigned or left,—
- the teacher shall thereupon have a national priority right, which shall continue until—

- (c) The teacher is reassigned; or
  - (d) The teacher leaves; or
  - (e) The expiration of the period for which the teacher is entitled under the Act to receive the same salary and allowances as if the school concerned had not been reduced in grade or altered in status,—
- whichever is the soonest.

(10) Unless the teacher has previously been reassigned or left, the appointing authority of a teacher who has acquired a national priority right under subclause (9) of this regulation shall, before the expiration of the period referred to in paragraph (e) of the subclause and in any event not later than the 1st day of October in the year in which the period is due to expire, inform the teacher of—

- (a) The fact that the right will expire during the year; and
- (b) The day on which the period is due to expire; and
- (c) The fact that the teacher's salary protection will then expire.

(11) In this regulation, "to be reassigned" and "to leave" have the meanings assigned to them in regulation 59A(1) of the principal regulations.

MARIE SHROFF,  
Clerk of the Executive Council.

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#### EXPLANATORY NOTE

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

The Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 20, which came into force on 30 September 1988, revoked part of the scheme introduced in 1982 to protect teachers at State primary schools from some of the effects of fluctuating school rolls, by doing away with 2 categories of protected teacher—"underscale" teachers and "overscale" teachers.

Underscale teachers were teachers whose positions were upgraded, or abolished and replaced by more highly graded positions; and overscale teachers were teachers whose positions were downgraded, or abolished and replaced by less highly graded positions.

Formerly, underscale and overscale teachers were given various priority rights in relation to appointment to other positions. Under the 30 September amendment, they were to be appointed to the regraded or replacement position, and have had no priority rights; existing underscale teachers were to be appointed to their regraded or replacement positions if they were still vacant; and all other existing underscale and overscale teachers were to retain their priority rights.

These regulations modify the 30 September amendment by postponing until 1989 the application of the new system to overscale teachers, and conferring on overscale teachers any priority rights they would have acquired between 30 September and 1 November if the 30 September amendment had not come into force until 1 November.

All existing underscale and overscale teachers will still retain their priority rights.

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Issued under the authority of the Regulations Act 1936.  
Date of notification in *Gazette*: 13 October 1988.  
These regulations are administered in the Department of Education.