



THE EDUCATION (ASSESSMENT, CLASSIFICATION, AND APPOINTMENT) REGULATIONS 1976, AMENDMENT NO. 4

KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 1st day of September 1980

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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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 4, 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*.

**2. Special requirements for position to be advertised**—Regulation 39 of the principal regulations is hereby amended by revoking subclause (2), and substituting the following subclauses:

\*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

“(2) A proportion of the general positions at a State primary school (being a proportion not greater than 1 out of every 2) may be classified by the Principal as general positions with special requirements.

“(3) With the agreement of the Central Advisory Committee, a Board may classify all the general positions in a State primary school under its control as general positions with special requirements; and in that case, subject to subclause (5) of this regulation, every such position, when advertised, shall be advertised with a statement of special requirements specified by the Central Advisory Committee.

“(4) Subject to subclause (5) of this regulation, every advertisement for a position in Division A that has under subclause (2) or subclause (3) of this regulation been classified as a general position with special requirements shall state—

“(a) The professional duties that will be carried out by the successful applicant; and

“(b) The special requirements of the position.

“(5) If the position advertised in accordance with subclause (4) of this regulation is not filled, it shall be re-advertised, and the advertisement shall include the following statement:

“If no applicant meets the terms of this advertisement, then an appointment will be made as if the position were a general position.”

**3. Appointment to upgraded position—**(1) Regulation 40 (2) of the principal regulations is hereby amended by adding the words “or otherwise vacates the position”.

(2) Regulation 40 (3) of the principal regulations is hereby amended—

(a) By omitting from paragraph (a) the words “the Board transfers the incumbent to another position”, and substituting the words “the incumbent vacates the position”; and

(b) By omitting from paragraph (b) the words “the Board has not transferred the incumbent to another position”, and substituting the words “the incumbent has not vacated the position”; and

(c) By omitting from paragraph (c) the words “the Board transfers the incumbent to another position”, and substituting the words “the incumbent vacates the position”; and

(d) By omitting from paragraph (d) the words “the Board has not transferred the incumbent to another position”, and substituting the words “the incumbent has not vacated the position”; and

(e) By omitting from paragraph (e) the words “the Board is unable to transfer the incumbent to another position”, and substituting the words “the incumbent has not vacated the position”.

(3) Regulation 40 (4) of the principal regulations is hereby amended by revoking paragraph (a), and substituting the following paragraph:

“(a) The Appointments Committee shall recommend the incumbent for the position—

“(i) If no other applicant has a higher general assessment on his personal report; or

“(ii) In the case of a position in Division D, if, in the unanimous opinion of the Appointments Committee, no other applicant is in a greater degree more suitable for that position;—

but in every other case the Appointments Committee shall, after having regard to the interests of the school and the claims of the other applicants as well as the incumbent, recommend for appointment the applicant it considers most suitable for the position.”.

**4. Appointment procedures**—(1) Regulation 45 (1) of the principal regulations is hereby amended by omitting the words “Except as otherwise provided in Part III of these regulations and in regulation 52 of these regulations, and”, and substituting the words “Subject to regulations 32 to 35, 51, and 52 of these regulations,”.

(2) Regulation 45 (1) (a) (ii) of the principal regulations is hereby amended—

(a) By omitting the word “either”; and

(b) By adding the words “or require the appointing authority to re-advertise the position”.

(3) The said regulation 45 is hereby further amended by revoking subclause (2), and substituting the following subclauses:

“(2) In any case where applications for any position as a primary teacher in a school, or as an itinerant teacher under the control of a Board or as a primary teacher to be appointed by the Director-General, have been invited by advertisement, the Appointments Committee, in making its recommendation, shall take into account the fitness for the vacant position of all teachers available for transfer whose names have been forwarded pursuant to regulation 37 of these regulations; and—

“(a) If—

“(i) The appointment would not involve an increase in salary; and

“(ii) The Appointments Committee is satisfied that the vacant position is comparable with the position in respect of which that teacher’s name was placed on the National Transfer List—

the Appointments Committee shall recommend either the most suitable of those teachers, unless it is satisfied that no such teacher is suitable to fill the vacant position, or unless every member of the Appointments Committee or his deputy is satisfied that some other applicant for the vacant position (being, in the case of an applicant for a Division B or Division C position, an applicant with a higher general assessment than that teacher) is in a great degree more suitable for the position than that teacher, and an Appointments Committee recommends that applicant; or

“(b) If the appointment would not involve an increase in salary and the Appointments Committee is satisfied that the vacant position is not comparable as aforesaid but is in the same

category as, or a lower category than, the position in respect of which that teacher's name was placed on the National Transfer List, the Appointments Committee shall recommend the most suitable of those teachers, unless—

“(i) In the case of a position in Division D, every member of the Appointments Committee or his deputy is satisfied that some other applicant for the vacant position; or

“(ii) In the case of a position in Division C, every member of the Appointments Committee or his deputy is satisfied that some other applicant for the vacant position (being an applicant with a higher general assessment than that teacher); or

“(iii) In the case of a position in Division B, every member of the Appointments Committee is satisfied that some other applicant for the position (being an applicant with a general assessment higher by more than 1 mark than that teacher)—is in a great degree more suitable for the position than that teacher, and the Appointments Committee recommends that applicant.

“(2A) Notwithstanding subclause (2) of this regulation, the Director-General may from time to time, on the recommendation of the Central Advisory Committee, by notice in the *Education Gazette*, specify either or both of the following matters:

“(a) The criteria to be used in assessing the comparability of positions:

“(b) The criteria to be used in determining categories of position;—and in performing its function under that subclause, an Appointments Committee shall adhere to any criteria for the time being so specified.”

**5. Appointments to Division A positions**—Regulation 47 (2) of the principal regulations is hereby amended by inserting, before the words “subclause (3)”, the words “regulation 39 of these regulations or”.

**6. Criteria for appointment to Division A positions**—Regulation 48 of the principal regulations is hereby amended by revoking subclause (4), and substituting the following subclauses:

“(3A) Subject to regulation 49 (1) of these regulations, in determining the suitability of applicants for a Division A position that is a special position within the meaning of regulation 49 (2) of these regulations, the Appointments Committee shall base its recommendations on an overall consideration of the factors specified in paragraphs (a) to (c) of subclause (2) of this regulation.

“(4) On an appeal to the Primary Teachers Appointment Appeal Board in accordance with section 145 of the Act, the Board shall base its decision—

“(a) In the case of an appeal relating to a general position without special requirements, on the overall consideration of the factors set out in paragraphs (a) to (e) of subclause (1) of this regulation, without applying those factors as priorities in turn; and

- “(b) In the case of an appeal relating to a general position with special requirements, on an overall consideration of the factors set out in paragraphs (a) to (c) of subclause (2) of this regulation, without applying those factors as priorities in turn; and
- “(c) In the case of an appeal relating to a special position, on an overall consideration of—
- “(i) The factors specified in paragraphs (a) to (c) of subclause (2) of this regulation; and
- “(ii) The special requirements (if any) stated in the advertisement concerned,—
- without applying those factors and requirements as priorities in turn.”

**7. Dual appointments**—Regulation 50 of the principal regulations is hereby amended by revoking subclauses (1) and (2) and substituting the following subclauses:

“(1) Notwithstanding anything to the contrary in the foregoing provisions of these regulations, where appointments are to be made to any 2 positions in a State primary school approved by the Director-General on the recommendation of the Central Advisory Committee as a Dual Appointment School, the appointing authority may require those positions to be advertised both as individual positions and as dual appointment positions; and in that case those positions shall be advertised accordingly.

“(2) Where 2 positions at a State primary school approved as a Dual Appointment School as aforesaid are advertised both as individual positions and as dual appointment positions,—

- “(a) If a satisfactory individual application is received for each of those positions, each of those positions shall be filled as if it had been advertised as an individual position only:
- “(b) If a satisfactory individual application is not received for each of those positions, and one of those positions is—
- “(i) That of Principal; or
- “(ii) A position of responsibility; or
- “(iii) A general position with special requirements,—
- the spouse of the person recommended by the Appointments Committee for appointment to that position shall so be recommended for appointment to the other position:
- “(c) If a satisfactory individual application is not received for each of those positions, and neither of those positions is—
- “(i) That of Principal; or
- “(ii) A position of responsibility; or
- “(iii) A general position with special requirements,—
- both positions shall be dealt with as if they were 1 position and as if each couple were 1 person, and these regulations, so far as they are applicable and with the necessary modifications, shall apply accordingly.”

**8. Appointments to Division D positions**—Regulation 51 of the principal regulations is hereby amended by omitting the words “Notwithstanding anything to the contrary in this Part of these regulations, the”, and substituting the word “The”.

**9. Applicant not holding report for Division of appointment**—Regulation 53 of the principal regulations is hereby revoked.

**10. Preference in appointment**—Regulation 81 of the principal regulations (as substituted by regulation 2 of the Education (Assessment, Classification, and Appointment) Regulations 1976, Amendment No. 2) is hereby amended by revoking subclause (2), and substituting the following subclauses:

“(2) Subject to subclause (1) of this regulation, where any position in a secondary school or manual training centre is advertised and one or more of the applicants for that position is a person who—

“(a) Has produced evidence in his application that he—

“(i) Has lost or is about to lose his position as a full-time permanently or provisionally appointed teacher in a secondary school, or as a full-time permanently or provisionally appointed manual training teacher in a manual training centre (being a position of a status equal to or higher than the status of the position applied for) by reason of a change in the attendance at, or a reorganisation of, that school or centre; or

“(ii) Has completed the full term of a contract of service at a school established pursuant to section 106A (1) (b) of the Act and, immediately before the term of that contract, held a position as a full-time permanently or provisionally appointed teacher in a secondary school, or a full-time permanently or provisionally appointed manual training teacher in a manual training centre (being a position of a status equal to or higher than the status of the position applied for); and

“(b) Is, under these regulations, eligible to be appointed to that position; and

“(c) Has not in the meantime been permanently appointed to any other position in the Education Service,—

subclause (2A) of this regulation shall apply to that position.

“(2A) Appointments to positions to which this subclause applies shall be made in accordance with the following provisions:

“(a) No appointment to a position to which this subclause applies of a person to whom subclause (2) of this regulation does not apply shall be made until—

“(i) The expiration of one calendar month from the date on which the Minister has acknowledged in writing to the controlling authority concerned that he has received details in writing of the position and the names of all those applicants for it to whom subclause (2) of this regulation applies; or

“(ii) The Minister has sent to the controlling authority a notice under paragraph (b) of this subclause—whichever is the sooner:

“(b) Where the Minister has received details in writing of a position to which this subclause applies, he may notify the controlling authority concerned, in respect of any applicant to whom subclause (2) of this regulation applies, that he is satisfied that—

“(i) That applicant is not suitable for appointment to the position; or

“(ii) The appointment of that applicant would result in the termination of the appointment of some other permanently or provisionally appointed teacher:

“(c) No applicant for a position to which this subclause applies in respect of whom a controlling authority has, within one calendar month of the date on which it sent to the Minister details in writing of that position, received a notice from the Minister under paragraph (b) of this subclause, shall be appointed to that position:

“(d) Subject to paragraph (c) of this subclause, where an applicant for a position to which this subclause applies is a person to whom subclause (2) of this regulation applies, the controlling authority concerned shall appoint that applicant, or, if more than one such applicant has applied, one of them, to that position.”

**11. Appeal Board**—Regulation 83 (b) of the principal regulations is hereby amended by adding the words “for the district in which the appellant was employed when he was visited for, or received, any assessment in respect of which he appeals”.

P. G. MILLEN,  
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.*

These regulations make a number of amendments to the principal regulations. In particular they clarify the procedures to be followed where appointments are to be made to upgraded teaching positions, and where one or more applicants for a teaching position have, by law, priority of consideration for appointment to it.

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Issued under the authority of the Regulations Act 1936.  
Date of notification in *Gazette*: 4 September 1980.  
These regulations are administered in the Department of Education.