



## THE KINDERGARTEN APPOINTMENTS REGULATIONS 1983

DAVID BEATTIE, Governor-General

### ORDER IN COUNCIL

At the Government Buildings at Wellington this 15th day  
of August 1983

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING 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

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Title and commencement</li> <li>2. Interpretation</li> </ol> <p style="text-align: center;"><b>PART I</b></p> <p style="text-align: center;">APPOINTMENTS COMMITTEE</p> <ol style="list-style-type: none"> <li>3. Appointments Committee established</li> <li>4. Constitution of Appointments Committee</li> <li>5. Extraordinary vacancies</li> <li>6. Fees and allowances of Members</li> <li>7. Deputies of Members</li> <li>8. Procedures of Appointments Committee</li> </ol> <p style="text-align: center;"><b>PART II</b></p> <p style="text-align: center;">APPOINTMENTS PROCEDURES</p> <ol style="list-style-type: none"> <li>9. Appointments to be made in accordance with regulations</li> <li>10. Only qualified teachers to be appointed</li> <li>11. Advertisements and applications</li> </ol> | <ol style="list-style-type: none"> <li>12. References and other additional information</li> <li>13. Interviews</li> <li>14. Criteria for appointment</li> <li>15. Appointment procedures</li> <li>16. Relieving teachers</li> <li>17. Untrained assistants</li> <li>18. Appointment of senior teachers and senior head teachers</li> <li>19. Transfers</li> <li>20. Resignation</li> <li>21. Appeal Board established</li> <li>22. Extraordinary vacancies</li> <li>23. Remuneration of Appeal Board members</li> <li>24. Appeal rights</li> <li>25. Notice of appeal</li> <li>26. Representation at hearings</li> <li>27. Hearings of appeals</li> <li>28. Decisions of Appeal Board</li> <li>29. Results of appeals</li> </ol> |
|---|--|

## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Kindergarten Appointments Regulations 1983.

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

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

“Appeal Board” means the Kindergarten Teachers Appeal Board established by regulation 21 (1) of these regulations:

“Applicant” means an applicant for a vacancy; and in relation to any particular vacancy, means an applicant for that vacancy:

“Appointments Committee” means the Kindergarten Teachers’ Appointments Committee established by regulation 3 of these regulations:

“Association” means the controlling body of a kindergarten; and, in relation to any particular kindergarten, means the controlling body of that kindergarten:

“Kindergarten Union” means the New Zealand Free Kindergarten Union (Inc.):

“Member” means a member of the Appointments Committee:

“Position” means a position as a teacher; and,—

(a) In relation to any particular Association, means a position in the employment of that Association; and

(b) In relation to any particular kindergarten, means a position at that kindergarten:

“Permanent vacancy” means a vacant permanent position:

“Standard Bylaws” means the document for the time being promulgated by the Kindergarten Union under the title “Standard By-Laws for Associations”:

“Teacher” means a kindergarten teacher:

“Teachers Association” means the New Zealand Free Kindergarten Teachers Association (Inc.):

“Transfer”, in relation to a teacher employed by any Association, means transfer from a position at a kindergarten under the control of that Association to a position at some other kindergarten under its control:

“Vacancy” means a vacant position.

## PART I

## APPOINTMENTS COMMITTEE

**3. Appointments Committee established**—There is hereby established a committee to be called the Kindergarten Teachers’ Appointments Committee.

**4. Constitution of Appointments Committee**—(1) Subject to subclause (2) of this regulation, the Appointments Committee shall comprise—

(a) An officer of the Department for the time being authorised by the Director-General in that behalf:

(b) One person appointed by the Kindergarten Union:

(c) One person appointed by the Teachers Association:

(d) For every Association in New Zealand, one person nominated by that Association.

(2) When any matter is considered by the Appointments Committee, of the Members appointed under subclause (1) (d) of this regulation only the Member appointed by the relevant Association shall be capable of acting as a Member.

(3) Subject to regulation 5 of these regulations, every appointed Member shall be appointed for a term of 2 years, but may from time to time be reappointed.

(4) Notwithstanding subclause (3) of this regulation, unless a Member sooner vacates office under regulation 5 of these regulations, that Member shall continue in office until that Member's successor comes into office.

**5. Extraordinary vacancies**—(1) Any appointed Member may at any time be removed from office by the authority that appointed that Member, for disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of that authority, or may at any time resign office by written notice given to that authority and to the Appointments Committee.

(2) If any Member dies or resigns or is removed from office, that Member's office shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of an extraordinary vacancy, the authority that made the original appointment may appoint some fit person to fill the vacancy.

(4) Any Member appointed to fill an extraordinary vacancy shall hold office only for the unexpired portion of the term of office of that Member's predecessor.

**6. Fees and allowances of Members**—There shall be paid to appointed Members, 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 as if they were members of a statutory Board within the meaning of that Act.

**7. Deputies of Members**—(1) The authority entitled to appoint any Member may at any time appoint another suitably qualified person to act as deputy for that Member at any time while that Member is incapacitated by illness, absence, or other sufficient cause from performing the duties of that Member's office.

(2) Where a deputy of a Member is appointed under this section that deputy shall, while acting as such, be deemed to be a Member.

**8. Procedures of Appointments Committee**—(1) From time to time, as a vacancy arises, Members shall elect a Chairman from among them (not being a Member appointed under regulation 4 (1) (d) of these regulations).

(2) Every Chairman shall be elected for a term of 12 months, but may from time to time be re-elected.

(3) Notwithstanding subclause (2) of this regulation, where the Chairman of the Appointments Committee ceases to be a Member, the office of Chairman shall forthwith become vacant.

(4) Subject to subclause (5) of this regulation, every Member shall have a deliberative vote only.

(5) Where a matter before the Appointments Committee is, in the opinion of that committee, procedural only, the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(6) For the purposes of subclause (5) of this regulation, the question as to whether or not any matter before the Appointments Committee is, in the opinion of that committee, a procedural matter only is hereby declared not to be a procedural matter only.

(7) Subject to subclause (5) of this regulation, where, in relation to any matter before the Appointments Committee, there is any equality of votes of Members, that committee shall proceed no further with that matter.

(8) Meetings of the Appointments Committee shall be called by the Kindergarten Union.

(9) The Chairman may at any time request the Kindergarten Union to call a special meeting of the Appointments Committee.

(10) The quorum for a meeting of the Appointments Committee shall be 4 Members.

(11) Subject to the foregoing provisions of this regulation, the Appointments Committee shall determine its own procedures.

## PART II

### APPOINTMENTS PROCEDURES

**9. Appointments to be made in accordance with regulations**—No appointment shall be made to any vacancy otherwise than in accordance with these regulations.

**10. Only qualified teachers to be appointed**—(1) Except in the case of a vacancy for an untrained assistant or a vacancy to which an appointment may be made under regulation 16 (2) of these regulations, no person shall be appointed to any vacancy at a kindergarten who is not a trained teacher.

(2) Notwithstanding subclause (1) of this regulation, any person enrolled at a teachers college in the final year of a Kindergarten Teachers Course may be appointed to a vacancy required by that subclause to be filled by a trained teacher; but where any such person is appointed to such a vacancy,—

- (a) That person shall not take up the position concerned before becoming a trained teacher; and
  - (b) If that person has not become a trained teacher before the 28th day of January in the following year, the appointment of that person shall lapse, and the vacancy shall be re-advertised.
- (3) For the purposes of this regulation, no person is a trained teacher unless that person—
- (a) Holds a certificate issued in New Zealand by the Kindergarten Union certifying that that person is competent to carry out the duties of a kindergarten teacher; or
  - (b) Holds a certificate, issued in New Zealand or elsewhere, that is recognised by the Director-General as being equivalent to or of a higher standard than a certificate described in paragraph (a) of this subclause.

**11. Advertisements and applications**—(1) Subject to subclause (2) of this regulation, no appointment shall be made to any permanent vacancy unless the vacancy has been advertised in accordance with this regulation.

(2) An appointment may be made to a permanent vacancy, notwithstanding that it has not been advertised, if—

(a) The teacher appointed is appointed by way of transfer; and

(b) The maximum salary for that position is not greater than that for the position from which that teacher is transferred.

(3) Every advertisement of a permanent vacancy shall be published in the *Education Gazette*, and shall specify—

(a) The grade of the kindergarten concerned; and

(b) Any approved variations to that kindergarten; and

(c) The salary applicable to the vacancy; and

(d) The time and date upon which applications for appointment to that vacancy close; and

(e) The address to which those applications should be sent.

(4) Every application for appointment to a permanent vacancy shall be made to the Kindergarten Union at the address specified under subclause (3) (e) of this regulation on a form promulgated in that behalf by the Director-General (after consultation with the Kindergarten Union and the Teachers Association), which form shall contain a statement to the effect that the applicant should be or become familiar with the Standard Bylaws.

(5) As soon as is practicable after receiving any application for appointment to a permanent vacancy, the Kindergarten Union shall give the applicant written notice of its receipt.

(6) Subject to subclause (7) of this regulation, no application shall be considered that is received after the time and date specified under subclause (3) (d) of this regulation in respect of the position to which it relates.

(7) A late application for a permanent vacancy may be considered if—

(a) A telegram of application is received no later than the closing time and date; and

(b) A substantive application is received before the Appointments Committee meets to consider applications for appointment to the vacancy concerned.

(8) The Appointments Committee shall, as soon as is possible after the closing date for receipt of applications for appointment to a permanent vacancy, fix a date to consider those applications; which date shall be as soon as possible thereafter as the necessary information on those applicants whose substantive applications were received before the closing time and date is received.

(9) The Appointments Committee shall consider—

(a) All applications for a vacancy received by the Kindergarten Union before the closing time and date; and

(b) Such applications under subclause (7) of this regulation as have been received in sufficient time to enable the necessary information on the applicants concerned to be obtained.

**12. References and other additional information—**(1) The Director-General shall (after consultation with the Kindergarten Union and the Teachers Association) promulgate a standard form (in these regulations referred to as the report form) for a referee's report.

(2) Any applicant for a vacant position may send to no more than 3 persons the report form and a stamped envelope addressed to the Kindergarten Union; and the Appointments Committee shall consider each report received by the Kindergarten Union within 14 days of the closing date concerned.

(3) The Appointments Committee may seek and consider a confidential report from—

- (a) The college where the applicant completed pre-service training, in the case of an applicant who has not previously been employed as a teacher; or
- (b) The last Association to employ the applicant, in every other case.

**13. Interviews**—(1) Where the Appointments Committee is satisfied that it may safely recommend an appointment to a vacancy without interviewing any of the applicants, it shall do so.

(2) Subject to subclause (3) of this regulation, where it is not so satisfied, the Appointments Committee shall either—

- (a) Recommend that the vacancy concerned be re-advertised; or
- (b) Interview such of the applicants as it thinks fit.

(3) Before calling any applicants for interview the Appointments Committee shall consult the Association concerned, to ascertain whether or not that Association is prepared to reimburse those applicants the expenses incurred in attending; and shall inform every applicant called of the information obtained.

(4) Every applicant called for interview shall be reimbursed by the Association concerned, on a basis from time to time determined by the Director-General in consultation with the Kindergarten Union and the Teachers Association, expenses incurred attending.

**14. Criteria for appointment**—(1) In determining which of several applicants for a vacancy is the most suitable to fill it, the Appointments Committee shall take into account, in relation to each applicant, the following matters:

- (a) The length of the applicant's current service as a teacher (if any):
- (b) The position (if any) as a teacher at present held by the applicant:
- (c) The length of the applicant's total service as a teacher (if any):
- (d) The positions (if any) as a teacher previously held by the applicant:
- (e) Any other experience the applicant has had in the Education Service:
- (f) The length of and reason for the breaks (if any) in the applicant's working career:
- (g) Any experience (otherwise than in the Education Service) the Appointments Committee thinks relevant:
- (h) The applicant's academic qualifications:
- (i) Any other qualifications held by the applicant that the Appointments Committee feels relevant to the vacancy:
- (j) Any course of study the applicant is currently pursuing:
- (k) Any courses attended by the applicant that are, in the opinion of the Appointments Committee, relevant to the vacancy:
- (l) The applicant's general teaching ability:
- (m) Any special teaching skills of the applicant:
- (n) The extent to which, in the opinion of the Appointments Committee, the applicant and any other staff of the kindergarten concerned would work together successfully:
- (o) The extent to which, in the opinion of the Appointments Committee, the applicant would work harmoniously with the kindergarten concerned generally, and the community it serves:
- (p) Any other personal qualities of the applicant that, in the opinion of the Appointments Committee, have a bearing on the applicant's suitability for appointment to the vacancy.

(2) The order in which the matters specified in subclause (1) of this regulation are specified shall not be read as indicating their importance relative to one another.

(3) Where, in the opinion of the Appointments Committee, 2 or more applicants for a vacancy are otherwise equally suitable for appointment to a vacancy, the most suitable applicant shall be deemed to be—

- (a) The applicant with the greatest total length of service as a teacher;  
or
- (b) Where 2 or more of those applicants have the same total length of service as a teacher, the applicant with the highest academic qualifications (in the opinion of the Appointments Committee);  
or
- (c) Where 2 or more of those applicants have the same total length of service and, in the opinion of the Appointments Committee, equivalent academic qualifications, the applicant (if any) with longer current service in the kindergarten concerned.

**15. Appointment procedures**—(1) Except as otherwise provided in these regulations, the Appointments Committee shall either—

- (a) Recommend for appointment to a vacancy the most suitable of the applicants for appointment to it; or
  - (b) Recommend that the vacancy be re-advertised.
- (2) Where the Appointments Committee recommends that a vacancy be re-advertised, that vacancy shall be re-advertised.
- (3) Where the Appointments Committee recommends any person to an Association for appointment to a vacancy, the following provisions shall apply:

- (a) If the Association does not concur in the recommendation, it may ask the Appointments Committee to reconsider that recommendation, or may readvertise the vacancy;
- (b) If the Association asks the Appointments Committee to reconsider that recommendation, the Appointments Committee shall do so and make a further recommendation (being any recommendation it might originally have made); and the Association shall not make an appointment to that vacancy except in accordance with that recommendation.

(4) A successful applicant for a vacancy shall be given a written offer of appointment to a specified position, setting out (by reference to the Standard Bylaws and any local additions to them) the conditions of employment, specifying the names and addresses of the Secretary of the Association concerned and the other staff members (if any), and containing a request for a written acceptance of the offer; and in that case the following provisions shall apply:

- (a) Where the offer is, within 14 days of its being made, accepted in writing by the applicant, and the applicant acknowledges in writing the Bylaws concerned, the applicant shall thereupon be deemed to have been provisionally appointed to that position; but where that applicant has not done so within that time, the applicant shall be deemed to have declined that position;
- (b) Where the applicant is deemed to have been provisionally appointed to that position, the unsuccessful applicants, the Association concerned, and the Chairman of the Appointments Committee, shall be informed of the provisional appointment:

(c) Where the applicant already holds a position,—

(i) The applicant shall not resign from that position until the time for appeals has elapsed:

(ii) If no appeals have been lodged within that time, the appointment shall be confirmed, and the applicant shall take up the new position and resign from the old position:

(iii) Subject to subparagraph (iv) of this paragraph, if any appeal is lodged within that time, the applicant shall take up the new position, but the old position shall remain vacant until all appeals have been finally disposed of:

(iv) Where the Association of the kindergarten at which the new position is established agrees, the applicant may delay taking it up until all appeals have been finally disposed of.

**16. Relieving teachers**—(1) These regulations shall apply to every vacancy that is not—

(a) A permanent vacancy; or

(b) A vacancy for an untrained assistant,—

but is believed by the Association concerned to be required to be filled for a period of more than 9 months, as if it were a permanent vacancy; but there shall be no right to appeal against any appointment to such a vacancy.

(2) Any Association may, without advertisement or recommendation, appoint to a vacancy that is not—

(a) A permanent vacancy; or

(b) A vacancy believed by that Association to be required to be filled for a period of more than 9 months; or

(c) A vacancy for an untrained assistant,—

any teacher it thinks fit; and there shall be no right of appeal against any appointment to such a vacancy.

**17. Untrained assistants**—Any Association may, without advertisement or recommendation, appoint to a vacancy for an untrained assistant any person it thinks fit; and there shall be no right of appeal against any appointment to such a vacancy.

**18. Appointment of senior teachers and senior head teachers**—

(1) Every appointment to a position as senior teacher or senior head teacher shall be for a term of 3 years only; and if the appointee has not previously vacated the position, it shall become vacant upon the expiration of 3 years from the date it was taken up.

(2) Subject to subclause (3) of this regulation, no person shall be appointed to be a senior head teacher who is not for the time being a head teacher employed by the Association concerned.

(3) Where an Association has vacancies for both a senior head teacher and a head teacher, any teacher may apply for both; and in that case—

(a) The position of head teacher shall be filled first; and

(b) Any teacher appointed to the position of head teacher shall be eligible to be appointed senior head teacher.

(4) The Appointments Committee may, instead of recommending the appointment of any teacher to a position of senior teacher or senior head teacher, recommend that the position be readvertised; and in that case the position shall be readvertised.



(5) An Association, instead of appointing any applicant to a position of senior teacher or senior head teacher, may readvertise the position.

(6) In addition to the matters specified in regulation 14 (1) of these regulations, the Appointments Committee shall, in considering which applicant for the position of senior teacher or senior head teacher is most suitable, take into account the applicant's abilities in relation to:

- (a) Report writing;
- (b) Public speaking;
- (c) Effective participation in discussion;
- (d) The organisation of adults;
- (e) The planning and running of meetings;—

and more weight should be given to those abilities, to the extent to which, in the opinion of the Appointments Committee, the applicant would work harmoniously with the Association concerned, and to the matters specified in paragraphs (k) and (n) to (p) of regulation 14 (1) of these regulations, than to the other matters specified in that subclause.

(7) Except as provided in this regulation, these regulations shall apply to positions as senior teacher or senior head teacher as if they were ordinary positions.

**19. Transfers**—(1) Subject to subclauses (2) and (3) of this regulation, an Association may at any time fill a vacancy in a kindergarten under its control by appointing to that position a teacher already holding a position at a kindergarten under its control.

(2) No teacher shall be transferred to any vacancy unless the proposed transfer has been referred to the Appointments Committee, and the Appointments Committee has notified the Association concerned in writing that it is satisfied that that teacher is eligible to be appointed to the vacancy, and that—

- (a) The efficient conduct of the kindergarten from which that teacher is proposed to be transferred requires that teacher's transfer to a position at some other kindergarten; or
- (b) That teacher has requested the transfer, and there are reasons sufficiently serious to justify it; or
- (c) The position from which that teacher is proposed to be transferred is about to be lost through a change of grade, the disestablishment of that position or the closure of the kindergarten concerned;
- (d) That teacher is a senior teacher who is about to reach the end of the period of tenure of the position from which that teacher is proposed to be transferred.

(3) No teacher shall be transferred to a vacancy that has been advertised.

**20. Resignation**—Any teacher may resign by giving at least one month's notice in writing to the Association; and shall carry on duties until (and including) the day on which the resignation takes effect.

**21. Appeal Board established**—(1) There is hereby established the Kindergarten Teachers Appeal Board, which shall comprise the following persons who shall be appointed by the Minister:

- (a) A Chairman;
- (b) One person nominated by the Kindergarten Union;
- (c) One person nominated by the Teachers Association.

(2) Members of the Appeal Board shall be appointed for a term not exceeding 3 years, but shall be eligible for reappointment.

(3) Notwithstanding subclause (2) of this regulation, but subject to regulation 22 (2) of these regulations, a member of the Appeal Board shall continue in office until a successor is appointed.

(4) Every question before the Appeal Board shall be decided by the votes of the majority of its members.

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

(2) If any member of the Appeal Board dies, or resigns office, or is dismissed, the office of that member shall become vacant and that vacancy shall be filled in the same manner as the appointment of the vacating member was originally made.

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

**24. Appeal rights**—(1) Except as provided in these regulations, there shall be a right of appeal against all appointments as a teacher by an Association, and against all appointments recognised by the Director-General as being subject to appeal under these regulations.

(2) There shall be no right of appeal against the first permanent appointment as a teacher of a teachers college graduate.

(3) There shall be no right of appeal against transfer.

(4) The right to appeal against an appointment shall be exercisable only by persons who duly applied for appointment to the position concerned (not being persons whose applications were received too late to be considered).

**25. Notice of appeal**—(1) Every person who wishes to appeal against the appointment of any teacher to a vacancy shall give written notice of appeal specifying the grounds for that appeal (if any) to the Appeal Board, in time to be received within 14 days of the date on which notification of non-appointment was forwarded to the appellant.

(2) The Appeal Board 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 Chairman of the Appeal Board shall formally accept the appeal, and give notice in writing to the appellant, the appointee, and the Association concerned, of the time and place fixed for the hearing, and the procedures to be followed.

(4) Within 10 days of being notified under subclause (3) of this regulation, the Association shall forward to the Appeal Board—

(a) The application forms and referees' reports of the appellant and the appointee; and

(b) A brief statement from that Association (which shall, if an interview was held, include a statement from the Appointments Committee).

(5) The Appeal Board shall acknowledge in writing the receipt of the documents forwarded under subclause (4) of this regulation.

(6) The appellant may apply to the Appeal Board for, and in that case the Appeal Board shall disclose to the appellant, the following information (to the extent that that information appears on the appointee's application form):

- (a) The appointee's full name and qualifications:
- (b) In the case of an appointee at present employed by an Association, the name of that Association and of the kindergarten concerned, the position held, and the date it was taken up:
- (c) Details of the training, and teaching and other relevant service, of the appointee.

**26. Representation at hearings**—(1) Subject to subclause (2) of this regulation, at the hearing of any appeal—

- (a) An appellant may appear in person or may be represented by any teacher or any officer or employee of the Teachers Association, or may appear in person and be so represented:
- (b) An Association may be represented by any member or officer or employee of the Kindergarten Union.
- (2) No appellant or Association shall be represented by the holder of a current practising certificate under the Law Practitioners Act 1982 as a barrister and solicitor.

**27. Hearings of appeals**—(1) The following procedure shall apply to the hearing of an appeal:

- (a) The Appeal Board shall cause to be read aloud the details of the advertisement concerned, the names of the appointee and the appellant, a brief statement of any grounds of appeal specified by the appellant, and the statement made by the Association:
- (b) The appellant shall then read aloud a statement of appeal (6 copies of which must be made available to the Appeal Board before the hearing, and be distributed by the Appeal Board to its members and to the Association), and elaborate on it at any point; and may be examined on that statement and elaboration by the person representing the Association:
- (c) The appellant may then call and examine not more than one witness:
- (d) The person representing the Association, and every member of the Appeal Board, shall then have the right to cross-examine that witness and the appellant:
- (e) The person representing the Association shall then read aloud a statement on behalf of the Association (6 copies of which shall be made available to the Appeal Board before the hearing, and distributed by the Appeal Board to its members and to the appellant) and elaborate on it at any point:
- (f) The person representing the Association may then call not more than one witness and examine that witness on the reasons for the provisional appointment of the appointee:
- (g) The appellant, or any person representing the appellant, and every member of the Appeal Board, shall then have the right to cross-examine that witness:
- (h) The Appeal Board may, if it thinks fit, call and examine any other witness and, if it is satisfied that there are exceptional reasons for doing so, call and examine the appointee; and the appellant or any person representing the appellant, and the person representing the Association, shall then have the right to cross-examine that witness on the evidence given by that witness:

- (i) The person representing the Association shall then sum up;
- (j) The appellant, or any person representing the appellant, shall then sum up.

(2) Subject to subclause (1) of this regulation, the hearing of an appeal shall be conducted as the Appeal Board thinks fit; and the Appeal Board may reserve any evidence, statement, document, information, or matter that, in its opinion, may assist it to deal with the appeal, whether or not that evidence would be admissible in a Court of law.

**28. Decisions of Appeal Board**—(1) The Appeal Board shall reserve its decision on any appeal until all appeals against the appointment concerned have been heard.

(2) Subject to subclause (3) of this regulation, where it is satisfied that an appellant is more suitable (within the meaning of these regulations) than the appointee, it shall allow the appeal of that appellant.

(3) Where it is satisfied that 2 or more appellants are more suitable as aforesaid than the appointee, it shall allow the appeal of that one of them who is, in its opinion, most suitable as aforesaid.

(4) Subject to subclauses (2) and (3) of this regulation, the Appeal Board shall disallow all appeals.

(5) Having decided an appeal, the Appeal Board shall advise the appellant, the Association, the Appointments Committee, the provisional appointee, and the Director-General of its decision, and of its decision in relation to any other appeals that related to the same appointment.

**29. Results of appeals**—(1) If all appeals against an appointment are dismissed, the appointment shall thereupon be confirmed.

(2) If any appeal against an appointment is allowed, the appointment shall thereupon be cancelled, and the appellant shall be appointed to the vacancy concerned.

(3) There shall be no right of appeal against any appointment under subclause (2) of this regulation.

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 establish a Kindergarten Teachers Appointments Committee and Kindergarten Teachers Appeal Board, and establish procedures for the appointment of teachers to vacancies at kindergartens, and for appeals against such appointments.

---

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 18 August 1983.

These regulations are administered in the Department of Education.