



ANNO DECIMO NONO

ELIZABETHAE II REGINAE

A.D. 1970

No. 36 of 1970

An Act to amend the Education Act, 1915-1966.

[Assented to 3rd December, 1970]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Education Act Amendment Act, 1970". Short titles.

(2) The Education Act, 1915-1966, as amended by this Act, may be cited as the "Education Act, 1915-1970".

(3) The Education Act, 1915-1966, is hereinafter referred to as "the principal Act".

2. Section 3 of the principal Act is amended—

(a) by striking out the passage "(Sections 15-18)" and inserting in lieu thereof the passage "(Sections 15-18d)";

(b) by striking out the passage "The Advisory Council of Education (Sections 19-23)" and inserting in lieu thereof the passage "The Educational Policy Board (Sections 19-23d)";

(c) by striking out the passage "(Sections 24-27)" and inserting in lieu thereof the passage "(Sections 24-27d)";

Amendment of
principal Act,
s. 3—
Arrangement.

(d) by inserting after the passage—

“Division V.—Courses of Instruction (Section 28)”
the passage—

“Part IIA.—The Teachers Salaries Board (Sections 28a-28z);

(e) by striking out the passage—

“Part IIB.—The Teachers Appeals Board (Sections 28za to 28zd)”

and inserting in lieu thereof the passage—

“Part IIB.—The Teachers Appeals Board (Sections 28za-28zf)”;

(f) by striking out the passage “(Sections 29-38)” and inserting in lieu thereof the passage “(Sections 29-38a)”;

(g) by striking out the passage “(Sections 41-51)” and inserting in lieu thereof the passage “(Sections 40a-51)”;

and

(h) by striking out the passage—

“Part VIA.—Licensing of Private Technical Schools”
and inserting in lieu thereof the passage—

“Part VIA.—Licensing of Private Technical Schools (Sections 59a-59n)”.

Amendment of
principal Act,
s. 4—
Interpretation.

3. Section 4 of the principal Act is amended by striking out the definition of “the Council”.

Amendment of
principal Act,
s. 10—
Power to take
lands.

4. Section 10 of the principal Act is amended—

(a) by inserting in subsection (1) after the word “may” firstly occurring therein the passage “, subject to and in accordance with the Land Acquisition Act, 1969, as amended from time to time,”;

and

(b) by striking out subsection (2).

Amendment of
principal Act,
s. 13—
Accounts to be
kept and
audited.

5. Section 13 of the principal Act is amended by inserting in subsection (2) after the numerals “1921” the passage “, as amended”.

Amendment of
principal Act,
s. 15—
Appointment of
officers.

6. Section 15 of the principal Act is amended—

(a) by striking out from subsection (2) the word “Director” and inserting in lieu thereof the passage “Director-General of Education”;

and

(b) by inserting after subsection (2) the following subsection:—

(2a) The Minister may delegate the power to appoint, transfer and promote teachers vested in him under subsection (2) of this section to such officers in charge of groups of schools as he thinks proper, but this subsection shall not apply to the power to dismiss teachers.

7. Section 17 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Public Service Commissioner” and inserting in lieu thereof the passage “Chairman of the Public Service Board”;

and

(b) by striking out from subsection (2) the passage “said Commissioner” and inserting in lieu thereof the passage “Chairman”.

Amendment of principal Act, s. 17—

Appeals from decisions of the Classification Board.

8. Section 18 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Public Service Commissioner” and inserting in lieu thereof the passage “Chairman of the Public Service Board”;

and

(b) by striking out from subsections (2), (3) and (4) the passage “said Commissioner” wherever occurring therein and inserting in lieu thereof in each case the passage “Chairman”.

Amendment of principal Act, s. 18—

Appeal from dismissal or disrating.

9. Section 18a of the principal Act is amended—

(a) by striking out subsections (1) and (2) and inserting in lieu thereof the following subsections:—

(1) Subject to this section any teacher who has had not less than ten years' continuous service as a teacher whether or not portion or the whole of that service occurred before the commencement of the Education Act Amendment Act, 1970, is entitled to the following leave of absence by way of long service leave—

(a) in respect of the first ten years of continuous service, ninety days' leave on full pay or one hundred and eighty days on half pay;

and

(b) in respect of each complete continuous year of service thereafter, nine days' leave on full pay or eighteen days' leave on half pay.

(1a) Any long service leave to which a teacher is entitled under this section or section 18c of this Act shall be taken by that teacher at such time as in the opinion of the Minister is convenient to the Education Department.

Amendment of principal Act, s. 18a—

Long service leave.

(2) Where a teacher who has had not less than five years' continuous service as a teacher—

(a) dies;

(b) retires or is retired under section 18d of this Act;

(c) is retired by reason of injury or illness;

or

(d) being a female, resigns on account of her pregnancy,

before that teacher is entitled to leave under subsection (1) of this section, the Minister may authorize payment to that teacher or to the dependants or personal representatives of that deceased teacher (as the case may be) of a sum equivalent to an amount calculated at the rate at which that teacher was being paid at the time of death, retirement or resignation, as the case may be, for nine consecutive days for each year of continuous service as a teacher.;

(b) by striking out from subsection (3) the passage "Subject to the proviso to subsection (2) of this section";

(c) by striking out from subsection (5) the passage "section 40 of the Superannuation Act, 1926-1948" and inserting in lieu thereof the passage "section 65 of the Superannuation Act, 1969, or under any corresponding previous enactment";

(d) by striking out from subsection (6)—

(i) the passage "which had been, or could have been, granted to him" and inserting in lieu thereof the passage "to which that teacher was entitled";

and

(ii) the word "Governor" and inserting in lieu thereof the word "Minister";

(e) by striking out from subsection (7)—

(i) the passage "which had been or could have been granted to him" and inserting in lieu thereof the passage "to which that teacher was entitled";

and

(ii) the word "Governor" wherever occurring therein and inserting in lieu thereof in each case the word "Minister";

(f) by inserting immediately after subsection (7) the following subsection:—

(7a) Where a teacher is entitled to leave under this section and section 18c of this Act, the Minister may, on the application of that teacher, authorize a cash payment to be made to that teacher immediately prior to the commencement of that leave of the total amount due to him by way of salary in respect of that leave.;

(g) by striking out subsection (8) and inserting in lieu thereof the following subsection:—

(8) Section 90 of the Public Service Act, 1967, as amended, shall not apply to teachers.;

and

(h) by inserting in subsection (9) immediately after the definition of “members of the family” the following definition:—

“salary” includes all allowances paid to a teacher under the provisions of the Teachers Salaries Board Award except allowances paid for service in areas specified in the award and cleaning allowances.

10. Section 18b of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) If a person, after having served as a teacher, has been or is appointed to any other employment under the Government of the State, and his service in that employment is continuous with his service as a teacher, his service as a teacher shall be taken into account for the purpose of computing the leave which may be granted to him under section 90 of the Public Service Act, 1967, as amended.;

and

(b) by striking out from subsection (2) the passage “section 75 of the Public Service Act, 1936-1948” and inserting in lieu thereof the passage “section 90 of the Public Service Act, 1967, as amended”.

Amendment of principal Act, s. 18b—
Leave of teachers transferred to other Government employment.

11. Section 18c of the principal Act is amended—

(a) by striking out from subsection (1) the passage “section 75 of the Public Service Act, 1936-1950” and inserting in lieu thereof the passage “section 90 of the Public Service Act, 1967, as amended, or any corresponding previous enactment”;

Amendment of principal Act, s. 18c—
Leave of Government employees transferred to teaching service.

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) If an officer is appointed as a teacher and his service as a teacher is continuous with his service as an officer, his service as an officer shall, for the purpose of long service leave under this Act be regarded as service as a teacher.;

(c) by striking out subsections (3) and (4);

(d) by inserting in subsection (5) after the passage “of any State” twice occurring therein in each case the passage “or of an organization specified by proclamation under section 99 of the Public Service Act, 1967, as amended”;

and

(e) by striking out from subsection (5) the passage “under this section” and inserting in lieu thereof the passage “under this Act”.

Repeal of
s. 18d of
principal Act
and enactment
of section in
its place—

Retirement of
teachers.

12. Section 18d of the principal Act is repealed and the following section is enacted and inserted in its place:—

18d. (1) Subject to this Act, a male teacher, on attaining the age of sixty-five years, and a female teacher, on attaining the age of sixty years, may retire from the employment of the Minister.

(2) A male teacher who attains the age of sixty-five years and a female teacher who attains the age of sixty years, may continue in the employment of the Minister until the last day of the school year in which that age was attained.

(3) Notwithstanding subsections (1) and (2) of this section, a male teacher, after attaining the age of sixty years, and a female teacher, after attaining the age of fifty-five years, may retire from the employment of the Minister on the last day of a school year, but may continue in that employment until he or she retires under subsection (1) or subsection (2) of this section.

(4) Any service under this section after a male teacher has attained the age of sixty-five years or a female teacher has attained the age of sixty years shall be taken into account in computing the long service leave to which that teacher is entitled under section 18a and section 18c of this Act.

(5) For the purposes of this section the last day of a school year which commences in any calendar year shall be the thirty-first day of January in the following calendar year.

(6) Division X of Part III of the Public Service Act, 1967, as amended, shall not apply to teachers.

13. The following sections are enacted and inserted in Division IV of Part II of the principal Act immediately after section 27 thereof:—

Enactment of ss. 27a to 27d of principal Act—

27a. (1) Every school committee and council constituted or appointed under section 25, section 25a or section 26 of this Act and in existence immediately before the day hereinafter referred to shall, upon a day to be fixed by proclamation for the purposes of this section, and every school committee and council so constituted or appointed after that day shall, upon being so constituted or appointed, become incorporated under this section as a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and may in that name hold, sell, mortgage, lease or otherwise deal with real and personal property as fully and effectually as an individual person could do, but shall not have power to hold, sell, mortgage, lease or otherwise deal with real property except with the written consent of the Minister.

School committees and councils to be incorporated.

(2) For the purposes of this section the corporate name of a school committee shall be the name of the school followed by the passage "Committee Incorporated" and the corporate name of a council for a school shall be the name of the school followed by the passage "Council Incorporated".

(3) Where a school committee or council was, immediately prior to its incorporation under this section, incorporated under the Associations Incorporation Act, 1956, as amended, the Registrar of Companies shall, upon receiving from the committee or council, as the case may be, a notice in writing under the hand of the public officer thereof, to the effect that it has been incorporated under this section, cancel the incorporation of the committee or council under that Act and thereupon that Act shall cease to apply to or in relation to that committee or council.

(4) On the incorporation of a committee or council under this section—

(a) all property of whatever kind held by the committee or council before such incorporation or held by any persons in trust for it shall be transferred to and become vested in the committee or council as so incorporated;

(b) all claims, actions and proceedings—

(i) which but for such incorporation could have been made or commenced by or against the members of the committee or council as such or by or against the committee or council as constituted before such incorporation may be made or commenced by or against the committee or council, as the case may be, as incorporated under this section;

and

(ii) which before such incorporation had been made or commenced by or against the members of the committee or council as such or by or against the committee or council as then constituted may be continued by or against the committee or council, as the case may be, as incorporated under this section;

and

(c) all rights, powers, duties, obligations and liabilities of the committee or council shall become rights, powers, duties, obligations and liabilities of the committee or council, as the case may be, as incorporated under this section.

(5) Upon the change of the name of a school, the corporate name of the school committee or council for that school shall be changed to accord with the change of name of the school and with subsection (2) of this section.

(6) Upon the closure of any school or for any other reason that the Minister thinks fit, the Minister may, by notice published in the *Gazette*, abolish the school committee or council for that school and transfer its assets to some other school committee or council or apply its assets towards the payment of its debts or dispose of its assets or any portion thereof in such manner as he thinks proper.

(7) The procedure to be followed at meetings of any school committee or council shall be as prescribed or, if not prescribed, as determined by the committee or council.

27b. (1) Subject to this Act and without limiting any other powers which a school committee or council may have under this Act, a school committee or council for a school may, with the approval of the Minister, borrow money from any corporation carrying on the business of banking in the State for the purpose of paying in whole or in part for the erection or construction of any building or structure or the provision of any facility or amenity for the school.

Borrowing
power of
school com-
mittees and
councils.

(2) Subject to this Act, the Treasurer may guarantee the repayment of any loan made or proposed to be made by a corporation referred to in subsection (1) of this section.

(3) A guarantee shall not be given under this section unless—

- (a) the School Loans Advisory Committee referred to in section 27c of this Act has recommended that the guarantee be given;
- (b) the loan for which the guarantee is sought does not exceed fifty per centum of the proportion of the cost of the building, structure, facility or amenity to be borne by the school committee or council concerned;
- (c) the school committee or council seeking the guarantee has deposited with the Minister in cash an amount that in the opinion of the School Loans Advisory Committee is not less than fifty per centum of the proportion of the cost of the building, structure, facility or amenity to be borne by the school committee or council concerned;
- (d) the school committee or council seeking the guarantee has obtained from a corporation referred to in subsection (1) of this section a loan, or an offer to make a loan, subject to the guarantee and the Treasurer is satisfied that the terms and conditions of the loan or proposed loan are reasonable;

and

- (e) the school committee or council seeking the guarantee gives such undertakings and enters into such agreements with the Treasurer or the corporation as the Treasurer may require.

(4) The guarantee may extend to the payment of interest on the loan and to any expenses incidental to the loan and expenses incurred by the corporation in obtaining or endeavouring to obtain repayment of the loan and payment of such interest and expenses.

(5) The school committee or council shall supply to the Minister, the Treasurer or the School Loans Advisory Committee such information relating to the loan or proposed loan or to the purpose for the loan or proposed loan as the Minister, Treasurer or that committee, as the case may be, requires.

(6) Where the repayment of a loan is guaranteed under this section, the guarantee shall be deemed to be subject to the following terms and conditions:—

- (a) No term or condition of repayment agreed upon between the corporation that has made the loan and the school committee or council after the giving of the guarantee shall have any effect unless approved in writing by the Treasurer:
- (b) The corporation shall take all reasonable and necessary steps to ensure recovery of all repayments and interest upon the due dates in accordance with the terms and conditions subject to which the loan was made and the guarantee given:
- (c) The corporation shall keep the Treasurer informed of any default or delay by the school committee or council in respect of the payment of any instalment of principal or interest, or both.

(7) The Treasurer may pay out of the general revenue of the State any money which he becomes liable to pay under or by virtue of any guarantee given under this Act and this Act, without any further appropriation, shall be sufficient authority for any such payment.

School Loans
Advisory
Committee.

27c. (1) For the purposes of this Act there shall be a committee to be known as the "School Loans Advisory Committee" which shall consist of such number of members (including the chairman thereof) to be appointed by the Minister as is prescribed.

(2) The functions of the School Loans Advisory Committee shall be the consideration and investigation of applications for guarantees under section 27b of this Act and the making of reports and recommendations to the Minister thereon and such other functions as may be prescribed.

Regulations.

27d. The Governor may make regulations—

- (a) providing for the formation and constitution of the School Loans Advisory Committee;
- (b) prescribing the powers and duties of that committee;

- (c) governing the procedure to be followed at or in relation to meetings of that committee;
 - (d) providing for and prescribing the remuneration to be paid to members of that committee;
- and
- (e) prescribing or providing for such other matters as are necessary or convenient for implementing the objects of sections 27a and 27b of this Act and this section.

14. Section 28 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “each branch of” and inserting in lieu thereof the passage “primary and secondary”;

and

- (b) by striking out subsections (2) and (3) and inserting in lieu thereof the following subsections:—

(2) For the purpose of assisting the Director-General to determine the courses of instruction for primary and secondary education in public schools there shall be appointed an Advisory Curriculum Board for Primary Education and an Advisory Curriculum Board for Secondary Education.

(3) Each board shall consist of such officers, teachers employed in the Education Department and representatives of private schools and other organizations as may be determined from time to time by the Minister acting on the recommendation of the Director-General.

Amendment of principal Act, s. 28—
How courses of instruction to be determined.

15. Section 28ca of the principal Act is amended by striking out from subsection (2) the word “to” firstly occurring and inserting in lieu thereof the word “in”.

Amendment of principal Act, s. 28ca—
Temporary members of board.

16. Section 28s of the principal Act is amended—

- (a) by striking out from the definition of “the Industrial Court” in subsection (3) the passage “1920-1943” and inserting in lieu thereof the passage “1967, as amended, or under any corresponding previous enactment”;

and

- (b) by inserting in the definition of “industrial authority” in subsection (3) after the passage “Industrial Court” the passage “or the Industrial Commission”.

Amendment of principal Act, s. 28s—
Jurisdiction of courts.

Amendment of principal Act, s. 28zb—
Constitution of board.

17. Section 28zb of the principal Act is amended by striking out from subsection (7) the word “sub-paragraph” and inserting in lieu thereof the word “paragraph”.

Enactment of ss. 28ze and 28zf of principal Act—

18. The following sections are enacted and inserted in Part IIB of the principal Act immediately after section 28zd thereof:—

Teachers appointed to tertiary level institutions have no right of appeal to board.

28ze. The provisions of sections 28zc and 28zd shall not apply to an appointment of a teacher by the Minister to, or to any position of a teacher in, any tertiary level institution maintained by the Minister including a teachers’ college, technical college, school of art and adult education centre.

Arrangements for a person to hold concurrent positions at a teachers’ college and a university.

28zf. (1) The Minister may make an arrangement with the Council or other governing body of any university in this State for a person holding office at that university to be appointed by the Minister to hold a position at any teachers’ college maintained by the Minister.

(2) An appointment to a teachers’ college made pursuant to an arrangement under this section shall not be subject to the provisions of Part IIA or Part IIB of this Act.

(3) An appointment and all the incidents attaching thereto arising out of an arrangement made between the Minister and the Council of any university in this State prior to the commencement of the Education Act Amendment Act, 1970, has and shall continue to have full force and effect and shall be deemed to be valid in all respects as if that arrangement had been made under this section and as if this section had been in force when that arrangement was made.

Amendment of principal Act, s. 34—

Certain existing schools to be technical schools under the Minister.

19. Section 34 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “From the date fixed as mentioned in subsection (1) of this section the council of the School of Mines and Industries of South Australia” and inserting in lieu thereof the passage “The Council of the South Australian Institute of Technology”;

and

(b) by striking out from subsection (2) the passage “School of Mines and Industries Act, 1892” and inserting in lieu thereof the passage “Institute of Technology Act, 1892-1967, as amended”.

20. Section 42 of the principal Act is amended—

- (a) by striking out from subsection (4) the passage “marking the attendance in the roll-book” and inserting in lieu thereof the passage “marking the roll-book in the prescribed manner”;
- (b) by striking out from subsection (5) the passage “five shillings” and inserting in lieu thereof the passage “five dollars”;
- and
- (c) by striking out from subsection (5) the passage “two pounds” and inserting in lieu thereof the passage “twenty dollars”.

Amendment of principal Act, s. 42—
Compulsory attendance at school.

21. Section 46 of the principal Act is amended by striking out the passage “Industrial Code, 1920” and inserting in lieu thereof the passage “Industrial Code, 1967, as amended”.

Amendment of principal Act, s. 46—
Employment of children of compulsory age.

22. Section 47 of the principal Act is amended—

- (a) by striking out from subsection (6) the passage “fifty cents” and inserting in lieu thereof the passage “five dollars”;
- (b) by striking out from subsection (6) the passage “four dollars” and inserting in lieu thereof the passage “twenty dollars”;
- and
- (c) by striking out from subsection (7) the passage “Mental Defectives Act, 1935” and inserting in lieu thereof the passage “Mental Health Act, 1935-1969, as amended”.

Amendment of principal Act, s. 47—
Blind, deaf, mute and mentally defective children.

23. Section 59a of the principal Act is amended by striking out from the definition of “private technical school” paragraphs (a) and (b) and inserting in lieu thereof the following paragraphs:—

- (a) any university in the State;
- (b) the South Australian Institute of Technology;

Amendment of principal Act, s. 59a—
Interpretation.

24. Section 59m of the principal Act is amended by striking out the passage “1936-1940” and inserting in lieu thereof the passage “1967, as amended”.

Amendment of principal Act, s. 59m—
Officers.

25. Section 71 of the principal Act is amended by striking out from subsection (2) the passage “Local Courts Act, 1926” and inserting in lieu thereof the passage “Local and District Criminal Courts Act, 1926-1970, as amended”.

Amendment of principal Act, s. 71—
Summary recovery of school premises.

Amendment of
principal Act,
s. 76—
Evidence.

26. Section 76 of the principal Act is amended by striking out the word “or” at the end of paragraph VII.

Repeal of
Education Act
Amendment
Act, 1965.

27. The Education Act Amendment Act, 1965, is repealed.

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

J. W. HARRISON, Governor.