



ANNO NONO

GEORGI VI REGIS.

A.D. 1945.

No. 37 of 1945.**An Act to amend the Education Act, 1915-1942.**

[Assented to 17th January, 1946.]

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

Short titles.

1. (1) This Act may be cited as the " Education Act Amendment Act, 1945 ".

(2) The Education Act, 1915-1942, as amended by this Act, may be cited as the " Education Act, 1915-1945 ".

(3) The Education Act, 1915-1942, is in this Act called " the principal Act ".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

**Amendment of
s. 4 of
principal Act—
Interpretation.**

3. Section 4 of the principal Act is amended by striking out the word " qualifying " before the word " certificate " in the definition of " qualifying certificate " and inserting in lieu thereof the word " progress ".

**Amendment of
s. 15 of
principal Act—
Appointments.**

4. Section 15 of the principal Act is amended by inserting therein after subsection (3) thereof the following subsection :—

(3a) The appointment of a teacher of sewing made before the enactment of this subsection shall not be invalid by reason only of the fact that the teacher was appointed to a school where a female teacher other than a monitor was employed.

5. Division III. of Part II. of the principal Act is repealed and the following Division is enacted and inserted in lieu thereof:—

Repeal and re-enactment of Division III. of Part II., Educational Policy Board.

Division III—The Educational Policy Board.

19. (1) The Governor may appoint a board to be called "The Educational Policy Board". The said board is in this Division referred to as "the board".

Establishment of the board.

(2) The board shall consist of the Director and four other members appointed by the Governor.

(3) The Director shall be chairman of the board and the Governor may appoint one of the other members of the board to be deputy chairman.

(4) Any person who is acting as Director during the temporary absence of the Director, or while there is a vacancy in the office of the Director, shall, while so acting, act as chairman of the board.

20. (1) Subject to this section, every member of the board other than the Director shall hold office for four years.

Term of office.

(2) One of the first members of the board other than the Director shall retire at the end of the first year, one at the end of the second year, and one at the end of the third year after his appointment. The member so to retire in each year shall be decided by drawing lots.

(3) A person appointed to a casual vacancy on the board shall hold office for the balance only of the term of the person in whose place he was appointed.

21. The members of the board shall be paid such remuneration and allowances as are fixed by the Governor.

Remuneration of board.

22. (1) The seat of a member of the board shall become vacant—

Casual vacancies.

(a) if he dies ;

(b) if he resigns by notice in writing given to the Minister ;

(c) if he is absent from more than four consecutive meetings of the board without leave granted by the Minister ; or

(d) if he is removed from the board by the Governor pursuant to this Act.

(2) The Governor may at any time remove a member of the board from his office if in the Governor's opinion

he has become incapable of performing the duties of his office, or has been guilty of neglect of such duties.

Quorum and majority decision.

23. (1) The Director or deputy chairman and any two other members shall constitute a quorum of the board for the transaction of business.

(2) A decision of the board shall not be valid unless at least three members of the board concur therein.

(3) In the absence of the Director or acting Director from a meeting of the board the deputy chairman shall act as chairman.

Staff of the board.

23a. The Governor may appoint a secretary to the board and any other officers whom it requires to enable it to carry out its functions.

Validity of decisions of board.

23b. A decision, report or recommendation of the board shall not be invalid on the ground that at the time of the making thereof a vacancy existed on the board.

Functions of the board.

23c. (1) The function of the board shall be to inquire into and report to the Minister upon all matters referred to the board by the Minister pursuant to this Act.

(2) The Minister may refer to the board for inquiry and report any proposals, projects or questions relating to any of the following matters, namely :—

- (a) opening and closing of schools ;
- (b) alterations in the nature, classification, staffing, or status of schools ;
- (c) building new schools or additions to schools ;
- (d) alterations in the general principles of selecting, training, appointing, classifying, promoting or transferring teachers ;
- (e) new regulations and alterations of and additions to regulations ;
- (f) general instructions to teachers ;
- (g) any new administrative or educational policy affecting schools ;
- (h) any other matter prescribed by regulation.

Abolition of Advisory Council of Education.

23d. The Advisory Council of Education is hereby abolished.

Enactment of Part IIIA. of principal Act—

6. The following headings and sections are enacted and inserted in the principal Act after section 28 thereof :—

PART IIA.

THE TEACHERS SALARIES BOARD.

Teachers
Salaries Board.*Constitution and General Powers of Board.*

28a. In this Part, unless the context otherwise requires, or some other meaning is clearly intended—

Interpretation.

“the board” means The Teachers Salaries Board constituted under this Part :

“position” means position held by a teacher :

“teacher” means teacher employed under this Act.

28b. (1) For the purposes of this Part there shall be a board to be called The Teachers Salaries Board.

Constitution of
board.

(2) The board shall consist of a chairman and four members.

(3) The chairman of the board shall be appointed by the Governor and shall be a Special Magistrate.

(4) Two of the members shall be appointed by the Governor and the other members shall be a male teacher elected by male teachers and a woman teacher elected by women teachers (in manner to be prescribed by regulations). At an election every teacher not being a part-time teacher shall be entitled to vote.

(5) A person who has been dismissed from the Education Department on the ground of misconduct shall not be appointed or elected to the board or be capable of holding office on the board.

28c. (1) If for any reason the chairman or a member appointed by the Governor is unable to act in his office or if there is a vacancy in the office of the chairman or any such member the Governor may appoint a person to act as chairman or a member—

Acting and
deputy
chairman and
members.

(a) during such inability or, in a case of a vacancy, until it is filled by a permanent appointment ;
or

(b) for any period fixed by the Governor.

(2) If for any reason an elected member of the board is unable to act in his office or if there is a vacancy in the office of an elected member, the person elected as the deputy of that member may act in his place, and if a vacancy occurs in the office of the elected member, shall be appointed thereto.

(3) If after a deputy member has been appointed to a vacancy in the office of an elected member a further casual

1945.

vacancy occurs in that office, the Governor may appoint thereto a person whom he considers to be a suitable representative of teachers.

(4) A deputy member or an acting chairman or member shall whilst acting as a member or chairman have all the authorities, powers and duties of the member or chairman for whom he is acting.

(5) The provisions of this Part relating to tenure of office, retirement and eligibility for re-election shall apply to a deputy member in the same way as they apply to an elected member.

Remuneration
of board.

28d. The chairman and members of the board and their deputies shall be paid such remuneration (if any) as the Governor determines.

Tenure of
office.

28e. Subject to this Part—

- (a) the chairman and each member of the board shall hold office for three years ;
- (b) a person appointed to a casual vacancy on the board shall hold office for the balance of the term of office of the person in whose place he was appointed ;
- (c) the chairman or a member of the board shall on the expiration of his term of office be eligible for re-appointment.

Casual
vacancies.

28f. The seat of the chairman or a member shall become vacant if—

- (a) he resigns ;
- (b) he dies ;
- (c) he is dismissed from office by the Governor ;
- (d) he absents himself from more than five consecutive meetings of the board without leave in writing granted by the Minister ;
- (e) in the case of the chairman, he ceases to be a special magistrate ;
- (f) in the case of an elected member, he ceases to be a teacher.

Dismissal of
member.

28g. The Governor may dismiss the chairman or a member of the board from office—

- (a) if in the Governor's opinion he is through mental or physical infirmity incapable of discharging the duties of his office ; or
- (b) if he has been guilty of any misconduct which in the Governor's opinion makes it undesirable that he should remain a member of the board.

28h. If a vacancy on the board required to be filled by an elected member is not so filled within the time prescribed by regulations, the Governor may at his discretion appoint a teacher as a member of the board, and the teacher so appointed shall be deemed to have been duly elected as a member of the board.

Failure to elect.

28i. (1) Every election of a member or deputy member of the board—

Elections.

(a) shall be conducted in accordance with the regulations ;

(b) shall be held at such times as are prescribed by the regulations, and under the direction of a returning officer to be appointed by the Governor.

(2) Every candidate shall be entitled to appoint a scrutineer who shall have the right to be present at, and inspect, the scrutiny and count of votes.

28j. Every appointment and election under this Part shall be notified in the *Gazette* and shall take effect as from the date specified in such notification.

Notification of appointment.

28k. At any meeting of the board the decision of three members or of the chairman and two members shall be the decision of the board.

Majority decision.

28l. The Governor shall appoint a secretary and such other officers as are necessary to assist the board and the persons so appointed shall be subject to the directions and control of the board and shall discharge such duties and functions as are imposed or conferred upon them by the board.

Officers.

28m. The expenditure of the board shall be defrayed out of moneys to be appropriated by Parliament for the purpose.

Expenditure of board.

Teachers Salaries.

28n. The board shall have jurisdiction from time to time to make awards—

Jurisdiction of board.

(a) fixing the minimum and maximum salary payable to the holder of each position and the annual or other periodical increments of each salary ;

(b) fixing any special payment or allowance for any special circumstances connected with the work of any position ;

(c) declaring that payment of any salary or increment shall be conditional upon the holding of any specified qualification, or upon satisfactory service, or other condition ;

- (d) varying or adding to any award previously made by the board, or rescinding any such award and making a new award in lieu thereof ;
- (e) determining any matter incidental or relating to any of the foregoing matters.

**Commence-
ment of
proceedings.**

28o. (1) The board may make any award of its own motion, or on application made in accordance with the regulations by the Minister or an association of teachers.

(2) The board shall not make any award without first sitting to hear the Minister and the teachers affected thereby, or his or their representatives and giving reasonable notice of the time and place of such sitting to the parties interested : Provided that a notice in the *Gazette* published at least fourteen days before the board sits as aforesaid and giving notice of the time and place of the intended sitting shall be deemed to be reasonable notice to all parties.

**Authorization
and publica-
tion of award.**

28p. When any award is made by the board the chairman shall sign it and send a certified copy to the Minister and shall publish it in the *Gazette*.

**Duration of
award.**

28q. Every award shall come into force upon the expiration of fourteen days after it has been published in the *Gazette*, and shall remain in force, subject to any variations thereof, until the date specified therein, or if no date is so specified, until rescinded by the board.

**Effect of
award.**

28r. An award duly made under this Part shall be binding on the Minister and all other persons to whom it applies : Provided that the Minister shall be liable to pay any salaries or other sums fixed by an award only to the extent to which money voted by Parliament is available for the purpose.

**Jurisdiction of
Courts.**

28s. (1) An award or order of the Industrial Court in force at the time of the passing of the Education Act Amendment Act, 1945, shall be subject to any award made by the board under this Part.

(2) If during the currency of an award made by the board under this Part any award, judgment or order is made or given by any industrial authority in relation to any matter dealt with in the award made by the board, the award last-mentioned shall cease to have effect as regards the matter dealt with by the industrial authority and thereafter no further award in relation to that matter shall be made by the board.

(3) In this section—

“the Industrial Court” means the Industrial Court under the Industrial Code, 1920-1943:

“industrial authority” means the Industrial Court or any court, tribunal or authority, other than the board, having power by law to fix the remuneration of teachers.

Appeals Concerning Special Appointments.

28t. (1) A person shall not be appointed to a special position in the teaching service except in accordance with this section. Appeals against special appointments.

In this section “special position” means a position to be filled otherwise than in accordance with a promotion list compiled under the regulations.

(2) The Director shall provisionally recommend to the Minister the person whom he considers most suitable for the special position.

(3) Notice of the provisional recommendation shall be given to every teacher who applied for the position.

(4) Any such teacher may appeal to the board in manner prescribed by the regulations against the provisional recommendation.

(5) The board shall—

(a) hear and consider all relevant information and evidence submitted to it by or on behalf of the appellant and the Director; and

(b) either confirm the provisional recommendation made by the Director or recommend the appellant or one of the appellants, for the vacant position.

Evidence, Procedure, and Regulations.

28u. (1) The board may by summons signed by the chairman or the secretary require any person named in the summons to appear before the board and to produce any books, papers, or documents mentioned in the summons. Power of the board as to witnesses.

(2) The board may require any person appearing before it to give evidence on oath or affirmation and the chairman or any member of the board may administer any such oath or affirmation.

(3) If any person who has been personally served with a summons to appear before the board—

- (a) does not attend in obedience to summons ; or
- (b) without lawful excuse fails to produce any books, papers, or documents mentioned in the summons,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(4) If any person—

- (a) being before the board refuses to be sworn or to affirm ;
- (b) knowingly gives false evidence before the board ;
- (c) wilfully insults the board or the chairman or any member thereof ; or
- (d) misbehaves himself before the board or interrupts its proceedings,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

Frivolous applications.

28v. If the board is of opinion that any application made to it is frivolous or unreasonable it may order the applicant to pay to the Treasurer in aid of the General Revenue of the State such sum as the board thinks proper, not exceeding five pounds.

Representatives before board.

28w. Any person entitled to be heard by the board may appear before the board either personally or by any other person, and may either personally or by such other person call, examine and cross-examine witnesses, and address the board.

Advice of Crown Solicitor.

28x. The board may obtain the advice of the Crown Solicitor on any matter arising under this Part.

Evidence.

28y. In the exercise of its jurisdiction under this Part the board shall not be bound by the rules of evidence.

Regulations.

28z. The Governor may make regulations prescribing—

- (a) the practice and procedure in relation to the matters dealt with by the board ;
- (b) any matters necessary or convenient to be prescribed for carrying this Part into effect ; and
- (c) penalties recoverable summarily and not exceeding twenty pounds for breach of any regulation.

7. Section 41 of the principal Act is amended by striking out the word "qualifying" wherever appearing therein before the word "certificate" and inserting in lieu thereof in each case the word "progress".

Amendment of
s. 41 of
Principal Act—
Duty to enrol
children at
schools.

8. Subsection (11) of section 62 of the principal Act is amended by inserting—

Amendment of
s. 62 of the
Principal Act—
Religious
instruction in
schools.

- (a) after the word "Church" in the fourth line the words "or of the Jewish Synagogue";
- (b) after the word "Church" in the fifth line the words "or Synagogue";
- (c) at the end thereof the following paragraph:—
 - (c) "Church" includes the Jewish Synagogue.

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

C. W. M. NORRIE, Governor.