

Education (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 22 October 1986

(Brought in by Mr Cathie and Mr McCutcheon)

A BILL

to amend the *Education Act 1958* and the *Post-Secondary Education Act 1978* and to repeal the *State Schools (Bush Fire Relief) Act 1943* and for other purposes.

Education (Amendment) Act 1986

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

- 5 1. The purpose of this Act is to amend the *Education Act 1958* and the *Post-Secondary Education Act 1978* and to repeal the *State Schools (Bush Fire Relief) Act 1943*.

Commencement.

2. This Act comes into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

10 PART 2—AMENDMENTS TO *EDUCATION ACT 1958*

Principal Act.

3. In this Part the *Education Act 1958* is called the Principal Act.

No. 6240.
Reprinted to
No. 10191.
Subsequently
amended by
Nos. 13 of 1986,
42 of 1986 and
59 of 1986.

Public tenders for works by school councils.

4. (1) In section 15C (3) of the Principal Act for the expression commencing with “Where the cost” and ending with the word “Division” substitute “If a council is required by regulations under the *Audit Act* 1958 to publicly invite tenders for the work”.

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(2) In section 15C (5) of the Principal Act for “at a price not exceeding \$10 000” substitute “and the council is not required by regulations under the *Audit Act* 1958 to publicly invite tenders for the work”.

Amendments consequential to *Youth Affairs Act* 1986.

5. The Principal Act is amended as follows:

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- (a) In section 15AA (1) omit “Youth,”;
- (b) In section 15AA (3), paragraph (b) and the word “and” preceding it are repealed;
- (c) In section 15CA (1) omit “Youth”.

New section 34IA substituted.

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6. For section 34IA of the Principal Act substitute—

Prescribed subjects for the purposes of section 35.

“34IA. The subjects prescribed for the purposes of section 35 are all subjects except instrumental music, choral music, voice production and religion.”

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New sections 52A to 52G substituted and sections 52H to 52L repealed and transitional provisions.

7. (1) For sections 52A to 52L of the Principal Act substitute—

Teachers Registration Board.

“52A. There is a Teachers Registration Board for the primary, secondary and technical divisions of classified teachers.”

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Constitution of Teachers Registration Board.

“52B. (1) The Board consists of thirteen members appointed by the Governor in Council of whom—

- (a) the Chairperson is to be nominated by the Minister after consultation with the Teachers Federation of Victoria; and
- (b) six are to be officers of the Ministry of Education to be nominated by the Minister; and
- (c) six are to be nominated by the Teachers Federation of Victoria.

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(2) A member holds office, subject to the terms and conditions of appointment, for a period of not more than three years and is eligible for re-appointment.

5 (3) The office of a member becomes vacant if the member is absent without leave of the Chairperson or, in the case of the Chairperson, without leave of the Minister from three consecutive meetings of the Board or, in the case of a member appointed under sub-section (1) (b), if the person ceases to be an officer of the Ministry of Education.

10 (4) The Governor in Council may fill any vacancy in the office of a member.”

Functions of Teachers Registration Board.

“52c. (1) The Board must—

15 (a) consider applications for registration as teachers or categories of teachers for the primary, secondary or technical schools division and register persons it decides are suitably qualified to teach in the division for which registration is applied for; and

20 (b) consider applications for provisional registration as teachers or categories of teachers for the primary, secondary or technical schools division and provisionally register persons it decides are suitably qualified to teach in the division for which registration is applied for; and

25 (c) determine the equivalent level of interstate and overseas qualifications relative to qualifications available in Victoria subject to any regulations made by the Board; and

(d) de-register a registered teacher if it considers it proper in the circumstances to do so; and

(e) keep a register of persons registered or provisionally registered by it.

30 (2) The Board may, if it considers it appropriate, take into consideration the teaching or industrial experience of an applicant when determining whether that person is suitably qualified to teach.

35 (3) The Chairperson may, subject to any regulations made by the Board, permit a person who has applied for registration in a division to teach in that division while the Board is considering the person’s application.

(4) Provisional registration—

40 (a) may be for any period specified by the Board not exceeding twelve months; and

(b) expires at the end of the period specified by the Board unless the Board extends the period before it ends;

(c) is subject to any conditions about qualifications that are determined by the Board.”

Deputies.

“52D. (1) The Governor in Council may appoint a person to act as the deputy of a member in the case of—

(a) the suspension, illness or absence of the member; or

(b) an extraordinary vacancy in the office of the member. 5

(2) A person appointed as a deputy member is to be nominated in the same manner as the member for whom that person is the deputy.

(3) The deputy member holds office during the suspension, illness or absence or until the vacancy is filled.

(4) A deputy member may exercise the powers and perform the duties of the member.” 10

Quorum and meetings.

“52E. (1) A quorum of the Board is seven members.

(2) The Board may act in the presence of a quorum even though there is a vacancy in the membership. 15

(3) The Board must meet at least once in every month except January.

(4) The Board may regulate its proceedings subject to this Part.”

Appeals.

“52F. (1) A person may appeal to a Teaching Services Appeals Board established under section 64 of the *Teaching Service Act* 1981 if the Board refuses an application for registration or provisional registration or fails within three months to grant an application for registration or provisional registration or deregisters a person under this Division. 20
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(2) A Teaching Service Appeals Board may hear and determine an appeal and if an appeal with respect to a provisional registration is upheld may determine, subject to section 52C (4), the period for which the provisional registration applies.

(3) The decision of a Teaching Service Appeals Board on an appeal is final. 30

(4) Section 64 (3), (4), (5), (6) and (8) of the *Teaching Service Act* 1981 with any necessary modifications apply to a Teaching Service Appeals Board acting under this Division.

(5) A Teaching Service Appeals Board may regulate its proceedings subject to this section.” 35

Regulations.

“52G. (1) The Board may make regulations for or with respect to registration or deregistration of persons as teachers.

5 (2) The Board must arrange for the regulations to be published in the *Government Gazette*.

10 (3) All regulations made under this section must be laid before both Houses of Parliament if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament and a copy of the regulations must be posted to each member of Parliament.

(4) If within 30 days after a regulation has been laid before both Houses of Parliament each House passes a resolution disallowing that regulation the regulation so disallowed shall thereupon cease to have effect.

15 (5) If a regulation is disallowed the disallowance has the same effect as the revocation of a statutory rule.”.

20 (2) The Principal Act and the regulations made under that Act, as in force immediately before the commencement of this Act, continue to apply to and in relation to an appeal to the Teacher Registration Council, the hearing of which commenced before the commencement of this Act as if this Act had not been enacted.

25 (3) If, before the commencement of this Act, an appeal to the Teacher Registration Council had been commenced but a hearing had not been held a Teaching Service Appeals Board must hear and determine the appeal.

Consequential amendments.

8. The Principal Act is amended as follows:

- 30 (a) In section 520 for “section 52L” substitute “section 52c”;
- (b) Section 52P is repealed;
- (c) Paragraphs (pa), (pb) and (pc) of section 82 are repealed.

PART 3—STATE SCHOOLS BUSH FIRE RELIEF FUND**State Schools Bush Fire Relief Fund.**

9. (1) The *State Schools (Bush Fire Relief) Act 1943* is repealed.

No. 4954.

35 (2) Any money, standing immediately before the commencement of this Act, to the credit of the fund referred to in the *State Schools (Bush Fire Relief) Act 1943* is to be paid into the Victorian Natural Disaster Relief Account kept by the Treasurer and may be used in any manner in which money in that account may be used.

(3) On the commencement of this Act the trustees of the fund are freed and discharged of all obligations, duties and liabilities as trustees of the fund.

**PART 4—AMENDMENTS TO *POST-SECONDARY EDUCATION ACT*
1978**

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Principal Act.

10. (1) In this Part the *Post-Secondary Education Act* 1978 is called the Principal Act.

No 9145
Reprinted to
No 10258,
subsequently
amended by
Nos 13 of 1986
and 20 of 1986
and S R No 241
of 1986

Teaching position.

11. In section 40 of the Principal Act after the definition of “Public notice” insert ‘ “Teaching position” includes a position as principal, vice-principal or head of division.’

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Teaching service personnel.

12. In section 63 of the Principal Act after “effective” insert “administration and”.

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Absence from duty.

13. In section 93 (1) of the Principal Act for “at which he teaches” substitute “to which the person is appointed, promoted or transferred”.

Validation of creation, etc. of certain offices in TAFE teaching service.

14. (1) An office of principal, vice-principal or head of division created or purported to be created under the Principal Act before the commencement of this Act is deemed to be an office in the technical and further education teaching service.

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(2) Anything done for or with respect to the creation of that office or the appointment, promotion or transfer of a person to that office is deemed to have been validly done and to effect that creation, appointment, promotion or transfer.

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Validation of notices opting out of TAFE teaching service.

5 **15.** (1) If the principal, vice-principal or head of division of a technical and further education college gave or purported to give notice under section 66 (3) of the Principal Act before the commencement of this Act, that notice is deemed to be a notice given by a person employed in a relevant position within the meaning of the Principal Act.

(2) Anything done for or with respect to that notice is deemed to have been validly done and the notice is deemed to have full effect for all purposes.

