

[AS REPORTED FROM THE EDUCATION AND SCIENCE
COMMITTEE]

House of Representatives, 10 November 1992.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Dr Lockwood Smith

EDUCATION AMENDMENT (NO. 5)

ANALYSIS

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A BILL INTITULED

An Act to amend the Education Act 1989

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Education
5 Amendment Act (No. 5) 1992, and shall be read together with

No. 176—2

and deemed part of the Education Act 1989* (hereinafter referred to as the principal Act).

2. Payment of teacher salaries—(1) The principal Act is hereby amended by inserting, after Part VIII, the following Part:

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“PART VIIIA

“PAYMENT OF TEACHER SALARIES

“91A. **Interpretation**—(1) In this Part of this Act, unless the context otherwise requires,—

“‘Application period’ means the period commencing on the commencement of the Education Amendment Act (No. 5) 1992, and ending with the 31st day of December 1994 (as from time to time extended under **section 91M(1)** of this Act):

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“‘Board’ means a Board of trustees constituted under Part IX of this Act; and, in relation to a school, means the school’s Board:

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New

“‘Minister’ means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Part of this Act:

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“‘Ministry’ means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Part of this Act:

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“‘Payrolled school’ means a school to which (*this Part*) **section 91c** of this Act applies:

“‘Regular teacher’ means a teacher who is not a relieving teacher:

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“‘Relieving teacher’, at any time, means a teacher employed at that time by a Board to undertake some or all of the duties of a regular teacher who, at that time, is absent from work but remains employed (on salary) by the Board:

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“‘School’ means an institution that is—

“(a) A state school within the meaning of section 2 of this Act; or

*1989, No. 80

Amendments: 1989, No. 156; 1990, No. 60; 1990, No. 118; 1990, No. 134; 1991, No. 43; 1991, No. 90; 1991, No. 135; 1991, No. 136

“(b) A special institution within the meaning of section 92 of this Act:

Struck Out

5 “ ‘Secretary’ means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Part of this Act:

New

“ ‘Secretary’ means the chief executive of the Ministry:

10 “ ‘Teacher’ includes the principal of a school, and any deputy or associate principal (however described) of a school.

New

15 “(2) For the purposes of paragraphs (b) and (c) of section 91E (1) of this Act, where at any time a Board purported (or purports) to appoint a teacher to a position of a particular designation, the teacher shall be deemed to have become (or to become) a teacher of that designation on taking up the appointment.

20 “91B. **Application**—This Part of this Act applies to every school other than—

“(a) A school established under section 152 of this Act as a correspondence school:

“(b) A school to which an agreement in force under section 91D (or former section 91 (6)) of this Act relates.

25 “*Payment of salaries*

30 “91C. **Salaries of teachers at certain schools to be paid by the Crown**—Notwithstanding anything in Part VIII of this Act, but subject to (sections 91E (3) and 91G (1)) section 91E of this Act, the Secretary shall cause to be paid out of public money appropriated by Parliament for the purpose the salaries (in respect of employment during the application period) of all regular teachers employed at payrolled schools.

“91D. **Agreements to move from central payment of teacher salaries**—The Minister and a Board may agree in

writing that (*this Part*) **section 91c** of this Act should not apply to a school or schools the Board administers while the agreement is in force.

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| <p>“91E. Partial movement from central payment of teacher salaries—(1) The Governor-General may from time to time, by Order in Council—</p> | 5 |
| <p>“(a) Require the Board of a payrolled school to pay, out of grants paid to it under section 79 of this Act, the salaries of—</p> | 10 |
| <p> “(i) Teachers of a kind or description specified in the order; or</p> | |
| <p> “(ii) Teachers holding positions of a kind or description specified in the order:</p> | |
| <p>“(b) Permit the Board of a payrolled school to pay, out of grants paid to it under section 79 of this Act, the salaries of—</p> | 15 |
| <p> “(i) Teachers of a kind or description specified in the order; or</p> | |
| <p> “(ii) Teachers holding positions of a kind or description specified in the order,—</p> | 20 |
| <p> if the Secretary and the Boards agree.</p> | |
| <p>“(2) An order under subsection (1) of this section—</p> | |
| <p> “(a) May apply to payrolled schools of a particular kind or description, or all payrolled schools; and</p> | 25 |
| <p> “(b) May consequentially modify the application to the schools to which it applies of any order under section 91H of this Act.</p> | |
| <p>“(3) While—</p> | |
| <p> “(a) An order under subsection (1) (a) of this section requires the salaries of some teachers at a school (or of the teachers holding some positions at a school) to be paid out of grants made to the school’s Board under section 79 of this Act; or</p> | 30 |
| <p> “(b) There is in force an agreement between the Secretary and a Board that the salaries of—</p> | 35 |
| <p> “(i) Some teachers at a school the Board administers (being teachers of a kind or description specified by an order under subsection (1) (b) of this section); or</p> | 40 |
| | |

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5 “(ii) Teachers holding some positions at a school
 (being positions of a kind or description specified by
 such an order),—
 5 should be paid out of such grants—
 the salaries of those teachers shall be paid as if this Part of this
 Act does not apply to the school.

New

10 **“91E. Payment of salaries of certain teachers out of**
grants—(1) The Board of every payrolled school shall pay, out
 of grants paid to it under section 79 of this Act, the salaries
 (payable in respect of employment after the 25th day of May
 1993) of—
 15 “(a) Teachers employed at the school in any of the following
 positions (however described): principal, associate
 principal, deputy principal, assistant principal, senior
 master, and senior mistress; and
 “(b) Every teacher designated F4, F3, PR4, or PR3; and
 “(c) Every teacher with a designation declared by the
 20 Governor-General by Order in Council to be
 equivalent to F4, F3, PR4, or PR3.
 “(2) If the Secretary and the Board of a payrolled school that
 is—
 25 “(a) A secondary school (within the meaning of section 2 of
 this Act); or
 “(b) A composite school (within the meaning of section 2 of
 this Act) that does not provide education at a level
 below form I,—
 30 are satisfied that a teacher employed by the Board has (or on
 commencing employment will have) specific management
 responsibilities, they may agree that the teacher should be paid
 out of grants; and in that case the Board shall pay the teacher’s
 salary (payable in respect of employment after the 25th day of
 May 1993) out of grants paid to it under section 79 of this Act.
 35 “(3) For so long as an agreement under **subsection (2)** of this
 section continues in force, the Board shall continue to pay the
 salary of the teacher concerned out of grants paid to it under
 section 79 of this Act.

“91F. Restrictions on payment of salaries of regular teachers by Boards of payrolled schools—No Board shall pay all or any part of the salary of a regular teacher in respect of employment during the application period at a payrolled school it administers unless—

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- “(a) The teacher is a teacher of a kind or description specified in an order under **section 91E (1) (a) (i)** of this Act; or
- “(b) The teacher holds a position of a kind or description specified in an order under **section 91E (1) (a) (ii)** of this Act; or 10
- “(c) The teacher is a teacher of a kind or description specified in an order under **section 91E (1) (b) (i)** of this Act, and the Secretary and the Board agree that the salary of the teacher (or the salaries of teachers of a class or description to which the teacher belongs) should so be paid; or 15
- “(d) The teacher holds a position of a kind or description specified in an order under **section 91E (1) (b) (ii)** of this Act, and the Secretary and the Board agree that the salary of the teacher holding the position (or the salaries of the teachers holding positions of a class or description to which the position belongs) should so be paid; or 20

New

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“(a) It is required by **section 91E** of this Act to pay that salary out of grants paid to it under **section 79** of this Act; or

“(e) The Minister has consented to the payment, and the Board complies with any conditions subject to which the consent was given. 30

“91G. Relieving teachers—(1) Except as provided in **subsection (3)** of this section, Boards shall pay the salaries of relieving teachers employed at schools they administer.

“(2) The Governor-General may from time to time, by Order in Council, declare any circumstances to be circumstances in which the employment of a relieving teacher justifies the central payment of the teacher’s salary, either— 35

“(a) Immediately; or

“(b) After employment for an initial period (specified in the order) of consecutive school days on which the school at which the teacher is employed is open for instruction.

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Struck Out

“(3) The Secretary may cause a relieving teacher’s salary to be paid if, by virtue of an order under **subsection (2)** of this section, the employment to which the payment relates justifies the central payment of the salary.

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New

“(3) The Secretary shall cause a relieving teacher’s salary to be paid out of public money appropriated by Parliament for the purpose if (and only if), by virtue of an order under **subsection (2)** of this section, the employment to which the payment relates justifies the central payment of the salary.

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“Limitations on staffing

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“**91H. Governor-General may impose general limitations on employment of teachers**—(1) For the purpose of enabling the Crown to ascertain the extent of its likely financial obligations arising out of the payment of the salaries of teachers employed at payrolled schools, the Governor-General shall in every year, by Order in Council, impose on the Boards of payrolled schools general limitations on the numbers, and kinds and descriptions, of regular teachers they may employ at any time during the next year.

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New

“**91H. Limitations on appointment and employment of regular teachers at payrolled schools**—(1) For the purpose of limiting the financial liability of the Crown arising out of its obligation under **section 91c** of this Act to pay the salaries of all regular teachers employed at payrolled schools, the Governor-

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New

General shall in every year, by Order in Council, prescribe limitations on—

- “(a) The numbers, and kinds and descriptions, of permanently appointed regular teachers; and 5
 “(b) The numbers, and kinds and descriptions, of other regular teachers,—
 who may be employed at payrolled schools at any time during the next year.

“(2) An order under **subsection (1)** of this section— 10

- “(a) May (*impose*) prescribe limitations in relation to a particular school or schools, schools of a particular kind or description, or all schools; and
 “(b) May (*impose*) prescribe limitations directly, by means of one or more mechanisms or parameters, or by a combination of both approaches; and 15
 “(c) May specify criteria (qualitative, quantitative, or both) to which the Secretary is to have regard in granting exemptions from the limitations or any of them.

“91i. **Secretary may grant exemptions in individual cases**—The Secretary may, in accordance with (*any relevant*) criteria specified in an order under **section 91h (1)** of this Act, by written notice to a Board— 20

- “(a) Exempt the Board, to any extent specified in the notice, from any limitation (*imposed*) prescribed by the order in relation to a school the Board administers; 25
 or
 “(b) Amend or revoke any notice under this section;—
 and the Board may appoint and employ teachers at the school accordingly. 30

“91j. **Boards to comply with limitations**—Subject to **section 91i** of this Act, the Board of a school in relation to which a limitation is (*imposed*) prescribed by an order under **section 91h (1)** of this Act shall ensure that the appointment and employment of teachers at the school is at all times during the application period in accordance with the limitation. 35

“91k. **Reduction in grants where limitations not complied with**—In determining for the purposes of **section 79** of this Act the amount of any grant payable to a Board in respect of a school, the Minister— 40

5 “(a) Shall have regard to the extent to which the Secretary has (by virtue of this Part of this Act) caused to be paid to teachers employed at the school salaries greater in total than the salaries that would have been payable if the Board had complied with sections **91G(1), 91J, and 91L(1)** of this Act; and

“(b) May, after consulting the Board, determine for the grant an amount that is (to that extent or some lesser extent) less than it would otherwise have been.

10 “**91L. Staffing levels for 1992**—(1) Subject to **subsection (2)** of this section, the Board of a payrolled school shall ensure that at all times before the 1st day of January 1993 there are not employed at the school more regular teachers of any grade than the number of regular teachers of that grade employed

15 there at the close of the 23rd day of July 1992.

“(2) The Secretary may, by written notice to a payrolled school’s Board, authorise an increase in the number of regular teachers of any grade to be employed at the school in 1992; and teachers may be employed at the school accordingly.

20 “*Application period may be extended*

“**91M. Application period may be extended**—(1) Subject to **subsection (2)** of this section, the Governor-General may from time to time, by Order in Council, extend the application period to a day specified in the order.

25 “(2) No order shall be made under **subsection (1)** of this section after the application period (as from time to time extended) has expired.”

30 (2) Section 65 of the principal Act (as substituted by section 3 (1) of the Education Amendment Act (No. 2) 1991 and amended by section 10 of the Education Amendment Act (No. 4) 1991) is hereby consequentially amended by inserting, before the words “a Board”, the words “Subject to **Part VIII A** of this Act,”.

New

35 (2A) Section 84 of the State Sector Act 1988 (as substituted by section 2 of the State Sector Amendment Act 1990) is hereby consequentially amended by omitting the words “for the period referred to in section 91 (1) of the Education Act 1989 (as amended by section 22 of the Education Amendment Act

40 1990), and any extension of that period under section 91 (2) of

New

that Act, means the Secretary of the Ministry of Education”,
and substituting the words “for the application period (within
the meaning of subsection (1) of section 91A of the Education Act
1989) means the chief executive of the Ministry (within the
meaning of that subsection)”. 5

(3) The following enactments are hereby consequentially
repealed:

- (a) Section 91 of the principal Act:
- (b) Section 6 of the Education Amendment Act (No. 2) 1991. 10