

SOUTH AUSTRALIA

EDUCATION ACT, 1972

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 November 1984.

The Commissioner of Statute Revision is authorised by the Acts Republication Act, 1967, to make textual alterations of various kinds to an Act in preparing it for reprint. These alterations do not affect the substantive law; they are designed to bring the form and language of the Act into conformity with contemporary standards of good drafting (so far as that object can be achieved without risk of semantic change).

A report has been prepared containing a comprehensive list of the textual alterations made under the Acts Republication Act, 1967, in the preparation of this reprint. Copies of the report are available, on request, from the office of the Commissioner of Statute Revision, 11th Floor, S.G.I.C. Building, Victoria Square, Adelaide.

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EDUCATION ACT, 1972

being

Education Act, 1972, No. 154 of 1972 [Assented to 7 December 1972]¹

as amended by

Education Act Amendment Act, 1974, No. 26 of 1974 [Assented to 11 April 1974]²;
Education Act Amendment Act (No. 2), 1974, No. 97 of 1974 [Assented to 5 December 1974];
Education Act Amendment Act, 1976, No. 4 of 1976 [Assented to 19 February 1976]³;
Education Act Amendment Act (No. 2), 1976, No. 113 of 1976 [Assented to 16 December 1976]⁴;
Education Act Amendment Act, 1979, No. 25 of 1979 [Assented to 15 March 1979]⁵;
Children's Protection and Young Offenders Act, 1979, No. 44 of 1979 [Assented to 15 March 1979]⁶;
Education Act Amendment Act, 1980, No. 31 of 1980 [Assented to 17 April 1980];
Education Act Amendment Act (No. 2), 1980, No. 108 of 1980 [Assented to 18 December 1980]⁷;
Education Act Amendment Act, 1981, No. 13 of 1981 [Assented to 19 March 1981]⁸;
Education Act Amendment Act, 1983, No. 93 of 1983 [Assented to 15 December 1983]⁹;
Statute Law Revision Act, 1984, No. 50 of 1984 [Assented to 24 May 1984]⁹.

An Act to make proper provision for primary and secondary education in this State; to repeal the Education Act, 1915; to amend the Statutes Amendment (Long Service Leave) Act, 1958, and the Age of Majority (Reduction) Act, 1970; and for other purposes.

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

PART I

PRELIMINARY

1. This Act may be cited as the "Education Act, 1972".

Short title.

2. This Act shall come into operation on a day to be fixed by proclamation¹.

Commencement.

¹ Came into operation (except Part IV) 14 December 1972: *Gaz.* 14 December 1972, p. 2628; Part IV Division I came into operation 1 July 1973: *Gaz.* 7 June 1973, p. 2422; remainder of Act came into operation 1 February 1974: *Gaz.* 24 January 1974, p. 211.

² Came into operation 1 July 1974: s. 2.

³ Came into operation 8 April 1976: *Gaz.* 8 April 1976, p. 1892.

⁴ Came into operation 29 January 1977: *Gaz.* 27 January 1977, p. 179.

⁵ Came into operation (except Part III) 1 January 1978: s. 2 (1); Part III came into operation 1 July 1979: *Gaz.* 28 June 1979, p. 1951.

⁶ Came into operation (except ss. 9 (3) (b), 50 (2), (3) and Sched. (Guardianship of Infants Act amendments)) 1 July 1979: *Gaz.* 28 June 1979, p. 1951; s. 50 (2) came into operation 19 February 1981: *Gaz.* 19 February 1981, p. 455; remainder of suspended provisions repealed by Children's Protection and Young Offenders Act Amendment Act, 1980.

⁷ Came into operation 14 May 1981: *Gaz.* 14 May 1981, p. 1407.

⁸ Came into operation 15 December 1983: *Gaz.* 15 December 1983, p. 1673.

⁹ Came into operation (except Schedules. 1, 3, 4 and 5) 1 November 1984: *Gaz.* 1 November 1984, p. 1398; remainder of Act suspended.

Subsec. (2) ¹ .	*	*	*	*	*	*	*	*	*	*
S. 3 amended by 4, 1976, s. 3; 108, 1980, s. 3; 93, 1983, s. 3 ¹ .	*	*	*	*	*	*	*	*	*	*
S. 4 repealed by 50, 1984, s. 3 (1) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
Interpretation. S. 5 redesignated s. 5 (1) by 25, 1979, s. 4.	<p>5. (1) In this Act, unless the contrary intention appears—</p> <p>“the Appeal Board” means the Teachers Appeal Board constituted under this Act:</p>									
Def. of “approved non-Government School” inserted by 25, 1979, s. 9 (a); repealed by 108, 1980, s. 4 (a).	*	*	*	*	*	*	*	*	*	*
	<p>“child of compulsory school age” means a child of or above the age of six years who has not yet attained the age of fifteen years:</p> <p>“the Classification Board” means the Teachers Classification Board constituted under this Act:</p> <p>“correspondence school” means a correspondence school established under this Act:</p> <p>“the Department” means the Education Department:</p> <p>“the Director-General” means the person for the time being holding, or acting in, the office of Director-General of Education under this Act:</p>									
Def. substituted by 108, 1980, s. 4 (b).	<p>“governing authority”, in relation to a non-Government school or proposed non-Government school, means the person, board, committee or other authority by which the school is or will be administered:</p>									
Def. amended by 113, 1976, s. 3 (a); substituted by 25, 1979, s. 9 (b).	<p>“Government school” means a school established under this Act, or the repealed Act, for the purpose of providing courses of instruction in pre-school, primary or secondary education:</p>									
Def. of “handicapped child” repealed by 113, 1976, s. 3 (b).	*	*	*	*	*	*	*	*	*	*
	<p>“head teacher” means the person to whom the administration and control of a school is committed:</p> <p>“the Institute of Teachers” means the South Australian Institute of Teachers Incorporated:</p> <p>“the Minister” means the Minister of Education or any other Minister of the Crown for the time being exercising and discharging the functions and responsibilities of the Minister of Education:</p> <p>“non-Government school” means any school or institution (not being a Government school) at which any person or body of persons provides, or offers to provide, courses of instruction in primary or secondary education:</p>									

¹ S. 2 (2) omitted pursuant to the Acts Reproduction Act, 1967, s. 7 (2).

² S. 3 omitted pursuant to the Acts Reproduction Act, 1967, s. 7 (2): see Summary of Provisions.

- “officer”, in relation to the teaching service, means a teacher holding office in the teaching service: Def. amended by 113, 1976, s. 3 (c).
- “parent” of a child means the person who has the actual custody of a child or the person with whom the child resides: Def. inserted by 25, 1979, s. 9 (c).
- “pre-school education” means the provision of courses of training and instruction to children who have not yet attained the age of five years: Def. inserted by 113, 1976, s. 3 (d).
- “recognized kindergarten” means—
- (a) any kindergarten registered by the Kindergarten Union of South Australia as a branch kindergarten or affiliated kindergarten;
- or
- (b) any other prescribed kindergarten:
- “the register” means the register of teachers established under Part IV:
- “registered”, in relation to a teacher, means registered under Part IV, and “registration” has a corresponding meaning:
- “registered non-Government school” means a non-Government school registered under Part V: Def. inserted by 108, 1980, s. 4 (c).
- “the repealed Act” means the Education Act, 1915, repealed by this Act:
- “residence” means any form of accommodation provided by the Minister for an officer of the teaching service or any other person:
- “the Salaries Board” means the Teachers Salaries Board constituted under this Act:
- “school” means any Government or non-Government school:
- “special school” means a school established for the benefit of a particular class of children who require some special form of education, treatment or care: Def. inserted by 113, 1976, s. 3 (e).
- “teacher” means a person who gives or is qualified to give instruction in any course of— Def. substituted by 113, 1976, s. 3 (f).
- (a) pre-school education;
- (b) primary education;
- or
- (c) secondary education:
- “the teaching service” means the teaching service constituted under Part III, and includes the teaching service as constituted under the repealed Act: Def. substituted by 113, 1976, s. 3 (g).
- “technical education” includes instruction in the principles and practice of any industrial, commercial, agricultural or domestic science or art.
- (2) A reference in this Act to the effective service of an officer is a reference to— Subsec. (2) inserted by 25, 1979, s. 4.
- (a) the period (if any) of the officer’s continuous full time service in the teaching service;

and

- (b) any other period that is, by determination of the Minister, to be regarded as forming the whole, or part, of the officer's effective service,

but does not include any period that is, by determination of the Minister, not to be regarded as a period of effective service for the purposes of this Act.

Subsec. (3)
inserted by 25,
1979, s. 4.

- (3) The Minister may, by instrument in writing, determine in relation to any specified officers, or officers of any specified class, that a period referred to in the instrument is, or is not, to be regarded as a period of effective service for the purposes of this Act.

PART II

THE MINISTER AND THE DEPARTMENT

DIVISION I—THE MINISTER

Administration of
this Act.

6. Subject to this Act, the Minister shall have the general administration of this Act and the administration and control of the teaching service.

The Minister.

7. (1) The Minister—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) shall be capable in his corporate name of acquiring, holding and disposing of real and personal property;
- (c) shall be capable of acquiring or incurring any other legal rights and liabilities and of suing or being sued;

and

- (d) shall have the powers, authorities, duties and obligations prescribed by or under this Act.

(2) Where an apparently genuine document purports to bear the common seal of the Minister, it shall be presumed, in the absence of proof to the contrary, that the common seal of the Minister was duly affixed to that document.

Power of
delegation.

8. (1) The Minister may, by instrument in writing, delegate to the Director-General, or any other officer of the Department or the teaching service, any of his powers, duties, responsibilities and functions under this Act except his power to dismiss an officer of the teaching service.

(2) A delegation under this section shall be revocable at will and shall not prevent the exercise of any power by the Minister himself.

General powers of
the Minister.
Subsec. (1)
substituted by 25,
1979, s. 10.

9. (1) The Minister shall establish and maintain such Government schools as may be necessary—

- (a) for the provision of primary and secondary education for children whose parents desire that they should receive education at Government schools;

and

(b) for the provision of pre-school education (to such an extent as the Minister considers practicable and desirable) for children whose parents desire that they should receive pre-school education at Government schools.

(2) The Minister shall establish and maintain such correspondence schools as he considers necessary or desirable in the public interest.

(3) The Minister may, where the public interest does not require the continuance of a Government school, close the Government school permanently or temporarily. Subsec. (3) amended by 113, 1976, s. 4 (a).

(4) The Minister may appoint such officers and employees (in addition to the officers of the Department and of the teaching service) as he considers necessary for the proper administration of this Act or for the welfare of the students of any school.

(5) The Minister may establish such institutions and make such other provisions as he considers necessary or expedient for the proper education and training of teachers.

(6) The Minister may, subject to this Act, establish and maintain such residences for the accommodation of teachers or students as he considers necessary or desirable for the purposes of this Act.

(7) The Minister may, subject to and in accordance with the Land Acquisition Act, 1969, acquire land for the purposes of this Act.

(8) The Minister may, in such manner and to such extent as he thinks fit, provide or arrange for the transport of children to and from any school and may pay the whole or any portion of the cost of transporting children to and from any school.

(9) The Minister may establish any school, college or centre for the purpose of providing technical education or any other kind of education that he considers desirable in the public interest.

(10) The Minister may acquire, deal with, or dispose of, real or personal property as he thinks fit. Subsec. (10) inserted by 113, 1976, s. 4 (b).

10. (1) The Minister may appoint such advisory committees as he considers necessary to investigate, and advise him upon, any matters affecting the administration of this Act or the provision of proper pre-school, primary and secondary education in this State. Advisory committees. Subsec. (1) amended by 25, 1979, s. 11.

(2) An advisory committee constituted under this section shall consist of such members as the Minister thinks fit to appoint to the committee.

(3) A member of an advisory committee shall hold office at the pleasure of the Minister.

(4) Subject to any direction of the Minister, the procedure of an advisory committee shall be determined by the committee.

(5) The Minister may pay to the members of an advisory committee such allowances and expenses as may be prescribed.

DIVISION II—THE DEPARTMENT

11. (1) The Department established under the Public Service Act, 1967, and entitled the "Education Department" shall continue in existence. Continuance of the Department.

(2) There shall be a Director-General of Education who shall be the Permanent Head of the Department.

(3) There shall be such Deputy Directors-General of Education as may be necessary or expedient for the purposes of this Act.

(4) There shall be such other officers of the Department as may be necessary or expedient for the proper administration of this Act.

Duties of the
Director-General.

12. The Director-General—

(a) shall be responsible to the Minister for maintaining a proper standard of efficiency and competency in the teaching service;

and

(b) shall have such other powers and perform such other duties as are invested in or imposed upon him under this Act or as he may be directed to exercise or perform by the Minister.

Delegation, etc.

13. (1) The Director-General may, with the consent of the Minister, delegate, by instrument in writing, any of his powers or functions to any other officer of the Department or any officer of the teaching service.

(2) Any such delegation shall be revocable at will and shall not prevent the exercise of any power by the Director-General himself.

(3) Where the Director-General is absent from the duties of his office for any reason, a Deputy Director-General shall act in the office of the Director-General and shall exercise and perform the powers, duties, functions and obligations of the Director-General.

Report.

14. (1) The Director-General shall in each year make a report on the administration of the Department up to the thirty-first day of December of the year last preceding the date of the report.

(2) The Minister shall cause a copy of the report to be laid before each House of Parliament as soon as practicable after he receives the report.

PART III

THE TEACHING SERVICE

DIVISION I—APPOINTMENT TO THE TEACHING SERVICE

Appointment to
teaching service.

15. (1) Subject to this Act, the Minister may appoint such teachers to be officers of the teaching service as he thinks fit.

(2) An officer may be so appointed on a permanent or temporary basis.

(3) The first appointment of an officer to the teaching service may be made upon probation.

Subsec. (4)
amended by 25,
1979, s. 12 (a).

(4) The probation shall be for such period of effective service (not exceeding two years effective service) as may be determined by the Minister.

Subsec. (5)
amended by 25,
1979, s. 12 (b);
31, 1980, s. 2 (a).

(5) No officer appointed on a permanent basis shall be dismissed or retired from the teaching service except in accordance with the provisions of this Act.

Subsec. (6)
amended by 31,
1980, s. 2 (b).

(6) An officer appointed on a temporary basis shall hold office at the pleasure of the Minister.

DIVISION II—RETRENCHMENT AND RETIREMENT OF OFFICERS

16. (1) Where the Minister is satisfied that—

- (a) the volume of work in any section of the teaching service has diminished;
- (b) in consequence a reduction in staff of the teaching service has become necessary in the interest of economy;
- and
- (c) an officer should be retrenched for that purpose,

Retrenchment of officers of the teaching service.

the Minister may, by a written determination under his hand, retrench that officer as from a date specified in the determination.

(2) An officer who is retrenched under the provisions of this section shall be entitled to receive—

- (a) at least twelve weeks notice in writing prior to the date of retrenchment;
- or
- (b) where the notice is less than twelve weeks, a sum equal to his salary for the period by which the notice falls short of twelve weeks.

(3) An officer may, within fourteen days after he receives notice of a determination under this section, appeal against the determination to the Appeal Board.

(4) The Appeal Board may, upon the hearing of an appeal under this section, revoke the determination or, where the determination has taken effect, order that the officer be reinstated in the teaching service.

17. (1) Where in the opinion of the Director-General an officer is, by reason of invalidity or physical or mental incapacity, unable to perform the duties of his office and the incapacity is of a permanent nature, the Director-General—

Incapacity of members of the teaching service.

- (a) may, by a written determination under his hand, transfer that officer to an office or position of reduced status and alter the classification of the officer accordingly;
- or
- (b) may recommend to the Minister that that officer be retired from the teaching service.

(2) The Minister, on receiving a recommendation under subsection (1), may, in accordance with that recommendation, retire the officer from the teaching service.

(3) An officer may, within fourteen days after he receives notice of a determination under this section or of a decision made by the Minister to retire him in accordance with a recommendation under this section, appeal to the Appeal Board against the determination or decision.

(4) The Appeal Board may, upon the hearing of an appeal under this section, revoke the determination or decision and, where effect has been given to the determination or decision, order that the officer be reinstated as if no determination or decision had been made.

DIVISION III—LONG SERVICE LEAVE

S. 18 repealed by
25, 1979, s. 5.

* * * * *

Long service
leave.

19. (1) An officer shall be entitled to long service leave in accordance with this section.

Subsec. (2)
substituted by 25,
1979, s. 6 (a).

(2) Subject to this section, the long service leave to which an officer is entitled shall be as follows:

(a) in respect of the first ten years of effective service—ninety days leave on full pay;

(b) in respect of a subsequent year of effective service (not being a year of effective service to which paragraph (c) applies)—nine days leave on full pay;

and

(c) in respect of the sixteenth, or any subsequent, year of effective service—

(i) commencing on or after the first day of July, 1974, but before the first day of July, 1975—a number of days leave calculated in accordance with subsection (3);

(ii) commencing on or after the first day of July, 1975—fifteen days leave on full pay.

Subsec. (3)
substituted by 25,
1979, s. 6 (a).

(3) Where an officer commenced his sixteenth, or a subsequent, year of effective service on or after the first day of July, 1974, but before the first day of July, 1975, the officer is entitled to long service leave in respect of that year of effective service ascertained in accordance with the following formula:

$$E = \frac{9D}{365} + \frac{15(365 - D)}{365}$$

where—

E is the number of days leave on full pay to which the officer is entitled (any fraction of less than one-half being disregarded and any fraction of one-half or more being regarded as one whole day);

D is the number of days commencing on (and including) the day on which the relevant year of effective service commenced and concluding on (and including) the thirtieth day of June, 1975.

(4) Every day occurring after the commencement of leave granted under this Division shall count as a day of that leave.

Subsec. (5)
substituted by 25,
1979, s. 6 (b).

(5) An officer may, if he so elects, take leave to which he is entitled under this section on half pay and, in that event, he is entitled to twice the number of days leave to which he would have been entitled if he had taken the leave on full pay.

(6) Any long service leave to which an officer is entitled under this Division shall be taken by that person at such time and in such periods as may, in the opinion of the Director-General, be convenient to the Department.

(7) For the purposes of this Division, where an officer commences duty at the opening of a school year, his service shall be considered to commence on the first day of February in that year.

(8) Where a person ceases for any reason to be an officer of the teaching service before he has taken long service leave to which he is entitled under this section, he shall be entitled, in lieu of that leave, to a sum ascertained in accordance with the following formula:

Subsec. (8)
substituted by 25,
1979, s. 6 (c).

$$P = SD + \left[S \times \frac{AM}{12} \right]$$

where—

P is the amount payable;

S is an amount arrived at by dividing the annual salary of the officer immediately before the cessation of his service by 365;

D is the number of days long service leave on full pay to which the officer would have been entitled in respect of completed years of effective service if he had commenced his long service leave on the day on which he ceased to be an officer;

A is the number of additional days long service leave to which the officer would have been entitled if he had completed a further year of effective service;

M is—

(a) where the period of the officer's effective service is not divisible exactly into complete years—the number (if any) of complete months constituting the remainder;

or

(b) in any other case—zero.

(9) The Minister may apply any amount to which an officer is entitled under subsection (8) in satisfaction of any claim that the Government of the State may have against that officer.

20. (1) Where—

(a) a person who has completed not less than seven years effective service as an officer;

or

(b) a person who is entitled to *pro rata* long service leave under subsection (2),

Pro rata long
service leave.
S. 20 substituted
by 25, 1979, s. 7.

ceases to be an officer of the teaching service before he becomes entitled to long service leave under this Division, he shall be entitled to a sum, by way of *pro rata* long service leave, ascertained in accordance with the following formula:

$$P = (9SD) + \left[9S \times \frac{M}{12} \right]$$

where—

P is the amount payable;

S is an amount arrived at by dividing the annual salary of the officer immediately before the cessation of his service by 365;

D is the number of complete years in the period of the officer's effective service;

M is—

(a) where the period of the officer's effective service is not divisible exactly into complete years—the number (if any) of complete months constituting the remainder;

or

(b) in any other case—zero.

(2) Where an officer has completed not less than five years effective service and—

(a) is retrenched or retired under Division II or retires under Division IV;

(b) being a female—

(i) resigns on account of pregnancy or resigns and is pregnant at the time her resignation takes effect;

or

(ii) resigns while on accouchement leave;

(c) resigns for the purpose of undertaking the care of a child under the age of two years—

(i) of which the officer is a parent;

or

(ii) which the officer intends to adopt;

or

(d) resigns for reasons that are, in the opinion of the Minister, beyond the control of the officer,

and the effective service of the officer commenced before the first day of January, 1980, the officer is entitled to *pro rata* long service leave.

Payment in respect of long service leave on death.

Subsec. (1) substituted by 25, 1979, s. 8.

21. (1) Where an officer dies, the Minister shall pay to the dependants or personal representative of the officer—

(a) the monetary equivalent of any long service leave to which the officer was entitled on the date of his death;

or

(b) if the officer was not then entitled to long service leave, the sum (if any) by way of *pro rata* long service leave to which the officer would have been entitled if he had resigned—

(i) on the date of his death;

and

(ii) (if, in the circumstances of the case, the reason for resignation is material to the question of determining entitlement to *pro rata* long service leave) for a reason giving rise to such an entitlement.

Subsec. (2) repealed by 25, 1979, s. 8.

* * * * *

(3) Any question under this section as to—

(a) whether an officer had any dependants and the identity of the dependants;

or

(b) to which dependants any monetary amount should be paid under this section,

shall be determined by the Minister as he considers proper.

(4) In this section—

“dependants” means persons who are wholly or in part dependent upon the earnings of the officer at the time of his death.

(5) No action shall lie against the Minister in respect of a payment of, or failure to pay, moneys under this section.

22. (1) Where a person retires, or retired, from employment under this Act, or the repealed Act, on the ground of invalidity and is, or was, subsequently employed as an officer, his service before retirement and service after re-employment shall, for the purposes of this Division (except to the extent to which he has received long service leave, or payment in lieu of long service leave, in respect of any such period of service), be taken into account as though that service were continuous.

Interruption of service.
Subsec. (1) amended by 113, 1976, s. 5 (a).

(2) Where either before or after the commencement of this Act the service of a person employed under this Act, or the repealed Act, was interrupted otherwise than by resignation or dismissal for misconduct and he is, or was, subsequently appointed as an officer of the teaching service within two years after the date of that interruption, his service before the interruption and his service after the interruption shall, for the purposes of this Division (except to the extent to which he has received long service leave, or payment in lieu of long service leave, in respect of any such period of service), be taken into account as though that service were continuous.

Subsec. (2) amended by 113, 1976, s. 5 (b).

(3) Where either before or after the commencement of this Act the service of an officer was interrupted otherwise than by resignation or dismissal for misconduct for a period exceeding two years, the Minister may grant a certificate under this section.

(4) Where the Minister grants a certificate under subsection (3), the service of the officer shall be regarded as continuous notwithstanding the interruption, but the period of the interruption shall not be taken into account in determining the period of the officer's service.

23. (1) If an officer is transferred to any other employment in the Government of the State and his service in that employment is continuous with his service as an officer, his service as an officer shall be taken into account for the purpose of computing long service leave to which he may be entitled in respect of that other employment.

Transfer of teachers to other Government employment.

(2) This section does not apply to service in respect of which long service leave has been granted, or a payment in lieu of long service leave has been made, to the officer under this Act.

24. (1) Where an officer has previously been in prescribed employment and his service in the prescribed employment is continuous with his service as an officer, the long service leave to which he is entitled under this Act shall be determined on the basis that his service in the prescribed employment is service in the teaching service.

Rights of persons transferred to the teaching service.
Subsec. (1) amended by 113, 1976, s. 6.

(2) In this section—

“prescribed employment” means—

- (a) employment in the Public Service of the Commonwealth;
- (b) employment in the Public Service of this State;
- (c) employment by the Government of the State otherwise than as an officer of the Public Service;
- (d) employment in the Public Service of any other State or Territory of the Commonwealth;
- (e) employment by a University or College of Advanced Education established in this State;

and

- (f) any other employment approved by the Minister.

(3) This section does not apply to service in respect of which long service leave has been granted or a payment in lieu of long service leave has been made.

(4) For the purposes of this section, continuity of service is not interrupted by an interval, not exceeding six weeks, between the time that service in the prescribed employment terminated and the time the officer took up his employment as such.

(5) Where there is an interval of more than six weeks between the conclusion of service in the prescribed employment and the commencement of service in the teaching service, the Minister may, if he thinks special reasons exist for so doing, declare that that interval shall not disrupt the continuity of service, and the declaration shall have effect according to its terms.

DIVISION IV—RETIRING AGE

Retiring age.
Subsec. (1)
amended by 26,
1974, s. 3 (a);
substituted by 31,
1980, s. 3;
amended by 50,
1984, s. 3, (1)
(2nd Sched.).

25. (1) An officer may retire on or after the day on which he reaches the age of fifty-five years, but must retire upon reaching the age of sixty-five years if he has not retired beforehand.

Subsec. (1a)
inserted by 31,
1980, s. 3;
repealed by 50,
1984, s. 3 (1) (2nd
Sched.).

* * * * *

(2) For the purposes of this section, a school year is the period of twelve months that commences on the first day of February in any year and ends on the thirty-first day of January in the next year.

Subsec. (3)
repealed by 26,
1974, s. 3 (b);
inserted by 113,
1976, s. 7.

(3) This section does not prevent the Minister from appointing to the teaching service, on a temporary basis, a person of or above the age of sixty-five years, but a person, after being so appointed, acquires no right to long service leave under this Act.

Subsec. (4)
repealed by 26,
1974, s. 3 (b).

* * * * *

DIVISION V—DISCIPLINE

26. (1) If an officer—

- (a) contravenes or fails to comply with any provision of this Act;
 - (b) contravenes or fails to comply with any lawful direction given to him under this Act;
 - (c) is negligent, inefficient or incompetent in the discharge of his duties;
 - (d) is absent from duty without proper cause;
- or
- (e) is guilty of any disgraceful or improper conduct,

Disciplinary
action.

there shall be sufficient cause for disciplinary action against that officer.

(2) Where the Director-General finds that there is sufficient cause for disciplinary action under this section—

(a) he may, by written determination under his hand—

- (i) reprimand the officer;
 - (ii) impose a fine upon the officer not exceeding the amount of one weeks salary of the officer;
 - (iii) reduce the classification of the officer;
- or
- (iv) suspend the officer from duty (without pay) for a period not exceeding one year,

Subpara. (i)
substituted by 25,
1979, s. 13.

Subpara. (ii)
substituted by 25,
1979, s. 13.

Subpara. (iii)
substituted by 25,
1979, s. 13.

Subpara. (iv)
inserted by 25,
1979, s. 13.

or

(b) he may recommend to the Minister that the officer be dismissed from the teaching service.

(3) The Minister may, upon receipt of a recommendation under subsection (2), dismiss the officer from the teaching service.

(4) An officer may, within fourteen days after he receives notice of a determination under this section or a decision made by the Minister to dismiss him under this section, appeal to the Appeal Board against the determination or decision.

(5) The Appeal Board may, upon the hearing of an appeal under this section, vary or revoke the determination or decision subject to appeal and, if the determination or decision has taken effect, order that the officer be reinstated in the teaching service as if no such determination or decision had been made.

(6) Any fine imposed on an officer under this section may be deducted from the salary or other remuneration payable to that officer.

27. (1) Where in the opinion of the Director-General the nature or circumstances of any matter alleged against an officer are such that the officer should not continue in the performance of his duties, the Director-General may suspend the officer.

Suspension.

(2) A suspension under subsection (1) may be made whether or not the officer has been charged with an offence.

(3) Unless the Minister otherwise directs, a person suspended under this section shall be entitled to his salary in respect of the period of suspension.

(4) Where a direction has been given under subsection (3) and the guilt of the suspended officer of the matter alleged against him is not established by due process of law, he shall be entitled to receive the salary to which he would have been entitled if there had been no direction under subsection (3).

DIVISION VI—CLASSIFICATION OF OFFICERS

Assignment of classification to officers.

28. (1) The Director-General shall assign a classification to every officer of the teaching service.

(2) Before a classification is assigned to an officer under this section, the Director-General shall consider the recommendation of the Classification Board as to the classification that should be so assigned.

Power to apply for reclassification of office.

29. (1) An officer who considers that the classification assigned to him is not appropriate in view of the duties entailed by his office, or for any other reason, may apply to the Classification Board for a review of his classification.

(2) The Board shall consider any such application and may recommend to the Director-General that the classification of the officer be altered in accordance with the recommendation of the Board or that no alteration be made in the classification.

(3) Where an officer is aggrieved by a decision of the Classification Board under this section, or by a decision of the Director-General not to implement a recommendation of the Classification Board, he may appeal to the Appeal Board against that decision.

(4) The Appeal Board shall, upon the hearing of an appeal under this section, review the classification of the officer and may order such alteration to the classification in question as it considers just.

The Teachers Classification Board.

30. (1) There shall be a board entitled the "Teachers Classification Board".

(2) The Classification Board shall consist of the following members:

(a) a chairman appointed by the Governor on the nomination of the Minister;

(b) two other persons appointed by the Governor on the nomination of the Minister;

and

(c) two persons appointed by the Governor on the nomination of the Institute of Teachers made after holding elections in accordance with the regulations.

(3) The functions of the Classification Board are—

(a) to make recommendations to the Director-General upon the classification of officers under this Part;

and

(b) to perform such other duties as may be assigned to the Board by the Director-General.

31. (1) Subject to this Act, a member of the Classification Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of appointment, shall be eligible for reappointment.

Terms and conditions on which members of Classification Board hold office.

(2) The Governor—

(a) may appoint a suitable person to be a temporary member of the Classification Board for a period not exceeding six months, and any such temporary member shall be entitled to act as a member of the Board where there is a vacancy in its membership or where a member of the Board is unable, or fails, for any reason, to act in his capacity as such;

and

(b) may appoint a suitable person to be a deputy of a member of the Board, and any person so appointed shall be entitled to act as a member of the Board where the member of the Board of whom he has been appointed a deputy is unable, or fails, for any reason, to act in his capacity as such.

(3) The Governor may remove a member of the Classification Board from office for—

(a) mental or physical incapacity;

(b) neglect of duty;

(c) dishonourable conduct;

or

(d) any other cause considered sufficient by the Governor.

(4) The office of a member of the Classification Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of a member of the Classification Board becoming vacant, a person shall be appointed in accordance with this Act to the vacant office but, where the office of a member of the Board becomes vacant before the expiration of the term of office for which he was appointed, a person appointed in his place shall hold office only for the balance of the term of his predecessor.

32. (1) Three members of the Classification Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present.

Quorum, etc.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Classification Board shall be a decision of the Board.

(3) The chairman shall preside at any meeting of the Classification Board at which he is present.

(4) In the absence of the chairman from a meeting of the Classification Board, the members present shall elect one of their number to preside at that meeting.

(5) Each member present at a meeting of the Classification Board shall be entitled to one vote on any matter arising for the decision of the Board and the person presiding at the meeting shall, in the event of an equality of votes on any matter, have a second or casting vote.

(6) Subject to this Act, the business of the Classification Board shall be conducted in such manner as the Board may determine.

Allowances and expenses.

33. A member of the Classification Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

DIVISION VII—THE TEACHERS SALARIES BOARD

The Teachers Salaries Board.

34. (1) There shall be a board entitled the "Teachers Salaries Board".

(2) The Salaries Board shall consist of the following members:

(a) a chairman, who shall be a judge of the Industrial Court or a special magistrate, appointed by the Governor on the nomination of the Minister;

(b) a person appointed by the Governor on the nomination of the Minister;

and

(c) a person nominated by the Institute of Teachers after holding elections in accordance with the regulations.

Terms and conditions on which members of Salaries Board hold office.

35. (1) Subject to this Act, a member of the Salaries Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, shall be eligible for reappointment.

(2) The Governor—

(a) may appoint a suitable person to be a temporary member of the Salaries Board for a period not exceeding six months, and any such temporary member shall be entitled to act as a member of the Board where there is a vacancy in its membership or where a member of the Board is unable, or fails, for any reason, to act in his capacity as such;

and

(b) may appoint a suitable person to be a deputy of a member of the Board, and any person so appointed shall be entitled to act as a member of the Board where the member of the Board of whom he has been appointed a deputy is unable, or fails, for any reason, to act in his capacity as such.

(3) The Governor may remove a member of the Salaries Board from office for—

- (a) mental or physical incapacity;
- (b) neglect of duty;
- (c) dishonourable conduct;
- or
- (d) any other cause considered sufficient by the Governor.

(4) The office of a member of the Salaries Board shall become vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice addressed to the Minister;
- or
- (d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of a member of the Salaries Board becoming vacant, a person shall be appointed in accordance with this Act to the vacant office but, where the office of a member of the Board becomes vacant before the expiration of the term of office for which he was appointed, a person appointed in his place shall hold office only for the balance of the term of his predecessor.

(6) A member of the Salaries Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

36. A decision in which any two members of the Salaries Board concur shall be a decision of the Board.

Decision of Salaries Board.

37. The Salaries Board shall have jurisdiction to make awards with respect to any officer of, or any office or position in, the teaching service under this Act or the teaching service under the Further Education Act, 1976—

Jurisdiction of Salaries Board. S. 37 amended by 4, 1976, s. 4 (a).

- (a) fixing the maximum and minimum salary or other remuneration payable to any officer and the annual or periodical increments of salary or remuneration (if any) that should be applicable to that officer;
- (b) fixing the amount of any special payment or allowance to be made in respect of any circumstances connected with any office or position;
- (c) declaring that, where a person holds a specified qualification or has fulfilled a specified condition, he shall be entitled to receive salary, allowances or other remuneration at specified rates;
- (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;

Para. (a) amended by 4, 1976, s. 4 (b).

Para. (b) amended by 4, 1976, s. 4 (c).

and

- (e) determining any incidental matter.

Institution of proceedings.

38. (1) The Salaries Board may, of its own motion or upon application by the Minister or by the Institute of Teachers, make an award under this Division.

(2) The Salaries Board shall give the Minister and the Institute of Teachers reasonable notice of its sittings to enable the Minister or the Institute to make representations upon any matter subject to proceedings before the Board.

(3) For the purposes of this section, notice may be given, by instrument published in the *Gazette*, setting forth the intended time and place of the hearing and the nature of the proceedings to be considered by the Salaries Board.

(4) If reasonable notice is not given and the Minister and the Institute of Teachers agree to waive the requirement of notice, the Salaries Board may, if satisfied that no prejudice is likely to result to any other person who may be entitled to be joined as a party to the proceedings or to be heard in relation to the proceedings, proceed forthwith to hear and determine the proceedings.

Commencement and duration of an award.

39. (1) Where an award has been made by the Salaries Board, the Board shall cause a copy of the award to be sent to the Minister and the Institute of Teachers and to be published in the *Gazette*.

Subsec. (2) substituted by 25, 1979, s. 14.

(2) An award shall come into force or shall be deemed to have come into force (as the case may require) on a date fixed by the award as its date of commencement.

Subsec. (3) substituted by 25, 1979, s. 14.

(3) The date of commencement of an award shall be a date not earlier than the date on which the proceedings in which the award is made were commenced, unless the Salaries Board considers that there are special reasons for fixing an earlier date.

Subsec. (4) substituted by 25, 1979, s. 14.

(4) An award shall remain in force (subject to any variations made by the Salaries Board) until the date fixed by the award for its expiration or, if no such date is fixed, until rescinded by the Board.

Powers of Salaries Board.

40. In the exercise of its powers, the Salaries Board may—

- (a) make an interim award to have effect until the final determination of proceedings before the Board;
- (b) appoint in an award a Board of Reference consisting of one or more members to deal with any matters prescribed by the award;
- (c) allow the amendment of any relevant application, notice or document or correct, amend or waive any defect, error or irregularity of substance or form in the proceedings;
- (d) give any direction that may be necessary or expedient for the purpose of ensuring that the matter before the Board is disposed of with due expedition;
- (e) dismiss any matter, or refrain from the further hearing of a matter, if it is trivial or if to proceed with it is not in the public interest;
- (f) sit in any place for the hearing and determination of any matter;
- (g) adjourn the hearing from time to time and place to place;

- (h) direct that specified parties be joined to the proceedings;
 - (i) correct in a summary manner any error appearing in an award;
 - (j) declare how an award is to be interpreted or declare the application or effect of an award in particular circumstances;
- and
- (k) exercise any other powers that may be necessary or expedient for the just determination of the proceedings.

41. (1) In the exercise of its powers and functions under this Act, or under any other Act that confers jurisdiction on the Salaries Board, the Board may—

Further powers of Salaries Board.

- (a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person;
- (b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before it and retain them for such reasonable period as it thinks fit and make copies of any of them or of any of their contents;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relating to any matter being inquired into by the Board (which oath or affirmation may be administered by any member of the Board);

or

- (e) require any person appearing before the Board to answer any relevant question put to him by any member of the Board or by any other person appearing before the Board.

(2) Subject to subsection (3), if any person—

- (a) who has been served with a summons to attend before the Board fails without reasonable excuse (proof of which shall lie upon him) to attend in obedience to the summons;
- (b) who has been served with a summons to produce any books, papers or documents fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;
- (c) misbehaves himself before the Board, wilfully insults the Board or any member of the Board or interrupts the proceedings of the Board;

or

- (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

Representation
before Salaries
Board.

42. Any person entitled to appear before the Salaries Board may appear personally or by counsel or other representative.

Salaries Board not
bound by the
rules of evidence.

43. In any proceedings under this Division, the Salaries Board shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms, and it shall not be bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

Effect of an
award.

44. (1) An award duly made under this Division shall be binding on the Minister and all other persons to whom it applies.

(2) In the event of any inconsistency between an award of the Salaries Board and an award of the Industrial Commission of South Australia, the award of the Industrial Commission of South Australia shall prevail to the extent of the inconsistency.

DIVISION VIII—THE TEACHERS APPEAL BOARD

The Teachers
Appeal Board.

45. (1) There shall be a board entitled the "Teachers Appeal Board".

Subsec. (2)
amended by 4,
1976, s. 5 (a).

(2) The following shall be members of the Appeal Board:

(a) a chairman, who shall be a person holding judicial office under the Local and District Criminal Courts Act, 1926, or a special magistrate, appointed by the Governor on the nomination of the Minister;

(b) the members of a panel of officers of the Department appointed by the Governor on the nomination of the Minister;

(c) the members of a panel of officers of the teaching service appointed by the Governor on the nomination of the Institute of Teachers made after elections have been held in accordance with the regulations;

Para. (d) inserted
by 4, 1976,
s. 5 (b).

(d) the members of a panel of officers of the Department of Further Education appointed by the Governor on the nomination of the Minister;

and

Para. (e) inserted
by 4, 1976,
s. 5 (b).

(e) the members of a panel of officers of the teaching service under the Further Education Act, 1976, appointed by the Governor on the nomination of the Institute of Teachers made after elections have been held in accordance with the regulations.

Subsec. (3)
amended by 4,
1976, s. 5 (c).

(3) For the purpose of hearing and determining an appeal by an officer of the teaching service under this Act, the Appeal Board shall be constituted of—

(a) the chairman;

(b) a member of the panel appointed under subsection (1) (b) (or a temporary member of the Board) selected by the Director-General;

and

(c) a member of the panel appointed under subsection (1) (c) (or a temporary member of the Board) selected by the appellant or

appellants or, where there are two or more appellants and they fail to agree on the selection of the member, a member of that panel selected by the chairman.

(4) For the purpose of hearing and determining an appeal by an officer of the teaching service under the Further Education Act, 1976, the Appeal Board shall be constituted of—

Subsec. (4)
inserted by 4,
1976, s. 5 (d).

(a) the chairman;

(b) a member of the panel appointed under subsection (1) (d) (or a temporary member of the Board) selected by the Director-General of Further Education;

and

(c) a member of the panel appointed under subsection (1) (e) (or a temporary member of the Board) selected by the appellant or appellants or, where there are two or more appellants and they fail to agree on the selection of the member, a member of that panel selected by the chairman.

46. (1) Subject to this Act, a member of the Appeal Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, he shall be eligible for reappointment.

Terms and
conditions on
which members
of Appeal Board
hold office.

(2) The Governor may appoint a suitable person to be a temporary member of the Appeal Board for any period not exceeding six months, and any such temporary member shall be entitled to act as a member of the Board where there is a vacancy in its membership or where a member of the Board is unable, or fails, for any reason, to act in his capacity as such.

(3) The Governor may remove a member of the Appeal Board from office for—

(a) mental or physical incapacity;

(b) neglect of duty;

(c) dishonourable conduct;

or

(d) any other cause considered sufficient by the Governor.

(4) The office of a member of the Appeal Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of a member of the Appeal Board becoming vacant, a person shall be appointed in accordance with this Act to the vacant office but, where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Allowances and expenses.

47. A member of the Appeal Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

Decision of Appeal Board.

48. A decision in which two members of the Appeal Board concur shall be a decision of the Board.

Jurisdiction of Appeal Board.
S. 49 amended by 4, 1976, s. 6.

49. The Appeal Board shall exercise such jurisdiction as is conferred on the Board under this Act or any other Act.

Powers of Appeal Board.

50. (1) In the exercise of its powers and functions under this Act, or under any other Act that confers jurisdiction on the Appeal Board, the Board may—

- (a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person;
- (b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before the Board and retain them for such reasonable period as it thinks fit and make copies of any of them or of any of their contents;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relating to any matter being inquired into by the Board (which oath or affirmation may be administered by any member of the Board);

or

- (e) require any person appearing before the Board (including any person whose conduct is subject to inquiry by the Board) to answer any relevant questions put to him by any member of the Board or by any other person appearing before the Board.

(2) Subject to subsection (3), if any person—

- (a) who has been served with a summons to attend before the Appeal Board fails without reasonable excuse (proof of which shall lie upon him) to attend in obedience to the summons;
- (b) who has been served with a summons to produce any books, papers or documents fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;
- (c) misbehaves himself before the Board, wilfully insults the Board or any member of the Board or interrupts the proceedings of the Board;

or

- (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In the course of any proceedings, the Appeal Board may—

(a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact from the evidence that it considers proper;

or

(b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court that may be relevant to the proceedings.

51. Any person entitled to appear before the Appeal Board may appear personally or by counsel or other representative.

Representation before the Appeal Board.

52. In any proceedings under this Division, the Appeal Board shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms, and it shall not be bound by any rules of evidence, but may inform itself in such manner as it thinks fit.

Appeal Board not bound by the rules of evidence.

53. (1) A person shall not be appointed to a position to which this section applies except in accordance with this section.

Appeals against recommendations.

(2) This section applies to a position in a Government school established for the purposes of providing primary or secondary education that is to be filled otherwise than in accordance with a promotion list compiled under the regulations.

(3) Applications for a position to which this section applies shall be submitted in accordance with the regulations either—

Subsec. (3) substituted by 97, 1974, s. 2 (a).

(a) to the Director-General;

or

(b) to a committee established by the Minister and consisting of members appointed by the Minister with the agreement of the Institute of Teachers (one or more of whom must be nominees of the Institute),

and the Director-General, or the committee, may provisionally recommend to the Minister that an applicant be appointed to the vacant position.

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

(5) Subject to subsection (6), any such officer may appeal to the Appeal Board against the provisional recommendation.

Subsec. (5) amended by 97, 1974, s. 2 (b).

(6) There shall be no appeal against a provisional recommendation made by the committee established under this section but, if any such provisional recommendation is that an officer be appointed to the vacant position and the Minister, acting upon the recommendation of the Director-General, declines to make an appointment in accordance with the provisional recommendation, the officer in whose favour the provisional recommendation was made may appeal to the Appeal Board against the recommendation of the Director-General.

Subsec. (6) substituted by 97, 1974, s. 2 (c).

Subsec. (7)
inserted by 97,
1974, s. 2 (c).

(7) The Appeal Board shall, after consideration of an appeal under this section—

(a) in the case of an appeal against a provisional recommendation under subsection (5)—

(i) confirm the provisional recommendation made by the Director-General;

or

(ii) quash the provisional recommendation and direct the Minister to appoint the appellant to the vacant position;

or

(b) in the case of an appeal against a recommendation of the Director-General under subsection (6)—

(i) confirm the recommendation of the Director-General;

or

(ii) quash the recommendation of the Director-General and direct the Minister to appoint the appellant to the vacant position.

Additional rights
of appeal.

54. (1) In addition to the rights of appeal otherwise conferred on an officer by or under this Act, an officer may appeal to the Appeal Board—

(a) against his exclusion from, or position upon, any promotion list declared by regulation to be a promotion list to which this section applies;

or

(b) against any administrative action or decision affecting the officer in relation to which a right of appeal is conferred by the regulations.

(2) Upon the hearing of any appeal under this section, the Appeal Board may give such orders and directions as it considers just in the circumstances of the case.

PART IV

REGISTRATION OF TEACHERS

DIVISION I—CONSTITUTION OF THE TEACHERS REGISTRATION BOARD

The Teachers
Registration
Board.

55. (1) There shall be a board entitled the "Teachers Registration Board".

(2) The Board shall consist of the following members:

(a) a chairman appointed by the Governor on the nomination of the Minister;

(b) two persons appointed by the Governor on the nomination of the Director-General;

Subsec. (2)
amended by 113,
1976, s. 8 (b), (c).

- (c) six persons (of whom at least one is a teacher employed by a non-Government school) appointed by the Governor on the nomination of the Institute of Teachers made after holding an election in accordance with the regulations; Para. (c) amended by 113, 1976, s. 8 (a).
- (d) one person appointed by the Governor on the nomination of the South Australian Independent Schools Board of Headmasters and Headmistresses Incorporated (which nomination shall be made after an election has been held in accordance with the regulations); Para. (d) amended by 25, 1979, s. 15.
- (e) one person appointed by the Governor on the nomination of the South Australian Commission for Catholic Schools; Para. (e) amended by 108, 1980, s. 5.
- (f) one member appointed by the Governor on the nomination of the Tertiary Education Authority of South Australia¹ who is a member of the academic staff of an institution in which courses of instruction at a tertiary level are provided for the education or training of those who desire to be trained as teachers;
- and
- (g) one person appointed by the Governor on the nomination of the Kindergarten Union of South Australia. Para. (g) inserted by 113, 1976, s. 8 (c).

56. (1) Subject to this Act, a member of the Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, he shall be eligible for reappointment. Terms and conditions on which members of the Board hold office.

(2) The Governor—

- (a) may appoint a suitable person to be a temporary member of the Board for a period not exceeding six months, and any such temporary member shall be entitled to act as a member of the Board where there is a vacancy in its membership or where a member of the Board is unable, or fails, for any reason, to act in his capacity as such;

and

- (b) may appoint a suitable person to be a deputy of a member of the Board, and any person so appointed shall be entitled to act as a member of the Board where the member of the Board of whom he has been appointed a deputy is unable, or fails, for any reason, to act in his capacity as such.

(3) The Governor may remove a member of the Board from office for—

- (a) mental or physical incapacity;
- (b) neglect of duty;
- (c) dishonourable conduct;

or

- (d) any other cause considered sufficient by the Governor.

¹ "Tertiary Education Authority of South Australia" substituted for "South Australian Board of Advanced Education" pursuant to the Acts Replication Act, 1967, s. 7 (1).

(4) The office of a member of the Board shall become vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice addressed to the Minister;

or

- (d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of a member of the Board becoming vacant, a person shall be appointed in accordance with this Act to the vacant office but, where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, a person appointed to his place shall be appointed only for the balance of the term of his predecessor.

Quorum, etc.
Subsec. (1)
amended by 113,
1976, s. 9 (a).

57. (1) Eight members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be a decision of the Board.

(3) The chairman shall preside at any meeting of the Board at which he is present.

(4) In the absence of the chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

Subsec. (5)
amended by 113,
1976, s. 9 (b).

(5) Each member of the Board shall be entitled to one vote on any matter arising for the decision of the Board.

(6) Subject to this Act, the business of the Board shall be conducted in such manner as the Board thinks fit.

Validity of acts of
Board and
immunity of its
members.

58. (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed.

Subsec. (2)
amended by 108,
1980, s. 6 (a), (b).

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise of his or its powers or functions, or in the discharge of his or its duties, under this Act.

Subsec. (3)
inserted by 108,
1980, s. 6 (c).

(3) A liability that would, but for subsection (2), attach to a member of the Board shall attach to the Crown.

Allowances and
expenses.

59. The members of the Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

DIVISION II—REGISTRATION

Functions of the
Board.
Subsec. (1)
amended by 113,
1976, s. 10 (a).

60. (1) The function of the Board is to establish, maintain and operate a system of registration of teachers with a view to safeguarding the public interest in pre-school, primary and secondary education by ensuring that it is undertaken only by competent persons.

(2) In the exercise of its powers under this Act, the Board shall confer and collaborate with the Tertiary Education Authority of South Australia¹, the Kindergarten Union of South Australia and with other institutions providing tertiary education in this State with a view to ensuring that the students who desire to be trained for the teaching profession receive the requisite education and training for registration under this Part.

Subsec. (2) amended by 113, 1976, s. 10 (b).

(3) The Board shall collaborate with authorities exercising similar functions in the other States of Australia and as far as practicable with authorities exercising similar functions elsewhere with a view to promoting uniformity in the standards and qualifications required for admission to the teaching profession.

61. (1) A person who proves to the satisfaction of the Board—

Qualifications for registration.

- (a) that he is a fit and proper person to be registered under this Part; and
- (b) that—

- (i) he holds prescribed qualifications and has had prescribed experience as a teacher;

Para. (b) amended by 50, 1984, s. 3 (1) (2nd Sched.).

or

- (ii) he has obtained qualifications and has had experience as a teacher adequate, in the opinion of the Board, for the purpose of registration,

* * * * *

Subpara. (iii) substituted by 113, 1976, s. 11 (a); repealed by 50, 1984, s. 3 (1) (2nd Sched.).

shall, upon payment of the prescribed fee, be registered as a teacher.

(2) The Board may provisionally register any applicant for registration notwithstanding that he does not have the qualifications and experience required for registration under subsection (1).

(3) Provisional registration shall, subject to this Part, be effective for such period not exceeding five years as may be determined by the Board.

(4) The Board may grant registration, or provisional registration, of a teacher subject to conditions—

Subsec. (4) substituted by 113, 1976, s. 11 (b).

- (a) restricting the subjects that he may teach;
- or
- (b) restricting the kind, level or grade of instruction that he may provide.

62. (1) Where a person is registered, or provisionally registered, as a teacher under this Part, the registration shall be effective until the thirty-first day of January last occurring before the expiration of three years from the grant of the registration.

Renewal of registration.

(2) Where a registered teacher has applied in the prescribed manner for an extension of the period of his registration and has paid the prescribed

¹ "Tertiary Education Authority of South Australia" substituted for "South Australian Board of Advanced Education" pursuant to the Acts Republication Act, 1967, s. 7 (1).

fee, an extension or further extension of the period of registration for a period of three years expiring on the thirty-first day of January shall, subject to subsection (3), be granted by the Board.

(3) No extension of a period of provisional registration shall be granted beyond the limits determined in relation to that provisional registration by the Board.

DIVISION III—OBLIGATION TO BE REGISTERED

63. (1) No person shall, without the authority in writing of the Board—

Unregistered person not to hold certain appointments, etc. Subsec. (1) amended by 50, 1984, s. 3 (1) (2nd Sched.).

Para. (a) substituted by 113, 1976, s. 12 (a); amended by 25, 1979, s. 16 (a); 108, 1980, s. 7.

Subpara. (ii) amended by 25, 1979, s. 16 (b).

Para. (b) substituted by 113, 1976, s. 12 (a); amended by 50, 1984, s. 3 (1) (2nd Sched.).

Para. (c) inserted by 113, 1976, s. 12 (a).

(a) accept or undertake employment in a Government or registered non-Government school—

(i) as a teacher;

or

(ii) as administrator of the school or as administrator or supervisor of any course of instruction in pre-school, primary or secondary education provided at the school;

(b) accept or undertake employment in a recognized kindergarten—

(i) as a teacher;

or

(ii) as administrator of the kindergarten or as administrator or supervisor of any course of instruction in pre-school education provided at the kindergarten;

or

(c) provide, or offer to provide, for fee or reward, instruction in any course of primary or secondary education,

unless that person is registered as a teacher.

Penalty: One hundred dollars.

(2) The Board may grant an authority under subsection (1)—

(a) in respect of any specified person;

(b) in respect of persons of a specified class;

or

(c) in respect of any person holding office in any specified kindergartens or schools.

Para. (c) amended by 113, 1976, s. 12 (b).

(3) A registered teacher shall not provide, or offer to provide, for fee or reward, instruction that he is not entitled to provide in accordance with the terms and conditions upon which he is registered.

Penalty: One hundred dollars.

(4) The Minister may, upon the recommendation of the Board, by instrument published in the *Gazette*, suspend¹ the operation of this section to such extent as he may consider necessary or expedient in the public interest.

Subsec. (4)
amended by 113,
1976, s. 12 (c).

64. (1) Any person who fraudulently obtains, or attempts to obtain, registration, or a certificate of registration, as a teacher under this Act shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars or imprisonment for six months.

Offences.

(2) Any person who fraudulently procures, or attempts to procure, for any other person registration, or a certificate of registration, as a teacher under this Act shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars or imprisonment for six months.

(3) Any person who fraudulently impersonates, or represents himself as being, a person registered as a teacher under this Act, or lawfully entitled to be employed as a teacher when in fact he is not entitled to be so employed, shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars or imprisonment for six months.

(4) No person shall assume the title "registered teacher", either alone or in combination with any other word or words or letters, or any name, title or description implying that that person is a registered teacher or is recognized by law as such, unless that person is registered as a teacher under this Part.

Penalty: Five hundred dollars.

DIVISION IV—CANCELLATION OF REGISTRATION

65. (1) The Board may, upon the application of the Registrar or of its own motion, inquire into the conduct of any registered teacher.

Grounds for
cancellation.

(2) If after conducting an inquiry under subsection (1) the Board is satisfied that the registered teacher—

(a) is guilty of gross incompetence;

(b) is guilty of any disgraceful or improper conduct;

or

(c) is subject to a serious mental or physical incapacity by virtue of which he is unable properly to exercise and discharge the functions and duties of a registered teacher,

it may cancel the registration of that teacher.

66. (1) For the purposes of an inquiry under this Division, the Board may—

Powers of Board
upon an inquiry.

(a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person;

(b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;

¹ S. 63 suspended to the extent of exempting from the operation of that section any person holding a full time office or position in a College of Advanced Education, or a University, which offers a programme of teacher education, notwithstanding that that person may administer or teach a course of instruction in primary or secondary education from time to time: see *Gaz.* 26 August 1976, p. 660.

(c) inspect any books, papers or documents produced before the Board and retain them for such reasonable period as it thinks fit and make copies of any of them or of any of their contents;

(d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board or by any person appearing before the Board (which oath or affirmation may be administered by any member of the Board);

or

(e) require any person appearing before the Board, including a person whose conduct is subject to an inquiry (whether he has been summoned to appear or not), to answer any relevant questions put to him by any member of the Board or by any person appearing before the Board.

(2) Subject to subsection (3), if any person—

(a) who has been served with a summons to attend before the Board fails without reasonable excuse (proof of which shall lie upon him) to attend in obedience to the summons;

(b) who has been served with a summons to produce any books, papers or documents fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;

(c) misbehaves himself before the Board, wilfully insults the Board or any member of the Board or interrupts the proceedings of the Board;

or

(d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(3) A person shall not be obliged to answer any question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In the course of any inquiry, the Board may—

(a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact from the evidence that it considers proper;

or

(b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court that may be relevant to the proceedings.

Notice of inquiry.
Subsec. (1)
amended by 113,
1976, s. 13.

67. (1) The Board shall give to any person whose conduct is subject to an inquiry under this Part at least twenty-one days notice of the time and place at which it proposes to hold the inquiry and shall afford that person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board.

(2) If the person to whom notice is given under subsection (1) does not attend at the time and place fixed by the notice, the Board may proceed with the inquiry in his absence.

(3) A person whose conduct is subject to an inquiry under this Part may appear before the Board personally or by counsel or other representative.

DIVISION V—RIGHT OF APPEAL

68. (1) A right of appeal to a local court of full jurisdiction shall lie Appeal. against any decision of the Board made in the exercise or purported exercise of any of its powers or functions under this Part.

(2) The appeal must be instituted within one month of the making of the decision or order appealed against, but the court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case:

(a) affirm, vary or quash the decision appealed against or substitute, or make in addition, any decision that should have been made in the first instance;

(b) remit the subject matter of the appeal to the Board for further hearing or consideration;

or

(c) make any order as to costs, or as to any other matter, that the case may require.

DIVISION VI—MISCELLANEOUS

69. (1) The Board shall, if so required by any person against whom a decision has been made under this Part, state in writing the reasons for its decision. Board to give reasons for its decision.

(2) If the reasons of the Board are not given in writing at the time of making the decision and the appellant then requests the Board to state its reasons in writing, the time for instituting an appeal under this Part against that decision shall run from the time the appellant receives a written statement of those reasons.

70. (1) There shall be a Registrar of the Board. Registrar of the Board.

(2) The person appointed to the office of Registrar shall hold office subject to the Public Service Act, 1967.

(3) The office of Registrar of the Board may be held in conjunction with any other office in the Public Service of the State.

(4) The Registrar shall perform such duties and functions as may be determined by the Board.

71. (1) The Registrar shall cause a register to be kept in which shall be entered the names of all teachers registered under this Part and such other information as may be determined by the Board. Register to be kept.

(2) The register shall be available for public inspection at such times and places as may be determined by the Board.

(3) The name of any registered teacher who dies, whose registration is not renewed or whose registration is cancelled shall be removed from the register.

Part V substituted
by 108, 1980, s. 8.

PART V

NON-GOVERNMENT SCHOOLS

Heading inserted
by 108, 1980, s. 8.

DIVISION I—THE NON-GOVERNMENT SCHOOLS REGISTRATION BOARD

The Non-
Government
Schools
Registration
Board.

S. 72 amended by
25, 1979, s. 17;
substituted by
108, 1980, s. 8

72. (1) There shall be a board entitled the "Non-Government Schools Registration Board".

(2) The Board shall consist of the following members:

(a) a chairman appointed by the Governor on the nomination of the Minister;

Para. (b) amended
by 93, 1983,
s. 4 (a).

(b) three persons appointed by the Governor on the nomination of the Minister, one of whom shall be an officer of the Department;

Para. (c) amended
by 13, 1981,
s. 3 (a).

(c) two persons appointed by the Governor on the nomination of the South Australian Commission for Catholic Schools;

and

Para. (d) amended
by 13, 1981,
s. 3 (b).

(d) two persons appointed by the Governor on the nomination of the South Australian Independent Schools Board Incorporated.

Subsec. (3)
inserted by 93,
1983, s. 4 (b).

(3) A person who is either an officer of the Department or employed as a teacher in, or in the administration of, a Government or a non-Government school is ineligible for appointment as the chairman of the Board.

Subsec. (4)
inserted by 93,
1983, s. 4 (b).

(4) Before the Minister nominates a person for appointment as the chairman of the Board, he shall consult with the Advisory Committee on Non-Government Schools in South Australia in relation to the proposed appointment.

Term of office of
members of the
Board.
S. 72a inserted by
108, 1980, s. 8.

72a. (1) Subject to this Act, a member of the Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, he shall be eligible for reappointment.

(2) The Governor—

(a) may appoint a suitable person to be a temporary member of the Board for a period not exceeding six months, and any such temporary member shall be entitled to act as a member of the Board where there is a vacancy in its membership or where a member of the Board is unable, or fails, for any reason, to act in his capacity as such;

and

(b) may appoint a suitable person to be a deputy of a member of the Board, and any person so appointed shall be entitled to act as a member of the Board where the member of the Board of whom he has been appointed a deputy is unable, or fails, for any reason, to act in his capacity as such.

(3) The Governor may remove a member of the Board from office for—

(a) mental or physical incapacity;

(b) neglect of duty;

(c) dishonourable conduct;

or

(d) any other cause considered sufficient by the Governor.

(4) The office of a member of the Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of a member of the Board becoming vacant, a person shall be appointed in accordance with this Act to the vacant office but, where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, a person appointed to his place shall be appointed only for the balance of the term of his predecessor.

72b. (1) Five members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present.

Quorum, etc.
s. 72b inserted by 108, 1980, s. 8.
Subsec. (1) amended by 13, 1981, s. 4; 93, 1983, s. 5 (a).

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be a decision of the Board.

(3) The chairman shall preside at any meeting of the Board at which he is present.

(4) In the absence of the chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(5) Each member of the Board who is present at a meeting of the Board (including the person presiding at the meeting) shall be entitled to one vote on any question arising for the decision of the Board at that meeting and, in the event of an equality of votes, no casting vote shall be exercised.

Subsec. (5) substituted by 93, 1983, s. 5 (b).

(6) Subject to this Act, the business of the Board shall be conducted in such manner as the Board thinks fit.

72c. (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed.

Validity of acts of Board and immunity of its members.
S. 72c inserted by 108, 1980, s. 8.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise of his or its powers or functions, or in the discharge of his or its duties, under this Act.

(3) A liability that would, but for subsection (2), attach to a member of the Board shall attach to the Crown.

72d. The members of the Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

Allowances and expenses.
s. 72d inserted by 108, 1980, s. 8.

72e. (1) There shall be a Registrar of the Board.

Registrar.
s. 72e inserted by 108, 1980, s. 8.

(2) The Registrar of the Board shall be appointed and hold office subject to the Public Service Act, 1967.

(3) The office of Registrar of the Board may be held in conjunction with any other office in the Public Service of the State.

DIVISION II—REGISTRATION

Heading inserted
by 108, 1980, s. 8.

Non-Government
schools to be
registered.
s. 72f inserted by
108, 1980, s. 8.

72f. If after a date to be fixed by proclamation¹ for the purposes of this section students are enrolled or receive instruction at an unregistered non-Government school, the governing authority of the school shall be guilty of an offence.

Penalty: Five hundred dollars.

Registration of
non-Government
schools.
s. 72g inserted by
108, 1980, s. 8.

72g. (1) The governing authority of a non-Government school, or proposed non-Government school, or a person authorized by the governing authority may apply for registration of the school or proposed school.

Subsec. (2)
substituted by 13,
1981, s. 5; 93,
1983, s. 6 (a).

(2) An application for registration of a non-Government school must—

(a) be made in a manner and form determined by the Board;

and

(b) be accompanied by a fee of one hundred dollars.

Subsec. (3)
amended by 93,
1983, s. 6 (b).

(3) Where the Board is satisfied upon an application under this section that—

(a) the nature and content of the instruction offered, or to be offered, at the school is satisfactory;

and

(b) the school provides adequate protection for the safety, health and welfare of its students,

the Board shall register that non-Government school for such period as it thinks fit.

(4) The Board may impose such conditions upon the registration of a non-Government school as it thinks necessary—

(a) to protect the safety, health and welfare of students at the school;

and

(b) to ensure that those students receive a suitable education.

Subsec. (4a)
inserted by 93,
1983, s. 6 (c).

(4a) The Board may, at any time, on the application of the school concerned, vary or revoke a condition imposed on the registration of the school pursuant to subsection (4).

Subsec. (5)
substituted by 93,
1983, s. 6 (d).

(5) Where the Board decides—

(a) to refuse an application for registration of a non-Government school;

(b) to grant an application subject to conditions;

or

(c) to register a non-Government school for a limited period,

it shall, within one month after making that decision, inform the applicant in writing of its reasons for making the decision.

Register to be
kept.
S. 72h inserted by
108, 1980, s. 8.

72h. (1) The Board shall cause a register to be kept in which shall be entered the names of all non-Government schools registered under this Part and such other information as may be determined by the Board.

¹ Proclaimed date 1 February 1982: *Gaz.* 8 October 1981, p. 1150.

(2) The register shall be available for public inspection.

(3) The name of any registered non-Government school, the registration of which is cancelled or has expired, shall be removed from the register.

Subsec. (3) amended by 93, 1983, s. 7.

* * * * *

S. 72i inserted by 108, 1980, s. 8; repealed by 13, 1981, s. 6.

DIVISION III—CANCELLATION OF REGISTRATION AND OTHER REMEDIES

Heading inserted by 108, 1983, s. 8; substituted by 93, 1983, s. 8.

72j. (1) The Board may, upon the application of the Registrar or of the school concerned or of its own motion, review the registration of any registered non-Government school.

Review of registration, power of cancellation, etc. S.72j inserted by 108, 1980, s. 8.

Subsec. (1) amended by 93, 1983, s. 9 (a).

(1a) The Board shall review the registration of every registered non-Government school at least once in every five year period during the registration of the school.

Subsec. (1a) inserted by 93, 1983, s. 9 (b).

(2) If after reviewing the registration of a non-Government school under this section—

Subsec. (2) substituted by 93, 1983, s. 9 (b).

(a) the Board is satisfied—

(i) that the nature and the content of the instruction offered at the school is unsatisfactory;

or

(ii) that the school provides inadequate protection for the safety, health and welfare of its students;

or

(b) the Board is satisfied that the governing authority of the school has contravened, or failed to comply with, a condition imposed on the registration of the school,

the Board may, by notice in writing addressed to the governing authority of the school, exercise one or more of the following powers:

(c) the Board may vary or revoke a condition imposed on the registration of the school;

(d) the Board may impose such further conditions on the registration of the school as it thinks fit;

(e) the Board may limit or reduce the period of the school's registration by directing that its registration will terminate at a time fixed in the notice;

or

(f) the Board may cancel the school's registration.

(2a) The Board shall, in a notice referred to in subsection (2), state the reasons for its decision.

Subsec. (2a) inserted by 93, 1983, s. 9 (b); amended by 50, 1984, s. 3 (1) (2nd Sched.).

(3) The Board may cancel the registration of a non-Government school if the school is defunct.

Powers of Board upon a review.
S. 72k inserted by 108, 1980, s. 8.
Subsec. (1) amended by 93, 1983, s. 10 (a).

72k. (1) For the purposes of a review under this Division, the Board may—

- (a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person;
- (b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before the Board and retain them for such reasonable period as it thinks fit and make copies of any of them or of any of their contents;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board or by any person appearing before the Board (which oath of affirmation may be administered by any member of the Board);

or

- (e) require any person appearing before the Board to answer any relevant questions put to him by any member of the Board or by any person appearing before the Board.

(2) Subject to subsection (3), if any person—

- (a) who has been served with a summons to attend before the Board fails without reasonable excuse (proof of which shall lie upon him) to attend in obedience to the summons;
- (b) who has been served with a summons to produce any books, papers or documents fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;
- (c) misbehaves himself before the Board, wilfully insults the Board or any member of the Board or interrupts the proceedings of the Board;

or

- (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(3) A person shall not be obliged to answer any question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

Subsec. (4) amended by 93, 1983, s. 10 (b).

(4) In the course of a review of the registration of a non-Government school, the Board may—

- (a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact from the evidence that it considers proper;

or

- (b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court that may be relevant to the proceedings.

72l. (1) The Board shall give the governing authority of a registered non-Government school that is subject to a review of its registration under this Part at least twenty-one days notice of the time and place at which it proposes to hold the proceedings and of the matters to which the review relates, and shall afford the governing authority opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board.

Notice of review.
S. 72l inserted by 108, 1980, s. 8.
Subsec. (1) amended by 93, 1983, s. 11 (a)-(c).

(2) If a person representing the governing authority of the school does not attend at the time and place fixed by the notice, the Board may proceed with the review *ex parte*.

Subsec. (2) amended by 93, 1983, s. 11 (d).

DIVISION IV—RIGHT OF APPEAL

Heading inserted by 108, 1980, s. 8.

72m. (1) If the governing authority of a non-Government school is aggrieved by any decision of the Board made in the exercise or purported exercise of any of its powers or functions under this Part, it may appeal against that decision to a local court of full jurisdiction.

Appeal.
S. 72m inserted by 108, 1980, s. 8.

(2) Subject to this Act, the appeal shall be instituted within one month of receipt by the appellant of notice in writing of the decision appealed against, but the court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The court may, on the hearing of the appeal, exercise one or more of the following powers, according to the nature of the case:

- (a) affirm, vary or quash the decision appealed against or substitute, or make in addition, any decision that should have been made in the first instance;
 - (b) remit the subject matter of the appeal to the Board for further hearing or consideration;
- or
- (c) make any order as to costs, or as to any other matter, that the case may require.

DIVISION V—MISCELLANEOUS

Heading inserted by 108, 1980, s. 8.

72n. (1) The head teacher of a registered non-Government school shall keep such records in relation to the attendance of students at the school as may be prescribed or as the Minister may determine.

Records to be kept in non-Government schools.
S. 72n inserted by 108, 1980, s. 8.

(2) The head teacher of a registered non-Government school shall furnish the Minister with such returns in relation to the attendance of students at the school as may be prescribed or as the Minister may require.

(3) The head teacher of a registered non-Government school who fails to comply with any provision of this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

72o. (1) The Minister may, at the request of the governing authority or head teacher of any registered non-Government school, cause the school to be visited by an appropriate person or persons for the purpose of advising the governing authority or head teacher in relation to any matter connected with the administration of the school.

Minister may provide certain forms of assistance to non-Government schools.
S. 72o inserted by 108, 1980, s. 8.
Subsec. (1) amended by 13, 1981, s. 7.

(2) The Minister may, at the request of the governing authority or head teacher of any registered non-Government school, cause the school to be visited by a medical or dental officer, health inspector or nurse for the purpose of medical or dental examination of those who attend the school or for the purpose of advising the governing authority or head teacher of the school on any matter relating to the health of those who attend the school.

Inspection of non-Government schools.
S. 72p inserted by 108, 1980, s. 8.
Subsec. (1) amended by 13, 1981, s. 8 (a), (b); 93, 1983, s. 12 (a)-(c).

72p. (1) For purposes connected with the administration of this Part, the Board may, by instrument in writing, authorize a panel of not less than three persons nominated by the Board and approved by the Minister to carry out an inspection of any non-Government school, or premises proposed to be used for the purposes of a non-Government school, and the members of the panel may, at any reasonable time, enter and inspect the school or premises specified in their authority.

Subsec. (1a) inserted by 93, 1983, s. 12 (d).

(1a) A panel referred to in subsection (1) must include—

- (a) an officer of the Department or of the teaching service;
 - (b) a person employed as a teacher in, or in the administration of, a non-Government school;
- and
- (c) the Registrar of the Board.

Subsec. (2) amended by 93, 1983, s. 12 (e).

(2) A person who prevents the members of the panel from carrying out an inspection under subsection (1), or hinders any such inspection, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

S. 73 amended by 25, 1979, s. 18; repealed by 108, 1980, s. 8.

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PART VI

COMPULSORY ATTENDANCE AT SCHOOLS

Schools and secondary school districts.
Subsec. (1) inserted by 25, 1979, s. 19 (a); amended by 108, 1980, s. 9.

74. (1) In this Part—

“school” means a Government school or a registered non-Government school.

Subsec. (1) redesignated subsec. (2) by 25, 1979, s. 19 (b).

(2) The Minister may, by instrument in writing, establish such secondary school districts as he thinks fit.

Subsec. (2) redesignated subsec. (3) by 25, 1979, s. 19 (b).

(3) Every secondary school district shall be related to a school at which secondary education is provided.

Compulsory enrolment of children.
Subsec. (1) amended by 113, 1976, s. 14 (a).

75. (1) A child of compulsory school age must be enrolled at a primary school or secondary school (according to the educational attainments of the child).

(2) A child of compulsory school age whose educational attainments are such that he should be enrolled at a secondary school and who is resident within a secondary school district established under this Part must, except where otherwise determined by the Director-General, be enrolled at the school for which the district is established or at a non-Government school.

(3) Where in the opinion of the Director-General it is in the best interests of a child that he be enrolled at a special school, the Director-General may direct that the child be enrolled at a special school nominated in the direction and, where such direction has been given, the child must be enrolled at that special school.

Subsec. (3)
substituted by
113, 1976,
s. 14 (b).

(4) A child is enrolled at a school in accordance with this section if he is entitled, in accordance with the regulations, to be enrolled at a Correspondence School and is so enrolled.

(5) If a child of compulsory school age is not enrolled as required by this section, each parent of the child shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(6) The obligation of a parent under this section is discharged where the parent has supplied the head teacher of the school with the name, date of birth and place of residence of the child.

76. (1) A child is required to attend at the school for which he is enrolled on every day, and for such parts of every day, as instruction is provided at the school for the child.

Compulsory
attendance.

(2) Subsection (1) does not apply—

(a) in respect of a child enrolled in accordance with the regulations at a Correspondence School;

(b) in respect of a child exempted from attendance in accordance with the provisions of this Part;

or

(c) in respect of a child for whom a parent presents, within a reasonable time, a prescribed reason for the non-attendance of the child at the school.

(3) Where a child fails to attend school as required by subsection (1), each parent of the child shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(4) It shall be a defence to a charge under subsection (3) that the failure of the child to attend school did not result from any failure of the parent to exercise proper care and control of the child.

(5) This section does not apply in respect of a child exempted from attendance at school under this Part.

77. (1) The Minister may exempt any child from attendance at school during any period specified in the exemption.

Exemption by
Minister.

(2) The Minister may, at any time, revoke an exemption granted under this section.

78. (1) No person (whether or not he is a parent of the child) shall employ a child of compulsory school age or cause or permit such a child to be employed—

Employment of
children of
compulsory
school age.

(a) during the hours at which he is required to attend school;

or

- (b) during any part of a day or night, in any labour or occupation that is such as to render the child unfit to attend school as required by this Part or to obtain the proper benefit from the instruction provided for him.

Penalty: Two hundred dollars.

(2) The Minister may grant an exemption from all or any of the provisions of this section in respect of a child if, in his discretion, he considers it appropriate to do so.

Truants.
S. 79 substituted
by 44, 1979,
s. 5 (2) (Sched.).

79. (1) A child of compulsory school age who habitually or frequently absents himself, without lawful excuse, from school when the school is open for instruction shall be guilty of the offence of truancy and liable to be dealt with under the Children's Protection and Young Offenders Act, 1979.

(2) In this section—

“lawful excuse” means any cause prescribed as a lawful excuse by regulation.

Authorized
officers.

80. (1) The following persons shall be authorized officers for the purposes of this Part:

- (a) any member of the police force;
- (b) any person authorized in writing by the Director-General of Community Welfare to exercise the powers of an authorized officer under this Act;

or

- (c) any person authorized in writing by the Director-General to exercise the powers of an authorized officer under this Act.

Subsec. (2)
substituted by
113, 1976, s. 15
(a).

(2) Where an authorized officer observes any child who appears to him to be a child of compulsory school age in any public place at a time when the child should normally be attending school, he may accost the child and seek to obtain from the child the following information:

- (a) the name and address of the child;
- (b) the age of the child;
- and
- (c) the reason for his non-attendance at school.

Subsec. (3)
amended by 113,
1976, s. 15 (b).

(3) An authorized officer may, at any time in the day, call at a dwelling house and request any person to furnish him with the following information:

- (a) the full names of all children of compulsory school age resident in the dwelling house;
- (b) the respective ages of those children;
- and
- (c) the schools (if any) at which those children are enrolled in pursuance of this Part.

Para. (b)
substituted by
113, 1976, s. 15
(b).

Para. (c) inserted
by 113, 1976,
s. 15 (b).

(4) Any person who fails to comply with such a request, or who furnishes false information in response to any such request, shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

81. (1) An apparently genuine document purporting to be under the hand of the head teacher of a school stating that any child named in the certificate did or did not attend that school on the occasion or occasions specified in the certificate shall, in any legal proceedings, be proof of the matters so stated in the absence of proof to the contrary.

Evidentiary provision.
Subsec. (1) amended by 25, 1979, s. 20.

(2) In any proceedings under this Act, an apparently genuine document purporting to be under the hand of an authorized officer and stating that—

- (a) a specified person is a parent of a child named in the document;
- (b) the child named in the document is of, above or below a specified age;
- (c) at a specified time, the child named in the document was or was not enrolled at a specified school;
- (d) a person named in the document is the head teacher of a specified school;

or

- (e) at a specified time, instruction was provided for the child named in the document at the school specified in the document,

shall, in the absence of proof to the contrary, be deemed to be proved.

PART VII

COURSES OF INSTRUCTION

82. (1) The Director-General shall be responsible for the curriculum in accordance with which instruction is provided in Government schools.

Determination of curriculum.

(2) For the purpose of assisting the Director-General to determine the curriculum in accordance with which instruction is to be provided, the Minister may appoint—

Subsec. (2) substituted by 25, 1979, s. 21.

- (a) an Advisory Curriculum Board;
- and

- (b) such advisory committees as the Minister may determine on the recommendation of the Director-General.

(3) The Advisory Curriculum Board and any committee appointed under this section shall consist of—

Subsec. (3) substituted by 25, 1979, s. 21.

- (a) such officers of the Department and of the teaching service;
- and

- (b) such representatives of registered non-Government schools and other organizations,

Para. (b) amended by 108, 1980, s. 10.

as may be determined by the Minister on the recommendation of the Director-General.

(4) A member of the Advisory Curriculum Board or a committee appointed under this section shall hold office upon such terms and conditions as may be determined by the Minister.

Subsec. (4) substituted by 25, 1979, s. 21.

PART VIII

SCHOOL COUNCILS

Establishment of school councils.

83. (1) The Minister may establish a council for any Government school or schools.

(2) The Minister may establish an interim council for any proposed Government school.

(3) A council shall consist of such members, not less than five in number, as may be prescribed.

(4) The members of a council shall hold office upon such terms and conditions as may be prescribed.

Incorporation of councils.

84. (1) A council shall—

(a) be a body corporate with perpetual succession and a common seal;

(b) be capable of holding and dealing with real and personal property;

(c) be capable of acquiring or incurring any other legal rights or obligations and of suing and being sued;

and

(d) have such powers, authorities, duties and obligations as may be conferred, imposed or prescribed by or under this Act.

(2) A council shall not engage in any transaction involving the acquisition or disposal of real property unless the Minister has, by instrument in writing, consented to that transaction.

Borrowing power of councils.

85. (1) Subject to this Act, a council 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 facilities, for the school.

(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).

Subsec. (3) amended by 113, 1976, s. 16; substituted by 25, 1979, s. 22.

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

(a) the School Loans Advisory Committee constituted under this Part has recommended that the guarantee be given;

(b) the conditions of any administrative instruction issued by the Director-General under subsection (3a) have been complied with;

(c) the Treasurer is satisfied that the terms and conditions of the loan or proposed loan are reasonable;

and

(d) the council seeking the guarantee has given such undertakings, or entered into such agreements, as the Treasurer may require.

Subsec. (3a) inserted by 25, 1979, s. 22.

(3a) The Director-General may from time to time issue administrative instructions relating to the borrowing of money by councils.

(3b) The Director-General may vary or revoke any administrative instruction given under this section.

Subsec. (3b)
inserted by 25,
1979, s. 22.

(4) The guarantee may extend to the payment of interest on the loan and incidental charges and expenses connected with the loan.

(5) The 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 of the loan or proposed loan, as the Minister, Treasurer or that Committee, as the case may be, requires.

(6) Where a guarantee is granted under this section, the guarantee shall 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 council, after the giving of the guarantee, shall affect the liability under the guarantee, unless approved in writing by the Treasurer;
- (b) the corporation shall take all reasonable and necessary steps to ensure recovery of all instalments of principal 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 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 that 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.

86. (1) There shall be an advisory committee entitled the "School Loans Advisory Committee".

School Loans
Advisory
Committee.

(2) The Committee shall consist of such number of members appointed by the Minister as may be prescribed.

(3) The members of the Committee shall hold office upon such terms and conditions as may be determined by the Minister.

(4) The Committee shall investigate and advise the Minister upon any application for his approval of the borrowing of moneys by a council under this Part and upon such other matters as the Minister may think fit to refer to the Committee for advice.

87. The Minister may, upon such terms and conditions as he thinks fit, make a grant of money to any council established under this Part.

Power of Minister
to make grants.

88. (1) A council established under this Part shall cause proper accounts to be kept of any moneys received by it and any dealings with those moneys.

Accounts.

(2) The Director-General or Auditor-General may, at any time, inspect or audit the accounts of any council established under this Part.

89. (1) The Minister may authorize the constitution or establishment of such committees to be affiliated with a council under this Part as he thinks fit.

Affiliated
committees.

(2) Any such committee shall exercise such powers and functions as may be determined by the Minister.

Abolition of
council.

90. (1) Where a school for which a council has been established under this Part is closed, the Minister may, by instrument in writing, abolish the council.

(2) Where a council is abolished under subsection (1), the Minister may dispose of the assets of the council in such manner as he thinks proper.

Part IX
comprising
heading and
ss. 91-101
repealed by 4,
1976, s. 7.

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PART X

MISCELLANEOUS

Religious
education.

102. (1) Regular provision shall be made for religious education at a Government school, under such conditions as may be prescribed, at times during which the school is open for instruction.

(2) The regulations shall include provision for permission to be granted for exemption from religious education on conscientious grounds.

Educational
census.

103. (1) The Minister may, at any time, by notice in the *Gazette*, direct that an educational census be taken in the area specified in such notice.

(2) For the purpose of taking such a census, the Minister may appoint some person or persons to call at every dwelling house in the area and collect information.

(3) Every occupier of a dwelling house in the area shall, upon the request of any person appointed under this section, give him such information as will enable him to complete a return in a prescribed form.

(4) If for any reason the information is not supplied when a person appointed under this section calls at any dwelling house to obtain the information, a return may be left at the dwelling house.

(5) The occupier of the dwelling house at which the return is left shall, within seven days thereafter, complete the return and give it to a person appointed under this section when he calls and asks for the return after the expiration of those seven days.

(6) If any occupier of a dwelling house—

(a) fails to comply with any of the provisions of subsection (5);

or

(b) wilfully supplies any false information,

he shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

Offence of
insulting a
teacher.

104. Any person who behaves in an offensive or insulting manner to a teacher who is acting in the course of his duties as such shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Proceedings for
offences.

105. (1) Proceedings for offences against this Act shall be disposed of summarily.

(2) Proceedings for an offence against this Act shall not be commenced without the consent in writing of the Minister.

(3) In any proceedings for an offence against this Act, an apparently genuine document purporting to be under the hand of the Minister and to record his consent to the commencement of the proceedings shall be accepted as proof of that consent in the absence of proof to the contrary.

106. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Moneys required for the purposes of this Act.

107. (1) The Governor may make such regulations as are contemplated by this Act or as he considers necessary or expedient for the purposes of this Act.

Regulations.

(2) Without limiting the generality of subsection (1), those regulations may make provision with respect to the following matters:

- (a) the establishment, maintenance and control of Government schools and the management of all land, buildings and equipment used in connection with such schools;
- (b) the provision of residences for teachers and boarding accommodation to be used in connection with a Government school;
- (c) the provision of religious education in Government schools and exemption from religious education on conscientious grounds;
- (d) the terms and conditions upon which officers of the teaching service shall hold office, their rights to leave of absence and any other privileges, their rights upon retirement from the teaching service and any other matter whatsoever affecting their employment;
- (e) the salary and other remuneration to be paid to officers of the teaching service;
- (f) the appointment, practice and procedure of any board, committee or council established under this Act;
- (g) the courses of instruction to be provided in Government schools;
- (h) the provision of books and materials for pupils at any school;
- (i) the provision of grants to schools and the conditions applicable to those grants;
- (j) the enrolment of pupils;
- (k) the conditions upon which pupils are to be admitted to schools;
- (l) the establishment of scholarships and the provision of allowances to pupils;
- (m) school vacations, the hours at which instruction is to be provided at schools, the method to be adopted in teaching and the discipline to be observed and enforced in Government schools;
- (n) the transport of children to and from school and the payment of part or all of the costs of transport;
- (o) the use of the buildings or facilities of Government schools;
- (p) the prohibition of trespass upon the grounds of any Government school and the regulation of the driving, parking or ranking of vehicles on the grounds of any Government school;

Para. (a) amended by 50, 1984, s. 3 (1) (2nd Sched.).

- (q) the conditions governing the registration of teachers and any other matter affecting the registration of teachers;
- (r) the fees to be charged in relation to any registration, or renewal of registration, as a teacher;
- (s) the furnishing of returns to the Department by the head teachers of schools, the matters to be contained in any such returns and any other information to be provided to the Minister or the Director-General;

Para. (sa) inserted
by 25, 1979, s. 23;
repealed by 108,
1980, s. 11.

* * * * *

and

- (t) any other matter necessary or expedient for the proper administration of this Act.

(3) A regulation made under this Act shall not be invalid on the ground that it relates to circumstances that occurred before the commencement of this Act.

(4) A regulation under this Act may provide for a penalty not exceeding one hundred dollars for breach of, or non-compliance with, any provision of the regulation.