

Education Acts (Amendment) Bill

No.

TABLE OF PROVISIONS

Clause

1. Purpose.
2. Commencement.
3. Principal Act.
4. Section 4B repealed and new sections 5 and 5A inserted—
 5. Non-teaching staff employed by Chief Executive.
 - 5A. Transfer of staff from school councils to Chief Executive.
5. Employment powers of school councils.
6. Definition of school.
7. Ministerial exemption from enrolment requirements.
8. Registration of schools.
9. No power to cancel registration in certain cases of low enrolment.
10. Registration requirements do not apply to employees of Chief Executive.
11. Regulations.
12. Chairman Teaching Service Appeals Boards.

LEGISLATIVE ASSEMBLY

Read 1° 25 March 1987

(Brought in by Mr Cathie and Mr Fordham)

A BILL

to amend the *Education Act* 1958 and the *Teaching Service Act* 1981
and for other purposes.

Education Acts (Amendment) Act 1987

The Parliament of Victoria enacts as follows:

Purpose.

1. The main purpose of this Act is to amend the *Education Act* 1958 and the *Teaching Service Act* 1981.

5 Commencement.

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

Principal Act.

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

No. 6240.
Reprinted to
No. 10191.
Subsequently
amended by
Nos. 13/1986,
42/1986,
59/1986,
118/1986 and
121/1986.

Section 4B repealed and new sections 5 and 5A inserted.**4. For section 4B of the Principal Act substitute:****Non-teaching staff employed by Chief Executive.**

“5. (1) The Chief Executive may employ—

- (a) teacher aides to assist teachers; and 5
- (b) teacher assistants to assist teachers in special developmental schools; and
- (c) rural school aides to assist teachers in rural primary schools; and
- (d) any person in any other category of staff declared by Order of the Minister to be staff in schools which may be employed by the Chief Executive. 10

(2) Despite anything to the contrary in this Act the *Public Service Act 1974*, the *Teaching Service Act 1981* or the *Teaching Service Act 1983*, Division 1 of Part III of the *Teaching Service Act 1981* applies to and in relation to the determination of salaries and allowances to be paid to and the terms and conditions of employment of persons employed under sub-section (1) as if those employees were officers and employees of the teaching service. 15

(3) The Chief Executive, in carrying out the Chief Executive’s functions under and in accordance with the section, represents the Crown.”. 20

Transfer of staff from school councils to Chief Executive.

“5A. (1) A person who is in a category of staff declared under section 5 and, immediately before the date the Order was made, was employed by a school council is transferred to the employment of the Chief Executive and is to be treated as being employed by the Chief Executive from the date of the Order. 25

(2) A person is transferred to the employment of the Chief Executive under sub-section (1) with— 30

- (a) the same salary and allowances and on the same terms and conditions of employment as the person was employed by the school council; and
- (b) the accrued entitlements and benefits which the person had in the employment of the school council— 35

immediately before the transfer.

(3) The Chief Executive may, by instrument, delegate to a school council any power, function or duty of the Chief Executive relating to the employment of persons under this section, except this power of delegation. 40

(4) A school council may by instrument delegate to a sub-committee which consists entirely of members of the council all or any of the powers, functions or duties delegated to the council under sub-section (3) except this power of delegation.”.

5 Employment powers of school councils.

5. In section 15B (1) (a) of the Principal Act after “teaching staff” insert “or non-teaching staff referred to in section 5”.

Definition of school.

10 6. In section 35 of the Principal Act for “twenty or more” substitute “any number of”.

Ministerial exemption from enrolment requirements.

7. Section 35A of the Principal Act is amended as follows:

- 15 (a) In sub-section (1) omit “otherwise within the meaning of section 35”;
- (b) In sub-section (2) (b) omit “as if it were a school within the meaning of section 35”.

Registration of schools.

8. Section 42 of the Principal Act is amended as follows:

- 20 (a) For sub-section (1C) substitute—
 “(1C) A school may only be opened if the Board has granted approval for the opening.”;
- (b) After sub-section (3) (b) insert—
 “(c) shall not register a school if the school has an enrolment of less than 20 pupils except if the school—
 25 (i) is a primary school which is within a shire other than a shire listed in Schedule Five to the *Public Service Act 1974* or
 (ii) is a special school—
 with an enrolment of more than ten persons of not less than six or more than eighteen years of age.
- 30 (d) shall not register a secondary school unless the average enrolment for the year levels for which the school is to be registered is ten or more.”.
- (c) Sub-sections (4), (5) and (6) are repealed.

No power to cancel registration in certain cases of low enrolment.

9. For section 43 (1A) of the Principal Act substitute:

“(1A) The Board shall not cancel the registration of any school by reason only that—

(a) if the school is a primary school which is within a shire other than a shire listed in Schedule Five to the *Public Service Act 1974* or a special school, the enrolment of the school is less than ten; or 5

(b) in any other school, the enrolment of the school is less than 20; or 10

(c) if the school is a secondary school, the average enrolment for the year levels for which the school is registered is less than ten—

if the Board is satisfied that the low enrolment is the result of special circumstances of a temporary nature.”. 15

Registration requirements do not apply to employees of Chief Executive.

10. In section 52O (1) (iii) of the Principal Act for “by virtue of paragraph (na) of section 82” substitute “section 5”.

Regulations. 20

11. Section 82 (na) of the Principal Act is repealed.

Chairman Teaching Service Appeals Board.

12. Section 64 of the *Teaching Service Act 1981* is amended as follows:

(a) After section (3) insert— 25

“(3A) The Chairman of the Teaching Service Appeals Boards holds office until the Chairman attains the age of 65 years.

(3B) The office of the Chairman becomes vacant—

(a) if the Chairman— 30

(i) dies; or

(ii) gives to the Governor in Council a resignation signed by the Chairman; or

(b) if the Chairman—

(i) except on leave granted by the Minister, absents himself or herself from duty for fourteen consecutive days or for twenty-eight days in any twelve months; or 35

(ii) becomes an undischarged bankrupt or person whose property is subject to any order or arrangement under the laws relating to bankruptcy; or

5 (iii) becomes incapable of performing his or her duties; or

(iv) is convicted of an indictable offence—

and the Governor in Council declares, by notice in the *Government Gazette*, that the office has become vacant.”.

10 (b) In sub-section 4 (a) omit “or Chairman”.

