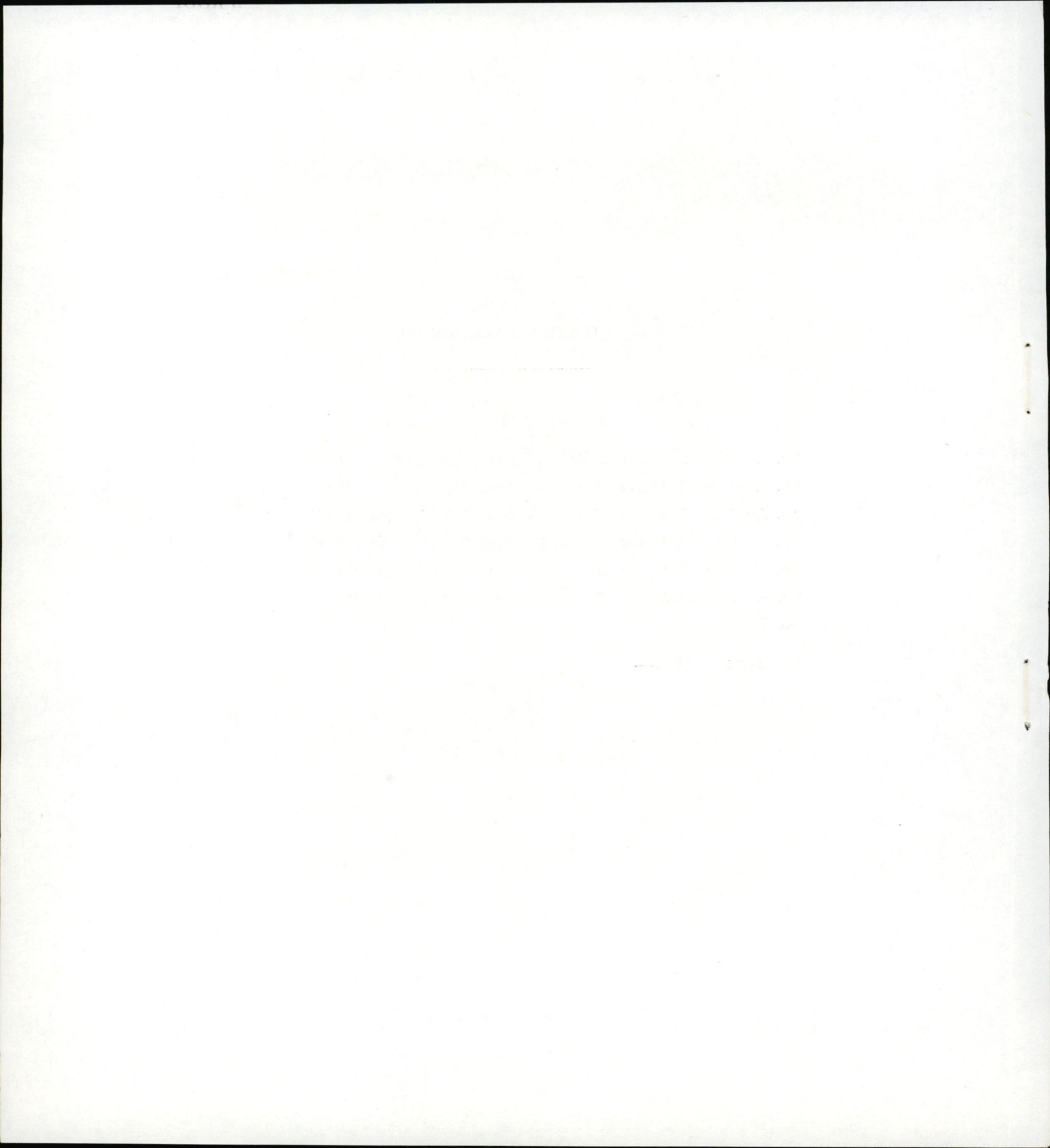


TEACHING SERVICE BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 19 February, 1970.*

- No. 1.—Page 2, Clause 1, line 9. *Omit "1969", insert "1970".*
No. 2.—Page 42, Clause 47, line 13. *Omit "1969", insert "1970".*
No. 3.—Page 42, Clause 47, line 16. *Omit "1969", insert "1970".*
No. 4.—Page 42, Clause 47, line 27. *Omit "1969", insert "1970".*
No. 5.—Page 42, Clause 47, line 33. *Omit "1969", insert "1970".*
No. 6.—Page 43, Clause 47, line 10. *Omit "1969", insert "1970".*
No. 7.—Page 43, Clause 47, line 28. *Omit "1969", insert "1970".*



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney 20 November, 1969.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 19 February, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1970.

An Act to make provision for the constitution of an Education Advisory Commission of New South Wales and to define its functions; to transfer, from the Public Service Board to the Director-General of Education, powers, authorities, duties and functions in relation to the appointment and control of teachers, certain other educational staff in public schools established under the Public Instruction Act of 1880 and in certain teachers' colleges and certain other persons concerned with the administration of education in those schools
and

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NOTE.—The figures to be omitted are ruled through; those to be inserted are printed in black letter.

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and teachers' colleges; for these and other purposes to amend the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Teaching Service Act, 1970". Short title and commencement.

10 (2) Except where otherwise provided, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

15 (3) The provisions of this Act relating to the election and appointment of members of the Education Advisory Commission of New South Wales to be constituted under this Act shall commence upon the day upon which Her Majesty's assent to this Act is signified.

2. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—ss. 1-3.

20 PART II.—EDUCATION ADVISORY COMMISSION OF NEW SOUTH WALES—ss. 4-15.

PART III.—THE DIRECTOR-GENERAL OF EDUCATION—ss. 16-18.

PART IV.—THE TEACHING SERVICE—ss. 19-43.

25 DIVISION 1.—*Appointment of persons to the Teaching Service*—ss. 19-25.

DIVISION

Teaching Service.

DIVISION 2.—*Service in the Teaching Service*—ss. 26–33.

DIVISION 3.—*Long Service Leave*—ss. 34–36.

DIVISION 4.—*Discipline and Conduct*—ss. 37–41.

5 DIVISION 5.—*Miscellaneous*—ss. 42–43.

PART V.—GENERAL—ss. 44–49.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

10 “appointed day” means the day appointed and notified under subsection two of section one of this Act;

“Commission” means the Education Advisory Commission of New South Wales constituted under this Act;

15 “Director-General” means the person holding office as the Director-General of Education, appointed under the Public Service Act, 1902, and includes a person acting in that office;

“division” means a prescribed division of the Teaching Service;

20 “Education Gazette” means the journal entitled the Education Gazette published by the Government Printer of New South Wales under the authority of the Minister;

25 “Electoral Commissioner” means the person holding office as the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, or an officer employed in the administration of that Act, from time to time nominated by that person;

“employee”

Teaching Service.

- 5 “employee” means a person employed under the provisions of section twenty-four, or deemed to be an employee under subsection three of section twenty or subsection five of section twenty-three, of this Act;
- “member” means a member of the Commission;
- “officer” means a person employed in the Teaching Service other than an employee;
- 10 “public school” means a public school within the meaning of the Public Instruction Act of 1880;
- “Public Service Board” means the Public Service Board appointed under the Public Service Act, 1902;
- “regulations” means regulations made under this Act;
- “section” means a prescribed section of a division;
- 15 “teachers’ college” means a teachers’ college conducted by the Government of New South Wales, not being a teachers’ college that is a corporate college of advanced education within the meaning of the Higher Education Act, 1969;
- 20 “Teaching Service” means the Teaching Service referred to in Part IV of this Act.

PART II.

EDUCATION ADVISORY COMMISSION OF NEW SOUTH WALES.

23 4. (1) There shall be constituted a commission to be called the Education Advisory Commission of New South Wales. Education
Advisory
Commission
of New
South Wales.

(2) The Commission shall consist of eight members, of whom—

(a) one shall be the Director-General;

(b)

Teaching Service.

- 5 (b) three (who are in this Act referred to as “elected members”) shall be persons declared by the Electoral Commissioner to have been elected to the Commission in accordance with the provisions of this Act;
- (c) two shall be appointed by the Minister; and
- 10 (d) two, of whom one or both shall be officers or officers of the Public Service employed in the Department of Education, shall be appointed by the Director-General.
- (3) Of the members referred to in paragraph (c) of subsection two of this section—
- 15 (a) one shall be a person having such experience as a member of an organisation formed to promote the interests of public schools as the Minister considers appropriate; and
- (b) the other shall be a person having such other qualifications and experience as the Minister considers appropriate.
- 20 (4) A member—
- (a) appointed or elected before the appointed day shall take office upon that day;
- (b) subsequently appointed or elected shall, subject to this Act, take office upon the expiration of his predecessor’s term of office;
- 25 (c) shall, subject to this Act, hold office for a term of four years; and
- (d) is, if otherwise qualified, eligible for re-appointment or re-election.
- 30 (5) A person is not eligible to be elected or appointed as a member if he has attained the age of sixty-five years.

Teaching Service.

5. (1) For the purposes of the election of the elected members the Director-General shall cause to be prepared and kept— Election of elected members.

- 5 (a) a roll, to be called the roll of primary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll;
- 10 (b) a roll, to be called the roll of secondary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll; and
- 15 (c) a roll, to be called the roll of inspectors and supervisors, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll.

(2) Any roll certified by the Director-General, for the purposes of any election of the elected members, to be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors shall be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors, as the case may be, to be used for the purposes of that election.

(3) The persons whose names are entered on a roll referred to in subsection one of this section shall be entitled to elect as a member one person, being a person whose name is, at all times between nomination and election, entered on that roll.

(4) Elections under this section shall be conducted by the Electoral Commissioner in the manner prescribed.

30 (5) Upon the completion of any election under this section, the Electoral Commissioner shall declare three persons to be elected as members, of whom one shall be a person whose name is entered on the roll referred to in paragraph (a), one shall be a person whose name is entered on the roll

referred

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referred to in paragraph (b), and one shall be a person whose name is entered on the roll referred to in paragraph (c), of subsection one of this section.

6. (1) A member, other than the Director-General, ^{Casual} ceases to hold office as a member and there is a casual vacancy ^{vacancies.} in his office—

- (a) if he dies;
- 10 (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (c) if he resigns his office in writing under his hand addressed to the Minister;
- 15 (d) if he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- 20 (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or misdemeanour so punishable;
- 25 (f) if he is absent from three consecutive meetings of the Commission of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the Commission for his absence from those meetings;
- 30 (g) if, being a member referred to in paragraph (d) of subsection two of section four of this Act, he ceases to hold the qualification by virtue of which he was appointed;

(h)

Teaching Service.

- (h) if, being a member referred to in paragraph (c) or (d) of subsection two of section four of this Act, he is removed from office by the person by whom he was appointed as a member;
- 5 (i) if, being an elected member, he ceases to be enrolled on the roll, kept under subsection one of section five of this Act, on which he was enrolled at the time of his election; or
- (j) upon his attaining the age of sixty-five years.
- 10 (2) Where a casual vacancy occurs in the office—
- (a) of an elected member, a person shall, subject to subsection three of this section, be elected by the persons enrolled on the roll, kept under subsection one of section five of this Act, on which the member
- 15 whose office has been vacated was enrolled at the time of his election to fill the vacancy;
- (b) of a member referred to in paragraph (c) of subsection two of section four of this Act, a person, who, where his predecessor had experience referred to in paragraph (a) of subsection three of that section, shall have like experience, or, where his predecessor had qualifications or experience referred to in paragraph (b) of that subsection, shall have like qualifications or experience, shall be appointed
- 20 by the Minister to fill the vacancy; or
- 25 (c) of a member referred to in paragraph (d) of subsection two of section four of this Act, an officer or an officer of the Public Service employed in the Department of Education shall be appointed by the
- 30 Director-General to fill the vacancy,

and the person so elected or appointed shall hold office as a member for the residue of his predecessor's term of office.

(3)

Teaching Service.

(3) Where a casual vacancy occurs in the office of an elected member within the last six months of his term of office, an election to fill the vacancy shall not be held unless the Minister otherwise orders.

5 (4) A person to be elected to fill a casual vacancy under this section shall be a person whose name is, at all times between nomination and election, entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the
10 time of his election.

(5) An election under this section shall be conducted by the Electoral Commissioner in the manner prescribed, and he shall, upon the completion of the election, declare to be
15 elected a person whose name is entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the time of his election.

7. The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a member and a
20 member is not, in his capacity as a member, subject to the provisions of that Act. Public Service Act not to apply to members.

8. Where at any election of an elected member to be elected by the persons whose names are entered on one of the rolls kept under subsection one of section five of this Act there
25 is no candidate eligible to be elected or the election is for any reason not held, the Minister may appoint a person enrolled on that roll to be a member and the person so appointed shall be deemed to be an elected member. Failure of nomination for election.

9. (1) The procedure for calling meetings of the Commission and for the conduct of business at those meetings
30 shall, subject to the regulations, be as determined by the Commission. Meetings of the Commission.

Teaching Service.

(2) Five members shall constitute a quorum at any meeting of the Commission and the decision of the majority of the members present at any meeting of the Commission at which a quorum is present shall be the decision of the
5 Commission.

10. (1) The Director-General shall be the chairman of Chairman
of the
Commission. the Commission and shall preside at all meetings of the Commission at which he is present.

(2) If for any reason the Director-General is unable
10 to attend any meeting of the Commission he may appoint the Deputy Director-General of Education to attend that meeting.

(3) Where the Deputy Director-General of Education has been appointed under subsection two of this section to attend any meeting of the Commission and he is unable
15 for any reason to attend that meeting, he may appoint any officer or officer of the Public Service employed in the Department of Education to attend that meeting.

(4) A person appointed under subsection two or three of this section to attend a meeting of the Commission
20 shall, while attending that meeting, be deemed to be a member and shall preside at that meeting and have all the powers, authorities, duties and functions that the Director-General has as a member.

(5) The Director-General or other person presiding
25 at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

11. (1) The functions of the Commission shall be to Functions
of the
Commission. make reports and recommendations to the Minister, either of its own motion or at the request of the Minister or the
30 Director-General, on matters relating to primary and secondary education in public schools.

(2)

Teaching Service.

(2) In the performance of its functions under this Act, the Commission shall have regard to the needs of the State and to the resources available to the State for primary and secondary education.

- 5 **12.** The Commission shall, as soon as practicable but not later than three months after the thirty-first day of December in each year, cause a report on its work and activities during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament. **Annual report.**
- 10 **13.** (1) The Commission may appoint such committees as it thinks fit to assist and advise it in connection with the carrying out of its functions under this Act. **Committees of the Commission.**
- 15 (2) Any such committee may consist of members of the Commission, persons who are not members or partly of persons who are, and partly of persons who are not, members of the Commission.
- 20 **14.** A member of the Commission or of a committee of the Commission shall, in the performance of his duties as such a member, act solely in the public interest and not as the representative of any particular person or body. **Members of Commission and committees to act in public interest.**
- 25 **15.** A member of the Commission and a member of any committee of the Commission— **Expenses and fees of members of the Commission or committees.**
- (a) shall be entitled to be reimbursed his expenses, not exceeding an amount calculated according to a scale approved by the Minister, incurred by him in attending meetings, or carrying out the business, of the Commission or of any such committee, as the case may be; and
- 30 (b) shall, where he is a member of the Commission referred to in paragraph (c) of subsection two of section four of this Act, be entitled to receive such **fees**

Teaching Service.

fees for acting as a member of the Commission or of any such committee as may from time to time be determined by the Minister.

PART III.

5 **THE DIRECTOR-GENERAL OF EDUCATION.**

16. The Director-General shall, subject to this Act, be responsible for the administration of the provisions of this Act, other than Part II.

Director-General to be responsible for administering Act.

17. (1) The Director-General shall, subject to the provisions of this Act and the regulations—

Powers of Director-General.

- (a) classify the schools in which members of the Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools and the academic staff establishments for teachers' colleges;
- 15 (c) determine the method of classifying and grading officers employed in the Teaching Service;
- (d) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions;
- 20 (e) determine the qualifications required for appointment to the Teaching Service or for an officer to be included on any promotions list;
- 25 (f) determine promotions and transfers of officers and transfers of employees;
- (g) maintain discipline in the Teaching Service; and

(h)

Teaching Service.

(h) be responsible for the maintaining, consistently with sound educational practice, of a proper standard of efficiency in the Teaching Service and the greatest effectiveness and economy in expenditure in the conduct of the Teaching Service.

(2) Before exercising any of his powers under paragraphs (a), (b) and (c) of subsection one of this section the Director-General shall, unless otherwise directed by the Public Service Board, consult with that Board and have regard to any principles recommended by that Board to be applied in the exercise of those powers.

(3) The Director-General may, subject to the provisions of this Act and the regulations, prepare and maintain, in respect of any class or classes of positions in the Teaching Service, other than the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions.

18. (1) This section applies to the powers, authorities, duties and functions conferred or imposed on the Director-General by or under this Act other than the powers, authorities, duties and functions conferred or imposed on him by or under Part II of this Act, by this section, by Division 4 of Part IV of this Act or by or under section forty-nine of this Act.

Delegation of Director-General's powers, authorities, etc.

(2) The Director-General may, by instrument in writing, delegate to an officer or an officer of the Public Service the exercise or performance of such of the powers, authorities, duties and functions to which this section applies as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

(3) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the delegate or the person for the time being acting in the place of the delegate.

(4)

Teaching Service.

(4) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions delegated or as to time or circumstances
5 as may be specified in the instrument of delegation.

(5) Without limiting the generality of subsection four of this section, where under this section the Director-General delegates to any person any of his powers, authorities, duties or functions relating to the promotion of any member
10 of the Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise or perform the power, authority, duty or function so as to promote any such member to a position if that member is not, according to the rules governing the seniority of members of the Teaching
15 Service, the most senior member eligible for promotion to that position.

(6) Notwithstanding any delegation made under this section the Director-General may continue to exercise or perform all or any of the powers, authorities, duties or
20 functions delegated.

(7) Any act or thing done or suffered by the delegate when acting in the exercise of the delegation and within the terms of the delegation shall have the like force and effect as if the act or thing had been done or suffered by the Director-
25 General.

PART

Teaching Service.

PART IV.

THE TEACHING SERVICE.

DIVISION 1.—*Appointment of persons to the Teaching Service.*

5 **19.** The Teaching Service shall consist of all persons employed under this Part. The Teaching Service.

20. (1) All persons who immediately before the appointed day were employed under the Public Service Act, 1902, in the Department of Education— Transfer of teachers from Public Service to Teaching Service.

10 (a) as staff inspectors, inspectors of schools, supervisors or assistant supervisors; or

(b) in the Educational Division of the Public Service, shall, on that day—

(c) cease to be employed under that Act; and

15 (d) become members of the Teaching Service employed under this Part.

(2) All persons who are at any time before the appointed day engaged under the Public Service Act, 1902, to be employed after that day in the Department of Education in the Educational Division of the Public Service, but are not so employed immediately before that day, shall, on that day—

(a) cease to be so engaged;

(b) be deemed to be engaged under this Act to be so employed; and

25 (c) while so employed, be members of the Teaching Service employed under this Part.

(3)

Teaching Service.

(3) A person who becomes a member of the Teaching Service under subsection one or two of this section shall if before he became such a member he was employed, or engaged to be employed—

- 5 (a) as an officer under the Public Service Act, 1902, be deemed to be an officer under this Act; or
- (b) as an employee under that Act, be deemed to be an employee under this Act.

21. (1) A person who becomes a member of the Teaching Service under section twenty of this Act—

Rights of persons transferred under section 20 of this Act not affected.

- 15 (a) shall, subject to this Act, be paid salary or wages at a rate not less than the rate that was payable to him immediately before he became such a member, subject to any adjustment necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed, until the salary or wages payable to him are varied by the Public Service Board in accordance with the provisions of this Act;
- 20 (b) shall have a rank, position or grade in the Teaching Service not lower than the rank, position or grade in which he was employed immediately before he became such a member until his rank, position or grade is varied by the Director-General in accordance with the provisions of this Act; and
- 25 (c) shall retain any rights which, at the appointed day, have accrued or are accruing to him as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any payment or pension as if he had continued to be employed under the Public Service Act, 1902.
- 30

(2)

Teaching Service.

(2) Where any condition of employment of any person who becomes a member of the Teaching Service under section twenty of this Act was, immediately before he became such a member, regulated by an award or industrial agreement 5 or agreement made under or in pursuance of the Public Service Act, 1902, that condition shall continue to be so regulated as if the award or industrial agreement applied to him as a member of the Teaching Service or the agreement 10 were an agreement made under subsection three of section twenty-six of this Act and applied to him as such a member.

(3) Annual and sick leave shall continue to accrue to a person who becomes a member of the Teaching Service under section twenty of this Act on the same basis as they 15 accrued to him immediately before the appointed day as an officer or employee of the Public Service until that basis is varied or altered by the Public Service Board under this Act.

(4) A person who becomes a member of the Teaching Service under section twenty of this Act shall be 20 entitled to receive as a member of the Teaching Service any annual leave or sick leave accrued to him as an officer or employee of the Public Service as at the day on which he became such a member.

(5) Any person who becomes a member of the 25 Teaching Service under section twenty of this Act shall not be entitled to claim benefits under this section as well as under any other Act in respect of the same period of service.

22. (1) Where immediately before the appointed day an appeal is pending before, or may be made to, the Crown 30 Employees Appeal Board by any person who on that day becomes a member of the Teaching Service by the operation of section twenty of this Act that appeal may—

Pending
appeals
to Crown
Employees
Appeal
Board.

(a) where it was pending, be continued and completed;
or

Teaching Service.

(b) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

5 and may be determined by the Crown Employees Appeal Board and the determination of the Crown Employees Appeal Board on the appeal shall be given effect to by the Director-General.

(2) Where—

10 (a) immediately before the appointed day an appeal is pending before, or may be made to, the Crown Employees Appeal Board by any person against a decision or determination of the Public Service Board—

15 (i) for the reduction in rank, position or grade of that person;

(ii) for the dismissal of that person; or

(iii) requiring that person to resign; and

20 (b) that person does not by the operation of section twenty of this Act become a member of the Teaching Service but would, had his rank, position or grade not been reduced or had he not been dismissed or required to resign, as the case may be, have become a member of that service by the
25 operation of that section,

the appeal may—

(c) where it was pending, be continued and completed; or

30 (d) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board, and the Crown Employees Appeal Board may, if it
35 upholds the appeal, make such order as it thinks fit with

respect

Teaching Service.

respect to the employment of that person in the Teaching Service, and any such order shall be given effect to by the Director-General.

(3) Where a person becomes a member of the Teaching Service by virtue of an order made under subsection two of this section he thereupon ceases to be employed under the Public Service Act, 1902, and the provisions of section twenty-one of this Act apply to him in the same way as they apply to persons who become members of that service under section twenty of this Act.

23. (1) The Director-General may appoint to permanent offices in the Teaching Service—

Director-General's powers to appoint permanent teaching and associated staff.

(a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools, or as academic staff in teachers' colleges; and

(b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of—

(i) staff inspectors, inspectors of schools, supervisors or assistant supervisors; and

(ii) such other positions as the Director-General and the Public Service Board agree are concerned with advising, controlling or supervising persons appointed and employed under paragraph (a) of this subsection,

but nothing in this subsection prevents the appointment under the Public Service Act, 1902, of a person to any position in the Public Service that is concerned with advising, controlling or supervising persons appointed or employed under this subsection, not being a position referred to in paragraph (b) of this subsection.

(2)

Teaching Service

(2) Notwithstanding the provisions of section twenty-seven of this Act, the Director-General may appoint to a permanent office in the Teaching Service a person who is not a member of that service if—

- 5 (a) the Director-General—
- 10 (i) certifies in writing that an appointment to that office is necessary and that there is no person employed in the Teaching Service who is available to fill the office and is qualified and capable of filling the office as the person proposed to be appointed; and
 - 15 (ii) is satisfied that the person proposed to be appointed is a fit and proper person to be employed in that office;
- 20 (b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that that person is suitable to fill the office having regard to his health and physical fitness; and
- 25 (c) that person—
- (i) is a British subject; or
 - (ii) is not a British subject but has, for the period of twelve months next preceding his appointment, been employed under section twenty-four of this Act.

(3) Unless the Director-General, in a particular case or class of cases, otherwise determines, a person who is not an officer when he is appointed to a permanent office in the Teaching Service shall be appointed on probation, which shall be for a period of twelve months or such longer period as the Director-General may in any particular case or class of cases determine.

(4) The Director-General may—

- 35 (a) after the expiration of the period of probation for which a person is so appointed, confirm or annul his appointment; or

(b)

Teaching Service.

(b) during the period of probation for which a person is so appointed, extend the period of probation applicable to him or annul his appointment,

5 but shall not confirm the appointment of a person referred to in subparagraph (ii) of paragraph (c) of subsection two of this section unless that person has become a British subject.

(5) Where the appointment of a person is so annulled that person shall thereupon cease to be employed under this section and shall, unless the Director-General makes a determination under subsection six of this section, be deemed to be an employee under this Act.

(6) Where the appointment of a person is so annulled the Director-General may determine that he shall cease to be employed in the Teaching Service upon a day specified in the determination and that person shall cease to be so employed on that day.

(7) A person who, by reason of the annulment of his appointment, ceases to be a member of the Teaching Service under this section is not entitled to appeal to the Crown Employees Appeal Board against the annulment or against any determination of the Director-General made under subsection six of this section.

24. (1) Where the Director-General is of opinion that it is necessary to do so, he may appoint temporarily to any office to which he is entitled to make an appointment under section twenty-three of this Act a person who in the opinion of the Director-General has the appropriate qualifications.

Director-General's power to appoint temporary staff.

(2) A person appointed under subsection one of this section—

30 (a) shall not be employed for a period exceeding twelve months from the date of his appointment but his employment may be extended from time to time

for

Teaching Service.

for a further period of twelve months on each occasion if the Director-General certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

5 **25.** (1) Except as provided by subsection two of section twenty-six of this Act, a member of the Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown. Members of Teaching Service to be Crown employees.

10 (2) The provisions of the Public Service Act, 1902, do not apply to the appointment of a person to the Teaching Service and a member of that service is not subject to those provisions.

DIVISION 2.—Service in the Teaching Service.

15 **26.** (1) Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or remuneration, of members of the Teaching Service shall be as may be determined from time to time by the Public Service Board after consultation with the Director-General. Determination of conditions of employment of members of the Teaching Service.

20 (2) The Public Service Board shall, for the purpose of making any determination under subsection one of this section or of any proceedings, relating to members of the Teaching Service, held before a competent tribunal having power to deal with industrial matters within the meaning of **25** the Industrial Arbitration Act, 1940, be deemed to be the employer of members of the Teaching Service.

30 (3) The Public Service Board may enter into an agreement with any association or organisation representing any group or class of officers or employees with respect to the salaries, wages or remuneration of that class or group.

(4)

Teaching Service.

(4) An agreement referred to in subsection three of this section shall bind all officers and employees in the class or group affected by the agreement and no such officer or employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(5) Any determination made by the Public Service Board in respect of a matter referred to in subsection one, any order or determination made by a competent tribunal in any proceedings referred to in subsection two, and any agreement referred to in subsection three, of this section shall be given effect to by the Director-General.

27. (1) Where there is a vacancy in any office in a section of the Teaching Service the Director-General may, if he is of opinion that the vacancy should be filled, appoint to the vacant office—

(a) an officer whose name is on the promotions list for that section, regard being had to the relative seniority and fitness respectively of officers of that section; or

(b) an officer of another section of the Teaching Service whom the Director-General considers it desirable to appoint on the ground of his special fitness to fill the vacant office.

(2) In the application of subsection one of this section to offices in a division that is not arranged into sections, the references in subsection one of this section to a section shall be read as a reference to a division.

(3) In making an appointment under paragraph (a) of subsection one of this section, seniority shall be subordinate to considerations of special fitness.

(4) In this section, "fitness" means qualifications and aptitude for the discharge of the duties of the office to be filled.

Teaching Service.

28. (1) Any officer dissatisfied with any decision or determination of the Director-General, whether particular or general, in regard to seniority, the refusal or failure of the Director-General to place his name, within a period determined as prescribed, on a promotions list relating to officers employed in the division in which he is employed or the classification of the work performed by or assigned to him may appeal to the Director-General against the decision or determination by forwarding to the Director-General, within the prescribed period after the decision or determination was made, a notice of appeal setting forth the grounds of the appeal.

Appeals
in respect of
seniority,
etc.

(2) Where an appeal under subsection one of this section is made—

15 (a) by a teacher in a public school; or

(b) by any other member of the Teaching Service,

by reason of the refusal or failure of the Director-General to place his name on a promotions list, the appeal shall, where it is made by such a teacher, and may, where it is made by any such other member, be referred, for inquiry and report to the Director-General, to a promotions committee constituted under section twenty-nine of this Act.

(3) The Director-General shall, after considering the appeal and such other information as he thinks proper, and, where the appeal has been referred to a promotions committee, having regard to any report made by the committee with respect thereto, shall allow or disallow the appeal and make such determination with respect thereto as he thinks fit.

(4) The decision of the Director-General under subsection three of this section shall be final.

(5) Where there is no promotions list in respect of a division, and the Director-General proposes to appoint or promote any person to a position in that division, the Director-General may refer the proposed appointment or promotion to a promotions committee for inquiry and report.

Teaching Service.

29. (1) A promotions committee shall be constituted for each division and shall consist of— Promotions committees.

(a) an officer nominated by the Director-General;

5 (b) where the committee is to sit pursuant to a reference made—

10 (i) under subsection two of section twenty-eight of this Act, an officer whose name is on a promotions list for the division in which the appellant is employed, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and

15 (ii) under subsection five of section twenty-eight of this Act, an officer who is employed in the division in which is included the position to which the appointment or promotion is proposed to be made, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and

20 (c) an officer nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) of this subsection or, in default of their agreement, by the Director-General.

25 (2) The promotions committee to which an appeal is referred under section twenty-eight of this Act shall inquire into the grounds of the appeal and report to the Director-General whether or not the committee recommends that the appeal be allowed.

30 **30.** (1) The Director-General may allow any officer who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that that officer would, had he not declined the promotion or appointment, have had to any future Director-General's powers where promotion or appointment is declined or refused.

35 promotion or appointment.

(2)

Teaching Service.

(2) Where an officer or employee refuses to comply with a direction of the Director-General for his removal from one position in the Teaching Service to another, the Director-General shall, unless he is satisfied that the officer or employee had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

31. Where the Director-General is satisfied—

Director-General may retrench.

- (a) that the volume of work in any division or section of the Teaching Service has diminished;
- 10 (b) that as a consequence of the diminution a reduction of staff has become necessary; and
- (c) that any officer or employee should be dismissed to give effect to that reduction,

the Director-General may dismiss that officer or employee.

15 32. (1) Where the Director-General determines—

Retirement or transfer of officers through invalidity or incapacity.

- (a) that an officer is, because of his invalidity or physical or mental incapacity, unable to perform the duties of his office; and
- 20 (b) that that invalidity or incapacity is likely to be of a permanent character,

the Director-General—

- (c) may cause the officer to be retired from the Teaching Service; or
- 25 (d) with the consent of the officer, transfer him to some other office in the Teaching Service or if the Public Service Board so approves to some office in the Public Service, with salary and other conditions of his employment appropriate to that office.

(2)

Teaching Service.

(2) A decision or determination of the Director-General under subsection one of this section is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

33. (1) An officer—

- 5 (a) may retire from the Teaching Service upon his attaining the age of sixty years; or
- (b) may continue in the Teaching Service after he has attained that age, but—
- 10 (i) may retire from the Teaching Service; or
- (ii) the Director-General may cause him to be retired from the Teaching Service,
- at any time after he has attained that age and before he attains the age of sixty-five years.

Retirement
of officers
through age.

(2) An officer who attains the age of sixty-five years shall, subject to subsection three of this section, thereupon be retired from the Teaching Service.

(3) Where—

- 20 (a) the Director-General is of the opinion that it is in the public interest that an officer who is of or above the age of sixty-five years should continue to perform the duties of his office; and
- (b) the officer agrees to continue to perform those duties,

the officer's retirement may be deferred by the Director-General for a period not exceeding twelve months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding twelve months as the Director-General may fix, but notwithstanding any such deferment the Director-General may cause the officer to be retired at any time he thinks fit.

DIVISION

Teaching Service.

DIVISION 3.—*Long Service Leave.*

34. (1) Every officer who has had ten years' service shall be entitled to two months' leave on full pay or four months' leave on half pay, and after completion of further service after ten years and up to fifteen years shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of one month or two months respectively for five years' service. ^{Long service leave entitlement.}
- 10 (2) After completion of further service after fifteen years and up to twenty years an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of three months or six months respectively for five years' service.
- 15 (3) After completion of further service after twenty years, an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve months respectively for twenty years' service.
- 20 (4) Where the services of an officer with at least five years' service as an adult and less than ten years' service are terminated by the Director-General for any reason, or by the officer on account of illness, incapacity or domestic or other pressing necessity, he shall be entitled in respect of his service as an adult and his service, if any, otherwise than as an adult, for five years' service to one month's leave on full pay and for service after five years to a proportionate amount of leave on full pay calculated on the basis of three months' leave for fifteen years' service.
- 30 (5) A person is not entitled under this section to leave under this section in respect of any period of service under the Public Service Act, 1902, in respect of which he has been granted and has taken leave under the Public Service (Amendment) Act, 1919.

(6)

Teaching Service.

(6) For the purposes of—

(a) subsections one, two and three of this section, “service” includes—

- 5 (i) service, whether before or after the commencement of this Act, under the Public Service Act, 1902;
- 10 (ii) any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963; and
- 15 (iii) in the case of an officer who has completed at least ten years’ service (any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963, being included therein and any period of leave without pay taken after that commencement being excluded therefrom), any period of leave without pay taken after that commencement where that period does not exceed six months;

(b) subsection four of this section—

- 25 (i) “service” does not include any period of leave without pay, whether taken before or after the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963;
- 30 (ii) “service as an adult”, in the case of an officer employed to do any work for which the price, rate or wage has been fixed by an award made under the Conciliation and Arbitration Act 1904, as amended by subsequent Acts, of the Parliament of the Commonwealth or made under the Industrial Arbitration Act, 1940, or the Apprentices Act, 1969, or has been fixed by an industrial agreement made pursuant

to

Teaching Service.

5 to or registered under any such Act or an
agreement or determination made pursuant
to the Public Service Act, 1902, or this Act,
means the period of service during which
the remuneration applicable to the officer
was at a rate not less than the lowest rate
fixed under the award, industrial agreement,
10 agreement or determination for an adult
male or adult female in the same trade,
classification, calling, group or grade as the
officer.

35. (1) An officer who has acquired a right to extended leave with pay under section thirty-four of this Act shall upon the termination of his services be paid forthwith in lieu of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

Gratuity
in lieu of
long service
leave.

(2) Any pension to which any such officer is entitled under the Superannuation Act, 1916, shall commence from the date upon which his extended leave, if taken, would have commenced.

36. (1) Where an officer has acquired a right under subsection one, two or three of section thirty-four of this Act to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that officer received at the time of his death less any amount paid to that officer in respect of the leave not taken, or not completed.

Payment of
money
value of
leave not
taken or
completed.

35 (2) Where an officer with at least five years' service as an adult and less than ten years' service as referred to in subsection four of section thirty-four of this Act dies, the widow

Teaching Service.

widow or the widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death
5 of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave which would have accrued to that officer had his services terminated as referred to in that subsection, computed at the rate of salary the officer received at the time of his death.

10 (3) Where there is a guardian of any children entitled under subsection one or two of this section the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(4) Where there is no person entitled under sub-
15 section one or two of this section to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer payment in respect thereof shall be made to the personal representatives of that officer.

(5) Any payment under this section shall be in
20 addition to any payment due under the provisions of the Superannuation Act, 1916.

(6) Where payment of the money value of leave has
been made under this section no action may be brought against the Director-General or the Crown for payment of any amount
25 in respect of that leave.

DIVISION 4.—*Discipline and Conduct.*

37. (1) Any officer or employee who—

(a) commits any breach of any provision of the
regulations; Punishment
for breaches
of discipline.

30 (b) is guilty of any misconduct;

(c) uses intoxicating beverages or drugs to excess;

(d)

Teaching Service.

(d) is guilty of any wilful disobedience or disregard of any lawful order or direction made or given under this Act or the regulations;

5 (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or

(f) is guilty of any disgraceful or improper conduct, is guilty of a breach of discipline.

(2) The procedure for dealing with breaches of discipline shall be as prescribed.

10 (3) Breaches of discipline shall be dealt with by the Director-General or by a prescribed officer.

(4) Where a breach of discipline is dealt with by the Director-General or a prescribed officer in accordance with the regulations and the Director-General or prescribed officer, as the case may be, finds that the officer or employee charged has committed the breach or the officer or employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

20 (a) may impose on the officer or employee any one or more of the following punishments, that is to say, he may—

(i) caution the officer or employee;

(ii) reprimand him;

25 (iii) fine him;

(iv) reduce his rate of salary or wages; or

(v) reduce him to a lower classification or position in the Teaching Service; or

30 (b) may impose any one of the following punishments, that is to say—

(i) where the breach is dealt with by the Director-General, he may dismiss him from the Teaching Service, direct that he resign from

Teaching Service.

5 from the Teaching Service within such period as may be specified in the direction or direct that his resignation from the Teaching Service, if tendered within a period specified in the direction, be accepted; or

10 (ii) where the breach is dealt with by a prescribed officer, he may recommend to the Director-General that the officer or employee be dismissed from the Teaching Service or that he be required or allowed to resign.

(5) Where a prescribed officer makes a recommendation referred to in subparagraph (ii) of paragraph (b) 15 of subsection four of this section, the Director-General may—

- 20 (a) impose any one of the punishments referred to in subparagraph (i) of that paragraph; or
- (b) may impose any one or more of the punishments that may be imposed under paragraph (a) of that subsection.

(6) Where the Director-General, in the exercise of his powers under this section, directs—

- 25 (a) that an officer or employee resign from the Teaching Service within a period specified in the direction; or
- (b) that the resignation from the Teaching Service of an officer or employee, if tendered within a period specified in the direction, be accepted,

30 and the officer or employee does not resign or tender his resignation, as the case may be, within the period specified in the direction, the Director-General may dismiss that officer or employee from the Teaching Service.

Teaching Service.

(7) The accountant of the Department of Education shall upon receiving notice of any fine imposed by the Director-General or a prescribed officer on an officer or employee under this Act deduct the amount thereof from the salary or wages payable to that officer or employee.

(8) In this section, "prescribed officer" means—

- (a) a person who is the holder of, or is acting in, any office in the Teaching Service or in the Public Service that is prescribed as an office for the purposes of this section; and
- (b) an officer or an officer under the Public Service Act, 1902, who is prescribed as an officer for the purposes of this section.

38. Where an officer or employee is convicted in New South Wales of an offence that is punishable, either on indictment or on summary conviction, by imprisonment for a term of twelve months or more, or is convicted elsewhere than in New South Wales of an offence that if it were committed in New South Wales would be an offence so punishable, the Director-General may impose on that officer or employee any one or more of the punishments that may be imposed under subsection four of section thirty-seven of this Act as if that officer or employee had, in accordance with that subsection, been dealt with by the Director-General for a breach of discipline and were liable to those punishments.

Punishment where officer or employee guilty of a serious offence.

39. (1) Where an officer or employee—

- (a) is, in accordance with the regulations, charged with a breach of discipline; or
- (b) is charged with having committed an offence referred to in section thirty-eight of this Act,

Suspension of officers charged with breaches of discipline or serious offences.

that officer or employee may be suspended from duty by the Director-General or a prescribed officer until the charge has been dealt with.

(2)

Teaching Service.

(2) Any salary or wages payable to a person as an officer or employee during his suspension under this section shall be withheld and if—

- 5 (a) he is found, as referred to in subsection four of section thirty-seven of this Act, to have committed the breach of discipline or admits, as referred to in that subsection, that he committed the breach; or
- (b) he is convicted of the offence,

10 as the case may be, shall, unless the Director-General otherwise directs, be forfeited unless the salary or wages were due to him before his suspension.

(3) The suspension of an officer under this section may be removed by the Director-General at any time and may, where it was imposed by a prescribed officer, be removed 15 by that officer at any time.

(4) In this section, “prescribed officer” has the meaning ascribed thereto in subsection eight of section thirty-seven of this Act.

20 **40.** Where an officer or employee becomes bankrupt or makes any composition, or arrangement, or assignment of his salary or other property, for the benefit of his creditors, he shall forthwith give to the Director-General notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his making the composition, arrangement 25 or assignment, and shall, within such period as may be specified by the Director-General, furnish to the Director-General such further information with respect to the cause of his bankruptcy or of his making the composition, arrangement or assignment as may be required by the Director-General.

Officers and employees to report bankruptcy, etc.

Teaching Service.

41. (1) Except with the permission in writing of the Director-General, which may be withdrawn at any time, an officer or employee (other than an employee employed on a casual basis) shall not—

Officers and employees prohibited from engaging in employment, etc., except under this Act.

- 5 (a) accept or continue to hold or discharge the duties of or be employed in any paid office in connection with any banking, insurance, mining, mercantile, or other commercial business, whether it is carried on by any corporation, company, firm, or individual;
- 10 (b) engage in or undertake any such business, whether as principal or agent;
- (c) engage in or continue in the private practice of any profession, occupation or trade, or enter into any employment, whether remunerative or not, with any corporation, company, firm or individual so
- 15 engaged;
- (d) accept or continue to hold office in or under the Government of a State or of the Commonwealth, otherwise than under this Act; or
- 20 (e) accept or engage in any remunerative employment other than in connection with the duties of his office under this Act.

(2) Nothing in this section prevents an officer or employee—

- 25 (a) from becoming a member or shareholder of a corporation or company or of a society of persons registered under the law of any State or elsewhere, but an officer or employee shall not take any part in the conduct of the business of the corporation, company or society otherwise than in the exercise of his right to vote as a member or shareholder; or
- 30 (b) from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit only of public servants or persons employed under this Act or of
- 35 both public servants and persons so employed.

(3)

Teaching Service.

(3) If any officer or employee does any thing referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section without the permission of the Director-General, he shall at once notify the fact to the
 5 Director-General who may thereupon impose on the officer or employee any of the punishments referred to in subsection four of section thirty-seven of this Act or may direct the officer or employee to abstain from doing that thing within such period as may be specified in the direction and, in default of
 10 his so abstaining, the Director-General may impose on the officer or employee any of those punishments.

DIVISION 5.—*Miscellaneous.*

42. Where an officer or employee is allowed to use, for the purpose of residence, any building or part of a building,
 15 or any land, belonging to the Government of New South Wales, or is provided by that Government with any service, there shall be deducted from his salary or wages such amount as the Public Service Board, after consultation with the Director-General, fixes as being fair and reasonable for the
 20 use of the building, part or land or the provision of the service, as the case may be.

Deduction from salary or wages for use of building or provision of services.

43. (1) Where judgment has been entered in any court against any officer or employee for the payment of any sum of money, the person in whose favour the judgment is entered
 25 may serve on the accountant of the Department of Education—

Attachment of salary or wages of officers and employees.

- (a) a copy of the judgment certified under the hand of the registrar or other proper officer of the court in which the judgment is entered; and
- 30 (b) a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2)

Teaching Service.

(2) As soon as practicable after the service upon him of a copy of judgment and a statutory declaration in pursuance of this section the accountant shall notify the judgment debtor in writing of the service of the copy judgment and statutory
5 declaration, and require him to state in writing within a time to be specified by the accountant whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under the judgment.

10 (3) If the officer or employee fails to prove to the satisfaction of the accountant that the judgment has been satisfied, the accountant shall—

15 (a) from time to time, deduct from any moneys due to the officer or employee such sums as are fixed by the Director-General and are in his opinion necessary to enable the judgment to be satisfied; and

(b) apply those sums in the manner hereinafter in this section provided,

20 but in no case shall a deduction be fixed or made which will reduce the amount to be received by the officer or employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

(4) The amount which, pursuant to subsection three
25 of this section, is to be ascertained in accordance with this subsection shall be ascertained by deducting eight dollars—

(a) in the case of a male officer or employee, from the basic wage for adult males; and

30 (b) in the case of a female officer or employee, from the basic wage for adult females,

in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the deduction under subsection three of this section is made.

(5)

Teaching Service.

(5) Where copies of more than one judgment and statutory declaration relating thereto are served upon the accountant in respect of one judgment debtor, the judgments shall be dealt with under this section in the order in which 5 copies of the judgments are served upon the accountant.

(6) Any deductions made under the provisions of subsection three of this section from moneys due to an officer or employee shall, as between the Government of New South Wales and the officer or employee, be deemed to be a payment 10 by that Government to the officer or employee.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, is 15 liable, upon conviction before a court of petty sessions, to a penalty not exceeding one hundred dollars.

(8) If any deduction made in pursuance of the provisions of subsection three of this section from moneys due to a judgment debtor exceeds the amount due under the 20 judgment against the judgment debtor the excess shall be repayable by the Department of Education to the judgment debtor and, in default of payment, may be recovered by the judgment debtor from the Crown in any court of competent jurisdiction.

(9) This section does not apply in relation to any 25 officer or employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the accountant, to be paid by him to the Treasurer for 30 credit of the Consolidated Revenue Fund, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

(11)

Teaching Service.

(11) When the accountant makes a payment to a judgment creditor under the provisions of this subsection, the accountant shall forward to the judgment creditor a statement showing—

- 5 (a) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys due to the officer or employee concerned;
- 10 (b) the amount retained by the accountant under the provisions of subsection ten of this section out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection ten of this section.

15 (12) Upon payment being made under the provisions of subsection ten of this section to the judgment creditor, the judgment creditor shall credit the officer or employee concerned with the sums referred to in paragraph (a) of subsection eleven of this section, as shown in the statement
20 forwarded by the accountant to the judgment creditor, and the judgment in respect of which the payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(13) In this section "judgment" includes a judgment
25 against joint defendants.

PART V.

GENERAL.

44. (1) All notices of appointments, promotions, retire-
ments, dismissals and annulments of appointments of
30 officers made under this Act shall be published in the
Education Gazette.

Appoint-
ments, etc.,
to be
notified in
Education
Gazette.

(2)

Teaching Service.

(2) A notice so published shall be conclusive evidence of the appointment, promotion, retirement, dismissal or annulment of appointment specified in the notice.

5 **45.** (1) Subject to subsection three of this section, nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown to dispense with the services of any person employed in the Teaching Service. Crown's right to dismiss not abrogated.

(2) An officer or employee shall not be entitled to any compensation by reason of any reduction of his salary or of his services being dispensed with, whether under this section or otherwise.

(3) Subsections one and two of this section do not apply so as to affect the rights, under any other Act, of any person whose salary has been reduced or whose services have been dispensed with to appeal against the decision or determination reducing his salary or dispensing with his services or to be reinstated to the Teaching Service.

46. The provisions of subsection one of section two of the Constitution (Public Service) Amendment Act, 1916, apply to officers and employees as if they were holders of offices of profit in the Public Service of New South Wales and the remaining provisions of that Act and the provisions of the Public Service (Commonwealth Elections) Act, 1943, apply to officers as if they were officers within the meaning of the Public Service Act, 1902. Certain Acts apply to officers and employees.

47. (1) The Public Instruction Act of 1880 is amended by omitting section 18C. Amendment of certain Acts.

Amendment of Act 43 Vic. No. 23. Sec. 18C. (Advisory Council on Education.)
(2)

Teaching Service.

(2) The Crown Employees Appeal Board Act, 1944, is amended— Amendment of Act No. 15, 1944.

5 (a) (i) by inserting in subsection one of section two in the definition of "Employer" after the word "Board" the words "and, in relation to officers of the class referred to in paragraphs (b1) and (b2) of that definition, means the Director-General of Education"; Sec. 2. (Interpretation.)

10 (ii) by inserting next after paragraph (b) of the definition of "Officer" in the same subsection the following new paragraphs :—

(b1) who is an officer within the meaning of the Teaching Service Act, ~~1969~~ 1970;

15 (b2) who, being an employee within the meaning of the Teaching Service Act, ~~1969~~ 1970, has been continuously employed as such an employee for a period of not less than one year;

20 (iii) by inserting in the same definition after the words "or paragraph (b)" the words "or paragraph (b2)";

(b) by inserting next after paragraph (a) of subsection five of section five the following new paragraph :— Sec. 5. (Employers' representatives and officers' representatives.)

25 (a1) A person nominated by the Director-General of Education under this section shall be either himself or an officer within the meaning of the Teaching Service Act, ~~1969~~ 1970, or an officer within the meaning of the Public Service Act, 1902, employed in the Department of Education.

30 (3) The Public Service (Amendment) Act, 1919, is amended by inserting in subsection four of section thirteen after the words "shall include" the words "service under the Teaching Service Act, ~~1969~~ 1970, and". Amendment of Act No. 43, 1919. Sec. 13. (Leave of absence after years of service.)

(4)

Teaching Service.

(4) The Transferred Officers Extended Leave Act, 1961, is amended— Amendment of Act No. 13, 1961.

5 (a) by inserting at the end of paragraph (b) of the definition of "State employer" in subsection one of section two the following word and new paragraph:— Sec. 2. (Interpretation.)

; or

10 (c) in relation to persons employed in the Teaching Service under the Teaching Service Act, 1969 1970, the Director-General of Education.

(b) by inserting at the end of section three the following new subsection:— Sec. 3. (Method of reckoning service of certain employees in public service of State and of certain State authorities.)

15 (8) Where a person's current employer is a State employer referred to in paragraph (a) or (c) of the definition of "State employer" in subsection one of section two of this Act and that person has had service with another of those State employers, the provisions of this section do not apply so as to entitle that person to have reckoned, as service with his current employer, his service with the other of those State employers. Sec. 3. (Method of reckoning service of certain employees in public service of State and of certain State authorities.)

(5) The Industrial Arbitration Act, 1940, is amended— Amendment of Act No. 2, 1940.

25 (a) by inserting in subsection one of section twenty after the figures "1899," where firstly occurring the words "or persons employed under the Teaching Service Act, 1969 1970,"; Sec. 20. (Original jurisdiction.)

30 (b) by inserting in the same subsection after the words "officers and employees" the words "or persons".

48. The Governor may make regulations not inconsistent with Part II of this Act for or with respect to— Regulations may be made by the Governor.

35 (a) the preparation of the rolls for the election of the elected members of the Commission and the conduct of those elections;

(b)

Teaching Service.

- (b) the conduct of meetings of the Commission; and
- (c) any matter that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of Part II of this Act.

- 5 **49.** (1) The Director-General may, with the approval of the Governor, make regulations not inconsistent with this Act for or with respect to—
- Regulations
may be
made by
the
Director-
General.
- 10 (a) the examinations to be held and qualifications required for appointment to or promotion to a position or office in the Teaching Service;
 - (b) the appointment, transfer, powers, duties and responsibilities of officers and employees;
 - (c) the arrangement of offices in the Teaching Service into divisions and sections of divisions;
 - 15 (d) the order and conditions of promotion and the grading and seniority of members of the Teaching Service;
 - (e) appeals to the Director-General;
 - 20 (f) the employment of persons under section twenty-four of this Act;
 - (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and employees;
 - 25 (h) the maintenance of discipline, order, economy and efficiency in the Teaching Service;
 - (i) the classification, general management and inspection of public schools and teachers' colleges; and
 - 30 (j) any matter that by this Act (Part II excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act (Part II excepted).

(2)

Teaching Service.

(2) In the application of section forty-one of the Interpretation Act, 1897, to regulations made under subsection one of this section, the reference in paragraph (a) of subsection one of that section to the Gazette shall be read as
5 a reference to the Education Gazette.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

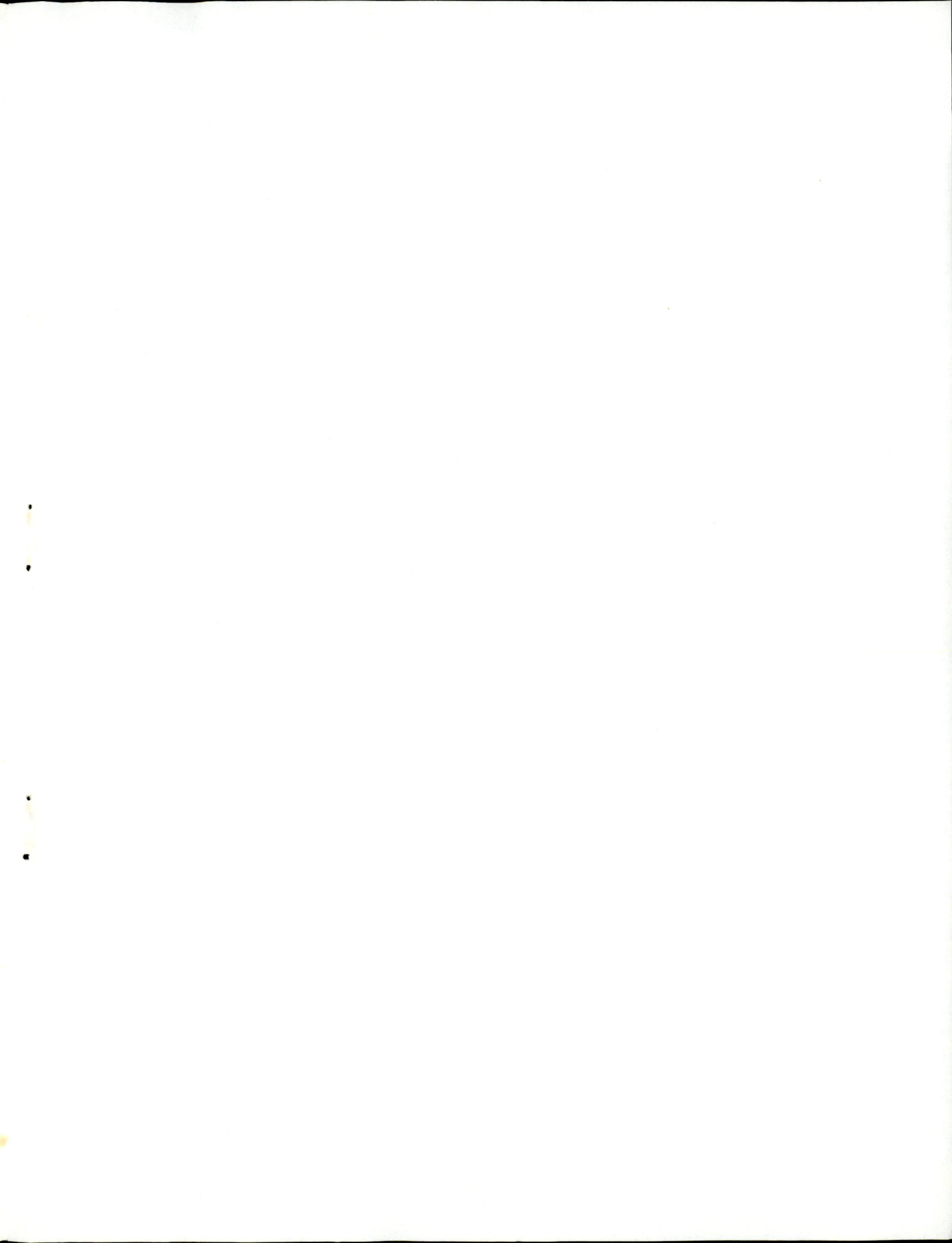
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11

2000 10 10

Dear Sir,
I have the pleasure to inform you that your application for the position of [Job Title] has been received and is under consideration. We will contact you again once a decision has been reached.

Yours faithfully,
[Name]



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney 20 November, 1969.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, February, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1970.

An Act to make provision for the constitution of an Education Advisory Commission of New South Wales and to define its functions; to transfer, from the Public Service Board to the Director-General of Education, powers, authorities, duties and functions in relation to the appointment and control of teachers, certain other educational staff in public schools established under the Public Instruction Act of 1880 and in certain teachers' colleges and certain other persons concerned with the administration of education in those schools
and

Teaching Service.

and teachers' colleges; for these and other purposes to amend the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Teaching Service Act, 1969 1970". Short title and commencement.

10 (2) Except where otherwise provided, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

15 (3) The provisions of this Act relating to the election and appointment of members of the Education Advisory Commission of New South Wales to be constituted under this Act shall commence upon the day upon which Her Majesty's assent to this Act is signified.

2. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—ss. 1-3.

20 PART II.—EDUCATION ADVISORY COMMISSION OF NEW SOUTH WALES—ss. 4-15.

PART III.—THE DIRECTOR-GENERAL OF EDUCATION—ss. 16-18.

PART IV.—THE TEACHING SERVICE—ss. 19-43.

25 DIVISION 1.—*Appointment of persons to the Teaching Service*—ss. 19-25.

DIVISION

Teaching Service.

DIVISION 2.—*Service in the Teaching Service*—ss. 26–33.

DIVISION 3.—*Long Service Leave*—ss. 34–36.

DIVISION 4.—*Discipline and Conduct*—ss. 37–41.

5 DIVISION 5.—*Miscellaneous*—ss. 42–43.

PART V.—GENERAL—ss. 44–49.

3. In this Act, except in so far as the context or subject-Definitions, matter otherwise indicates or requires—

10 “appointed day” means the day appointed and notified under subsection two of section one of this Act;

“Commission” means the Education Advisory Commission of New South Wales constituted under this Act;

15 “Director-General” means the person holding office as the Director-General of Education, appointed under the Public Service Act, 1902, and includes a person acting in that office;

“division” means a prescribed division of the Teaching Service;

20 “Education Gazette” means the journal entitled the Education Gazette published by the Government Printer of New South Wales under the authority of the Minister;

25 “Electoral Commissioner” means the person holding office as the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, or an officer employed in the administration of that Act, from time to time nominated by that person;

“employee”

Teaching Service.

- 5 “employee” means a person employed under the provisions of section twenty-four, or deemed to be an employee under subsection three of section twenty or subsection five of section twenty-three, of this Act;
- “member” means a member of the Commission;
- “officer” means a person employed in the Teaching Service other than an employee;
- 10 “public school” means a public school within the meaning of the Public Instruction Act of 1880;
- “Public Service Board” means the Public Service Board appointed under the Public Service Act, 1902;
- “regulations” means regulations made under this Act;
- “section” means a prescribed section of a division;
- 15 “teachers’ college” means a teachers’ college conducted by the Government of New South Wales, not being a teachers’ college that is a corporate college of advanced education within the meaning of the Higher Education Act, 1969;
- 20 “Teaching Service” means the Teaching Service referred to in Part IV of this Act.

PART II.

EDUCATION ADVISORY COMMISSION OF NEW SOUTH WALES.

- 25 4. (1) There shall be constituted a commission to be called the Education Advisory Commission of New South Wales.
- Education
Advisory
Commission
of New
South Wales.

(2) The Commission shall consist of eight members, of whom—

(a) one shall be the Director-General;

(b)

Teaching Service.

5 (b) three (who are in this Act referred to as "elected members") shall be persons declared by the Electoral Commissioner to have been elected to the Commission in accordance with the provisions of this Act;

(c) two shall be appointed by the Minister; and

10 (d) two, of whom one or both shall be officers or officers of the Public Service employed in the Department of Education, shall be appointed by the Director-General.

(3) Of the members referred to in paragraph (c) of subsection two of this section—

15 (a) one shall be a person having such experience as a member of an organisation formed to promote the interests of public schools as the Minister considers appropriate; and

(b) the other shall be a person having such other qualifications and experience as the Minister considers appropriate.

20 (4) A member—

(a) appointed or elected before the appointed day shall take office upon that day;

25 (b) subsequently appointed or elected shall, subject to this Act, take office upon the expiration of his predecessor's term of office;

(c) shall, subject to this Act, hold office for a term of four years; and

(d) is, if otherwise qualified, eligible for re-appointment or re-election.

30 (5) A person is not eligible to be elected or appointed as a member if he has attained the age of sixty-five years.

Teaching Service.

5. (1) For the purposes of the election of the elected members the Director-General shall cause to be prepared and kept— Election of elected members.

- 5 (a) a roll, to be called the roll of primary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll;
- 10 (b) a roll, to be called the roll of secondary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll; and
- 15 (c) a roll, to be called the roll of inspectors and supervisors, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll.

(2) Any roll certified by the Director-General, for the purposes of any election of the elected members, to be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors shall be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors, as the case may be, to be used for the purposes of that election.

25 (3) The persons whose names are entered on a roll referred to in subsection one of this section shall be entitled to elect as a member one person, being a person whose name is, at all times between nomination and election, entered on that roll.

(4) Elections under this section shall be conducted by the Electoral Commissioner in the manner prescribed.

30 (5) Upon the completion of any election under this section, the Electoral Commissioner shall declare three persons to be elected as members, of whom one shall be a person whose name is entered on the roll referred to in paragraph (a), one shall be a person whose name is entered on the roll

referred

Teaching Service.

referred to in paragraph (b), and one shall be a person whose name is entered on the roll referred to in paragraph (c), of subsection one of this section.

6. (1) A member, other than the Director-General, ^{Casual} ceases to hold office as a member and there is a casual vacancy ^{vacancies.} in his office—

- (a) if he dies;
- 10 (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (c) if he resigns his office in writing under his hand addressed to the Minister;
- 15 (d) if he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- 20 (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or misdemeanour so punishable;
- 25 (f) if he is absent from three consecutive meetings of the Commission of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the Commission for his absence from those meetings;
- 30 (g) if, being a member referred to in paragraph (d) of subsection two of section four of this Act, he ceases to hold the qualification by virtue of which he was appointed;

(h)

Teaching Service.

- (h) if, being a member referred to in paragraph (c) or (d) of subsection two of section four of this Act, he is removed from office by the person by whom he was appointed as a member ;
 - 5 (i) if, being an elected member, he ceases to be enrolled on the roll, kept under subsection one of section five of this Act, on which he was enrolled at the time of his election ; or
 - (j) upon his attaining the age of sixty-five years.
- 10 (2) Where a casual vacancy occurs in the office—
- (a) of an elected member, a person shall, subject to subsection three of this section, be elected by the persons enrolled on the roll, kept under subsection one of section five of this Act, on which the member
15 whose office has been vacated was enrolled at the time of his election to fill the vacancy ;
 - (b) of a member referred to in paragraph (c) of subsection two of section four of this Act, a person, who, where his predecessor had experience referred to in paragraph (a) of subsection three of that section, shall have like experience, or, where his predecessor had qualifications or experience referred to in paragraph (b) of that subsection, shall have like qualifications or experience, shall be appointed
20 by the Minister to fill the vacancy ; or
 - (c) of a member referred to in paragraph (d) of subsection two of section four of this Act, an officer or an officer of the Public Service employed in the Department of Education shall be appointed by the
25 Director-General to fill the vacancy,
 - 30

and the person so elected or appointed shall hold office as a member for the residue of his predecessor's term of office.

(3)

Teaching Service.

(3) Where a casual vacancy occurs in the office of an elected member within the last six months of his term of office, an election to fill the vacancy shall not be held unless the Minister otherwise orders.

5 (4) A person to be elected to fill a casual vacancy under this section shall be a person whose name is, at all times between nomination and election, entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the
10 time of his election.

(5) An election under this section shall be conducted by the Electoral Commissioner in the manner prescribed, and he shall, upon the completion of the election, declare to be elected a person whose name is entered on the roll, kept under
15 subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the time of his election.

7. The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a member and a
20 member is not, in his capacity as a member, subject to the provisions of that Act. Public Service Act not to apply to members.

8. Where at any election of an elected member to be elected by the persons whose names are entered on one of the rolls kept under subsection one of section five of this Act there
25 is no candidate eligible to be elected or the election is for any reason not held, the Minister may appoint a person enrolled on that roll to be a member and the person so appointed shall be deemed to be an elected member. Failure of nomination for election.

9. (1) The procedure for calling meetings of the Com-
30 mission and for the conduct of business at those meetings shall, subject to the regulations, be as determined by the Commission. Meetings of the Commission.

Teaching Service.

(2) Five members shall constitute a quorum at any meeting of the Commission and the decision of the majority of the members present at any meeting of the Commission at which a quorum is present shall be the decision of the
5 Commission.

10. (1) The Director-General shall be the chairman of ^{Chairman} the Commission and shall preside at all meetings of the ^{of the} Commission at which he is present.

(2) If for any reason the Director-General is unable
10 to attend any meeting of the Commission he may appoint the Deputy Director-General of Education to attend that meeting.

(3) Where the Deputy Director-General of Education has been appointed under subsection two of this section to attend any meeting of the Commission and he is unable
15 for any reason to attend that meeting, he may appoint any officer or officer of the Public Service employed in the Department of Education to attend that meeting.

(4) A person appointed under subsection two or three of this section to attend a meeting of the Commission
20 shall, while attending that meeting, be deemed to be a member and shall preside at that meeting and have all the powers, authorities, duties and functions that the Director-General has as a member.

(5) The Director-General or other person presiding
25 at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

11. (1) The functions of the Commission shall be to ^{Functions} make reports and recommendations to the Minister, either of ^{of the} its own motion or at the request of the Minister or the ^{Commission.} Director-General, on matters relating to primary and
30 secondary education in public schools.

(2)

Teaching Service.

(2) In the performance of its functions under this Act, the Commission shall have regard to the needs of the State and to the resources available to the State for primary and secondary education.

5 12. The Commission shall, as soon as practicable but not later than three months after the thirty-first day of December in each year, cause a report on its work and activities during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament. **Annual report.**

10 13. (1) The Commission may appoint such committees as it thinks fit to assist and advise it in connection with the carrying out of its functions under this Act. **Committees of the Commission.**

(2) Any such committee may consist of members of the Commission, persons who are not members or partly of persons who are, and partly of persons who are not, members of the Commission.

15 14. A member of the Commission or of a committee of the Commission shall, in the performance of his duties as such a member, act solely in the public interest and not as the representative of any particular person or body. **Members of Commission and committees to act in public interest.**

20 15. A member of the Commission and a member of any committee of the Commission—

(a) shall be entitled to be reimbursed his expenses, not exceeding an amount calculated according to a scale approved by the Minister, incurred by him in attending meetings, or carrying out the business, of the Commission or of any such committee, as the case may be; and

25

(b) shall, where he is a member of the Commission referred to in paragraph (c) of subsection two of section four of this Act, be entitled to receive such

30 **fees**

Teaching Service.

fees for acting as a member of the Commission or of any such committee as may from time to time be determined by the Minister.

PART III.

5 **THE DIRECTOR-GENERAL OF EDUCATION.**

16. The Director-General shall, subject to this Act, be responsible for the administration of the provisions of this Act, other than Part II.

Director-General to be responsible for administering Act.

17. (1) The Director-General shall, subject to the provisions of this Act and the regulations—

Powers of Director-General.

- (a) classify the schools in which members of the Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools and the academic staff establishments for teachers' colleges;
- (c) determine the method of classifying and grading officers employed in the Teaching Service;
- (d) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions;
- (e) determine the qualifications required for appointment to the Teaching Service or for an officer to be included on any promotions list;
- (f) determine promotions and transfers of officers and transfers of employees;
- (g) maintain discipline in the Teaching Service; and

(h)

Teaching Service.

5 (h) be responsible for the maintaining, consistently with sound educational practice, of a proper standard of efficiency in the Teaching Service and the greatest effectiveness and economy in expenditure in the conduct of the Teaching Service.

(2) Before exercising any of his powers under paragraphs (a), (b) and (c) of subsection one of this section the Director-General shall, unless otherwise directed by the Public Service Board, consult with that Board and have regard to any 10 principles recommended by that Board to be applied in the exercise of those powers.

(3) The Director-General may, subject to the provisions of this Act and the regulations, prepare and maintain, in respect of any class or classes of positions in the Teaching 15 Service, other than the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions.

18. (1) This section applies to the powers, authorities, duties and functions conferred or imposed on the Director- 20 General by or under this Act other than the powers, authorities, duties and functions conferred or imposed on him by or under Part II of this Act, by this section, by Division 4 of Part IV of this Act or by or under section forty-nine of this Act.

Delegation of Director-General's powers, authorities, etc.

25 (2) The Director-General may, by instrument in writing, delegate to an officer or an officer of the Public Service the exercise or performance of such of the powers, authorities, duties and functions to which this section applies as may be specified in the instrument of delegation and may in 30 like manner revoke wholly or in part any such delegation.

(3) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with 35 the terms of the delegation by the delegate or the person for the time being acting in the place of the delegate.

(4)

Teaching Service.

(4) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions delegated or as to time or circumstances
5 as may be specified in the instrument of delegation.

(5) Without limiting the generality of subsection four of this section, where under this section the Director-General delegates to any person any of his powers, authorities, duties or functions relating to the promotion of any member
10 of the Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise or perform the power, authority, duty or function so as to promote any such member to a position if that member is not, according to the rules governing the seniority of members of the Teaching
15 Service, the most senior member eligible for promotion to that position.

(6) Notwithstanding any delegation made under this section the Director-General may continue to exercise or perform all or any of the powers, authorities, duties or
20 functions delegated.

(7) Any act or thing done or suffered by the delegate when acting in the exercise of the delegation and within the terms of the delegation shall have the like force and effect as if the act or thing had been done or suffered by the Director-
25 General.

PART

Teaching Service.

PART IV.

THE TEACHING SERVICE.

DIVISION 1.—*Appointment of persons to the Teaching Service.*

5 19. The Teaching Service shall consist of all persons employed under this Part. The Teaching Service.

20. (1) All persons who immediately before the appointed day were employed under the Public Service Act, 1902, in the Department of Education— Transfer of teachers from Public Service to Teaching Service.

- 10 (a) as staff inspectors, inspectors of schools, supervisors or assistant supervisors; or
- (b) in the Educational Division of the Public Service, shall, on that day—
- (c) cease to be employed under that Act; and
- 15 (d) become members of the Teaching Service employed under this Part.

(2) All persons who are at any time before the appointed day engaged under the Public Service Act, 1902, to be employed after that day in the Department of Education 20 in the Educational Division of the Public Service, but are not so employed immediately before that day, shall, on that day—

- (a) cease to be so engaged;
- (b) be deemed to be engaged under this Act to be so employed; and
- 25 (c) while so employed, be members of the Teaching Service employed under this Part.

(3)

Teaching Service.

(3) A person who becomes a member of the Teaching Service under subsection one or two of this section shall if before he became such a member he was employed, or engaged to be employed—

- 5 (a) as an officer under the Public Service Act, 1902, be deemed to be an officer under this Act; or
- (b) as an employee under that Act, be deemed to be an employee under this Act.

21. (1) A person who becomes a member of the Rights of persons transferred under section 20 of this Act not affected.
 10 Teaching Service under section twenty of this Act—

- (a) shall, subject to this Act, be paid salary or wages at a rate not less than the rate that was payable to him immediately before he became such a member, subject to any adjustment necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed, until the salary or wages payable to him are varied by the Public Service Board in accordance with the provisions of this Act;
- 15
- (b) shall have a rank, position or grade in the Teaching Service not lower than the rank, position or grade in which he was employed immediately before he became such a member until his rank, position or grade is varied by the Director-General in accordance with the provisions of this Act; and
- 20
- (c) shall retain any rights which, at the appointed day, have accrued or are accruing to him as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any payment or pension as if he had continued to be employed under the Public Service Act, 1902.
- 25
- 30

Teaching Service.

(2) Where any condition of employment of any person who becomes a member of the Teaching Service under section twenty of this Act was, immediately before he became such a member, regulated by an award or industrial agreement 5 or agreement made under or in pursuance of the Public Service Act, 1902, that condition shall continue to be so regulated as if the award or industrial agreement applied to him as a member of the Teaching Service or the agreement made under or in pursuance of the Public Service Act, 1902, 10 were an agreement made under subsection three of section twenty-six of this Act and applied to him as such a member.

(3) Annual and sick leave shall continue to accrue to a person who becomes a member of the Teaching Service under section twenty of this Act on the same basis as they 15 accrued to him immediately before the appointed day as an officer or employee of the Public Service until that basis is varied or altered by the Public Service Board under this Act.

(4) A person who becomes a member of the Teaching Service under section twenty of this Act shall be 20 entitled to receive as a member of the Teaching Service any annual leave or sick leave accrued to him as an officer or employee of the Public Service as at the day on which he became such a member.

(5) Any person who becomes a member of the 25 Teaching Service under section twenty of this Act shall not be entitled to claim benefits under this section as well as under any other Act in respect of the same period of service.

22. (1) Where immediately before the appointed day an appeal is pending before, or may be made to, the Crown 30 Employees Appeal Board by any person who on that day becomes a member of the Teaching Service by the operation of section twenty of this Act that appeal may—

Pending
appeals
to Crown
Employees
Appeal
Board.

(a) where it was pending, be continued and completed;
or

Teaching Service.

(b) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

5 and may be determined by the Crown Employees Appeal Board and the determination of the Crown Employees Appeal Board on the appeal shall be given effect to by the Director-General.

(2) Where—

10 (a) immediately before the appointed day an appeal is pending before, or may be made to, the Crown Employees Appeal Board by any person against a decision or determination of the Public Service Board—

15 (i) for the reduction in rank, position or grade of that person;

(ii) for the dismissal of that person; or

(iii) requiring that person to resign; and

20 (b) that person does not by the operation of section twenty of this Act become a member of the Teaching Service but would, had his rank, position or grade not been reduced or had he not been dismissed or required to resign, as the case may be, have become a member of that service by the
25 operation of that section,

the appeal may—

(c) where it was pending, be continued and completed; or

30 (d) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board, and the Crown Employees Appeal Board may, if it
35 upholds the appeal, make such order as it thinks fit with

respect

Teaching Service.

respect to the employment of that person in the Teaching Service, and any such order shall be given effect to by the Director-General.

(3) Where a person becomes a member of the Teaching Service by virtue of an order made under subsection two of this section he thereupon ceases to be employed under the Public Service Act, 1902, and the provisions of section twenty-one of this Act apply to him in the same way as they apply to persons who become members of that service under section twenty of this Act.

23. (1) The Director-General may appoint to permanent offices in the Teaching Service—

Director-General's powers to appoint permanent teaching and associated staff.

(a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools, or as academic staff in teachers' colleges; and

(b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of—

(i) staff inspectors, inspectors of schools, supervisors or assistant supervisors; and

(ii) such other positions as the Director-General and the Public Service Board agree are concerned with advising, controlling or supervising persons appointed and employed under paragraph (a) of this subsection,

but nothing in this subsection prevents the appointment under the Public Service Act, 1902, of a person to any position in the Public Service that is concerned with advising, controlling or supervising persons appointed or employed under this subsection, not being a position referred to in paragraph (b) of this subsection.

Teaching Service

(2) Notwithstanding the provisions of section twenty-seven of this Act, the Director-General may appoint to a permanent office in the Teaching Service a person who is not a member of that service if—

- 5 (a) the Director-General—
- 10 (i) certifies in writing that an appointment to that office is necessary and that there is no person employed in the Teaching Service who is available to fill the office and is as qualified and capable of filling the office as the person proposed to be appointed; and
 - 15 (ii) is satisfied that the person proposed to be appointed is a fit and proper person to be employed in that office;
- 20 (b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that that person is suitable to fill the office having regard to his health and physical fitness; and
- 25 (c) that person—
- (i) is a British subject; or
 - (ii) is not a British subject but has, for the period of twelve months next preceding his appointment, been employed under section twenty-four of this Act.

(3) Unless the Director-General, in a particular case or class of cases, otherwise determines, a person who is not an officer when he is appointed to a permanent office in the Teaching Service shall be appointed on probation, which shall be for a period of twelve months or such longer period as the Director-General may in any particular case or class of cases determine.

(4) The Director-General may—

- 35 (a) after the expiration of the period of probation for which a person is so appointed, confirm or annul his appointment; or
- (b)

Teaching Service.

(b) during the period of probation for which a person is so appointed, extend the period of probation applicable to him or annul his appointment,

5 but shall not confirm the appointment of a person referred to in subparagraph (ii) of paragraph (c) of subsection two of this section unless that person has become a British subject.

(5) Where the appointment of a person is so annulled that person shall thereupon cease to be employed under this section and shall, unless the Director-General
10 makes a determination under subsection six of this section, be deemed to be an employee under this Act.

(6) Where the appointment of a person is so annulled the Director-General may determine that he shall cease to be employed in the Teaching Service upon a day
15 specified in the determination and that person shall cease to be so employed on that day.

(7) A person who, by reason of the annulment of his appointment, ceases to be a member of the Teaching Service under this section is not entitled to appeal to the
20 Crown Employees Appeal Board against the annulment or against any determination of the Director-General made under subsection six of this section.

24. (1) Where the Director-General is of opinion that it is necessary to do so, he may appoint temporarily to any
25 office to which he is entitled to make an appointment under section twenty-three of this Act a person who in the opinion of the Director-General has the appropriate qualifications. Director-General's power to appoint temporary staff.

(2) A person appointed under subsection one of this section—

30 (a) shall not be employed for a period exceeding twelve months from the date of his appointment but his employment may be extended from time to time

for

Teaching Service.

for a further period of twelve months on each occasion if the Director-General certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

5 **25.** (1) Except as provided by subsection two of section twenty-six of this Act, a member of the Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown. Members of Teaching Service to be Crown employees.

10 (2) The provisions of the Public Service Act, 1902, do not apply to the appointment of a person to the Teaching Service and a member of that service is not subject to those provisions.

DIVISION 2.—Service in the Teaching Service.

15 **26.** (1) Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or remuneration, of members of the Teaching Service shall be as may be determined from time to time by the Public Service Board after consultation with the Director-General. Determination of conditions of employment of members of the Teaching Service.

20 (2) The Public Service Board shall, for the purpose of making any determination under subsection one of this section or of any proceedings, relating to members of the Teaching Service, held before a competent tribunal having power to deal with industrial matters within the meaning of
25 the Industrial Arbitration Act, 1940, be deemed to be the employer of members of the Teaching Service.

30 (3) The Public Service Board may enter into an agreement with any association or organisation representing any group or class of officers or employees with respect to the salaries, wages or remuneration of that class or group.

(4)

Teaching Service.

(4) An agreement referred to in subsection three of this section shall bind all officers and employees in the class or group affected by the agreement and no such officer or employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(5) Any determination made by the Public Service Board in respect of a matter referred to in subsection one, any order or determination made by a competent tribunal in any proceedings referred to in subsection two, and any agreement referred to in subsection three, of this section shall be given effect to by the Director-General.

27. (1) Where there is a vacancy in any office in a section of the Teaching Service the Director-General may, if he is of opinion that the vacancy should be filled, appoint to the vacant office—

- (a) an officer whose name is on the promotions list for that section, regard being had to the relative seniority and fitness respectively of officers of that section; or
- (b) an officer of another section of the Teaching Service whom the Director-General considers it desirable to appoint on the ground of his special fitness to fill the vacant office.

(2) In the application of subsection one of this section to offices in a division that is not arranged into sections, the references in subsection one of this section to a section shall be read as a reference to a division.

(3) In making an appointment under paragraph (a) of subsection one of this section, seniority shall be subordinate to considerations of special fitness.

(4) In this section, "fitness" means qualifications and aptitude for the discharge of the duties of the office to be filled.

Teaching Service.

28. (1) Any officer dissatisfied with any decision or determination of the Director-General, whether particular or general, in regard to seniority, the refusal or failure of the Director-General to place his name, within a period determined as prescribed, on a promotions list relating to officers employed in the division in which he is employed or the classification of the work performed by or assigned to him may appeal to the Director-General against the decision or determination by forwarding to the Director-General, within the prescribed period after the decision or determination was made, a notice of appeal setting forth the grounds of the appeal.

Appeals
in respect of
seniority,
etc.

(2) Where an appeal under subsection one of this section is made—

15 (a) by a teacher in a public school; or

(b) by any other member of the Teaching Service,

by reason of the refusal or failure of the Director-General to place his name on a promotions list, the appeal shall, where it is made by such a teacher, and may, where it is made by any such other member, be referred, for inquiry and report to the Director-General, to a promotions committee constituted under section twenty-nine of this Act.

(3) The Director-General shall, after considering the appeal and such other information as he thinks proper, and, where the appeal has been referred to a promotions committee, having regard to any report made by the committee with respect thereto, shall allow or disallow the appeal and make such determination with respect thereto as he thinks fit.

(4) The decision of the Director-General under subsection three of this section shall be final.

(5) Where there is no promotions list in respect of a division, and the Director-General proposes to appoint or promote any person to a position in that division, the Director-General may refer the proposed appointment or promotion to a promotions committee for inquiry and report.

Teaching Service.

29. (1) A promotions committee shall be constituted for each division and shall consist of— Promotions committees.

(a) an officer nominated by the Director-General;

5 (b) where the committee is to sit pursuant to a reference made—

10 (i) under subsection two of section twenty-eight of this Act, an officer whose name is on a promotions list for the division in which the appellant is employed, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and

15 (ii) under subsection five of section twenty-eight of this Act, an officer who is employed in the division in which is included the position to which the appointment or promotion is proposed to be made, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and
20

(c) an officer nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) of this subsection or, in default of their agreement, by the Director-General.

25 (2) The promotions committee to which an appeal is referred under section twenty-eight of this Act shall inquire into the grounds of the appeal and report to the Director-General whether or not the committee recommends that the appeal be allowed.

30 30. (1) The Director-General may allow any officer who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that that officer would, had he not declined the promotion or appointment, have had to any future promotion or appointment. Director-General's powers where promotion or appointment is declined or refused.

(2)

Teaching Service.

(2) Where an officer or employee refuses to comply with a direction of the Director-General for his removal from one position in the Teaching Service to another, the Director-General shall, unless he is satisfied that the officer or employee had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

31. Where the Director-General is satisfied—

Director-General may retrench.

- (a) that the volume of work in any division or section of the Teaching Service has diminished;
- 10 (b) that as a consequence of the diminution a reduction of staff has become necessary; and
- (c) that any officer or employee should be dismissed to give effect to that reduction,

the Director-General may dismiss that officer or employee.

15 32. (1) Where the Director-General determines—

Retirement or transfer of officers through invalidity or incapacity.

- (a) that an officer is, because of his invalidity or physical or mental incapacity, unable to perform the duties of his office; and
- 20 (b) that that invalidity or incapacity is likely to be of a permanent character,

the Director-General—

- (c) may cause the officer to be retired from the Teaching Service; or
- 25 (d) with the consent of the officer, transfer him to some other office in the Teaching Service or if the Public Service Board so approves to some office in the Public Service, with salary and other conditions of his employment appropriate to that office.

(2)

Teaching Service.

(2) A decision or determination of the Director-General under subsection one of this section is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

33. (1) An officer—

- 5 (a) may retire from the Teaching Service upon his attaining the age of sixty years; or
- (b) may continue in the Teaching Service after he has attained that age, but—
- 10 (i) may retire from the Teaching Service; or
- (ii) the Director-General may cause him to be retired from the Teaching Service, at any time after he has attained that age and before he attains the age of sixty-five years.

Retirement
of officers
through age.

(2) An officer who attains the age of sixty-five years shall, subject to subsection three of this section, thereupon be retired from the Teaching Service.

(3) Where—

- 20 (a) the Director-General is of the opinion that it is in the public interest that an officer who is of or above the age of sixty-five years should continue to perform the duties of his office; and
- (b) the officer agrees to continue to perform those duties,

the officer's retirement may be deferred by the Director-General for a period not exceeding twelve months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding twelve months as the Director-General may fix, but notwithstanding any such deferment the Director-General may cause 30 the officer to be retired at any time he thinks fit.

DIVISION

Teaching Service.

DIVISION 3.—*Long Service Leave.*

34. (1) Every officer who has had ten years' service shall be entitled to two months' leave on full pay or four months' leave on half pay, and after completion of further service after ten years and up to fifteen years shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of one month or two months respectively for five years' service. ^{Long service leave entitlement.}
- 10 (2) After completion of further service after fifteen years and up to twenty years an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of three months or six months respectively for five years' service.
- 15 (3) After completion of further service after twenty years, an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve months respectively for twenty years' service.
- 20 (4) Where the services of an officer with at least five years' service as an adult and less than ten years' service are terminated by the Director-General for any reason, or by the officer on account of illness, incapacity or domestic or other pressing necessity, he shall be entitled in respect of his service as an adult and his service, if any, otherwise than as an adult, for five years' service to one month's leave on full pay and for service after five years to a proportionate amount of leave on full pay calculated on the basis of three months' leave for fifteen years' service.
- 30 (5) A person is not entitled under this section to leave under this section in respect of any period of service under the Public Service Act, 1902, in respect of which he has been granted and has taken leave under the Public Service (Amendment) Act, 1919.

(6)

Teaching Service.

(6) For the purposes of—

(a) subsections one, two and three of this section, “service” includes—

- 5 (i) service, whether before or after the commencement of this Act, under the Public Service Act, 1902;
- 10 (ii) any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963; and
- 15 (iii) in the case of an officer who has completed at least ten years’ service (any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963, being included therein and any period of leave without pay taken after that commencement being excluded therefrom), any period of leave without pay taken after that commencement where that period does not exceed six months;

(b) subsection four of this section—

- 25 (i) “service” does not include any period of leave without pay, whether taken before or after the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963;
- 30 (ii) “service as an adult”, in the case of an officer employed to do any work for which the price, rate or wage has been fixed by an award made under the Conciliation and Arbitration Act 1904, as amended by subsequent Acts, of the Parliament of the Commonwealth or made under the Industrial Arbitration Act, 1940, or the Apprentices Act, 1969, or has been fixed by an industrial agreement made pursuant

to

Teaching Service.

5 to or registered under any such Act or an
agreement or determination made pursuant
to the Public Service Act, 1902, or this Act,
means the period of service during which
10 the remuneration applicable to the officer
was at a rate not less than the lowest rate
fixed under the award, industrial agreement,
agreement or determination for an adult
male or adult female in the same trade,
classification, calling, group or grade as the
officer.

35. (1) An officer who has acquired a right to extended leave with pay under section thirty-four of this Act shall upon the termination of his services be paid forthwith in lieu of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

Gratuity
in lieu of
long service
leave.

(2) Any pension to which any such officer is entitled under the Superannuation Act, 1916, shall commence from the date upon which his extended leave, if taken, would have commenced.

36. (1) Where an officer has acquired a right under subsection one, two or three of section thirty-four of this Act to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that officer received at the time of his death less any amount paid to that officer in respect of the leave not taken, or not completed.

Payment of
money
value of
leave not
taken or
completed.

35 (2) Where an officer with at least five years' service as an adult and less than ten years' service as referred to in subsection four of section thirty-four of this Act dies, the
widow

Teaching Service.

widow or the widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave which would have accrued to that officer had his services terminated as referred to in that subsection, computed at the rate of salary the officer received at the time of his death.

10 (3) Where there is a guardian of any children entitled under subsection one or two of this section the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(4) Where there is no person entitled under subsection one or two of this section to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer payment in respect thereof shall be made to the personal representatives of that officer.

15 (5) Any payment under this section shall be in addition to any payment due under the provisions of the Superannuation Act, 1916.

(6) Where payment of the money value of leave has been made under this section no action may be brought against the Director-General or the Crown for payment of any amount in respect of that leave.

DIVISION 4.—Discipline and Conduct.

37. (1) Any officer or employee who—

(a) commits any breach of any provision of the regulations;

30 (b) is guilty of any misconduct;

(c) uses intoxicating beverages or drugs to excess;

(d)

Punishment
for breaches
of discipline.

Teaching Service.

- (d) is guilty of any wilful disobedience or disregard of any lawful order or direction made or given under this Act or the regulations;
- 5 (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
- (f) is guilty of any disgraceful or improper conduct, is guilty of a breach of discipline.

(2) The procedure for dealing with breaches of discipline shall be as prescribed.

10 (3) Breaches of discipline shall be dealt with by the Director-General or by a prescribed officer.

(4) Where a breach of discipline is dealt with by the Director-General or a prescribed officer in accordance with the regulations and the Director-General or prescribed officer, as the case may be, finds that the officer or employee charged has committed the breach or the officer or employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

15

20 (a) may impose on the officer or employee any one or more of the following punishments, that is to say, he may—

- (i) caution the officer or employee;
- (ii) reprimand him;
- 25 (iii) fine him;
- (iv) reduce his rate of salary or wages; or
- (v) reduce him to a lower classification or position in the Teaching Service; or

(b) may impose any one of the following punishments, that is to say—

30

- (i) where the breach is dealt with by the Director-General, he may dismiss him from the Teaching Service, direct that he resign from

Teaching Service.

5 from the Teaching Service within such period as may be specified in the direction or direct that his resignation from the Teaching Service, if tendered within a period specified in the direction, be accepted; or

10 (ii) where the breach is dealt with by a prescribed officer, he may recommend to the Director-General that the officer or employee be dismissed from the Teaching Service or that he be required or allowed to resign.

(5) Where a prescribed officer makes a recommendation referred to in subparagraph (ii) of paragraph (b) 15 of subsection four of this section, the Director-General may—

(a) impose any one of the punishments referred to in subparagraph (i) of that paragraph; or

20 (b) may impose any one or more of the punishments that may be imposed under paragraph (a) of that subsection.

(6) Where the Director-General, in the exercise of his powers under this section, directs—

25 (a) that an officer or employee resign from the Teaching Service within a period specified in the direction; or

(b) that the resignation from the Teaching Service of an officer or employee, if tendered within a period specified in the direction, be accepted,

30 and the officer or employee does not resign or tender his resignation, as the case may be, within the period specified in the direction, the Director-General may dismiss that officer or employee from the Teaching Service.

Teaching Service.

(7) The accountant of the Department of Education shall upon receiving notice of any fine imposed by the Director-General or a prescribed officer on an officer or employee under this Act deduct the amount thereof from the salary 5 or wages payable to that officer or employee.

(8) In this section, "prescribed officer" means—

- (a) a person who is the holder of, or is acting in, any office in the Teaching Service or in the Public Service that is prescribed as an office for the purposes of this section; and 10
- (b) an officer or an officer under the Public Service Act, 1902, who is prescribed as an officer for the purposes of this section.

38. Where an officer or employee is convicted in New South Wales of an offence that is punishable, either on indictment or on summary conviction, by imprisonment for a term of twelve months or more, or is convicted elsewhere than in New South Wales of an offence that if it were committed in New South Wales would be an offence so punishable, the Director-General may impose on that officer or employee any one or more of the punishments that may be imposed under subsection four of section thirty-seven of this Act as if that officer or employee had, in accordance with that subsection, been dealt with by the Director-General for a breach of 25 discipline and were liable to those punishments.

Punishment where officer or employee guilty of a serious offence.

39. (1) Where an officer or employee—

- (a) is, in accordance with the regulations, charged with a breach of discipline; or
- (b) is charged with having committed an offence referred to in section thirty-eight of this Act, 30

Suspension of officers charged with breaches of discipline or serious offences.

that officer or employee may be suspended from duty by the Director-General or a prescribed officer until the charge has been dealt with.

(2)

Teaching Service.

(2) Any salary or wages payable to a person as an officer or employee during his suspension under this section shall be withheld and if—

- 5 (a) he is found, as referred to in subsection four of section thirty-seven of this Act, to have committed the breach of discipline or admits, as referred to in that subsection, that he committed the breach; or
- (b) he is convicted of the offence.

10 as the case may be, shall, unless the Director-General otherwise directs, be forfeited unless the salary or wages were due to him before his suspension.

(3) The suspension of an officer under this section may be removed by the Director-General at any time and may, where it was imposed by a prescribed officer, be removed
15 by that officer at any time.

(4) In this section, "prescribed officer" has the meaning ascribed thereto in subsection eight of section thirty-seven of this Act.

20 **40.** Where an officer or employee becomes bankrupt or makes any composition, or arrangement, or assignment of his salary or other property, for the benefit of his creditors, he shall forthwith give to the Director-General notice thereof, accompanied by an explanation in writing of the cause of his
25 bankruptcy or of his making the composition, arrangement or assignment, and shall, within such period as may be specified by the Director-General, furnish to the Director-General such further information with respect to the cause of his bankruptcy or of his making the composition, arrangement or assignment as may be required by the Director-General.

Officers and employees to report bankruptcy, etc.

Teaching Service.

41. (1) Except with the permission in writing of the Director-General, which may be withdrawn at any time, an officer or employee (other than an employee employed on a casual basis) shall not—

Officers and employees prohibited from engaging in employment, etc., except under this Act.

- 5 (a) accept or continue to hold or discharge the duties of or be employed in any paid office in connection with any banking, insurance, mining, mercantile, or other commercial business, whether it is carried on by any corporation, company, firm, or individual;
- 10 (b) engage in or undertake any such business, whether as principal or agent;
- (c) engage in or continue in the private practice of any profession, occupation or trade, or enter into any employment, whether remunerative or not, with any corporation, company, firm or individual so engaged;
- 15 (d) accept or continue to hold office in or under the Government of a State or of the Commonwealth, otherwise than under this Act; or
- 20 (e) accept or engage in any remunerative employment other than in connection with the duties of his office under this Act.

(2) Nothing in this section prevents an officer or employee—

- 25 (a) from becoming a member or shareholder of a corporation or company or of a society of persons registered under the law of any State or elsewhere, but an officer or employee shall not take any part in the conduct of the business of the corporation, company or society otherwise than in the exercise of his right to vote as a member or shareholder; or
- 30 (b) from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit only of public servants or persons employed under this Act or of
- 35 both public servants and persons so employed.

(3)

Teaching Service.

(3) If any officer or employee does any thing referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section without the permission of the Director-General, he shall at once notify the fact to the
 5 Director-General who may thereupon impose on the officer or employee any of the punishments referred to in subsection four of section thirty-seven of this Act or may direct the officer or employee to abstain from doing that thing within such period as may be specified in the direction and, in default of
 10 his so abstaining, the Director-General may impose on the officer or employee any of those punishments.

DIVISION 5.—*Miscellaneous.*

42. Where an officer or employee is allowed to use, for the purpose of residence, any building or part of a building,
 15 or any land, belonging to the Government of New South Wales, or is provided by that Government with any service, there shall be deducted from his salary or wages such amount as the Public Service Board, after consultation with the Director-General, fixes as being fair and reasonable for the
 20 use of the building, part or land or the provision of the service, as the case may be.

Deduction from salary or wages for use of building or provision of services.

43. (1) Where judgment has been entered in any court against any officer or employee for the payment of any sum of money, the person in whose favour the judgment is entered
 25 may serve on the accountant of the Department of Education—

Attachment of salary or wages of officers and employees.

- (a) a copy of the judgment certified under the hand of the registrar or other proper officer of the court in which the judgment is entered; and
- 30 (b) a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2)

Teaching Service.

5 (2) As soon as practicable after the service upon him of a copy of judgment and a statutory declaration in pursuance of this section the accountant shall notify the judgment debtor in writing of the service of the copy judgment and statutory declaration, and require him to state in writing within a time to be specified by the accountant whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under the judgment.

10 (3) If the officer or employee fails to prove to the satisfaction of the accountant that the judgment has been satisfied, the accountant shall—

15 (a) from time to time, deduct from any moneys due to the officer or employee such sums as are fixed by the Director-General and are in his opinion necessary to enable the judgment to be satisfied; and

(b) apply those sums in the manner hereinafter in this section provided,

20 but in no case shall a deduction be fixed or made which will reduce the amount to be received by the officer or employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

25 (4) The amount which, pursuant to subsection three of this section, is to be ascertained in accordance with this subsection shall be ascertained by deducting eight dollars—

(a) in the case of a male officer or employee, from the basic wage for adult males; and

30 (b) in the case of a female officer or employee, from the basic wage for adult females,

in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the deduction under subsection three of this section is made.

(5)

Teaching Service.

(5) Where copies of more than one judgment and statutory declaration relating thereto are served upon the accountant in respect of one judgment debtor, the judgments shall be dealt with under this section in the order in which
5 copies of the judgments are served upon the accountant.

(6) Any deductions made under the provisions of subsection three of this section from moneys due to an officer or employee shall, as between the Government of New South Wales and the officer or employee, be deemed to be a payment
10 by that Government to the officer or employee.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, is
15 liable, upon conviction before a court of petty sessions, to a penalty not exceeding one hundred dollars.

(8) If any deduction made in pursuance of the provisions of subsection three of this section from moneys due to a judgment debtor exceeds the amount due under the
20 judgment against the judgment debtor the excess shall be repayable by the Department of Education to the judgment debtor and, in default of payment, may be recovered by the judgment debtor from the Crown in any court of competent jurisdiction.

(9) This section does not apply in relation to any
25 officer or employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the accountant, to be paid by him to the Treasurer for
30 credit of the Consolidated Revenue Fund, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

Teaching Service.

(11) When the accountant makes a payment to a judgment creditor under the provisions of this subsection, the accountant shall forward to the judgment creditor a statement showing—

- 5 (a) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys due to the officer or employee concerned;
- 10 (b) the amount retained by the accountant under the provisions of subsection ten of this section out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection ten of this section.

- 15 (12) Upon payment being made under the provisions of subsection ten of this section to the judgment creditor, the judgment creditor shall credit the officer or employee concerned with the sums referred to in paragraph (a) of subsection eleven of this section, as shown in the statement
- 20 forwarded by the accountant to the judgment creditor, and the judgment in respect of which the payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

- (13) In this section "judgment" includes a judgment
- 25 against joint defendants.

PART V.**GENERAL.**

44. (1) All notices of appointments, promotions, retire- Appoint-
ments, dismissals and annulments of appointments of ments, etc.,
30 officers made under this Act shall be published in the to be
Education Gazette. notified in
Education Gazette.

(2)

Teaching Service.

(2) A notice so published shall be conclusive evidence of the appointment, promotion, retirement, dismissal or annulment of appointment specified in the notice.

45. (1) Subject to subsection three of this section, ^{Crown's right to dismiss not abrogated.} nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown to dispense with the services of any person employed in the Teaching Service.

(2) An officer or employee shall not be entitled to any compensation by reason of any reduction of his salary or of his services being dispensed with, whether under this section or otherwise.

(3) Subsections one and two of this section do not apply so as to affect the rights, under any other Act, of any person whose salary has been reduced or whose services have been dispensed with to appeal against the decision or determination reducing his salary or dispensing with his services or to be reinstated to the Teaching Service.

46. The provisions of subsection one of section two of the Constitution (Public Service) Amendment Act, 1916, apply ^{Certain Acts apply to officers and employees.} to officers and employees as if they were holders of offices of profit in the Public Service of New South Wales and the remaining provisions of that Act and the provisions of the Public Service (Commonwealth Elections) Act, 1943, apply to officers as if they were officers within the meaning of the Public Service Act, 1902.

47. (1) The Public Instruction Act of 1880 is amended by omitting section 18c. ^{Amendment of certain Acts.}

^{Amendment of Act 43 Vic. No. 23. Sec. 18c. (Advisory Council on Education.)}

(2)

Teaching Service.

(2) The Crown Employees Appeal Board Act, 1944, is amended— Amendment of Act No. 15, 1944.

5 (a) (i) by inserting in subsection one of section two in the definition of "Employer" after the word "Board" the words "and, in relation to officers of the class referred to in paragraphs (b1) and (b2) of that definition, means the Director-General of Education"; Sec. 2. (Interpretation.)

10 (ii) by inserting next after paragraph (b) of the definition of "Officer" in the same subsection the following new paragraphs :—

(b1) who is an officer within the meaning of the Teaching Service Act, ~~1969~~ 1970;

15 (b2) who, being an employee within the meaning of the Teaching Service Act, ~~1969~~ 1970, has been continuously employed as such an employee for a period of not less than one year;

20 (iii) by inserting in the same definition after the words "or paragraph (b)" the words "or paragraph (b2)";

(b) by inserting next after paragraph (a) of subsection five of section five the following new paragraph :— Sec. 5. (Employers' representatives and officers' representatives.)

25 (a1) A person nominated by the Director-General of Education under this section shall be either himself or an officer within the meaning of the Teaching Service Act, ~~1969~~ 1970, or an officer within the meaning of the Public Service Act, 1902, employed in the Department of Education.

30 (3) The Public Service (Amendment) Act, 1919, is amended by inserting in subsection four of section thirteen after the words "shall include" the words "service under the Teaching Service Act, ~~1969~~ 1970, and". Amendment of Act No. 43, 1919. Sec. 13. (Leave of absence after years of service.)

(4)

Teaching Service.

(4) The Transferred Officers Extended Leave Act, 1961, is amended— Amendment of Act No. 13, 1961.

5 (a) by inserting at the end of paragraph (b) of the definition of "State employer" in subsection one of section two the following word and new paragraph:— Sec. 2. (Interpretation.)

; or

10 (c) in relation to persons employed in the Teaching Service under the Teaching Service Act, 1969 1970, the Director-General of Education.

(b) by inserting at the end of section three the following new subsection:— Sec. 3.

15 (8) Where a person's current employer is a State employer referred to in paragraph (a) or (c) of the definition of "State employer" in subsection one of section two of this Act and that person has had service with another of those State employers, the provisions of this section do not apply so as to entitle that person to have reckoned, as service with his current employer, his service with the other of those State employers. (Method of reckoning service of certain employees in public service of State and of certain State authorities.)

(5) The Industrial Arbitration Act, 1940, is amended— Amendment of Act No. 2, 1940.

25 (a) by inserting in subsection one of section twenty after the figures "1899," where firstly occurring the words "or persons employed under the Teaching Service Act, 1969 1970,"; Sec. 20. (Original jurisdiction.)

30 (b) by inserting in the same subsection after the words "officers and employees" the words "or persons".

48. The Governor may make regulations not inconsistent with Part II of this Act for or with respect to— Regulations may be made by the Governor.

35 (a) the preparation of the rolls for the election of the elected members of the Commission and the conduct of those elections;

(b)

Teaching Service.

- (b) the conduct of meetings of the Commission; and
- (c) any matter that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of Part II of this Act.

5 49. (1) The Director-General may, with the approval of the Governor, make regulations not inconsistent with this Act for or with respect to—

Regulations
may be
made by
the
Director-
General.

- 10 (a) the examinations to be held and qualifications required for appointment to or promotion to a position or office in the Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and employees;
- (c) the arrangement of offices in the Teaching Service into divisions and sections of divisions;
- 15 (d) the order and conditions of promotion and the grading and seniority of members of the Teaching Service;
- (e) appeals to the Director-General;
- 20 (f) the employment of persons under section twenty-four of this Act;
- (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and employees;
- 25 (h) the maintenance of discipline, order, economy and efficiency in the Teaching Service;
- (i) the classification, general management and inspection of public schools and teachers' colleges; and
- 30 (j) any matter that by this Act (Part II excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act (Part II excepted).

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(2) In the application of section forty-one of the Interpretation Act, 1897, to regulations made under subsection one of this section, the reference in paragraph (a) of subsection one of that section to the Gazette shall be read as
5 a reference to the Education Gazette.

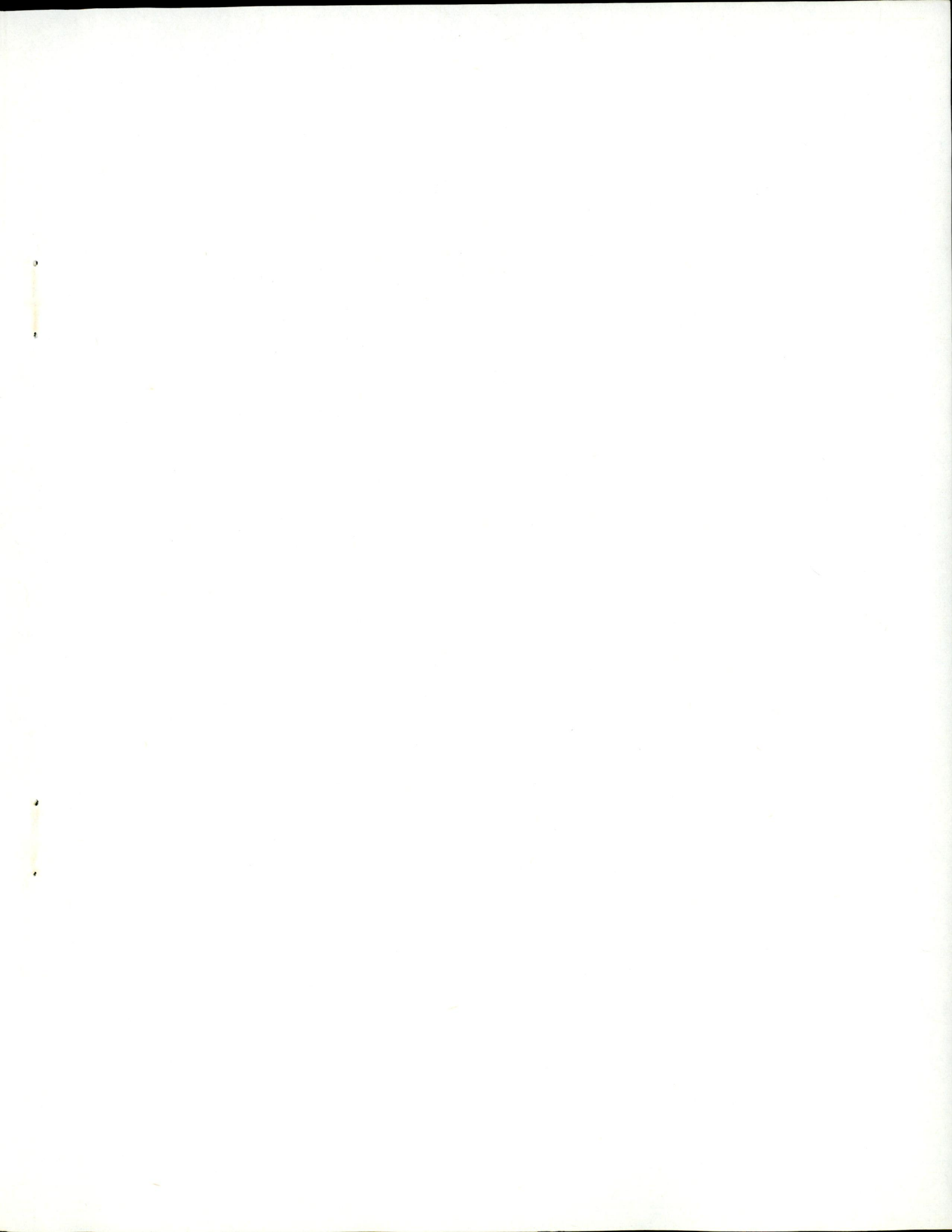
BY AUTHORITY:

V. C. N. Blight, Government Printer, New South Wales—1970

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Act No. 4, 1970.

An Act to make provision for the constitution of an Education Advisory Commission of New South Wales and to define its functions; to transfer, from the Public Service Board to the Director-General of Education, powers, authorities, duties and functions in relation to the appointment and control of teachers, certain other educational staff in public schools established under the Public Instruction Act of 1880 and in certain teachers' colleges and certain other persons concerned with the administration of education in those schools

and

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and teachers' colleges; for these and other purposes to amend the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith. [Assented to, 13th March, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Teaching Service Act, 1970".

(2) Except where otherwise provided, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The provisions of this Act relating to the election and appointment of members of the Education Advisory Commission of New South Wales to be constituted under this Act shall commence upon the day upon which Her Majesty's assent to this Act is signified.

Division
of Act.

2. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—EDUCATION ADVISORY COMMISSION OF
NEW SOUTH WALES—*ss.* 4–15.

PART III.—THE DIRECTOR-GENERAL OF EDUCATION
—*ss.* 16–18.

PART IV.—THE TEACHING SERVICE—*ss.* 19–43.

DIVISION 1.—*Appointment of persons to the Teaching Service*—*ss.* 19–25.

DIVISION

Teaching Service.

DIVISION 2.—*Service in the Teaching Service*—ss. 26–33.

DIVISION 3.—*Long Service Leave*—ss. 34–36.

DIVISION 4.—*Discipline and Conduct*—ss. 37–41.

DIVISION 5.—*Miscellaneous*—ss. 42–43.

PART V.—GENERAL—ss. 44–49.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under subsection two of section one of this Act;

“Commission” means the Education Advisory Commission of New South Wales constituted under this Act;

“Director-General” means the person holding office as the Director-General of Education, appointed under the Public Service Act, 1902, and includes a person acting in that office;

“division” means a prescribed division of the Teaching Service;

“Education Gazette” means the journal entitled the Education Gazette published by the Government Printer of New South Wales under the authority of the Minister;

“Electoral Commissioner” means the person holding office as the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, or an officer, employed in the administration of that Act, from time to time nominated by that person;

“employee”

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“employee” means a person employed under the provisions of section twenty-four, or deemed to be an employee under subsection three of section twenty or subsection five of section twenty-three, of this Act;

“member” means a member of the Commission;

“officer” means a person employed in the Teaching Service other than an employee;

“public school” means a public school within the meaning of the Public Instruction Act of 1880;

“Public Service Board” means the Public Service Board appointed under the Public Service Act, 1902;

“regulations” means regulations made under this Act;

“section” means a prescribed section of a division;

“teachers’ college” means a teachers’ college conducted by the Government of New South Wales, not being a teachers’ college that is a corporate college of advanced education within the meaning of the Higher Education Act, 1969;

“Teaching Service” means the Teaching Service referred to in Part IV of this Act.

PART II.

EDUCATION ADVISORY COMMISSION OF NEW SOUTH WALES.

Education
Advisory
Commission
of New
South Wales.

4. (1) There shall be constituted a commission to be called the Education Advisory Commission of New South Wales.

(2) The Commission shall consist of eight members, of whom—

(a) one shall be the Director-General;

(b)

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- (b) three (who are in this Act referred to as “elected members”) shall be persons declared by the Electoral Commissioner to have been elected to the Commission in accordance with the provisions of this Act;
- (c) two shall be appointed by the Minister; and
- (d) two, of whom one or both shall be officers or officers of the Public Service employed in the Department of Education, shall be appointed by the Director-General.

(3) Of the members referred to in paragraph (c) of subsection two of this section—

- (a) one shall be a person having such experience as a member of an organisation formed to promote the interests of public schools as the Minister considers appropriate; and
- (b) the other shall be a person having such other qualifications and experience as the Minister considers appropriate.

(4) A member—

- (a) appointed or elected before the appointed day shall take office upon that day;
- (b) subsequently appointed or elected shall, subject to this Act, take office upon the expiration of his predecessor’s term of office;
- (c) shall, subject to this Act, hold office for a term of four years; and
- (d) is, if otherwise qualified, eligible for re-appointment or re-election.

(5) A person is not eligible to be elected or appointed as a member if he has attained the age of sixty-five years.

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Election of
elected
members.

5. (1) For the purposes of the election of the elected members the Director-General shall cause to be prepared and kept—

- (a) a roll, to be called the roll of primary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll;
- (b) a roll, to be called the roll of secondary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll; and
- (c) a roll, to be called the roll of inspectors and supervisors, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll.

(2) Any roll certified by the Director-General, for the purposes of any election of the elected members, to be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors shall be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors, as the case may be, to be used for the purposes of that election.

(3) The persons whose names are entered on a roll referred to in subsection one of this section shall be entitled to elect as a member one person, being a person whose name is, at all times between nomination and election, entered on that roll.

(4) Elections under this section shall be conducted by the Electoral Commissioner in the manner prescribed.

(5) Upon the completion of any election under this section, the Electoral Commissioner shall declare three persons to be elected as members, of whom one shall be a person whose name is entered on the roll referred to in paragraph (a), one shall be a person whose name is entered on the roll

referred

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referred to in paragraph (b), and one shall be a person whose name is entered on the roll referred to in paragraph (c), of subsection one of this section.

6. (1) A member, other than the Director-General, ^{Casual vacancies.} ceases to hold office as a member and there is a casual vacancy in his office—

- (a) if he dies;
- (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (c) if he resigns his office in writing under his hand addressed to the Minister;
- (d) if he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or misdemeanour so punishable;
- (f) if he is absent from three consecutive meetings of the Commission of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the Commission for his absence from those meetings;
- (g) if, being a member referred to in paragraph (d) of subsection two of section four of this Act, he ceases to hold the qualification by virtue of which he was appointed;

(h)

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- (h) if, being a member referred to in paragraph (c) or (d) of subsection two of section four of this Act, he is removed from office by the person by whom he was appointed as a member;
- (i) if, being an elected member, he ceases to be enrolled on the roll, kept under subsection one of section five of this Act, on which he was enrolled at the time of his election; or
- (j) upon his attaining the age of sixty-five years.

(2) Where a casual vacancy occurs in the office—

- (a) of an elected member, a person shall, subject to subsection three of this section, be elected by the persons enrolled on the roll, kept under subsection one of section five of this Act, on which the member whose office has been vacated was enrolled at the time of his election to fill the vacancy;
- (b) of a member referred to in paragraph (c) of subsection two of section four of this Act, a person, who, where his predecessor had experience referred to in paragraph (a) of subsection three of that section, shall have like experience, or, where his predecessor had qualifications or experience referred to in paragraph (b) of that subsection, shall have like qualifications or experience, shall be appointed by the Minister to fill the vacancy; or
- (c) of a member referred to in paragraph (d) of subsection two of section four of this Act, an officer or an officer of the Public Service employed in the Department of Education shall be appointed by the Director-General to fill the vacancy,

and the person so elected or appointed shall hold office as a member for the residue of his predecessor's term of office.

Teaching Service.

(3) Where a casual vacancy occurs in the office of an elected member within the last six months of his term of office, an election to fill the vacancy shall not be held unless the Minister otherwise orders.

(4) A person to be elected to fill a casual vacancy under this section shall be a person whose name is, at all times between nomination and election, entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the time of his election.

(5) An election under this section shall be conducted by the Electoral Commissioner in the manner prescribed, and he shall, upon the completion of the election, declare to be elected a person whose name is entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the time of his election.

7. The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a member and a member is not, in his capacity as a member, subject to the provisions of that Act. Public Service Act not to apply to members.

8. Where at any election of an elected member to be elected by the persons whose names are entered on one of the rolls kept under subsection one of section five of this Act there is no candidate eligible to be elected or the election is for any reason not held, the Minister may appoint a person enrolled on that roll to be a member and the person so appointed shall be deemed to be an elected member. Failure of nomination for election.

9. (1) The procedure for calling meetings of the Commission and for the conduct of business at those meetings shall, subject to the regulations, be as determined by the Commission. Meetings of the Commission.

Teaching Service.

(2) Five members shall constitute a quorum at any meeting of the Commission and the decision of the majority of the members present at any meeting of the Commission at which a quorum is present shall be the decision of the Commission.

**Chairman
of the
Commission.**

10. (1) The Director-General shall be the chairman of the Commission and shall preside at all meetings of the Commission at which he is present.

(2) If for any reason the Director-General is unable to attend any meeting of the Commission he may appoint the Deputy Director-General of Education to attend that meeting.

(3) Where the Deputy Director-General of Education has been appointed under subsection two of this section to attend any meeting of the Commission and he is unable for any reason to attend that meeting, he may appoint any officer or officer of the Public Service employed in the Department of Education to attend that meeting.

(4) A person appointed under subsection two or three of this section to attend a meeting of the Commission shall, while attending that meeting, be deemed to be a member and shall preside at that meeting and have all the powers, authorities, duties and functions that the Director-General has as a member.

(5) The Director-General or other person presiding at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

**Functions
of the
Commission.**

11. (1) The functions of the Commission shall be to make reports and recommendations to the Minister, either of its own motion or at the request of the Minister or the Director-General, on matters relating to primary and secondary education in public schools.

(2)

Teaching Service.

(2) In the performance of its functions under this Act, the Commission shall have regard to the needs of the State and to the resources available to the State for primary and secondary education.

12. The Commission shall, as soon as practicable but not later than three months after the thirty-first day of December in each year, cause a report on its work and activities during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament. **Annual report.**

13. (1) The Commission may appoint such committees as it thinks fit to assist and advise it in connection with the carrying out of its functions under this Act. **Committees of the Commission.**

(2) Any such committee may consist of members of the Commission, persons who are not members or partly of persons who are, and partly of persons who are not, members of the Commission.

14. A member of the Commission or of a committee of the Commission shall, in the performance of his duties as such a member, act solely in the public interest and not as the representative of any particular person or body. **Members of Commission and committees to act in public interest.**

15. A member of the Commission and a member of any committee of the Commission— **Expenses and fees of members of the Commission or committees.**

(a) shall be entitled to be reimbursed his expenses, not exceeding an amount calculated according to a scale approved by the Minister, incurred by him in attending meetings, or carrying out the business, of the Commission or of any such committee, as the case may be; and

(b) shall, where he is a member of the Commission referred to in paragraph (c) of subsection two of section four of this Act, be entitled to receive such fees

Teaching Service.

fees for acting as a member of the Commission or of any such committee as may from time to time be determined by the Minister.

PART III.

THE DIRECTOR-GENERAL OF EDUCATION.

Director-General to be responsible for administering Act.

16. The Director-General shall, subject to this Act, be responsible for the administration of the provisions of this Act, other than Part II.

Powers of Director-General.

17. (1) The Director-General shall, subject to the provisions of this Act and the regulations—

- (a) classify the schools in which members of the Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools and the academic staff establishments for teachers' colleges;
- (c) determine the method of classifying and grading officers employed in the Teaching Service;
- (d) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions;
- (e) determine the qualifications required for appointment to the Teaching Service or for an officer to be included on any promotions list;
- (f) determine promotions and transfers of officers and transfers of employees;
- (g) maintain discipline in the Teaching Service; and

(h)

Teaching Service.

(h) be responsible for the maintaining, consistently with sound educational practice, of a proper standard of efficiency in the Teaching Service and the greatest effectiveness and economy in expenditure in the conduct of the Teaching Service.

(2) Before exercising any of his powers under paragraphs (a), (b) and (c) of subsection one of this section the Director-General shall, unless otherwise directed by the Public Service Board, consult with that Board and have regard to any principles recommended by that Board to be applied in the exercise of those powers.

(3) The Director-General may, subject to the provisions of this Act and the regulations, prepare and maintain, in respect of any class or classes of positions in the Teaching Service, other than the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions.

18. (1) This section applies to the powers, authorities, duties and functions conferred or imposed on the Director-General by or under this Act other than the powers, authorities, duties and functions conferred or imposed on him by or under Part II of this Act, by this section, by Division 4 of Part IV of this Act or by or under section forty-nine of this Act.

Delegation of Director-General's powers, authorities, etc.

(2) The Director-General may, by instrument in writing, delegate to an officer or an officer of the Public Service the exercise or performance of such of the powers, authorities, duties and functions to which this section applies as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

(3) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the delegate or the person for the time being acting in the place of the delegate.

(4)

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(4) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(5) Without limiting the generality of subsection four of this section, where under this section the Director-General delegates to any person any of his powers, authorities, duties or functions relating to the promotion of any member of the Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise or perform the power, authority, duty or function so as to promote any such member to a position if that member is not, according to the rules governing the seniority of members of the Teaching Service, the most senior member eligible for promotion to that position.

(6) Notwithstanding any delegation made under this section the Director-General may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(7) Any act or thing done or suffered by the delegate when acting in the exercise of the delegation and within the terms of the delegation shall have the like force and effect as if the act or thing had been done or suffered by the Director-General.

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PART IV.

THE TEACHING SERVICE.

DIVISION 1.—*Appointment of persons to the Teaching Service.*

19. The Teaching Service shall consist of all persons employed under this Part. The Teaching Service.

20. (1) All persons who immediately before the appointed day were employed under the Public Service Act, 1902, in the Department of Education— Transfer of teachers from Public Service to Teaching Service.

(a) as staff inspectors, inspectors of schools, supervisors or assistant supervisors; or

(b) in the Educational Division of the Public Service, shall, on that day—

(c) cease to be employed under that Act; and

(d) become members of the Teaching Service employed under this Part.

(2) All persons who are at any time before the appointed day engaged under the Public Service Act, 1902, to be employed after that day in the Department of Education in the Educational Division of the Public Service, but are not so employed immediately before that day, shall, on that day—

(a) cease to be so engaged;

(b) be deemed to be engaged under this Act to be so employed; and

(c) while so employed, be members of the Teaching Service employed under this Part.

(3)

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(3) A person who becomes a member of the Teaching Service under subsection one or two of this section shall if before he became such a member he was employed, or engaged to be employed—

- (a) as an officer under the Public Service Act, 1902, be deemed to be an officer under this Act; or
- (b) as an employee under that Act, be deemed to be an employee under this Act.

Rights of persons transferred under section 20 of this Act not affected.

21. (1) A person who becomes a member of the Teaching Service under section twenty of this Act—

- (a) shall, subject to this Act, be paid salary or wages at a rate not less than the rate that was payable to him immediately before he became such a member, subject to any adjustment necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed, until the salary or wages payable to him are varied by the Public Service Board in accordance with the provisions of this Act;
- (b) shall have a rank, position or grade in the Teaching Service not lower than the rank, position or grade in which he was employed immediately before he became such a member until his rank, position or grade is varied by the Director-General in accordance with the provisions of this Act; and
- (c) shall retain any rights which, at the appointed day, have accrued or are accruing to him as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any payment or pension as if he had continued to be employed under the Public Service Act, 1902.

Teaching Service.

(2) Where any condition of employment of any person who becomes a member of the Teaching Service under section twenty of this Act was, immediately before he became such a member, regulated by an award or industrial agreement or agreement made under or in pursuance of the Public Service Act, 1902, that condition shall continue to be so regulated as if the award or industrial agreement applied to him as a member of the Teaching Service or the agreement made under or in pursuance of the Public Service Act, 1902, were an agreement made under subsection three of section twenty-six of this Act and applied to him as such a member.

(3) Annual and sick leave shall continue to accrue to a person who becomes a member of the Teaching Service under section twenty of this Act on the same basis as they accrued to him immediately before the appointed day as an officer or employee of the Public Service until that basis is varied or altered by the Public Service Board under this Act.

(4) A person who becomes a member of the Teaching Service under section twenty of this Act shall be entitled to receive as a member of the Teaching Service any annual leave or sick leave accrued to him as an officer or employee of the Public Service as at the day on which he became such a member.

(5) Any person who becomes a member of the Teaching Service under section twenty of this Act shall not be entitled to claim benefits under this section as well as under any other Act in respect of the same period of service.

22. (1) Where immediately before the appointed day an appeal is pending before, or may be made to, the Crown Employees Appeal Board by any person who on that day becomes a member of the Teaching Service by the operation of section twenty of this Act that appeal may—

Pending
appeals
to Crown
Employees
Appeal
Board.

(a) where it was pending, be continued and completed;
or

(b)

Teaching Service.

- (b) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board and the determination of the Crown Employees Appeal Board on the appeal shall be given effect to by the Director-General.

(2) Where—

- (a) immediately before the appointed day an appeal is pending before, or may be made to, the Crown Employees Appeal Board by any person against a decision or determination of the Public Service Board—
- (i) for the reduction in rank, position or grade of that person;
 - (ii) for the dismissal of that person; or
 - (iii) requiring that person to resign; and
- (b) that person does not by the operation of section twenty of this Act become a member of the Teaching Service but would, had his rank, position or grade not been reduced or had he not been dismissed or required to resign, as the case may be, have become a member of that service by the operation of that section,

the appeal may—

- (c) where it was pending, be continued and completed; or
- (d) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board, and the Crown Employees Appeal Board may, if it upholds the appeal, make such order as it thinks fit with

respect

Teaching Service.

respect to the employment of that person in the Teaching Service, and any such order shall be given effect to by the Director-General.

(3) Where a person becomes a member of the Teaching Service by virtue of an order made under subsection two of this section he thereupon ceases to be employed under the Public Service Act, 1902, and the provisions of section twenty-one of this Act apply to him in the same way as they apply to persons who become members of that service under section twenty of this Act.

- 23.** (1) The Director-General may appoint to permanent offices in the Teaching Service—
- Director-General's powers to appoint permanent teaching and associated staff.
- (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools, or as academic staff in teachers' colleges; and
 - (b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of—
 - (i) staff inspectors, inspectors of schools, supervisors or assistant supervisors; and
 - (ii) such other positions as the Director-General and the Public Service Board agree are concerned with advising, controlling or supervising persons appointed and employed under paragraph (a) of this subsection,

but nothing in this subsection prevents the appointment under the Public Service Act, 1902, of a person to any position in the Public Service that is concerned with advising, controlling or supervising persons appointed or employed under this subsection, not being a position referred to in paragraph (b) of this subsection.

Teaching Service

(2) Notwithstanding the provisions of section twenty-seven of this Act, the Director-General may appoint to a permanent office in the Teaching Service a person who is not a member of that service if—

- (a) the Director-General—
 - (i) certifies in writing that an appointment to that office is necessary and that there is no person employed in the Teaching Service who is available to fill the office and is as qualified and capable of filling the office as the person proposed to be appointed; and
 - (ii) is satisfied that the person proposed to be appointed is a fit and proper person to be employed in that office;
- (b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that that person is suitable to fill the office having regard to his health and physical fitness; and
- (c) that person—
 - (i) is a British subject; or
 - (ii) is not a British subject but has, for the period of twelve months next preceding his appointment, been employed under section twenty-four of this Act.

(3) Unless the Director-General, in a particular case or class of cases, otherwise determines, a person who is not an officer when he is appointed to a permanent office in the Teaching Service shall be appointed on probation, which shall be for a period of twelve months or such longer period as the Director-General may in any particular case or class of cases determine.

(4) The Director-General may—

- (a) after the expiration of the period of probation for which a person is so appointed, confirm or annul his appointment; or

(b)

Teaching Service.

- (b) during the period of probation for which a person is so appointed, extend the period of probation applicable to him or annul his appointment,

but shall not confirm the appointment of a person referred to in subparagraph (ii) of paragraph (c) of subsection two of this section unless that person has become a British subject.

(5) Where the appointment of a person is so annulled that person shall thereupon cease to be employed under this section and shall, unless the Director-General makes a determination under subsection six of this section, be deemed to be an employee under this Act.

(6) Where the appointment of a person is so annulled the Director-General may determine that he shall cease to be employed in the Teaching Service upon a day specified in the determination and that person shall cease to be so employed on that day.

(7) A person who, by reason of the annulment of his appointment, ceases to be a member of the Teaching Service under this section is not entitled to appeal to the Crown Employees Appeal Board against the annulment or against any determination of the Director-General made under subsection six of this section.

24. (1) Where the Director-General is of opinion that it is necessary to do so, he may appoint temporarily to any office to which he is entitled to make an appointment under section twenty-three of this Act a person who in the opinion of the Director-General has the appropriate qualifications. Director-General's power to appoint temporary staff.

(2) A person appointed under subsection one of this section—

- (a) shall not be employed for a period exceeding twelve months from the date of his appointment but his employment may be extended from time to time

for

Teaching Service.

for a further period of twelve months on each occasion if the Director-General certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

Members of Teaching Service to be Crown employees.

25. (1) Except as provided by subsection two of section twenty-six of this Act, a member of the Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown.

(2) The provisions of the Public Service Act, 1902, do not apply to the appointment of a person to the Teaching Service and a member of that service is not subject to those provisions.

DIVISION 2.—*Service in the Teaching Service.*

Determination of conditions of employment of members of the Teaching Service.

26. (1) Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or remuneration, of members of the Teaching Service shall be as may be determined from time to time by the Public Service Board after consultation with the Director-General.

(2) The Public Service Board shall, for the purpose of making any determination under subsection one of this section or of any proceedings, relating to members of the Teaching Service, held before a competent tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act, 1940, be deemed to be the employer of members of the Teaching Service.

(3) The Public Service Board may enter into an agreement with any association or organisation representing any group or class of officers or employees with respect to the salaries, wages or remuneration of that class or group.

(4)

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(4) An agreement referred to in subsection three of this section shall bind all officers and employees in the class or group affected by the agreement and no such officer or employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(5) Any determination made by the Public Service Board in respect of a matter referred to in subsection one, any order or determination made by a competent tribunal in any proceedings referred to in subsection two, and any agreement referred to in subsection three, of this section shall be given effect to by the Director-General.

27. (1) Where there is a vacancy in any office in a section of the Teaching Service the Director-General may, if he is of opinion that the vacancy should be filled, appoint to the vacant office—

- (a) an officer whose name is on the promotions list for that section, regard being had to the relative seniority and fitness respectively of officers of that section; or
- (b) an officer of another section of the Teaching Service whom the Director-General considers it desirable to appoint on the ground of his special fitness to fill the vacant office.

(2) In the application of subsection one of this section to offices in a division that is not arranged into sections, the references in subsection one of this section to a section shall be read as a reference to a division.

(3) In making an appointment under paragraph (a) of subsection one of this section, seniority shall be subordinate to considerations of special fitness.

(4) In this section, "fitness" means qualifications and aptitude for the discharge of the duties of the office to be filled.

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Appeals
in respect of
seniority,
etc.

28. (1) Any officer dissatisfied with any decision or determination of the Director-General, whether particular or general, in regard to seniority, the refusal or failure of the Director-General to place his name, within a period determined as prescribed, on a promotions list relating to officers employed in the division in which he is employed or the classification of the work performed by or assigned to him may appeal to the Director-General against the decision or determination by forwarding to the Director-General, within the prescribed period after the decision or determination was made, a notice of appeal setting forth the grounds of the appeal.

(2) Where an appeal under subsection one of this section is made—

(a) by a teacher in a public school; or

(b) by any other member of the Teaching Service,

by reason of the refusal or failure of the Director-General to place his name on a promotions list, the appeal shall, where it is made by such a teacher, and may, where it is made by any such other member, be referred, for inquiry and report to the Director-General, to a promotions committee constituted under section twenty-nine of this Act.

(3) The Director-General shall, after considering the appeal and such other information as he thinks proper, and, where the appeal has been referred to a promotions committee, having regard to any report made by the committee with respect thereto, shall allow or disallow the appeal and make such determination with respect thereto as he thinks fit.

(4) The decision of the Director-General under subsection three of this section shall be final.

(5) Where there is no promotions list in respect of a division, and the Director-General proposes to appoint or promote any person to a position in that division, the Director-General may refer the proposed appointment or promotion to a promotions committee for inquiry and report.

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29. (1) A promotions committee shall be constituted for each division and shall consist of— Promotions committees.

- (a) an officer nominated by the Director-General;
- (b) where the committee is to sit pursuant to a reference made—
 - (i) under subsection two of section twenty-eight of this Act, an officer whose name is on a promotions list for the division in which the appellant is employed, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and
 - (ii) under subsection five of section twenty-eight of this Act, an officer who is employed in the division in which is included the position to which the appointment or promotion is proposed to be made, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and
- (c) an officer nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) of this subsection or, in default of their agreement, by the Director-General.

(2) The promotions committee to which an appeal is referred under section twenty-eight of this Act shall inquire into the grounds of the appeal and report to the Director-General whether or not the committee recommends that the appeal be allowed.

30. (1) The Director-General may allow any officer who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that that officer would, had he not declined the promotion or appointment, have had to any future promotion or appointment. Director-General's powers where promotion or appointment is declined or refused.

(2)

Teaching Service.

(2) Where an officer or employee refuses to comply with a direction of the Director-General for his removal from one position in the Teaching Service to another, the Director-General shall, unless he is satisfied that the officer or employee had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

Director-General may retrench.

31. Where the Director-General is satisfied—

- (a) that the volume of work in any division or section of the Teaching Service has diminished;
- (b) that as a consequence of the diminution a reduction of staff has become necessary; and
- (c) that any officer or employee should be dismissed to give effect to that reduction,

the Director-General may dismiss that officer or employee.

Retirement or transfer of officers through invalidity or incapacity.

32. (1) Where the Director-General determines—

- (a) that an officer is, because of his invalidity or physical or mental incapacity, unable to perform the duties of his office; and
- (b) that that invalidity or incapacity is likely to be of a permanent character,

the Director-General—

- (c) may cause the officer to be retired from the Teaching Service; or
- (d) with the consent of the officer, transfer him to some other office in the Teaching Service or if the Public Service Board so approves to some office in the Public Service, with salary and other conditions of his employment appropriate to that office.

Teaching Service.

(2) A decision or determination of the Director-General under subsection one of this section is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

33. (1) An officer—

- (a) may retire from the Teaching Service upon his attaining the age of sixty years; or
- (b) may continue in the Teaching Service after he has attained that age, but—
- (i) may retire from the Teaching Service; or
- (ii) the Director-General may cause him to be retired from the Teaching Service,
- at any time after he has attained that age and before he attains the age of sixty-five years.

Retirement
of officers
through age.

(2) An officer who attains the age of sixty-five years shall, subject to subsection three of this section, thereupon be retired from the Teaching Service.

(3) Where—

- (a) the Director-General is of the opinion that it is in the public interest that an officer who is of or above the age of sixty-five years should continue to perform the duties of his office; and
- (b) the officer agrees to continue to perform those duties,

the officer's retirement may be deferred by the Director-General for a period not exceeding twelve months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding twelve months as the Director-General may fix, but notwithstanding any such deferment the Director-General may cause the officer to be retired at any time he thinks fit.

DIVISION

Teaching Service.

DIVISION 3.—*Long Service Leave.*

Long
service
leave en-
titlement.

34. (1) Every officer who has had ten years' service shall be entitled to two months' leave on full pay or four months' leave on half pay, and after completion of further service after ten years and up to fifteen years shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of one month or two months respectively for five years' service.

(2) After completion of further service after fifteen years and up to twenty years an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of three months or six months respectively for five years' service.

(3) After completion of further service after twenty years, an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve months respectively for twenty years' service.

(4) Where the services of an officer with at least five years' service as an adult and less than ten years' service are terminated by the Director-General for any reason, or by the officer on account of illness, incapacity or domestic or other pressing necessity, he shall be entitled in respect of his service as an adult and his service, if any, otherwise than as an adult, for five years' service to one month's leave on full pay and for service after five years to a proportionate amount of leave on full pay calculated on the basis of three months' leave for fifteen years' service.

(5) A person is not entitled under this section to leave under this section in respect of any period of service under the Public Service Act, 1902, in respect of which he has been granted and has taken leave under the Public Service (Amendment) Act, 1919.

(6)

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- (6) For the purposes of—
- (a) subsections one, two and three of this section, “service” includes—
- (i) service, whether before or after the commencement of this Act, under the Public Service Act, 1902;
 - (ii) any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963; and
 - (iii) in the case of an officer who has completed at least ten years’ service (any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963, being included therein and any period of leave without pay taken after that commencement being excluded therefrom), any period of leave without pay taken after that commencement where that period does not exceed six months;
- (b) subsection four of this section—
- (i) “service” does not include any period of leave without pay, whether taken before or after the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963;
 - (ii) “service as an adult”, in the case of an officer employed to do any work for which the price, rate or wage has been fixed by an award made under the Conciliation and Arbitration Act 1904, as amended by subsequent Acts, of the Parliament of the Commonwealth or made under the Industrial Arbitration Act, 1940, or the Apprentices Act, 1969, or has been fixed by an industrial agreement made pursuant

to

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to or registered under any such Act or an agreement or determination made pursuant to the Public Service Act, 1902, or this Act, means the period of service during which the remuneration applicable to the officer was at a rate not less than the lowest rate fixed under the award, industrial agreement, agreement or determination for an adult male or adult female in the same trade, classification, calling, group or grade as the officer.

Gratuity in lieu of long service leave.

35. (1) An officer who has acquired a right to extended leave with pay under section thirty-four of this Act shall upon the termination of his services be paid forthwith in lieu of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

(2) Any pension to which any such officer is entitled under the Superannuation Act, 1916, shall commence from the date upon which his extended leave, if taken, would have commenced.

Payment of money value of leave not taken or completed.

36. (1) Where an officer has acquired a right under subsection one, two or three of section thirty-four of this Act to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that officer received at the time of his death less any amount paid to that officer in respect of the leave not taken, or not completed.

(2) Where an officer with at least five years' service as an adult and less than ten years' service as referred to in subsection four of section thirty-four of this Act dies, the widow

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widow or the widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave which would have accrued to that officer had his services terminated as referred to in that subsection, computed at the rate of salary the officer received at the time of his death.

(3) Where there is a guardian of any children entitled under subsection one or two of this section the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(4) Where there is no person entitled under subsection one or two of this section to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer payment in respect thereof shall be made to the personal representatives of that officer.

(5) Any payment under this section shall be in addition to any payment due under the provisions of the Superannuation Act, 1916.

(6) Where payment of the money value of leave has been made under this section no action may be brought against the Director-General or the Crown for payment of any amount in respect of that leave.

DIVISION 4.—Discipline and Conduct.

37. (1) Any officer or employee who—

(a) commits any breach of any provision of the regulations;

(b) is guilty of any misconduct;

(c) uses intoxicating beverages or drugs to excess;

Punishment
for breaches
of discipline.

(d)

Teaching Service.

- (d) is guilty of any wilful disobedience or disregard of any lawful order or direction made or given under this Act or the regulations;
- (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
- (f) is guilty of any disgraceful or improper conduct, is guilty of a breach of discipline.

(2) The procedure for dealing with breaches of discipline shall be as prescribed.

(3) Breaches of discipline shall be dealt with by the Director-General or by a prescribed officer.

(4) Where a breach of discipline is dealt with by the Director-General or a prescribed officer in accordance with the regulations and the Director-General or prescribed officer, as the case may be, finds that the officer or employee charged has committed the breach or the officer or employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

- (a) may impose on the officer or employee any one or more of the following punishments, that is to say, he may—
 - (i) caution the officer or employee;
 - (ii) reprimand him;
 - (iii) fine him;
 - (iv) reduce his rate of salary or wages; or
 - (v) reduce him to a lower classification or position in the Teaching Service; or
- (b) may impose any one of the following punishments, that is to say—
 - (i) where the breach is dealt with by the Director-General, he may dismiss him from the Teaching Service, direct that he resign from

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from the Teaching Service within such period as may be specified in the direction or direct that his resignation from the Teaching Service, if tendered within a period specified in the direction, be accepted; or

- (ii) where the breach is dealt with by a prescribed officer, he may recommend to the Director-General that the officer or employee be dismissed from the Teaching Service or that he be required or allowed to resign.

(5) Where a prescribed officer makes a recommendation referred to in subparagraph (ii) of paragraph (b) of subsection four of this section, the Director-General may—

- (a) impose any one of the punishments referred to in subparagraph (i) of that paragraph; or
- (b) may impose any one or more of the punishments that may be imposed under paragraph (a) of that subsection.

(6) Where the Director-General, in the exercise of his powers under this section, directs—

- (a) that an officer or employee resign from the Teaching Service within a period specified in the direction; or
- (b) that the resignation from the Teaching Service of an officer or employee, if tendered within a period specified in the direction, be accepted,

and the officer or employee does not resign or tender his resignation, as the case may be, within the period specified in the direction, the Director-General may dismiss that officer or employee from the Teaching Service.

(7)

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(7) The accountant of the Department of Education shall upon receiving notice of any fine imposed by the Director-General or a prescribed officer on an officer or employee under this Act deduct the amount thereof from the salary or wages payable to that officer or employee.

(8) In this section, "prescribed officer" means—

- (a) a person who is the holder of, or is acting in, any office in the Teaching Service or in the Public Service that is prescribed as an office for the purposes of this section; and
- (b) an officer or an officer under the Public Service Act, 1902, who is prescribed as an officer for the purposes of this section.

Punishment where officer or employee guilty of a serious offence.

38. Where an officer or employee is convicted in New South Wales of an offence that is punishable, either on indictment or on summary conviction, by imprisonment for a term of twelve months or more, or is convicted elsewhere than in New South Wales of an offence that if it were committed in New South Wales would be an offence so punishable, the Director-General may impose on that officer or employee any one or more of the punishments that may be imposed under subsection four of section thirty-seven of this Act as if that officer or employee had, in accordance with that subsection, been dealt with by the Director-General for a breach of discipline and were liable to those punishments.

Suspension of officers charged with breaches of discipline or serious offences.

39. (1) Where an officer or employee—

- (a) is, in accordance with the regulations, charged with a breach of discipline; or
- (b) is charged with having committed an offence referred to in section thirty-eight of this Act,

that officer or employee may be suspended from duty by the Director-General or a prescribed officer until the charge has been dealt with.

(2)

Teaching Service.

(2) Any salary or wages payable to a person as an officer or employee during his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in subsection four of section thirty-seven of this Act, to have committed the breach of discipline or admits, as referred to in that subsection, that he committed the breach; or
- (b) he is convicted of the offence,

as the case may be, shall, unless the Director-General otherwise directs, be forfeited unless the salary or wages were due to him before his suspension.

(3) The suspension of an officer under this section may be removed by the Director-General at any time and may, where it was imposed by a prescribed officer, be removed by that officer at any time.

(4) In this section, “prescribed officer” has the meaning ascribed thereto in subsection eight of section thirty-seven of this Act.

40. Where an officer or employee becomes bankrupt or makes any composition, or arrangement, or assignment of his salary or other property, for the benefit of his creditors, he shall forthwith give to the Director-General notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his making the composition, arrangement or assignment, and shall, within such period as may be specified by the Director-General, furnish to the Director-General such further information with respect to the cause of his bankruptcy or of his making the composition, arrangement or assignment as may be required by the Director-General.

Officers and employees to report bankruptcy, etc.

Teaching Service.

Officers and employees prohibited from engaging in employment, etc., except under this Act.

41. (1) Except with the permission in writing of the Director-General, which may be withdrawn at any time, an officer or employee (other than an employee employed on a casual basis) shall not—

- (a) accept or continue to hold or discharge the duties of or be employed in any paid office in connection with any banking, insurance, mining, mercantile, or other commercial business, whether it is carried on by any corporation, company, firm, or individual;
- (b) engage in or undertake any such business, whether as principal or agent;
- (c) engage in or continue in the private practice of any profession, occupation or trade, or enter into any employment, whether remunerative or not, with any corporation, company, firm or individual so engaged;
- (d) accept or continue to hold office in or under the Government of a State or of the Commonwealth, otherwise than under this Act; or
- (e) accept or engage in any remunerative employment other than in connection with the duties of his office under this Act.

(2) Nothing in this section prevents an officer or employee—

- (a) from becoming a member or shareholder of a corporation or company or of a society of persons registered under the law of any State or elsewhere, but an officer or employee shall not take any part in the conduct of the business of the corporation, company or society otherwise than in the exercise of his right to vote as a member or shareholder; or
- (b) from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit only of public servants or persons employed under this Act or of both public servants and persons so employed.

(3)

Teaching Service.

(3) If any officer or employee does any thing referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section without the permission of the Director-General, he shall at once notify the fact to the Director-General who may thereupon impose on the officer or employee any of the punishments referred to in subsection four of section thirty-seven of this Act or may direct the officer or employee to abstain from doing that thing within such period as may be specified in the direction and, in default of his so abstaining, the Director-General may impose on the officer or employee any of those punishments.

DIVISION 5.—*Miscellaneous.*

42. Where an officer or employee is allowed to use, for the purpose of residence, any building or part of a building, or any land, belonging to the Government of New South Wales, or is provided by that Government with any service, there shall be deducted from his salary or wages such amount as the Public Service Board, after consultation with the Director-General, fixes as being fair and reasonable for the use of the building, part or land or the provision of the service, as the case may be.

Deduction from salary or wages for use of building or provision of services.

43. (1) Where judgment has been entered in any court against any officer or employee for the payment of any sum of money, the person in whose favour the judgment is entered may serve on the accountant of the Department of Education—

Attachment of salary or wages of officers and employees.

- (a) a copy of the judgment certified under the hand of the registrar or other proper officer of the court in which the judgment is entered; and
- (b) a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

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(2) As soon as practicable after the service upon him of a copy of judgment and a statutory declaration in pursuance of this section the accountant shall notify the judgment debtor in writing of the service of the copy judgment and statutory declaration, and require him to state in writing within a time to be specified by the accountant whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under the judgment.

(3) If the officer or employee fails to prove to the satisfaction of the accountant that the judgment has been satisfied, the accountant shall—

- (a) from time to time, deduct from any moneys due to the officer or employee such sums as are fixed by the Director-General and are in his opinion necessary to enable the judgment to be satisfied; and
- (b) apply those sums in the manner hereinafter in this section provided,

but in no case shall a deduction be fixed or made which will reduce the amount to be received by the officer or employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

(4) The amount which, pursuant to subsection three of this section, is to be ascertained in accordance with this subsection shall be ascertained by deducting eight dollars—

- (a) in the case of a male officer or employee, from the basic wage for adult males; and
- (b) in the case of a female officer or employee, from the basic wage for adult females,

in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the deduction under subsection three of this section is made.

(5)

Teaching Service.

(5) Where copies of more than one judgment and statutory declaration relating thereto are served upon the accountant in respect of one judgment debtor, the judgments shall be dealt with under this section in the order in which copies of the judgments are served upon the accountant.

(6) Any deductions made under the provisions of subsection three of this section from moneys due to an officer or employee shall, as between the Government of New South Wales and the officer or employee, be deemed to be a payment by that Government to the officer or employee.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, is liable, upon conviction before a court of petty sessions, to a penalty not exceeding one hundred dollars.

(8) If any deduction made in pursuance of the provisions of subsection three of this section from moneys due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor the excess shall be repayable by the Department of Education to the judgment debtor and, in default of payment, may be recovered by the judgment debtor from the Crown in any court of competent jurisdiction.

(9) This section does not apply in relation to any officer or employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the accountant, to be paid by him to the Treasurer for credit of the Consolidated Revenue Fund, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

Teaching Service.

(11) When the accountant makes a payment to a judgment creditor under the provisions of this subsection, the accountant shall forward to the judgment creditor a statement showing—

- (a) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys due to the officer or employee concerned;
- (b) the amount retained by the accountant under the provisions of subsection ten of this section out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection ten of this section.

(12) Upon payment being made under the provisions of subsection ten of this section to the judgment creditor, the judgment creditor shall credit the officer or employee concerned with the sums referred to in paragraph (a) of subsection eleven of this section, as shown in the statement forwarded by the accountant to the judgment creditor, and the judgment in respect of which the payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(13) In this section “judgment” includes a judgment against joint defendants.

PART V.

GENERAL.

Appoint-
ments, etc.,
to be
notified in
Education
Gazette.

44. (1) All notices of appointments, promotions, retirements, dismissals and annulments of appointments of officers made under this Act shall be published in the Education Gazette.

Teaching Service.

(2) A notice so published shall be conclusive evidence of the appointment, promotion, retirement, dismissal or annulment of appointment specified in the notice.

45. (1) Subject to subsection three of this section, nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown to dispense with the services of any person employed in the Teaching Service. Crown's right to dismiss not abrogated.

(2) An officer or employee shall not be entitled to any compensation by reason of any reduction of his salary or of his services being dispensed with, whether under this section or otherwise.

(3) Subsections one and two of this section do not apply so as to affect the rights, under any other Act, of any person whose salary has been reduced or whose services have been dispensed with to appeal against the decision or determination reducing his salary or dispensing with his services or to be reinstated to the Teaching Service.

46. The provisions of subsection one of section two of the Constitution (Public Service) Amendment Act, 1916, apply to officers and employees as if they were holders of offices of profit in the Public Service of New South Wales and the remaining provisions of that Act and the provisions of the Public Service (Commonwealth Elections) Act, 1943, apply to officers as if they were officers within the meaning of the Public Service Act, 1902. Certain Acts apply to officers and employees.

47. (1) The Public Instruction Act of 1880 is amended by omitting section 18c. Amendment of certain Acts.

Amendment of Act 43 Vic. No. 23. Sec. 18c. (Advisory Council on Education.)

(2)

Teaching Service.

Amendment
of Act No.
15, 1944.

(2) The Crown Employees Appeal Board Act, 1944,
is amended—

Sec. 2.
(Interpre-
tation.)

- (a) (i) by inserting in subsection one of section two in the definition of “Employer” after the word “Board” the words “and, in relation to officers of the class referred to in paragraphs (b1) and (b2) of that definition, means the Director-General of Education”;
- (ii) by inserting next after paragraph (b) of the definition of “Officer” in the same subsection the following new paragraphs :—
- (b1) who is an officer within the meaning of the Teaching Service Act, 1970;
- (b2) who, being an employee within the meaning of the Teaching Service Act, 1970, has been continuously employed as such an employee for a period of not less than one year;
- (iii) by inserting in the same definition after the words “or paragraph (b)” the words “or paragraph (b2)”;

Sec. 5.
(Employers’
representa-
tives and
officers’
representa-
tives.)

- (b) by inserting next after paragraph (a) of subsection five of section five the following new paragraph :—
- (a1) A person nominated by the Director-General of Education under this section shall be either himself or an officer within the meaning of the Teaching Service Act, 1970, or an officer within the meaning of the Public Service Act, 1902, employed in the Department of Education.

Amendment
of Act No.
43, 1919.
Sec. 13.
(Leave of
absence
after
years of
service.)

(3) The Public Service (Amendment) Act, 1919,
is amended by inserting in subsection four of section thirteen
after the words “shall include” the words “service under the
Teaching Service Act, 1970, and”.

(4)

Teaching Service.

(4) The Transferred Officers Extended Leave Act, 1961, is amended— Amendment of Act No. 13, 1961.

(a) by inserting at the end of paragraph (b) of the definition of "State employer" in subsection one of section two the following word and new paragraph:— Sec. 2. (Interpretation.)

; or

(c) in relation to persons employed in the Teaching Service under the Teaching Service Act, 1970, the Director-General of Education.

(b) by inserting at the end of section three the following new subsection:— Sec. 3.

(8) Where a person's current employer is a State employer referred to in paragraph (a) or (c) of the definition of "State employer" in subsection one of section two of this Act and that person has had service with another of those State employers, the provisions of this section do not apply so as to entitle that person to have reckoned, as service with his current employer, his service with the other of those State employers. (Method of reckoning service of certain employees in public service of State and of certain State authorities.)

(5) The Industrial Arbitration Act, 1940, is amended— Amendment of Act No. 2, 1940.

(a) by inserting in subsection one of section twenty after the figures "1899," where firstly occurring the words "or persons employed under the Teaching Service Act, 1970,"; Sec. 20. (Original jurisdiction.)

(b) by inserting in the same subsection after the words "officers and employees" the words "or persons".

48. The Governor may make regulations not inconsistent with Part II of this Act for or with respect to— Regulations may be made by the Governor

(a) the preparation of the rolls for the election of the elected members of the Commission and the conduct of those elections;

(b)

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- (b) the conduct of meetings of the Commission; and
- (c) any matter that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of Part II of this Act.

Regulations
may be
made by
the
Director-
General.

49. (1) The Director-General may, with the approval of the Governor, make regulations not inconsistent with this Act for or with respect to—

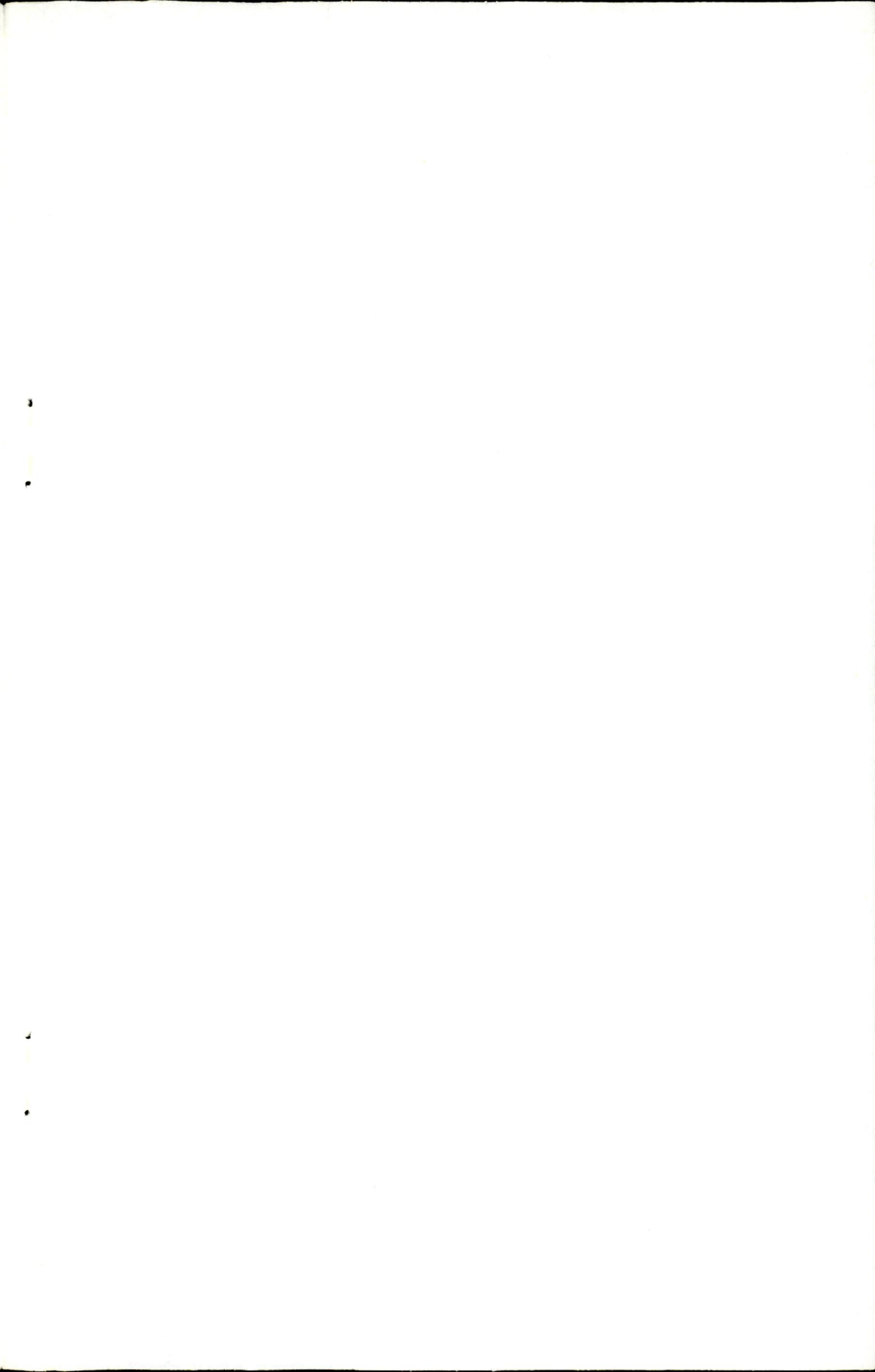
- (a) the examinations to be held and qualifications required for appointment to or promotion to a position or office in the Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and employees;
- (c) the arrangement of offices in the Teaching Service into divisions and sections of divisions;
- (d) the order and conditions of promotion and the grading and seniority of members of the Teaching Service;
- (e) appeals to the Director-General;
- (f) the employment of persons under section twenty-four of this Act;
- (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and employees;
- (h) the maintenance of discipline, order, economy and efficiency in the Teaching Service;
- (i) the classification, general management and inspection of public schools and teachers' colleges; and
- (j) any matter that by this Act (Part II excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act (Part II excepted).

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(2) In the application of section forty-one of the Interpretation Act, 1897, to regulations made under subsection one of this section, the reference in paragraph (a) of subsection one of that section to the Gazette shall be read as a reference to the Education Gazette.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970



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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 5 March, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 4, 1970.

An Act to make provision for the constitution of an Education Advisory Commission of New South Wales and to define its functions; to transfer, from the Public Service Board to the Director-General of Education, powers, authorities, duties and functions in relation to the appointment and control of teachers, certain other educational staff in public schools established under the Public Instruction Act of 1880 and in certain teachers' colleges and certain other persons concerned with the administration of education in those schools
and

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Teaching Service.

and teachers' colleges; for these and other purposes to amend the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith. [Assented to, 13th March, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Teaching Service Act, 1970".

(2) Except where otherwise provided, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The provisions of this Act relating to the election and appointment of members of the Education Advisory Commission of New South Wales to be constituted under this Act shall commence upon the day upon which Her Majesty's assent to this Act is signified.

Division
of Act.

2. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—EDUCATION ADVISORY COMMISSION OF
NEW SOUTH WALES—*ss.* 4–15.

PART III.—THE DIRECTOR-GENERAL OF EDUCATION
—*ss.* 16–18.

PART IV.—THE TEACHING SERVICE—*ss.* 19–43.

DIVISION 1.—*Appointment of persons to the Teaching Service*—*ss.* 19–25.

DIVISION

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DIVISION 2.—*Service in the Teaching Service*—ss. 26–33.

DIVISION 3.—*Long Service Leave*—ss. 34–36.

DIVISION 4.—*Discipline and Conduct*—ss. 37–41.

DIVISION 5.—*Miscellaneous*—ss. 42–43.

PART V.—GENERAL—ss. 44–49.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under subsection two of section one of this Act;

“Commission” means the Education Advisory Commission of New South Wales constituted under this Act;

“Director-General” means the person holding office as the Director-General of Education, appointed under the Public Service Act, 1902, and includes a person acting in that office;

“division” means a prescribed division of the Teaching Service;

“Education Gazette” means the journal entitled the Education Gazette published by the Government Printer of New South Wales under the authority of the Minister;

“Electoral Commissioner” means the person holding office as the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, or an officer, employed in the administration of that Act, from time to time nominated by that person;

“employee”

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“employee” means a person employed under the provisions of section twenty-four, or deemed to be an employee under subsection three of section twenty or subsection five of section twenty-three, of this Act;

“member” means a member of the Commission;

“officer” means a person employed in the Teaching Service other than an employee;

“public school” means a public school within the meaning of the Public Instruction Act of 1880;

“Public Service Board” means the Public Service Board appointed under the Public Service Act, 1902;

“regulations” means regulations made under this Act;

“section” means a prescribed section of a division;

“teachers’ college” means a teachers’ college conducted by the Government of New South Wales, not being a teachers’ college that is a corporate college of advanced education within the meaning of the Higher Education Act, 1969;

“Teaching Service” means the Teaching Service referred to in Part IV of this Act.

PART II.
EDUCATION ADVISORY COMMISSION OF NEW SOUTH WALES.

Education
Advisory
Commission
of New
South Wales.

4. (1) There shall be constituted a commission to be called the Education Advisory Commission of New South Wales.

(2) The Commission shall consist of eight members, of whom—

(a) one shall be the Director-General;

(b)

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- (b) three (who are in this Act referred to as "elected members") shall be persons declared by the Electoral Commissioner to have been elected to the Commission in accordance with the provisions of this Act;
- (c) two shall be appointed by the Minister; and
- (d) two, of whom one or both shall be officers or officers of the Public Service employed in the Department of Education, shall be appointed by the Director-General.

(3) Of the members referred to in paragraph (c) of subsection two of this section—

- (a) one shall be a person having such experience as a member of an organisation formed to promote the interests of public schools as the Minister considers appropriate; and
- (b) the other shall be a person having such other qualifications and experience as the Minister considers appropriate.

(4) A member—

- (a) appointed or elected before the appointed day shall take office upon that day;
- (b) subsequently appointed or elected shall, subject to this Act, take office upon the expiration of his predecessor's term of office;
- (c) shall, subject to this Act, hold office for a term of four years; and
- (d) is, if otherwise qualified, eligible for re-appointment or re-election.

(5) A person is not eligible to be elected or appointed as a member if he has attained the age of sixty-five years.

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Election of
elected
members.

5. (1) For the purposes of the election of the elected members the Director-General shall cause to be prepared and kept—

- (a) a roll, to be called the roll of primary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll;
- (b) a roll, to be called the roll of secondary school teachers, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll; and
- (c) a roll, to be called the roll of inspectors and supervisors, on which shall be entered the names of persons who are, under the regulations, entitled to be enrolled on that roll.

(2) Any roll certified by the Director-General, for the purposes of any election of the elected members, to be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors shall be the roll of primary school teachers, the roll of secondary school teachers or the roll of inspectors and supervisors, as the case may be, to be used for the purposes of that election.

(3) The persons whose names are entered on a roll referred to in subsection one of this section shall be entitled to elect as a member one person, being a person whose name is, at all times between nomination and election, entered on that roll.

(4) Elections under this section shall be conducted by the Electoral Commissioner in the manner prescribed.

(5) Upon the completion of any election under this section, the Electoral Commissioner shall declare three persons to be elected as members, of whom one shall be a person whose name is entered on the roll referred to in paragraph (a), one shall be a person whose name is entered on the roll

referred

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referred to in paragraph (b), and one shall be a person whose name is entered on the roll referred to in paragraph (c), of subsection one of this section.

6. (1) A member, other than the Director-General, ceases to hold office as a member and there is a casual vacancy in his office—

- (a) if he dies;
- (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (c) if he resigns his office in writing under his hand addressed to the Minister;
- (d) if he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or misdemeanour so punishable;
- (f) if he is absent from three consecutive meetings of the Commission of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the Commission for his absence from those meetings;
- (g) if, being a member referred to in paragraph (d) of subsection two of section four of this Act, he ceases to hold the qualification by virtue of which he was appointed;

h)

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- (h) if, being a member referred to in paragraph (c) or (d) of subsection two of section four of this Act, he is removed from office by the person by whom he was appointed as a member;
- (i) if, being an elected member, he ceases to be enrolled on the roll, kept under subsection one of section five of this Act, on which he was enrolled at the time of his election; or
- (j) upon his attaining the age of sixty-five years.

(2) Where a casual vacancy occurs in the office—

- (a) of an elected member, a person shall, subject to subsection three of this section, be elected by the persons enrolled on the roll, kept under subsection one of section five of this Act, on which the member whose office has been vacated was enrolled at the time of his election to fill the vacancy;
- (b) of a member referred to in paragraph (c) of subsection two of section four of this Act, a person, who, where his predecessor had experience referred to in paragraph (a) of subsection three of that section, shall have like experience, or, where his predecessor had qualifications or experience referred to in paragraph (b) of that subsection, shall have like qualifications or experience, shall be appointed by the Minister to fill the vacancy; or
- (c) of a member referred to in paragraph (d) of subsection two of section four of this Act, an officer or an officer of the Public Service employed in the Department of Education shall be appointed by the Director-General to fill the vacancy,

and the person so elected or appointed shall hold office as a member for the residue of his predecessor's term of office.

(3)

Teaching Service.

(3) Where a casual vacancy occurs in the office of an elected member within the last six months of his term of office, an election to fill the vacancy shall not be held unless the Minister otherwise orders.

(4) A person to be elected to fill a casual vacancy under this section shall be a person whose name is, at all times between nomination and election, entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the time of his election.

(5) An election under this section shall be conducted by the Electoral Commissioner in the manner prescribed, and he shall, upon the completion of the election, declare to be elected a person whose name is entered on the roll, kept under subsection one of section five of this Act, on which the member whose office has become vacant was enrolled at the time of his election.

7. The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a member and a member is not, in his capacity as a member, subject to the provisions of that Act. Public Service Act not to apply to members.

8. Where at any election of an elected member to be elected by the persons whose names are entered on one of the rolls kept under subsection one of section five of this Act there is no candidate eligible to be elected or the election is for any reason not held, the Minister may appoint a person enrolled on that roll to be a member and the person so appointed shall be deemed to be an elected member. Failure of nomination for election.

9. (1) The procedure for calling meetings of the Commission and for the conduct of business at those meetings shall, subject to the regulations, be as determined by the Commission. Meetings of the Commission.

Teaching Service.

(2) Five members shall constitute a quorum at any meeting of the Commission and the decision of the majority of the members present at any meeting of the Commission at which a quorum is present shall be the decision of the Commission.

Chairman
of the
Commission.

10. (1) The Director-General shall be the chairman of the Commission and shall preside at all meetings of the Commission at which he is present.

(2) If for any reason the Director-General is unable to attend any meeting of the Commission he may appoint the Deputy Director-General of Education to attend that meeting.

(3) Where the Deputy Director-General of Education has been appointed under subsection two of this section to attend any meeting of the Commission and he is unable for any reason to attend that meeting, he may appoint any officer or officer of the Public Service employed in the Department of Education to attend that meeting.

(4) A person appointed under subsection two or three of this section to attend a meeting of the Commission shall, while attending that meeting, be deemed to be a member and shall preside at that meeting and have all the powers, authorities, duties and functions that the Director-General has as a member.

(5) The Director-General or other person presiding at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

Functions
of the
Commission.

11. (1) The functions of the Commission shall be to make reports and recommendations to the Minister, either of its own motion or at the request of the Minister or the Director-General, on matters relating to primary and secondary education in public schools.

(2)

Teaching Service.

(2) In the performance of its functions under this Act, the Commission shall have regard to the needs of the State and to the resources available to the State for primary and secondary education.

12. The Commission shall, as soon as practicable but not later than three months after the thirty-first day of December in each year, cause a report on its work and activities during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament. **Annual report.**

13. (1) The Commission may appoint such committees as it thinks fit to assist and advise it in connection with the carrying out of its functions under this Act. **Committees of the Commission.**

(2) Any such committee may consist of members of the Commission, persons who are not members or partly of persons who are, and partly of persons who are not, members of the Commission.

14. A member of the Commission or of a committee of the Commission shall, in the performance of his duties as such a member, act solely in the public interest and not as the representative of any particular person or body. **Members of Commission and committees to act in public interest.**

15. A member of the Commission and a member of any committee of the Commission— **Expenses and fees of members of the Commission or committees.**

(a) shall be entitled to be reimbursed his expenses, not exceeding an amount calculated according to a scale approved by the Minister, incurred by him in attending meetings, or carrying out the business, of the Commission or of any such committee, as the case may be; and

(b) shall, where he is a member of the Commission referred to in paragraph (c) of subsection two of section four of this Act, be entitled to receive such fees

Teaching Service.

fees for acting as a member of the Commission or of any such committee as may from time to time be determined by the Minister.

PART III.**THE DIRECTOR-GENERAL OF EDUCATION.**

Director-General to be responsible for administering Act.

16. The Director-General shall, subject to this Act, be responsible for the administration of the provisions of this Act, other than Part II.

Powers of Director-General.

17. (1) The Director-General shall, subject to the provisions of this Act and the regulations—

- (a) classify the schools in which members of the Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools and the academic staff establishments for teachers' colleges;
- (c) determine the method of classifying and grading officers employed in the Teaching Service;
- (d) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions;
- (e) determine the qualifications required for appointment to the Teaching Service or for an officer to be included on any promotions list;
- (f) determine promotions and transfers of officers and transfers of employees;
- (g) maintain discipline in the Teaching Service; and

(h)

Teaching Service.

(h) be responsible for the maintaining, consistently with sound educational practice, of a proper standard of efficiency in the Teaching Service and the greatest effectiveness and economy in expenditure in the conduct of the Teaching Service.

(2) Before exercising any of his powers under paragraphs (a), (b) and (c) of subsection one of this section the Director-General shall, unless otherwise directed by the Public Service Board, consult with that Board and have regard to any principles recommended by that Board to be applied in the exercise of those powers.

(3) The Director-General may, subject to the provisions of this Act and the regulations, prepare and maintain, in respect of any class or classes of positions in the Teaching Service, other than the positions of teachers in public schools, lists, in this Act referred to as promotions lists, of officers eligible for appointment or promotion to those positions.

18. (1) This section applies to the powers, authorities, duties and functions conferred or imposed on the Director-General by or under this Act other than the powers, authorities, duties and functions conferred or imposed on him by or under Part II of this Act, by this section, by Division 4 of Part IV of this Act or by or under section forty-nine of this Act.

Delegation
of Director-
General's
powers,
authorities,
etc.

(2) The Director-General may, by instrument in writing, delegate to an officer or an officer of the Public Service the exercise or performance of such of the powers, authorities, duties and functions to which this section applies as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

(3) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the delegate or the person for the time being acting in the place of the delegate.

(4)

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(4) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(5) Without limiting the generality of subsection four of this section, where under this section the Director-General delegates to any person any of his powers, authorities, duties or functions relating to the promotion of any member of the Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise or perform the power, authority, duty or function so as to promote any such member to a position if that member is not, according to the rules governing the seniority of members of the Teaching Service, the most senior member eligible for promotion to that position.

(6) Notwithstanding any delegation made under this section the Director-General may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(7) Any act or thing done or suffered by the delegate when acting in the exercise of the delegation and within the terms of the delegation shall have the like force and effect as if the act or thing had been done or suffered by the Director-General.

PART

Teaching Service.

PART IV.

THE TEACHING SERVICE.

DIVISION 1.—*Appointment of persons to the Teaching Service.*

19. The Teaching Service shall consist of all persons employed under this Part. The Teaching Service.

20. (1) All persons who immediately before the appointed day were employed under the Public Service Act, 1902, in the Department of Education— Transfer of teachers from Public Service to Teaching Service.

(a) as staff inspectors, inspectors of schools, supervisors or assistant supervisors; or

(b) in the Educational Division of the Public Service, shall, on that day—

(c) cease to be employed under that Act; and

(d) become members of the Teaching Service employed under this Part.

(2) All persons who are at any time before the appointed day engaged under the Public Service Act, 1902, to be employed after that day in the Department of Education in the Educational Division of the Public Service, but are not so employed immediately before that day, shall, on that day—

(a) cease to be so engaged;

(b) be deemed to be engaged under this Act to be so employed; and

(c) while so employed, be members of the Teaching Service employed under this Part.

(3)

Teaching Service.

(3) A person who becomes a member of the Teaching Service under subsection one or two of this section shall if before he became such a member he was employed, or engaged to be employed—

- (a) as an officer under the Public Service Act, 1902, be deemed to be an officer under this Act; or
- (b) as an employee under that Act, be deemed to be an employee under this Act.

Rights of persons transferred under section 20 of this Act not affected.

21. (1) A person who becomes a member of the Teaching Service under section twenty of this Act—

- (a) shall, subject to this Act, be paid salary or wages at a rate not less than the rate that was payable to him immediately before he became such a member, subject to any adjustment necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed, until the salary or wages payable to him are varied by the Public Service Board in accordance with the provisions of this Act;
- (b) shall have a rank, position or grade in the Teaching Service not lower than the rank, position or grade in which he was employed immediately before he became such a member until his rank, position or grade is varied by the Director-General in accordance with the provisions of this Act; and
- (c) shall retain any rights which, at the appointed day, have accrued or are accruing to him as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any payment or pension as if he had continued to be employed under the Public Service Act, 1902.

Teaching Service.

(2) Where any condition of employment of any person who becomes a member of the Teaching Service under section twenty of this Act was, immediately before he became such a member, regulated by an award or industrial agreement or agreement made under or in pursuance of the Public Service Act, 1902, that condition shall continue to be so regulated as if the award or industrial agreement applied to him as a member of the Teaching Service or the agreement made under or in pursuance of the Public Service Act, 1902, were an agreement made under subsection three of section twenty-six of this Act and applied to him as such a member.

(3) Annual and sick leave shall continue to accrue to a person who becomes a member of the Teaching Service under section twenty of this Act on the same basis as they accrued to him immediately before the appointed day as an officer or employee of the Public Service until that basis is varied or altered by the Public Service Board under this Act.

(4) A person who becomes a member of the Teaching Service under section twenty of this Act shall be entitled to receive as a member of the Teaching Service any annual leave or sick leave accrued to him as an officer or employee of the Public Service as at the day on which he became such a member.

(5) Any person who becomes a member of the Teaching Service under section twenty of this Act shall not be entitled to claim benefits under this section as well as under any other Act in respect of the same period of service.

22. (1) Where immediately before the appointed day an appeal is pending before, or may be made to, the Crown Employees Appeal Board by any person who on that day becomes a member of the Teaching Service by the operation of section twenty of this Act that appeal may—

Pending
appeals
to Crown
Employees
Appeal
Board.

(a) where it was pending, be continued and completed;
or

(b)

Teaching Service.

- (b) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board and the determination of the Crown Employees Appeal Board on the appeal shall be given effect to by the Director-General.

(2) Where—

- (a) immediately before the appointed day an appeal is pending before, or may be made to, the Crown Employees Appeal Board by any person against a decision or determination of the Public Service Board—
- (i) for the reduction in rank, position or grade of that person;
 - (ii) for the dismissal of that person; or
 - (iii) requiring that person to resign; and
- (b) that person does not by the operation of section twenty of this Act become a member of the Teaching Service but would, had his rank, position or grade not been reduced or had he not been dismissed or required to resign, as the case may be, have become a member of that service by the operation of that section,

the appeal may—

- (c) where it was pending, be continued and completed; or
- (d) where it is made after the appointed day, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board, and the Crown Employees Appeal Board may, if it upholds the appeal, make such order as it thinks fit with

respect

Teaching Service.

respect to the employment of that person in the Teaching Service, and any such order shall be given effect to by the Director-General.

(3) Where a person becomes a member of the Teaching Service by virtue of an order made under subsection two of this section he thereupon ceases to be employed under the Public Service Act, 1902, and the provisions of section twenty-one of this Act apply to him in the same way as they apply to persons who become members of that service under section twenty of this Act.

- 23.** (1) The Director-General may appoint to permanent offices in the Teaching Service—
- Director-General's powers to appoint permanent teaching and associated staff.
- (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools, or as academic staff in teachers' colleges; and
 - (b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of—
 - (i) staff inspectors, inspectors of schools, supervisors or assistant supervisors; and
 - (ii) such other positions as the Director-General and the Public Service Board agree are concerned with advising, controlling or supervising persons appointed and employed under paragraph (a) of this subsection,

but nothing in this subsection prevents the appointment under the Public Service Act, 1902, of a person to any position in the Public Service that is concerned with advising, controlling or supervising persons appointed or employed under this subsection, not being a position referred to in paragraph (b) of this subsection.

Teaching Service

(2) Notwithstanding the provisions of section twenty-seven of this Act, the Director-General may appoint to a permanent office in the Teaching Service a person who is not a member of that service if—

(a) the Director-General—

- (i) certifies in writing that an appointment to that office is necessary and that there is no person employed in the Teaching Service who is available to fill the office and is as qualified and capable of filling the office as the person proposed to be appointed; and
- (ii) is satisfied that the person proposed to be appointed is a fit and proper person to be employed in that office;

(b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that that person is suitable to fill the office having regard to his health and physical fitness; and

(c) that person—

- (i) is a British subject; or
- (ii) is not a British subject but has, for the period of twelve months next preceding his appointment, been employed under section twenty-four of this Act.

(3) Unless the Director-General, in a particular case or class of cases, otherwise determines, a person who is not an officer when he is appointed to a permanent office in the Teaching Service shall be appointed on probation, which shall be for a period of twelve months or such longer period as the Director-General may in any particular case or class of cases determine.

(4) The Director-General may—

(a) after the expiration of the period of probation for which a person is so appointed, confirm or annul his appointment; or

(b)

Teaching Service.

- (b) during the period of probation for which a person is so appointed, extend the period of probation applicable to him or annul his appointment,

but shall not confirm the appointment of a person referred to in subparagraph (ii) of paragraph (c) of subsection two of this section unless that person has become a British subject.

(5) Where the appointment of a person is so annulled that person shall thereupon cease to be employed under this section and shall, unless the Director-General makes a determination under subsection six of this section, be deemed to be an employee under this Act.

(6) Where the appointment of a person is so annulled the Director-General may determine that he shall cease to be employed in the Teaching Service upon a day specified in the determination and that person shall cease to be so employed on that day.

(7) A person who, by reason of the annulment of his appointment, ceases to be a member of the Teaching Service under this section is not entitled to appeal to the Crown Employees Appeal Board against the annulment or against any determination of the Director-General made under subsection six of this section.

24. (1) Where the Director-General is of opinion that it is necessary to do so, he may appoint temporarily to any office to which he is entitled to make an appointment under section twenty-three of this Act a person who in the opinion of the Director-General has the appropriate qualifications. Director-General's power to appoint temporary staff.

(2) A person appointed under subsection one of this section—

- (a) shall not be employed for a period exceeding twelve months from the date of his appointment but his employment may be extended from time to time

for

Teaching Service.

for a further period of twelve months on each occasion if the Director-General certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

Members of
Teaching
Service to
be Crown
employees.

25. (1) Except as provided by subsection two of section twenty-six of this Act, a member of the Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown.

(2) The provisions of the Public Service Act, 1902, do not apply to the appointment of a person to the Teaching Service and a member of that service is not subject to those provisions.

DIVISION 2.—Service in the Teaching Service.

Determina-
tion of
conditions
of employ-
ment of
members of
the Teach-
ing Service.

26. (1) Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or remuneration, of members of the Teaching Service shall be as may be determined from time to time by the Public Service Board after consultation with the Director-General.

(2) The Public Service Board shall, for the purpose of making any determination under subsection one of this section or of any proceedings, relating to members of the Teaching Service, held before a competent tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act, 1940, be deemed to be the employer of members of the Teaching Service.

(3) The Public Service Board may enter into an agreement with any association or organisation representing any group or class of officers or employees with respect to the salaries, wages or remuneration of that class or group.

(4)

Teaching Service.

(4) An agreement referred to in subsection three of this section shall bind all officers and employees in the class or group affected by the agreement and no such officer or employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(5) Any determination made by the Public Service Board in respect of a matter referred to in subsection one, any order or determination made by a competent tribunal in any proceedings referred to in subsection two, and any agreement referred to in subsection three, of this section shall be given effect to by the Director-General.

27. (1) Where there is a vacancy in any office in a section of the Teaching Service the Director-General may, if he is of opinion that the vacancy should be filled, appoint to the vacant office—

- (a) an officer whose name is on the promotions list for that section, regard being had to the relative seniority and fitness respectively of officers of that section; or
- (b) an officer of another section of the Teaching Service whom the Director-General considers it desirable to appoint on the ground of his special fitness to fill the vacant office.

(2) In the application of subsection one of this section to offices in a division that is not arranged into sections, the references in subsection one of this section to a section shall be read as a reference to a division.

(3) In making an appointment under paragraph (a) of subsection one of this section, seniority shall be subordinate to considerations of special fitness.

(4) In this section, "fitness" means qualifications and aptitude for the discharge of the duties of the office to be filled.

Teaching Service.

Appeals
in respect of
seniority,
etc.

28. (1) Any officer dissatisfied with any decision or determination of the Director-General, whether particular or general, in regard to seniority, the refusal or failure of the Director-General to place his name, within a period determined as prescribed, on a promotions list relating to officers employed in the division in which he is employed or the classification of the work performed by or assigned to him may appeal to the Director-General against the decision or determination by forwarding to the Director-General, within the prescribed period after the decision or determination was made, a notice of appeal setting forth the grounds of the appeal.

(2) Where an appeal under subsection one of this section is made—

(a) by a teacher in a public school; or

(b) by any other member of the Teaching Service,

by reason of the refusal or failure of the Director-General to place his name on a promotions list, the appeal shall, where it is made by such a teacher, and may, where it is made by any such other member, be referred, for inquiry and report to the Director-General, to a promotions committee constituted under section twenty-nine of this Act.

(3) The Director-General shall, after considering the appeal and such other information as he thinks proper, and, where the appeal has been referred to a promotions committee, having regard to any report made by the committee with respect thereto, shall allow or disallow the appeal and make such determination with respect thereto as he thinks fit.

(4) The decision of the Director-General under subsection three of this section shall be final.

(5) Where there is no promotions list in respect of a division, and the Director-General proposes to appoint or promote any person to a position in that division, the Director-General may refer the proposed appointment or promotion to a promotions committee for inquiry and report.

Teaching Service.

29. (1) A promotions committee shall be constituted for each division and shall consist of— Promotions committees.

- (a) an officer nominated by the Director-General;
- (b) where the committee is to sit pursuant to a reference made—
 - (i) under subsection two of section twenty-eight of this Act, an officer whose name is on a promotions list for the division in which the appellant is employed, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and
 - (ii) under subsection five of section twenty-eight of this Act, an officer who is employed in the division in which is included the position to which the appointment or promotion is proposed to be made, and who shall be selected by or on behalf of the officers of that division in the manner prescribed; and
- (c) an officer nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) of this subsection or, in default of their agreement, by the Director-General.

(2) The promotions committee to which an appeal is referred under section twenty-eight of this Act shall inquire into the grounds of the appeal and report to the Director-General whether or not the committee recommends that the appeal be allowed.

30. (1) The Director-General may allow any officer who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that that officer would, had he not declined the promotion or appointment, have had to any future promotion or appointment. Director-General's powers where promotion or appointment is declined or refused.

(2)

Teaching Service.

(2) Where an officer or employee refuses to comply with a direction of the Director-General for his removal from one position in the Teaching Service to another, the Director-General shall, unless he is satisfied that the officer or employee had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

Director-General may retrench.

31. Where the Director-General is satisfied—

- (a) that the volume of work in any division or section of the Teaching Service has diminished;
- (b) that as a consequence of the diminution a reduction of staff has become necessary; and
- (c) that any officer or employee should be dismissed to give effect to that reduction,

the Director-General may dismiss that officer or employee.

Retirement or transfer of officers through invalidity or incapacity.

32. (1) Where the Director-General determines—

- (a) that an officer is, because of his invalidity or physical or mental incapacity, unable to perform the duties of his office; and
- (b) that that invalidity or incapacity is likely to be of a permanent character,

the Director-General—

- (c) may cause the officer to be retired from the Teaching Service; or
- (d) with the consent of the officer, transfer him to some other office in the Teaching Service or if the Public Service Board so approves to some office in the Public Service, with salary and other conditions of his employment appropriate to that office.

(2)

Teaching Service.

(2) A decision or determination of the Director-General under subsection one of this section is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

33. (1) An officer—

- (a) may retire from the Teaching Service upon his attaining the age of sixty years; or
- (b) may continue in the Teaching Service after he has attained that age, but—
 - (i) may retire from the Teaching Service; or
 - (ii) the Director-General may cause him to be retired from the Teaching Service, at any time after he has attained that age and before he attains the age of sixty-five years.

Retirement
of officers
through age.

(2) An officer who attains the age of sixty-five years shall, subject to subsection three of this section, thereupon be retired from the Teaching Service.

(3) Where—

- (a) the Director-General is of the opinion that it is in the public interest that an officer who is of or above the age of sixty-five years should continue to perform the duties of his office; and
- (b) the officer agrees to continue to perform those duties,

the officer's retirement may be deferred by the Director-General for a period not exceeding twelve months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding twelve months as the Director-General may fix, but notwithstanding any such deferment the Director-General may cause the officer to be retired at any time he thinks fit.

DIVISION

Teaching Service.

DIVISION 3.—*Long Service Leave.*

Long
service
leave en-
titlement.

34. (1) Every officer who has had ten years' service shall be entitled to two months' leave on full pay or four months' leave on half pay, and after completion of further service after ten years and up to fifteen years shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of one month or two months respectively for five years' service.

(2) After completion of further service after fifteen years and up to twenty years an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of three months or six months respectively for five years' service.

(3) After completion of further service after twenty years, an officer shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve months respectively for twenty years' service.

(4) Where the services of an officer with at least five years' service as an adult and less than ten years' service are terminated by the Director-General for any reason, or by the officer on account of illness, incapacity or domestic or other pressing necessity, he shall be entitled in respect of his service as an adult and his service, if any, otherwise than as an adult, for five years' service to one month's leave on full pay and for service after five years to a proportionate amount of leave on full pay calculated on the basis of three months' leave for fifteen years' service.

(5) A person is not entitled under this section to leave under this section in respect of any period of service under the Public Service Act, 1902, in respect of which he has been granted and has taken leave under the Public Service (Amendment) Act, 1919.

(6)

Teaching Service.

- (6) For the purposes of—
- (a) subsections one, two and three of this section, “service” includes—
- (i) service, whether before or after the commencement of this Act, under the Public Service Act, 1902;
 - (ii) any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963; and
 - (iii) in the case of an officer who has completed at least ten years’ service (any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963, being included therein and any period of leave without pay taken after that commencement being excluded therefrom), any period of leave without pay taken after that commencement where that period does not exceed six months;
- (b) subsection four of this section—
- (i) “service” does not include any period of leave without pay, whether taken before or after the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963;
 - (ii) “service as an adult”, in the case of an officer employed to do any work for which the price, rate or wage has been fixed by an award made under the Conciliation and Arbitration Act 1904, as amended by subsequent Acts, of the Parliament of the Commonwealth or made under the Industrial Arbitration Act, 1940, or the Apprentices Act, 1969, or has been fixed by an industrial agreement made pursuant
- to

Teaching Service.

to or registered under any such Act or an agreement or determination made pursuant to the Public Service Act, 1902, or this Act, means the period of service during which the remuneration applicable to the officer was at a rate not less than the lowest rate fixed under the award, industrial agreement, agreement or determination for an adult male or adult female in the same trade, classification, calling, group or grade as the officer.

Gratuity
in lieu of
long service
leave.

35. (1) An officer who has acquired a right to extended leave with pay under section thirty-four of this Act shall upon the termination of his services be paid forthwith in lieu of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

(2) Any pension to which any such officer is entitled under the Superannuation Act, 1916, shall commence from the date upon which his extended leave, if taken, would have commenced.

Payment of
money
value of
leave not
taken or
completed.

36. (1) Where an officer has acquired a right under subsection one, two or three of section thirty-four of this Act to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that officer received at the time of his death less any amount paid to that officer in respect of the leave not taken, or not completed.

(2) Where an officer with at least five years' service as an adult and less than ten years' service as referred to in subsection four of section thirty-four of this Act dies, the
widow

Teaching Service.

widow or the widower of that officer, or if there is no such widow or widower the children of that officer, or if there is no such widow, widower, or children such person as, in the opinion of the Director-General, was, at the time of the death of that officer, a dependent relative of that officer, shall be entitled to receive the money value of the leave which would have accrued to that officer had his services terminated as referred to in that subsection, computed at the rate of salary the officer received at the time of his death.

(3) Where there is a guardian of any children entitled under subsection one or two of this section the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(4) Where there is no person entitled under subsection one or two of this section to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer payment in respect thereof shall be made to the personal representatives of that officer.

(5) Any payment under this section shall be in addition to any payment due under the provisions of the Superannuation Act, 1916.

(6) Where payment of the money value of leave has been made under this section no action may be brought against the Director-General or the Crown for payment of any amount in respect of that leave.

DIVISION 4.—*Discipline and Conduct.*

37. (1) Any officer or employee who—

- (a) commits any breach of any provision of the regulations;
(b) is guilty of any misconduct;
(c) uses intoxicating beverages or drugs to excess;

Punishment
for breaches
of discipline.

(d)

Teaching Service.

- (d) is guilty of any wilful disobedience or disregard of any lawful order or direction made or given under this Act or the regulations;
- (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
- (f) is guilty of any disgraceful or improper conduct, is guilty of a breach of discipline.

(2) The procedure for dealing with breaches of discipline shall be as prescribed.

(3) Breaches of discipline shall be dealt with by the Director-General or by a prescribed officer.

(4) Where a breach of discipline is dealt with by the Director-General or a prescribed officer in accordance with the regulations and the Director-General or prescribed officer, as the case may be, finds that the officer or employee charged has committed the breach or the officer or employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

- (a) may impose on the officer or employee any one or more of the following punishments, that is to say, he may—
 - (i) caution the officer or employee;
 - (ii) reprimand him;
 - (iii) fine him;
 - (iv) reduce his rate of salary or wages; or
 - (v) reduce him to a lower classification or position in the Teaching Service; or
- (b) may impose any one of the following punishments, that is to say—
 - (i) where the breach is dealt with by the Director-General, he may dismiss him from the Teaching Service, direct that he resign from

Teaching Service.

from the Teaching Service within such period as may be specified in the direction or direct that his resignation from the Teaching Service, if tendered within a period specified in the direction, be accepted; or

- (ii) where the breach is dealt with by a prescribed officer, he may recommend to the Director-General that the officer or employee be dismissed from the Teaching Service or that he be required or allowed to resign.

(5) Where a prescribed officer makes a recommendation referred to in subparagraph (ii) of paragraph (b) of subsection four of this section, the Director-General may—

- (a) impose any one of the punishments referred to in subparagraph (i) of that paragraph; or
- (b) may impose any one or more of the punishments that may be imposed under paragraph (a) of that subsection.

(6) Where the Director-General, in the exercise of his powers under this section, directs—

- (a) that an officer or employee resign from the Teaching Service within a period specified in the direction; or
- (b) that the resignation from the Teaching Service of an officer or employee, if tendered within a period specified in the direction, be accepted,

and the officer or employee does not resign or tender his resignation, as the case may be, within the period specified in the direction, the Director-General may dismiss that officer or employee from the Teaching Service.

(7)

Teaching Service.

(7) The accountant of the Department of Education shall upon receiving notice of any fine imposed by the Director-General or a prescribed officer on an officer or employee under this Act deduct the amount thereof from the salary or wages payable to that officer or employee.

(8) In this section, "prescribed officer" means—

- (a) a person who is the holder of, or is acting in, any office in the Teaching Service or in the Public Service that is prescribed as an office for the purposes of this section; and
- (b) an officer or an officer under the Public Service Act, 1902, who is prescribed as an officer for the purposes of this section.

Punishment where officer or employee guilty of a serious offence.

38. Where an officer or employee is convicted in New South Wales of an offence that is punishable, either on indictment or on summary conviction, by imprisonment for a term of twelve months or more, or is convicted elsewhere than in New South Wales of an offence that if it were committed in New South Wales would be an offence so punishable, the Director-General may impose on that officer or employee any one or more of the punishments that may be imposed under subsection four of section thirty-seven of this Act as if that officer or employee had, in accordance with that subsection, been dealt with by the Director-General for a breach of discipline and were liable to those punishments.

Suspension of officers charged with breaches of discipline or serious offences.

39. (1) Where an officer or employee—

- (a) is, in accordance with the regulations, charged with a breach of discipline; or
- (b) is charged with having committed an offence referred to in section thirty-eight of this Act,

that officer or employee may be suspended from duty by the Director-General or a prescribed officer until the charge has been dealt with.

(2)

Teaching Service.

(2) Any salary or wages payable to a person as an officer or employee during his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in subsection four of section thirty-seven of this Act, to have committed the breach of discipline or admits, as referred to in that subsection, that he committed the breach; or
- (b) he is convicted of the offence,

as the case may be, shall, unless the Director-General otherwise directs, be forfeited unless the salary or wages were due to him before his suspension.

(3) The suspension of an officer under this section may be removed by the Director-General at any time and may, where it was imposed by a prescribed officer, be removed by that officer at any time.

(4) In this section, "prescribed officer" has the meaning ascribed thereto in subsection eight of section thirty-seven of this Act.

40. Where an officer or employee becomes bankrupt or makes any composition, or arrangement, or assignment of his salary or other property, for the benefit of his creditors, he shall forthwith give to the Director-General notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his making the composition, arrangement or assignment, and shall, within such period as may be specified by the Director-General, furnish to the Director-General such further information with respect to the cause of his bankruptcy or of his making the composition, arrangement or assignment as may be required by the Director-General.

Officers and employees to report bankruptcy, etc.

Teaching Service.

Officers and employees prohibited from engaging in employment, etc., except under this Act.

41. (1) Except with the permission in writing of the Director-General, which may be withdrawn at any time, an officer or employee (other than an employee employed on a casual basis) shall not—

- (a) accept or continue to hold or discharge the duties of or be employed in any paid office in connection with any banking, insurance, mining, mercantile, or other commercial business, whether it is carried on by any corporation, company, firm, or individual;
- (b) engage in or undertake any such business, whether as principal or agent;
- (c) engage in or continue in the private practice of any profession, occupation or trade, or enter into any employment, whether remunerative or not, with any corporation, company, firm or individual so engaged;
- (d) accept or continue to hold office in or under the Government of a State or of the Commonwealth, otherwise than under this Act; or
- (e) accept or engage in any remunerative employment other than in connection with the duties of his office under this Act.

(2) Nothing in this section prevents an officer or employee—

- (a) from becoming a member or shareholder of a corporation or company or of a society of persons registered under the law of any State or elsewhere, but an officer or employee shall not take any part in the conduct of the business of the corporation, company or society otherwise than in the exercise of his right to vote as a member or shareholder; or
- (b) from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit only of public servants or persons employed under this Act or of both public servants and persons so employed.

(3)

Teaching Service.

(3) If any officer or employee does any thing referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section without the permission of the Director-General, he shall at once notify the fact to the Director-General who may thereupon impose on the officer or employee any of the punishments referred to in subsection four of section thirty-seven of this Act or may direct the officer or employee to abstain from doing that thing within such period as may be specified in the direction and, in default of his so abstaining, the Director-General may impose on the officer or employee any of those punishments.

DIVISION 5.—*Miscellaneous.*

42. Where an officer or employee is allowed to use, for the purpose of residence, any building or part of a building, or any land, belonging to the Government of New South Wales, or is provided by that Government with any service, there shall be deducted from his salary or wages such amount as the Public Service Board, after consultation with the Director-General, fixes as being fair and reasonable for the use of the building, part or land or the provision of the service, as the case may be.

Deduction from salary or wages for use of building or provision of services.

43. (1) Where judgment has been entered in any court against any officer or employee for the payment of any sum of money, the person in whose favour the judgment is entered may serve on the accountant of the Department of Education—

Attachment of salary or wages of officers and employees.

- (a) a copy of the judgment certified under the hand of the registrar or other proper officer of the court in which the judgment is entered; and
- (b) a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2)

Teaching Service.

(2) As soon as practicable after the service upon him of a copy of judgment and a statutory declaration in pursuance of this section the accountant shall notify the judgment debtor in writing of the service of the copy judgment and statutory declaration, and require him to state in writing within a time to be specified by the accountant whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under the judgment.

(3) If the officer or employee fails to prove to the satisfaction of the accountant that the judgment has been satisfied, the accountant shall—

- (a) from time to time, deduct from any moneys due to the officer or employee such sums as are fixed by the Director-General and are in his opinion necessary to enable the judgment to be satisfied; and
- (b) apply those sums in the manner hereinafter in this section provided,

but in no case shall a deduction be fixed or made which will reduce the amount to be received by the officer or employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

(4) The amount which, pursuant to subsection three of this section, is to be ascertained in accordance with this subsection shall be ascertained by deducting eight dollars—

- (a) in the case of a male officer or employee, from the basic wage for adult males; and
- (b) in the case of a female officer or employee, from the basic wage for adult females,

in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the deduction under subsection three of this section is made.

(5)

Teaching Service.

(5) Where copies of more than one judgment and statutory declaration relating thereto are served upon the accountant in respect of one judgment debtor, the judgments shall be dealt with under this section in the order in which copies of the judgments are served upon the accountant.

(6) Any deductions made under the provisions of subsection three of this section from moneys due to an officer or employee shall, as between the Government of New South Wales and the officer or employee, be deemed to be a payment by that Government to the officer or employee.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, is liable, upon conviction before a court of petty sessions, to a penalty not exceeding one hundred dollars.

(8) If any deduction made in pursuance of the provisions of subsection three of this section from moneys due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor the excess shall be repayable by the Department of Education to the judgment debtor and, in default of payment, may be recovered by the judgment debtor from the Crown in any court of competent jurisdiction.

(9) This section does not apply in relation to any officer or employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the accountant, to be paid by him to the Treasurer for credit of the Consolidated Revenue Fund, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

(11)

Teaching Service.

(11) When the accountant makes a payment to a judgment creditor under the provisions of this subsection, the accountant shall forward to the judgment creditor a statement showing—

- (a) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys due to the officer or employee concerned;
- (b) the amount retained by the accountant under the provisions of subsection ten of this section out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection ten of this section.

(12) Upon payment being made under the provisions of subsection ten of this section to the judgment creditor, the judgment creditor shall credit the officer or employee concerned with the sums referred to in paragraph (a) of subsection eleven of this section, as shown in the statement forwarded by the accountant to the judgment creditor, and the judgment in respect of which the payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(13) In this section “judgment” includes a judgment against joint defendants.

PART V.**GENERAL.**

Appoint-
ments, etc.,
to be
notified in
Education
Gazette.

44. (1) All notices of appointments, promotions, retirements, dismissals and annulments of appointments of officers made under this Act shall be published in the Education Gazette.

(2)

Teaching Service.

(2) A notice so published shall be conclusive evidence of the appointment, promotion, retirement, dismissal or annulment of appointment specified in the notice.

45. (1) Subject to subsection three of this section, nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown to dispense with the services of any person employed in the Teaching Service. Crown's right to dismiss not abrogated.

(2) An officer or employee shall not be entitled to any compensation by reason of any reduction of his salary or of his services being dispensed with, whether under this section or otherwise.

(3) Subsections one and two of this section do not apply so as to affect the rights, under any other Act, of any person whose salary has been reduced or whose services have been dispensed with to appeal against the decision or determination reducing his salary or dispensing with his services or to be reinstated to the Teaching Service.

46. The provisions of subsection one of section two of the Constitution (Public Service) Amendment Act, 1916, apply to officers and employees as if they were holders of offices of profit in the Public Service of New South Wales and the remaining provisions of that Act and the provisions of the Public Service (Commonwealth Elections) Act, 1943, apply to officers as if they were officers within the meaning of the Public Service Act, 1902. Certain Acts apply to officers and employees.

47. (1) The Public Instruction Act of 1880 is amended by omitting section 18c. Amendment of certain Acts.

Amendment of Act 43 Vic. No. 23. Sec. 18c. (Advisory Council on Education.)

(2)

Teaching Service.

Amendment
of Act No.
15, 1944.

(2) The Crown Employees Appeal Board Act, 1944,
is amended—

Sec. 2.
(Interpre-
tation.)

(a) (i) by inserting in subsection one of section two
in the definition of "Employer" after the word
"Board" the words "and, in relation to officers
of the class referred to in paragraphs (b1) and
(b2) of that definition, means the Director-
General of Education";

(ii) by inserting next after paragraph (b) of the
definition of "Officer" in the same subsection
the following new paragraphs :—

(b1) who is an officer within the meaning of
the Teaching Service Act, 1970;

(b2) who, being an employee within the
meaning of the Teaching Service Act,
1970, has been continuously employed
as such an employee for a period of
not less than one year;

(iii) by inserting in the same definition after the
words "or paragraph (b)" the words "or
paragraph (b2)";

Sec. 5.
(Employers'
representa-
tives and
officers'
representa-
tives.)

(b) by inserting next after paragraph (a) of subsection
five of section five the following new paragraph :—

(a1) A person nominated by the Director-
General of Education under this section shall be
either himself or an officer within the meaning of
the Teaching Service Act, 1970, or an officer with-
in the meaning of the Public Service Act, 1902,
employed in the Department of Education.

Amendment
of Act No.
43, 1919.

Sec. 13.
(Leave of
absence
after
years of
service.)

(3) The Public Service (Amendment) Act, 1919,
is amended by inserting in subsection four of section thirteen
after the words "shall include" the words "service under the
Teaching Service Act, 1970, and".

(4)

Teaching Service.

(4) The Transferred Officers Extended Leave Act, 1961, is amended—

Amendment
of Act No.
13, 1961.

- (a) by inserting at the end of paragraph (b) of the definition of "State employer" in subsection one of section two the following word and new paragraph:—

Sec. 2.
(Interpre-
tation.)

; or

- (c) in relation to persons employed in the Teaching Service under the Teaching Service Act, 1970, the Director-General of Education.

- (b) by inserting at the end of section three the following new subsection:—

Sec. 3.

(8) Where a person's current employer is a State employer referred to in paragraph (a) or (c) of the definition of "State employer" in subsection one of section two of this Act and that person has had service with another of those State employers, the provisions of this section do not apply so as to entitle that person to have reckoned, as service with his current employer, his service with the other of those State employers.

(Method of
reckoning
service of
certain em-
ployees in
public
service of
State and
of certain
State
authorities.)

(5) The Industrial Arbitration Act, 1940, is amended—

Amendment
of Act No.
2, 1940.

- (a) by inserting in subsection one of section twenty after the figures "1899," where firstly occurring the words "or persons employed under the Teaching Service Act, 1970,";

Sec. 20.
(Original
jurisdiction.)

- (b) by inserting in the same subsection after the words "officers and employees" the words "or persons".

48. The Governor may make regulations not inconsistent with Part II of this Act for or with respect to—

Regulations
may be
made by the
Governor.

- (a) the preparation of the rolls for the election of the elected members of the Commission and the conduct of those elections;

(b)

Teaching Service.

- (b) the conduct of meetings of the Commission; and
- (c) any matter that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of Part II of this Act.

Regulations
may be
made by
the
Director-
General.

49. (1) The Director-General may, with the approval of the Governor, make regulations not inconsistent with this Act for or with respect to—

- (a) the examinations to be held and qualifications required for appointment to or promotion to a position or office in the Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and employees;
- (c) the arrangement of offices in the Teaching Service into divisions and sections of divisions;
- (d) the order and conditions of promotion and the grading and seniority of members of the Teaching Service;
- (e) appeals to the Director-General;
- (f) the employment of persons under section twenty-four of this Act;
- (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and employees;
- (h) the maintenance of discipline, order, economy and efficiency in the Teaching Service;
- (i) the classification, general management and inspection of public schools and teachers' colleges; and
- (j) any matter that by this Act (Part II excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act (Part II excepted).

(2)

Teaching Service.

(2) In the application of section forty-one of the Interpretation Act, 1897, to regulations made under subsection one of this section, the reference in paragraph (a) of subsection one of that section to the Gazette shall be read as a reference to the Education Gazette.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 13th March, 1970.*

Amending Section 1

(2) In the application of section 1(1) in the case of a person who is a member of a partnership, the reference to the partnership shall be construed as a reference to the partnership in which the person is a member.

In the name and in behalf of the President I have signed this Act.

J. M. G. F. L.

Approved: 1978

