

EDUCATION COMMISSION BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Miscellaneous Acts (Education Commission) Repeal and Amendment Bill, 1979, is cognate with this Bill.

The objects of this Bill are—

- (a) to constitute the Education Commission of New South Wales and to specify its functions;
- (b) to establish the Education Teaching Service and the Technical and Further Education Teaching Service; and
- (c) to make provisions relating to the employment of persons within those services.

Part I of the proposed Act contains clauses 1–5. The Part contains provisions relating to the short title, the commencement, the arrangement and the interpretation of the proposed Act. Clause 5 preserves the operation of the Industrial Arbitration Act, 1940.

Part II of the proposed Act contains clauses 6–36. The Part relates to the constitution of the Education Commission of New South Wales (“the Commission”) and specifies the functions of the Commission.

Division 1 relates to the constitution of the Commission. Clause 6 constitutes a corporation under the corporate name of the “Education Commission of New South Wales” and provides that the Commission shall be subject to the control and direction of the Minister. Clause 7 provides that the Commission shall consist of 13 members comprising 6 members appointed by the Governor, 5 elected members and 2 ex officio members and the clause specifies certain qualifications for membership. Clause 8 requires the Directors-General to prepare and maintain rolls for the purposes of the election of 3 of the elected members and makes other provisions relating to the conduct of such an election. Clause 9 provides that the Chairman of the Commission shall be a full-time member and that the other members shall be part-time members. Clause 9 also provides, with Schedule 1, for the preservation of rights of the Chairman. Clause 10 imposes an age limit of 65 years for the Chairman and 70 years for part-time members. Clauses 11 and 12 relate to the terms of office of members. Clause 13 enables the appointment of an Acting Chairman. Clauses 14, 15 and 16 relate to the removal of members (other than ex officio members) from office, the circumstances in which those members shall be deemed to have vacated their offices and the filling of casual vacancies. Clause 17 provides for the remuneration of the Chairman and

clause 18 provides for the remuneration of part-time members. Clause 19 makes provisions relating to the nature of the office of part-time member. Clause 20 and Schedule 2 regulate the holding and conduct of meetings of the Commission. Clause 21 enables the appointment of staff of the Commission.

Division 2 relates to the functions of the Commission.

Subdivision 1 contains clause 22 which provides that the Commission shall have and may exercise the functions conferred or imposed on it by or under the proposed Act or any other Act.

Subdivision 2 specifies the Commission's functions as an employer. Clause 23 provides that the Commission is responsible for the employment of the members of the Education Teaching Service and the Technical and Further Education Teaching Service ("the Teaching Services"). Clause 24 provides that, in industrial proceedings, the Commission shall be deemed to be the employer of the members of the Teaching Services. Clause 25 enables the Commission to determine conditions of employment. Clause 26 empowers the Commission to enter into industrial agreements. Clause 27 prevents the Commission from making a determination under clause 25 or entering into an agreement under clause 26 in respect of certain major industrial matters unless the Minister has been first informed. Clause 28 prevents the Commission from acting as an employer in industrial disputes until the dispute has been referred to it or to the industrial registrar under the Industrial Arbitration Act, 1940.

Subdivision 3 contains clause 29 which specifies the Commission's functions relating to the provision of education services.

Subdivision 4 contains provisions relating to a number of miscellaneous functions. Clause 30 enables the Commission to do all such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions. Clause 31 enables the Commission to establish advisory committees. Clause 32 empowers the Commission to enter the premises of certain Public Service Departments and to require the provision of information. Clause 33 requires the Commission to prepare and present to the Minister, for tabling in Parliament, an annual report. Clause 34 enables the Commission to delegate certain of its functions.

Subdivision 5 contains clauses 35 and 36 which regulate the exercise by the Commission of its functions in respect of non-government education and the powers of statutory educational bodies.

Part III of the proposed Act contains clauses 37-41. The Part relates to the offices of Director-General of Education and Director-General of Technical and Further Education.

Division 1 contains clauses 37 and 38 which specify the general responsibilities and functions of the Director-General of Education. Under those clauses he is responsible to the Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Education Teaching Service.

Division 2 contains clauses 39 and 40 which specify the general responsibilities and functions of the Director-General of Technical and Further Education. Under those clauses he is responsible to the Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Technical and Further Education Teaching Service.

Division 3 contains clause 41 which enables the Directors-General to delegate certain of their functions.

Part IV of the proposed Act contains clauses 42-90. The Part deals with the nature and membership of the Teaching Services and the conditions of service within the Teaching Services.

Division 1 contains 2 provisions of a general nature relating to the Teaching Services. Clause 42 provides that, for the purposes generally of the proposed Act, a member of a Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown. Clause 43 provides that the Public Service Act, 1979, does not apply to members of the Teaching Services.

Division 2 specifies the persons who are the members of the Education Teaching Service. Clause 45 transfers to the Education Teaching Service members of the Teaching Service under the Teaching Service Act, 1970. Clause 46 enables the Director-General of Education to appoint certain persons to permanent offices in the Education Teaching Service, clause 47 provides that where those appointments are made from outside the Education Teaching Service they shall be made on probation, clause 48 enables the appointment of certain retired officers and clause 49 enables the appointment of temporary staff.

Division 3 specifies the persons who are the members of the Technical and Further Education Teaching Service. Clause 51 transfers to the Technical and Further Education Teaching Service public servants employed in the Department of Technical and Further Education in positions in the Educational Division of the Public Service of or below the position of Principal, Grade I (but not including the position of Regional Director) and certain other persons. Clause 52 enables the Director-General of Technical and Further Education to appoint certain persons to permanent offices in the Technical and Further Education Teaching Service, clause 53 provides that where those appointments are made from outside the Technical and Further Education Teaching Service they shall be made on probation, clause 54 enables the appointment of certain retired officers and clause 55 enables the appointment of temporary staff.

Division 4 relates to service in the Teaching Services.

Subdivision 1 specifies the means of filling vacancies in the Education Teaching Service. Clause 56 specifies the matters to be considered by the Director-General of Education in filling those vacancies, seniority being subordinate to special qualifications and aptitude for the discharge of the duties of the office to be filled. Clause 57 confers on officers rights of appeal to the Director-General against certain of his decisions in promotions matters and provides for the Director-General to obtain a report on an appeal from a promotions committee constituted under clause 58. Clause 59 provides that the only right of appeal of an officer under the Crown Employees Appeal Board Act, 1944, in a promotions matter is where an appointment has been made out of order of a promotions list.

Subdivision 2 specifies the means of filling vacancies in the Technical and Further Education Teaching Service. Clause 60 specifies the principles for determining the seniority of officers. Clause 61 enables the filling of vacancies from inside or outside the Technical and Further Education Teaching Service. Clause 62 specifies the matters to be considered by the Director-General of Technical and Further Education in filling vacancies from inside the Service, efficiency being the paramount consideration. Clause 63 requires details of appointments to be published each month in the Technical and Further Education Gazette. Clause 64 enables the Director-General, with the concurrence of the Commission, to make temporary appointments of officers. Clause 65 confers on officers rights of appeal to the Director-General against certain of his decisions in promotions matters and provides for the determination of those appeals by the Director-General. Clause 66 provides for appeals relating to the inclusion of an officer's name in the promotions list prepared by the Director-General to be referred to a promotions committee. Clause 67 provides for the constitution of promotions committees and specifies the manner in which a promotions committee shall deal with an appeal which is referred to it.

Subdivision 3 contains other provisions, common to both Teaching Services, relating to service in those Services. Clause 68 enables the making of transfers of officers within a Teaching Service. Clause 69 enables a Director-General to dispense with the services of excess persons. Clause 70 deals with cases where an officer is in receipt of a greater salary than the maximum fairly appropriate to his work. Clause 71 deals with cases where an officer declines a promotion or an appointment. Clause 72 deals with the refusal of a member of a Teaching Service to comply with a direction for his removal from one office in a Teaching Service to another office in that Service. Clause 73 provides for the retirement of officers through invalidity or incapacity and clause 74 provides for their retirement through age. Clause 75 specifies the circumstances in which an officer is deemed to have vacated his office.

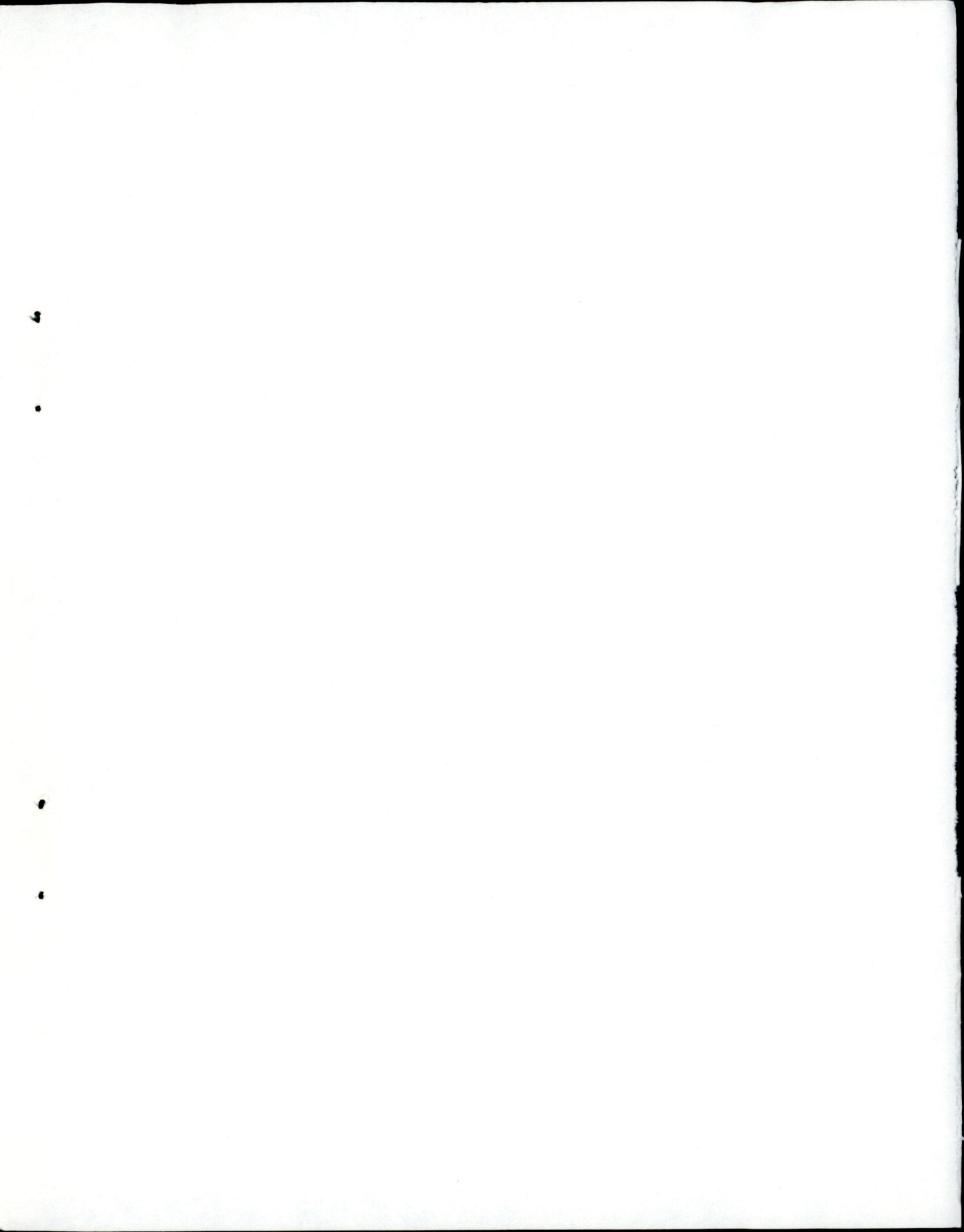
Division 5, which contains clauses 76-78, gives officers the same right to extended leave as officers of the Teaching Service under the Teaching Service Act, 1970, and officers of the Public Service.

Division 6 relates to the discipline and conduct of members of the Teaching Services. Clause 80 specifies the circumstances in which a member is guilty of a breach of discipline. Clause 81 authorises the appropriate Director-General, in accordance with the regulations, to deal with breaches of discipline alleged to have been committed by members. Clause 82 empowers the appropriate Director-General to impose punishments in respect of breaches of discipline, subject to appeal to the Crown Employees Appeal Board. Clause 83 authorises the punishment of members convicted of serious crimes. Clause 84 provides for the suspension of members on disciplinary grounds. Clause 85 requires a member, if he becomes bankrupt or makes any composition, arrangement or assignment for the benefit of his creditors, to notify the appropriate Director-General and furnish particulars as required. Clause 86 regulates the engagement of members in outside employment. Clause 87 provides machinery if the address of a member is unknown to the appropriate Director-General.

Division 7 makes provisions with respect to several miscellaneous matters. Clause 88 enables a member of a Teaching Service to sue for the recovery of salary, wages or other remuneration. Clause 89 deals with the making of deductions from the salary or wages of a member in relation to the provision of a residence and other services of the Government. Clause 90 deals with the attachment of salary or wages of members.

Part V of the proposed Act contains clauses 91-99. The Part deals with several matters of a general nature. Clause 91 preserves the ordinary and necessary authority of the Minister with respect to members of the Teaching Services. Clause 92 requires notices of appointments, promotions, retirements and similar matters relating to members, to be published in the appropriate Gazette. Clause 93 provides for the admissibility in evidence of a document purporting to be an issue of such a Gazette. Clause 94 provides that nothing in the proposed Act abrogates the Crown's right to dismiss members of the Teaching Services. Clause 95 deals with circumstances where a member is a candidate for election to the Parliament of the State or the Parliament of the Commonwealth. Clauses 96-99 empower the Governor and the Directors-General to make regulations.

Part V of the proposed Act contains sections 21-24. The first of these sections
 contains a clause which reads: "The Commission shall have the authority to
 make such regulations as may be necessary to carry out the purposes of this
 Act." This clause is intended to give the Commission the authority to make
 such regulations as may be necessary to carry out the purposes of this
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Act No. 1980

EDUCATION COMMISSION BILL, 1980

No. , 1980.

A BILL FOR

An Act to constitute the Education Commission of New South Wales and to specify its functions; to establish the Education Teaching Service and the Technical and Further Education Teaching Service; and to make provisions relating to the employment of persons within those services.

[MR BEDFORD—26 November, 1979.]

See also Miscellaneous Acts (Education Commission) Repeal and Amendment Bill, 1980.

Education Commission.

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 :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Education Commission Act, Short
1980". title.

2. (1) This section and section 1 shall commence on the date Commence-
10 of assent to this Act. ment.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 (3) For the purpose only of enabling the Commission to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Division 1 of Part II, elections may be conducted under that Division and any other act, matter
20 or thing may be done, before that day, as if the whole of this Act commenced on the date of assent to this Act.

3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1-5.

Education Commission.

PART II.—THE COMMISSION—*ss. 6–36.*

DIVISION 1.—*Constitution of the Commission—ss. 6–21.*

DIVISION 2.—*Functions of the Commission—ss. 22–36.*

Subdivision 1.—General—s. 22.

5 *Subdivision 2.—Functions as an employer—ss. 23–28.*

*Subdivision 3.—Functions relating to the provision of
education services—s. 29.*

Subdivision 4.—Miscellaneous—ss. 30–34.

10 *Subdivision 5.—Regulation of exercise of functions—
ss. 35, 36.*

PART III.—THE DIRECTORS-GENERAL—*ss. 37–41.*

DIVISION 1.—*The Director-General of Education—ss. 37,
38.*

15 *DIVISION 2.—The Director-General of Technical and
Further Education—ss. 39, 40.*

DIVISION 3.—Delegation of functions—s. 41.

PART IV.—THE TEACHING SERVICES—*ss. 42–90.*

DIVISION 1.—*General—ss. 42, 43.*

20 *DIVISION 2.—Members of the Education Teaching Service
—ss. 44–49.*

*DIVISION 3.—Members of the Technical and Further
Education Teaching Service—ss. 50–55.*

DIVISION 4.—Service in the Teaching Services—ss. 56–75.

25 *Subdivision 1.—Filling vacancies in the Education
Teaching Service—ss. 56–59.*

*Subdivision 2.—Filling vacancies in the Technical and
Further Education Teaching Service—ss. 60–67.*

*Subdivision 3.—Other provisions relating to service in
the Teaching Services—ss. 68–75.*

30 *DIVISION 5.—Extended leave—ss. 76–78.*

Education Commission.

DIVISION 6.—*Discipline and conduct*—ss. 79–87.

DIVISION 7.—*Miscellaneous*—ss. 88–90.

PART V.—GENERAL—ss. 91–99.

5 SCHEDULE 1.—PROVISIONS RELATING TO THE PRESERVA-
TION OF RIGHTS OF THE CHAIRMAN.

SCHEDULE 2.—PROVISIONS RELATING TO MEETINGS OF THE
COMMISSION.

4. (1) In this Act, except in so far as the context or subject-
matter otherwise indicates or requires— Interpre-
tation.

10 “appointed day” means the day appointed and notified under
section 2 (2);

“appropriate Department” means—

15 (a) in relation to an officer or temporary employee
of the Education Teaching Service—the
Department of Education; and

(b) in relation to an officer or temporary employee
of the Technical and Further Education
Teaching Service—the Department of Technical
and Further Education;

20 “appropriate Department Head” has the meaning ascribed
thereto by section 4 (1) of the Public Service Act, 1979;

“appropriate Director-General” means—

25 (a) in relation to the Education Teaching Service or
a member of that service—the Director-General
of Education; and

(b) in relation to the Technical and Further
Education Teaching Service or a member of that
service—the Director-General of Technical and
Further Education;

Education Commission.

“Chairman” means the person appointed for the time being under section 7 (2) (a) as the Chairman of the Commission;

5 “college” means an educational institution provided and maintained by the Minister within the Department of Technical and Further Education;

“Commission” means the Education Commission of New South Wales constituted under section 6;

10 “Director-General” means the Director-General of Education or the Director-General of Technical and Further Education;

“division”, in relation to a Teaching Service, means a prescribed division of that service;

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

“Education Teaching Service” means the Education Teaching Service referred to in Division 2 of Part IV;

“functions” includes powers, authorities and duties;

20 “industrial matters” has the meaning ascribed to that expression by section 5 (1) of the Industrial Arbitration Act, 1940, subject to the following modifications :—

25 (a) the references to “employers” and “their employer” shall be read and construed as references to the Crown;

(b) the references to “employees” shall be read and construed as references to members of the Teaching Services;

30 (c) the references to “any industry” and “an industry” shall be read and construed as references to the Teaching Services; and

Education Commission.

- 5 (d) the references to “industrial unions” and “trade union” shall be read and construed as references to any association or organisation representing any group or class of members of a Teaching Service;

“member” means a member of the Commission, and includes—

- 10 (a) where a deputy appointed by the Director-General of Education under section 7 (5) is acting on behalf of that Director-General, the deputy;
- 15 (b) where a deputy appointed by the Director-General of Technical and Further Education under section 7 (6) is acting on behalf of that Director-General, the deputy; and
- 20 (c) where the Acting Chairman appointed under section 13 (1) is acting during the absence or illness of the Chairman or, in the event of a vacancy occurring in the office of the Chairman, the Acting Chairman;

“officer” means—

- 25 (a) in relation to the Education Teaching Service, a person employed in that service, other than a temporary employee; and
- 30 (b) in relation to the Technical and Further Education Teaching Service, a person employed in that service, other than a temporary employee;

“position” includes office;

“promotions list” means—

- 35 (a) a list prepared and maintained by the Director-General of Education under section 38 (1) (f) or (3); or
- 35 (b) the list prepared and maintained by the Director-General of Technical and Further Education under section 40 (1) (e);

Education Commission.

- “public school” means a public school within the meaning of the Public Instruction Act of 1880;
- “Public Service” has the meaning ascribed thereto by section 4 (1) of the Public Service Act, 1979;
- 5 “Public Service Board” means the Public Service Board of New South Wales constituted under the Public Service Act, 1979;
- “regulations” means regulations under this Act;
- 10 “school”, in relation to the Technical and Further Education Teaching Service, means a prescribed teaching school of that service;
- “section”, in relation to the Technical and Further Education Teaching Service, means a prescribed section of—
- 15 (a) a school; or
(b) a division;
- “Teaching Service” means the Education Teaching Service or the Technical and Further Education Teaching Service;
- 20 “Technical and Further Education Gazette” means the journal entitled the Technical and Further Education Gazette published by the Government Printer of New South Wales under the authority of the Minister;
- “Technical and Further Education Teaching Service” means the Technical and Further Education Teaching Service referred to in Division 3 of Part IV;
- 25 “temporary employee” means—
- (a) in relation to the Education Teaching Service, a person employed under section 49 or deemed to be a temporary employee under section 45
- 30 (3) or 47 (3); and

Education Commission.

(b) in relation to the Technical and Further Education Teaching Service, a person employed under section 55 or deemed to be a temporary employee under section 51 (3) or 53 (3).

5 (2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

5. Except to the extent that this Act otherwise expressly provides, nothing in this Act amends or affects the provisions of the
10 Industrial Arbitration Act, 1940. Industrial Arbitration Act, 1940, not affected.

PART II.

THE COMMISSION.

DIVISION 1.—*Constitution of the Commission.*

6. (1) There is hereby constituted a corporation under the
15 corporate name of the "Education Commission of New South Wales". Constitution of the Commission.

(2) The Commission shall, in the exercise of its functions (except in relation to the contents of any advice, report or recommendation given or made by it), be subject to the control and
20 direction of the Minister.

(3) The Commission is, for the purposes of any Act, a statutory body representing the Crown.

7. (1) The Commission shall consist of 13 members comprising— Members.

- 25 (a) 6 members appointed by the Governor;
(b) 5 elected members; and
(c) 2 ex officio members.

Education Commission.

(2) The members appointed by the Governor shall consist of—

- 5 (a) a person who shall, in and by the instrument of his appointment, be appointed as the Chairman of the Commission;
- (b) 4 persons nominated by the Minister, one of whom, in the opinion of the Minister, shall have demonstrated an interest in technical and further education; and
- 10 (c) a member, nominated by the Minister, of the New South Wales Higher Education Board constituted under the Higher Education Act, 1975.

(3) The elected members shall consist of—

- 15 (a) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 96, by the persons whose names are entered in the roll of primary teachers referred to in section 8 (1) (a);
- 20 (b) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 96, by the persons whose names are entered in the roll of secondary teachers referred to in section 8 (1) (b);
- 25 (c) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 96, by the persons whose names are entered in the roll of technical and further education teachers referred to in section 8 (2);
- 30 (d) a person elected, in a manner approved by the Minister, by the Council of the Federation of Parents and Citizens Associations of New South Wales; and
- (e) a person elected, in a manner approved by the Minister, by the Council of the Federation of School/Community Organisations of New South Wales.

Education Commission.

(4) The ex officio members shall consist of—

(a) the person who for the time being holds or acts in the office of Director-General of Education; and

5 (b) the person who for the time being holds or acts in the office of Director-General of Technical and Further Education.

(5) The Director-General of Education may appoint a person employed in the Department of Education as a deputy to act on his behalf at any meeting of the Commission which he is
10 unable to attend and the deputy so appointed shall be entitled to act accordingly.

(6) The Director-General of Technical and Further Education may appoint a person employed in the Department of Technical and Further Education as a deputy to act on his behalf
15 at any meeting of the Commission which he is unable to attend and the deputy so appointed shall be entitled to act accordingly.

(7) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member by the Governor and a person so appointed is not, in his capacity as a member, subject
20 to that Act while he holds office as a member.

8. (1) For the purposes of the election of the members referred to in section 7 (3) (a) and (b), the Director-General of Education shall cause to be prepared and kept— Election of certain members.

25 (a) a roll, to be called the roll of primary teachers, in which shall be entered the names of persons who are—

(i) officers or temporary employees employed under Division 2 of Part IV; and

30 (ii) otherwise entitled, under the regulations made under section 96, to have their names entered in that roll; and

Education Commission.

(b) a roll, to be called the roll of secondary teachers, in which shall be entered the names of persons who are—

- (i) officers or temporary employees employed under Division 2 of Part IV; and
- 5 (ii) otherwise entitled, under the regulations made under section 96, to have their names entered in that roll.

(2) For the purposes of the election of the member referred to in section 7 (3) (c), the Director-General of Technical and
10 Further Education shall cause to be prepared and kept a roll, to be called the roll of technical and further education teachers, in which shall be entered the names of persons who are—

- (a) full-time officers or full-time temporary employees employed under Division 3 of Part IV; and
- 15 (b) otherwise entitled, under the regulations made under section 96, to have their names entered in that roll.

(3) A roll certified by the Director-General of Education, for the purpose of the election of a member referred to in section 7 (3) (a) or (b), to be the roll of primary teachers or the roll
20 of secondary teachers shall be the roll of primary teachers or the roll of secondary teachers, as the case may be, to be used for the purpose of that election.

(4) A roll certified by the Director-General of Technical and Further Education, for the purpose of the election of the
25 member referred to in section 7 (3) (c), to be the roll of technical and further education teachers shall be the roll of technical and further education teachers to be used for the purpose of that election.

(5) The Electoral Commissioner for New South Wales, or
30 a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election of a member referred to in section 7 (3) (a), (b) or (c), and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under section 96 in
35 relation to the election.

Education Commission.

(6) A person's nomination as a candidate for election as a member referred to in section 7 (3) (a), (b) or (c) is invalid—

(a) if his name is not, at the time of his nomination, entered—

5 (i) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (a)—in the roll of primary teachers;

10 (ii) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (b)—in the roll of secondary teachers; or

(iii) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (c)—in the roll of technical and further education teachers; or

15 (b) if—

(i) he is not, at the time of his nomination, a member of the New South Wales Teachers Federation; and

20 (ii) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, a member of the New South Wales Teachers Federation.

(7) The returning officer is entitled to rely on the information contained in a statutory declaration referred to in subsection 25 (6) (b) (ii).

(8) The regulations made under section 96 may, subject to this Act, make provision for or with respect to the election of the members referred to in section 7 (3) (a), (b) and (c).

9. (1) The Chairman shall be a full-time member.

30 (2) The Chairman shall, except in so far as the Minister otherwise approves in writing, devote the whole of his time to the duties of his office.

Full-time
and
part-time
members.

Education Commission.

(3) A member, other than the Chairman, shall be a part-time member.

(4) Schedule 1 has effect with respect to the preservation of rights of the Chairman.

5 **10.** (1) A person is not eligible to be appointed as the Chairman if he has attained the age of 65 years. Age limit of members.

(2) A person is not eligible to be appointed or elected as a part-time member if he has attained the age of 70 years.

11. (1) The term of office of a member, other than an ex officio member, shall, subject to this Act, be— Term of office of members.

- 15 (a) in the case of the Chairman—such term, not exceeding 7 years, as is specified in the instrument of his appointment;
- (b) in the case of a member referred to in section 7 (2) (b) or (c)—such term, not exceeding 3 years, as is specified in the instrument of his appointment; and
- (c) in the case of a member referred to in section 7 (3) (a)–(e)—2 years.

20 (2) A person appointed as the Chairman is eligible for reappointment or further appointment as Chairman for one further term, not exceeding 7 years, as is specified in the instrument of his reappointment or further appointment.

25 (3) Subject to subsection (4), a member, other than the Chairman or an ex officio member, is, if otherwise qualified, eligible for reappointment or re-election for a further term or terms being—

- (a) in the case of a member referred to in section 7 (2) (b) or (c)—such term, not exceeding 3 years, as is specified in the instrument of his reappointment; and

Education Commission.

- (b) in the case of a member referred to in section 7 (3)
(a)-(e)—2 years.

(4) A member, other than the Chairman or an ex officio member, shall not hold office as a member, other than the Chairman or an ex officio member, for a period in excess of 6 consecutive years.

12. A member—

- (a) appointed or elected before the appointed day shall take office upon that day; and
- 10 (b) subsequently elected or appointed shall, subject to this Act, take office upon—
- (i) the day on which he is elected or appointed; or
 - (ii) the expiration of his predecessor's term of office, whichever is the later.

Commencement of term of office.

- 15 **13.** (1) The Governor may, at any time, appoint a person to act as Chairman during the absence or illness of the Chairman or in the event of a vacancy occurring in the office of the Chairman.

Acting Chairman.

(2) A person appointed under subsection (1), while acting as the Chairman, shall have and may exercise the functions of the Chairman.

- 14.** (1) The Governor may remove the Chairman from office for misbehaviour or incompetence.

Removal from office.

(2) The Governor may, for any cause which to him seems sufficient, remove a member, other than the Chairman or an ex officio member, from office.

Education Commission.

15. A member, other than an ex officio member, shall be deemed to have vacated his office— Vacation
of office.

- (a) if he dies;
- (b) in the case of the Chairman—
 - 5 (i) upon his attaining the age of 65 years; or
 - (ii) if he engages, except in so far as the Minister otherwise approves in writing, in any paid employment outside the duties of his office;
- 10 (c) in the case of a part-time member, upon his attaining the age of 70 years;
- (d) if he resigns his office by writing under his hand delivered to the Minister and the Governor accepts his resignation;
- 15 (e) in the case of the Chairman, if he absents himself from duty for a period of 15 consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant);
- 20 (f) in the case of a part-time member, if he is absent from 3 consecutive meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Commission or unless, before the expiration of 6 weeks after the last of those meetings, he is excused by the Commission for his absence from those meetings;
- 25 (g) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit;
- 30 (h) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Education Commission.

- 5 (i) if he is found guilty (whether or not he is convicted) in New South Wales of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is found guilty (whether or not he is convicted) elsewhere than in New South Wales of a crime or an offence which, if committed in New South Wales, would be a crime or an offence so punishable;
- 10 (j) in the case of a member referred to in section 7 (2) (c), if he ceases to be a member of the New South Wales Higher Education Board constituted under the Higher Education Act, 1975;
- (k) in the case of a member referred to in section 7 (3) (a), (b) or (c), if he resigns from membership of the New South Wales Teachers Federation;
- 15 (l) in the case of—
- (i) a member referred to in section 7 (3) (a) or (b)—if he ceases to be a member of the Education Teaching Service; and
- 20 (ii) a member referred to in section 7 (3) (c)—if he ceases to be a member of the Technical and Further Education Teaching Service; or
- (m) if he is removed from office by the Governor under section 14.

25 **16.** (1) On the occurrence of a vacancy in the office of a member appointed by the Governor, otherwise than by the expiration of his term of office, the Governor may appoint a person nominated by the Minister to the vacant office for the balance of his predecessor's term of office, so that the Commission is constituted in accordance with section 7. Filling of casual vacancies.

30 (2) On the occurrence of a vacancy in the office of a member referred to in section 7 (3) (a), (b) or (c), otherwise than by the expiration of his term of office or otherwise than during the period of 6 months before his term of office was due to expire, a person qualified for election to that office and elected at an

Education Commission.

election conducted in the same manner as the election at which that member was elected shall fill the vacancy for the balance of such part of his predecessor's term of office as has not been filled by an appointment made as referred to in subsection (3) (a).

- 5 (3) Notwithstanding anything in this Act, if a vacancy occurs in the office of a member referred to in section 7 (3) (a), (b) or (c)—
- 10 (a) otherwise than by the expiration of his term of office or otherwise than during the period of 6 months before his term of office was due to expire, the Governor may appoint to the vacant office, until the date on which a person is elected to fill the vacancy, a person nominated by the Minister, being a person who is qualified for election to that office; or
- 15 (b) during the period of 6 months before his term of office was due to expire, the Governor may appoint to the vacant office, for the balance of his predecessor's term of office, a person nominated by the Minister, being a person who is qualified for election to that office.
- 20 (4) On the occurrence of a vacancy in the office of a member referred to in section 7 (3) (d) or (e), otherwise than by the expiration of his term of office, a person who is qualified for election to that office and is elected at an election conducted in the same manner as the election at which that member was elected shall
- 25 fill the vacancy for the balance of his predecessor's term of office.

17. The Chairman is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Remunera-
tion of
Chairman.
Offices Remuneration Act, 1975; and
- 30 (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Education Commission.

18. A part-time member is entitled to be paid such allowances and such fees as the Minister may from time to time determine in respect of him.

Remuneration of part-time members.

19. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, the provision shall not operate to disqualify him from holding that office and also the office of a part-time member.

Provisions relating to office of part-time member.

10 (2) The office of a part-time member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

20. Schedule 2 has effect with respect to meetings of the Commission.

Provisions relating to meetings of the Commission.

15 21. Such staff as may be necessary to enable the Commission to exercise its functions or to assist the Commission in the exercise of its function may be employed under and subject to the Public Service Act, 1979.

Appointment of staff of the Commission.

DIVISION 2.—*Functions of the Commission.*

20 *Subdivision 1.—General.*

22. The Commission shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

Commission's functions—generally.

Education Commission.

Subdivision 2.—Functions as an employer.

23. The Commission shall, subject to this Act, be responsible for the employment of the members of the Teaching Services.

Commission's functions as an employer.

24. The Commission shall, for the purpose of making any determination under section 25 or of any proceedings relating to members of the Teaching Services, held before a competent tribunal having power to deal with industrial matters, be deemed to be the employer of those members.

Role of Commission in industrial proceedings.

25. Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or other remuneration, of members of the Teaching Services shall be as may be determined from time to time by the Commission.

Determination of conditions of employment.

26. (1) The Commission may enter into an agreement with any association or organisation representing any group or class of officers or temporary employees as to any industrial matters.

Agreements relating to industrial matters.

(2) An agreement referred to in subsection (1) shall bind all officers and temporary employees in the class or group affected by the agreement and no such officer or temporary 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.

27. Without limiting or derogating from section 6 (2), the Commission shall not make a determination under section 25 or enter into an agreement under section 26, being a determination or an agreement relating to an industrial matter which the Minister has determined and notified the Commission to be a major industrial matter, unless the Commission has notified the Minister of the determination proposed to be made or the agreement proposed to be entered into.

Determinations and agreements relating to major industrial matters.

Education Commission.

28. Where any dispute (whether or not the dispute is a question, dispute or difficulty of the nature referred to in section 25 (1) (a), (b) or (c) of the Industrial Arbitration Act, 1940) arises as a consequence of the exercise by a Director-General or by a delegate of, or person acting in accordance with an authority given to him by, a Director-General of any function conferred or imposed on the Director-General by or under any Act, the Commission shall not, notwithstanding the Industrial Arbitration Act, 1940, exercise any function conferred or imposed on it by or under any Act as an employer in relation to the dispute until the dispute has been referred to it by the Director-General or an association of employees concerned in the dispute or the dispute has been notified to the industrial registrar under the Industrial Arbitration Act, 1940.

Exercise of Commission's functions in relation to industrial disputes.

15 *Subdivision 3.—Functions relating to the provision of education services.*

29. (1) In this section, "public education" means education carried on in an institution established under the Public Instruction Act of 1880, the Technical and Further Education Act, 1974, the Colleges of Advanced Education Act, 1975, the New South Wales State Conservatorium of Music Act, 1965, or an Act of incorporation of a university.

Commission's functions relating to the provision of education services.

(2) The Commission shall advise the Minister on the formulation and implementation of policies concerning public education in New South Wales.

(3) In the exercise of its function under subsection (2), the Commission may, and, if requested to do so by the Minister, shall—

(a) make recommendations and furnish reports to the Minister with respect to—

(i) policies and principles to be adopted in the provision of public education in the State;

Education Commission.

- 5 (ii) the provision of a comprehensive, balanced and co-ordinated public education service for the State;
- (iii) priorities in the allocation of finance for public education in the State;
- (iv) the effective and co-ordinated utilisation of public education services and resources;
- 10 (v) the long-term planning undertaken or to be undertaken by administrative units within the Minister's responsibility;
- (vi) the implementation of policy in accordance with decisions of the Minister and the Government;
- (vii) the establishment and development of regional bodies concerned with public education; and
- 15 (viii) the administration of this Act;
- (b) provide regularly to the Minister an overall statement of objectives, policies and priorities for public education in the State;
- 20 (c) ensure that programmes in public education in the State are evaluated and that the appropriateness and effectiveness of those programmes are regularly reviewed;
- (d) maintain liaison with Commonwealth funding agencies to ensure that the overall educational needs of the State are appropriately considered;
- 25 (e) keep under review provisions and administrative structures for public education in the State so that those provisions and structures remain effective and responsive to changing community needs and expectations;
- (f) undertake, promote and foster research;
- 30 (g) conduct and commission inquiries into aspects of educational planning and policy; and
- (h) publish and distribute papers, including papers relating to needs and priorities for public education in the State.

Education Commission.

Subdivision 4.—Miscellaneous.

30. The Commission may do all such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions. Supplemental, etc., acts.

5 31. (1) The Commission may establish standing or special committees for the purpose of advising the Commission in the exercise of its functions and may appoint as a member of any such committee any person who, in its opinion, appears to be qualified to be a member of that committee, whether or not he is
10 a member of the Commission. Committees.

(2) A committee established under subsection (1) may, subject to subsection (3) and to any directions of the Commission, regulate its procedure in such manner as it thinks fit.

(3) The Commission may specify the number of persons
15 who will constitute a quorum of a committee established under subsection (1).

(4) A member of a committee established under subsection (1) who is not a member of the Commission shall be entitled
20 to be paid such allowances and such fees as the Minister may from time to time determine in respect of him.

32. (1) The Commission may, by its members or delegates— Commission's powers of entry and inspection.
(a) enter any public school or college or any premises of the Department of Education, the Department of Technical and Further Education or the Ministry of Education;

25 (b) require the production of and examine any document in the custody of any member of a Teaching Service or an officer or a temporary employee of the Public Service; and

Education Commission.

- (c) require any member of a Teaching Service or an officer or a temporary employee of the Public Service to answer questions relating to the exercise of his functions as such a member, officer or temporary employee,

5 for the purpose of enabling the Commission to exercise its functions.

(2) Except in relation to its functions under Subdivision 2 of this Division, the powers conferred by subsection (1) shall not be exercised except after consultation with the appropriate Director-
10 General or the appropriate Department Head.

33. (1) The Commission shall, not later than 31st March in each year, prepare and present to the Minister a report of its work and activities for the year ending on the preceding 31st December. Annual report.

(2) The Minister shall lay the report, or cause it to be
15 laid, before each House of Parliament as soon as practicable after its receipt by him.

34. (1) This section applies to the functions conferred or imposed on the Commission by or under this or any other Act, but Delegation by the Commission. does not apply to—

- 20 (a) the power of delegation conferred by this section;
(b) the function conferred or imposed by section 26, or by or under any other law, of entering into agreements relating to any industrial matters; and
(c) the determination of the principles referred to in sections
25 38 (2) and 40 (2).

(2) The Commission may, by instrument in writing, delegate to—

- (a) a member;
30 (b) the Director-General of Education or a person employed in the Department of Education nominated by that Director-General;

Education Commission.

- (c) the Director-General of Technical and Further Education or a person employed in the Department of Technical and Further Education nominated by that Director-General; or
- 5 (d) an officer of the Public Service employed in the service of the Commission as referred to in section 21,

the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

- 10 (3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) the delegate; or
- 15 (b) the person for the time being acting in the place of the delegate.

- (4) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may 20 be specified in the instrument of delegation.

(5) Notwithstanding any delegation under this section, the Commission may continue to exercise all or any of the functions delegated.

- (6) Any act or thing done or suffered by a delegate while 25 acting in the exercise of a delegation under this section and within the terms of the delegation shall have the same force and effect as if the act or thing had been done or suffered by the Commission.

(7) A delegation under this section may be made to 2 or more persons jointly, or to one person only.

Education Commission.

Subdivision 5.—Regulation of exercise of functions.

35. In the exercise of its functions, the Commission—

Non-
government
education.

- 5 (a) shall have due regard for the independence, freedom and development of the non-government sector of the education system;
- (b) shall not purport to exercise any function conferred or imposed on the Minister relating to the registration of non-government schools;
- 10 (c) shall not seek to impede the access of non-government educational authorities to the Minister or the Government;
- (d) shall not intervene in discussions relating to governmental assistance to non-government education; and
- 15 (e) shall not purport to control or regulate the education, appointment or promotion of teachers or other staff in non-government schools or the conditions of employment of those teachers or that other staff.

36. (1) In this section, “statutory educational body” means the Bursary Endowment Board, the Secondary Schools Board, the Board of Senior School Studies, the Nurses Education Board, the Council of Technical and Further Education, the Teacher Housing Authority of New South Wales and the New South Wales Higher Education Board.

Functions of
statutory
educational
bodies.

25 (2) Except to the extent that a statutory educational body is, by or under any Act, required, in the exercise of its functions, to consult with the Commission, nothing in this Act derogates from or otherwise affects any function of a statutory educational body.

Education Commission.

PART III.

THE DIRECTORS-GENERAL.

DIVISION 1.—*The Director-General of Education.*

37. (1) The Director-General of Education is responsible to ^{General} the Minister for the general conduct and the efficient, effective and ^{responsibility.} economical management of the functions and activities of the Education Teaching Service.

(2) For the purpose of exercising his responsibility under subsection (1), the Director-General of Education may take such ¹⁰ action as he deems appropriate and as is not inconsistent with any function of the Commission or any function, specified in this Act, of the Public Service Board.

(3) Nothing in this section limits or affects the operation of section 47 of the Public Service Act, 1979.

15 38. (1) The Director-General of Education shall, subject to ^{Functions.} the provisions of this Act and the regulations—

(a) classify the schools in which members of the Education Teaching Service are employed;

20 (b) determine the teaching staff establishments for those schools;

(c) determine the staff establishments for the positions of staff inspectors and inspectors of schools;

25 (d) determine the staff establishments for positions (other than positions within the staff establishments referred to in paragraphs (b) and (c)) which the Director-General and the Public Service Board agree are positions—

(i) which are concerned with advising, controlling or supervising teachers in schools; and

30 (ii) to which members of the Education Teaching Service may be appointed;

(e) determine the method of classifying and grading officers employed in the Education Teaching Service;

Education Commission.

- (f) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists of officers eligible for appointment or promotion to those positions;
- 5 (g) determine the qualifications required for appointment to the Education Teaching Service or for an officer to be included on any promotions list prepared and maintained as referred to in paragraph (f);
- (h) determine promotions and transfers of officers and
10 transfers of temporary employees; and
- (i) maintain discipline in the Education Teaching Service.

(2) Before exercising any of his functions under subsection (1) (a), (b), (c), (d) or (e), the Director-General of Education shall, unless otherwise directed by the Commission,
15 consult with the Commission and have regard to any principles recommended by the Commission to be applied in the exercise of those functions.

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

25 DIVISION 2.—*The Director-General of Technical and Further Education.*

39. (1) The Director-General of Technical and Further Education is responsible to the Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Technical and Further Education
30 Teaching Service. ^{General responsibility.}

Education Commission.

(2) For the purpose of exercising his responsibility under subsection (1), the Director-General of Technical and Further Education may take such action as he deems appropriate and as is not inconsistent with any function of the Commission or any function, specified in this Act, of the Public Service Board.

(3) Nothing in this section limits or affects the operation of section 47 of the Public Service Act, 1979.

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

- (a) classify the schools and colleges in which members of the Technical and Further Education Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools and colleges;
- (c) determine the staff establishments for positions (other than positions within the teaching staff establishments referred to in paragraph (b)) which the Director-General and the Public Service Board agree are positions—
 - (i) which are concerned with advising, controlling or supervising teachers in schools and colleges; and
 - (ii) to which members of the Technical and Further Education Teaching Service may be appointed;
- (d) determine the method of classifying and grading officers employed in the Technical and Further Education Teaching Service;
- (e) prepare and maintain a list of officers eligible for appointment or promotion to positions in the Technical and Further Education Teaching Service;
- (f) determine the qualifications required for appointment to the Technical and Further Education Teaching Service or for an officer to be included on the promotions list prepared and maintained as referred to in paragraph (e);

Education Commission.

- (g) determine promotions and transfers of officers and transfers of temporary employees; and
- (h) maintain discipline in the Technical and Further Education Teaching Service.

5 (2) Before exercising any of his functions under sub-section (1) (a), (b), (c) or (d), the Director-General of Technical and Further Education shall, unless otherwise directed by the Commission, consult with the Commission and have regard to any principles recommended by the Commission to be applied
10 in the exercise of those functions.

DIVISION 3.—*Delegation of functions.*

41. (1) This section applies to the functions conferred or imposed on a Director-General by or under this Act other than the functions conferred or imposed on him by or under Part II, by
15 this section, by Division 6 of Part IV (not including section 86 (1)) or by or under section 97 or 98. Delegation
of
functions.

(2) A Director-General may, by instrument in writing, delegate to any officer of a Teaching Service under his responsibility or an officer of the Public Service the exercise of such of the
20 functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked,
25 be exercised from time to time in accordance with the terms of the delegation—

- (a) by the delegate; or
- (b) if the instrument of delegation so provides and subject to the terms of the delegation—by another person, being an officer of a Teaching Service or an officer of the Public Service authorised by instrument in writing by the delegate in that behalf either generally or in a particular case or class of cases.
30

Education Commission.

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

(5) Without limiting the generality of subsection (4), where, under this section, a Director-General delegates to any person any of his functions relating to the promotion of any officer of a Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise the function so as to
10 promote any such officer to a position if that officer is not, according to the rules governing the seniority of officers of the Teaching Service, the most senior officer eligible for promotion to that position.

(6) Notwithstanding any delegation under this section by
15 a Director-General, the Director-General may continue to exercise all or any of the functions delegated.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section or by
20 another person duly authorised in that behalf by the delegate shall have the same force and effect as if the act or thing had been done or suffered by the Director-General who made the delegation.

(8) A Director-General may, by an instrument in writing, revoke wholly or in part any authorisation of a person under this
25 section pursuant to a delegation made by him.

(9) An authorisation under this section shall be deemed to be revoked if the relevant delegation is revoked.

(10) Section 40 of the Interpretation Act, 1897, applies to an authorisation under this section in the same way as it applies
30 to a delegation.

Education Commission.

PART IV.

THE TEACHING SERVICES.

DIVISION 1.—*General.*

42. Except as provided by section 24, a member of a Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown.

Crown employees.

43. The provisions of the Public Service Act, 1979, do not apply to the appointment of a person to a Teaching Service and a member of a Teaching Service is not subject to those provisions.

Application of Public Service Act, 1979.

10 DIVISION 2.—*Members of the Education Teaching Service.*

44. The Education Teaching Service shall consist of all persons employed under this Division.

The Education Teaching Service.

45. (1) All persons who, immediately before the appointed day, were employed under the Teaching Service Act, 1970, shall, on that day—

Transfer of persons from Teaching Service to Education Teaching Service.

- (a) cease to be employed under that Act; and
- (b) become members of the Education Teaching Service employed under this Division.

20 (2) All persons who are, at any time before the appointed day, engaged under the Teaching Service Act, 1970, to be employed on or after that day in the Teaching Service within the meaning of that Act but are not so employed immediately before that day, shall, on that day—

- (a) cease to be so engaged;
- 25 (b) be deemed to be engaged under this Act to be so employed; and

Education Commission.

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

(3) A person who becomes a member of the Education Teaching Service under subsection (1) or (2) shall, if before he 5 became such a member, he was employed, or engaged to be employed—

(a) as an officer under the Teaching Service Act, 1970, be deemed to be an officer of the Education Teaching Service under this Act; or

10 (b) as an employee under that Act, be deemed to be a temporary employee of the Education Teaching Service under this Act.

46. (1) The Director-General of Education may appoint to permanent positions in the Education Teaching Service—

15 (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools; and

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

20 (i) staff inspectors and inspectors of schools; and

(ii) such other positions as are determined as referred to in section 38 (1) (d),

but nothing in this subsection prevents the appointment under the Public Service Act, 1979, of a person to any position in the Public 25 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).

(2) Notwithstanding the provisions of section 56, the Director-General of Education, with the concurrence of the 30 Director-General of Technical and Further Education and with the written consent of the person concerned, may appoint an officer or temporary employee of the Technical and Further Education

Appoint-
ment of
permanent
staff.

Education Commission.

Teaching Service to a permanent position in the Education Teaching Service and that person shall thereupon cease to be employed in the Technical and Further Education Teaching Service and shall be employed in the Education Teaching Service.

5 (3) Notwithstanding the provisions of section 56, the Director-General of Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

10 (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

15 (iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint an officer or temporary employee under the Public Service Act, 20 1979, to a permanent position in the Education Teaching Service and that person shall thereupon cease to be employed under that Act and shall be employed in that service.

(4) A person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including 25 salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Education and such other conditions as may be determined by the Director-General.

Education Commission.

(5) Notwithstanding the provisions of section 56, and except as provided by subsections (2) and (3), the Director-General of Education may appoint to a permanent position in the Education 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 the position is necessary and that there is no person employed in that service who is available to fill the position and is as qualified and capable of filling the position 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 the position; and

(b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that the person is suitable to fill the position having regard to his health and physical fitness.

47. (1) Unless the Director-General of Education, in a particular case or class of cases, otherwise determines, a person who is not an officer of the Education Teaching Service when he is appointed by the Director-General to a permanent position in that service shall be appointed on probation, which shall be for a period of 12 months or such longer period as the Director-General may in any particular case or class of cases determine.

Appoint-
ments on
probation.

(2) The Director-General of Education may—

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

(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.

Education Commission.

(3) Where the appointment of a person is so annulled, the person shall thereupon cease to be employed under this Division as an officer of the Education Teaching Service and shall, unless the Director-General of Education makes a determination under subsection (4), be deemed to be a temporary employee of the Education Teaching Service under this Act.

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

(5) A person who, by reason of the annulment of his appointment, ceases to be a member of the Education 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 (4).

(6) Nothing in section 82 prevents the Director-General of Education from exercising, at any time, his power to annul an appointment under subsection (2).

20 **48.** (1) The Director-General of Education may appoint an officer who has been retired from a Teaching Service or whose services have been dispensed with under section 69 to a vacant position in the Education Teaching Service. Appoint-
ment of
retired
officers.

(2) An appointment under this section may be made without examination or probation.

(3) This section applies to an officer only if he has not attained the age of 60 years before his appointment is made.

Education Commission.

49. (1) Where the Director-General of Education is of the opinion that it is necessary to do so, he may appoint temporarily to any position to which he is entitled to make an appointment under section 46 a person, other than an officer of a Teaching Service, who, in the opinion of the Director-General, has the appropriate qualifications.

Appoint-
ment of
temporary
staff.

(2) The Director-General of Education, with the concurrence of the Director-General of Technical and Further Education and with the written consent of the person concerned, may appoint temporarily to any position to which the Director-General of Education is entitled to make an appointment under section 46 an officer or temporary employee of the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed in the Technical and Further Education Teaching Service and shall be employed in the Education Teaching Service.

(3) The Director-General of Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

(i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint temporarily to any position to which the Director-General is entitled to make an appointment under section 46 an officer or temporary employee under the Public Service Act, 1979, and that person shall thereupon cease to be employed under that Act and shall be employed in the Education Teaching Service.

Education Commission.

(4) Subject to subsection (5), a person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Education and such other conditions as may be determined by the Director-General.

(5) A person appointed under subsection (2) or (3)—

(a) shall not be employed for a period exceeding 12 months from the date of his appointment but his employment may be extended from time to time for a further period not exceeding 12 months on each occasion if the Director-General of Education certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

(6) Nothing in section 82 prevents the Director-General of Education from exercising, at any time, his power to dismiss a temporary employee under subsection (5).

DIVISION 3.—Members of the Technical and Further Education Teaching Service.

50. The Technical and Further Education Teaching Service shall consist of all persons employed under this Division.

The Technical and Further Education Teaching Service.

51. (1) This section applies to—

(a) a position in the Education Division of the Public Service of or below the position of Principal, Grade I (but not including the position of Regional Director); or

Transfer of persons from Public Service to Technical and Further Education Teaching Service.

Education Commission.

(b) such positions as the Director-General of Technical and Further Education and the Public Service Board agree—

5 (i) are concerned with advising, controlling or supervising persons (other than those occupying the position of Regional Director) referred to in paragraph (a); and

(ii) should be occupied by members of the Technical and Further Education Teaching Service.

10 (2) All persons who, immediately before the appointed day, were employed under the Public Service Act, 1979, in the Department of Technical and Further Education in a position to which this section applies shall, on that day—

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

15 (b) become members of the Technical and Further Education Teaching Service employed under this Division.

20 (3) All persons who are, at any time before the appointed day, engaged under the Public Service Act, 1979, to be employed on or after that day in the Department of Technical and Further Education in a position to which this section applies but are not so employed immediately before that day, shall, on that day—

(a) cease to be so engaged;

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

(c) while so employed, be members of the Technical and Further Education Teaching Service employed under this Division.

Education Commission.

(4) A person who becomes a member of the Technical and Further Education Teaching Service under subsection (2) or (3) 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, 1979, be deemed to be an officer of the Technical and Further Education Teaching Service under this Act; or
- (b) as a temporary employee under that Act, be deemed to be a temporary employee of the Technical and Further Education Teaching Service under this Act.
- 10

52. (1) The Director-General of Technical and Further Education may appoint to permanent positions in the Technical and Further Education Teaching Service—

Appoint-
ment of
permanent
staff.

- 15 (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in schools or colleges; and
- (b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of such positions as are determined as referred to in section
- 20 40 (1) (c),

but nothing in this subsection prevents the appointment under the Public Service Act, 1979, 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

25 position referred to in paragraph (b).

(2) Notwithstanding the provisions of section 56, the Director-General of Technical and Further Education, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may appoint an officer

30 or temporary employee of the Education Teaching Service to a permanent position in the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed in the Education Teaching Service and shall be employed in the Technical and Further Education Teaching Service.

Education Commission.

(3) Notwithstanding the provisions of section 56, the Director-General of Technical and Further Education, with the concurrence of—

5 (a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

(i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Technical and Further Education;

10 (ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

15 and with the written consent of the person concerned, may appoint an officer or temporary employee under the Public Service Act, 1979, to a permanent position in the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed under that Act and shall be employed in that
20 service.

(4) A person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-
25 General of Technical and Further Education and such other conditions as may be determined by the Director-General.

Education Commission.

(5) Notwithstanding the provisions of section 56, the Director-General of Technical and Further Education may appoint to a permanent position in the Technical and Further Education Teaching Service a person who is not a member of that service
5 if—

(a) the Director-General—

(i) certifies in writing that an appointment to the position is necessary and that there is no person employed in that service who is available to fill the position and is as qualified and capable of filling the position as the person proposed to be appointed; and
10

(ii) is satisfied that the person proposed to be appointed is a fit and proper person to be employed in the position; and
15

(b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that the person is suitable to fill the position having regard to his health and physical fitness.
20

53. (1) Unless the Director-General of Technical and Further Education, in a particular case or class of cases, otherwise determines, a person who is not an officer of the Technical and Further Education Teaching Service when he is appointed by the Director-
25 General to a permanent position in that service shall be appointed on probation, which shall be for a period of 12 months or such longer period as the Director-General may in any particular case or class of cases determine. Appoint-
ments on
probation.

(2) The Director-General of Technical and Further
30 Education may—

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

Education Commission.

(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.

(3) Where the appointment of a person is so annulled, 5 the person shall thereupon cease to be employed under this Division as an officer of the Technical and Further Education Teaching Service and shall, unless the Director-General of Technical and Further Education makes a determination under subsection (4), be deemed to be a temporary employee of the 10 Technical and Further Education Teaching Service under this Act.

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

(5) A person who, by reason of the annulment of his appointment, ceases to be a member of the Technical and Further Education Teaching Service under this section is not entitled to 20 appeal to the Crown Employees Appeal Board against the annulment or against any determination of the Director-General made under subsection (4).

(6) Nothing in section 82 prevents the Director-General of Technical and Further Education from exercising, at any time, 25 his power to annul an appointment under subsection (2).

54. (1) The Director-General of Technical and Further Education may appoint an officer who has been retired from a Teaching Service or whose services have been dispensed with under section 69 to a vacant position in the Technical and Further 30 Education Teaching Service. Appoint-
ment of
retired
officers.

(2) An appointment under this section may be made without examination or probation.

Education Commission.

(3) This section applies to an officer only if he has not attained the age of 60 years before his appointment is made.

55. (1) Where the Director-General of Technical and Further Education is of the opinion that it is necessary to do so, he may appoint temporarily, on a full-time, casual or part-time basis, to any position to which he is entitled to make an appointment under section 52 a person, other than an officer of a Teaching Service, who, in the opinion of the Director-General, has the appropriate qualifications.

Appoint-
ment of
temporary
staff.

10 (2) The Director-General of Technical and Further Education, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may appoint temporarily, on a full-time basis, to any position to which the Director-General of Technical and Further Education is entitled
15 to make an appointment under section 52 an officer or temporary employee of the Education Teaching Service and that person shall thereupon cease to be employed in the Education Teaching Service and shall be employed in the Technical and Further Education Teaching Service.

20 (3) The Director-General of Technical and Further Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

25 (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Technical and Further Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

30 (iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

Education Commission.

and with the written consent of the person concerned, may appoint temporarily, on a full-time basis, to any position to which the Director-General is entitled to make an appointment under section 52 an officer or temporary employee under the Public Service Act, 1979, and that person shall thereupon cease to be employed under that Act and shall be employed in the Technical and Further Education Teaching Service.

(4) Subject to subsection (5), a person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Technical and Further Education and such other conditions as may be determined by the Director-General.

15 (5) A person appointed under subsection (2) or (3)—

(a) shall not be employed for a period exceeding 12 months from the date of his appointment but his employment may be extended from time to time for a further period not exceeding 12 months on each occasion if the Director-General of Technical and Further Education certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

(6) Nothing in section 82 prevents the Director-General of Technical and Further Education from exercising, at any time, his power to dismiss a temporary employee under subsection (5).

DIVISION 4.—*Service in the Teaching Services.*

Subdivision 1.—Filling vacancies in the Education Teaching Service.

30 **56.** (1) In this section, “fitness” means qualifications and aptitude for the discharge of the duties of the position to be filled. Filling vacancies in the Education Teaching Service.

Education Commission.

(2) Where there is a vacancy in any position in a division of the Education Teaching Service, the Director-General of Education may, if he is of opinion that the vacancy should be filled, appoint to the vacant position—

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

(3) In making an appointment under subsection (2) (a), seniority shall be subordinate to considerations of special fitness.

15 **57.** (1) Any officer of the Education Teaching Service dissatisfied with any decision or determination of the Director-General of Education, whether particular or general, or a failure to make such a decision or determination, in regard to—

Appeals in respect of seniority, etc.

- (a) seniority;
- 20 (b) the placing of 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
- (c) the classification of the work performed by or assigned to him,

25 may appeal to the Director-General against the decision, determination or failure by forwarding to the Director-General, within a period determined as prescribed, a notice of appeal setting forth the grounds of the appeal.

Education Commission.

(2) Where an appeal under subsection (1) is made—

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

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

by reason of the refusal or failure of the Director-General to place
5 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 58.

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

15 (4) The decision of the Director-General under subsec-
tion (3) shall be final.

(5) Where there is no promotions list in respect of a
division, and the Director-General proposes to appoint or promote
20 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.

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

25 (a) an officer of the Education Teaching Service, or an
officer of the Public Service, nominated by the Director-
General of Education;

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

30 (i) under section 57 (2), an officer whose name is
on a promotions list for the division in which the
appellant is employed, and who is selected by or
on behalf of the officers of that division in the
manner prescribed; and

Education Commission.

- 5 (ii) under section 57 (5), 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 is selected by or on behalf of the officers of that division in the manner prescribed; and
- 10 (c) a person nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) or, in default of their agreement, by the Director-General.

(2) The promotions committee to which an appeal is referred under section 57 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.

- 15 (3) The promotions committee to which a proposed appointment or promotion is referred under section 57 (5) shall inquire into the proposed appointment or promotion and report to the Director-General whether or not the committee recommends that the proposed appointment or promotion be made.

20 **59.** (1) A decision or determination, under this Subdivision, of the Director-General of Education is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

Appeals
under the
Crown
Employees
Appeal
Board Act,
1944.

(2) Nothing in subsection (1) prevents an officer from making an appeal under the Crown Employees Appeal Board Act, 1944, against a decision or determination, as referred to in section 57, of the Director-General of Education to appoint an officer to a vacant position in a division of the Education Teaching Service where the name of the firstmentioned officer—

- 25 (a) is on the promotions list for that division; and
- 30 (b) is higher in order on that promotions list than the name of the secondmentioned officer.

Education Commission.

Subdivision 2.—Filling vacancies in the Technical and Further Education Teaching Service.

60. (1) This section has effect for the purpose of determining Seniority. seniority within the Technical and Further Education Teaching Service.

(2) Except as provided in subsections (3) and (4), an officer of the Technical and Further Education Teaching Service is senior to every other officer of that service on a lower salary than the firstmentioned officer.

10 (3) The relative seniority of officers of the Technical and Further Education Teaching Service who are within a group of officers prescribed for the purposes of this subsection shall be determined in accordance with the regulations made under section 98.

15 (4) An officer of the Technical and Further Education Teaching Service—

(a) who is within a group referred to in subsection (3) is senior to any other officer who is within any other such group or who is not within any such group if that other officer is on a lower salary than the firstmentioned officer; and

20

(b) who is not within any group referred to in subsection (3) is senior to any officer within any such group who is on a lower salary than the firstmentioned officer.

25 (5) Where, pursuant to this section, the relevant seniority of officers is to be determined according to their salaries and 2 or more officers are on equal salaries, the relative seniority of those officers shall be determined in accordance with the regulations made under section 98.

Education Commission.

61. Where there is a vacancy in any position in the Technical and Further Education Teaching Service and the Director-General of Technical and Further Education decides it is expedient to fill the vacancy, the position may be filled—

Filling of vacancies in the Technical and Further Education Teaching Service.

5 (a) by the appointment, by way of transfer or promotion, of an officer of that service; or

(b) by the appointment of a person who, immediately before his appointment, was not an officer of that service,

subject to and in accordance with this Subdivision.

10 **62.** (1) In this section, "efficiency", in relation to an officer of the Technical and Further Education Teaching Service eligible for appointment to a vacant position within that service, means—

Appointments from within the Technical and Further Education Teaching Service.

15 (a) the possession by that officer of qualifications, determined by the Director-General of Technical and Further Education in respect of that position, for the discharge of the duties of that position and his aptitude for the discharge of those duties; and

(b) the merit, diligence and good conduct of that officer.

20 (2) In deciding to make an appointment of an officer to a vacant position, the Director-General of Technical and Further Education shall, out of the group of officers eligible for appointment to the vacant position, prefer—

25 (a) the officer whose efficiency is, in the opinion of the Director-General, greater than that of any other officer in that group; or

(b) where, in the opinion of the Director-General, there is no officer in that group entitled to preference under paragraph (a), the officer who, under section 60, is senior to any other officer in that group.

Education Commission.

(3) An appointment referred to in subsection (2) shall not take effect until the expiration of the time for lodging a notice of appeal under the Crown Employees Appeal Board Act, 1944, against the Director-General's decision to make the appointment or, where such a notice of appeal is lodged within that time, until the appeal is determined under that Act.

63. (1) The Director-General of Technical and Further Education shall cause to be published in the Technical and Further Education Gazette, at intervals of not more than one month, brief particulars, in a form determined by the Director-General, of decisions made by him under section 62, particulars of which have not previously been published in that Gazette in accordance with this subsection.

Publication
of appoint-
ments.

(2) Any officer of the Technical and Further Education Teaching Service who is proceeding on duty outside the State for a period exceeding 6 weeks or on leave for a period exceeding 6 weeks, and who has made application, in a form approved by the Director-General of Technical and Further Education, to the Director-General, is entitled to have sent to him during that period by the Director-General, by pre-paid post addressed to him at the address specified in the application, a copy of all Technical and Further Education Gazettes published during that period.

64. (1) Notwithstanding section 62 (3) but subject to subsection (2), an officer of the Technical and Further Education Teaching Service may be temporarily appointed by the Director-General of Technical and Further Education to a position within that service which is vacant or the holder of which is suspended, sick or absent.

Temporary
appoint-
ments of
officers.

(2) An appointment under subsection (1) shall not be made except with the concurrence of the Commission.

Education Commission.

(3) The Director-General of Technical and Further Education shall not make a temporary appointment under subsection (1) of an officer of the Technical and Further Education Teaching Service to carry out the duties of a permanent position for a period in excess of 6 months unless he is satisfied that an appointment in excess of that period should be made having regard to the exigencies of that service.

65. (1) Any officer of the Technical and Further Education Teaching Service dissatisfied with any decision or determination (whether particular or general) of the Director-General of Technical and Further Education, being a decision or determination—

Appeals in
respect of
salary, etc.

- (a) in regard to salary, seniority (not being a refusal referred to in section 66 (1)) or grade affecting him, or to the classification of the work performed by or assigned to him; or
- (b) against which he would, but for the proviso to section 10 (1) of the Crown Employees Appeal Board Act, 1944, relating to the maximum salary applicable to the vacant position at the date of the decision or determination appealed against, have been entitled to appeal under that Act,

may forward to the Director-General, within 30 days—

- (c) after the date of publication of the issue of the Technical and Further Education Gazette in which the decision or determination was notified; or
- (d) if the decision or determination was not notified in that Gazette—after being officially notified in writing of the decision or determination,
- a notice of appeal setting forth the grounds of his dissatisfaction.

(2) The Director-General of Technical and Further Education, after considering the appeal and such other information as he thinks proper, shall allow or disallow the appeal or make such other determination with respect to the appeal as he thinks fit.

Education Commission.

(3) The decision of the Director-General under subsection (2) shall be final.

(4) An officer who is entitled to appeal to the Crown Employees Appeal Board against any decision or determination of the nature referred to in subsection (1) is not entitled to appeal to the Director-General in respect of that decision or determination.

66. (1) Any officer of the Technical and Further Education Teaching Service, being a teacher employed in a school or college, who is dissatisfied with the failure or refusal of the Director-General of Technical and Further Education to place his name, within a period determined as prescribed, on the promotions list may forward to the Director-General, within 30 days after the expiration of that period, a notice of appeal setting forth the grounds of his dissatisfaction. Appeals in respect of the promotions list.

(2) The Director-General of Technical and Further Education shall refer the appeal for inquiry and determination to a promotions committee constituted under section 67.

67. (1) A promotions committee shall consist of— Promotions committees.

(a) an officer of the Technical and Further Education Teaching Service, or an officer of the Public Service, nominated by the Director-General of Technical and Further Education;

(b) an officer of the Technical and Further Education Teaching Service whose name is on the promotions list and who is nominated by the Executive of the New South Wales Teachers Federation; and

(c) a person nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) or, in default of their agreement, by the Director-General of Technical and Further Education.

Education Commission.

(2) The promotions committee to which an appeal is referred under section 66—

- 5 (a) is entitled to inspect any documents or other records within the Department of Technical and Further Education relating to the appellant;
- (b) may, if it thinks fit, interview the appellant; and
- 10 (c) shall, within one month after the date on which the appeal is referred to it, consider and allow or disallow the appeal or make such other determination with respect to the appeal as it thinks fit.

(3) Questions arising at a meeting of a promotions committee shall be determined by a majority of votes of the members of the committee present and voting.

(4) A promotions committee shall give reasons for its 15 decisions and shall indicate whether a decision was unanimous or by majority.

(5) Where a member of a promotions committee who is in a minority with respect to a decision of the committee wishes his minority decision to be recorded, the record of the decision of 20 the committee shall include the minority decision.

(6) The decision of a promotions committee under subsection (2) (c) shall be final and shall, as soon as practicable after it is made, be notified to the Director-General of Technical and Further Education.

25 (7) The Director-General shall do all such things as are necessary to give effect to a decision notified to him under subsection (6) and shall, within 14 days after the decision is notified to him, inform the appellant of the decision.

Education Commission.

Subdivision 3.—Other provisions relating to service in the Teaching Services.

68. Where the appropriate Director-General considers it to be in the interests of a Teaching Service to do so, he may direct
 5 the transfer of an officer from one position in the Teaching Service to another position in the Teaching Service equivalent in classification and salary to the firstmentioned position provided the officer possesses the qualifications determined by the appropriate Director-General in respect of that other position for the discharge of the
 10 duties of that other position and the Director-General is satisfied as to the aptitude of the officer for the discharge of those duties.

Transfers within a Teaching Service.

69. Where the appropriate Director-General is satisfied—

Excess persons.

(a) that a number of persons is employed in a Teaching Service, or any part of a Teaching Service, in excess of a
 15 number that appears to be necessary for the efficient, effective and economical management of the Teaching Service or part; and

(b) that any such person cannot be usefully employed in the Teaching Service,

20 the Director-General may dispense with the services of that person.

70. (1) Where the appropriate Director-General is satisfied that an officer of a Teaching Service is in receipt of a greater salary
 than the maximum fairly appropriate to the work performed by the officer—

Excessive salaries.

25 (a) subject to paragraph (b), the Director-General shall take such steps as are practicable to assign the officer work of a class appropriate to his salary; and

30 (b) if the officer cannot be assigned sufficient work of the kind referred to in paragraph (a) or is unfitted for or incapable of performing work appropriate to his salary, the Director-General—

(i) shall reduce his salary to the maximum determined by the Commission to be appropriate to the work performed by him; and

Education Commission.

(ii) may take such steps as are practicable to secure his transfer, to a vacant position in the Teaching Service of which he is a member, at that salary.

(2) If a reduction of salary of an officer under this section is certified by the appropriate Director-General to have been made on the ground only that appropriate work or an appropriate position is not available, the officer—

- (a) remains eligible for promotion as if his salary had not been reduced; and
- 10 (b) is entitled to employment on the class of work to which his previous salary was appropriate, or transfer to a position to which that class of work is attached, as soon as the appropriate work or an appropriate position becomes available, in preference to any other officer
- 15 whose salary has not been reduced.

71. The appropriate Director-General may allow any officer of a Teaching Service who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that the officer would, had he not declined the promotion or appointment, have had to any future promotion or appointment.

72. Where an officer of a Teaching Service refuses to comply with a direction of the appropriate 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 had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

73. (1) Where the appropriate Director-General determines—

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

Declining of promotion or appointment.

Refusal to comply with directions.

Retirement or transfer of officers through invalidity or incapacity.

Education Commission.

(c) that the invalidity or incapacity has not arisen from actual misconduct on his part or from causes within his control,

the Director-General—

5 (d) may cause the officer to be retired from the Teaching Service; or

(e) with the consent of the officer, transfer him—

(i) to some other position in the Teaching Service;

10 (ii) if the appropriate Department Head so approves, to some position in the Public Service; or

(iii) if the other Director-General so approves, to some position in the other Teaching Service,

with salary and other conditions of his employment appropriate to that position.

15 (2) A decision or determination of the appropriate Director-General under subsection (1) is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

74. (1) An officer of a Teaching Service—

20 (a) may retire from the Teaching Service upon his attaining the age of 60 years; or Retirement
of officers
through age.

(b) may continue in the Teaching Service after he has attained that age, but—

(i) may retire from the Teaching Service; or

25 (ii) the appropriate 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 65 years.

(2) An officer of a Teaching Service who attains the age of 65 years shall, subject to subsection (3), thereupon retire or be 30 retired from the Teaching Service.

Education Commission.

(3) Where—

- 5 (a) the appropriate Director-General is of the opinion that it is in the public interest that an officer of a Teaching Service who is of or above the age of 65 years should continue to perform the duties of his position; 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 12 months and thereafter, so long as the officer agrees to continue to perform those duties, from time 10 to time for such periods, not exceeding 12 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.

15 **75.** An officer of a Teaching Service shall be deemed to have vacated his position if— Vacation of position.

- (a) he dies; or
- (b) he resigns his position by writing signed by him and delivered to the appropriate Director-General and his resignation is accepted by that Director-General.

20 **DIVISION 5.—*Extended leave.***

76. (1) Subject to this section, an officer of a Teaching Service is entitled— Leave of absence after years of service.

- 25 (a) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay; and
- (b) after service in excess of 10 years, to—
- (i) leave pursuant to paragraph (a); and
- (ii) in addition, an amount of leave proportionate to his length of service after 10 years, calculated on the basis of 5 months on full pay, or 10 months on half pay, for 10 years served after service for 30 10 years.

Education Commission.

(2) For the purpose of calculating the entitlement of a person to extended leave under this section at any time—

- (a) service referred to in this section includes service before the appointed day;
- 5 (b) there shall be deducted from the amount of extended leave to which, but for this paragraph, that person would be entitled—
 - (i) any extended leave, or leave in the nature of extended leave; and
 - 10 (ii) the equivalent, in extended leave, of any benefit instead of extended leave or leave in the nature of extended leave,
taken or received by that person before that time, including any such leave taken, or benefit received, by
15 that person pursuant to the Public Service (Amendment) Act, 1919, as in force at any time, the Teaching Service Act, 1970, as in force at any time, or the Public Service Act, 1979; and
- 20 (c) the provisions of the Transferred Officers Extended Leave Act, 1961, shall have effect,

but nothing in this subsection shall be construed as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both paragraph (b) and section 3 (7) of the Transferred Officers Extended Leave Act, 1961.

- 25 (3) Where the services of an officer of a Teaching Service with at least 5 years' service as an adult and less than 10 years' service are terminated by the Crown or the appropriate Director-General for any reason other than the officer's serious and wilful misconduct or by the officer on account of illness, incapacity or
30 domestic or other pressing necessity, he shall be entitled for 5 years' service to 1 month's leave on full pay and for service after 5 years to a proportionate amount of leave on full pay calculated on the basis of 3 months' leave for 15 years' service (that service to include service as an adult and otherwise than as an adult).

Education Commission.

(4) For the purposes of subsection (3), “service as an adult”, in the case of an officer of a Teaching Service employed to do any work for which the remuneration has been fixed by an award made under the Commonwealth Conciliation and Arbitration Act 1904, as subsequently amended, or made under the Industrial Arbitration Act, 1940, or has been fixed by an industrial agreement made pursuant to or registered under either of those Acts or an agreement or determination made pursuant to this Act, means the period of service during which the remuneration applicable to the officer was at a rate not lower 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.

(5) For the purposes of—

15 (a) subsection (1), “service” includes—

(i) service under the Public Service Act, 1902, the Teaching Service Act, 1970, the Public Service Act, 1979, or this Act;

20 (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

25 (iii) in the case of an officer who has completed at least 10 years’ service (any period of leave without pay taken before that commencement being included therein, and any period of leave without pay taken after that commencement being excluded therefrom)—any period of leave without pay, not exceeding 6 months, taken after
30 that commencement; and

(b) subsection (3), “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.

Education Commission.

77. (1) An officer of a Teaching Service who has acquired a right to extended leave with pay under section 76, shall, on the termination of his services, be paid forthwith instead of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

Gratuity
instead of
extended
leave.

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

78. (1) Where an officer of a Teaching Service has acquired a right under section 76 to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination—

Payment
of money
value of
leave not
taken or
completed.

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the appropriate Director-General, was, at the time of the death of the officer, a dependent relative of the officer,

is entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that the officer received at the time of his or her death less any amount paid to the officer in respect of the leave not taken, or not completed.

(2) Where an officer of a Teaching Service with at least 5 years' service as an adult and less than 10 years' service as referred to in section 76 (3) dies—

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the appropriate Director-General, was, at the time of the death of the officer, a dependent relative of the officer,

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is entitled to receive the money value of the leave which would have accrued to the officer had his or her services terminated as referred to in section 76 (3), computed at the rate of salary that the officer received at the time of his or her death.

5 (3) Where there is a guardian of any children entitled under subsection (1) or (2), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

10 (4) Where there is no person entitled under subsection (1) or (2) 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 the officer.

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

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

20 DIVISION 6.—*Discipline and conduct.*

79. In this Division, “prescribed officer” means—

25 (a) a person who is the holder of, or is acting in, any position in a Teaching Service or in the Public Service that is prescribed as a position for the purposes of this Division; and

(b) an officer of a Teaching Service or the Public Service who is prescribed as an officer for the purposes of this Division.

Inter-
pretation:
Div. 6,
Pt. IV.

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80. An officer or temporary employee of a Teaching Service who— Breaches of discipline.

- (a) commits any breach of this Act or the regulations;
 - (b) engages in any misconduct;
 - 5 (c) uses intoxicating beverages or drugs to excess;
 - (d) wilfully disobeys, or wilfully disregards, any lawful order made or given by a person having authority to make or give the order;
 - 10 (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
 - (f) engages in any disgraceful or improper conduct,
- is guilty of a breach of discipline.

81. (1) A breach of discipline alleged to have been committed by an officer or temporary employee of a Teaching Service shall be dealt with by the appropriate Director-General or a prescribed officer. Procedure for dealing with breaches of discipline.

(2) Subject to this Division, the regulations made under section 97 or 98 may—

- 20 (a) make provision for or with respect to the manner of dealing with alleged breaches of discipline; and
- (b) prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Division.

82. (1) Where a breach of discipline is dealt with by the appropriate 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 temporary employee charged has committed the breach or the officer or temporary Punishment for breaches of discipline.

Education Commission.

employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

- 5 (a) may decide to impose on the officer or temporary employee any one or more of the following punishments, that is to say, he may decide to—
- (i) caution the officer or temporary employee;
 - (ii) reprimand him;
 - (iii) fine him;
 - 10 (iv) reduce his rate of salary or wages; or
 - (v) reduce him to a lower classification or position in the Teaching Service of which he is a member;
- (b) may decide to impose any one of the following punishments, that is to say—
- 15 (i) where the breach is dealt with by the Director-General, he may decide to dismiss him from the Teaching Service of which he is a member, direct that he resign from that service within such period as may be specified in the direction or direct that his resignation from that service, if
 - 20 tendered within a period specified in the direction, be accepted; or
 - (ii) where the breach is dealt with by a prescribed officer, he may decide to recommend to the
 - 25 Director-General that the officer or temporary employee be dismissed from the Teaching Service of which he is a member or that he be required or allowed to resign; or
- (c) in the case of an officer on probation—may decide to
- 30 annul his appointment.
- (2) Where a prescribed officer makes a recommendation referred to in subsection (1) (b) (ii), the Director-General to whom the recommendation is made may decide to—
- 35 (a) impose any one of the punishments referred to in subsection (1) (b) (i); or
 - (b) impose any one or more of the punishments that may be imposed under subsection (1) (a).

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

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

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

15 (4) Subject to section 10 of the Crown Employees Appeal Board Act, 1944, a decision of a Director-General under subsection (1), (2) or (3) or of a prescribed officer under subsection (1) (a) may be given effect to at any time.

20 (5) Without limiting the operation of section 10 of the Crown Employees Appeal Board Act, 1944, where a Director-General decides to direct an officer to resign from a Teaching Service, as referred to in subsection (1) (b) (i) or (2), that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (e) of that Act.

25 (6) The accountant of the appropriate Department, upon receiving notice of any fine imposed by the appropriate Director-General or a prescribed officer on an officer or temporary employee of a Teaching Service, shall deduct the amount of the fine from the salary, wages or other remuneration payable to that officer or temporary employee.

30 **83.** Where an officer or temporary employee of a Teaching Service is found guilty in New South Wales of an offence that is punishable, either on indictment or on summary conviction by imprisonment for a term of 12 months or more, or is found guilty elsewhere than in New South Wales of an offence that if it were

Punishment where officer
or temporary employee
guilty of a serious
offence.

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committed in New South Wales would be an offence so punishable, the appropriate Director-General may impose on that officer or temporary employee any one or more of the punishments that may be imposed under section 82 (1) as if that officer or temporary 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.

84. (1) Where an officer or temporary employee of a Teaching Service—

- 10 (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 83,

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

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

(2) Subject to the Crown Employees Appeal Board Act, 1944, any salary, wages or other remuneration payable to a person as an officer or temporary employee of a Teaching Service during 20 his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in section 82 (1), 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,
- 25 as the case may be, shall, unless the appropriate Director-General otherwise directs, be forfeited unless the salary, wages or other remuneration were due to him before his suspension.

(3) The suspension of an officer or temporary employee under this section may be removed by the Director-General at any 30 time and may, where it was imposed by a prescribed officer, be removed by that officer at any time.

Education Commission.

- (4) The regulations made under section 97 or 98 may—
 - (a) provide that a prescribed officer may only exercise his powers under this section in respect of officers or temporary employees of such class as may be specified or described in the regulations; and
 - (b) require a suspension imposed by a prescribed officer under this section to be reported in such manner as may be prescribed.

85. Where an officer or temporary employee of a Teaching Service becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit, he shall forthwith give to the appropriate Director-General notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his application, compounding 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 application, compounding or assignment as may be required by the Director-General.

Officers and temporary employees to report bankruptcy, etc.

86. (1) Except with the permission in writing of the appropriate Director-General, which may be withdrawn at any time, an officer or temporary employee of a Teaching Service (other than a temporary employee of the Education Teaching Service employed on a casual basis or a temporary employee of the Technical and Further Education Teaching Service employed on a part-time basis) shall not—

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

- (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;

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- (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;
- 5 (d) accept or continue to hold office in or under the Government of a State or of the Commonwealth, otherwise than under this Act;
- (e) accept or engage in any remunerative employment other than in connection with the duties of his position under this Act; or
- 10 (f) accept, engage in or undertake any prescribed work or activity or any work or activity of a prescribed class or description.

(2) Nothing in this section prevents an officer or
15 temporary employee of a Teaching Service—

- (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 temporary 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
- 20 (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.
- 25

(3) If any officer or temporary employee does any thing referred to in subsection (1) (a), (b), (c), (d), (e) or (f)
30 without the permission of the appropriate Director-General, he shall at once notify the fact to the Director-General who may thereupon impose on the officer or temporary employee any of the punishments referred to in section 82 (1) or may direct the officer or temporary employee to abstain from doing that thing within

Education Commission.

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 temporary employee any of those punishments.

87. (1) If the address for the time being of an officer or temporary employee of a Teaching Service is unknown to the appropriate Director-General, all notices, orders or communications relating to any charges against him shall be posted to the address of the officer or temporary employee last known to that Director-General and compliance with this subsection shall be deemed a sufficient service on the officer or temporary employee of any such notices, orders or communications.

Officer or temporary employee whose address is unknown.

(2) If within any time specified in any such notice, order or communication no answer is received by the appropriate Director-General to an inquiry asking whether the officer or temporary employee admits the truth of the charges brought against him, he shall be deemed to deny the truth of those charges, and the Director-General may inquire into and deal with those charges in the absence of the officer or temporary employee.

DIVISION 7.—Miscellaneous.

88. A member of a Teaching Service may sue for and recover the amount of his salary, wages or other remuneration the subject of a determination under section 25.

Recovery of salary, etc.

89. (1) Except as provided in subsection (2), where an officer or temporary employee of a Teaching Service 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, wages or other remuneration such amount as the Public Service Board, after consultation with the

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

Education Commission.

appropriate 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.

(2) Where an officer or temporary employee of a Teaching Service is allowed to use, for the purpose of residence, any building or part of a building or any land vested in or managed by the Teacher Housing Authority of New South Wales or the Public Servant Housing Authority of New South Wales, an amount fixed by the Authority concerned in respect of rent shall be deducted from the salary of that officer or temporary employee and paid to the Authority concerned.

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

Attachment
of salary
or wages
of officers
and
temporary
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) As soon as practicable after the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the accountant of the appropriate Department shall notify the judgment debtor in writing of the service of the copy of the 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.

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

5 (a) from time to time, deduct from any money due to the officer or temporary employee such sums as are fixed by the appropriate 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,

10 but in no case shall a deduction be fixed or made which will reduce the amount to be received by the officer or temporary employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection (4).

(4) The amount which, pursuant to subsection (3), is to
15 be ascertained in accordance with this subsection shall be ascertained by deducting \$8—

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

20 (b) in the case of a female officer or temporary 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 (3) is made.

(5) Where copies of more than one judgment and
25 statutory declaration relating thereto are served upon the accountant of the appropriate Department 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.

30 (6) Any deductions made under the provisions of subsection (3) from money due to an officer or temporary employee shall, as between the Government of New South Wales and the officer or temporary employee, be deemed to be a payment by that Government to the officer or temporary employee.

Education Commission.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant of the appropriate Department 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 \$100.

(8) If any deduction made in pursuance of the provisions of subsection (3) from money due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor, the excess shall be repayable by the appropriate Department 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 temporary employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection (3) there shall be retained by the accountant of the appropriate Department, to be paid by him to the Treasurer for credit of the Consolidated Revenue Fund, an amount equal to per cent (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of those sums, and the balance of those sums shall be paid to the judgment creditor.

(11) When the accountant makes a payment to a judgment creditor under the provisions of subsection (10), the accountant of the appropriate Department shall forward to the judgment creditor a statement showing—

- (a) the sums deducted under the provisions of subsection (3) in respect of the judgment from money due to the officer or temporary employee concerned;
- (b) the amount retained by the accountant under the provisions of subsection (10) out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection (10).

Education Commission.

(12) Upon payment being made under the provisions of subsection (10) to the judgment creditor, the judgment creditor shall credit the officer or temporary employee concerned with the sums referred to in subsection (11) (a), as shown in the statement 5 forwarded by the accountant of the appropriate Department 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 10 against joint defendants.

PART V.

GENERAL.

91. Nothing in this Act shall be construed as restricting the ordinary and necessary departmental authority of the Minister with 15 respect to the direction and control of members of the Teaching Services and work. Saving as to Minister's authority.

92. (1) All notices of appointments, promotions, retirements, dismissals and annulments of appointments of—

20 (a) officers of the Education Teaching Service shall be published in the Education Gazette; and Appointments, etc., to be notified in appropriate Gazette.

(b) officers of the Technical and Further Education Teaching Service shall be published in the Technical and Further Education Gazette.

(2) A notice so published shall be conclusive evidence of 25 the appointment, promotion, retirement, dismissal or annulment of appointment specified in the notice.

Education Commission.

93. A document purporting to be an issue of the Education Gazette or the Technical and Further Education Gazette, as the case may be, is admissible in evidence in any proceedings, including proceedings before the Crown Employees Appeal Board, and shall, until the contrary is proved, be deemed to be a copy of an issue of the Education Gazette or the Technical and Further Education Gazette, as the case may be.

Evidence
as to
Gazettes.

94. (1) Subject to subsection (3), 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 a Teaching Service.

Crown's
right to
dismiss not
abrogated.

(2) An officer or temporary employee of a Teaching Service 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 (1) and (2) 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 a Teaching Service.

95. The provisions of section 2 (1) of the Constitution (Public Service) Amendment Act, 1916, apply to officers and temporary employees of a Teaching Service as if they were holders of offices of profit in the Public Service 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, 1979.

Certain
Acts apply
to officers
and
temporary
employees.

96. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by Part II or Schedule 1 or 2 is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to Part II or Schedule 1 or 2.

Making of
regulations
by the
Governor.

Education Commission.

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

Making of regulations by the Director-General of Education.

- 5 (a) the examinations to be held and qualifications required for appointment to or promotion to a position in the Education Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and temporary employees of the Education Teaching Service;
- 10 (c) the arrangement of positions in the Education Teaching Service into divisions;
- (d) the order and conditions of promotion and the grading and seniority of members of the Education Teaching Service;
- 15 (e) appeals to the Director-General of Education;
- (f) the employment of persons under section 49;
- (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and temporary employees of the Education Teaching Service;
- 20 (h) the maintenance of discipline, order, economy and efficiency in the Education Teaching Service;
- (i) the classification, general management and inspection of public schools; and
- 25 (j) any matter that by this Act (Part II and Schedules 1 and 2 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 and Schedules 1 and 2 excepted) concerning the
- 30 Education Teaching Service.

(2) In the application of section 41 of the Interpretation Act, 1897, to regulations made under subsection (1), the reference in section 41 (I) (a) of that Act to the Gazette shall be read as a reference to the Education Gazette.

Education Commission.

98. (1) The Director-General of Technical and Further Education may, with the approval of the Governor, make regulations, not inconsistent with this Act, for or with respect to—

Making of regulations by the Director-General of Technical and Further Education.

- 5 (a) the examinations to be held and qualifications required for appointment to or promotion to a position in the Technical and Further Education Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and temporary employees of the Technical and Further Education Teaching Service;
- 10 (c) the arrangement of positions in the Technical and Further Education Teaching Service into schools, divisions and sections;
- (d) the grading and seniority of members of the Technical and Further Education Teaching Service;
- 15 (e) the preparation and maintenance of a promotions list, the conditions for placement on the list, the positions for which placement on the list is an essential prerequisite for promotion and appeals against non-placement on the list;
- 20 (f) appeals to the Director-General of Technical and Further Education;
- (g) the employment of persons under section 55;
- (h) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and temporary employees of the Technical and Further Education Teaching Service;
- 25 (i) the maintenance of discipline, order, economy and efficiency in the Technical and Further Education Teaching Service;
- 30 (j) the classification, general management and inspection of schools and colleges; and
- (k) any matter that by this Act (Part II and Schedules 1 and 2 excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carry-

Education Commission.

ing out or giving effect to the provisions of this Act (Part II and Schedules 1 and 2 excepted) concerning the Technical and Further Education Teaching Service.

(2) In the application of section 41 of the Interpretation Act, 1897, to regulations made under subsection (1), the reference in section 41 (I) (a) of that Act to the Gazette shall be read as a reference to the Technical and Further Education Gazette.

99. A provision of a regulation may—

Application,
etc., of
regulations.

- 10 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- 15 (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

SCHEDULE 1.

Sec. 9 (5).

PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN.

1. In this Schedule—
- 20 “statutory body” means a body declared under clause 6 to be a statutory body for the purposes of this Schedule;
- “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Interpre-
tation:
Sch. 1.

Education Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN
—*continued.*

2. Subject to clause 3 and to the terms of his appointment, where the
5 Chairman was, immediately before his appointment as the Chairman— Preservation
of rights—
generally.

- (a) an officer of a Teaching Service or the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that
10 he retain any rights accrued or accruing to him as an officer or
employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an
officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which
15 he was a contributor immediately before his appointment as the
Chairman; and
- (g) shall be entitled to receive any deferred or extended leave and any
payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during
his service as the Chairman, and—

- 20 (h) his service as the Chairman shall be deemed to be service as an
officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to
contribute or by which that entitlement is conferred; and
- 25 (i) he shall be deemed to be an officer or employee, and the Govern-
ment of New South Wales shall be deemed to be his employer,
for the purposes of the superannuation scheme to which he is
entitled to contribute under this clause.

3. (1) If the Chairman would, but for this subclause, be entitled under
clause 2 to contribute to a superannuation scheme or to receive any pay-
30 ment, pension or gratuity under that scheme, he shall not be so entitled
upon his becoming (whether upon his appointment as the Chairman or at
any later time while he holds office as the Chairman) a contributor to any
other superannuation scheme, and the provisions of clause 2 (i) cease to
apply to or in respect of him and the Government of New South Wales in
35 any case where he becomes a contributor to such another superannuation
scheme. Con-
sequence
of becoming
contributor
to another
superannua-
tion scheme.

*Education Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN
—*continued.*

- (2) Subclause (1) of this clause does not prevent the payment to the
5 Chairman upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.
4. The Chairman shall not, in respect of the same period of service, be
10 entitled to claim a benefit under this Act and another Act. Restrictions on entitlement to benefit.
5. (1) In this clause, "retiring age" means, in relation to a person who was, immediately before his appointment as the Chairman—
Reappointment to former employment in certain cases.
- (a) an officer of a Teaching Service or the Public Service—the age of 60 years; and
- 15 (b) an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as the Chairman), as the case may be, of that statutory body are entitled to retire.
- (2) A person who ceases to be the Chairman, otherwise than pursuant to section 15 (paragraph (d) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as the Chairman, he was—
- 20 (a) an officer of a Teaching Service or the Public Service—to some position in that service of which he was an officer; or
- 25 (b) an officer or employee of a statutory body—to some position in the service of that body,
- not lower in classification or salary than that which he held immediately before his appointment as the Chairman.
- 30 6. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. Declarations of statutory bodies.

Education Commission.

SCHEDULE 2.

Sec. 20.

PROVISIONS RELATING TO MEETINGS OF THE COMMISSION.

1. (1) The Chairman may, at any time, convene a meeting of the Commission. Convening
of meetings.
- 5 (2) The Chairman, on receipt of a request in writing signed by 3 members, shall convene a meeting of the Commission.
2. At a meeting of the Commission, 8 members constitute a quorum. Quorum.
3. (1) Any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission. Meetings.
- 10 (2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the members present and voting.
4. The procedure for the calling of, and for the conduct of business at, meetings of the Commission shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Commission. General
procedure.
- 15 5. The Chairman shall preside at all meetings of the Commission at which he is present. Chairman
to preside.
6. (1) In the absence of the Chairman at any meeting of the Commission, the Acting Chairman appointed under section 13 (1) shall preside as Chairman at that meeting. Absence of
Chairman.
- 20 (2) Where both the Chairman and the Acting Chairman appointed under section 13 (1) are absent from any meeting of the Commission, or if no Acting Chairman is so appointed, the members present shall appoint one of their number to preside as chairman at that meeting.
- 25 7. The member presiding at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall also have a second or casting vote. Presiding
member's
vote.
8. The Commission shall cause full and accurate minutes to be kept of its proceedings at meetings. Minutes of
meetings.
- 30 9. Where, at a meeting of the Commission, it is resolved that the Minister be informed of any matter, it is the responsibility of the person presiding at the meeting to ensure that the Minister is so informed. Informing
Minister
of certain
matters.

Education Commission.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEETINGS OF THE COMMISSION—*continued.*

10. In proceedings by or against the Commission, no proof shall be required (until evidence is given to the contrary) of— ^{Pre-} _{sumptions.}

- 5
- (a) the constitution of the Commission;
 - (b) the due making of any resolution of the Commission;
 - (c) the appointment or election of any member; or
 - (d) the presence of a quorum at any meeting of the Commission.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

[\$1.60]

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.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, February, 1980.*

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. , 1980.

An Act to constitute the Education Commission of New South Wales and to specify its functions; to establish the Education Teaching Service and the Technical and Further Education Teaching Service; and to make provisions relating to the employment of persons within those services.

See also Miscellaneous Acts (Education Commission) Repeal and Amendment Bill, 1980.

Education Commission.

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 :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Education Commission Act, Short
1980". title.

2. (1) This section and section 1 shall commence on the date Commence-
10 of assent to this Act. ment.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 (3) For the purpose only of enabling the Commission to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Division 1 of Part II, elections may be conducted under that Division and any other act, matter
20 or thing may be done, before that day, as if the whole of this Act commenced on the date of assent to this Act.

3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1-5.

Education Commission.

PART II.—THE COMMISSION—ss. 6–36.

DIVISION 1.—*Constitution of the Commission*—ss. 6–21.

DIVISION 2.—*Functions of the Commission*—ss. 22–36.

Subdivision 1.—*General*—s. 22.

5 Subdivision 2.—*Functions as an employer*—ss. 23–28.

Subdivision 3.—*Functions relating to the provision of education services*—s. 29.

Subdivision 4.—*Miscellaneous*—ss. 30–34.

10 Subdivision 5.—*Regulation of exercise of functions*—ss. 35, 36.

PART III.—THE DIRECTORS-GENERAL—ss. 37–41.

DIVISION 1.—*The Director-General of Education*—ss. 37, 38.

15 DIVISION 2.—*The Director-General of Technical and Further Education*—ss. 39, 40.

DIVISION 3.—*Delegation of functions*—s. 41.

PART IV.—THE TEACHING SERVICES—ss. 42–93.

DIVISION 1.—*General*—ss. 42, 43.

20 DIVISION 2.—*Members of the Education Teaching Service*—ss. 44–51.

DIVISION 3.—*Members of the Technical and Further Education Teaching Service*—ss. 52–58.

DIVISION 4.—*Service in the Teaching Services*—ss. 59–78.

25 Subdivision 1.—*Filling vacancies in the Education Teaching Service*—ss. 59–62.

Subdivision 2.—*Filling vacancies in the Technical and Further Education Teaching Service*—ss. 63–70.

Subdivision 3.—*Other provisions relating to service in the Teaching Services*—ss. 71–78.

30 DIVISION 5.—*Extended leave*—ss. 79–81.

Education Commission.

DIVISION 6.—*Discipline and conduct*—ss. 82–90.

DIVISION 7.—*Miscellaneous*—ss. 91–93.

PART V.—GENERAL—ss. 94–102.

5 SCHEDULE 1.—PROVISIONS RELATING TO THE PRESERVA-
TION OF RIGHTS OF THE CHAIRMAN.

SCHEDULE 2.—PROVISIONS RELATING TO MEETINGS OF THE
COMMISSION.

4. (1) In this Act, except in so far as the context or subject-
matter otherwise indicates or requires— Interpre-
tation.

10 “appointed day” means the day appointed and notified under
section 2 (2);

“appropriate Department” means—

15 (a) in relation to an officer or temporary employee
of the Education Teaching Service—the
Department of Education; and

(b) in relation to an officer or temporary employee
of the Technical and Further Education
Teaching Service—the Department of Technical
and Further Education;

20 “appropriate Department Head” has the meaning ascribed
thereto by section 4 (1) of the Public Service Act, 1979;

“appropriate Director-General” means—

25 (a) in relation to the Education Teaching Service or
a member of that service—the Director-General
of Education; and

(b) in relation to the Technical and Further
Education Teaching Service or a member of that
service—the Director-General of Technical and
Further Education;

Education Commission.

- “Chairman” means the person appointed for the time being under section 7 (2) (a) as the Chairman of the Commission;
- 5 “college” means an educational institution provided and maintained by the Minister within the Department of Technical and Further Education;
- “Commission” means the Education Commission of New South Wales constituted under section 6;
- 10 “Director-General” means the Director-General of Education or the Director-General of Technical and Further Education;
- “division”, in relation to a Teaching Service, means a prescribed division of that service;
- 15 “Education Gazette” means the journal entitled the Education Gazette published by the Government Printer of New South Wales under the authority of the Minister;
- “Education Teaching Service” means the Education Teaching Service referred to in Division 2 of Part IV;
- “functions” includes powers, authorities and duties;
- 20 “industrial matters” has the meaning ascribed to that expression by section 5 (1) of the Industrial Arbitration Act, 1940, subject to the following modifications :—
- 25 (a) the references to “employers” and “their employer” shall be read and construed as references to the Crown;
- (b) the references to “employees” shall be read and construed as references to members of the Teaching Services;
- 30 (c) the references to “any industry” and “an industry” shall be read and construed as references to the Teaching Services; and

Education Commission.

- (d) the references to “industrial unions” and “trade union” shall be read and construed as references to any association or organisation representing any group or class of members of a Teaching Service;

5

“member” means a member of the Commission, and includes—

- (a) where a deputy appointed by the Director-General of Education under section 7 (5) is acting on behalf of that Director-General, the deputy;

10

- (b) where a deputy appointed by the Director-General of Technical and Further Education under section 7 (6) is acting on behalf of that Director-General, the deputy; and

15

- (c) where the Acting Chairman appointed under section 13 (1) is acting during the absence or illness of the Chairman or, in the event of a vacancy occurring in the office of the Chairman, the Acting Chairman;

20

“officer” means—

- (a) in relation to the Education Teaching Service, a person employed in that service, other than a temporary employee; and

25

- (b) in relation to the Technical and Further Education Teaching Service, a person employed in that service, other than a temporary employee;

“position” includes office;

“promotions list” means—

- (a) a list prepared and maintained by the Director-General of Education under section 38 (1) (f) or (3); or

30

- (b) the list prepared and maintained by the Director-General of Technical and Further Education under section 40 (1) (e);

35

Education Commission.

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

“Public Service” has the meaning ascribed thereto by section 4 (1) of the Public Service Act, 1979;

5 “Public Service Board” means the Public Service Board of New South Wales constituted under the Public Service Act, 1979;

“regulations” means regulations under this Act;

10 “school”, in relation to the Technical and Further Education Teaching Service, means a prescribed teaching school of that service;

“section”, in relation to the Technical and Further Education Teaching Service, means a prescribed section of—

- 15 (a) a school; or
(b) a division;

“Teaching Service” means the Education Teaching Service or the Technical and Further Education Teaching Service;

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

25 “Technical and Further Education Teaching Service” means the Technical and Further Education Teaching Service referred to in Division 3 of Part IV;

“temporary employee” means—

- 30 (a) in relation to the Education Teaching Service, a person employed under section 50 or deemed to be a temporary employee under section 45 (3) or 48 (3); and

Education Commission.

(b) in relation to the Technical and Further Education Teaching Service, a person employed under section 58 or deemed to be a temporary employee under section 53 (3) or 56 (3).

5 (2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

5 5. Except to the extent that this Act otherwise expressly provides, nothing in this Act amends or affects the provisions of the Industrial Arbitration Act, 1940, not affected.
10 Industrial Arbitration Act, 1940.

PART II.

THE COMMISSION.

DIVISION 1.—*Constitution of the Commission.*

6. (1) There is hereby constituted a corporation under the Constitution of the Commission.
15 corporate name of the "Education Commission of New South Wales".

(2) The Commission shall, in the exercise of its functions (except in relation to the contents of any advice, report or recommendation given or made by it), be subject to the control and
20 direction of the Minister.

(3) The Commission is, for the purposes of any Act, a statutory body representing the Crown.

7. (1) The Commission shall consist of 13 members comprising— Members.

- 25 (a) 6 members appointed by the Governor;
(b) 5 elected members; and
(c) 2 ex officio members.

Education Commission.

(2) The members appointed by the Governor shall consist of—

- 5 (a) a person who shall, in and by the instrument of his appointment, be appointed as the Chairman of the Commission;
- (b) 4 persons nominated by the Minister, one of whom, in the opinion of the Minister, shall have demonstrated an interest in technical and further education; and
- 10 (c) a member, nominated by the Minister, of the New South Wales Higher Education Board constituted under the Higher Education Act, 1975.

(3) The elected members shall consist of—

- 15 (a) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 99, by the persons whose names are entered in the roll of primary teachers referred to in section 8 (1) (a);
- 20 (b) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 99, by the persons whose names are entered in the roll of secondary teachers referred to in section 8 (1) (b);
- 25 (c) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 99, by the persons whose names are entered in the roll of technical and further education teachers referred to in section 8 (2);
- 30 (d) a person elected, in a manner approved by the Minister, by the Executive Council of the Federation of Parents and Citizens Associations of New South Wales; and
- (e) a person elected, in a manner approved by the Minister, by the Council of the Federation of School/Community Organisations of New South Wales.

Education Commission.

(4) The ex officio members shall consist of—

(a) the person who for the time being holds or acts in the office of Director-General of Education; and

5 (b) the person who for the time being holds or acts in the office of Director-General of Technical and Further Education.

(5) The Director-General of Education may appoint a person employed in the Department of Education as a deputy to act on his behalf at any meeting of the Commission which he is
10 unable to attend and the deputy so appointed shall be entitled to act accordingly.

(6) The Director-General of Technical and Further Education may appoint a person employed in the Department of Technical and Further Education as a deputy to act on his behalf
15 at any meeting of the Commission which he is unable to attend and the deputy so appointed shall be entitled to act accordingly.

(7) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member by the Governor and a person so appointed is not, in his capacity as a member, subject
20 to that Act while he holds office as a member.

8. (1) For the purposes of the election of the members referred to in section 7 (3) (a) and (b), the Director-General of Education shall cause to be prepared and kept—

Election
of certain
members.

25 (a) a roll, to be called the roll of primary teachers, in which shall be entered the names of persons who are—

(i) officers or temporary employees employed under Division 2 of Part IV; and

30 (ii) otherwise entitled, under the regulations made under section 99, to have their names entered in that roll; and

Education Commission.

- (b) a roll, to be called the roll of secondary teachers, in which shall be entered the names of persons who are—
- (i) officers or temporary employees employed under Division 2 of Part IV; and
 - 5 (ii) otherwise entitled, under the regulations made under section 99, to have their names entered in that roll.
- (2) For the purposes of the election of the member referred to in section 7 (3) (c), the Director-General of Technical and
- 10 Further Education shall cause to be prepared and kept a roll, to be called the roll of technical and further education teachers, in which shall be entered the names of persons who are—
- (a) full-time officers or full-time temporary employees employed under Division 3 of Part IV; and
 - 15 (b) otherwise entitled, under the regulations made under section 99, to have their names entered in that roll.
- (3) A roll certified by the Director-General of Education, for the purpose of the election of a member referred to in section 7 (3) (a) or (b), to be the roll of primary teachers or the roll
- 20 of secondary teachers shall be the roll of primary teachers or the roll of secondary teachers, as the case may be, to be used for the purpose of that election.
- (4) A roll certified by the Director-General of Technical and Further Education, for the purpose of the election of the
- 25 member referred to in section 7 (3) (c), to be the roll of technical and further education teachers shall be the roll of technical and further education teachers to be used for the purpose of that election.
- (5) The Electoral Commissioner for New South Wales, or
- 30 a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election of a member referred to in section 7 (3) (a), (b) or (c), and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under section 99 in
- 35 relation to the election.

Education Commission.

(6) A person's nomination as a candidate for election as a member referred to in section 7 (3) (a), (b) or (c) is invalid—

(a) if his name is not, at the time of his nomination, entered—

5 (i) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (a)—in the roll of primary teachers;

10 (ii) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (b)—in the roll of secondary teachers; or

(iii) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (c)—in the roll of technical and further education teachers; or

15 (b) if—

(i) he is not, at the time of his nomination, a member of the New South Wales Teachers Federation; and

20 (ii) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, a member of the New South Wales Teachers Federation.

(7) The returning officer is entitled to rely on the information contained in a statutory declaration referred to in subsection 25 (6) (b) (ii).

(8) The regulations made under section 99 may, subject to this Act, make provision for or with respect to the election of the members referred to in section 7 (3) (a), (b) and (c).

9. (1) The Chairman shall be a full-time member.

30 (2) The Chairman shall, except in so far as the Minister otherwise approves in writing, devote the whole of his time to the duties of his office.

Full-time
and
part-time
members.

Education Commission.

(3) A member, other than the Chairman, shall be a part-time member.

(4) Schedule 1 has effect with respect to the preservation of rights of the Chairman.

5 10. (1) A person is not eligible to be appointed as the Chairman if he has attained the age of 65 years. Age limit of members.

(2) A person is not eligible to be appointed or elected as a part-time member if he has attained the age of 70 years.

10 11. (1) The term of office of a member, other than an ex officio member, shall, subject to this Act, be— Term of office of members.

(a) in the case of the Chairman—such term, not exceeding 7 years, as is specified in the instrument of his appointment;

15 (b) in the case of a member referred to in section 7 (2) (b) or (c)—such term, not exceeding 3 years, as is specified in the instrument of his appointment; and

(c) in the case of a member referred to in section 7 (3) (a)–(e)—2 years.

20 (2) A person appointed as the Chairman is eligible for reappointment or further appointment as Chairman for one further term, not exceeding 7 years, as is specified in the instrument of his reappointment or further appointment.

25 (3) Subject to subsection (4), a member, other than the Chairman or an ex officio member, is, if otherwise qualified, eligible for reappointment or re-election for a further term or terms being—

(a) in the case of a member referred to in section 7 (2) (b) or (c)—such term, not exceeding 3 years, as is specified in the instrument of his reappointment; and

Education Commission.

- (b) in the case of a member referred to in section 7 (3)
 (a)-(e)—2 years.

(4) A member, other than the Chairman or an ex officio member, shall not hold office as a member, other than the Chairman or an ex officio member, for a period in excess of 6 consecutive years.

12. A member—

- (a) appointed or elected before the appointed day shall take office upon that day; and
- (b) subsequently appointed or elected shall, subject to this Act, take office upon—
- (i) the day on which he is appointed or elected; or
 - (ii) the expiration of his predecessor's term of office, whichever is the later.

Commence-
ment of
term of
office.

13. (1) The Governor may, at any time, appoint a person to act as Chairman during the absence or illness of the Chairman or in the event of a vacancy occurring in the office of the Chairman.

Acting
Chairman.

(2) A person appointed under subsection (1), while acting as the Chairman, shall have and may exercise the functions of the Chairman.

14. (1) The Governor may remove the Chairman from office for misbehaviour or incompetence.

Removal
from
office.

(2) The Governor may, for any cause which to him seems sufficient, remove a member, other than the Chairman or an ex officio member, from office.

Education Commission.

15. A member, other than an ex officio member, shall be deemed to have vacated his office— Vacation
of office.

- (a) if he dies;
- (b) in the case of the Chairman—
 - 5 (i) upon his attaining the age of 65 years; or
 - (ii) if he engages, except in so far as the Minister otherwise approves in writing, in any paid employment outside the duties of his office;
- 10 (c) in the case of a part-time member, upon his attaining the age of 70 years;
- (d) if he resigns his office by writing under his hand delivered to the Minister and the Governor accepts his resignation;
- 15 (e) in the case of the Chairman, if he absents himself from duty for a period of 15 consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant);
- 20 (f) in the case of a part-time member, if he is absent from 3 consecutive meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Commission or unless, before the expiration of 6 weeks after the last of those meetings, he is excused by the Commission for his absence from those meetings;
- 25 (g) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit;
- 30 (h) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Education Commission.

- 5 (i) if he is found guilty (whether or not he is convicted) in New South Wales of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is found guilty (whether or not he is convicted) elsewhere than in New South Wales of a crime or an offence which, if committed in New South Wales, would be a crime or an offence so punishable;
- 10 (j) in the case of a member referred to in section 7 (2) (c), if he ceases to be a member of the New South Wales Higher Education Board constituted under the Higher Education Act, 1975;
- (k) in the case of a member referred to in section 7 (3) (a), (b) or (c), if he resigns from membership of the New South Wales Teachers Federation;
- 15 (l) in the case of—
- (i) a member referred to in section 7 (3) (a) or (b)—if he ceases to be a member of the Education Teaching Service; and
- 20 (ii) a member referred to in section 7 (3) (c)—if he ceases to be a member of the Technical and Further Education Teaching Service; or
- (m) if he is removed from office by the Governor under section 14.

25 **16.** (1) On the occurrence of a vacancy in the office of a member appointed by the Governor, otherwise than by the expiration of his term of office, the Governor may appoint a person nominated by the Minister to the vacant office for the balance of his predecessor's term of office, so that the Commission is constituted in accordance with section 7.

30 (2) On the occurrence of a vacancy in the office of a member referred to in section 7 (3) (a), (b) or (c), otherwise than by the expiration of his term of office or otherwise than during the period of 6 months before his term of office was due to expire, a person qualified for election to that office and elected at an

Education Commission.

election conducted in the same manner as the election at which that member was elected shall fill the vacancy for the balance of such part of his predecessor's term of office as has not been filled by an appointment made as referred to in subsection (3) (a).

- 5 (3) Notwithstanding anything in this Act, if a vacancy occurs in the office of a member referred to in section 7 (3) (a), (b) or (c)—
- 10 (a) otherwise than by the expiration of his term of office or otherwise than during the period of 6 months before his term of office was due to expire, the Governor may appoint to the vacant office, until the date on which a person is elected to fill the vacancy, a person nominated by the Minister, being a person who is qualified for election to that office; or
- 15 (b) during the period of 6 months before his term of office was due to expire, the Governor may appoint to the vacant office, for the balance of his predecessor's term of office, a person nominated by the Minister, being a person who is qualified for election to that office.
- 20 (4) On the occurrence of a vacancy in the office of a member referred to in section 7 (3) (d) or (e), otherwise than by the expiration of his term of office, a person who is qualified for election to that office and is elected at an election conducted in the same manner as the election at which that member was elected shall
- 25 fill the vacancy for the balance of his predecessor's term of office.

17. The Chairman is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other
Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister
may from time to time determine in respect of him.
- 30

Remuneration of
Chairman.

Education Commission.

18. A part-time member is entitled to be paid such allowances and such fees as the Minister may from time to time determine in respect of him. Remuneration of part-time members.

19. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, the provision shall not operate to disqualify him from holding that office and also the office of a part-time member. Provisions relating to office of part-time member.

10 (2) The office of a part-time member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

20. Schedule 2 has effect with respect to meetings of the Commission. Provisions relating to meetings of the Commission.

15 **21.** Such staff as may be necessary to enable the Commission to exercise its functions or to assist the Commission in the exercise of its function may be employed under and subject to the Public Service Act, 1979. Appointment of staff of the Commission.

DIVISION 2.—Functions of the Commission.

20 *Subdivision 1.—General.*

22. The Commission shall have and may exercise the functions conferred or imposed on it by or under this or any other Act. Commission's functions—generally.

Education Commission.

Subdivision 2.—Functions as an employer.

23. The Commission shall, subject to this Act, be responsible for the employment of the members of the Teaching Services. Commission's functions as an employer.
24. The Commission shall, for the purpose of making any determination under section 25 or of any proceedings relating to members of the Teaching Services, held before a competent tribunal having power to deal with industrial matters, be deemed to be the employer of those members. Role of Commission in industrial proceedings.
25. Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or other remuneration, of members of the Teaching Services shall be as may be determined from time to time by the Commission. Determination of conditions of employment.
26. (1) The Commission may enter into an agreement with any association or organisation representing any group or class of officers or temporary employees as to any industrial matters. Agreements relating to industrial matters.
- (2) An agreement referred to in subsection (1) shall bind all officers and temporary employees in the class or group affected by the agreement and no such officer or temporary 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.
27. Without limiting or derogating from section 6 (2), the Commission shall not make a determination under section 25 or enter into an agreement under section 26, being a determination or an agreement relating to an industrial matter which the Minister has determined and notified the Commission to be a major industrial matter, unless the Commission has notified the Minister of the determination proposed to be made or the agreement proposed to be entered into. Determinations and agreements relating to major industrial matters.

Education Commission.

28. Where any dispute (whether or not the dispute is a question, dispute or difficulty of the nature referred to in section 25 (1) (a), (b) or (c) of the Industrial Arbitration Act, 1940) arises as a consequence of the exercise by a Director-General or by a delegate of, or person acting in accordance with an authority given to him by, a Director-General of any function conferred or imposed on the Director-General by or under any Act, the Commission shall not, notwithstanding the Industrial Arbitration Act, 1940, exercise any function conferred or imposed on it by or under any Act as an employer in relation to the dispute until the dispute has been referred to it by the Director-General or an association of employees concerned in the dispute or the dispute has been notified to the industrial registrar under the Industrial Arbitration Act, 1940.

Exercise of Commission's functions in relation to industrial disputes.

15 *Subdivision 3.—Functions relating to the provision of education services.*

29. (1) In this section, "public education" means education carried on in an institution established under the Public Instruction Act of 1880, the Technical and Further Education Act, 1974, the Colleges of Advanced Education Act, 1975, the New South Wales State Conservatorium of Music Act, 1965, or an Act of incorporation of a university.

Commission's functions relating to the provision of education services.

(2) The Commission shall advise the Minister on the formulation and implementation of policies concerning public education in New South Wales.

(3) In the exercise of its function under subsection (2), the Commission may, and, if requested to do so by the Minister, shall—

(a) make recommendations and furnish reports to the Minister with respect to—

(i) policies and principles to be adopted in the provision of public education in the State;

Education Commission.

- (ii) the provision of a comprehensive, balanced and co-ordinated public education service for the State;
- 5 (iii) priorities in the allocation of finance for public education in the State;
- (iv) the effective and co-ordinated utilisation of public education services and resources;
- 10 (v) the long-term planning undertaken or to be undertaken by administrative units within the Minister's responsibility;
- (vi) the implementation of policy in accordance with decisions of the Minister and the Government;
- (vii) the establishment and development of regional bodies concerned with public education; and
- 15 (viii) the administration of this Act;

- (b) provide regularly to the Minister an overall statement of objectives, policies and priorities for public education in the State;

- 20 (c) ensure that programmes in public education in the State are evaluated and that the appropriateness and effectiveness of those programmes are regularly reviewed;

- (d) maintain liaison with Commonwealth funding agencies to ensure that the overall educational needs of the State are appropriately considered;

- 25 (e) keep under review provisions and administrative structures for public education in the State so that those provisions and structures remain effective and responsive to changing community needs and expectations;

- (f) undertake, promote and foster research;

- 30 (g) conduct and commission inquiries into aspects of educational planning and policy; and

- (h) publish and distribute papers, including papers relating to needs and priorities for public education in the State.

Education Commission.

Subdivision 4.—Miscellaneous.

30. The Commission may do all such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions. Supplemental, etc., acts.

5 31. (1) The Commission may establish standing or special committees for the purpose of advising the Commission in the exercise of its functions and may appoint as a member of any such committee any person who, in its opinion, appears to be qualified to be a member of that committee, whether or not he is Committees.
10 a member of the Commission.

(2) A committee established under subsection (1) may, subject to subsection (3) and to any directions of the Commission, regulate its procedure in such manner as it thinks fit.

(3) The Commission may specify the number of persons 15 who will constitute a quorum of a committee established under subsection (1).

(4) A member of a committee established under subsection (1) who is not a member of the Commission shall be entitled to be paid such allowances and such fees as the Minister may from 20 time to time determine in respect of him.

32. (1) The Commission may, by its members or delegates— Commission's powers of entry and inspection.

25 (a) enter any public school or college or any premises of the Department of Education, the Department of Technical and Further Education or the Ministry of Education;

(b) require the production of and examine any document in the custody of any member of a Teaching Service or an officer or a temporary employee of the Public Service; and

Education Commission.

- (c) require any member of a Teaching Service or an officer or a temporary employee of the Public Service to answer questions relating to the exercise of his functions as such a member, officer or temporary employee,

5 for the purpose of enabling the Commission to exercise its functions.

(2) Except in relation to its functions under Subdivision 2 of this Division, the powers conferred by subsection (1) shall not be exercised except after consultation with the appropriate Director-
10 General or the appropriate Department Head.

33. (1) The Commission shall, not later than 31st March in ^{Annual} each year, prepare and present to the Minister a report of its work ^{report.} and activities for the year ending on the preceding 31st December.

(2) The Minister shall lay the report, or cause it to be
15 laid, before each House of Parliament as soon as practicable after its receipt by him.

34. (1) This section applies to the functions conferred or ^{Delegation} imposed on the Commission by or under this or any other Act, but ^{by the} does not apply to— ^{Commission.}

- 20 (a) the power of delegation conferred by this section;
- (b) the function conferred or imposed by section 26, or by or under any other law, of entering into agreements relating to any industrial matters; and
- 25 (c) the determination of the principles referred to in sections 38 (2) and 40 (2).

(2) The Commission may, by instrument in writing, delegate to—

- (a) a member;
- 30 (b) the Director-General of Education or a person employed in the Department of Education nominated by that Director-General;

Education Commission.

(c) the Director-General of Technical and Further Education or a person employed in the Department of Technical and Further Education nominated by that Director-General; or

5 (d) an officer of the Public Service employed in the service of the Commission as referred to in section 21,

the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

10 (3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

(a) the delegate; or

15 (b) the person for the time being acting in the place of the delegate.

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

(5) Notwithstanding any delegation under this section, the Commission may continue to exercise all or any of the functions delegated.

(6) Any act or thing done or suffered by a delegate while
25 acting in the exercise of a delegation under this section and within the terms of the delegation shall have the same force and effect as if the act or thing had been done or suffered by the Commission.

(7) A delegation under this section may be made to 2 or more persons jointly, or to one person only.

Education Commission.

Subdivision 5.—Regulation of exercise of functions.

35. In the exercise of its functions, the Commission—

Non-
government
education.

- 5 (a) shall have due regard for the independence, freedom
and development of the non-government sector of the
education system;
- (b) shall not purport to exercise any function conferred or
imposed on the Minister relating to the registration or
certification of non-government schools;
- 10 (c) shall not seek to impede the access of non-government
educational authorities to the Minister or the Govern-
ment;
- (d) shall not intervene in discussions relating to govern-
mental assistance to non-government education; and
- 15 (e) shall not purport to control or regulate the education,
appointment or promotion of teachers or other staff in
non-government schools or the conditions of employ-
ment of those teachers or that other staff.

36. (1) In this section, “statutory educational body” means
the Bursary Endowment Board, the Secondary Schools Board, the
20 Board of Senior School Studies, the Nurses Education Board, the
Council of Technical and Further Education, the Teacher Housing
Authority of New South Wales and the New South Wales Higher
Education Board.

Functions of
statutory
educational
bodies.

25 (2) Except to the extent that a statutory educational body
is, by or under any Act, required, in the exercise of its functions, to
consult with the Commission, nothing in this Act derogates from
or otherwise affects any function of a statutory educational body.

Education Commission.

PART III.

THE DIRECTORS-GENERAL.

DIVISION 1.—*The Director-General of Education.*

5 37. (1) The Director-General of Education is responsible to General the Minister for the general conduct and the efficient, effective and respon- and economical management of the functions and activities of the sibility. Education Teaching Service.

10 (2) For the purpose of exercising his responsibility under subsection (1), the Director-General of Education may take such action as he deems appropriate and as is not inconsistent with any function of the Commission or any function, specified in this Act, of the Public Service Board.

(3) Nothing in this section limits or affects the operation of section 47 of the Public Service Act, 1979.

15 38. (1) The Director-General of Education shall, subject to Functions. the provisions of this Act and the regulations—

(a) classify the schools in which members of the Education Teaching Service are employed;

20 (b) determine the teaching staff establishments for those schools;

(c) determine the staff establishments for the positions of staff inspectors and inspectors of schools;

25 (d) determine the staff establishments for positions (other than positions within the staff establishments referred to in paragraphs (b) and (c)) which the Director-General and the Public Service Board agree are positions—

(i) which are concerned with advising, controlling or supervising teachers in schools; and

30 (ii) to which members of the Education Teaching Service may be appointed;

(e) determine the method of classifying and grading officers employed in the Education Teaching Service;

Education Commission.

- (f) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists of officers eligible for appointment or promotion to those positions;
- 5 (g) determine the qualifications required for appointment to the Education Teaching Service or for an officer to be included on any promotions list prepared and maintained as referred to in paragraph (f);
- 10 (h) determine promotions and transfers of officers and transfers of temporary employees; and
- (i) maintain discipline in the Education Teaching Service.

(2) Before exercising any of his functions under subsection (1) (a), (b), (c), (d) or (e), the Director-General of Education shall, unless otherwise directed by the Commission, 15 consult with the Commission and have regard to any principles recommended by the Commission to be applied in the exercise of those functions.

(3) The Director-General of Education may, subject to the provisions of this Act and the regulations, prepare and main- 20 tain, in respect of any class or classes of positions in the Education Teaching Service, other than the positions of teachers in public schools, lists of officers eligible for appointment or promotion to those positions.

25 DIVISION 2.—*The Director-General of Technical and Further Education.*

39. (1) The Director-General of Technical and Further Education is responsible to the Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Technical and Further Education 30 Teaching Service. ^{General responsibility.}

Education Commission.

(2) For the purpose of exercising his responsibility under subsection (1), the Director-General of Technical and Further Education may take such action as he deems appropriate and as is not inconsistent with any function of the Commission or any function, specified in this Act, of the Public Service Board.

(3) Nothing in this section limits or affects the operation of section 47 of the Public Service Act, 1979.

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

- (a) classify the schools and colleges in which members of the Technical and Further Education Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools and colleges;
- (c) determine the staff establishments for positions (other than positions within the teaching staff establishments referred to in paragraph (b)) which the Director-General and the Public Service Board agree are positions—
 - (i) which are concerned with advising, controlling or supervising teachers in schools and colleges; and
 - (ii) to which members of the Technical and Further Education Teaching Service may be appointed;
- (d) determine the method of classifying and grading officers employed in the Technical and Further Education Teaching Service;
- (e) prepare and maintain a list of officers eligible for appointment or promotion to positions in the Technical and Further Education Teaching Service;
- (f) determine the qualifications required for appointment to the Technical and Further Education Teaching Service or for an officer to be included on the promotions list prepared and maintained as referred to in paragraph (e);

Education Commission.

- (g) determine promotions and transfers of officers and transfers of temporary employees; and
 - (h) maintain discipline in the Technical and Further Education Teaching Service.
- 5 (2) Before exercising any of his functions under subsection (1) (a), (b), (c) or (d), the Director-General of Technical and Further Education shall, unless otherwise directed by the Commission, consult with the Commission and have regard to any principles recommended by the Commission to be applied
- 10 in the exercise of those functions.

DIVISION 3.—*Delegation of functions.*

41. (1) This section applies to the functions conferred or imposed on a Director-General by or under this Act other than the functions conferred or imposed on him by or under Part II, by this section, by Division 6 of Part IV (not including section 89 (1)) or by or under section 100 or 101.

Delegation
of
functions.

(2) A Director-General may, by instrument in writing, delegate to any officer of a Teaching Service under his responsibility or an officer of the Public Service the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation—

- (a) by the delegate; or
- (b) if the instrument of delegation so provides and subject to the terms of the delegation—by another person, being an officer of a Teaching Service or an officer of the Public Service authorised by instrument in writing by the delegate in that behalf either generally or in a particular case or class of cases.

Education Commission.

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

(5) Without limiting the generality of subsection (4), where, under this section, a Director-General delegates to any person any of his functions relating to the promotion of any officer of a Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise the function so as to
10 promote any such officer to a position if that officer is not, according to the rules governing the seniority of officers of the Teaching Service, the most senior officer eligible for promotion to that position.

(6) Notwithstanding any delegation under this section by
15 a Director-General, the Director-General may continue to exercise all or any of the functions delegated.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section or by
20 another person duly authorised in that behalf by the delegate shall have the same force and effect as if the act or thing had been done or suffered by the Director-General who made the delegation.

(8) A Director-General may, by an instrument in writing, revoke wholly or in part any authorisation of a person under this
25 section pursuant to a delegation made by him.

(9) An authorisation under this section shall be deemed to be revoked if the relevant delegation is revoked.

(10) Section 40 of the Interpretation Act, 1897, applies to an authorisation under this section in the same way as it applies to a delegation.

Education Commission.

PART IV.

THE TEACHING SERVICES.

DIVISION 1.—*General.*

42. Except as provided by section 24, a member of a Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown.

Crown employees.

43. The provisions of the Public Service Act, 1979, do not apply to the appointment of a person to a Teaching Service and a member of a Teaching Service is not subject to those provisions.

Application of Public Service Act, 1979.

10 DIVISION 2.—*Members of the Education Teaching Service.*

44. The Education Teaching Service shall consist of all persons employed under this Division.

The Education Teaching Service.

45. (1) All persons who, immediately before the appointed day, were employed under the Teaching Service Act, 1970, shall, on that day—

Transfer of persons from Teaching Service to Education Teaching Service.

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

(b) become members of the Education Teaching Service employed under this Division.

20 (2) All persons who are, at any time before the appointed day, engaged under the Teaching Service Act, 1970, to be employed on or after that day in the Teaching Service within the meaning of that Act but are not so employed immediately before that day, shall, on that day—

(a) cease to be so engaged;

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

Education Commission.

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

(3) A person who becomes a member of the Education Teaching Service under subsection (1) or (2) shall, if before he became such a member, he was employed, or engaged to be employed—

(a) as an officer under the Teaching Service Act, 1970, be deemed to be an officer of the Education Teaching Service under this Act; or

10 (b) as an employee under that Act, be deemed to be a temporary employee of the Education Teaching Service under this Act.

46. (1) The Governor may, from time to time, determine the staff establishment for permanent positions, above the level of staff inspector, within the Education Teaching Service and, while such a determination remains in force, those positions shall not be positions to which the Public Service Act, 1979, applies. Staff establishment for and appointment to certain positions.

(2) The Director-General of Education may, with the approval of the Commission, appoint to positions within the staff establishment determined under subsection (1) persons who, in his opinion, have the appropriate qualifications to be employed in those positions.

(3) Where the Governor makes a determination under subsection (1) in respect of a permanent position for which there is a corresponding position within the Public Service and which is held by a person who held the corresponding position immediately before the appointed day, the person shall be deemed to have been appointed, under subsection (2), to the permanent position on the day on which the determination took effect.

Education Commission.

47. (1) The Director-General of Education may appoint to permanent positions in the Education Teaching Service, other than positions within the staff establishment determined under section 46 (1)—

Appoint-
ment of
permanent
staff.

- 5 (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools; and
- (b) other persons who, in his opinion, have the appropriate qualifications to be employed in the positions of—
- 10 (i) staff inspectors and inspectors of schools; and
- (ii) such other positions as are determined as referred to in section 38 (1) (d),

but nothing in this subsection prevents the appointment under the Public Service Act, 1979, 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).

(2) Notwithstanding the provisions of section 59, the Director-General of Education, with the concurrence of the Director-General of Technical and Further Education and with the written consent of the person concerned, may appoint an officer or temporary employee of the Technical and Further Education Teaching Service to a permanent position in the Education Teaching Service and that person shall thereupon cease to be employed in the Technical and Further Education Teaching Service and shall be employed in the Education Teaching Service.

(3) Notwithstanding the provisions of section 59, the Director-General of Education, with the concurrence of—

- 30 (a) except as provided by paragraph (b), the appropriate Department Head; or
- (b) in the case of—
- (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Education;
- 35 (ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

Education Commission.

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint
5 an officer or temporary employee under the Public Service Act, 1979, to a permanent position in the Education Teaching Service and that person shall thereupon cease to be employed under that Act and shall be employed in that service.

(4) A person appointed under subsection (2) or (3) shall
10 be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Education and such other conditions as may be determined by the Director-General.

15 (5) Notwithstanding the provisions of section 59, and except as provided by subsections (2) and (3), the Director-General of Education may appoint to a permanent position in the Education Teaching Service a person who is not an officer of that service if—

20 (a) the Director-General—

(i) certifies in writing that an appointment to the position is necessary and that there is no officer employed in that service who is available to fill the position and is as qualified and capable of filling the position as the person proposed to be
25 appointed; and

(ii) is satisfied that the person proposed to be appointed is a fit and proper person to be employed in the position; and

30 (b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that the person is suitable to fill the position having regard to his health and physical fitness.

Education Commission.

48. (1) Unless the Director-General of Education, in a particular case or class of cases, otherwise determines, a person who is not an officer of the Education Teaching Service when he is appointed by the Director-General to a permanent position in that service shall be appointed on probation, which shall be for a period of 12 months or such longer period as the Director-General may in any particular case or class of cases determine. Appoint-
ments on
probation.
- (2) The Director-General of Education may—
- 10 (a) after the expiration of the period of probation for which a person is so appointed, confirm or annul his appointment; or
- (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.
- 15 (3) Where the appointment of a person is so annulled, the person shall thereupon cease to be employed under this Division as an officer of the Education Teaching Service and shall, unless the Director-General of Education makes a determination under subsection (4), be deemed to be a temporary employee of the
- 20 Education Teaching Service under this Act.
- (4) Where the appointment of a person is so annulled, the Director-General of Education may determine that the person shall cease to be employed in the Education Teaching Service upon a day specified in the determination and the person shall cease to
- 25 be so employed on that day.
- (5) A person who, by reason of the annulment of his appointment, ceases to be a member of the Education Teaching Service under this section is not entitled to appeal to the Crown Employees Appeal Board against the annulment or against any
- 30 determination of the Director-General made under subsection (4).
- (6) Nothing in section 85 prevents the Director-General of Education from exercising, at any time, his power to annul an appointment under subsection (2).

Education Commission.

49. (1) The Director-General of Education may appoint an officer who has been retired from a Teaching Service or whose services have been dispensed with under section 72 to a vacant position in the Education Teaching Service. Appointment of retired officers.

5 (2) An appointment under this section may be made without examination or probation.

(3) This section applies to an officer only if he has not attained the age of 60 years before his appointment is made.

10 50. (1) Where the Director-General of Education is of the opinion that it is necessary to do so, he may appoint temporarily, on a full-time, casual or part-time basis, to any position to which he is entitled to make an appointment under section 47 a person who, in the opinion of the Director-General, has the appropriate qualifications. Appointment of temporary staff.

15 (2) The Director-General of Education, with the concurrence of the Director-General of Technical and Further Education and with the written consent of the person concerned, may appoint temporarily to any position to which the Director-General of Education is entitled to make an appointment under section 47 an officer or temporary employee of the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed in the Technical and Further Education Teaching Service and shall be employed in the Education Teaching Service.

25 (3) The Director-General of Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

30 (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

Education Commission.

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint temporarily to any position to which the Director-General is entitled to make an appointment under section 47 an officer or temporary employee under the Public Service Act, 1979, and that person shall thereupon cease to be employed under that Act and shall be employed in the Education Teaching Service.

(4) Subject to subsection (5), a person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Education and such other conditions as may be determined by the Director-General.

(5) A person appointed under subsection (2) or (3)—

(a) shall not be employed for a period exceeding 12 months from the date of his appointment but his employment may be extended from time to time for a further period not exceeding 12 months on each occasion if the Director-General of Education certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

(6) Nothing in section 85 prevents the Director-General of Education from exercising, at any time, his power to dismiss a temporary employee under subsection (5).

51. (1) Subject to subsection (2), an officer of the Education Teaching Service may be temporarily appointed by the Director-General of Education to a position within that service which is vacant or the holder of which is suspended, sick or absent. Temporary appointments of officers.

(2) An appointment under subsection (1) shall not be made except in accordance with such conditions of employment as are determined by the Director-General of Education with the concurrence of the Commission.

Education Commission.

(3) The Director-General of Education shall not make a temporary appointment under subsection (1) of an officer of the Education Teaching Service to carry out the duties of a permanent position for a period in excess of 6 months unless he is satisfied that an appointment in excess of that period should be made having regard to the exigencies of that service.

DIVISION 3.—Members of the Technical and Further Education Teaching Service.

52. The Technical and Further Education Teaching Service shall consist of all persons employed under this Division.

The Technical and Further Education Teaching Service.

53. (1) This section applies to—

Transfer of persons from Public Service to Technical and Further Education Teaching Service.

(a) a position in the Education Division of the Public Service of or below the level of Principal, Grade I (but not including the position of Regional Director); or

(b) such positions as the Director-General of Technical and Further Education and the Public Service Board agree—

(i) are concerned with advising, controlling or supervising persons (other than those occupying the position of Regional Director) referred to in paragraph (a); and

(ii) should be occupied by members of the Technical and Further Education Teaching Service.

(2) All persons who, immediately before the appointed 25 day, were employed under the Public Service Act, 1979, in the

Education Commission.

Department of Technical and Further Education in a position to which this section applies shall, on that day—

- (a) cease to be employed under that Act; and
 - (b) become members of the Technical and Further Education Teaching Service employed under this Division.
- 5
- (3) All persons who are, at any time before the appointed day, engaged under the Public Service Act, 1979, to be employed on or after that day in the Department of Technical and Further Education in a position to which this section applies 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 Division to be so employed; and
 - (c) while so employed, be members of the Technical and Further Education Teaching Service employed under this Division.
- 10
- (4) A person who becomes a member of the Technical and Further Education Teaching Service under subsection (2) or (3) 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, 1979, be deemed to be an officer of the Technical and Further Education Teaching Service under this Act; or
 - (b) as a temporary employee under that Act, be deemed to be a temporary employee of the Technical and Further Education Teaching Service under this Act.
- 15
- 20
- 25

54. (1) The Governor may, from time to time, determine the staff establishment for permanent positions, above the level of Principal, Grade I and including the position of Regional Director, within the Technical and Further Education Teaching Service and, while such a determination remains in force, those positions shall not be positions to which the Public Service Act, 1979, applies.

Staff establishment for and appointment to certain positions.

Education Commission.

(2) The Director-General of Technical and Further Education may, with the approval of the Commission, appoint to positions within the staff establishment determined under subsection (1) persons who, in his opinion, have the appropriate qualifications to be employed in those positions.

(3) Where the Governor makes a determination under subsection (1) in respect of a permanent position for which there is a corresponding position within the Public Service and which is held by a person who held the corresponding position immediately before the appointed day, the person shall be deemed to have been appointed, under subsection (2), to the permanent position on the day on which the determination took effect.

55. (1) The Director-General of Technical and Further Education may appoint to permanent positions in the Technical and Further Education Teaching Service, other than positions within the staff establishment determined under section 54 (1)—

Appoint-
ment of
permanent
staff.

- (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in schools or colleges; and
- (b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of such positions as are determined as referred to in section 40 (1) (c),

but nothing in this subsection prevents the appointment under the Public Service Act, 1979, 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).

(2) Notwithstanding the provisions of section 59, the Director-General of Technical and Further Education, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may appoint an officer or temporary employee of the Education Teaching Service to a permanent position in the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed in the Education Teaching Service and shall be employed in the Technical and Further Education Teaching Service.

Education Commission.

(3) Notwithstanding the provisions of section 59, the Director-General of Technical and Further Education, with the concurrence of—

5 (a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

(i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Technical and Further Education;

10 (ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

15 and with the written consent of the person concerned, may appoint an officer or temporary employee under the Public Service Act, 1979, to a permanent position in the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed under that Act and shall be employed in that
20 service.

(4) A person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-
25 General of Technical and Further Education and such other conditions as may be determined by the Director-General.

Education Commission.

(5) Notwithstanding the provisions of section 59, the Director-General of Technical and Further Education may appoint to a permanent position in the Technical and Further Education Teaching Service a person who is not an officer of that service
5 if—

- (a) the Director-General—
 - 10 (i) certifies in writing that an appointment to the position is necessary and that there is no officer employed in that service who is available to fill the position and is as qualified and capable of filling the position 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 the position; and
- 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 the person is suitable to fill the position having regard to his health and physical fitness.

56. (1) Unless the Director-General of Technical and Further Education, in a particular case or class of cases, otherwise determines, a person who is not an officer of the Technical and Further Education Teaching Service when he is appointed by the Director-
25 General to a permanent position in that service shall be appointed on probation, which shall be for a period of 12 months or such longer period as the Director-General may in any particular case or class of cases determine. Appoint-
ments on
probation.

30 (2) The Director-General of Technical and Further Education may—

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

Education Commission.

(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.

(3) Where the appointment of a person is so annulled, 5 the person shall thereupon cease to be employed under this Division as an officer of the Technical and Further Education Teaching Service and shall, unless the Director-General of Technical and Further Education makes a determination under subsection (4), be deemed to be a temporary employee of the 10 Technical and Further Education Teaching Service under this Act.

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

(5) A person who, by reason of the annulment of his appointment, ceases to be a member of the Technical and Further Education Teaching Service under this section is not entitled to 20 appeal to the Crown Employees Appeal Board against the annulment or against any determination of the Director-General made under subsection (4).

(6) Nothing in section 85 prevents the Director-General of Technical and Further Education from exercising, at any time, 25 his power to annul an appointment under subsection (2).

57. (1) The Director-General of Technical and Further Education may appoint an officer who has been retired from a Teaching Service or whose services have been dispensed with under section 72 to a vacant position in the Technical and Further 30 Education Teaching Service. Appointment of retired officers.

(2) An appointment under this section may be made without examination or probation.

Education Commission.

(3) This section applies to an officer only if he has not attained the age of 60 years before his appointment is made.

58. (1) Where the Director-General of Technical and Further Education is of the opinion that it is necessary to do so, he may ^{Appoint-ment of temporary staff.} 5 appoint temporarily, on a full-time, casual or part-time basis, to any position to which he is entitled to make an appointment under section 55 a person who, in the opinion of the Director-General, has the appropriate qualifications.

(2) The Director-General of Technical and Further 10 Education, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may appoint temporarily, on a full-time basis, to any position to which the Director-General of Technical and Further Education is entitled to make an appointment under section 55 an officer or temporary 15 employee of the Education Teaching Service and that person shall thereupon cease to be employed in the Education Teaching Service and shall be employed in the Technical and Further Education Teaching Service.

(3) The Director-General of Technical and Further 20 Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

25 (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Technical and Further Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

30 (iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

Education Commission.

and with the written consent of the person concerned, may appoint temporarily, on a full-time basis, to any position to which the Director-General is entitled to make an appointment under section 55 an officer or temporary employee under the Public Service Act, 1979, and that person shall thereupon cease to be employed under that Act and shall be employed in the Technical and Further Education Teaching Service.

(4) Subject to subsection (5), a person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Technical and Further Education and such other conditions as may be determined by the Director-General.

(5) A person appointed under subsection (2) or (3)—

(a) shall not be employed for a period exceeding 12 months from the date of his appointment but his employment may be extended from time to time for a further period not exceeding 12 months on each occasion if the Director-General of Technical and Further Education certifies that the extension is necessary in the public interest; and

(b) may be dismissed at any time.

(6) Nothing in section 85 prevents the Director-General of Technical and Further Education from exercising, at any time, his power to dismiss a temporary employee under subsection (5).

DIVISION 4.—Service in the Teaching Services.

Subdivision 1.—Filling vacancies in the Education Teaching Service.

59. (1) In this section, "fitness" means qualifications and aptitude for the discharge of the duties of the position to be filled. **Filling vacancies in the Education Teaching Service.**

Education Commission.

(2) Where there is a vacancy in any position in a division of the Education Teaching Service, the Director-General of Education may, if he is of opinion that the vacancy should be filled, appoint to the vacant position—

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

(3) In making an appointment under subsection (2) (a), seniority shall be subordinate to considerations of special fitness.

15 **60.** (1) Any officer of the Education Teaching Service dissatisfied with any decision or determination of the Director-General of Education, whether particular or general, or a failure to make such a decision or determination, in regard to—

Appeals in respect of seniority, etc.

- (a) seniority;
- 20 (b) the placing of 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
- (c) the classification of the work performed by or assigned to him,

25 may appeal to the Director-General against the decision, determination or failure by forwarding to the Director-General, within a period determined as prescribed, a notice of appeal setting forth the grounds of the appeal.

Education Commission.

(2) Where an appeal under subsection (1) is made—

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

(b) by any other member of the Education 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 61.

(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, after having regard to any report made by the committee with respect to the appeal, shall allow or disallow the appeal and make such determination with respect to the appeal as he thinks fit.

(4) The decision of the Director-General under subsection (3) 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.

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

(a) an officer of the Education Teaching Service, or an officer of the Public Service, nominated by the Director-General of Education;

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

(i) under section 60 (2), an officer whose name is on a promotions list for the division in which the appellant is employed, and who is selected by or on behalf of the officers of that division in the manner prescribed; and

Education Commission.

5 (ii) under section 60 (5), 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 is selected by or on behalf of the officers of that division in the manner prescribed; and

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

(2) The promotions committee to which an appeal is referred under section 60 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.

15 (3) The promotions committee to which a proposed appointment or promotion is referred under section 60 (5) shall inquire into the proposed appointment or promotion and report to the Director-General whether or not the committee recommends that the proposed appointment or promotion be made.

20 62. (1) A decision or determination, under this Subdivision, of the Director-General of Education is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

Appeals
under the
Crown
Employees
Appeal
Board Act,
1944.

25 (2) Nothing in subsection (1) prevents an officer from making an appeal under the Crown Employees Appeal Board Act, 1944, against a decision or determination, as referred to in section 60, of the Director-General of Education to appoint an officer to a vacant position in a division of the Education Teaching Service where the name of the firstmentioned officer—

(a) is on the promotions list for that division; and

(b) is higher in order on that promotions list than the name of the secondmentioned officer.

Education Commission.

Subdivision 2.—Filling vacancies in the Technical and Further Education Teaching Service.

63. (1) This section has effect for the purpose of determining Seniority. seniority within the Technical and Further Education Teaching Service.

(2) Except as provided in subsections (3) and (4), an officer of the Technical and Further Education Teaching Service is senior to every other officer of that service on a lower salary than the firstmentioned officer.

10 (3) The relative seniority of officers of the Technical and Further Education Teaching Service who are within a group of officers prescribed for the purposes of this subsection shall be determined in accordance with the regulations made under section 101.

15 (4) An officer of the Technical and Further Education Teaching Service—

(a) who is within a group referred to in subsection (3) is senior to any other officer who is within any other such group or who is not within any such group if that other officer is on a lower salary than the firstmentioned officer; and

20

(b) who is not within any group referred to in subsection (3) is senior to any officer within any such group who is on a lower salary than the firstmentioned officer.

25 (5) Where, pursuant to this section, the relevant seniority of officers is to be determined according to their salaries and 2 or more officers are on equal salaries, the relative seniority of those officers shall be determined in accordance with the regulations made under section 101.

Education Commission.

64. Where there is a vacancy in any position in the Technical and Further Education Teaching Service and the Director-General of Technical and Further Education decides it is expedient to fill the vacancy, the position may be filled—

Filling of vacancies in the Technical and Further Education Teaching Service.

- 5 (a) by the appointment, by way of transfer or promotion, of an officer of that service; or
- (b) by the appointment of a person who, immediately before his appointment, was not an officer of that service,

subject to and in accordance with this Subdivision.

65. (1) In this section, "efficiency", in relation to an officer of the Technical and Further Education Teaching Service eligible for appointment to a vacant position within that service, means—

Appointments from within the Technical and Further Education Teaching Service.

- 10 (a) the possession by that officer of qualifications, determined by the Director-General of Technical and Further Education in respect of that position, for the discharge of the duties of that position and his aptitude for the discharge of those duties; and
- 15 (b) the merit, diligence and good conduct of that officer.

(2) In deciding to make an appointment of an officer to a vacant position, the Director-General of Technical and Further Education shall, out of the group of officers eligible for appointment to the vacant position, prefer—

- 20 (a) the officer whose efficiency is, in the opinion of the Director-General, greater than that of any other officer in that group; or
- 25 (b) where, in the opinion of the Director-General, there is no officer in that group entitled to preference under paragraph (a), the officer who, under section 63, is senior to any other officer in that group.

Education Commission.

(3) An appointment referred to in subsection (2) shall not take effect until the expiration of the time for lodging a notice of appeal under the Crown Employees Appeal Board Act, 1944, against the Director-General's decision to make the appointment or, where such a notice of appeal is lodged within that time, until the appeal is determined under that Act.

66. (1) The Director-General of Technical and Further Education shall cause to be published in the Technical and Further Education Gazette, at intervals of not more than one month, brief particulars, in a form determined by the Director-General, of decisions made by him under section 65, particulars of which have not previously been published in that Gazette in accordance with this subsection.

Publication
of appoint-
ments.

(2) Any officer of the Technical and Further Education Teaching Service who is proceeding on duty outside the State for a period exceeding 6 weeks or on leave for a period exceeding 6 weeks, and who has made application, in a form approved by the Director-General of Technical and Further Education, to the Director-General, is entitled to have sent to him during that period by the Director-General, by pre-paid post addressed to him at the address specified in the application, a copy of all Technical and Further Education Gazettes published during that period.

67. (1) Notwithstanding section 65 (3) but subject to subsection (2), an officer of the Technical and Further Education Teaching Service may be temporarily appointed by the Director-General of Technical and Further Education to a position within that service which is vacant or the holder of which is suspended, sick or absent.

Temporary
appoint-
ments of
officers.

(2) An appointment under subsection (1) shall not be made except in accordance with such conditions of employment as are determined by the Director-General of Technical and Further Education with the concurrence of the Commission.

Education Commission.

(3) The Director-General of Technical and Further Education shall not make a temporary appointment under subsection (1) of an officer of the Technical and Further Education Teaching Service to carry out the duties of a permanent position for a period in excess of 6 months unless he is satisfied that an appointment in excess of that period should be made having regard to the exigencies of that service.

68. (1) Any officer of the Technical and Further Education Teaching Service dissatisfied with any decision or determination (whether particular or general) of the Director-General of Technical and Further Education, being a decision or determination—

Appeals in
respect of
salary, etc.

(a) in regard to salary, seniority (not being a refusal referred to in section 69 (1)) or grade affecting him, or to the classification of the work performed by or assigned to him; or

(b) against which he would, but for the proviso to section 10 (1) of the Crown Employees Appeal Board Act, 1944, relating to the maximum salary applicable to the vacant position at the date of the decision or determination appealed against, have been entitled to appeal under that Act,

may forward to the Director-General, within 30 days—

(c) after the date of publication of the issue of the Technical and Further Education Gazette in which the decision or determination was notified; or

(d) if the decision or determination was not notified in that Gazette—after being officially notified in writing of the decision or determination,

a notice of appeal setting forth the grounds of his dissatisfaction.

(2) The Director-General of Technical and Further Education, after considering the appeal and such other information as he thinks proper, shall allow or disallow the appeal or make such other determination with respect to the appeal as he thinks fit.

Education Commission.

(3) The decision of the Director-General under subsection (2) shall be final.

(4) An officer who is entitled to appeal to the Crown Employees Appeal Board against any decision or determination of the nature referred to in subsection (1) is not entitled to appeal to the Director-General in respect of that decision or determination.

69. (1) Any officer of the Technical and Further Education Teaching Service, being a teacher employed in a school or college, who is dissatisfied with the failure or refusal of the Director-General of Technical and Further Education to place his name, within a period determined as prescribed, on the promotions list may forward to the Director-General, within 30 days after the expiration of that period, a notice of appeal setting forth the grounds of his dissatisfaction. Appeals in respect of the promotions list.

15 (2) The Director-General of Technical and Further Education shall refer the appeal for inquiry and determination to a promotions committee constituted under section 70.

70. (1) A promotions committee shall consist of— Promotions committees.

20 (a) an officer of the Technical and Further Education Teaching Service, or an officer of the Public Service, nominated by the Director-General of Technical and Further Education;

25 (b) an officer of the Technical and Further Education Teaching Service whose name is on the promotions list and who is nominated by the Council of the New South Wales Teachers Federation; and

30 (c) a person nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) or, in default of their agreement, by the Director-General of Technical and Further Education.

Education Commission.

(2) The promotions committee to which an appeal is referred under section 69—

- 5 (a) is entitled to inspect any documents or other records within the Department of Technical and Further Education relating to the appellant;
- (b) may, if it thinks fit, interview the appellant; and
- 10 (c) shall, within one month after the date on which the appeal is referred to it, consider and allow or disallow the appeal or make such other determination with respect to the appeal as it thinks fit.

(3) Questions arising at a meeting of a promotions committee shall be determined by a majority of votes of the members of the committee present and voting.

15 (4) A promotions committee shall give reasons for its decisions and shall indicate whether a decision was unanimous or by majority.

20 (5) Where a member of a promotions committee who is in a minority with respect to a decision of the committee wishes his minority decision to be recorded, the record of the decision of the committee shall include the minority decision.

(6) The decision of a promotions committee under subsection (2) (c) shall be final and shall, as soon as practicable after it is made, be notified to the Director-General of Technical and Further Education.

25 (7) The Director-General shall do all such things as are necessary to give effect to a decision notified to him under subsection (6) and shall, within 14 days after the decision is notified to him, inform the appellant of the decision.

*Education Commission.**Subdivision 3.—Other provisions relating to service in the Teaching Services.*

71. Where the appropriate Director-General considers it to be in the interests of a Teaching Service to do so, he may direct the transfer of an officer from one position in the Teaching Service to another position in the Teaching Service equivalent in classification and salary to the firstmentioned position provided the officer possesses the qualifications determined by the appropriate Director-General in respect of that other position for the discharge of the duties of that other position and the Director-General is satisfied as to the aptitude of the officer for the discharge of those duties.

Transfers
within a
Teaching
Service.

72. Where the appropriate Director-General is satisfied—

Excess
persons.

(a) that a number of persons is employed in a Teaching Service, or any part of a Teaching Service, in excess of a number that appears to be necessary for the efficient, effective and economical management of the Teaching Service or part; and

(b) that any such person cannot be usefully employed in the Teaching Service,

the Director-General may dispense with the services of that person.

73. (1) Where the appropriate Director-General is satisfied that an officer of a Teaching Service is in receipt of a greater salary than the maximum fairly appropriate to the work performed by the officer—

Excessive
salaries.

(a) subject to paragraph (b), the Director-General shall take such steps as are practicable to assign the officer work of a class appropriate to his salary; and

(b) if the officer cannot be assigned sufficient work of the kind referred to in paragraph (a) or is unfitted for or incapable of performing work appropriate to his salary, the Director-General—

(i) shall reduce his salary to the maximum determined by the Commission to be appropriate to the work performed by him; and

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(ii) may take such steps as are practicable to secure his transfer, to a vacant position in the Teaching Service of which he is a member, at that salary.

(2) If a reduction of salary of an officer under this section is certified by the appropriate Director-General to have been made on the ground only that appropriate work or an appropriate position is not available, the officer—

- (a) remains eligible for promotion as if his salary had not been reduced; and
- 10 (b) is entitled to employment on the class of work to which his previous salary was appropriate, or transfer to a position to which that class of work is attached, as soon as the appropriate work or an appropriate position becomes available, in preference to any other officer
- 15 whose salary has not been reduced.

74. The appropriate Director-General may allow any officer of a Teaching Service who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that the officer would, had he not declined the promotion or appointment, have had to any future promotion or appointment.

Declining of promotion or appointment.

75. Where an officer of a Teaching Service refuses to comply with a direction of the appropriate 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 had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

Refusal to comply with directions.

76. (1) Where the appropriate Director-General determines—

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

Retirement or transfer of officers through invalidity or incapacity.

Education Commission.

- (c) that the invalidity or incapacity has not arisen from actual misconduct on his part or from causes within his control,

the Director-General—

- 5 (d) may cause the officer to be retired from the Teaching Service; or
- (e) with the consent of the officer, transfer him—
- (i) to some other position in the Teaching Service;
- 10 (ii) if the appropriate Department Head so approves, to some position in the Public Service; or
- (iii) if the other Director-General so approves, to some position in the other Teaching Service,
- with salary and other conditions of his employment appropriate to that position.
- 15 (2) A decision or determination of the appropriate Director-General under subsection (1) is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

77. (1) An officer of a Teaching Service—

- 20 (a) may retire from the Teaching Service upon his attaining the age of 60 years; or
- (b) may continue in the Teaching Service after he has attained that age, but—
- (i) may retire from the Teaching Service; or
- 25 (ii) the appropriate 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 65 years.

Retirement
of officers
through age.

- (2) An officer of a Teaching Service who attains the age of 65 years shall, subject to subsection (3), thereupon retire or be
30 retired from the Teaching Service.

Education Commission.

(3) Where—

- 5 (a) the appropriate Director-General is of the opinion that it is in the public interest that an officer of a Teaching Service who is of or above the age of 65 years should continue to perform the duties of his position; 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 12 months and thereafter, so long as the officer agrees to continue to perform those duties, from time
10 to time for such periods, not exceeding 12 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.

15 **78.** An officer of a Teaching Service shall be deemed to have vacated his position if— Vacation of position.

- (a) he dies; or
- (b) he resigns his position by writing signed by him and delivered to the appropriate Director-General and his resignation is accepted by that Director-General.

20 **DIVISION 5.—Extended leave.**

79. (1) Subject to this section, an officer of a Teaching Service is entitled— Leave of absence after years of service.

- 25 (a) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay; and
- (b) after service in excess of 10 years, to—
- (i) leave pursuant to paragraph (a); and
- (ii) in addition, an amount of leave proportionate to his length of service after 10 years, calculated on the basis of 5 months on full pay, or 10 months on half pay, for 10 years served after service for
30 10 years.

Education Commission.

(2) For the purpose of calculating the entitlement of a person to extended leave under this section at any time—

- (a) service referred to in this section includes service before the appointed day;
- 5 (b) there shall be deducted from the amount of extended leave to which, but for this paragraph, that person would be entitled—
 - (i) any extended leave, or leave in the nature of extended leave; and
 - 10 (ii) the equivalent, in extended leave, of any benefit instead of extended leave or leave in the nature of extended leave,

15 taken or received by that person before that time, including any such leave taken, or benefit received, by that person pursuant to the Public Service (Amendment) Act, 1919, as in force at any time, the Teaching Service Act, 1970, as in force at any time, or the Public Service Act, 1979; and
- 20 (c) the provisions of the Transferred Officers Extended Leave Act, 1961, shall have effect,

but nothing in this subsection shall be construed as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both paragraph (b) and section 3 (7) of the Transferred Officers Extended Leave Act, 1961.

25 (3) Where the services of an officer of a Teaching Service with at least 5 years' service as an adult and less than 10 years' service are terminated by the Crown or the appropriate Director-General for any reason other than the officer's serious and wilful misconduct or by the officer on account of illness, incapacity or
30 domestic or other pressing necessity, he shall be entitled for 5 years' service to 1 month's leave on full pay and for service after 5 years to a proportionate amount of leave on full pay calculated on the basis of 3 months' leave for 15 years' service (that service to include service as an adult and otherwise than as an adult).

Education Commission.

(4) For the purposes of subsection (3), "service as an adult", in the case of an officer of a Teaching Service employed to do any work for which the remuneration has been fixed by an award made under the Commonwealth Conciliation and Arbitration Act 1904, as subsequently amended, or made under the Industrial Arbitration Act, 1940, or has been fixed by an industrial agreement made pursuant to or registered under either of those Acts or an agreement or determination made pursuant to this Act, means the period of service during which the remuneration applicable to the officer was at a rate not lower 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.

(5) For the purposes of—

15 (a) subsection (1), "service" includes—

(i) service under the Public Service Act, 1902, the Teaching Service Act, 1970, the Public Service Act, 1979, or this Act;

20 (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

25 (iii) in the case of an officer who has completed at least 10 years' service (any period of leave without pay taken before that commencement being included therein, and any period of leave without pay taken after that commencement being excluded therefrom)—any period of leave without pay, not exceeding 6 months, taken after
30 that commencement; and

(b) subsection (3), "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.

Education Commission.

80. (1) An officer of a Teaching Service who has acquired a right to extended leave with pay under section 79, shall, on the termination of his services, be paid forthwith instead of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

Gratuity instead of extended leave.

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

81. (1) Where an officer of a Teaching Service has acquired a right under section 79 to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination—

Payment of money value of leave not taken or completed.

- (a) the widow or widower of the officer;
 - (b) if there is no such widow or widower, the children of the officer; or
 - (c) if there is no such widow, widower or children, the person who, in the opinion of the appropriate Director-General, was, at the time of the death of the officer, a dependent relative of the officer,
- is entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that the officer received at the time of his or her death less any amount paid to the officer in respect of the leave not taken, or not completed.

(2) Where an officer of a Teaching Service with at least 5 years' service as an adult and less than 10 years' service as referred to in section 79 (3) dies—

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the appropriate Director-General, was, at the time of the death of the officer, a dependent relative of the officer,

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is entitled to receive the money value of the leave which would have accrued to the officer had his or her services terminated as referred to in section 79 (3), computed at the rate of salary that the officer received at the time of his or her death.

5 (3) Where there is a guardian of any children entitled under subsection (1) or (2), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

10 (4) Where there is no person entitled under subsection (1) or (2) 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 the officer.

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

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

20 DIVISION 6.—*Discipline and conduct.*

82. In this Division, “prescribed officer” means—

(a) a person who is the holder of, or is acting in, any position in a Teaching Service or in the Public Service that is prescribed as a position for the purposes of this Division; and

25 (b) an officer of a Teaching Service or the Public Service who is prescribed as an officer for the purposes of this Division.

Inter-
pretation:
Div. 6,
Pt. IV.

Education Commission.

83. An officer or temporary employee of a Teaching Service who— Breaches of discipline.

- (a) commits any breach of this Act or the regulations;
 - (b) engages in any misconduct;
 - 5 (c) uses intoxicating beverages or drugs to excess;
 - (d) wilfully disobeys, or wilfully disregards, any lawful order made or given by a person having authority to make or give the order;
 - 10 (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
 - (f) engages in any disgraceful or improper conduct,
- is guilty of a breach of discipline.

84. (1) A breach of discipline alleged to have been committed by an officer or temporary employee of a Teaching Service shall be Procedure for dealing with breaches of discipline.
15 dealt with by the appropriate Director-General or a prescribed officer.

(2) Subject to this Division, the regulations made under section 100 or 101 may—

- 20 (a) make provision for or with respect to the manner of dealing with alleged breaches of discipline; and
- (b) prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Division.

85. (1) Where a breach of discipline is dealt with by the Punishment for breaches of discipline.
25 appropriate 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 temporary employee charged has committed the breach or the officer or temporary

Education Commission.

employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

- 5 (a) may decide to impose on the officer or temporary employee any one or more of the following punishments, that is to say, he may decide to—
- (i) caution the officer or temporary employee;
 - (ii) reprimand him;
 - (iii) fine him;
 - 10 (iv) reduce his rate of salary or wages; or
 - (v) reduce him to a lower classification or position in the Teaching Service of which he is a member;
- (b) may decide to impose any one of the following punishments, that is to say—
- 15 (i) where the breach is dealt with by the Director-General, he may decide to dismiss him from the Teaching Service of which he is a member, direct that he resign from that service within such period as may be specified in the direction or direct that his resignation from that service, if tendered within a period specified in the direction, be accepted; or
 - 20 (ii) where the breach is dealt with by a prescribed officer, he may decide to recommend to the Director-General that the officer or temporary employee be dismissed from the Teaching Service of which he is a member or that he be required or allowed to resign; or
 - 25
- (c) in the case of an officer on probation—may decide to
- 30 annul his appointment.
- (2) Where a prescribed officer makes a recommendation referred to in subsection (1) (b) (ii), the Director-General to whom the recommendation is made may decide to—
- 35 (a) impose any one of the punishments referred to in subsection (1) (b) (i); or
 - (b) impose any one or more of the punishments that may be imposed under subsection (1) (a).

Education Commission.

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

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

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

(4) Subject to section 10 of the Crown Employees Appeal Board Act, 1944, a decision of a Director-General under subsection
15 tion (1), (2) or (3) or of a prescribed officer under subsection (1) (a) may be given effect to at any time.

(5) Without limiting the operation of section 10 of the Crown Employees Appeal Board Act, 1944, where a Director-General decides to direct an officer to resign from a Teaching
20 Service, as referred to in subsection (1) (b) (i) or (2), that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (e) of that Act.

(6) The accountant of the appropriate Department, upon receiving notice of any fine imposed by the appropriate Director-
25 General or a prescribed officer on an officer or temporary employee of a Teaching Service, shall deduct the amount of the fine from the salary, wages or other remuneration payable to that officer or temporary employee.

30 **86.** Where an officer or temporary employee of a Teaching Service is found guilty in New South Wales of an offence that is punishable, either on indictment or on summary conviction by imprisonment for a term of 12 months or more, or is found guilty elsewhere than in New South Wales of an offence that if it were
Punishment where officer or temporary employee guilty of a serious offence.

Education Commission.

committed in New South Wales would be an offence so punishable, the appropriate Director-General may impose on that officer or temporary employee any one or more of the punishments that may be imposed under section 85 (1) as if that officer or temporary
5 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.

87. (1) Where an officer or temporary employee of a Teaching Service—

- 10 (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 86,

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

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

(2) Subject to the Crown Employees Appeal Board Act, 1944, any salary, wages or other remuneration payable to a person as an officer or temporary employee of a Teaching Service during
20 his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in section 85 (1), 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,
- 25 as the case may be, shall, unless the appropriate Director-General otherwise directs, be forfeited unless the salary, wages or other remuneration were due to him before his suspension.

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

Education Commission.

(4) The regulations made under section 100 or 101 may—

- 5 (a) provide that a prescribed officer may only exercise his powers under this section in respect of officers or temporary employees of such class as may be specified or described in the regulations; and
- (b) require a suspension imposed by a prescribed officer under this section to be reported in such manner as may be prescribed.

10 **88.** Where an officer or temporary employee of a Teaching Service becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit, he shall forthwith give to the appropriate Director-
 15 General notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his application, compounding 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
 20 application, compounding or assignment as may be required by the Director-General.

Officers and temporary employees to report bankruptcy, etc.

25 **89.** (1) Except with the permission in writing of the appropriate Director-General, which may be withdrawn at any time, an officer or temporary employee of a Teaching Service (other than a temporary employee of the Education Teaching Service employed on a casual basis or a temporary employee of the Technical and Further Education Teaching Service employed on a part-time basis) shall not—

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

- 30 (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;
- 35 (b) engage in or undertake any such business, whether as principal or agent;

Education Commission.

(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;

5 (d) accept or continue to hold office in or under the Government of a State or of the Commonwealth, otherwise than under this Act;

(e) accept or engage in any remunerative employment other than in connection with the duties of his position under this Act; or

10

(f) accept, engage in or undertake any prescribed work or activity or any work or activity of a prescribed class or description.

(2) Nothing in this section prevents an officer or
15 temporary employee of a Teaching Service—

(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 temporary 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

20

(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.

25

(3) If any officer or temporary employee does any thing referred to in subsection (1) (a), (b), (c), (d), (e) or (f) without the permission of the appropriate Director-General, he shall at once notify the fact to the Director-General who may thereupon impose on the officer or temporary employee any of the punishments referred to in section 85 (1) or may direct the officer or temporary employee to abstain from doing that thing within

30

Education Commission.

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 temporary employee any of those punishments.

90. (1) If the address for the time being of an officer or temporary employee of a Teaching Service is unknown to the appropriate Director-General, all notices, orders or communications relating to any charges against him shall be posted to the address of the officer or temporary employee last known to that Director-General and compliance with this subsection shall be deemed a sufficient service on the officer or temporary employee of any such notices, orders or communications.

Officer or temporary employee whose address is unknown.

- (2) If within any time specified in any such notice, order or communication no answer is received by the appropriate Director-General to an inquiry asking whether the officer or temporary employee admits the truth of the charges brought against him, he shall be deemed to deny the truth of those charges, and the Director-General may inquire into and deal with those charges in the absence of the officer or temporary employee.

DIVISION 7.—*Miscellaneous.*

91. A member of a Teaching Service may sue for and recover the amount of his salary, wages or other remuneration the subject of a determination under section 25.

Recovery of salary, etc.

92. (1) Except as provided in subsection (2), where an officer or temporary employee of a Teaching Service 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, wages or other remuneration such amount as the Public Service Board, after consultation with the

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

Education Commission.

appropriate 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.

(2) Where an officer or temporary employee of a Teaching Service is allowed to use, for the purpose of residence, any building or part of a building or any land vested in or managed by the Teacher Housing Authority of New South Wales or the Public Servant Housing Authority of New South Wales, an amount fixed by the Authority concerned in respect of rent shall be deducted from the salary of that officer or temporary employee and paid to the Authority concerned.

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

Attachment
of salary
or wages
of officers
and
temporary
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) As soon as practicable after the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the accountant of the appropriate Department shall notify the judgment debtor in writing of the service of the copy of the 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.

Education Commission.

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

- (a) from time to time, deduct from any money due to the officer or temporary employee such sums as are fixed by the appropriate 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,

10 but in no case shall a deduction be fixed or made which will reduce the amount to be received by the officer or temporary employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection (4).

(4) The amount which, pursuant to subsection (3), is to
15 be ascertained in accordance with this subsection shall be ascertained by deducting \$8—

- (a) in the case of a male officer or temporary employee, from the basic wage for adult males; and
- 20 (b) in the case of a female officer or temporary 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 (3) is made.

(5) Where copies of more than one judgment and
25 statutory declaration relating thereto are served upon the accountant of the appropriate Department 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.

30 (6) Any deductions made under the provisions of subsection (3) from money due to an officer or temporary employee shall, as between the Government of New South Wales and the officer or temporary employee, be deemed to be a payment by that Government to the officer or temporary employee.

Education Commission.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant of the appropriate Department immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to
5 be satisfied, is liable, upon conviction before a court of petty sessions, to a penalty not exceeding \$100.

(8) If any deduction made in pursuance of the provisions of subsection (3) from money due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor,
10 the excess shall be repayable by the appropriate Department 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
15 or temporary employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection (3) there shall be retained by the accountant of the appropriate Department, to be paid by him to the Treasurer for credit of the Consolidated Revenue Fund, an amount equal to
20 per cent (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of those sums, and the balance of those sums shall be paid to the judgment creditor.

(11) When the accountant makes a payment to a
25 judgment creditor under the provisions of subsection (10), the accountant of the appropriate Department shall forward to the judgment creditor a statement showing—

- 30 (a) the sums deducted under the provisions of subsection (3) in respect of the judgment from money due to the officer or temporary employee concerned;
- (b) the amount retained by the accountant under the provisions of subsection (10) out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection (10).

Education Commission.

(12) Upon payment being made under the provisions of subsection (10) to the judgment creditor, the judgment creditor shall credit the officer or temporary employee concerned with the sums referred to in subsection (11) (a), as shown in the statement
5 forwarded by the accountant of the appropriate Department 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
10 against joint defendants.

PART V.

GENERAL.

94. Nothing in this Act shall be construed as restricting the ordinary and necessary departmental authority of the Minister with
15 respect to the direction and control of members of the Teaching Services and work. Saving as to Minister's authority.

95. (1) All notices of appointments, promotions, retirements, dismissals and annulments of appointments of— Appoint-ments, etc., to be notified in appropriate Gazette.

(a) officers of the Education Teaching Service shall be
20 published in the Education Gazette; and Gazette.

(b) officers of the Technical and Further Education Teaching Service shall be published in the Technical and Further Education Gazette.

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

Education Commission.

96. A document purporting to be an issue of the Education Gazette or the Technical and Further Education Gazette, as the case may be, is admissible in evidence in any proceedings, including proceedings before the Crown Employees Appeal Board, and shall, until the contrary is proved, be deemed to be a copy of an issue of the Education Gazette or the Technical and Further Education Gazette, as the case may be.

Evidence
as to
Gazettes.

97. (1) Subject to subsection (3), 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 a Teaching Service.

Crown's
right to
dismiss not
abrogated.

(2) An officer or temporary employee of a Teaching Service 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 (1) and (2) 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 a Teaching Service.

98. The provisions of section 2 (1) of the Constitution (Public Service) Amendment Act, 1916, apply to officers and temporary employees of a Teaching Service as if they were holders of offices of profit in the Public Service 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, 1979.

Certain
Acts apply
to officers
and
temporary
employees.

99. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by Part II or Schedule 1 or 2 is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to Part II or Schedule 1 or 2.

Making of
regulations
by the
Governor.

Education Commission.

- 100.** (1) The Director-General of Education may, with the approval of the Governor, make regulations, not inconsistent with this Act, for or with respect to—
- Making of regulations by the Director-General of Education.
- 5 (a) the examinations to be held and qualifications required for appointment to or promotion to a position in the Education Teaching Service;
 - (b) the appointment, transfer, powers, duties and responsibilities of officers and temporary employees of the Education Teaching Service;
 - 10 (c) the arrangement of positions in the Education Teaching Service into divisions;
 - (d) the order and conditions of promotion and the grading and seniority of members of the Education Teaching Service;
 - 15 (e) appeals to the Director-General of Education;
 - (f) the employment of persons under section 50;
 - (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and temporary employees of the Education Teaching Service;
 - 20 (h) the maintenance of discipline, order, economy and efficiency in the Education Teaching Service;
 - (i) the classification, general management and inspection of public schools; and
 - 25 (j) any matter that by this Act (Part II and Schedules 1 and 2 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 and Schedules 1 and 2 excepted) concerning the
 - 30 Education Teaching Service.

(2) In the application of section 41 of the Interpretation Act, 1897, to regulations made under subsection (1), the reference in section 41 (I) (a) of that Act to the Gazette shall be read as a reference to the Education Gazette.

Education Commission.

101. (1) The Director-General of Technical and Further Education may, with the approval of the Governor, make regulations, not inconsistent with this Act, for or with respect to—

Making of regulations by the Director-General of Technical and Further Education.

- 5 (a) the examinations to be held and qualifications required for appointment to or promotion to a position in the Technical and Further Education Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and temporary employees of the Technical and Further Education Teaching Service;
- 10 (c) the arrangement of positions in the Technical and Further Education Teaching Service into schools, divisions and sections;
- (d) the grading and seniority of members of the Technical and Further Education Teaching Service;
- 15 (e) the preparation and maintenance of a promotions list, the conditions for placement on the list, the positions for which placement on the list is an essential prerequisite for promotion and appeals against non-placement on the list;
- 20 (f) appeals to the Director-General of Technical and Further Education;
- (g) the employment of persons under section 58;
- (h) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and temporary employees of the Technical and Further Education Teaching Service;
- 25 (i) the maintenance of discipline, order, economy and efficiency in the Technical and Further Education Teaching Service;
- 30 (j) the classification, general management and inspection of schools and colleges; and
- (k) any matter that by this Act (Part II and Schedules 1 and 2 excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carry-

Education Commission.

ing out or giving effect to the provisions of this Act (Part II and Schedules 1 and 2 excepted) concerning the Technical and Further Education Teaching Service.

(2) In the application of section 41 of the Interpretation Act, 1897, to regulations made under subsection (1), the reference in section 41 (I) (a) of that Act to the Gazette shall be read as a reference to the Technical and Further Education Gazette.

102. A provision of a regulation may—

Application,
etc., of
regulations.

- 10 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- 15 (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

SCHEDULE 1.

Sec. 9 (4).

PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN.

1. In this Schedule—

20 “statutory body” means a body declared under clause 6 to be a statutory body for the purposes of this Schedule;

Interpre-
tation:
Sch. 1.

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

*Education Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN
—*continued.*

2. Subject to clause 3 and to the terms of his appointment, where the
5 Chairman was, immediately before his appointment as the Chairman—
- Preservation
of rights—
generally.
- (a) an officer of a Teaching Service or the Public Service;
 - (b) a contributor to a superannuation scheme;
 - (c) an officer employed by a statutory body; or
 - (d) a person in respect of whom provision was made by any Act that
10 he retain any rights accrued or accruing to him as an officer or
employee,
- he—
- (e) shall retain any rights accrued or accruing to him as such an
officer, contributor or person;
 - (f) may continue to contribute to any superannuation scheme to which
15 he was a contributor immediately before his appointment as the
Chairman; and
 - (g) shall be entitled to receive any deferred or extended leave and any
payment, pension or gratuity,
- as if he had continued to be such an officer, contributor or person during
his service as the Chairman, and—
- (h) his service as the Chairman shall be deemed to be service as an
20 officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to
contribute or by which that entitlement is conferred; and
 - (i) he shall be deemed to be an officer or employee, and the Govern-
25 ment of New South Wales shall be deemed to be his employer,
for the purposes of the superannuation scheme to which he is
entitled to contribute under this clause.
3. (1) If the Chairman would, but for this subclause, be entitled under
30 clause 2 to contribute to a superannuation scheme or to receive any pay-
ment, pension or gratuity under that scheme, he shall not be so entitled
upon his becoming (whether upon his appointment as the Chairman or at
any later time while he holds office as the Chairman) a contributor to any
other superannuation scheme, and the provisions of clause 2 (i) cease to
35 apply to or in respect of him and the Government of New South Wales in
any case where he becomes a contributor to such another superannuation
scheme.
- Con-
sequence
of becoming
contributor
to another
superannua-
tion scheme.

*Education Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN
—*continued.*

- (2) Subclause (1) of this clause does not prevent the payment to the
5 Chairman upon his ceasing to be a contributor to a superannuation scheme
of such amount as would have been payable to him if he had ceased, by
reason of his resignation, to be an officer or employee for the purposes of
that scheme.
4. The Chairman shall not, in respect of the same period of service, be
10 entitled to claim a benefit under this Act and another Act. Restrictions
on entitle-
ment to
benefit.
5. (1) In this clause, "retiring age" means, in relation to a person who
was, immediately before his appointment as the Chairman— Reappoint-
ment to
former
employment
in certain
cases.
- (a) an officer of a Teaching Service or the Public Service—the age of
60 years; and
- 15 (b) an officer or employee of a statutory body—the age at which
officers or employees (being officers or employees of the class to
which that person belonged immediately before his appointment
as the Chairman), as the case may be, of that statutory body are
entitled to retire.
- 20 (2) A person who ceases to be the Chairman, otherwise than pursuant
to section 15 (paragraph (d) excepted), shall, if he has not attained the
retiring age, be entitled to be appointed, where, immediately before his
appointment as the Chairman, he was—
- (a) an officer of a Teaching Service or the Public Service—to some
25 position in that service of which he was an officer; or
- (b) an officer or employee of a statutory body—to some position in
the service of that body,
not lower in classification or salary than that which he held immediately
before his appointment as the Chairman.
- 30 6. The Governor may, by proclamation published in the Gazette, declare
any body constituted by or under any Act to be a statutory body for the
purposes of this Schedule. Declarations
of statutory
bodies.

Education Commission.

SCHEDULE 2.

Sec. 20.

PROVISIONS RELATING TO MEETINGS OF THE COMMISSION.

1. (1) The Chairman may, at any time, convene a meeting of the Commission. Convening of meetings.
- 5 (2) The Chairman, on receipt of a request in writing signed by 3 members, shall convene a meeting of the Commission.
2. At a meeting of the Commission, 8 members constitute a quorum. Quorum.
3. (1) Any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission. Meetings.
- 10 (2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the members present and voting.
4. The procedure for the calling of, and for the conduct of business at, meetings of the Commission shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Commission. General procedure.
- 15 5. The Chairman shall preside at all meetings of the Commission at which he is present. Chairman to preside.
6. (1) In the absence of the Chairman at any meeting of the Commission, the Acting Chairman appointed under section 13 (1) shall preside as Chairman at that meeting. Absence of Chairman.
- 20 (2) Where both the Chairman and the Acting Chairman appointed under section 13 (1) are absent from any meeting of the Commission, or if no Acting Chairman is so appointed, the members present shall appoint one of their number to preside as chairman at that meeting.
- 25 7. The member presiding at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall also have a second or casting vote. Presiding member's vote.
8. The Commission shall cause full and accurate minutes to be kept of its proceedings at meetings. Minutes of meetings.
- 30 9. Where, at a meeting of the Commission, it is resolved that the Minister be informed of any matter, it is the responsibility of the person presiding at the meeting to ensure that the Minister is so informed. Informing Minister of certain matters.

Education Commission.

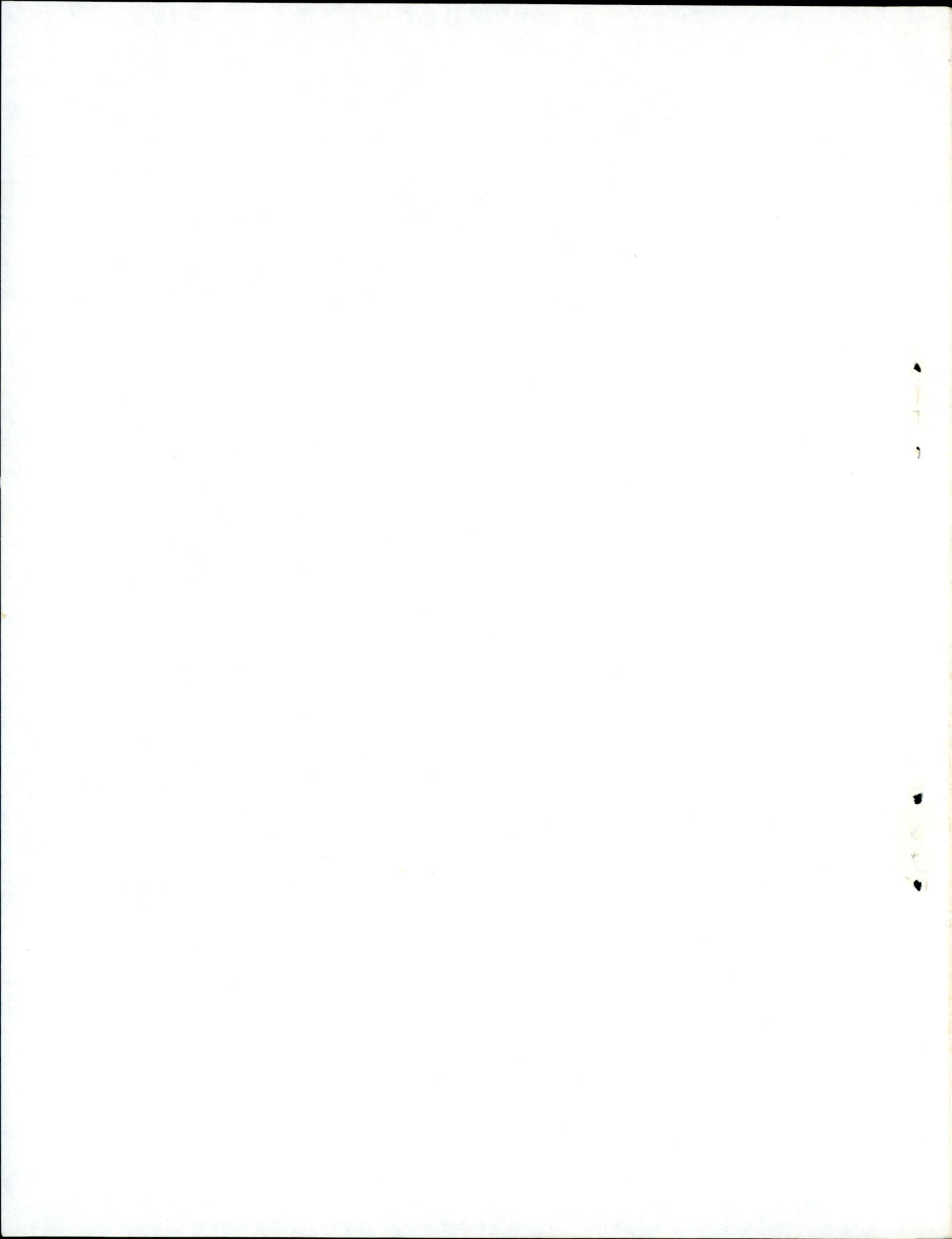
SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEETINGS OF THE COMMISSION—*continued.*

10. In proceedings by or against the Commission, no proof shall be Pre-
required (until evidence is given to the contrary) of— Pre-
sumptions.

- 5
- (a) the constitution of the Commission;
 - (b) the due making of any resolution of the Commission;
 - (c) the appointment or election of any member; or
 - (d) the presence of a quorum at any meeting of the Commission.





EDUCATION COMMISSION ACT, 1980, No. 23

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 23, 1980.

An Act to constitute the Education Commission of New South Wales and to specify its functions; to establish the Education Teaching Service and the Technical and Further Education Teaching Service; and to make provisions relating to the employment of persons within those services. [Assented to, 16th April, 1980.]

See also Miscellaneous Acts (Education Commission) Repeal and Amendment Act, 1980.

Education Commission.

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.

1. This Act may be cited as the "Education Commission Act, 1980".

Commence-
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) For the purpose only of enabling the Commission to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Division 1 of Part II, elections may be conducted under that Division and any other act, matter or thing may be done, before that day, as if the whole of this Act commenced on the date of assent to this Act.

Arrange-
ment.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–5.

Education Commission.

PART II.—THE COMMISSION—ss. 6–36.

DIVISION 1.—*Constitution of the Commission*—ss. 6–21.

DIVISION 2.—*Functions of the Commission*—ss. 22–36.

Subdivision 1.—*General*—s. 22.

Subdivision 2.—*Functions as an employer*—ss. 23–28.

Subdivision 3.—*Functions relating to the provision of education services*—s. 29.

Subdivision 4.—*Miscellaneous*—ss. 30–34.

Subdivision 5.—*Regulation of exercise of functions*—ss. 35, 36.

PART III.—THE DIRECTORS-GENERAL—ss. 37–41.

DIVISION 1.—*The Director-General of Education*—ss. 37, 38.

DIVISION 2.—*The Director-General of Technical and Further Education*—ss. 39, 40.

DIVISION 3.—*Delegation of functions*—s. 41.

PART IV.—THE TEACHING SERVICES—ss. 42–93.

DIVISION 1.—*General*—ss. 42, 43.

DIVISION 2.—*Members of the Education Teaching Service*—ss. 44–51.

DIVISION 3.—*Members of the Technical and Further Education Teaching Service*—ss. 52–58.

DIVISION 4.—*Service in the Teaching Services*—ss. 59–78.

Subdivision 1.—*Filling vacancies in the Education Teaching Service*—ss. 59–62.

Subdivision 2.—*Filling vacancies in the Technical and Further Education Teaching Service*—ss. 63–70.

Subdivision 3.—*Other provisions relating to service in the Teaching Services*—ss. 71–78.

DIVISION 5.—*Extended leave*—ss. 79–81.

Education Commission.

DIVISION 6.—*Discipline and conduct*—ss. 82–90.

DIVISION 7.—*Miscellaneous*—ss. 91–93.

PART V.—GENERAL—ss. 94–102.

SCHEDULE 1.—PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN.

SCHEDULE 2.—PROVISIONS RELATING TO MEETINGS OF THE COMMISSION.

**Interpre-
tation.**

4. (1) 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 section 2 (2);

“appropriate Department” means—

- (a) in relation to an officer or temporary employee of the Education Teaching Service—the Department of Education; and
- (b) in relation to an officer or temporary employee of the Technical and Further Education Teaching Service—the Department of Technical and Further Education;

“appropriate Department Head” has the meaning ascribed thereto by section 4 (1) of the Public Service Act, 1979;

“appropriate Director-General” means—

- (a) in relation to the Education Teaching Service or a member of that service—the Director-General of Education; and
- (b) in relation to the Technical and Further Education Teaching Service or a member of that service—the Director-General of Technical and Further Education;

Education Commission.

“Chairman” means the person appointed for the time being under section 7 (2) (a) as the Chairman of the Commission;

“college” means an educational institution provided and maintained by the Minister within the Department of Technical and Further Education;

“Commission” means the Education Commission of New South Wales constituted under section 6;

“Director-General” means the Director-General of Education or the Director-General of Technical and Further Education;

“division”, in relation to a Teaching Service, means a prescribed division of that 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;

“Education Teaching Service” means the Education Teaching Service referred to in Division 2 of Part IV;

“functions” includes powers, authorities and duties;

“industrial matters” has the meaning ascribed to that expression by section 5 (1) of the Industrial Arbitration Act, 1940, subject to the following modifications :—

- (a) the references to “employers” and “their employer” shall be read and construed as references to the Crown;
- (b) the references to “employees” shall be read and construed as references to members of the Teaching Services;
- (c) the references to “any industry” and “an industry” shall be read and construed as references to the Teaching Services; and

Education Commission.

- (d) the references to "industrial unions" and "trade union" shall be read and construed as references to any association or organisation representing any group or class of members of a Teaching Service;

"member" means a member of the Commission, and includes—

- (a) where a deputy appointed by the Director-General of Education under section 7 (5) is acting on behalf of that Director-General, the deputy;
- (b) where a deputy appointed by the Director-General of Technical and Further Education under section 7 (6) is acting on behalf of that Director-General, the deputy; and
- (c) where the Acting Chairman appointed under section 13 (1) is acting during the absence or illness of the Chairman or, in the event of a vacancy occurring in the office of the Chairman, the Acting Chairman;

"officer" means—

- (a) in relation to the Education Teaching Service, a person employed in that service, other than a temporary employee; and
- (b) in relation to the Technical and Further Education Teaching Service, a person employed in that service, other than a temporary employee;

"position" includes office;

"promotions list" means—

- (a) a list prepared and maintained by the Director-General of Education under section 38 (1) (f) or (3); or
- (b) the list prepared and maintained by the Director-General of Technical and Further Education under section 40 (1) (e);

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

“Public Service” has the meaning ascribed thereto by section 4 (1) of the Public Service Act, 1979;

“Public Service Board” means the Public Service Board of New South Wales constituted under the Public Service Act, 1979;

“regulations” means regulations under this Act;

“school”, in relation to the Technical and Further Education Teaching Service, means a prescribed teaching school of that service;

“section”, in relation to the Technical and Further Education Teaching Service, means a prescribed section of—

- (a) a school; or
- (b) a division;

“Teaching Service” means the Education Teaching Service or the Technical and Further Education Teaching Service;

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

“Technical and Further Education Teaching Service” means the Technical and Further Education Teaching Service referred to in Division 3 of Part IV;

“temporary employee” means—

- (a) in relation to the Education Teaching Service a person employed under section 50 or deemed to be a temporary employee under section 45 (3) or 48 (3); and

Education Commission.

(b) in relation to the Technical and Further Education Teaching Service, a person employed under section 58 or deemed to be a temporary employee under section 53 (3) or 56 (3).

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

Industrial Arbitration Act, 1940, not affected. 5. Except to the extent that this Act otherwise expressly provides, nothing in this Act amends or affects the provisions of the Industrial Arbitration Act, 1940.

PART II.
THE COMMISSION.
DIVISION 1.—*Constitution of the Commission.*

Constitution of the Commission. 6. (1) There is hereby constituted a corporation under the corporate name of the "Education Commission of New South Wales".

(2) The Commission shall, in the exercise of its functions (except in relation to the contents of any advice, report or recommendation given or made by it), be subject to the control and direction of the Minister.

(3) The Commission is, for the purposes of any Act, a statutory body representing the Crown.

Members. 7. (1) The Commission shall consist of 13 members comprising—

- (a) 6 members appointed by the Governor;
- (b) 5 elected members; and
- (c) 2 ex officio members.

Education Commission.

(2) The members appointed by the Governor shall consist of—

- (a) a person who shall, in and by the instrument of his appointment, be appointed as the Chairman of the Commission;
- (b) 4 persons nominated by the Minister, one of whom, in the opinion of the Minister, shall have demonstrated an interest in technical and further education; and
- (c) a member, nominated by the Minister, of the New South Wales Higher Education Board constituted under the Higher Education Act, 1975.

(3) The elected members shall consist of—

- (a) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 99, by the persons whose names are entered in the roll of primary teachers referred to in section 8 (1) (a);
- (b) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 99, by the persons whose names are entered in the roll of secondary teachers referred to in section 8 (1) (b);
- (c) a person elected, at an election conducted for the purpose of this paragraph in accordance with this Act and the regulations made under section 99, by the persons whose names are entered in the roll of technical and further education teachers referred to in section 8 (2);
- (d) a person elected, in a manner approved by the Minister, by the Executive Council of the Federation of Parents and Citizens Associations of New South Wales; and
- (e) a person elected, in a manner approved by the Minister, by the Council of the Federation of School/Community Organisations of New South Wales.

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(4) The ex officio members shall consist of—

- (a) the person who for the time being holds or acts in the office of Director-General of Education; and
- (b) the person who for the time being holds or acts in the office of Director-General of Technical and Further Education.

(5) The Director-General of Education may appoint a person employed in the Department of Education as a deputy to act on his behalf at any meeting of the Commission which he is unable to attend and the deputy so appointed shall be entitled to act accordingly.

(6) The Director-General of Technical and Further Education may appoint a person employed in the Department of Technical and Further Education as a deputy to act on his behalf at any meeting of the Commission which he is unable to attend and the deputy so appointed shall be entitled to act accordingly.

(7) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member by the Governor and a person so appointed is not, in his capacity as a member, subject to that Act while he holds office as a member.

Election
of certain
members.

8. (1) For the purposes of the election of the members referred to in section 7 (3) (a) and (b), the Director-General of Education shall cause to be prepared and kept—

- (a) a roll, to be called the roll of primary teachers, in which shall be entered the names of persons who are—
 - (i) officers or temporary employees employed under Division 2 of Part IV; and
 - (ii) otherwise entitled, under the regulations made under section 99, to have their names entered in that roll; and

Education Commission.

- (b) a roll, to be called the roll of secondary teachers, in which shall be entered the names of persons who are—
 - (i) officers or temporary employees employed under Division 2 of Part IV; and
 - (ii) otherwise entitled, under the regulations made under section 99, to have their names entered in that roll.

(2) For the purposes of the election of the member referred to in section 7 (3) (c), the Director-General of Technical and Further Education shall cause to be prepared and kept a roll, to be called the roll of technical and further education teachers, in which shall be entered the names of persons who are—

- (a) full-time officers or full-time temporary employees employed under Division 3 of Part IV; and
- (b) otherwise entitled, under the regulations made under section 99, to have their names entered in that roll.

(3) A roll certified by the Director-General of Education, for the purpose of the election of a member referred to in section 7 (3) (a) or (b), to be the roll of primary teachers or the roll of secondary teachers shall be the roll of primary teachers or the roll of secondary teachers, as the case may be, to be used for the purpose of that election.

(4) A roll certified by the Director-General of Technical and Further Education, for the purpose of the election of the member referred to in section 7 (3) (c), to be the roll of technical and further education teachers shall be the roll of technical and further education teachers to be used for the purpose of that election.

(5) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election of a member referred to in section 7 (3) (a), (b) or (c), and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under section 99 in relation to the election.

Education Commission.

(6) A person's nomination as a candidate for election as a member referred to in section 7 (3) (a), (b) or (c) is invalid—

(a) if his name is not, at the time of his nomination, entered—

- (i) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (a)—in the roll of primary teachers;
- (ii) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (b)—in the roll of secondary teachers; or
- (iii) in the case of a person nominated as a candidate for election as the member referred to in section 7 (3) (c)—in the roll of technical and further education teachers; or

(b) if—

- (i) he is not, at the time of his nomination, a member of the New South Wales Teachers Federation; and
- (ii) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, a member of the New South Wales Teachers Federation.

(7) The returning officer is entitled to rely on the information contained in a statutory declaration referred to in subsection (6) (b) (ii).

(8) The regulations made under section 99 may, subject to this Act, make provision for or with respect to the election of the members referred to in section 7 (3) (a), (b) and (c).

9. (1) The Chairman shall be a full-time member.

(2) The Chairman shall, except in so far as the Minister otherwise approves in writing, devote the whole of his time to the duties of his office.

Full-time
and
part-time
members.

Education Commission.

(3) A member, other than the Chairman, shall be a part-time member.

(4) Schedule 1 has effect with respect to the preservation of rights of the Chairman.

10. (1) A person is not eligible to be appointed as the Chairman if he has attained the age of 65 years. Age limit of members.

(2) A person is not eligible to be appointed or elected as a part-time member if he has attained the age of 70 years.

11. (1) The term of office of a member, other than an ex officio member, shall, subject to this Act, be— Term of office of members.

- (a) in the case of the Chairman—such term, not exceeding 7 years, as is specified in the instrument of his appointment;
- (b) in the case of a member referred to in section 7 (2) (b) or (c)—such term, not exceeding 3 years, as is specified in the instrument of his appointment; and
- (c) in the case of a member referred to in section 7 (3) (a)–(e)—2 years.

(2) A person appointed as the Chairman is eligible for reappointment or further appointment as Chairman for one further term, not exceeding 7 years, as is specified in the instrument of his reappointment or further appointment.

(3) Subject to subsection (4), a member, other than the Chairman or an ex officio member, is, if otherwise qualified, eligible for reappointment or re-election for a further term or terms being—

- (a) in the case of a member referred to in section 7 (2) (b) or (c)—such term, not exceeding 3 years, as is specified in the instrument of his reappointment; and

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- (b) in the case of a member referred to in section 7 (3)
 (a)-(e)—2 years.

(4) A member, other than the Chairman or an ex officio member, shall not hold office as a member, other than the Chairman or an ex officio member, for a period in excess of 6 consecutive years.

Commence-
 ment of
 term of
 office.

12. A member—

- (a) appointed or elected before the appointed day shall take office upon that day; and
- (b) subsequently appointed or elected shall, subject to this Act, take office upon—
- (i) the day on which he is appointed or elected; or
 - (ii) the expiration of his predecessor's term of office, whichever is the later.

Acting
 Chairman.

13. (1) The Governor may, at any time, appoint a person to act as Chairman during the absence or illness of the Chairman or in the event of a vacancy occurring in the office of the Chairman.

(2) A person appointed under subsection (1), while acting as the Chairman, shall have and may exercise the functions of the Chairman.

Removal
 from
 office.

14. (1) The Governor may remove the Chairman from office for misbehaviour or incompetence.

(2) The Governor may, for any cause which to him seems sufficient, remove a member, other than the Chairman or an ex officio member, from office.

Education Commission.

15. A member, other than an ex officio member, shall be deemed to have vacated his office— Vacation of office.

- (a) if he dies;
- (b) in the case of the Chairman—
 - (i) upon his attaining the age of 65 years; or
 - (ii) if he engages, except in so far as the Minister otherwise approves in writing, in any paid employment outside the duties of his office;
- (c) in the case of a part-time member, upon his attaining the age of 70 years;
- (d) if he resigns his office by writing under his hand delivered to the Minister and the Governor accepts his resignation;
- (e) in the case of the Chairman, if he absents himself from duty for a period of 15 consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant);
- (f) in the case of a part-time member, if he is absent from 3 consecutive meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Commission or unless, before the expiration of 6 weeks after the last of those meetings, he is excused by the Commission for his absence from those meetings;
- (g) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit;
- (h) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

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- (i) if he is found guilty (whether or not he is convicted) in New South Wales of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is found guilty (whether or not he is convicted) elsewhere than in New South Wales of a crime or an offence which, if committed in New South Wales, would be a crime or an offence so punishable;
- (j) in the case of a member referred to in section 7 (2) (c), if he ceases to be a member of the New South Wales Higher Education Board constituted under the Higher Education Act, 1975;
- (k) in the case of a member referred to in section 7 (3) (a), (b) or (c), if he resigns from membership of the New South Wales Teachers Federation;
- (l) in the case of—
 - (i) a member referred to in section 7 (3) (a) or (b)—if he ceases to be a member of the Education Teaching Service; and
 - (ii) a member referred to in section 7 (3) (c)—if he ceases to be a member of the Technical and Further Education Teaching Service; or
- (m) if he is removed from office by the Governor under section 14.

Filling
of casual
vacancies.

16. (1) On the occurrence of a vacancy in the office of a member appointed by the Governor, otherwise than by the expiration of his term of office, the Governor may appoint a person nominated by the Minister to the vacant office for the balance of his predecessor's term of office, so that the Commission is constituted in accordance with section 7.

(2) On the occurrence of a vacancy in the office of a member referred to in section 7 (3) (a), (b) or (c), otherwise than by the expiration of his term of office or otherwise than during the period of 6 months before his term of office was due to expire, a person qualified for election to that office and elected at an

Education Commission.

election conducted in the same manner as the election at which that member was elected shall fill the vacancy for the balance of such part of his predecessor's term of office as has not been filled by an appointment made as referred to in subsection (3) (a).

(3) Notwithstanding anything in this Act, if a vacancy occurs in the office of a member referred to in section 7 (3) (a), (b) or (c)—

- (a) otherwise than by the expiration of his term of office or otherwise than during the period of 6 months before his term of office was due to expire, the Governor may appoint to the vacant office, until the date on which a person is elected to fill the vacancy, a person nominated by the Minister, being a person who is qualified for election to that office; or
- (b) during the period of 6 months before his term of office was due to expire, the Governor may appoint to the vacant office, for the balance of his predecessor's term of office, a person nominated by the Minister, being a person who is qualified for election to that office.

(4) On the occurrence of a vacancy in the office of a member referred to in section 7 (3) (d) or (e), otherwise than by the expiration of his term of office, a person who is qualified for election to that office and is elected at an election conducted in the same manner as the election at which that member was elected shall fill the vacancy for the balance of his predecessor's term of office.

17. The Chairman is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Remuneration of
Chairman.

Education Commission.

Remunera-
tion of
part-time
members.

18. A part-time member is entitled to be paid such allowances and such fees as the Minister may from time to time determine in respect of him.

Provisions
relating to
office of
part-time
member.

19. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, the provision shall not operate to disqualify him from holding that office and also the office of a part-time member.

(2) The office of a part-time member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

Provisions
relating to
meetings
of the
Commission.

20. Schedule 2 has effect with respect to meetings of the Commission.

Appoint-
ment of
staff of the
Commission.

21. Such staff as may be necessary to enable the Commission to exercise its functions or to assist the Commission in the exercise of its function may be employed under and subject to the Public Service Act, 1979.

DIVISION 2.—*Functions of the Commission.*

Subdivision 1.—General.

Com-
mission's
functions—
generally.

22. The Commission shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

Education Commission.

Subdivision 2.—Functions as an employer.

23. The Commission shall, subject to this Act, be responsible for the employment of the members of the Teaching Services.

Commission's functions as an employer.

24. The Commission shall, for the purpose of making any determination under section 25 or of any proceedings relating to members of the Teaching Services, held before a competent tribunal having power to deal with industrial matters, be deemed to be the employer of those members.

Role of Commission in industrial proceedings.

25. Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or other remuneration, of members of the Teaching Services shall be as may be determined from time to time by the Commission.

Determination of conditions of employment.

26. (1) The Commission may enter into an agreement with any association or organisation representing any group or class of officers or temporary employees as to any industrial matters.

Agreements relating to industrial matters.

(2) An agreement referred to in subsection (1) shall bind all officers and temporary employees in the class or group affected by the agreement and no such officer or temporary 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.

27. Without limiting or derogating from section 6 (2), the Commission shall not make a determination under section 25 or enter into an agreement under section 26, being a determination or an agreement relating to an industrial matter which the Minister has determined and notified the Commission to be a major industrial matter, unless the Commission has notified the Minister of the determination proposed to be made or the agreement proposed to be entered into.

Determinations and agreements relating to major industrial matters.

Education Commission.

Exercise of Commission's functions in relation to industrial disputes.

28. Where any dispute (whether or not the dispute is a question, dispute or difficulty of the nature referred to in section 25 (1) (a), (b) or (c) of the Industrial Arbitration Act, 1940) arises as a consequence of the exercise by a Director-General or by a delegate of, or person acting in accordance with an authority given to him by, a Director-General of any function conferred or imposed on the Director-General by or under any Act, the Commission shall not, notwithstanding the Industrial Arbitration Act, 1940, exercise any function conferred or imposed on it by or under any Act as an employer in relation to the dispute until the dispute has been referred to it by the Director-General or an association of employees concerned in the dispute or the dispute has been notified to the industrial registrar under the Industrial Arbitration Act, 1940.

Subdivision 3.—Functions relating to the provision of education services.

Commission's functions relating to the provision of education services.

29. (1) In this section, "public education" means education carried on in an institution established under the Public Instruction Act of 1880, the Technical and Further Education Act, 1974, the Colleges of Advanced Education Act, 1975, the New South Wales State Conservatorium of Music Act, 1965, or an Act of incorporation of a university.

(2) The Commission shall advise the Minister on the formulation and implementation of policies concerning public education in New South Wales.

(3) In the exercise of its function under subsection (2), the Commission may, and, if requested to do so by the Minister, shall—

- (a) make recommendations and furnish reports to the Minister with respect to—
 - (i) policies and principles to be adopted in the provision of public education in the State;

Education Commission.

- (ii) the provision of a comprehensive, balanced and co-ordinated public education service for the State;
 - (iii) priorities in the allocation of finance for public education in the State;
 - (iv) the effective and co-ordinated utilisation of public education services and resources;
 - (v) the long-term planning undertaken or to be undertaken by administrative units within the Minister's responsibility;
 - (vi) the implementation of policy in accordance with decisions of the Minister and the Government;
 - (vii) the establishment and development of regional bodies concerned with public education; and
 - (viii) the administration of this Act;
- (b) provide regularly to the Minister an overall statement of objectives, policies and priorities for public education in the State;
- (c) ensure that programmes in public education in the State are evaluated and that the appropriateness and effectiveness of those programmes are regularly reviewed;
- (d) maintain liaison with Commonwealth funding agencies to ensure that the overall educational needs of the State are appropriately considered;
- (e) keep under review provisions and administrative structures for public education in the State so that those provisions and structures remain effective and responsive to changing community needs and expectations;
- (f) undertake, promote and foster research;
- (g) conduct and commission inquiries into aspects of educational planning and policy; and
- (h) publish and distribute papers, including papers relating to needs and priorities for public education in the State.

*Education Commission.**Subdivision 4.—Miscellaneous.*

Supple-
mental, etc.,
acts.

30. The Commission may do all such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

Committees.

31. (1) The Commission may establish standing or special committees for the purpose of advising the Commission in the exercise of its functions and may appoint as a member of any such committee any person who, in its opinion, appears to be qualified to be a member of that committee, whether or not he is a member of the Commission.

(2) A committee established under subsection (1) may, subject to subsection (3) and to any directions of the Commission, regulate its procedure in such manner as it thinks fit.

(3) The Commission may specify the number of persons who will constitute a quorum of a committee established under subsection (1).

(4) A member of a committee established under subsection (1) who is not a member of the Commission shall be entitled to be paid such allowances and such fees as the Minister may from time to time determine in respect of him.

Commis-
sion's
powers of
entry and
inspection.

32. (1) The Commission may, by its members or delegates—

- (a) enter any public school or college or any premises of the Department of Education, the Department of Technical and Further Education or the Ministry of Education;
- (b) require the production of and examine any document in the custody of any member of a Teaching Service or an officer or a temporary employee of the Public Service; and

Education Commission.

- (c) require any member of a Teaching Service or an officer or a temporary employee of the Public Service to answer questions relating to the exercise of his functions as such a member, officer or temporary employee,

for the purpose of enabling the Commission to exercise its functions.

(2) Except in relation to its functions under Subdivision 2 of this Division, the powers conferred by subsection (1) shall not be exercised except after consultation with the appropriate Director-General or the appropriate Department Head.

33. (1) The Commission shall, not later than 31st March in each year, prepare and present to the Minister a report of its work and activities for the year ending on the preceding 31st December. ^{Annual report.}

(2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after its receipt by him.

34. (1) This section applies to the functions conferred or imposed on the Commission by or under this or any other Act, but does not apply to— ^{Delegation by the Commission.}

- (a) the power of delegation conferred by this section;
- (b) the function conferred or imposed by section 26, or by or under any other law, of entering into agreements relating to any industrial matters; and
- (c) the determination of the principles referred to in sections 38 (2) and 40 (2).

(2) The Commission may, by instrument in writing, delegate to—

- (a) a member;
- (b) the Director-General of Education or a person employed in the Department of Education nominated by that Director-General;

Education Commission.

- (c) the Director-General of Technical and Further Education or a person employed in the Department of Technical and Further Education nominated by that Director-General; or
- (d) an officer of the Public Service employed in the service of the Commission as referred to in section 21,

the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) the delegate; or
- (b) the person for the time being acting in the place of the delegate.

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

(5) Notwithstanding any delegation under this section, the Commission may continue to exercise all or any of the functions delegated.

(6) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section and within the terms of the delegation shall have the same force and effect as if the act or thing had been done or suffered by the Commission.

(7) A delegation under this section may be made to 2 or more persons jointly, or to one person only.

Education Commission.

Subdivision 5.—Regulation of exercise of functions.

35. In the exercise of its functions, the Commission—

Non-
government
education.

- (a) shall have due regard for the independence, freedom and development of the non-government sector of the education system;
- (b) shall not purport to exercise any function conferred or imposed on the Minister relating to the registration or certification of non-government schools;
- (c) shall not seek to impede the access of non-government educational authorities to the Minister or the Government;
- (d) shall not intervene in discussions relating to governmental assistance to non-government education; and
- (e) shall not purport to control or regulate the education, appointment or promotion of teachers or other staff in non-government schools or the conditions of employment of those teachers or that other staff.

36. (1) In this section, “statutory educational body” means the Bursary Endowment Board, the Secondary Schools Board, the Board of Senior School Studies, the Nurses Education Board, the Council of Technical and Further Education, the Teacher Housing Authority of New South Wales and the New South Wales Higher Education Board.

Functions of
statutory
educational
bodies.

(2) Except to the extent that a statutory educational body is, by or under any Act, required, in the exercise of its functions, to consult with the Commission, nothing in this Act derogates from or otherwise affects any function of a statutory educational body.

Education Commission.

PART III.

THE DIRECTORS-GENERAL.

DIVISION 1.—*The Director-General of Education.*General
respon-
sibility.

37. (1) The Director-General of Education is responsible to the Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Education Teaching Service.

(2) For the purpose of exercising his responsibility under subsection (1), the Director-General of Education may take such action as he deems appropriate and as is not inconsistent with any function of the Commission or any function, specified in this Act, of the Public Service Board.

(3) Nothing in this section limits or affects the operation of section 47 of the Public Service Act, 1979.

Functions.

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

- (a) classify the schools in which members of the Education Teaching Service are employed;
- (b) determine the teaching staff establishments for those schools;
- (c) determine the staff establishments for the positions of staff inspectors and inspectors of schools;
- (d) determine the staff establishments for positions (other than positions within the staff establishments referred to in paragraphs (b) and (c)) which the Director-General and the Public Service Board agree are positions—
 - (i) which are concerned with advising, controlling or supervising teachers in schools; and
 - (ii) to which members of the Education Teaching Service may be appointed;
- (e) determine the method of classifying and grading officers employed in the Education Teaching Service;

Education Commission.

- (f) prepare and maintain, in respect of different classes of positions, being the positions of teachers in public schools, lists of officers eligible for appointment or promotion to those positions;
- (g) determine the qualifications required for appointment to the Education Teaching Service or for an officer to be included on any promotions list prepared and maintained as referred to in paragraph (f);
- (h) determine promotions and transfers of officers and transfers of temporary employees; and
- (i) maintain discipline in the Education Teaching Service.

(2) Before exercising any of his functions under subsection (1) (a), (b), (c), (d) or (e), the Director-General of Education shall, unless otherwise directed by the Commission, consult with the Commission and have regard to any principles recommended by the Commission to be applied in the exercise of those functions.

(3) The Director-General of Education 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 Education Teaching Service, other than the positions of teachers in public schools, lists of officers eligible for appointment or promotion to those positions.

DIVISION 2.—*The Director-General of Technical and Further Education.*

39. (1) The Director-General of Technical and Further Education is responsible to the Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Technical and Further Education Teaching Service. ^{General responsibility.}

Education Commission.

(2) For the purpose of exercising his responsibility under subsection (1), the Director-General of Technical and Further Education may take such action as he deems appropriate and as is not inconsistent with any function of the Commission or any function, specified in this Act, of the Public Service Board.

(3) Nothing in this section limits or affects the operation of section 47 of the Public Service Act, 1979.

- Functions.** **40.** (1) The Director-General of Technical and Further Education shall, subject to the provisions of this Act and the regulations—
- (a) classify the schools and colleges in which members of the Technical and Further Education Teaching Service are employed;
 - (b) determine the teaching staff establishments for those schools and colleges;
 - (c) determine the staff establishments for positions (other than positions within the teaching staff establishments referred to in paragraph (b)) which the Director-General and the Public Service Board agree are positions—
 - (i) which are concerned with advising, controlling or supervising teachers in schools and colleges; and
 - (ii) to which members of the Technical and Further Education Teaching Service may be appointed;
 - (d) determine the method of classifying and grading officers employed in the Technical and Further Education Teaching Service;
 - (e) prepare and maintain a list of officers eligible for appointment or promotion to positions in the Technical and Further Education Teaching Service;
 - (f) determine the qualifications required for appointment to the Technical and Further Education Teaching Service or for an officer to be included on the promotions list prepared and maintained as referred to in paragraph (e);

Education Commission.

- (g) determine promotions and transfers of officers and transfers of temporary employees; and
- (h) maintain discipline in the Technical and Further Education Teaching Service.

(2) Before exercising any of his functions under subsection (1) (a), (b), (c) or (d), the Director-General of Technical and Further Education shall, unless otherwise directed by the Commission, consult with the Commission and have regard to any principles recommended by the Commission to be applied in the exercise of those functions.

DIVISION 3.—Delegation of functions.

41. (1) This section applies to the functions conferred or imposed on a Director-General by or under this Act other than the functions conferred or imposed on him by or under Part II, by this section, by Division 6 of Part IV (not including section 89 (1)) or by or under section 100 or 101. Delegation
of
functions.

(2) A Director-General may, by instrument in writing, delegate to any officer of a Teaching Service under his responsibility or an officer of the Public Service the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation—

- (a) by the delegate; or
- (b) if the instrument of delegation so provides and subject to the terms of the delegation—by another person, being an officer of a Teaching Service or an officer of the Public Service authorised by instrument in writing by the delegate in that behalf either generally or in a particular case or class of cases.

Education Commission.

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

(5) Without limiting the generality of subsection (4), where, under this section, a Director-General delegates to any person any of his functions relating to the promotion of any officer of a Teaching Service, the delegation shall be subject to the condition that the delegate shall not exercise the function so as to promote any such officer to a position if that officer is not, according to the rules governing the seniority of officers of the Teaching Service, the most senior officer eligible for promotion to that position.

(6) Notwithstanding any delegation under this section by a Director-General, the Director-General may continue to exercise all or any of the functions delegated.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section or by another person duly authorised in that behalf by the delegate shall have the same force and effect as if the act or thing had been done or suffered by the Director-General who made the delegation.

(8) A Director-General may, by an instrument in writing, revoke wholly or in part any authorisation of a person under this section pursuant to a delegation made by him.

(9) An authorisation under this section shall be deemed to be revoked if the relevant delegation is revoked.

(10) Section 40 of the Interpretation Act, 1897, applies to an authorisation under this section in the same way as it applies to a delegation.

Education Commission.

PART IV.

THE TEACHING SERVICES.

DIVISION 1.—*General.*

42. Except as provided by section 24, a member of a Teaching Service shall be deemed to be employed by the Government of New South Wales in the service of the Crown.

Crown employees.

43. The provisions of the Public Service Act, 1979, do not apply to the appointment of a person to a Teaching Service and a member of a Teaching Service is not subject to those provisions.

Application of Public Service Act, 1979.

DIVISION 2.—*Members of the Education Teaching Service.*

44. The Education Teaching Service shall consist of all persons employed under this Division.

The Education Teaching Service.

45. (1) All persons who, immediately before the appointed day, were employed under the Teaching Service Act, 1970, shall, on that day—

Transfer of persons from Teaching Service to Education Teaching Service.

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

(b) become members of the Education Teaching Service employed under this Division.

(2) All persons who are, at any time before the appointed day, engaged under the Teaching Service Act, 1970, to be employed on or after that day in the Teaching Service within the meaning of that Act 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

Education Commission.

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

(3) A person who becomes a member of the Education Teaching Service under subsection (1) or (2) shall, if before he became such a member, he was employed, or engaged to be employed—

- (a) as an officer under the Teaching Service Act, 1970, be deemed to be an officer of the Education Teaching Service under this Act; or
- (b) as an employee under that Act, be deemed to be a temporary employee of the Education Teaching Service under this Act.

Staff
establish-
ment
for and
appointment
to certain
positions.

46. (1) The Governor may, from time to time, determine the staff establishment for permanent positions, above the level of staff inspector, within the Education Teaching Service and, while such a determination remains in force, those positions shall not be positions to which the Public Service Act, 1979, applies.

(2) The Director-General of Education may, with the approval of the Commission, appoint to positions within the staff establishment determined under subsection (1) persons who, in his opinion, have the appropriate qualifications to be employed in those positions.

(3) Where the Governor makes a determination under subsection (1) in respect of a permanent position for which there is a corresponding position within the Public Service and which is held by a person who held the corresponding position immediately before the appointed day, the person shall be deemed to have been appointed, under subsection (2), to the permanent position on the day on which the determination took effect.

Education Commission.

47. (1) The Director-General of Education may appoint to permanent positions in the Education Teaching Service, other than positions within the staff establishment determined under section 46 (1)— Appointment of permanent staff.

- (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in public schools; and
- (b) other persons who, in his opinion, have the appropriate qualifications to be employed in the positions of—
 - (i) staff inspectors and inspectors of schools; and
 - (ii) such other positions as are determined as referred to in section 38 (1) (d),

but nothing in this subsection prevents the appointment under the Public Service Act, 1979, 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).

(2) Notwithstanding the provisions of section 59, the Director-General of Education, with the concurrence of the Director-General of Technical and Further Education and with the written consent of the person concerned, may appoint an officer or temporary employee of the Technical and Further Education Teaching Service to a permanent position in the Education Teaching Service and that person shall thereupon cease to be employed in the Technical and Further Education Teaching Service and shall be employed in the Education Teaching Service.

(3) Notwithstanding the provisions of section 59, the Director-General of Education, with the concurrence of—

- (a) except as provided by paragraph (b), the appropriate Department Head; or
- (b) in the case of—
 - (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Education;
 - (ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

Education Commission.

- (iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint an officer or temporary employee under the Public Service Act, 1979, to a permanent position in the Education Teaching Service and that person shall thereupon cease to be employed under that Act and shall be employed in that service.

(4) A person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Education and such other conditions as may be determined by the Director-General.

(5) Notwithstanding the provisions of section 59, and except as provided by subsections (2) and (3), the Director-General of Education may appoint to a permanent position in the Education Teaching Service a person who is not an officer of that service if—

(a) the Director-General—

(i) certifies in writing that an appointment to the position is necessary and that there is no officer employed in that service who is available to fill the position and is as qualified and capable of filling the position 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 the position; and

(b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that the person is suitable to fill the position having regard to his health and physical fitness.

Education Commission.

48. (1) Unless the Director-General of Education, in a particular case or class of cases, otherwise determines, a person who is not an officer of the Education Teaching Service when he is appointed by the Director-General to a permanent position in that service shall be appointed on probation, which shall be for a period of 12 months or such longer period as the Director-General may in any particular case or class of cases determine. Appoint-
ments on
probation.

(2) The Director-General of Education may—

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

(3) Where the appointment of a person is so annulled, the person shall thereupon cease to be employed under this Division as an officer of the Education Teaching Service and shall, unless the Director-General of Education makes a determination under subsection (4), be deemed to be a temporary employee of the Education Teaching Service under this Act.

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

(5) A person who, by reason of the annulment of his appointment, ceases to be a member of the Education 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 (4).

(6) Nothing in section 85 prevents the Director-General of Education from exercising, at any time, his power to annul an appointment under subsection (2).

Education Commission.

Appoint-
ment of
retired
officers.

49. (1) The Director-General of Education may appoint an officer who has been retired from a Teaching Service or whose services have been dispensed with under section 72 to a vacant position in the Education Teaching Service.

(2) An appointment under this section may be made without examination or probation.

(3) This section applies to an officer only if he has not attained the age of 60 years before his appointment is made.

Appoint-
ment of
temporary
staff.

50. (1) Where the Director-General of Education is of the opinion that it is necessary to do so, he may appoint temporarily, on a full-time, casual or part-time basis, to any position to which he is entitled to make an appointment under section 47 a person who, in the opinion of the Director-General, has the appropriate qualifications.

(2) The Director-General of Education, with the concurrence of the Director-General of Technical and Further Education and with the written consent of the person concerned, may appoint temporarily to any position to which the Director-General of Education is entitled to make an appointment under section 47 an officer or temporary employee of the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed in the Technical and Further Education Teaching Service and shall be employed in the Education Teaching Service.

(3) The Director-General of Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

(i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

Education Commission.

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint temporarily to any position to which the Director-General is entitled to make an appointment under section 47 an officer or temporary employee under the Public Service Act, 1979, and that person shall thereupon cease to be employed under that Act and shall be employed in the Education Teaching Service.

(4) Subject to subsection (5), a person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Education and such other conditions as may be determined by the Director-General.

(5) A person appointed under subsection (2) or (3)—

- (a) shall not be employed for a period exceeding 12 months from the date of his appointment but his employment may be extended from time to time for a further period not exceeding 12 months on each occasion if the Director-General of Education certifies that the extension is necessary in the public interest; and
- (b) may be dismissed at any time.

(6) Nothing in section 85 prevents the Director-General of Education from exercising, at any time, his power to dismiss a temporary employee under subsection (5).

51. (1) Subject to subsection (2), an officer of the Education Teaching Service may be temporarily appointed by the Director-General of Education to a position within that service which is vacant or the holder of which is suspended, sick or absent. Temporary appointments of officers.

(2) An appointment under subsection (1) shall not be made except in accordance with such conditions of employment as are determined by the Director-General of Education with the concurrence of the Commission.

Education Commission.

(3) The Director-General of Education shall not make a temporary appointment under subsection (1) of an officer of the Education Teaching Service to carry out the duties of a permanent position for a period in excess of 6 months unless he is satisfied that an appointment in excess of that period should be made having regard to the exigencies of that service.

DIVISION 3.—*Members of the Technical and Further Education Teaching Service.*

The Techni-
cal and
Further
Education
Teaching
Service.

52. The Technical and Further Education Teaching Service shall consist of all persons employed under this Division.

Transfer of
persons from
Public
Service to
Technical
and Further
Education
Teaching
Service.

53. (1) This section applies to—

- (a) a position in the Education Division of the Public Service of or below the level of Principal, Grade I (but not including the position of Regional Director); or
- (b) such positions as the Director-General of Technical and Further Education and the Public Service Board agree—
 - (i) are concerned with advising, controlling or supervising persons (other than those occupying the position of Regional Director) referred to in paragraph (a); and
 - (ii) should be occupied by members of the Technical and Further Education Teaching Service.

(2) All persons who, immediately before the appointed day, were employed under the Public Service Act, 1979, in the

Education Commission.

Department of Technical and Further Education in a position to which this section applies shall, on that day—

- (a) cease to be employed under that Act; and
- (b) become members of the Technical and Further Education Teaching Service employed under this Division.

(3) All persons who are, at any time before the appointed day, engaged under the Public Service Act, 1979, to be employed on or after that day in the Department of Technical and Further Education in a position to which this section applies 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 Division to be so employed; and
- (c) while so employed, be members of the Technical and Further Education Teaching Service employed under this Division.

(4) A person who becomes a member of the Technical and Further Education Teaching Service under subsection (2) or (3) 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, 1979, be deemed to be an officer of the Technical and Further Education Teaching Service under this Act; or
- (b) as a temporary employee under that Act, be deemed to be a temporary employee of the Technical and Further Education Teaching Service under this Act.

54. (1) The Governor may, from time to time, determine the staff establishment for permanent positions, above the level of Principal, Grade I and including the position of Regional Director, within the Technical and Further Education Teaching Service and, while such a determination remains in force, those positions shall not be positions to which the Public Service Act, 1979, applies.

Staff establishment for and appointment to certain positions.

Education Commission.

(2) The Director-General of Technical and Further Education may, with the approval of the Commission, appoint to positions within the staff establishment determined under subsection (1) persons who, in his opinion, have the appropriate qualifications to be employed in those positions.

(3) Where the Governor makes a determination under subsection (1) in respect of a permanent position for which there is a corresponding position within the Public Service and which is held by a person who held the corresponding position immediately before the appointed day, the person shall be deemed to have been appointed, under subsection (2), to the permanent position on the day on which the determination took effect.

Appoint-
ment of
permanent
staff.

55. (1) The Director-General of Technical and Further Education may appoint to permanent positions in the Technical and Further Education Teaching Service, other than positions within the staff establishment determined under section 54 (1)—

- (a) persons who, in his opinion, have the appropriate qualifications to be employed as teachers in schools or colleges; and
- (b) other persons who, in his opinion, have the appropriate qualifications to be employed to carry out the duties of such positions as are determined as referred to in section 40 (1) (c),

but nothing in this subsection prevents the appointment under the Public Service Act, 1979, 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).

(2) Notwithstanding the provisions of section 59, the Director-General of Technical and Further Education, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may appoint an officer or temporary employee of the Education Teaching Service to a permanent position in the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed in the Education Teaching Service and shall be employed in the Technical and Further Education Teaching Service.

Education Commission.

(3) Notwithstanding the provisions of section 59, the Director-General of Technical and Further Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

- (i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Technical and Further Education;
- (ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or
- (iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

and with the written consent of the person concerned, may appoint an officer or temporary employee under the Public Service Act, 1979, to a permanent position in the Technical and Further Education Teaching Service and that person shall thereupon cease to be employed under that Act and shall be employed in that service.

(4) A person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Technical and Further Education and such other conditions as may be determined by the Director-General.

Education Commission.

(5) Notwithstanding the provisions of section 59, the Director-General of Technical and Further Education may appoint to a permanent position in the Technical and Further Education Teaching Service a person who is not an officer of that service if—

- (a) the Director-General—
 - (i) certifies in writing that an appointment to the position is necessary and that there is no officer employed in that service who is available to fill the position and is as qualified and capable of filling the position 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 the position; and
- (b) the person proposed to be appointed has undergone a medical examination approved by the Director-General and the Director-General is satisfied that the person is suitable to fill the position having regard to his health and physical fitness.

Appoint-
ments on
probation.

56. (1) Unless the Director-General of Technical and Further Education, in a particular case or class of cases, otherwise determines, a person who is not an officer of the Technical and Further Education Teaching Service when he is appointed by the Director-General to a permanent position in that service shall be appointed on probation, which shall be for a period of 12 months or such longer period as the Director-General may in any particular case or class of cases determine.

(2) The Director-General of Technical and Further Education may—

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

Education Commission.

(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.

(3) Where the appointment of a person is so annulled, the person shall thereupon cease to be employed under this Division as an officer of the Technical and Further Education Teaching Service and shall, unless the Director-General of Technical and Further Education makes a determination under subsection (4), be deemed to be a temporary employee of the Technical and Further Education Teaching Service under this Act.

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

(5) A person who, by reason of the annulment of his appointment, ceases to be a member of the Technical and Further Education 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 (4).

(6) Nothing in section 85 prevents the Director-General of Technical and Further Education from exercising, at any time, his power to annul an appointment under subsection (2).

57. (1) The Director-General of Technical and Further Education may appoint an officer who has been retired from a Teaching Service or whose services have been dispensed with under section 72 to a vacant position in the Technical and Further Education Teaching Service.

Appoint-
ment of
retired
officers.

(2) An appointment under this section may be made without examination or probation.

Education Commission.

(3) This section applies to an officer only if he has not attained the age of 60 years before his appointment is made.

Appoint-
ment of
temporary
staff.

58. (1) Where the Director-General of Technical and Further Education is of the opinion that it is necessary to do so, he may appoint temporarily, on a full-time, casual or part-time basis, to any position to which he is entitled to make an appointment under section 55 a person who, in the opinion of the Director-General, has the appropriate qualifications.

(2) The Director-General of Technical and Further Education, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may appoint temporarily, on a full-time basis, to any position to which the Director-General of Technical and Further Education is entitled to make an appointment under section 55 an officer or temporary employee of the Education Teaching Service and that person shall thereupon cease to be employed in the Education Teaching Service and shall be employed in the Technical and Further Education Teaching Service.

(3) The Director-General of Technical and Further Education, with the concurrence of—

(a) except as provided by paragraph (b), the appropriate Department Head; or

(b) in the case of—

(i) an officer or temporary employee under the Public Service Act, 1979, employed in the Department of Technical and Further Education;

(ii) an excess person referred to in section 113 (1) (a) of the Public Service Act, 1979; or

(iii) an officer to whom section 114 (2) of the Public Service Act, 1979, applies,

the Public Service Board,

Education Commission.

and with the written consent of the person concerned, may appoint temporarily, on a full-time basis, to any position to which the Director-General is entitled to make an appointment under section 55 an officer or temporary employee under the Public Service Act, 1979, and that person shall thereupon cease to be employed under that Act and shall be employed in the Technical and Further Education Teaching Service.

(4) Subject to subsection (5), a person appointed under subsection (2) or (3) shall be appointed subject to such conditions of employment, including salary, wages and other remuneration, as may be determined by the Commission after consultation with the Director-General of Technical and Further Education and such other conditions as may be determined by the Director-General.

(5) A person appointed under subsection (2) or (3)—

- (a) shall not be employed for a period exceeding 12 months from the date of his appointment but his employment may be extended from time to time for a further period not exceeding 12 months on each occasion if the Director-General of Technical and Further Education certifies that the extension is necessary in the public interest; and
- (b) may be dismissed at any time.

(6) Nothing in section 85 prevents the Director-General of Technical and Further Education from exercising, at any time, his power to dismiss a temporary employee under subsection (5).

DIVISION 4.—Service in the Teaching Services.

Subdivision 1.—Filling vacancies in the Education Teaching Service.

59. (1) In this section, “fitness” means qualifications and aptitude for the discharge of the duties of the position to be filled.

Filling
vacancies
in the
Education
Teaching
Service.

Education Commission.

(2) Where there is a vacancy in any position in a division of the Education Teaching Service, the Director-General of Education may, if he is of opinion that the vacancy should be filled, appoint to the vacant position—

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

(3) In making an appointment under subsection (2) (a), seniority shall be subordinate to considerations of special fitness.

Appeals in
respect of
seniority,
etc.

60. (1) Any officer of the Education Teaching Service dissatisfied with any decision or determination of the Director-General of Education, whether particular or general, or a failure to make such a decision or determination, in regard to—

- (a) seniority;
- (b) the placing of 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
- (c) the classification of the work performed by or assigned to him,

may appeal to the Director-General against the decision, determination or failure by forwarding to the Director-General, within a period determined as prescribed, a notice of appeal setting forth the grounds of the appeal.

Education Commission.

(2) Where an appeal under subsection (1) is made—

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

(b) by any other member of the Education 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 61.

(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, after having regard to any report made by the committee with respect to the appeal, shall allow or disallow the appeal and make such determination with respect to the appeal as he thinks fit.

(4) The decision of the Director-General under subsection (3) 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.

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

(a) an officer of the Education Teaching Service, or an officer of the Public Service, nominated by the Director-General of Education;

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

(i) under section 60 (2), an officer whose name is on a promotions list for the division in which the appellant is employed, and who is selected by or on behalf of the officers of that division in the manner prescribed; and

Education Commission.

- (ii) under section 60 (5), 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 is selected by or on behalf of the officers of that division in the manner prescribed; and
- (c) a person nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) or, in default of their agreement, by the Director-General.

(2) The promotions committee to which an appeal is referred under section 60 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.

(3) The promotions committee to which a proposed appointment or promotion is referred under section 60 (5) shall inquire into the proposed appointment or promotion and report to the Director-General whether or not the committee recommends that the proposed appointment or promotion be made.

Appeals
under the
Crown
Employees
Appeal
Board Act,
1944.

62. (1) A decision or determination, under this Subdivision, of the Director-General of Education is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

(2) Nothing in subsection (1) prevents an officer from making an appeal under the Crown Employees Appeal Board Act, 1944, against a decision or determination, as referred to in section 60, of the Director-General of Education to appoint an officer to a vacant position in a division of the Education Teaching Service where the name of the firstmentioned officer—

- (a) is on the promotions list for that division; and
- (b) is higher in order on that promotions list than the name of the secondmentioned officer.

Education Commission.

Subdivision 2.—Filling vacancies in the Technical and Further Education Teaching Service.

63. (1) This section has effect for the purpose of determining Seniority. seniority within the Technical and Further Education Teaching Service.

(2) Except as provided in subsections (3) and (4), an officer of the Technical and Further Education Teaching Service is senior to every other officer of that service on a lower salary than the firstmentioned officer.

(3) The relative seniority of officers of the Technical and Further Education Teaching Service who are within a group of officers prescribed for the purposes of this subsection shall be determined in accordance with the regulations made under section 101.

(4) An officer of the Technical and Further Education Teaching Service—

- (a) who is within a group referred to in subsection (3) is senior to any other officer who is within any other such group or who is not within any such group if that other officer is on a lower salary than the firstmentioned officer; and
- (b) who is not within any group referred to in subsection (3) is senior to any officer within any such group who is on a lower salary than the firstmentioned officer.

(5) Where, pursuant to this section, the relevant seniority of officers is to be determined according to their salaries and 2 or more officers are on equal salaries, the relative seniority of those officers shall be determined in accordance with the regulations made under section 101.

Education Commission.

Filling of vacancies in the Technical and Further Education Teaching Service.

64. Where there is a vacancy in any position in the Technical and Further Education Teaching Service and the Director-General of Technical and Further Education decides it is expedient to fill the vacancy, the position may be filled—

- (a) by the appointment, by way of transfer or promotion, of an officer of that service; or
- (b) by the appointment of a person who, immediately before his appointment, was not an officer of that service,

subject to and in accordance with this Subdivision.

Appointments from within the Technical and Further Education Teaching Service.

65. (1) In this section, “efficiency”, in relation to an officer of the Technical and Further Education Teaching Service eligible for appointment to a vacant position within that service, means—

- (a) the possession by that officer of qualifications, determined by the Director-General of Technical and Further Education in respect of that position, for the discharge of the duties of that position and his aptitude for the discharge of those duties; and
- (b) the merit, diligence and good conduct of that officer.

(2) In deciding to make an appointment of an officer to a vacant position, the Director-General of Technical and Further Education shall, out of the group of officers eligible for appointment to the vacant position, prefer—

- (a) the officer whose efficiency is, in the opinion of the Director-General, greater than that of any other officer in that group; or
- (b) where, in the opinion of the Director-General, there is no officer in that group entitled to preference under paragraph (a), the officer who, under section 63, is senior to any other officer in that group.

Education Commission.

(3) An appointment referred to in subsection (2) shall not take effect until the expiration of the time for lodging a notice of appeal under the Crown Employees Appeal Board Act, 1944, against the Director-General's decision to make the appointment or, where such a notice of appeal is lodged within that time, until the appeal is determined under that Act.

66. (1) The Director-General of Technical and Further Education shall cause to be published in the Technical and Further Education Gazette, at intervals of not more than one month, brief particulars, in a form determined by the Director-General, of decisions made by him under section 65, particulars of which have not previously been published in that Gazette in accordance with this subsection.

Publication
of appoint-
ments.

(2) Any officer of the Technical and Further Education Teaching Service who is proceeding on duty outside the State for a period exceeding 6 weeks or on leave for a period exceeding 6 weeks, and who has made application, in a form approved by the Director-General of Technical and Further Education, to the Director-General, is entitled to have sent to him during that period by the Director-General, by pre-paid post addressed to him at the address specified in the application, a copy of all Technical and Further Education Gazettes published during that period.

67. (1) Notwithstanding section 65 (3) but subject to subsection (2), an officer of the Technical and Further Education Teaching Service may be temporarily appointed by the Director-General of Technical and Further Education to a position within that service which is vacant or the holder of which is suspended, sick or absent.

Temporary
appoint-
ments of
officers.

(2) An appointment under subsection (1) shall not be made except in accordance with such conditions of employment as are determined by the Director-General of Technical and Further Education with the concurrence of the Commission.

Education Commission.

(3) The Director-General of Technical and Further Education shall not make a temporary appointment under subsection (1) of an officer of the Technical and Further Education Teaching Service to carry out the duties of a permanent position for a period in excess of 6 months unless he is satisfied that an appointment in excess of that period should be made having regard to the exigencies of that service.

Appeals in
respect of
salary, etc.

68. (1) Any officer of the Technical and Further Education Teaching Service dissatisfied with any decision or determination (whether particular or general) of the Director-General of Technical and Further Education, being a decision or determination—

- (a) in regard to salary, seniority (not being a refusal referred to in section 69 (1)) or grade affecting him, or to the classification of the work performed by or assigned to him; or
- (b) against which he would, but for the proviso to section 10 (1) of the Crown Employees Appeal Board Act, 1944, relating to the maximum salary applicable to the vacant position at the date of the decision or determination appealed against, have been entitled to appeal under that Act,

may forward to the Director-General, within 30 days—

- (c) after the date of publication of the issue of the Technical and Further Education Gazette in which the decision or determination was notified; or
- (d) if the decision or determination was not notified in that Gazette—after being officially notified in writing of the decision or determination,

a notice of appeal setting forth the grounds of his dissatisfaction.

(2) The Director-General of Technical and Further Education, after considering the appeal and such other information as he thinks proper, shall allow or disallow the appeal or make such other determination with respect to the appeal as he thinks fit.

Education Commission.

(3) The decision of the Director-General under subsection (2) shall be final.

(4) An officer who is entitled to appeal to the Crown Employees Appeal Board against any decision or determination of the nature referred to in subsection (1) is not entitled to appeal to the Director-General in respect of that decision or determination.

69. (1) Any officer of the Technical and Further Education Teaching Service, being a teacher employed in a school or college, who is dissatisfied with the failure or refusal of the Director-General of Technical and Further Education to place his name, within a period determined as prescribed, on the promotions list may forward to the Director-General, within 30 days after the expiration of that period, a notice of appeal setting forth the grounds of his dissatisfaction. Appeals in respect of the promotions list.

(2) The Director-General of Technical and Further Education shall refer the appeal for inquiry and determination to a promotions committee constituted under section 70.

70. (1) A promotions committee shall consist of— Promotions committees.

- (a) an officer of the Technical and Further Education Teaching Service, or an officer of the Public Service, nominated by the Director-General of Technical and Further Education;
- (b) an officer of the Technical and Further Education Teaching Service whose name is on the promotions list and who is nominated by the Council of the New South Wales Teachers Federation; and
- (c) a person nominated by the members of the promotions committee holding office as such under paragraphs (a) and (b) or, in default of their agreement, by the Director-General of Technical and Further Education.

Education Commission.

(2) The promotions committee to which an appeal is referred under section 69—

- (a) is entitled to inspect any documents or other records within the Department of Technical and Further Education relating to the appellant;
- (b) may, if it thinks fit, interview the appellant; and
- (c) shall, within one month after the date on which the appeal is referred to it, consider and allow or disallow the appeal or make such other determination with respect to the appeal as it thinks fit.

(3) Questions arising at a meeting of a promotions committee shall be determined by a majority of votes of the members of the committee present and voting.

(4) A promotions committee shall give reasons for its decisions and shall indicate whether a decision was unanimous or by majority.

(5) Where a member of a promotions committee who is in a minority with respect to a decision of the committee wishes his minority decision to be recorded, the record of the decision of the committee shall include the minority decision.

(6) The decision of a promotions committee under subsection (2) (c) shall be final and shall, as soon as practicable after it is made, be notified to the Director-General of Technical and Further Education.

(7) The Director-General shall do all such things as are necessary to give effect to a decision notified to him under subsection (6) and shall, within 14 days after the decision is notified to him, inform the appellant of the decision.

Education Commission.

Subdivision 3.—Other provisions relating to service in the Teaching Services.

71. Where the appropriate Director-General considers it to be in the interests of a Teaching Service to do so, he may direct the transfer of an officer from one position in the Teaching Service to another position in the Teaching Service equivalent in classification and salary to the firstmentioned position provided the officer possesses the qualifications determined by the appropriate Director-General in respect of that other position for the discharge of the duties of that other position and the Director-General is satisfied as to the aptitude of the officer for the discharge of those duties.

Transfers
within a
Teaching
Service.

72. Where the appropriate Director-General is satisfied—

Excess
persons.

- (a) that a number of persons is employed in a Teaching Service, or any part of a Teaching Service, in excess of a number that appears to be necessary for the efficient, effective and economical management of the Teaching Service or part; and
- (b) that any such person cannot be usefully employed in the Teaching Service,

the Director-General may dispense with the services of that person.

73. (1) Where the appropriate Director-General is satisfied that an officer of a Teaching Service is in receipt of a greater salary than the maximum fairly appropriate to the work performed by the officer—

Excessive
salaries.

- (a) subject to paragraph (b), the Director-General shall take such steps as are practicable to assign the officer work of a class appropriate to his salary; and
- (b) if the officer cannot be assigned sufficient work of the kind referred to in paragraph (a) or is unfitted for or incapable of performing work appropriate to his salary, the Director-General—
 - (i) shall reduce his salary to the maximum determined by the Commission to be appropriate to the work performed by him; and

Education Commission.

- (ii) may take such steps as are practicable to secure his transfer, to a vacant position in the Teaching Service of which he is a member, at that salary.

(2) If a reduction of salary of an officer under this section is certified by the appropriate Director-General to have been made on the ground only that appropriate work or an appropriate position is not available, the officer—

- (a) remains eligible for promotion as if his salary had not been reduced; and
- (b) is entitled to employment on the class of work to which his previous salary was appropriate, or transfer to a position to which that class of work is attached, as soon as the appropriate work or an appropriate position becomes available, in preference to any other officer whose salary has not been reduced.

Declining
of
promotion
or appointment.

74. The appropriate Director-General may allow any officer of a Teaching Service who has been offered a promotion or appointment in the Teaching Service to decline the promotion or appointment without prejudice to any rights that the officer would, had he not declined the promotion or appointment, have had to any future promotion or appointment.

Refusal
to comply
with
directions.

75. Where an officer of a Teaching Service refuses to comply with a direction of the appropriate 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 had a valid and sufficient reason for so refusing, dismiss that officer from the Teaching Service.

Retirement
or transfer
of officers
through
invalidity or
incapacity.

- 76.** (1) Where the appropriate Director-General determines—
- (a) that an officer of a Teaching Service is, because of his invalidity or physical or mental incapacity, unable to perform the duties of his position;
- (b) that the invalidity or incapacity is likely to be of a permanent character; and

Education Commission.

- (c) that the invalidity or incapacity has not arisen from actual misconduct on his part or from causes within his control,

the Director-General—

- (d) may cause the officer to be retired from the Teaching Service; or
- (e) with the consent of the officer, transfer him—
- (i) to some other position in the Teaching Service;
 - (ii) if the appropriate Department Head so approves, to some position in the Public Service; or
 - (iii) if the other Director-General so approves, to some position in the other Teaching Service,
- with salary and other conditions of his employment appropriate to that position.

(2) A decision or determination of the appropriate Director-General under subsection (1) is not subject to appeal under the Crown Employees Appeal Board Act, 1944.

77. (1) An officer of a Teaching Service—

- (a) may retire from the Teaching Service upon his attaining the age of 60 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 appropriate 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 65 years.

Retirement
of officers
through age.

(2) An officer of a Teaching Service who attains the age of 65 years shall, subject to subsection (3), thereupon retire or be retired from the Teaching Service.

Education Commission.

(3) Where—

- (a) the appropriate Director-General is of the opinion that it is in the public interest that an officer of a Teaching Service who is of or above the age of 65 years should continue to perform the duties of his position; 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 12 months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding 12 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.

Vacation
of position.

78. An officer of a Teaching Service shall be deemed to have vacated his position if—

- (a) he dies; or
- (b) he resigns his position by writing signed by him and delivered to the appropriate Director-General and his resignation is accepted by that Director-General.

DIVISION 5.—*Extended leave.*

Leave of
absence
after years
of service.

79. (1) Subject to this section, an officer of a Teaching Service is entitled—

- (a) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay; and
- (b) after service in excess of 10 years, to—
 - (i) leave pursuant to paragraph (a); and
 - (ii) in addition, an amount of leave proportionate to his length of service after 10 years, calculated on the basis of 5 months on full pay, or 10 months on half pay, for 10 years served after service for 10 years.

Education Commission.

(2) For the purpose of calculating the entitlement of a person to extended leave under this section at any time—

- (a) service referred to in this section includes service before the appointed day;
- (b) there shall be deducted from the amount of extended leave to which, but for this paragraph, that person would be entitled—
 - (i) any extended leave, or leave in the nature of extended leave; and
 - (ii) the equivalent, in extended leave, of any benefit instead of extended leave or leave in the nature of extended leave,

taken or received by that person before that time, including any such leave taken, or benefit received, by that person pursuant to the Public Service (Amendment) Act, 1919, as in force at any time, the Teaching Service Act, 1970, as in force at any time, or the Public Service Act, 1979; and

- (c) the provisions of the Transferred Officers Extended Leave Act, 1961, shall have effect,

but nothing in this subsection shall be construed as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both paragraph (b) and section 3 (7) of the Transferred Officers Extended Leave Act, 1961.

(3) Where the services of an officer of a Teaching Service with at least 5 years' service as an adult and less than 10 years' service are terminated by the Crown or the appropriate Director-General for any reason other than the officer's serious and wilful misconduct or by the officer on account of illness, incapacity or domestic or other pressing necessity, he shall be entitled for 5 years' service to 1 month's leave on full pay and for service after 5 years to a proportionate amount of leave on full pay calculated on the basis of 3 months' leave for 15 years' service (that service to include service as an adult and otherwise than as an adult).

Education Commission.

(4) For the purposes of subsection (3), "service as an adult", in the case of an officer of a Teaching Service employed to do any work for which the remuneration has been fixed by an award made under the Commonwealth Conciliation and Arbitration Act 1904, as subsequently amended, or made under the Industrial Arbitration Act, 1940, or has been fixed by an industrial agreement made pursuant to or registered under either of those Acts or an agreement or determination made pursuant to this Act, means the period of service during which the remuneration applicable to the officer was at a rate not lower 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.

(5) For the purposes of—

(a) subsection (1), "service" includes—

(i) service under the Public Service Act, 1902, the Teaching Service Act, 1970, the Public Service Act, 1979, or this Act;

(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 10 years' service (any period of leave without pay taken before that commencement being included therein, and any period of leave without pay taken after that commencement being excluded therefrom)—any period of leave without pay, not exceeding 6 months, taken after that commencement; and

(b) subsection (3), "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.

Education Commission.

80. (1) An officer of a Teaching Service who has acquired a right to extended leave with pay under section 79, shall, on the termination of his services, be paid forthwith instead of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

Gratuity instead of extended leave.

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

81. (1) Where an officer of a Teaching Service has acquired a right under section 79 to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination—

Payment of money value of leave not taken or completed.

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the appropriate Director-General, was, at the time of the death of the officer, a dependent relative of the officer,

is entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that the officer received at the time of his or her death less any amount paid to the officer in respect of the leave not taken, or not completed.

(2) Where an officer of a Teaching Service with at least 5 years' service as an adult and less than 10 years' service as referred to in section 79 (3) dies—

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the appropriate Director-General, was, at the time of the death of the officer, a dependent relative of the officer,

Education Commission.

is entitled to receive the money value of the leave which would have accrued to the officer had his or her services terminated as referred to in section 79 (3), computed at the rate of salary that the officer received at the time of his or her death.

(3) Where there is a guardian of any children entitled under subsection (1) or (2), 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 (1) or (2) 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 the officer.

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

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

DIVISION 6.—*Discipline and conduct.*

Inter-
pretation:
Div. 6,
Pt. IV.

82. In this Division, “prescribed officer” means—

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

Education Commission.

83. An officer or temporary employee of a Teaching Service who— Breaches of discipline.

- (a) commits any breach of this Act or the regulations;
- (b) engages in any misconduct;
- (c) uses intoxicating beverages or drugs to excess;
- (d) wilfully disobeys, or wilfully disregards, any lawful order made or given by a person having authority to make or give the order;
- (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
- (f) engages in any disgraceful or improper conduct,

is guilty of a breach of discipline.

84. (1) A breach of discipline alleged to have been committed by an officer or temporary employee of a Teaching Service shall be dealt with by the appropriate Director-General or a prescribed officer. Procedure for dealing with breaches of discipline.

(2) Subject to this Division, the regulations made under section 100 or 101 may—

- (a) make provision for or with respect to the manner of dealing with alleged breaches of discipline; and
- (b) prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Division.

85. (1) Where a breach of discipline is dealt with by the appropriate 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 temporary employee charged has committed the breach or the officer or temporary Punishment for breaches of discipline.

Education Commission.

employee admits to the Director-General or prescribed officer that he committed the breach, the Director-General or prescribed officer—

- (a) may decide to impose on the officer or temporary employee any one or more of the following punishments, that is to say, he may decide to—
 - (i) caution the officer or temporary 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 of which he is a member;
- (b) may decide to impose any one of the following punishments, that is to say—
 - (i) where the breach is dealt with by the Director-General, he may decide to dismiss him from the Teaching Service of which he is a member, direct that he resign from that service within such period as may be specified in the direction or direct that his resignation from that 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 decide to recommend to the Director-General that the officer or temporary employee be dismissed from the Teaching Service of which he is a member or that he be required or allowed to resign; or
- (c) in the case of an officer on probation—may decide to annul his appointment.

(2) Where a prescribed officer makes a recommendation referred to in subsection (1) (b) (ii), the Director-General to whom the recommendation is made may decide to—

- (a) impose any one of the punishments referred to in subsection (1) (b) (i); or
- (b) impose any one or more of the punishments that may be imposed under subsection (1) (a).

Education Commission.

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

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

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

(4) Subject to section 10 of the Crown Employees Appeal Board Act, 1944, a decision of a Director-General under subsection (1), (2) or (3) or of a prescribed officer under subsection (1) (a) may be given effect to at any time.

(5) Without limiting the operation of section 10 of the Crown Employees Appeal Board Act, 1944, where a Director-General decides to direct an officer to resign from a Teaching Service, as referred to in subsection (1) (b) (i) or (2), that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (e) of that Act.

(6) The accountant of the appropriate Department, upon receiving notice of any fine imposed by the appropriate Director-General or a prescribed officer on an officer or temporary employee of a Teaching Service, shall deduct the amount of the fine from the salary, wages or other remuneration payable to that officer or temporary employee.

86. Where an officer or temporary employee of a Teaching Service is found guilty in New South Wales of an offence that is punishable, either on indictment or on summary conviction by imprisonment for a term of 12 months or more, or is found guilty elsewhere than in New South Wales of an offence that if it were

Punishment where officer or temporary employee guilty of a serious offence.

Education Commission.

committed in New South Wales would be an offence so punishable, the appropriate Director-General may impose on that officer or temporary employee any one or more of the punishments that may be imposed under section 85 (1) as if that officer or temporary 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
or
temporary
employees
charged with
breaches of
discipline or
serious
offences.

87. (1) Where an officer or temporary employee of a Teaching Service—

- (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 86,

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

(2) Subject to the Crown Employees Appeal Board Act, 1944, any salary, wages or other remuneration payable to a person as an officer or temporary employee of a Teaching Service during his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in section 85 (1), 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 appropriate Director-General otherwise directs, be forfeited unless the salary, wages or other remuneration were due to him before his suspension.

(3) The suspension of an officer or temporary employee 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.

Education Commission.

(4) The regulations made under section 100 or 101 may—

- (a) provide that a prescribed officer may only exercise his powers under this section in respect of officers or temporary employees of such class as may be specified or described in the regulations; and
- (b) require a suspension imposed by a prescribed officer under this section to be reported in such manner as may be prescribed.

88. Where an officer or temporary employee of a Teaching Service becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit, he shall forthwith give to the appropriate Director-General notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his application, compounding 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 application, compounding or assignment as may be required by the Director-General.

Officers and temporary employees to report bankruptcy, etc.

89. (1) Except with the permission in writing of the appropriate Director-General, which may be withdrawn at any time, an officer or temporary employee of a Teaching Service (other than a temporary employee of the Education Teaching Service employed on a casual basis or a temporary employee of the Technical and Further Education Teaching Service employed on a part-time basis) shall not—

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

- (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;

Education Commission.

- (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;
- (e) accept or engage in any remunerative employment other than in connection with the duties of his position under this Act; or
- (f) accept, engage in or undertake any prescribed work or activity or any work or activity of a prescribed class or description.

(2) Nothing in this section prevents an officer or temporary employee of a Teaching Service—

- (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 temporary 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) If any officer or temporary employee does any thing referred to in subsection (1) (a), (b), (c), (d), (e) or (f) without the permission of the appropriate Director-General, he shall at once notify the fact to the Director-General who may thereupon impose on the officer or temporary employee any of the punishments referred to in section 85 (1) or may direct the officer or temporary employee to abstain from doing that thing within

Education Commission.

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 temporary employee any of those punishments.

90. (1) If the address for the time being of an officer or temporary employee of a Teaching Service is unknown to the appropriate Director-General, all notices, orders or communications relating to any charges against him shall be posted to the address of the officer or temporary employee last known to that Director-General and compliance with this subsection shall be deemed a sufficient service on the officer or temporary employee of any such notices, orders or communications.

Officer or temporary employee whose address is unknown.

(2) If within any time specified in any such notice, order or communication no answer is received by the appropriate Director-General to an inquiry asking whether the officer or temporary employee admits the truth of the charges brought against him, he shall be deemed to deny the truth of those charges, and the Director-General may inquire into and deal with those charges in the absence of the officer or temporary employee.

DIVISION 7.—Miscellaneous.

91. A member of a Teaching Service may sue for and recover the amount of his salary, wages or other remuneration the subject of a determination under section 25.

Recovery of salary, etc.

92. (1) Except as provided in subsection (2), where an officer or temporary employee of a Teaching Service 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, wages or other remuneration such amount as the Public Service Board, after consultation with the

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

Education Commission.

appropriate 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.

(2) Where an officer or temporary employee of a Teaching Service is allowed to use, for the purpose of residence, any building or part of a building or any land vested in or managed by the Teacher Housing Authority of New South Wales or the Public Servant Housing Authority of New South Wales, an amount fixed by the Authority concerned in respect of rent shall be deducted from the salary of that officer or temporary employee and paid to the Authority concerned.

Attachment
of salary
or wages
of officers
and
temporary
employees.

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

- (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) As soon as practicable after the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the accountant of the appropriate Department shall notify the judgment debtor in writing of the service of the copy of the 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.

Education Commission.

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

- (a) from time to time, deduct from any money due to the officer or temporary employee such sums as are fixed by the appropriate 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 temporary employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection (4).

(4) The amount which, pursuant to subsection (3), is to be ascertained in accordance with this subsection shall be ascertained by deducting \$8—

- (a) in the case of a male officer or temporary employee, from the basic wage for adult males; and
- (b) in the case of a female officer or temporary 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 (3) is made.

(5) Where copies of more than one judgment and statutory declaration relating thereto are served upon the accountant of the appropriate Department 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 (3) from money due to an officer or temporary employee shall, as between the Government of New South Wales and the officer or temporary employee, be deemed to be a payment by that Government to the officer or temporary employee.

Education Commission.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the accountant of the appropriate Department 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 \$100.

(8) If any deduction made in pursuance of the provisions of subsection (3) from money due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor, the excess shall be repayable by the appropriate Department 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 temporary employee who is an undischarged bankrupt.

(10) Out of the sums deducted under the provisions of subsection (3) there shall be retained by the accountant of the appropriate Department, to be paid by him to the Treasurer for credit of the Consolidated Revenue Fund, an amount equal to 5 per cent (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of those sums, and the balance of those sums shall be paid to the judgment creditor.

(11) When the accountant makes a payment to a judgment creditor under the provisions of subsection (10), the accountant of the appropriate Department shall forward to the judgment creditor a statement showing—

- (a) the sums deducted under the provisions of subsection (3) in respect of the judgment from money due to the officer or temporary employee concerned;
- (b) the amount retained by the accountant under the provisions of subsection (10) out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under the provisions of subsection (10).

Education Commission.

(12) Upon payment being made under the provisions of subsection (10) to the judgment creditor, the judgment creditor shall credit the officer or temporary employee concerned with the sums referred to in subsection (11) (a), as shown in the statement forwarded by the accountant of the appropriate Department 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.

94. Nothing in this Act shall be construed as restricting the ordinary and necessary departmental authority of the Minister with respect to the direction and control of members of the Teaching Services and work. Saving as to Minister's authority.

95. (1) All notices of appointments, promotions, retirements, dismissals and annulments of appointments of— Appointments, etc., to be notified in appropriate Gazette.

- (a) officers of the Education Teaching Service shall be published in the Education Gazette; and
- (b) officers of the Technical and Further Education Teaching Service shall be published in the Technical and Further Education Gazette.

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

Education Commission.

Evidence
as to
Gazettes.

96. A document purporting to be an issue of the Education Gazette or the Technical and Further Education Gazette, as the case may be, is admissible in evidence in any proceedings, including proceedings before the Crown Employees Appeal Board, and shall, until the contrary is proved, be deemed to be a copy of an issue of the Education Gazette or the Technical and Further Education Gazette, as the case may be.

Crown's
right to
dismiss not
abrogated.

97. (1) Subject to subsection (3), 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 a Teaching Service.

(2) An officer or temporary employee of a Teaching Service 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 (1) and (2) 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 a Teaching Service.

Certain
Acts apply
to officers
and
temporary
employees.

98. The provisions of section 2 (1) of the Constitution (Public Service) Amendment Act, 1916, apply to officers and temporary employees of a Teaching Service as if they were holders of offices of profit in the Public Service 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, 1979.

Making of
regulations
by the
Governor.

99. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by Part II or Schedule 1 or 2 is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to Part II or Schedule 1 or 2.

Education Commission.

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

Making of regulations by the Director-General of Education.

- (a) the examinations to be held and qualifications required for appointment to or promotion to a position in the Education Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and temporary employees of the Education Teaching Service;
- (c) the arrangement of positions in the Education Teaching Service into divisions;
- (d) the order and conditions of promotion and the grading and seniority of members of the Education Teaching Service;
- (e) appeals to the Director-General of Education;
- (f) the employment of persons under section 50;
- (g) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and temporary employees of the Education Teaching Service;
- (h) the maintenance of discipline, order, economy and efficiency in the Education Teaching Service;
- (i) the classification, general management and inspection of public schools; and
- (j) any matter that by this Act (Part II and Schedules 1 and 2 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 and Schedules 1 and 2 excepted) concerning the Education Teaching Service.

(2) In the application of section 41 of the Interpretation Act, 1897, to regulations made under subsection (1), the reference in section 41 (I) (a) of that Act to the Gazette shall be read as a reference to the Education Gazette.

Education Commission.

Making of regulations by the Director-General of Technical and Further Education.

101. (1) The Director-General of Technical and Further Education 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 in the Technical and Further Education Teaching Service;
- (b) the appointment, transfer, powers, duties and responsibilities of officers and temporary employees of the Technical and Further Education Teaching Service;
- (c) the arrangement of positions in the Technical and Further Education Teaching Service into schools, divisions and sections;
- (d) the grading and seniority of members of the Technical and Further Education Teaching Service;
- (e) the preparation and maintenance of a promotions list, the conditions for placement on the list, the positions for which placement on the list is an essential prerequisite for promotion and appeals against non-placement on the list;
- (f) appeals to the Director-General of Technical and Further Education;
- (g) the employment of persons under section 58;
- (h) the training, certification, classification, resignation, retirement, punishment, dismissal or leave of absence of officers and temporary employees of the Technical and Further Education Teaching Service;
- (i) the maintenance of discipline, order, economy and efficiency in the Technical and Further Education Teaching Service;
- (j) the classification, general management and inspection of schools and colleges; and
- (k) any matter that by this Act (Part II and Schedules 1 and 2 excepted) is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carry-

Education Commission.

ing out or giving effect to the provisions of this Act (Part II and Schedules 1 and 2 excepted) concerning the Technical and Further Education Teaching Service.

(2) In the application of section 41 of the Interpretation Act, 1897, to regulations made under subsection (1), the reference in section 41 (I) (a) of that Act to the Gazette shall be read as a reference to the Technical and Further Education Gazette.

102. A provision of a regulation may—

Application,
etc., of
regulations.

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

SCHEDULE 1.

Sec. 9 (4).

PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN.

1. In this Schedule—

“statutory body” means a body declared under clause 6 to be a statutory body for the purposes of this Schedule;

Interpre-
tation:
Sch. 1.

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

*Education Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN
—*continued.*

Preservation
of rights—
generally.

2. Subject to clause 3 and to the terms of his appointment, where the Chairman was, immediately before his appointment as the Chairman—

- (a) an officer of a Teaching Service or the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as the Chairman; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as the Chairman, and—

- (h) his service as the Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purposes of the superannuation scheme to which he is entitled to contribute under this clause.

Con-
sequence
of becoming
contributor
to another
superannua-
tion scheme.

3. (1) If the Chairman would, but for this subclause, be entitled under clause 2 to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme, he shall not be so entitled upon his becoming (whether upon his appointment as the Chairman or at any later time while he holds office as the Chairman) a contributor to any other superannuation scheme, and the provisions of clause 2 (i) cease to apply to or in respect of him and the Government of New South Wales in any case where he becomes a contributor to such another superannuation scheme.

Education Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE PRESERVATION OF RIGHTS OF THE CHAIRMAN
—*continued.*

(2) Subclause (1) of this clause does not prevent the payment to the Chairman upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

4. The Chairman shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act. Restrictions on entitlement to benefit.

5. (1) In this clause, “retiring age” means, in relation to a person who was, immediately before his appointment as the Chairman— Reappointment to former employment in certain cases.

(a) an officer of a Teaching Service or the Public Service—the age of 60 years; and

(b) an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as the Chairman), as the case may be, of that statutory body are entitled to retire.

(2) A person who ceases to be the Chairman, otherwise than pursuant to section 15 (paragraph (d) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as the Chairman, he was—

(a) an officer of a Teaching Service or the Public Service—to some position in that service of which he was an officer; or

(b) an officer or employee of a statutory body—to some position in the service of that body,

not lower in classification or salary than that which he held immediately before his appointment as the Chairman.

6. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. Declarations of statutory bodies.

Education Commission.

SCHEDULE 2.

Sec. 20.

PROVISIONS RELATING TO MEETINGS OF THE COMMISSION.

Convening of meetings.

1. (1) The Chairman may, at any time, convene a meeting of the Commission.

(2) The Chairman, on receipt of a request in writing signed by 3 members, shall convene a meeting of the Commission.

Quorum.

2. At a meeting of the Commission, 8 members constitute a quorum.

Meetings.

3. (1) Any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission.

(2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the members present and voting.

General procedure.

4. The procedure for the calling of, and for the conduct of business at, meetings of the Commission shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Commission.

Chairman to preside.

5. The Chairman shall preside at all meetings of the Commission at which he is present.

Absence of Chairman.

6. (1) In the absence of the Chairman at any meeting of the Commission, the Acting Chairman appointed under section 13 (1) shall preside as Chairman at that meeting.

(2) Where both the Chairman and the Acting Chairman appointed under section 13 (1) are absent from any meeting of the Commission, or if no Acting Chairman is so appointed, the members present shall appoint one of their number to preside as chairman at that meeting.

Presiding member's vote.

7. The member presiding at a meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall also have a second or casting vote.

Minutes of meetings.

8. The Commission shall cause full and accurate minutes to be kept of its proceedings at meetings.

Informing Minister of certain matters.

9. Where, at a meeting of the Commission, it is resolved that the Minister be informed of any matter, it is the responsibility of the person presiding at the meeting to ensure that the Minister is so informed.

Education Commission.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEETINGS OF THE COMMISSION—*continued.*

10. In proceedings by or against the Commission, no proof shall be required (until evidence is given to the contrary) of— **Pre-**
sumptions.

- (a) the constitution of the Commission;
- (b) the due making of any resolution of the Commission;
- (c) the appointment or election of any member; or
- (d) the presence of a quorum at any meeting of the Commission.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 16th April, 1980.*







EDUCATION COMMISSION (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Teaching Service (Amendment) Bill, 1980.

The object of this Bill is to amend section 59 of the Education Commission Act, 1980, to require the Director-General of Education—

- (a) to appoint a female officer of the Education Teaching Service to the office of principal of a girls' high school where there is a vacancy in that office, unless—
 - (i) there is no female officer named in the promotions list from which appointments to that office are made; or
 - (ii) there are female officers who are so named but those female officers do not desire appointment; and
- (b) to appoint a male officer of the Education Teaching Service to the office of principal of a boys' high school where there is a vacancy in that office (clause 3 (a)).

The Bill consequentially amends section 62 of the Education Commission Act, 1980, which relates to rights of appeal to the Crown Employees Appeal Board or the Government and Related Employees Appeal Tribunal, as the case may require, against decisions of the Director-General under section 59 of the Education Commission Act, 1980 (clause 3 (b)).



**EDUCATION COMMISSION (AMENDMENT) BILL,
1980**

No. , 1980.

A BILL FOR

An Act to amend the Education Commission Act, 1980,
to provide for appointments of principals of certain high
schools.

[MR BEDFORD—2 *April*, 1980.]

Education Commission (Amendment).

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 :—

5 **1.** This Act may be cited as the "Education Commission Short title.
(Amendment) Act, 1980".

2. (1) This section and section 1 shall commence on the date Commence-
of assent to this Act. ment.

(2) Except as provided by subsection (1), this Act shall
10 commence on the day appointed and notified under section 2 (2)
of the Education Commission Act, 1980.

3. The Education Commission Act, 1980, is amended—

Amendment
of the
Education
Commission
Act, 1980.

15 (a) (i) by omitting from section 59 (2) the word "Where"
and by inserting instead the words "Except as
provided by subsections (2A), (2B) and (2C),
where";

Sec. 59.
(Filling
vacancies
in the
Education
Teaching
Service.)

(ii) by inserting after section 59 (2) the following
subsections :—

20 (2A) Where there is a vacancy in the position
of principal of a girls' high school, the Director-
General shall, if he is of the opinion that the
vacancy should be filled, appoint to the vacant
position a female officer whose name is on the
promotions list from which officers are appointed to

Education Commission (Amendment).

the position of principal of a high school, regard being had to the relative seniority and fitness respectively of female officers whose names are on that promotions list.

5 (2B) Subsection (2A) does not apply where the promotions list referred to in that subsection—

(a) does not include the name of a female officer; or

10 (b) does include the name of a female officer or the names of female officers but the female officer does not apply for or accept appointment to the vacancy or none of those female officers applies for or accepts appointment to the vacancy.

15 (2C) Where there is a vacancy in the position of principal of a boys' high school, the Director-General shall, if he is of the opinion that the vacancy should be filled, appoint to the vacant position a male officer whose name is on the
20 promotions list from which officers are appointed to the position of principal of a high school, regard being had to the relative seniority and fitness respectively of male officers whose names are on that promotions list.

25 (iii) by inserting in section 59 (3) after the matter "subsection (2) (a)" the matter ", (2A) or (2C)";

(b) (i) by omitting from section 62 (2) the words "or
30 determination, as referred to in section 60," and by inserting instead the words ", made pursuant to section 59,";

Sec. 62.
(Appeals under the Crown Employees Appeal Board Act, 1944.)

Education Commission (Amendment).

(ii) by inserting after section 62 (2) the following subsection :—

5 (3) Subsection (2) does not operate so as to enable the making of an appeal against a decision referred to in that subsection—

(a) by a male officer, where the decision is to appoint a female officer to the position of principal of a girls' high school; or

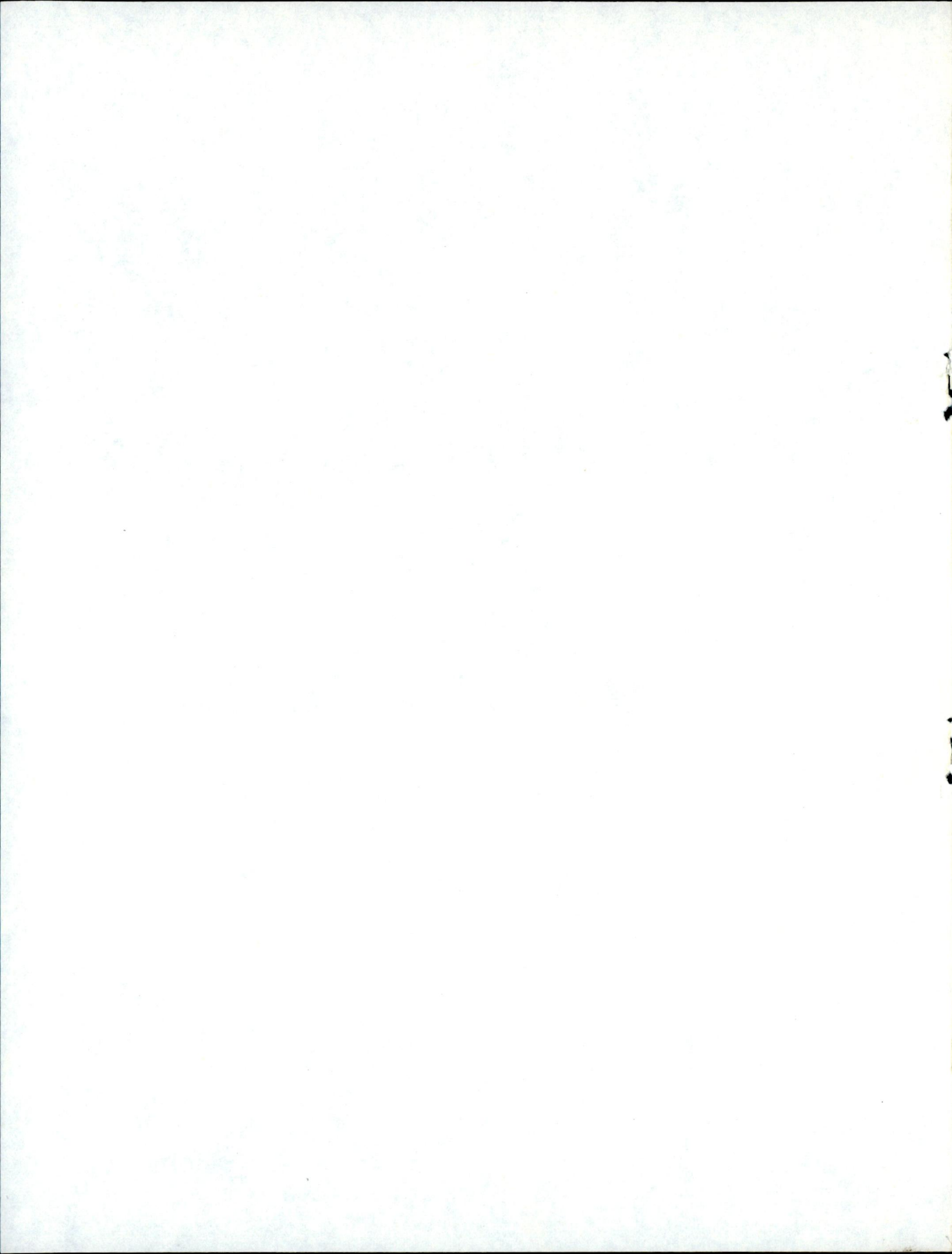
10 (b) by a female officer, where the decision is to appoint a male officer to the position of principal of a boys' high school.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

(10c)





**EDUCATION COMMISSION (AMENDMENT) ACT,
1980, No. 99**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 99, 1980.

An Act to amend the Education Commission Act, 1980,
to provide for appointments of principals of certain high
schools. [Assented to, 1st May, 1980.]

Education Commission (Amendment).

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 :—

Short title. **1.** This Act may be cited as the "Education Commission (Amendment) Act, 1980".

Commence- **2.** (1) This section and section 1 shall commence on the date
ment. of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Education Commission Act, 1980.

Amendment
of the
Education
Commission
Act, 1980.

3. The Education Commission Act, 1980, is amended—

Sec. 59.
(Filling
vacancies
in the
Education
Teaching
Service.)

(a) (i) by omitting from section 59 (2) the word "Where" and by inserting instead the words "Except as provided by subsections (2A), (2B) and (2C), where";

(ii) by inserting after section 59 (2) the following subsections :—

(2A) Where there is a vacancy in the position of principal of a girls' high school, the Director-General shall, if he is of the opinion that the vacancy should be filled, appoint to the vacant position a female officer whose name is on the promotions list from which officers are appointed to

Education Commission (Amendment).

the position of principal of a high school, regard being had to the relative seniority and fitness respectively of female officers whose names are on that promotions list.

(2B) Subsection (2A) does not apply where the promotions list referred to in that subsection—

- (a) does not include the name of a female officer; or
- (b) does include the name of a female officer or the names of female officers but the female officer does not apply for or accept appointment to the vacancy or none of those female officers applies for or accepts appointment to the vacancy.

(2C) Where there is a vacancy in the position of principal of a boys' high school, the Director-General shall, if he is of the opinion that the vacancy should be filled, appoint to the vacant position a male officer whose name is on the promotions list from which officers are appointed to the position of principal of a high school, regard being had to the relative seniority and fitness respectively of male officers whose names are on that promotions list.

(iii) by inserting in section 59 (3) after the matter "subsection (2) (a)" the matter ", (2A) or (2C)";

(b) (i) by omitting from section 62 (2) the words "or determination, as referred to in section 60," and by inserting instead the words ", made pursuant to section 59,";

Sec. 62.
(Appeals under the
Crown Employees
Appeal Board
Act,
1944.)

Education Commission (Amendment).

(ii) by inserting after section 62 (2) the following subsection :—

(3) Subsection (2) does not operate so as to enable the making of an appeal against a decision referred to in that subsection—

- (a) by a male officer, where the decision is to appoint a female officer to the position of principal of a girls' high school; or
- (b) by a female officer, where the decision is to appoint a male officer to the position of principal of a boys' high school.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 1st May, 1980.*