

EDUCATION ACT.

Act No. 47, 1961.

An Act to make further provision in respect of secondary education; for this purpose to constitute a Secondary Schools Board and a Board of Senior School Studies, to provide for the grant of School and Higher School Certificates and to amend the Public Instruction Act of 1880, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 30th November, 1961.]

**Elizabeth II,
No. 47, 1961**

BE

No. 47, 1961 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title and commencement. **1.** (1) This Act may be cited as the "Education Act, 1961".

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

Division into Parts. **2.** This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS OF PUBLIC INSTRUCTION ACT OF 1880, AS AMENDED BY SUBSEQUENT ACTS.

PART III.—SCHOOL AND HIGHER SCHOOL CERTIFICATES.

PART IV.—SECONDARY SCHOOLS BOARD AND BOARD OF SENIOR SCHOOL STUDIES.

DIVISION 1.—*Commencement.*

DIVISION 2.—*Secondary Schools Board.*

DIVISION 3.—*Board of Senior School Studies.*

DIVISION 4.—*General provisions applicable to the Boards.*

PART V.—GENERAL.

3. (1) In this Act, unless the context or subject matter otherwise indicates or requires :—

“Prescribed” means prescribed by this Act or the regulations. Interpretation. No. 47, 1961

“Regulations” means regulations made under this Act.

(2) This Act shall be read and construed with the Public Instruction Act of 1880, and the Public Instruction (Amendment) Act, 1916, as amended by subsequent Acts.

PART II.

AMENDMENTS OF PUBLIC INSTRUCTION ACT OF 1880, AS AMENDED BY SUBSEQUENT ACTS.

4. (1) The Public Instruction Act of 1880, as amended by subsequent Acts, is amended :— Amendment of Act 43 Vic. No. 23.

(a) by omitting section six and by inserting in lieu thereof the following section :— Subst. sec. 6.

6. The several classes of schools herein defined may be established and maintained under this Act as fully organized Public Schools, namely :— Classes of schools to be established and maintained.

- (a) Primary Schools in which the main object shall be to afford the best primary education to all children without sectarian or class distinction;
- (b) Secondary Schools in which courses of study beyond the primary level may be given and pupils may be prepared for admission to institutions of higher or vocational education;
- (c) Composite Schools in which both primary and secondary education may be given;
- (d) Evening Colleges in which the object shall be to provide further education generally of a non-vocational character for youths and adults.

322 **Education Act.**

No. 47, 1961
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Schools within the foregoing classes may be designated or categorized as may be prescribed.

Schools established and maintained before the commencement of the Education Act, 1961, as schools within any of the foregoing classes, designations or categories may continue to be so established and maintained.

Sec. 9.
(Superior
Public
Schools.)

(b) by omitting section nine;

Sec. 24.
(Training
schools to be
established.)

(c) by omitting from section twenty-four the words "Training Schools" and by inserting in lieu thereof the words "Teachers' Colleges";

Sec. 25.
(High
Schools for
boys to be
established.)

(d) by omitting section twenty-five;

Sec. 26.
(High
Schools for
girls to be
established.)

(e) by omitting section twenty-six.

Citation.

(2) The Public Instruction Act of 1880, as amended by subsequent Acts and by this Act, may be cited as the Public Instruction Act, 1880-1961.

PART III.

SCHOOL AND HIGHER SCHOOL CERTIFICATES.

School and
higher
school
certificates.

5. (1) The Department of Education shall, in accordance with the provisions of this Act, grant to pupils and persons satisfying the requirements prescribed therefor school certificates and higher school certificates.

(2)

(2) School certificates shall be granted on the recommendation of the Secondary Schools Board to pupils and persons who have :—

- (a) (i) attended for a period of at least four years a secondary school, or a school registered as prescribed under this Act, or
- (ii) been accepted by the Secondary Schools Board as having completed satisfactory courses of study at any other school; and
- (b) passed the School Certificate Examination in such subjects and at such standards as the Minister on the recommendation of the Secondary Schools Board determines; and
- (c) complied with such other conditions as may be prescribed or as the Minister may attach to such grant.

(3) Higher school certificates shall be granted on the recommendation of the Board of Senior School Studies to pupils and persons who have :—

- (a) been granted school certificates or in the opinion of the Board of Senior School Studies attained qualifications equivalent to those required for the grant of school certificates; and
- (b) completed to the satisfaction of the Board of Senior School Studies not less than two years' study, or where the Board of Senior School Studies in special circumstances so approves one year's study, subsequent to the grant of their school certificates or attainment of equivalent qualifications as aforesaid; and
- (c) passed the Higher School Certificate Examination in such subjects and at such standards as the Board of Senior School Studies prescribes by by-laws under this Act; and
- (d) complied with such other conditions as may be prescribed or as the Minister may attach to such grant.

PART IV.

SECONDARY SCHOOLS BOARD AND BOARD OF SENIOR SCHOOL STUDIES.

DIVISION 1.—*Commencement.*

Commence-
ment.

6. (1) For the purposes only of the appointment of persons to be members of the Secondary Schools Board and the Board of Senior School Studies and of any matters necessary for or incidental to such appointment the provisions of Divisions 2, 3 and 4 of this Part of this Act, and of Part V of this Act in so far as they are applicable, shall commence on the day upon which this Act commences.

(2) The persons so appointed shall assume office as members of the Secondary Schools Board and the Board of Senior School Studies upon the day appointed by the Governor and notified by proclamation published in the Gazette as the day upon which the Secondary Schools Board and the Board of Senior School Studies shall be constituted.

Different days may be so appointed for each such Board.

On the day upon which the Secondary Schools Board is so constituted the provisions of Divisions 2 and 4 of this Part of this Act, and of Part V of this Act and the regulations, in so far as they are applicable to such Board, shall come into force for all purposes.

On the day upon which the Board of Senior School Studies is so constituted the provisions of Divisions 3 and 4 of this Part of this Act, and of Part V of this Act and the regulations, in so far as they are applicable to such Board, shall come into force for all purposes.

Secondary
Schools
Board.

DIVISION 2.—*Secondary Schools Board.*

7. (1) There shall be a Secondary Schools Board consisting of twenty members who shall be appointed by the Governor.

(2)

(2) Of the members so appointed :—

No. 47, 1961

- (a) three shall be appointed from nominations made by the governing bodies of the universities within this State in the manner prescribed;
- (b) two shall be the persons for the time being holding office respectively as the Director-General of Education and the Director of Secondary Education;
- (c) four shall be persons who are officers of the Department of Education associated with primary and secondary education;
- (d) one shall be the person for the time being holding office as the Director of Technical Education;
- (e) one shall be a person who, in the opinion of the Minister, can, by his knowledge and experience, advance the full development of the examination procedures of the Secondary Schools Board;
- (f) one shall be a principal teacher of secondary schools for boys (other than Roman Catholic Schools) registered under the Bursary Endowment Act, 1912, as amended by subsequent Acts, nominated in the manner prescribed as representative of such schools;
- (g) one shall be a principal teacher of secondary schools for girls (other than Roman Catholic Schools) registered under the Bursary Endowment Act, 1912, as amended by subsequent Acts, nominated in the manner prescribed as representative of such schools;
- (h) one shall be a person nominated in the manner prescribed as representative of the Roman Catholic Secondary Schools for boys registered under the Bursary Endowment Act, 1912, as amended by subsequent Acts;
- (i) one shall be a person nominated in the manner prescribed as representative of the Roman Catholic Secondary Schools for girls registered under the Bursary Endowment Act, 1912, as amended by subsequent Acts;
- (j)

No. 47, 1961

(j) four shall be persons, having the prescribed qualifications, nominated by the Secondary Teachers' Association of the New South Wales Teachers' Federation;

(k) one nominated by the Minister shall be a person who is a member of a parents and citizens association constituted under the Public Instruction Act of 1880, as amended by subsequent Acts.

(3) The persons for the time being holding office as the Director-General of Education and the Director of Secondary Education shall respectively be the Chairman and Deputy Chairman of the Secondary Schools Board.

(4) The Director of Technical Education may appoint any officer of the Department of Technical Education as a deputy to act on his behalf at any meeting of the Secondary Schools Board at which he is unable to attend, and a deputy so appointed shall be entitled to act, and while so acting, shall be deemed to be a member.

Functions
and duties
of Second-
ary Schools
Board.

8. (1) The functions and duties of the Secondary Schools Board shall be—

(a) to make recommendations to the Minister in relation to matters connected with or concerning the conduct of examinations for school certificates and the award of such certificates;

(b) to make such arrangements as may be necessary for the conduct of examinations for school certificates, and to regulate the conduct of those examinations;

(c) to advise the Minister on the courses of study to be followed by pupils in secondary schools and by candidates for school certificates, regard being had to the requirements of a sound general education and to the desirability of providing a variety of curricula adequate to meet the varying aptitudes and abilities of pupils concerned, and to authorise the grant of school certificates;

(d)

- (d) to appoint for each subject of the secondary school curriculum special committees for the purpose of recommending to the Secondary Schools Board the content of any such course of study. No. 47, 1961

(2) The Secondary Schools Board shall have and may exercise such other powers, authorities, duties and functions as may be prescribed.

DIVISION 3.—*Board of Senior School Studies.*

9. (1) There shall be a Board of Senior School Studies consisting of nineteen members who shall be appointed by the Governor. Board of
Senior
School
Studies.

(2) Of the members so appointed :—

- (a) seven shall be appointed from nominations made by the governing bodies of the universities within this State in the manner prescribed;
- (b) one shall be the person for the time being holding office as the Director-General of Education;
- (c) three shall be persons who are officers of the Department of Education;
- (d) one shall be the person for the time being holding office as the Director of Technical Education;
- (e) one shall be a person who is associated with the training of teachers;
- (f) one shall be a principal teacher of secondary schools (other than Roman Catholic Schools) registered under the Bursary Endowment Act, 1912, as amended by subsequent Acts, nominated in the manner prescribed as representative of such schools;
- (g) one shall be a person nominated in the manner prescribed as representative of the Roman Catholic Secondary Schools registered under the Bursary Endowment Act, 1912, as amended by subsequent Acts;

(h)

No. 47, 1961

- (h) three shall be persons having the prescribed qualifications nominated by the Secondary Teachers' Association of the New South Wales Teachers' Federation;
- (i) one shall be a person selected by the members referred to in paragraphs (a) to (h) inclusive of this subsection.

(3) The person referred to in paragraph (b) of subsection two of this section shall be the Chairman of the Board of Senior School Studies.

Such one of the members appointed pursuant to paragraph (c) of subsection two of this section as the Minister designates shall be the Deputy Chairman of the Board of Senior School Studies.

(4) The Director of Technical Education may appoint any officer of the Department of Technical Education as a deputy to act on his behalf at any meeting of the Board of Senior School Studies at which he is unable to attend, and a deputy so appointed shall be entitled to act, and while so acting, shall be deemed to be a member.

Functions
and duties
of Board
of Senior
School
Studies.

10. (1) The functions and duties of the Board of Senior School Studies shall be : —

- (a) to make recommendations to the Minister in relation to matters connected with or concerning the conduct of examinations for higher school certificates and the award of such certificates;
- (b) to make such arrangements as may be necessary for the conduct of examinations for higher school certificates, and to regulate the conduct of those examinations;
- (c) to determine the courses of study consequent upon those prescribed for school certificates to be followed in secondary schools by candidates for higher school certificates, and to authorise the grant of such certificates;

(d)

- (d) to appoint for each subject of the secondary school curriculum for higher school certificates special committees for the purpose of recommending to the Board of Senior School Studies the content of any such course of study. No. 47, 1961

(2) The Board of Senior School Studies shall have and may exercise such other powers, authorities, duties and functions as may be prescribed.

DIVISION 4.—*General provisions applicable to the Boards.*

11. In this Division—

“Board” means Secondary Schools Board or Board of Senior School Studies. Interpreta-
tion.

“Chairman” means Chairman of a Board.

“Member” means member of a Board.

12. If for any reason any nomination is not made under subsection two of section seven or any nomination or selection is not made under subsection two of section nine of this Act within the time and in the manner prescribed, the Governor may appoint as member of a Board such person as he thinks fit and any person so appointed shall be deemed to have been validly appointed in accordance with the provisions of Division 2 or 3 of this Part of this Act and the regulations. No nomina-
tion made.

13. The members of a Board shall be appointed for a term of four years, but shall, if otherwise qualified, be eligible for re-appointment. Tenure of
office.

14. (1) A member, other than an ex officio member, shall be deemed to have vacated his office if he— Vacancies
on Board.

(a) dies;

(b) declines to act;

(c)

Education Act.

- No. 47, 1961** (c) resigns his office by writing under his hand addressed to the Governor;
- (d) is absent, without leave of the Board, from three consecutive ordinary meetings of the Board of which notice has been given to him personally or in the ordinary course of post;
- (e) being a member nominated by a specified person or body ceases to hold the qualifications or office by virtue of which he was entitled to be so nominated;
- (f) is removed from office by the Governor.

(2) The Governor may, for any cause which appears to him to be sufficient, remove any member from office.

Casual vacancies. **15.** Where a casual vacancy occurs in the office of a member the Governor may appoint a person to the vacant office. The person so appointed shall hold the like prescribed qualifications or office (if any) as that of the member whose office has become vacant and shall, subject to this Division of this Part of this Act, hold office for the residue of his predecessor's term of office.

Quorum. **16.** The number of members who shall constitute a quorum for the purposes of any meeting of a Board shall be as prescribed by regulations and any duly convened meeting at which a quorum is present shall be competent to transact any business of a Board, and shall have and may exercise and discharge all the powers, authorities, duties and functions of that Board.

Procedure at meetings. **17.** (1) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of a Board.

(2) In the absence of both the Chairman and the Deputy Chairman from any meeting of a Board the members present at the meeting shall elect from amongst their number a chairman to preside at that meeting.

(3)

(3) The procedure for the calling of meetings of a Board and the conduct of business at such meetings, shall, subject to any regulations or by-laws in relation thereto in force under this Act, be as determined by the members.

18. (1) No act or proceeding of a Board or of any committee of a Board or of any person acting pursuant to any direction of a Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there were vacancies, not exceeding six in number, in the offices of members of a Board.

Validity of
acts and
proceedings.

(2) All acts and proceedings of a Board or of any committee of a Board or of any person acting pursuant to any direction of a Board shall, notwithstanding the subsequent discovery of any defect in the appointment, nomination or selection of any member of a Board, or that any such member was disqualified from acting as or incapable of being a member and had acted as a member of a Board, be as valid as if such member had been duly appointed, nominated or selected and was qualified to act as or capable of being a member and had acted as a member of a Board and as if a Board had been properly and fully constituted.

19. The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any member, and a member shall not, as such member, be subject to the provisions of any such Act.

Public
Service Act
not to
apply.

20. (1) A Board may make by-laws not inconsistent with this Act or the regulations with respect to all matters pertaining to its powers, authorities, duties and functions.

Board may
make
by-laws.

(2) The by-laws shall—

- (a) after approval by the Governor be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the by-laws;

(c)

No. 47, 1961

- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such by-laws have been laid before such House disallowing any by-law or part thereof, such by-law or part shall thereupon cease to have effect.

PART V.

GENERAL.

Regulations. **21.** (1) The Governor may make regulations, not inconsistent with this Act—

- (a) for and with respect to the registration of schools for the purposes of this Act and the conditions to be complied with in order to entitle a school to be and continue to be so registered;
- (b) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c)

Parliamentary Elections and Liquor (Amendment) Act.

333

- (c) be laid before both Houses of Parliament within No. 47, 1961 fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
