



## EDUCATION (RECREATION)

No. 42 of 1977

### ANALYSIS

1. Short title and citation.
2. Facilities, &c., for recreation and promotion of physical fitness.
3. Interpretation.
4. Transfer of National Fitness Officers to Teaching Service.
5. Transfer of staff of National Fitness Council to Public Service.
6. Applications to Public Service Arbitrator.
7. Transfer of property, &c., of National Fitness Council.

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**AN ACT to amend the Education Act 1932 in relation to matters of recreation and to make provision consequential upon the cessation of the operations of the National Fitness Council of Tasmania.**

[31 August 1977]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—(1)** This Act may be cited as the *Education (Recreation) Act 1977*. Short title and citation.

(2) The *Education Act 1932*\*, as subsequently amended, is in this Act referred to as the Principal Act.

\* 23 Geo. V No. 22. For this Act as amended to 1970, see Appendix B of the Annual Volume of Statutes for 1971. Subsequently amended by No. 56 of 1971, Nos. 10 and 69 of 1972, Nos. 17, 48, and 81 of 1973, No. 13 of 1974, No. 47 of 1975, and Nos. 20 and 28 of 1976.

**2** After Part IIB of the Principal Act the following Part is inserted:—

“ PART IIC

“ RECREATION

Facilities, &c.,  
for recreation  
and promotion  
of physical  
fitness.

“ 19ZC—(1) For the benefit of the residents of the State, regardless of age, the Minister shall take such steps as appear to him appropriate—

- (a) to provide, improve, and extend the facilities and opportunities available for leisure-time recreation; and
- (b) to promote activities, and provide, improve, and extend facilities, that are directed to the improvement and maintenance of physical fitness and general health.

“(2) Schools, colleges, and other property provided for any other purposes of this Act may, subject to this Act, be used for the purpose of the discharge by the Minister of his duties under this section, and, in the discharge of those duties the Minister shall be concerned to ensure that the greatest use possible is made of those schools, colleges, and other property.

“(3) Without prejudice to the generality of the provisions of section 47, regulations under this Act may regulate the discharge by the Minister of his functions under this section and any matters arising in connection therewith, and, in particular may prescribe the fees to be paid in respect of the use of any facilities, or the participation in any activities, provided pursuant to this section.”.

Interpretation.

**3** In the following provisions of this Act, unless the contrary intention appears—

“ Arbitrator ” means the Public Service Arbitrator;

“ Board ” means the Public Service Board;

“ Council ” means the National Fitness Council of Tasmania.

Transfer of  
National  
Fitness  
Officers to  
Teaching  
Service.

**4—**(1) The Minister may, by order, appoint a transfer day for the purposes of this section and references in this section to the transfer day shall be construed as references to the day so appointed.

(2) Any person who immediately before the transfer day holds office in the Public Service as a National Fitness Officer shall on that day cease to be an officer of the Public Service and shall thereupon be deemed to have been appointed a member of the Teaching Service under section 4 (1) of the Principal Act.

(3) Any determination made under section 4 (4) of the Principal Act in respect of a person who becomes a member of the Teaching Service under subsection (2) shall be so made as to ensure that the salary and allowances to which he becomes entitled on so becoming a member of the Teaching Service are no less than he was entitled to receive as an officer of the Public Service.

(4) Where immediately before the transfer day a person had, as an officer of the Public Service, accrued rights with respect to sick leave or recreation leave he retains those rights as a member of the Teaching Service, but without prejudice to the accrual to him of further rights under the Principal Act as a member of the Teaching Service.

(5) For the purpose of determining the rights under the Principal Act of any person who becomes a member of the Teaching Service under this section the service of that person as an officer of the Public Service shall, subject to this section, be treated as service as a member of the Teaching Service.

**5—**(1) This section applies to persons who, immediately before 1st July 1975, were employed by the Council and who since that date have been continuously employed under the Principal Act.

Transfer of  
staff of National  
Fitness Council  
to Public  
Service.

(2) The Minister may appoint a transfer day for the purposes of this section and the day so appointed is in this section referred to as the transfer day.

(3) A person, to whom this section applies, becomes on the transfer day an officer of the Public Service in a classification determined by the Board, being a classification the remuneration and conditions of service attached to which substantially correspond to those attached to his employment under the Principal Act.

(4) Subsection (3) does not apply to any person whose employment under the Principal Act was, immediately before the transfer day, of a temporary or part-time nature, but, such a person shall be deemed to have been appointed on that day a temporary employee under section 30 of the *Public Service Act 1973* on the like terms and conditions on which he was employed immediately before that day under the Principal Act.

(5) For the purpose of giving effect to the foregoing provisions of this section, the Board shall determine—

- (a) whether a classification is a classification the remuneration and conditions of service attached to which substantially correspond to those which attached to any particular employment under the Principal Act; and
- (b) whether any employment under the Principal Act was of a temporary or part-time nature.

(6) For the purpose of determining the rights of any person under the *Public Service Act 1973* the previous service of that person that terminated on his becoming an officer of, or temporarily employed in, the Public Service under this section shall be treated as service of a similar nature in the Public Service, and any leave of absence (not being long service leave or leave of absence of a similar nature) granted during that employment for any purpose shall, as far as practicable, be treated as leave of absence for the like purpose granted under that Act.

(7) For the purposes of subsection (6) the “previous service” of any person means his continuous service with the Council that ended on his becoming employed under the Principal Act and his subsequent service under that Act before the transfer day.

(8) For the purpose of determining the rights of any person under the *State Employees (Long-Service Leave) Act 1950* the Council shall be treated as a State Authority within the meaning of that Act, and any long service leave, or leave in the nature of long service leave granted to an employee by the Council, and any payment in lieu of the granting of any such leave made to such an employee by the Council, shall, for the purposes of that Act, be treated as having been granted or paid thereunder in respect of service with the Council.

(9) Where arrangements have been made by the Council for the provision of superannuation or similar benefits to or in respect of any person who was in the employment of the Council and that person becomes an officer of the Public Service pursuant to this section, the Treasurer, on the application of that person, may approve those arrangements, either with or without modification, and may, subject to such conditions as he may specify in giving that approval, make such contributions or other payments as may be provided for in that behalf in the arrangements as so approved.

(10) A person in respect of whom arrangements are approved under subsection (9) shall be deemed not to be an employee within the meaning of the *Retirement Benefits Act 1970*; and, notwithstanding anything in that Act, no contributions shall be deducted under that Act from the salary of a person who, having notified the Retirement Benefits Fund Board that he intends to make an application for an approval under that subsection, makes such an application within one month of the giving of the notification, unless the Treasurer refuses to approve the arrangements to which the application relates.

**6** Section 67 of the *Public Service Act 1973* applies to a determination made by the Director-General of Education for the purpose of complying with section 4 (3), or by the Board under section 5 (5), as if it were a salary determination within the meaning of that section, and as if—

Applications to  
Public Service  
Arbitrator.

- (a) a principal award had come into effect on the transfer day in respect of the office to which the determination relates;
- (b) the determination was made on that day or the day on which it was notified to the person to whom it relates, whichever was the later; and
- (c) the determination was made to have effect from the day on which the principal award came into effect and was the first so made after the award was made.

**7** Subject to this Act, all property, rights, obligations, and liabilities of the Council shall be deemed by virtue of this section to have been transferred to and vested in the Crown on 1st July 1975 and where any land is deemed to have vested in the Crown under this section the Recorder of Titles shall make such entries in the register book as he considers necessary or desirable in the circumstances.

Transfer of  
property, &c.,  
of National  
Fitness Council.

