
EDUCATION ACT (No. 2) 1975

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**EDUCATION (No. 2)**

No. 47 of 1975

AN ACT to amend the Education Act 1932 in respect of Adult Education and to repeal the Adult Education Act 1948.

[1 October 1975]

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 Act (No. 2)* 1975. Short title, citation, and commencement.

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

(3) This Act shall commence on a day to be proclaimed.

Acts repealed.

2 The Acts specified in the schedule are repealed to the extent therein specified.

The Department.

3 Section 4 of the Principal Act is amended—

(a) by omitting subsection (1) and substituting therefor the following subsections:—

“(1) The Governor may appoint a Director-General of Education, a Deputy Director-General of Education, and such directors, superintendents, supervisors, teachers, and other officers as he may think necessary for the purposes of this Act.

“(1A) Notwithstanding subsection (1), if it is intended that a teacher be appointed on a temporary or part-time basis, the appointment may be made by the Minister.”; and

(b) by omitting subsection (3) and substituting therefor the following subsection:—

“(3) The Director-General may appoint such servants, workmen, and other employees as are required for the purposes of this Act.”.

Delegation.

4 Section 19G (1) of the Principal Act is amended by omitting the words “ Director of Technical ” and substituting the words “ Head of the Division of Technical and Further ”.

5 The Principal Act is amended by inserting, after Part IIA, the following Part:—

“ PART IIB

“ ADULT EDUCATION

Interpretation.

“ 19N In this Part, unless the contrary intention appears, ‘ Board ’ means the Adult Education Board established as provided by section 19P.

Adult Education Board.

“ 19P—(1) There shall be a board to be known as the Adult Education Board.

“(2) The Board shall consist of 11 members of whom—

(a) six shall be appointed by the Minister, one of whom shall be appointed by the Minister as chairman;

(b) one shall be the Director-General of Education for the time being or a person nominated by him;

- (c) one shall be the Principal of the Tasmanian College of Advanced Education for the time being or a person nominated by him;
- (d) one shall be a person nominated by the Council of the University of Tasmania;
- (e) one shall be a person nominated by the Board of Technical Education; and
- (f) one shall be a person nominated by the Professional Adult Education Officers' Association.

“(2A) With respect to the members referred to in subsection (2) (a)—

- (a) there shall be two resident in each part of the State; and
- (b) at least two shall be women, each resident in a different part of the State,

but in appointing members of the Board it is not necessary for the Minister to comply with paragraph (b) if he is satisfied that no suitable women are available for appointment to enable the paragraph to be complied with.

“(2B) for the purposes of subsection (2A) the State shall be divided into the following three parts, namely:—

- (a) so much of the municipalities of Latrobe, Kentish, Devonport, Ulverstone, Penguin, Burnie, Wynyard, Circular Head, King Island, Waratah, and Zeehan as lie in the Northern Division;
- (b) the Northern Division excluding the municipalities referred to in paragraph (a); and
- (c) the Southern Division.

“(3) A nomination referred to in subsection (2) shall be made to the Minister and shall be effective at the same time as the appointments referred to in subsection (2) (a) become effective.

“(4) If any nomination required by this section is not made—

- (a) in the case of the first appointment of members of the Board, within 60 days after the commencement of the *Education Act (No. 2) 1975*; or
- (b) in the case of the expiration of the term for which the members of the Board were nominated or appointed, within 60 days after a request in that behalf by the Minister,

the Minister may appoint a person to represent the relevant body without nomination by that body.

“(5) If the office of a member of the Board being the nominee of the person referred to in subsection (2) (b) or subsection (2) (c) becomes vacant before the expiration of his term of office, the appropriate person so referred to shall, within 60 days after a request in that behalf by the Minister, nominate a person to replace the person ceasing to be a member, and the person so nominated shall thereupon become a member of the Board.

“(6) If the office of a member of the Board referred to in subsection (2) (d), (e), or (f) becomes vacant before the expiration of his term of office, the relevant body shall, within 60 days after a request in that behalf by the Minister, nominate a person to replace the person ceasing to be a member and the person so nominated shall thereupon become a member of the Board.

“(7) If the office of a member of the Board referred to in subsection (2) (a) becomes vacant before the expiration of his term of office or if, in a case to which subsection (5) or subsection (6) applies, no nomination is received within the period therein specified, the Minister shall appoint a person to replace the person ceasing to be a member.

“(8) A person appointed or nominated a member of the Board as provided by subsection (5), subsection (6) or subsection (7) shall continue a member of the Board for the remainder of the period for which the person he replaces would have continued a member of the Board without re-appointment or re-nomination and the person so appointed or nominated may be re-appointed or re-nominated as a member of the Board.

Tenure of
office of
Board members.

“19Q Subject to this Act, each member of the Board shall hold office for a term of 3 years and may be re-appointed or re-nominated.

Vacation of
office as
member of the
Board.

“19R—(1) The office of a member of the Board shall become vacant—

- (a) at the expiration of his term of office;
- (b) if he dies;
- (c) if he becomes of unsound mind or otherwise incapable of continuing as a member;
- (d) if he applies to take, or takes, advantage of any law relating to bankruptcy, or compounds, or enters into an arrangement, with his creditors;
- (e) if he is removed from office as provided by subsection (2);
- (f) if he resigns in writing under his hand addressed to the Minister; or

- (g) if, without the consent in writing of the Minister, he fails to attend 3 successive meetings of the Board of which he has notice.

“(2) The Minister may, at any time, remove any member of the Board from office if, in the opinion of the Minister, he has become incapable of performing the duties of his office, or has neglected those duties, or has committed any offence or has otherwise been guilty of any misconduct that renders him unfit to perform the duties of his office.

“19s—(1) The first meeting of the Board shall be held at such time and place as is appointed by the Minister and thereafter meetings of the Board shall be held at such times and places as are appointed by the chairman. Proceedings of the Board.

“(2) On being requested in writing to do so by any 3 members of the Board, the chairman shall, not less than 7 or more than 14 days after receiving the request, appoint a time and place for the holding of a meeting of the Board.

“(3) The chairman shall preside at all meetings of the Board at which he is present and shall have a deliberative vote.

“(4) Any six members of the Board shall constitute a quorum for the transaction of the business of any meeting of the Board.

“(5) Any question arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question, and, in the event of an equality of votes, the chairman shall have a second or casting vote.

“(6) Subject to this section, the Board may regulate its own procedure.

“19t—(1) Each member of the Board (not being an officer to whom the provisions of the *Public Service Act* 1973 apply) shall be entitled to receive payment of travelling and other expenses at such rate as the Minister may determine. Travelling expenses of Board members.

“(2) Any officer to whom the provisions of the *Public Service Act* 1973 apply who is appointed as a member of the Board shall be entitled to receive payment of travelling and other expenses at the appropriate rate determined by the Public Service Board.

“19u It shall be the function of the Board—

- (a) to advise the Minister on matters of general policy with respect to adult education;
- (b) to investigate, and report upon, any matters relating to adult education which may be submitted to the Board by the Minister for investigation and report;
- Functions of the Board.

- (c) to plan the development of adult education in this State and to assist other bodies actually engaged in adult education in this State;
- (d) to take such steps and make such recommendations to the Minister, as the Board may think necessary or desirable, for the purpose of co-ordinating the activities of bodies engaged in adult education in this State; and
- (e) generally, to promote adult education in this State.

Powers of the
Minister.

“ 19v—(1) The Minister may establish, develop, maintain, and manage such institutions for adult education as he may think necessary or desirable.

“(2) Without prejudice to the generality of subsection (1), the Minister may—

- (a) organize and conduct, either himself or in collaboration with any other body or bodies engaged in cultural or educational pursuits or in the encouragement of the arts and sciences, such lectures, classes, vacation schools, and other activities which he may think necessary or desirable for the purposes of, or in connection with, the promotion and encouragement of adult education in this State;
- (b) charge and receive such fees and payments as he may determine or as may be prescribed in respect of any services supplied by the Minister, and in respect of the admission of persons to, or the enrolment of persons for the purposes of, any lectures, classes, vacation schools, or other activities organized and conducted by or on behalf of the Minister under and for the purposes of this Part;
- (c) out of moneys available to him for the purposes of this Part make payments or advances (either unconditionally or subject to such conditions as he may determine) to local advisory committees appointed under section 19y or to other bodies engaged in adult education in this State; and
- (d) generally, do all such acts and things, enter into all such contracts and arrangements, and exercise and perform all such powers, authorities, and functions as may be necessary for carrying out or giving effect to the purposes of this Part.

Use by Minister
of services of
Education
Department
employees, and
other personnel.

“ 19w—(1) For the purposes of this Part—

- (a) the Minister may authorize the Head of the Division of Adult Education to make use of the services of any person appointed under section 4 (1); and

- (b) the Minister may, with the consent of the Minister administering the appropriate department, make use of the services of any person employed in another department (not being a person to whom the *Public Service Act* 1973 applies).

“(2) Where the Minister makes use of any person as provided by subsection (1) (a), that person, with the approval of the Director-General, may be paid such remuneration or other allowance as the Minister may determine and may receive and retain it in addition to any other salary or allowance received by him.

“19x The Head of the Division of Adult Education shall be the chief executive officer of the Board and shall, subject to this Act and to the directions of the Board, be responsible for planning and organizing adult education throughout the State.

Duties of the
Head of the
Division of
Adult
Education.

“19y—(1) The Head of the Division of Adult Education may, on the recommendation of the Board in and for such districts as he may determine, appoint such local advisory committees as he considers necessary or desirable to represent voluntary associations or organizations interested in adult education.

Local advisory
committees.

“(2) The functions of every local advisory committee shall be—

- (a) to advise the Head of the Division of Adult Education with respect to the requirements for its district;
- (b) to assist and facilitate the work of the Head of the Division of Adult Education;
- (c) to account to the Head of the Division of Adult Education for all moneys received by the committee from the board or from any other source;
- (d) to supplement moneys provided by the Head of the Division of Adult Education; and
- (e) generally, to foster a personal and local interest in adult education.

“(3) In any case where in any district there is no local advisory committee the Head of the Division of Adult Education may appoint a local secretary.

“(4) A local secretary shall be paid such remuneration and travelling and other expenses as the Minister may determine.

“(5) Each member of a local advisory committee (not being an officer to whom the provisions of the *Public Service Act* 1973 apply) shall be entitled to receive payment of travelling expenses at such rate as the Minister may determine.

Expenses of
Act.

“ 19z All moneys received by, or on behalf of, the Minister under this Part shall be paid into the Consolidated Revenue, and the expenses incurred in the administration of this Part shall be defrayed out of money provided by Parliament for the purpose.

Regulations.

“ 19ZA The Governor may make regulations under this Part prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Part, and, in particular—

- (a) regulating and prescribing the appointment, constitution, and proceedings of local advisory committees and local secretaries; and
- (b) prescribing scales of fees to be paid by persons attending or participating in any lectures, classes, vacation schools, or other activities organized or conducted by or on behalf of the Minister in pursuance of this Part.”.

Transition
provisions.

6—(1) In this section, “ the former board ” means the Adult Education Board constituted under the *Adult Education Act* 1948.

(2) All moneys that, immediately before the commencement of this Act, were in the possession of or stood to the credit of the former Board shall be paid into the Consolidated Revenue.

(3) All rights, obligations, and liabilities of the former Board subsisting at the commencement of this Act are transferred to and vest in Her Majesty.

(4) All property held by the former Board at the commencement of this Act shall be and is hereby vested in Her Majesty.

(5) The Director-General of Education, the Deputy Director-General of Education, and such directors, superintendents, supervisors, teachers and other officers, and such servants, workmen, and other employees, in office immediately prior to the commencement of this Act, shall be deemed to have been appointed under section 4 of the Principal Act as amended by this Act.

(6) Until an Adult Education Board is established under the Principal Act as amended by this Act, the former Board shall continue to function in all respects as if this Act had not commenced.

(7) Until a Head of the Division of Adult Education and a secretary are appointed under the Principal Act as amended by this Act, the Director of Adult Education and the secretary, appointed under the *Adult Education Act* 1948 shall continue in office as if this Act had not commenced.

7 Section 47 (1) (*da*) of the Principal Act is amended by omitting the words and numeral “ paragraph (*a*), paragraph (*b*), paragraph (*c*), paragraph (*d*), or paragraph (*e*) of subsection (1) of section four ” and substituting the word and numerals “ section 4 (1), (1A) or (3) ”. Regulations.

8—(1) Professional adult education officers holding office at the commencement of this Act shall, from such commencement, cease to be subject to the provisions of the *Public Service Act* 1973, and shall, from such commencement, be deemed to have been appointed under section 4 (1) of the Principal Act. Transfer of officers.

(2) As soon as practicable after the commencement of this Act, the Director-General, with the approval of the Minister, shall make determinations under section 4 (4) of the Principal Act in relation to officers affected by subsection (1) resulting in the payment to each such officer of a salary and allowances not less than the salary and allowances payable to him at the commencement of this Act.

THE SCHEDULE

(Section 2)

Act repealed	Extent of repeal
<i>Adult Education Act</i> 1948	The whole Act
<i>Education Act</i> (No. 2) 1967	Paragraphs 1 and 2 of Part II of the schedule
<i>Adult Education Act</i> 1971	The whole Act.