

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1930.

A BILL

To provide for the control and regulation of teachers and other like persons employed in the Education Department, and to remove such persons from the control of the Public Service Board ; to amend the Public Service Act, 1902, and certain other Acts ; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King'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:—

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PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Education (Administration) Act, 1930," and is divided into Parts as follows:—

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PART I.—PRELIMINARY—*ss.* 1-4.PART II.—ADMINISTRATION OF EDUCATION DEPARTMENT—*ss.* 5-40.PART III.—STAFF COMMITTEE—*ss.* 41-42.PART IV.—APPEAL BOARD—*ss.* 43-49.

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PART V.—PENSIONS, GRATUITIES, &C.—*ss.* 50-58.

Amendment of Act No. 31, 1902, *ss.* 5, 21, 25, 53, 54, 55.

- 2.** (1) The Public Service Act, 1902, is amended—
- (a) by inserting in section five thereof next after the words "Police Regulation Act of 1899" the words "or to any person employed under the Education (Administration) Act, 1930";
- (b) by omitting the word "five" in section twenty-one and inserting in its stead the word "four," and by omitting from the same section the words "The Educational Division";
- (c) by omitting sections twenty-five, fifty-three, fifty-four, and fifty-five.

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Saving of certain Acts

(2) Except as herein otherwise expressly provided nothing in this Act shall affect the operation of the Superannuation Act, 1916-1930, or the Industrial Arbitration Act, 1912, or the Industrial Arbitration (Amendment) Act, 1926, or any Act amending any of such Acts.

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Existing officers.

3. (1) Every officer and employee appointed under or by virtue of any enactment repealed or made applicable to him by this Act, and holding office at the

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the commencement of this Act, shall remain in office as if this Act had been in force at the time he was appointed, and he had been appointed thereunder, and this Act shall apply to him accordingly.

5 (2) All rules, regulations, proclamations, and notifications relating to the Educational Division made or published under the Public Service Act, 1902, or any Act amending the same and being in force at the commencement of this Act, shall be deemed to have
10 been made or published hereunder, and any references in any such rules, regulations, proclamations, or notifications to any provisions of the Public Service Act, 1902, or any Act amending the same, shall be construed as references to the corresponding provisions of this Act.

Existing rules, &c.

15 4. In this Act, unless the context or subject-matter otherwise indicates or requires,—

Interpretation.

“Board” and “Appeal Board” mean the Appeal Board constituted under the provisions of this Act.

20 “Branch” means any branch or subdepartment declared by the Director of Education to be a branch of the Education Department.

“Director” means Director of Education, appointed under the provisions of this Act.

25 “Employee” means a person temporarily employed under section twenty-seven of this Act, but does not include an officer.

“Head of a branch” means any person declared by the said Director to be head of a branch.

30 “Married woman” does not include a widow or a woman separated from her husband by order of a competent court.

“Minister” means the Minister of Public Instruction.

35 “Officer” means all persons permanently employed on the teaching staff of the Education Department, the Superintendent of Technical Education, inspectors of schools, supervisors in connection with education, principals of and
40 all lecturers and other teaching officers at Technical Colleges, Trades Schools, and Teachers’

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Teachers' Colleges, and such other persons permanently employed as the Governor may by proclamation declare to be teaching officers employed by the State, but does not include an employee.

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"Permanent head" means the Director of Education, who shall also rank as Under Secretary of the Education Department.

"Prescribed" means prescribed by this Act or the regulations hereunder.

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"This Act" means this Act and the regulations made hereunder.

PART II.

ADMINISTRATION OF THE EDUCATION DEPARTMENT.

Appointment of Director of Education.

5. (1) For the purpose of carrying out the provisions of this Act the Governor shall appoint a Director of Education who shall have the powers and authority and exercise the duties and functions hereinafter vested in or imposed upon the Director.

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Term of office.

(2) The Director shall be appointed to hold office until he reaches the age of sixty-five years.

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(3) Any person appointed Director shall have the same right to extended leave of absence and to retire as if he were an officer under this Act.

(4) The Director of Education shall receive salary at the yearly rate of one thousand seven hundred and fifty pounds. Such salary shall be paid out of the Consolidated Revenue Fund, and the amount thereof is hereby specially appropriated.

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Deputy Director.

6. In case of illness, suspension, or absence of the Director, the Governor may appoint a deputy Director during such illness, suspension, or absence, and any person so appointed shall, while so acting, have all the powers and authority and exercise and perform all the duties and functions of the Director.

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7. (1) The Director may be suspended from his office ^{Suspension of Director.} by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before
 5 Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is in session and actually sitting, and when Parliament is not in session or actually sitting, within seven days after the commencement of the next session or sitting.

10 The Director so suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before it, declares by resolution that the Director ought to be removed from office, and if each
 15 House of Parliament within the said time so declares, the Director shall be removed by the Governor accordingly.

(2) The Director shall be deemed to have vacated ^{Office how otherwise vacated.} his office if he—

- 20 (a) engages, during his term of office, in any paid employment, or employment or business for profit, outside the duties of his office ;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary for
 25 their benefit ;
- (c) absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor, or becomes incapable of performing his duties ;
- 30 (d) resigns his office by writing under his hand addressed to the Governor.

8. The Director, for the purpose of conducting any ^{Power of Director to summon witnesses.} inquiry or investigation under this Act, shall have the same powers and authority to summon witnesses and
 35 receive evidence as are conferred by the Royal Commissions Act, 1923, on a commission, and shall have the powers of a chairman, within the meaning of Division 1 of Part II of the said Act ; and the said Act, section thirteen and Division 2 of Part II excepted, shall apply
 40 to witnesses so summoned, and evidence so received and given,

given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given, by virtue or under the authority of the said Act.

Director to report to Minister.

9. The Director shall furnish to the Minister for presentation to Parliament at least once in each and every year a report on the condition and efficiency of the Education Department, and indicate the changes and measures necessary in his opinion for the improved working thereof, or of any branch thereof. 5 10

Excessive officers and employees.

10. If the Director at any time finds that a greater number of officers or employees is employed in the Department or in any branch thereof than he determines to be necessary for the efficient working thereof, the services of such persons as are in excess may be dispensed with, subject to the provisions of section fifty-one hereof. 15

Determination of salaries, &c.

11. There shall from time to time be determined in accordance with the provisions of this Act what salary, fee, or allowance is fairly appropriate to the work to be performed by, or assigned to, each officer or grade of officers, or to be performed by, or assigned to, employees, and the salary, fee, or allowance so determined shall, subject to the necessary provision being from time to time made therefor by Parliament, be the salary payable in respect of such work accordingly. 20 25

After such provision has been made the officer or employee shall be entitled to sue for and recover the amount of his salary, fee, or allowance so determined.

Grades and salaries.

12. (1) The grades and salaries of officers, and the salaries of employees, shall be determined from time to time in accordance with this section. 30

(2) The determination shall be made by the Director or by salaries committees.

(3) Each salaries committee shall consist of not less than three persons, who shall be appointed by the Director for the purpose. 35

At least one member of each salaries committee shall represent the officers or employees, and shall be selected as prescribed. 40

(4)

(4) In the case of officers, the determination shall be made on or before the thirtieth day of June, one thousand nine hundred and thirty-one, and thereafter on or before the thirtieth day of June in each second year.

(5) The Director may vary any determination made by a salaries committee under this section.

10 **13.** The Director may enter into an agreement with any association or organisation representing any group or class of officer or employee as to salaries, fees, allowances, and grades, and may by regulations prescribe the salaries, fees, allowances, and grades so agreed upon. Agreements with associations, &c.

15 Every such agreement shall bind all officers or employees in any such class or group, and no officer or employee, whether a member of such association or organisation or not, shall have any right of appeal from the terms of such agreement.

20 **14.** If any officer or employee is allowed to use, for the purpose of residence, any building belonging to the Government, the Director may direct that a fair and reasonable sum as rent thereof be deducted from the salary of such officer or employee, and the amount of such sum shall be fixed by the Director. Deduction for residence.

25 **15.** Any officer dissatisfied with any decision or determination of the Director either particular or general, in regard to salary, seniority, or grade affecting him, or to the classification of the work performed by or assigned to him, may forward to the Director within thirty days after such decision or determination has been made or given a notice of appeal, setting forth the grounds of his dissatisfaction, and the Director shall thereupon consider such appeal and the grounds thereof, and any further evidence in relation thereto which the Director may deem necessary for the proper determination of such appeal, and may allow or disallow such appeal, and the decision of the Director thereon shall be final. Appeals.

Power

*Power to make regulations.*General
regulations

16. (1) The Director may, in addition to the powers given in particular cases, make regulations for—

- (a) the arrangement of the Education Department in branches and divisions and the facilitation of the working thereof; the classification of the work therein; the grading of officers; the specification and assignment of work, duties, and offices; the determination of the order and conditions of promotion; the regulation of the transference or exchange of duties, work, or offices; appeals to the Appeal Board; the determination of amounts or rates of salary, wages, fee, or allowance appropriate to work, duties, or offices, or classes thereof; and the regulation of the payment of such salaries, wages, fees, or allowances; 5
- (b) regulating and determining who are fit and proper persons to be employees, and for causing the names of persons desiring such employment to be enrolled in a register kept for that purpose; 20
- (c) regulating the hours of attendance and the conditions on which leave of absence may be granted, and the duration of such leave, subject to all rights already acquired under any Act; 25
- (d) regulating the performance of and payment for extra service;
- (e) determining the dates, times, or periods of time at or within which shall be done all acts and things directed by this Act to be done, and in respect of which no dates, times, or periods of time may be herein specifically provided. 30
- (f) regulating the nature and extent of any special allowances to be made to officers or employees in respect of travelling and other necessary expenses; the increased cost of living in distant 35

Education (Administration).

- distant parts of the State or otherwise; and generally for the maintenance of discipline, order, and efficiency of officers and employees;
- 5 (g) determining the mode of procuring, keeping, and issuing stores or other material or requisites for the Education Department:
- Provided always that the Governor may determine and carry out methods of procuring supplies for the Education Department other than by public tender, and independently of regulations framed by the Director;
- 10 (h) providing for the admission of persons as officers into the Education Department in special cases to be indicated in such regulations and upon such terms and conditions as may be therein prescribed;
- 15 (i) prescribing subject to section seventeen, the nature and standard of the examinations to be held for admission of officers to, or their promotion or appointment within the Education Department;
- 20 (j) prescribing and defining such branches or subdivisions of the Education Department as may be necessary to facilitate the application of the provisions of this Act to the organisation and administration of that Department;
- 25 (k) for determining the relative positions in order of precedence of officers in each grade;
- 30 (l) providing for increased scale of salary or allowance, without reference to grade in special cases;
- (m) providing for appeals to the Appeal Board from decisions of the Director concerning any of the matters mentioned in section forty-three;
- 35 (n) providing for penalties and fines for minor offences against discipline or order, or for breaches of the regulations;
- (o) for carrying out the objects and provisions of this Act.

Effect of regulations.

(2) No regulations made hereunder shall in any manner alter or affect duties which by any Act now or hereafter to be in force are or may be required to be performed.

Examination and appointment of officers. 5

Regulations for examinations.

17. (1) The Director shall, subject to the approval of the Governor, make regulations for the competitive examination of persons desirous of admission as officers into the Education Department, which shall prescribe—

- (a) a preliminary medical examination as to the health of the candidates ;
- (b) the character and standard of the examinations or tests as to acquirements and efficiency to which candidates are required to submit themselves ; 15
- (c) the times and places where the examinations shall be held, and the manner of holding the same ;
- (d) a maximum and minimum age of candidates ; and 20
- (e) the fee (not exceeding ten shillings) to be paid by candidates.

Qualification for appointment.

18. (1) No person shall be admitted to the Education Department as an officer unless he is a natural born or naturalised subject of His Majesty, and (except as hereinafter provided) unless he has successfully passed the examination prescribed. 25

(2) With the permission of the Governor a person not a natural born or naturalised subject of His Majesty may be so admitted. 30

A person so admitted shall not, unless he is naturalised, be eligible for employment for more than six months after he becomes eligible for naturalisation.

Admission on probation only.

19. Unless the Director otherwise recommends, every person admitted as an officer to the Education Department shall, in the first instance, be admitted on probation only, and may be continued in such probationary position for a period of not less than six months, or such longer period as the Director limits. 35

After

After the period of such probation has expired, the Governor may, on the recommendation of the Director, based on inquiry and report, confirm such appointment, or during or after such period may annul such appointment.

20. (1) Subject to the provisions of section twenty-two hereof, no appointment of any person not already an officer in the Education Department to be an officer therein shall be made except—

Appointment of persons not officers.

- 10 (a) at the instance of the Director; or
- (b) upon the written request of the Minister himself, addressed to the Director.

(2) No such appointment shall in any case be made except upon a certificate from the Director that such an appointment is required.

21. (1) The Director in giving the certificate in the last section mentioned, shall in addition state therein—

Certificate of Director. Preliminary to appointment. Ibid. s. 35.

- 20 (a) the name of the person proposed to be appointed;
- (b) that there is no officer in the Education Department fit or qualified and available for such appointment; and
- 25 (c) that a competitive examination under the provisions of this Act has been held, and that the person named in the certificate is the most successful candidate; or
- (d) having regard to the nature of the appointment that examination is not required, or may be dispensed with under the provisions of this Act.

30 (2) The Governor may thereupon appoint the person named in such certificate, subject to the provisions of section nineteen.

22. (1) If in any special case it is expedient or desirable to appoint as an officer some person who is not then an officer in the Education Department, the Governor, on the recommendation of the Director, may appoint such person accordingly without either examination or probation.

Appointment in special cases.

(2) No such appointment shall be made until the Director has reported whether in his opinion there is any officer in the Education Department capable of filling and available for the position to which it is proposed that an appointment shall be made. 5

(3) All such reports shall be laid before Parliament.

Age of
appointees.

23. No person shall be appointed as an officer or employee in the Education Department whose age at his last birthday, previous to appointment, was more than forty years. 10

Married
women.

24. No married woman shall be eligible for appointment as an officer in the Education Department unless the Director certifies in each case that there are special circumstances which make such appointment desirable. 15
This section shall not apply to married women in the Education Department who are officers at the commencement of this Act.

Powers under
Public
Instruction
Act, 1880.

25. Any power of appointment, dismissal, or control of officers conferred upon the Minister, or upon the Minister with the approval of the Governor, or conferred upon the Governor alone under the provisions of the Public Instruction Act of 1880, shall be exercised by the Governor upon the recommendation of the Director in accordance with the provisions of this Act, and not otherwise, and all officers or employees employed under the provisions of that Act shall be deemed to be under the control of the Director. 25

Regulations
under Public
Instruction
Act, 1880.

26. All regulations made under the provisions of the Public Instruction Act of 1880, having reference to the officers and persons employed thereunder, shall be applied by the Director in the exercise of his powers, duties, and functions under this Act in the organisation and administration of the Education Department. 30

Temporary
assistance.

27. (1) Whenever the proper performance of the work of education renders temporary assistance necessary the Director shall select from the persons whose names are upon the register referred to in paragraph (b) of subsection one of section sixteen such person or persons as to the Director appear best qualified for such work. 45

(2)

(2) Such person or persons may be employed to perform such work for any period not exceeding four months, and if necessary may, with the sanction of the Director, be employed at the end of such period for any 5 further periods not exceeding four months each if the Director after investigation certifies that it would be in the public interest that such person should be so further retained.

(3) The services of any person employed temporarily may be dispensed with at any time by the 10 Director or by the Minister.

Dismissals, removals, &c.

28. (1) If any officer in the Education Department— Punishment of offences.

- 15 (a) is guilty of any breach of the provisions of this Act or the regulations made thereunder ;
or
- (b) is guilty of any misconduct ; or
- (c) is guilty of habitually using intoxicating beverage to excess ; or
- 20 (d) is guilty of any wilful disobedience or disregard of any lawful order made or given by any person having authority to give such order
or
- 25 (e) is negligent or careless in the discharge of his duties ; or
- (f) is inefficient or incompetent ; or
- (g) is guilty of any disgraceful or improper conduct,

30 he shall be liable to dismissal or such other punishment as may be determined upon under the provisions of this section.

(2) Any officer charged with the commission of any such offence may be dealt with in one of the modes following:—

- 35 (a) in emergent cases he may be temporarily suspended by the senior officer of the branch in which the offending officer is employed ; but such suspension shall be immediately reported to the Director ;

(b)

- (b) the Director, if he is of opinion after hearing such officer in his defence, that the alleged offence has been committed but is not of a serious nature, may reprimand or caution such officer only, and thereupon remove the suspension ; 5
- (c) the Director, if he considers the offence is of so serious a nature that an official inquiry is necessary, may suspend such officer, and if such officer does not in writing admit the truth of the charges made against him shall summon the officer concerned before him and shall inquire as to the truth of such charges, or if the Director is of opinion that it is desirable that any such charges should be inquired into by some person specially appointed for the purpose, he may appoint an officer of the Education Department, or with the approval of the Governor some other person or persons to inquire as to the truth of such charges. 10 15 20

Any such person or persons so appointed for such purpose shall have the same powers as the Director to summon and examine upon oath any witnesses whose evidence may be necessary or material, and shall, after fully hearing the case, report to the Director their opinion thereon. 25

The Minister may appoint an officer to present either personally or with legal assistance the case on behalf of the Department at any inquiry under this paragraph or under section thirty hereof ; 30

- (d) if any such charges are admitted as aforesaid, or are found by the Director or by the person or persons appointed as aforesaid to be proved, the Director may, according to the nature of the offence, impose one or more of the following punishments, namely, reduce such officer to a lower grade or to a lower salary, or fine him, or deprive him of his leave of absence during such time as the Director thinks fit, or with the approval 35 40

5 approval of the Governor may dismiss such officer from the Education Department or require him to resign, and unless the Director otherwise orders, such officer shall forfeit all salary or wages except such as may have been due before his suspension ;

(e) if such charges are found by the Director or by persons appointed as aforesaid not to be proved the suspension shall be immediately removed.

10 **29.** (1) Where judgment has been given by any court against any officer or employee of the Education Department for the payment of any sum of money, the person in whose favour the judgment is given may serve
 15 on the Director a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered, and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting
 20 out the amount due by the judgment debtor under the judgment.

Enforcement of judgments.

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

(3) If the officer or employee fails to prove to the satisfaction of the Director that the judgment has been satisfied, the Director may, from time to time,
 35 deduct from any moneys due to the officer or employee such sums as are, in his opinion, necessary to enable the judgment to be satisfied, and shall pay those sums to the judgment creditor :

Provided that in no case shall a deduction be made
 40 which will reduce the amount to be received by the officer or employee to less than four pounds per week
 or

or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer or employee, whichever is the greater.

(4) Where more than one judgment and statutory declaration are served upon the Director 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. 5

(5) A payment made to a judgment creditor in pursuance of this section shall, as between the State and the officer or employee, be deemed to be a payment by the State to the officer or employee. 10

(6) Any person to whom a payment has been made in pursuance of this section who fails to notify the Director immediately a judgment debt in respect of which the payment was made is satisfied shall be liable to a penalty not exceeding *fifty* pounds. 15

(7) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the Crown 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. 20

(8) The foregoing provisions of this section shall not apply in relation to any officer or employee whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors and who has not yet obtained a certificate of discharge. 25

Initiation of inquiry by Director.

30. (1) If it comes to the knowledge of the Director that any officer is alleged to have been guilty of any of the offences specified in section twenty-eight, the Director may deal with the matter in one of the modes following :— 30

(a) the Director may initiate an inquiry into the case, and for that purpose shall inform the officer of the charge against him and receive evidence thereon, and in all other respects deal with the charge as though it had arisen under the provisions of section twenty-eight; or 35

b)

(b) the Director may suspend such officer, and in all other respects deal with the charge as though the officer concerned had been suspended by him under the provisions of section twenty-eight.

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31. In the event of the address for the time being of any officer being unknown to the Director, all notices, orders, or communications relative to any charges against such officer shall be posted to the last-known address of such officer, and compliance with this section shall be deemed a sufficient service on such officer of any such notice or order :

Notice to officers whose address is unknown.

Provided that if within any time specified in such notice, order, or communication no answer is received by the Director to an inquiry asking whether the officer admits the truth of any charges brought against him, he shall be deemed to deny the truth of such charges, and the Director may inquire into and deal with such charges in the absence of the officer affected.

32. (1) Officers shall not be entitled to be represented by counsel, attorney, or agent at inquiries held by the Director, except such as are held under the provisions of sections twenty-eight and thirty of this Act.

Procedure at inquiries.

(2) The Director or any persons appointed under the authority of paragraph (c) of subsection two of section twenty-eight may conduct any inquiry or investigation under this Act without regard to legal forms, and shall direct himself or themselves by the best evidence he or they can procure, or that is laid before him or them, whether the same be such evidence as the law would require or admit in other cases or not, and the Director or such persons (as the case may be) may receive or reject as he or they deem fit any evidence that may be tendered.

(3) The Director shall keep a complete record of all such inquiries which shall afterwards be available for reference.

33. (1) If any officer is convicted of any felony or other infamous offence he shall be summarily dismissed.

Dismissal for felony, &c.

Services dispensed with for fraudulent bankruptcy.

(2) If any officer becomes bankrupt or applies to take the benefit of any Act now or hereafter in force for the relief of insolvent debtors, or makes an assignment for the benefit of his creditors, he shall be deemed to have committed an offence within the meaning of this Act, and his services shall thereupon be dispensed with, unless he proves to the satisfaction of the Director that his pecuniary embarrassment has not been caused or attended by any fraud, extravagance, or dishonourable conduct. 5

Services of incapable officer may be dispensed with.

34. If any officer in the Education Department is at any time found unfit to discharge or incapable of discharging the duties of his office, and such unfitness or incapacity appears likely to be of a permanent character, and has not arisen from actual misconduct on his part, or from causes within his own control, the Governor may, on the recommendation of the Director, cause the retirement of such officer, and may direct that compensation be granted to him in terms of section seventy-one of the Public Service Act, 1902. 10 15

Fines to be stopped from salary.

35. The paying officer on receiving notice of any pecuniary penalty imposed upon any officer under the authority of this Act shall deduct the amount thereof from the salary of the officer incurring such penalty. 20

Rights of Crown preserved.

36. Nothing in this Act, or in the Civil Service Act, 1884, shall be construed or held to abrogate or restrict the right or power of the Crown, as it existed before the passing of the said Civil Service Act, to dispense with the services of any officer or employee. 25

Retiring age of officers.

Retirement of officers between sixty and sixty-five.

37. (1) Every officer in the Education Department, whether appointed before or after the commencement of this Act, and whether he have attained the age of sixty years before or after the commencement of this Act, shall be entitled, if he desires so to do, having attained the age of sixty years, to retire from the Education Department. 30 35

(2) Any such officer may (unless called upon to retire as hereinafter provided) continue in the Education Department until he attains the age of sixty-five years.

(3)

(3) If any such officer continues in the Education Department after he has attained the age of sixty years, he may at any time before he attains the age of sixty-five years be called upon by the Governor, acting upon the recommendation of the Director, to retire; and every such officer so called upon to retire shall retire accordingly.

38. (1) Every officer, whether appointed before or after the commencement of this Act, if he attains the age of sixty-five years after the commencement of this Act, shall retire immediately on attaining that age, unless he is required, notwithstanding his age, to continue to perform his duty in the Education Department as hereafter provided, and is willing so to do.

Officers to retire at sixty-five unless required to continue.

(2) The Governor may, notwithstanding that any officer has attained the age of sixty-five years (if the Director certifies that in the interests of the Education Department it is desirable that such officer shall continue in the performance of the duties of his office, or of any office in the Education Department to which he may be appointed, and if such officer be able and willing to do so), from time to time direct such officer to continue in the Department for such fixed time not exceeding twelve months (as the Governor in each case directs), or during pleasure.

Governor may continue officers of sixty-five.

(3) Every officer who retires under the provisions of this or the last preceding section, and is not a contributor to the Civil Service Superannuation Account, shall, if otherwise within the provisions of subclause (b) of section seventy-one of the Public Service Act, 1902, be entitled to receive, on such retirement, the gratuity or allowance thereby specified.

Private employment of officers.

39. (1) Except with the express permission of the Governor signified by notice published in the Gazette, which permission may be at any time withdrawn, no officer shall—

Private employment of officers.

- (a) accept or continue to hold or discharge the duties of or be employed in any paid office in connection with banking, insurance, mining, mercantile,

mercantile, or other commercial business, whether the same be carried on by any corporation, company, firm, or individual; nor

(b) engage in or undertake any such business whether as principal or agent; nor

(c) engage in or continue in the private practice of any profession.

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Officers in private employment to notify Director.

(2) If any officer is the holder of any office, or is engaged in any employment whatsoever other than in connection with the duties of his office under the Crown, he shall at once notify the fact to the Director, who may require such officer to resign such office or abstain from engaging in such employment.

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(3) Any officer failing to comply with the requirement of the Director shall be deemed guilty of misconduct within the meaning of section twenty-eight hereof.

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Exceptions.

(4) Nothing herein contained shall prevent any officer from accepting and continuing to hold any office in any society founded under the law relating to Friendly Societies for the benefit of public servants only.

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Notices of appointments, promotion, &c.

Special Gazette.

40. All notices of appointments, promotions, transfers, retirements, and removals of officers made under this Act with the approval of the Governor and the Executive Council, shall be published in a special Gazette to be issued weekly.

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Every such notice so published shall be conclusive evidence of the appointment, retirement, or removal specified in the notice.

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PART III.

STAFF COMMITTEES.

41. (1) The Governor shall appoint not more than three staff committees for the primary, secondary, and technical divisions, respectively, of the Education Department.

Each such committee shall consist of three persons as follows:—

10 (a) two departmental representatives, who shall be officers of the Education Department higher in status and salary than any teacher of the department. One of these officers so selected shall be chairman;

(b) an employees' representative.

15 (2) Three employees' representatives shall be selected as follows and shall hold office for three years:—

20 (a) one representative of the primary school division, who shall be the headmaster of a first class primary school located within a radius of ten (10) miles of the General Post Office at Sydney, shall be elected as prescribed by all classified and provisionally classified teachers on the permanent staff in primary schools;

25 (b) one representative of the secondary school division, who shall be the headmaster of a high school located within a radius of ten (10) miles of the General Post Office at Sydney, shall be elected as prescribed by teachers on the permanent staff in secondary schools and engaged in secondary work solely;

30 (c) one representative of the Technical Education division, who shall be a lecturer in charge of a department of that division, and who is employed within a radius of ten (10) miles of the General Post Office at Sydney, shall be elected as prescribed by full time and permanent teachers and lecturers employed in trade schools and technical colleges in that division.

(3)

(3) The employees' representative on each staff committee shall be the representative elected by the employees of the division to which belongs the matter to be considered by the committee.

Recommendations of staff committees.

42. The staff committee may make recommendations in matters concerning the examination, appointment, transfer, and conditions of employment of teachers for the primary, secondary, and technical divisions of the Education Department respectively. **5**

All recommendations of the staff committees shall be submitted to the Director who may adopt, modify, or otherwise deal with such recommendations. **10**

PART IV.

APPEAL BOARD.

Appeals to Appeal Board.

43. Any officer in the service of the Education Department who, for alleged misconduct or breach of the regulations, is— **15**

- (a) fined any amount in excess of fifteen shillings ;
- (b) transferred at his own expense (except at his own request) ; **20**
- (c) reduced to a lower class or grade ;
- (d) reduced from any position to a position carrying a lower salary ; or
- (e) dismissed,

may appeal to an Appeal Board constituted as herein- **25**
after provided.

Constitution of Appeal Board.

44. (1) The Appeal Board shall consist of the following persons :—

- (a) The chairman of the Public Service Board for the time being, who shall be the chairman **30**
of the board.
- (b) A representative of the Director of Education, to be appointed by him.
- (c) A representative of the officers (or his deputy for the time being) elected by a ballot of all **35**
officers, as prescribed by regulations under this Act. **(2)**

(2) The Minister shall appoint a secretary of the board whose duty it shall be to keep a record of all proceedings and decisions of the board.

(3) If an election under this section is for any cause void, or if such election is not held, the Governor, by proclamation in the Gazette, may appoint a fit person to hold the office of officers' representative or deputy officers' representative.

45. Notice of appeal to the board shall be given to the Director within thirty days after the receipt of the notification of the decision appealed against. The Director shall, within seven days of the receipt of such appeal, refer such appeal to the chairman of the board, who shall fix a date and place for the hearing thereof, and shall give at least seven days' notice to the parties of the date and place of such hearing. The sum of two pounds shall be deposited by appellant as security for costs.

46. The decision of any two members of the board shall be the decision of the board.

47. (i) On any such appeal the following provisions shall apply:—

- (a) The board may admit evidence taken at any departmental inquiry at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence.
- (b) Evidence of witnesses resident more than twenty miles from the place of the sitting of the board may be taken by statutory declaration or otherwise, as prescribed by the board.
- (c) The Director shall be entitled to be represented before the board on the hearing of any appeal.
- (d) The provisions of subsection two of section thirty-two shall apply on the hearing of such appeal by the Board, mutatis mutandis.
- (e) The board may, in its discretion, fix the costs of any appeal, and direct by whom and in what manner the costs shall be paid.
- (f) Any costs awarded against an appellant shall be recoverable as a debt due to the Crown.

(g)

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(g) Any costs awarded to an appellant shall be payable by the Crown.

Power of Board to summon witnesses.

(2) The Board, for the purpose of conducting any appeal under this Act, shall have the same powers and authority to summon witnesses and receive evidence as are conferred by the Royal Commissions Act, 1923, on a commission, and the chairman shall have the powers of a chairman within the meaning of Division 1 of Part II of the said Act; and the said Act, section thirteen and Division 2 of Part II excepted, shall apply to witnesses so summoned, and evidence so received and given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given by virtue or under the authority of the said Act.

Decision of board and evidence to be forwarded to Director.

48. (1) The secretary shall forward to the Director a copy, certified under the hand of the chairman, of the evidence taken, together with a statement of the decision of the board, or of a majority of the board. If the chairman or any member of the board does not agree with such decision he may forward a separate report stating his reasons for dissenting therefrom and making such recommendation as he may think fit.

Director to transmit decision, &c., to Minister.

(2) The Director shall transmit such decision, evidence, recommendations, and reports, together with his report and recommendation thereon, to the Minister.

Minister's decision final.

(3) The decision of the board, together with the report and recommendation (if any) of any member of the board disagreeing with such decision, and the report and recommendation of the Director, shall be considered by the Minister.

Appeal not heard in public.

49. An appeal shall not be heard in public, unless for some special reason the board deems it advisable that it should be so heard.

PART V.

PENSIONS, GRATUITIES, &C.

50. No officer or employee who, on or after the twenty-third day of December, one thousand eight hundred and ninety-five, enters or becomes employed in the Education Department, or was not at such date a contributor to the Superannuation Account under the provisions of the Civil Service Act, 1884, shall be allowed to become a contributor to or to acquire any right to any payment by way of pension, annual superannuation, retiring allowance, or gratuity out of such Superannuation Account.

Pensions, &c., not to be paid to certain persons.

51. If the services of any officer of the Education Department who was employed therein before and on the twenty-third day of December, one thousand eight hundred and ninety-five, are dispensed with under this Act otherwise than for an offence the provisions of section seventy-one of the Public Service Act, 1902, shall apply to him as if he were permanently employed in the Public Service and his services had been dispensed with by the Public Service Board otherwise than for an offence.

Gratuities, in what cases allowed.

52. Except as in this Act provided, no officer or employee in the Education Department shall be deemed to be entitled to any compensation by reason of any reduction of his salary, or in consequence of his services being dispensed with.

No claim for compensation if salary reduced.

53. All regulations made by the Director, and any repeal, alteration, or amendment of the same shall—

Publication of regulations.

- 30** (a) be submitted to the Governor for approval, and after such approval be published in the Gazette; and
- (b) shall take effect from the date of publication thereof, or from a later date to be specified in the regulations; and
- 35** (c) be laid before both Houses of Parliament within fourteen sitting days after publication,

241—C if

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if Parliament is then 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 the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect. 5 10

Director not to give effect to decision involving additional expense without Minister's approval.

54. Notwithstanding anything contained in this Act the Director shall not give effect to any decision involving additional expenditure without the approval of the Minister.

Extended leave. Act No. 43, 1919, s. 13.

55. Every officer who has had fifteen years service shall be entitled to three months leave on full pay or six months leave on half pay, and on the completion of twenty years service shall be entitled to a further three months leave on full pay or six months leave on half pay. After completion of further service after twenty years and up to a total service of forty years in all, he shall be entitled to a further period of leave on full pay or half pay calculated at the rate of six months or twelve months leave respectively for twenty years service. The service of an officer continued in office by subsection one of section three for the purposes of this section shall include his service as an officer under the Public Service Act, 1902, prior to the commencement of this Act: Provided that nothing in this section shall affect the provisions of section twenty-eight or section thirty. 15 20 25 30

Officers retiring to be entitled to money value of extended leave. Ibid. s. 13A.

56. (1) An officer who has acquired a right to extended leave with pay, and (a) retires from the Education Department under the provisions of section thirty-eight, or (b) is called upon to so retire under the provisions of subsection three of section thirty-seven, shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled. Any pension 35 40

to which any such officer is entitled under the Superannuation Acts, 1916-1930, shall commence from the date upon which his extended leave, if taken, would have commenced.

5 (2) An officer who has acquired a right to extended leave with pay and retires from the Education Department under the provisions of subsection one of section thirty-seven shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition
10 to any gratuity to which he may otherwise be entitled.

Any pension to which any such officer is entitled under the Superannuation Acts, 1916-1930, shall commence from the date upon which his extended leave, if taken, would have terminated.

15 (3) Any pension to which any officer referred to in subsection one or subsection two of this section is entitled under the Civil Service Act, 1884, shall commence from the date upon which his extended leave, if taken, would have terminated.

20 **57.** Where an officer has acquired a right under this Act to extended leave with pay and dies before entering upon it or receiving its money value, or after entering upon it dies before its termination, his widow, or in the case of a widower leaving children, his children, or if
25 they are infants, their guardian, or if they have no guardian, the personal representative of the deceased on their behalf shall be entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary the officer received at the time
30 of his death. Such payment shall be in addition to any payment due under the provisions of the Superannuation Acts, 1916-1930: Provided that where payment of the money value of leave has been made under this section, no action may be brought against the Crown for payment
35 of any amount in respect of such leave.

Money value of extended leave in case of death of officer.
See Act No. 43, 1919, s. 14.