

The Elementary Education Act, 1871, Amendment Act, 1893

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ

The Elementary Education Act, 1871, Amendment Act, 1893
(57 Vic., No. 16)

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SCHEDULE

No. 16

An Act to amend the Law relating to Public Elementary Education. [Assented to 13th October, 1893.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as 'The Elementary Education Act, 1871, Amendment Act, 1893,' and shall be incorporated with and form part of 'The Elementary Education Act, 1871,' hereinafter called the Principal Act.

Preamble

Short title and incorporation

The Elementary Education Act, 1871, Amendment Act, 1893

Repeal of certain sections of Principal Act

2. So much of 'The Elementary Education Act, 1871,' as is mentioned in the Schedule to this Act is hereby repealed, but such repeal shall not affect the validity of any appointment made or confirmed, or any contract entered into by the Central Board of Education.

Central Board of Education abolished, and Minister controlling Education substituted, with powers of a corporation sole

3. The Central Board of Education, as constituted under the provisions of the third section of the Principal Act, is hereby abolished, and such member of the Executive Council for the time being as the Governor from time to time appoints to administer the provisions of the Principal Act, and of this and any other Act amending the Principal Act, shall be substituted in lieu thereof; and such member and his successors shall be for the purposes of the Principal Act, and of this and any other Act amending the Principal Act, a body politic and corporate, under the name or title of 'The Minister of Education,' hereinafter called the Minister, and shall or may by that name or title sue and be sued in all courts; and shall have perpetual succession and a common seal, and may accept, take, purchase, lease, hire, and hold real and personal property of what description soever; and shall have power to grant, alienate, and convey, sell, assign, and demise all such real and personal property. Provided always, that no such power shall be exercised in respect of any such property held upon any specific trust inconsistent with the exercise of such power.

Minister to have powers of Central Board

4. Subject to the provisions of this Act, the Minister may exercise all the powers, and perform all the duties conferred or imposed upon the Central Board of Education by the Principal Act, and whenever in the Principal Act or any Act amending the same, other than this Act, reference is made to the Central Board of Education, such reference shall be deemed to be made to the Minister.

Property under control of Central Board of Education to vest in Minister

5. All lands, tenements, and hereditaments and personal property of what description soever, vested in, belonging to, or under the care, control, or management of the Central Board of Education before the passing of this Act, shall, without any conveyance or assignment being necessary, forthwith vest, by virtue of this section, in the Minister.

Appointment of officers

6. Except as hereinafter mentioned, all inspectors of schools, teachers, and other officers necessary to carry into effect the provisions of the Principal Act, and of this and any other Act amending the Principal Act, shall be appointed by the Governor.

Definition of district

7. In the construction of, and for the purposes of the Principal Act, and this and any other Act amending the Principal Act, the word 'district' shall mean any existing educational district, and any educational district constituted or of which the boundaries are defined or altered under this Act.

Proclamation of districts

8. The Governor may, by proclamation in the 'Government Gazette,' from time to time constitute districts, and, by like proclamation, may from time to time define and alter the boundaries of any district.

District Board to be elected

9. A District Board of Education shall consist of five members, who, except as hereinafter mentioned, shall be elected by the persons whose names are on the electoral roll for the district.

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10. (1) The Minister shall appoint such fit and proper persons as he deems necessary to make up, compile, and revise the electoral roll for every district in the manner and at the times prescribed by the regulations made under this Act, and such persons shall insert therein the name of every person qualified as hereinafter mentioned.

Person appointed by Minister to make up electoral roll

(2) The Minister may assign such remuneration as he deems proper to any person so appointed as aforesaid for making up, compiling, or revising any such electoral roll.

11. Any person who is

Qualification of electors

- (1) A householder habitually residing within the district, and occupying a dwelling house of the clear annual value of Ten pounds sterling; or,
- (2) The father, or if he is dead, or absent, or otherwise incapacitated, the mother of any child attending any Government or Assisted School within the district for such time as is prescribed by the regulations made under this Act, or
- (3) The guardian or other person who maintains or has the custody of any child attending any Government or Assisted School as aforesaid,

shall be qualified to have his or her name placed upon the electoral roll of the district.

12. At every election of a District Board of Education every person whose name appears upon the electoral roll for such district shall be entitled to vote for any five candidates for membership of such board, and the voting shall be by ballot.

Number of votes

13. The Minister may appoint such returning officers, clerks, and other officers as are necessary for the purpose of holding elections of District Boards of Education.

Appointment of electoral officers

14. (1) The Governor may appoint any person qualified to be a candidate for election as member of a District Board of Education to such membership, whenever—

Appointment to district boards by Governor

- (a) Such board is constituted for the first time; or
- (b) The person appointed by the Minister in that behalf has neglected to properly make up, compile, or revise the electoral roll for the district; or
- (c) The electors of any district have failed to elect such board, or any member thereof; or
- (d) Any vacancy occurs upon such board.

(2) Whenever any person is appointed as a member of such board, under sub-sections *a*, *b*, or *c* of this section, such person may continue to be a member of such board until the first day of January following the next general election of such boards, and whenever any person is appointed to fill a vacancy under sub-section *d* of this section, such person may continue to be a member of such board until the expiration of the period for which the member in place of whom he has been appointed was entitled to continue to be a member of such board.

15. All members of existing District Boards of Education shall

Existing boards to continue in

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office until next election	be deemed to have been duly elected, and shall continue in office until the thirty-first day of December, one thousand eight hundred and ninety-five.
Time of election of district boards	<p>16. (1) The first election of District Boards under this Act shall take place during the month of December, one thousand eight hundred and ninety-five, and all subsequent elections of District Boards shall take place during the same month in every third subsequent year.</p> <p>(2) The members of such boards shall, if elected, enter upon their office on the first day of January following their election, or, if appointed, on the day specified in such appointment.</p>
School fees, to whom payable, and how recoverable	17. All fees for the attendance of children in Government Schools shall be paid to and received by the several persons authorised in that behalf by the Minister, and may be recovered summarily by the persons so authorised under the provisions of an Ordinance passed in the fourteenth year of Her present Majesty and numbered five, and the production of a document in writing purporting to be signed by the Minister, authorising any person to collect such fees, shall be <i>prima facie</i> proof that he is so authorised.
Hours of instruction	18. In every Government or Assisted School a portion of each day, not exceeding half-an-hour, may be set apart when the children of any one religious persuasion may be instructed by clergymen or other religious teachers of such persuasion, subject to the conditions following :—
Religious instruction may be given	<ol style="list-style-type: none"> (1) The children receiving such religious instruction shall be separated from the other children of the school. (2) The time during which such religious instruction is given shall be fixed by the District Board of Education in consultation with the head teacher of such school, subject however to the approval of the Minister. (3) Where two or more clergymen or other religious teachers of different persuasions desire to give religious instruction at any Government School, the children of each such different persuasion shall be so instructed on different days. (4) The religious instruction to be so given shall in every case be the religious instruction authorised by the Church to which the clergyman or other religious teacher belongs.
In case of non-attendance of clergyman, secular instruction to be given	19. If the clergyman or religious teacher does not attend during any portion of the period agreed to be set apart for religious instruction in a Government School, such period shall be devoted to the ordinary secular instruction in such school.
Teaching to be non-sectarian, but to include general religious instruction	20. In all Government Schools the teaching shall be strictly non-sectarian, but the words 'secular instruction' shall be held to include general religious teaching as distinguished from dogmatic or polemical theology.
Objections to religious instruction	21. Notwithstanding anything contained in the Principal Act or this or any other Act amending the Principal Act, no child being instructed in a Government or Assisted School shall be required of

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receive any instruction in religious subjects if the parent of such child signifies his objection to such religious instruction by notice in writing to the head teacher of such school.

22. Subject to the provisions of the Principal Act and of this and any other Act amending the Principal Act, the Governor may from time to time make, alter, and revoke regulations for the following purposes or any of them:—

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| (1) Prescribing the conditions under which Government Schools may be established. | Conditions of establishment of Government schools |
| (2) Prescribing and defining what subjects of secular instruction shall be given in Government and Assisted Schools, and the character of books to be used in Government and Assisted Schools for the purpose of such instruction. | Instruction |
| (3) Regulating the discipline to be enforced and observed in Government Schools, and the time and mode of teaching therein, including religious instruction. | Discipline |
| (4) Prohibiting the attendance at any Government School of any child suffering from any infectious or contagious disease, or whose presence is injurious to the health or welfare of the other children. | Children suffering from infectious disease |
| (5) Prescribing the powers and duties of Inspectors of Schools. | Inspectors of Schools |
| (6) Prescribing the conditions subject to which the Minister may allow a child to be instructed in a Government School without payment of any fee for such instruction. | Conditions of instruction free of charge |
| (7) Regulating the conduct of and subjects for the examination of candidates for scholarships, open for competition among children educated in Government Schools. | Scholarships |
| (8) Fixing the salaries or other remuneration to be paid to teachers in Government Schools for the instruction of children therein. | Remuneration of teachers |
| (9) Regulating the training, examinations, appointment, classification, and duties of teachers. | Teachers |
| (10) Prescribing the rules and scales according to which the sum payable to Government and Assisted Schools in respect of each child therein educated may be paid. | Scale of grants to schools |
| (11) Prescribing and defining the duties of School Boards, and the manner in which, and the time at which, such duties shall be carried out. | School Boards |
| (12) Prescribing the time and manner of making up and the revision of district electoral rolls, the manner in which such rolls shall be kept, the nomination of candidates for election as members of District Boards of Education, the appointment of polling places, the manner of recording votes, ascertaining the poll, and generally of doing any other matter or thing not otherwise provided for by this Act connected with the control and management of such elections. | Elections of District Boards |
| 13) Providing for all other matters or things which are not otherwise provided for by the Principal Act, or by this | Generally |

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or any other Act amending the same, and which are necessary for carrying the provisions of the said Acts into effect.

Regulations to have force of law

23. All regulations made under this Act shall be laid before both Houses of Parliament within fourteen days from the making thereof, if Parliament be then sitting, and if not then sitting, then within fourteen days of the then next assembling of Parliament, and when published in the 'Government Gazette' such regulations shall have the force of law, and the production of a copy of such 'Gazette' containing any such regulation shall be sufficient evidence of the due making of such regulation, and shall be *prima facie* evidence that it is still in force.

Saving of existing by-laws, &c.

24. Subject to the provisions of this Act all general by-laws, regulations, rules, and scales of the Central Board of Education in force at the time of the passing of this Act shall be deemed to be regulations, and shall continue in force until revoked by the Governor, and whenever in the Principal Act or any Act amending the same, other than this Act, reference is made to such general by-laws, regulations, rules, or scales, such reference shall be deemed to be made to the regulations in force for the time being.

W. C. F. ROBINSON,
GOVERNOR.

SCHEDULE

So much of section two as defines the term 'district.'

Section three.

So much of sub-section one of section four as relates to the appointment of an Inspector of Schools and other officers.

Sub-section two of section four, and so much of sub-section four of section four as relates to the confirmation of appointments and dismissal of teachers, assigning salaries, or remuneration to teachers, and to the establishment of new educational districts and of district boards.

Sections seven, nine, ten, eleven, twelve, fifteen.

So much of section sixteen as relates to the appointment and dismissal of teachers.

Sub-section two of section twenty-two.

Sections twenty-three and thirty-five.
