

EDUCATION.

No. 48 of 1979.

AN ACT to amend the Education Act, 1928-1977.

[Assented to 7th November, 1979.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Education Act Amendment Act, 1979*.

Short title
and
citation.

(2) In this Act the Education Act, 1928-1977 is referred to as the principal Act.

Reprinted
as approved
for reprint
22nd June,
1976 and
amended by
Acts No. 95
of 1976 and
27 of 1977.

(3) The principal Act as amended by this Act may be cited as the Education Act, 1928-1979.

Commence-
ment.

2. (1) Sections 3, 4, 5 and 10 and subsection (1) of section 7 of this Act shall come into operation on the day that the Government School Teachers Arbitration and Appeal Act, 1979 comes into operation.

(2) The provisions of this Act other than those referred to in subsection (1) of this section shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Long title
amended.

3. The long title of the principal Act is amended by deleting the passage “, to establish a Government School Teachers’ Tribunal” in lines two and three.

Section 3
amended.

4. Section 3 of the principal Act is amended—

(a) by adding immediately after the interpretation “care-centre” the following interpretation—

“Department” means the Education Department of the State referred to in section 4 of this Act; ;

(b) by deleting the interpretation “Teacher” and substituting the following interpretation—

“teacher”—

(a) in relation to any school not being a Government school, includes any person forming part of the teaching staff of the school; and

(b) in relation to a Government school or the Department, includes any person engaged in teaching and any person holding or acting in a position in the Department in respect of which a teaching academic qualification is required but

does not include any person, whether or not he holds such a qualification, who is—

- (i) a Government officer as defined in section eleven A of the Industrial Arbitration Act, 1912; or
 - (ii) a Worker as defined in section six of the Industrial Arbitration Act, 1912. ;
- (c) by adding immediately after the interpretation “Teachers’ College” the following interpretation—

“teaching staff” in relation to a Government school or the Department includes persons who are engaged in teaching and persons who hold or act in positions in the Department in respect of which a teaching academic qualification is required and includes any position in respect of which such a qualification is required but does not include persons who are—

- (a) Government officers as defined in section eleven A of the Industrial Arbitration Act, 1912; or
- (b) Workers as defined in section six of the Industrial Arbitration Act, 1912,

and any position or office in the Department to which the Government Employees (Promotions Appeal Board) Act, 1945 or the Public Service Act, 1978 applies; ;

and

- (d) by deleting the interpretation “Tribunal”.

Section 7
repealed and
re-enacted.

5. Section 7 of the principal Act is repealed and re-enacted as follows—

Appoint-
ment of
officers and
teachers.

7. (1) There shall be appointed under and subject to the Public Service Act, 1978, a Director-General of Education and such other officers as may be necessary for the due administration of this Act.

(2) The Minister may appoint teachers and employees, other than officers, of the Department.

(3) The Minister, or, where the Minister delegates to him the power conferred on the Minister by this subsection, the Director-General, may, subject to the regulations and the Government School Teachers Arbitration and Appeal Act, 1979, transfer or promote any teacher or employee, other than an officer, of the Department.

(4) The Public Service Act, 1978, the Government Employees (Promotions Appeal Board) Act, 1945 and the Public Service Arbitration Act, 1966, do not apply to or in relation to teachers appointed, transferred or promoted under this section. .

Section 20D
amended.

6. Subsection (3) of section 20D of the principal Act is amended by deleting the words "who is a member of the Australian Psychological Society" in lines three and four of paragraph (b).

Section 28
amended.

7. (1) Section 28 of the principal Act is amended—

(a) as to subsection (1)—

(i) by deleting paragraph (a) and substituting the following paragraphs—

(a) The appointment, powers and duties of teachers and employees, other than officers, of the Department.

(a1) The powers and duties of officers of the Department. ;

and

(ii) by adding immediately after the passage "transfer," in line three of paragraph (d) the passage "suspension,"; and

(b) by repealing subsections (2) and (2a).

(2) Subsection (1) of section 28 of the principal Act is amended—

(a) by adding immediately after paragraph (p1) the following paragraph—

(p2) The collection, by way of salary deduction or otherwise, of the rent payable by a teacher of the Department in respect of living quarters leased to the teacher by the Crown, the Minister, or any agent or instrumentality of the Crown. ;
and

(b) by deleting the words "Forty Dollars" in lines one and two of paragraph (r) and substituting the words "two hundred dollars".

8. The principal Act is amended by adding immediately after section 28 the following section—

Section 28A
added.

28A. (1) For the purposes of this section—

"school lands" means any lands vested in or under the control and management of the Minister or both that are used for or in connection with a Government school and includes all buildings, structures and erections of whatsoever kind or nature and whether permanent or temporary, standing or being on such lands.

Regulations
for the
control and
management
of school
lands.

(2) In addition to the powers conferred on the Minister by section twenty-eight of this Act the Minister may make such regulations as he considers are expedient or necessary or convenient for the management, care, protection, control and superintendence of school lands.

(3) Without limiting the generality of subsection (1) of this section the Minister may make regulations—

- (a) providing for the appointment of authorised persons for the purposes of the regulations;
- (b) providing for the issue of administrative instructions for the purpose of facilitating the administration of the regulations;
- (c) prohibiting or regulating the admission to school lands of persons, vehicles and animals;
- (d) prescribing the times when and the purposes for which school lands may be used, and the time when and the purposes for which those lands shall be open or closed and prohibiting the use thereof or access thereto at any other times, or for any other purpose;
- (e) prohibiting the use of vehicles, including provisions as to speed, manner of driving, class of vehicles, routes, entrances and exits, one-way traffic, noise, parking or standing, the removal of vehicles by an authorised person and for the regulation of traffic generally;
- (f) providing—
 - (i) that, where an allegation is made of a breach of a regulation and an element of the breach is the use, driving, parking,

standing, or leaving of a vehicle and the identity of the driver or person in charge of the vehicle at the time of the breach cannot be immediately established, a notice of the allegation may be addressed to the owner of the vehicle at his last known place of residence or business or may be served on the owner of the vehicle by leaving it in or upon, or attaching it to, the vehicle; and

(ii) that if—

(I) the prescribed penalty is not paid within the period specified in the notice; or

(II) the owner of the vehicle does not, within the period specified for the payment of the penalty—

(A) identify the person who was the driver or person in charge of the vehicle at the relevant time to an authorised person; or

(B) satisfy an authorised person that, at the relevant time the vehicle had been stolen or unlawfully taken or used,

the owner is deemed to be the driver or person in charge of the vehicle at the time of the alleged breach;

- (g) prescribing the circumstances under which an authorised person may remove a vehicle or cause it to be removed from the school land to any specified place, whether on those lands or not, prescribing his further powers in relation thereto, providing for the recovery of costs and expenses incurred by the Minister in moving and holding the vehicle, and authorising the Minister to hold the vehicle until all costs and expenses are paid;
- (h) prescribing the method of notifying a person alleged to have committed an offence against any regulation made pursuant to this subsection of that alleged offence and how it shall be dealt with, and prohibiting the removal by any person other than the driver or owner of a vehicle in respect of which an offence against such a regulation is alleged to have been committed of any notice relating to the offence affixed to the vehicle or left in or on the vehicle by an authorised person;
- (i) prescribing a modified penalty or modified penalties payable to the Minister by a person or one of a class of persons who does not contest an allegation that he committed any specified breach of the regulations and providing that the due payment of a modified penalty is a defence to a charge in respect of which that modified penalty was paid;
- (j) prescribing fees, charges and exemptions;
- (k) providing for the prevention of damage to or interference with school lands, and the trees, shrubs, bushes, flowers, gardens and lawns on or in those lands;

- (l) providing for the use, safety and preservation of buildings, structures, erections, fixtures, fittings and chattels;
 - (m) providing for the conduct of meetings and the interruption of meetings or classes by noise, unseemly behaviour or other means;
 - (n) providing for the prohibition of nuisances, or any offence, indecent or improper act, conduct, language or behaviour;
 - (o) providing for the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances;
 - (p) providing for the recovery of summary compensation for damage to the property of the Minister;
 - (q) requiring any person, of and when required to do so by an authorised person, to give his name and address to the authorised person; and
 - (r) providing for the apprehension of persons guilty of a breach of any regulation by any police officer, authorised person, teacher, officer or employee of the Department.
- (4) Regulations made pursuant to this section—
- (a) apply only within the boundaries of school lands;
 - (b) may be limited in their application, to time, place or circumstance;
 - (c) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of person or class of persons and may confer a discretionary authority;

(d) may impose a penalty not exceeding two hundred dollars for any breach or non-observance thereof.

(5) With respect to any contravention of a regulation made under this section by a student the Minister may direct that a student be dealt with—

(a) in accordance with any regulation relating to discipline made pursuant to section twenty-eight of this Act; or

(b) by way of complaint under the Justices Act, 1902,

but not both.

(6) No regulation made under this section takes away, restricts or otherwise affects any liability, civil or criminal arising under any provision of any Act other than this Act or at common law.

Section 35
repealed.

9. The principal Act is amended by repealing section 35.

Sections 37
to 37AJ
repealed.

10. The principal Act is amended by repealing sections 37, 37AA, 37AB, 37AC, 37AD, 37AE, 37AF, 37AG, 37AH, 37AI, and 37AJ.
