

Public-School Teachers Incorporation and Court of Appeal Act 1895

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An Act to provide for the Incorporation of Societies of Public-School Teachers, and the Establishment of a Court to hear and determine Appeals by such Teachers against Dismissal or Suspension.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title.

The Short Title of this Act is “The Public-School Teachers Incorporation and Court of Appeal Act, 1895.”

2 Construction of Act.

This Act shall be read with “The Education Act, 1877,” and shall apply only to teachers in public schools.

3 Interpretation.

In this Act, if not inconsistent with the context,—

“Board” means Education Board:

“Corporation” means a society registered under this Act:

“District” means education district:

“Minister” means the Minister of Education, and includes any member of the Executive Council who for the time being is acting for the Minister:

“Prescribed” means prescribed by regulations under this Act:

“Teacher” means any person of either sex whose employment is that of a teacher in the public schools of the colony, whether actually so employed for the time being or not.

*INCORPORATION***4 Registration of societies.**

Any society consisting of any number of teachers, not being less than ten, who reside in any one education district, and are associated for any lawful purpose connected with their profession (not being for purposes of gain), may be registered under this Act on compliance with the following provisions:—

Application.

- (1.) An application for registration, stating the name of the proposed society, and signed by two or more officers thereof, shall be made to the Inspector-General of Schools (hereinafter called “the Registrar”).

Particulars to accompany application.

- (2.) Such application shall be accompanied by—
 - (a.) A list of the members and officers of the society;
 - (b.) A copy of a resolution passed by a majority of the members present at a meeting of the society specially called for that purpose only, and desiring registration under this Act;
 - (c.) An address (to be called the “registered office”) at which the business of the society is conducted.

5 Registrar to register society when Act complied with and fee paid.

On being satisfied that the provisions of section four hereof have been complied with, and on payment of a fee of one pound, the Registrar shall register the society in a book to be kept for the purpose, and thereupon the society shall become a body corporate by the name mentioned in such application, with the addition of the word “registered,” which shall be its corporate style and title.

6 Certificate of incorporation.

The Registrar shall issue to such society a certificate of incorporation in the prescribed form, and such certificate shall be evidence that the society named therein is duly incorporated under this Act.

7 Power to make rules.

The members of a society incorporated under this Act, and their successors, in general meeting assembled, may make rules for the government of the society, and alter and annul any such rules, and, in particular, may by such rules provide, *inter alia*, for—

What rules to provide for.

- (1.) The qualifications and subscription for membership;
- (2.) The method of election of new members;
- (3.) The number and designation and the powers of the officers;

- (4.) The control, investment, and disposition of the funds and property of the society;
- (5.) The method of enforcing observance of the rules by members of the society;
- (6.) The control and use of the common seal.

8 Evidence of rules.

Primâ facie evidence of the rules shall be afforded by the production of what purports to be a copy thereof, if sealed with what purports to be the seal of the corporation, and signed by the President or Chairman thereof.

9 Powers of incorporated society.

Every society when incorporated shall have perpetual succession and a common seal, and, in its corporate style and title, may hold and dispose of real and personal property, and may sue and be sued, and may recover any moneys due to the corporation by any person whether a member thereof or not.

10 Effect of resignation of member.

Any member who resigns, or in any other way ceases to be a member of the corporation, shall, unless the rules of the society otherwise provide, thereupon cease to have any right or interest in its property and concerns, but shall not thereby be freed from any then existing liability to the corporation whether for subscriptions or otherwise.

11 Where society deemed situate.

- (1.) Every society registered under this Act shall be deemed to be situate in the education district wherein its registered office is situate.

Returns.

- (2.) Every such society shall forward to the Registrar, at prescribed periodical intervals, prescribed returns containing prescribed particulars.

Penalty for neglect.

- (3.) If any such society fails or neglects to furnish such returns, or to otherwise comply with the provisions of this Act, the Minister may cancel its incorporation.

12 Limitation of number of societies.

It shall not be lawful for any society to be registered under this Act without the previous consent of the Minister, nor for any society to be registered under a name so similar to that of any registered society as, in the opinion of the Registrar, to lead to confusion.

*COURT OF APPEAL***13 Court of Appeal.**

There is hereby constituted a Teachers' Court of Appeal (hereinafter called "the Court") for the purpose of hearing and determining appeals by teachers against dismissal or suspension.

14 Constitution of Court.

- (1.) For the purposes of each appeal, as it arises, the Court shall consist of three persons, as follows:—

Such Stipendiary Magistrate in the district wherein the appellant teacher was employed at the time of his dismissal or suspension as the Minister appoints;

One person of either sex, to be nominated in the prescribed manner by a corporation situate in such district; and

One such person to be similarly appointed by the respondent Board which dismissed or suspended such teacher.

- (2.) The Stipendiary Magistrate shall be Chairman of the Court, and shall have an original and, in the event of an equality of voting, a casting vote.

*PROCEDURE ON APPEAL***15 Notice of appeal to be served on Board by appellant.**

- (1.) The appellant shall, within twenty-eight days after the receipt by him of the official notice of dismissal or suspension, serve on the Board a notice of appeal in the form in the First Schedule hereto.
- (2.) Such notice shall briefly but clearly state the grounds of appeal.
- (3.) Such notice shall be void unless it contains a memorandum by the aforesaid corporation, nominating a member of the Court, with his consent in writing, for the purposes of the appeal, and undertaking to pay whatever costs may be awarded against the appellant.
- (4.) Such undertaking shall be given under the common seal of the corporation and the hands of two of its officers, and when so given shall bind the corporation.
- (5.) The appellant shall forward to the Minister a copy of the notice of appeal.

16 Board to serve statement in reply.

- (1.) The Board shall, within ten days after service of the notice of appeal, serve on the appellant, at the registered office of the aforesaid corporation, a statement in reply, in the form in the Second Schedule hereto, setting forth briefly but clearly the reasons for the dismissal or suspension, and the Board's answer to the notice of appeal, and nominating a member of the Court, with his consent in writing, for the purposes of the appeal.

- (2.) Such statement in reply may be prepared and served by the Chairman or any two members of the Board, without convening a meeting of the Board.
- (3.) If the Board fails or neglects to duly nominate a member of the Court, the other two members shall constitute the Court for the purposes of the appeal.

17 Case on appeal.

Such notice of appeal and statement in reply shall form the case on appeal, and the Board shall, within the said period of ten days, forward to the Minister a copy thereof.

18 Minister on receipt to appoint Magistrate.

Upon receipt of such copy, if forwarded, or, if not, then upon the expiration of the period within which it should have been forwarded, the Minister shall appoint the Stipendiary Magistrate as aforesaid, and forward to him such copy (or, as the case may be, the appellant's copy of the notice of appeal), with instructions to convene the Court for the purposes of the appeal.

19 Quorum of Court.

At all sittings of the Court the quorum shall be two, whereof the Chairman shall be one.

20 Court to hear appeal at convenient place.

- (1.) The Court shall hear and determine the appeal at such convenient place and time as the Chairman appoints in that behalf, the time being not later than fourteen days after receipt by him of the Minister's instructions as aforesaid.

Notice of hearing.

- (2.) At least three days' previous notice of such place and time shall be given to the parties, and also to the members of the Court, by the Chairman.

21 Appearance of parties.

The appellant may himself appear, or may be represented by some person on his behalf; and the Board, as respondent, shall be represented by its Chairman or some other person appointed by the Board, but no solicitors or counsel shall appear or be heard.

22 Powers of Court.

The Court,—

- (1.) May waive any technical error or defect in the proceedings;
- (2.) May adjourn its sittings from time to time;
- (3.) Shall take evidence on oath, to be administered by any member of the Court;
- (4.) Shall not be bound by the strict rules of evidence;

- (5.) Shall conduct its proceedings in public or (with the consent of both parties) in private;
- (6.) Shall hear and determine the appeal according to equity and good conscience.

23 Decision of Court to be in writing.

The decision of the Court shall be in writing, signed by the Chairman, and a copy thereof shall be given to each of the parties, and shall also be forwarded to the Minister.

24 Decision to be final.

The decision of the Court shall be final and binding on both parties.

25 Effect of decision for appellant.

- (1.) If by such decision it appears that the appellant has been wrongfully dismissed or suspended he shall, if the Court so orders, be entitled to be reinstated, or, at the option of the Board, to be appointed to a similar position in another school, and shall also, if the Court so orders, be entitled to receive such reasonable compensation for loss of salary as the Court directs.
- (2.) Such compensation shall in no case exceed a continuance of his salary from the date of his suspension or dismissal until the date of his reinstatement or appointment as aforesaid.

26 Court may award costs.

- (1.) The Court may award costs, fix the amount thereof, and direct by and to whom they shall be paid and in what proportions, and they shall be payable accordingly.

Expenses.

- (2.) In such costs shall be included witnesses' expenses, and the actual expenses incurred by or on behalf of the Court and its members in holding the sittings of the Court.

Recovery of costs from appellant.

- (3.) All costs awarded against the appellant shall be payable by the corporation nominating the member of the Court as aforesaid, and, when so paid, may be recovered by such corporation from the appellant.

27 Extension of periods.

The Minister may in special circumstances extend the period within which anything is by this Act required to be done.

28 Effect of non-attendance of members of Court.

- (1.) If any nominated member of the Court neglects or refuses to attend the sittings of the Court, the appeal shall be heard and determined in his absence.

- (2.) If neither of the nominated members so attend, the appeal shall be deemed to be abandoned, and the Magistrate shall make order accordingly.

REGULATIONS

29 Regulations may be made for purposes of Act.

The Governor in Council may make regulations,—

- (1.) For enforcing the attendance of witnesses at the Court, and providing a penalty not exceeding ten pounds in case of the non-attendance of any witness;
- (2.) For the procedure on appeal, and the conduct of the sittings of the Court;
- (3.) For the time and mode of doing anything prescribed by this Act;
- (4.) For any other purpose that he thinks necessary in order to give full effect to this Act.

All such regulations shall be gazetted.

SCHEDULES

FIRST SCHEDULE

To the Chairman of the Education Board of the District of _____ .

Take notice that I, [*teacher's full name*], of _____ , hereby appeal under the provisions of "The Public-School Teachers Incorporation and Court of Appeal Act, 1895," against the decision of the Board, dated the _____ day of _____ , 189____ , dismissing [*or suspending, as the case may be*] me from my occupation as teacher at the _____ Public School. The following are the grounds on which I rely: [*Here state grounds of appeal*].

Dated at _____ , this _____ day of _____ , 18____ .

A.B., Teacher.

Memorandum [at foot of Notice of Appeal].

The [*Name of corporation*] hereby nominates C.D., of [*address*], as one of the members of the Court for the purposes of this appeal, and also undertakes to pay whatever costs may be awarded against the appellant.

As witness the common seal of the [*Name of corporation*], at _____ , this day of _____ , 18____ .

(L.S.)

E.F., [*designation of office*].

G.H., [*designation of office*].

I hereby consent to act as member of the Court for the purposes of this appeal.

C.D.

SECOND SCHEDULE

To A.B.,

The following is the statement in reply, by the Education Board of the District of _____, as respondent, to your notice of appeal under the provisions of “The Public-School Teachers Incorporation and Court of Appeal Act, 1895”: [*Here state reasons for dismissal, &c.*].

And take notice that the Board hereby nominates I.J., of _____, as one of the members of the Court for the purposes of this appeal.

Dated at _____, this _____ day of _____, 18 ____.

K.L.,

Chairman [*or* Secretary] of the Board.

I hereby consent to act as member of the Court for the purposes of this appeal.

I.J.