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c 92 The Schools Administration Amendment Act, 1973 (No. 1)

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CHAPTER 92

An Act to amend
The Schools Administration Act

Assented to October 11th, 1973
Session Prorogued March 5th, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 16 of subsection 2 of section 1 of The Schools Administration Act, being chapter 424 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

16. "occasional teacher" means a teacher employed to teach as a substitute for a permanent, probationary or temporary teacher who has died during the school year or who is absent from his regular duties for a temporary period that is less than a school year and that does not extend beyond the end of a school year.

(2) Subparagraph vi of paragraph 18 of subsection 2 of the said section 1 is repealed and the following substituted therefor:

vi. the obtaining of a water supply or an electrical power supply on the school property or the conveying of a water supply or an electrical power supply to the school from outside the school property.

(3) Subsection 2 of the said section 1, as amended by the Statutes of Ontario, 1971, chapter 90, section 1, 1972, chapter 1, section 62, and 1972, chapter 77, section 1, is further amended by adding thereto the following paragraph:

26a. "school day" means a day that is within a school year and is not a school holiday.

(4) Paragraph 29 of subsection 2 of the said section 1 is amended by inserting after "land" in the first line "or interest therein".
(5) Subsection 2 of the said section 1 is further amended by adding thereto the following paragraph:

29u. "school year" means the period prescribed as such by, or approved as such under, the regulations.

2. Section 3 of the said Act is repealed.

3. Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 77, section 2, is repealed and the following substituted therefor:

(1) A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of,

(a) failure of transportation arrangements; or

(b) inclement weather, fire, flood, the breakdown of the school heating plant, or a similar emergency.

4. Section 5 of the said Act is repealed.

5. Section 6 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 77, section 3, is further amended by adding thereto the following subsection:

(2a) Where a school year approved by the Minister does not commence on the day following Labour Day, references to the first school day in September and the last school day in June in subsections 1 and 2 shall be read as the first school day in the school year and the last school day in the school year respectively for the purpose of compulsory attendance of pupils of the school or schools or parts thereof to which the school year applies.

6. Clause a of subsection 1 of section 12 of the said Act is repealed and the following substituted therefor:

(a) report to the appropriate school attendance counsellor and supervisory officer the names, ages and residences of all pupils of compulsory school age who have not attended school as required.

7. Subsection 3 of section 16 of the said Act is repealed and the following substituted therefor:

(3) Unless otherwise expressly agreed, a teacher is entitled to be paid his salary in the proportion that the number of school days for which he is employed in the school year bears to the total number of school days in the school year.
8.—(1) Clause *h* of subsection 1 of section 21 of the said Act is repealed and the following substituted therefor:

(h) to attend the educational conference that is approved by the appropriate supervisory officer under the regulations;

(ha) to participate in professional activity days as determined by the board under the regulations.

(2) Clause *d* of subsection 2 of the said section 21 is repealed and the following substituted therefor:

(d) to prepare a timetable, to conduct the school according to such timetable and the school calendar or calendars applicable thereto and to make the calendar or calendars and the timetable accessible to the pupils, teachers and supervisory officers.

(3) Clause *e* of subsection 2 of the said section 21 is repealed and the following substituted therefor:

(e) to hold, subject to the approval of the appropriate supervisory officer, such examinations as he considers necessary for the promotion of pupils or for any other purpose and report as required by the board the progress of the pupil to his parent or guardian where the pupil is a minor and otherwise to the pupil.

9. Subsection 5 of section 21a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 77, section 14, is repealed and the following substituted therefor:

(5) Where the principal refuses to comply with a request under subsection 4, the pupil, parent or guardian who made the request may, in writing, require the principal to refer the request to the appropriate supervisory officer who shall either require the principal to comply with the request or submit the record and the request to a person designated by the Minister, and such person shall hold a hearing at which the principal and the person who made the request are the parties to the proceedings, and the person so designated shall, after the hearing, decide the matter, and his decision is final and binding upon the parties to the proceedings.

10.—(1) Paragraph 8 of section 34 of the said Act is amended by striking out "term" in the second line and inserting in lieu thereof "year".
(2) Paragraph 9 of the said section 34 is amended by striking out "term" in the second line and inserting in lieu thereof "year".

(3) Paragraph 18 of the said section 34, as re-enacted by the Statutes of Ontario, 1971, chapter 90, section 5, is amended by inserting after "municipality" in the tenth line and in the eleventh line "or board".

(4) The said section 34 is amended by adding thereto the following paragraph:

19. notwithstanding any other Act, borrow, for any purpose for which the board has authority to spend money, any moneys in any fund established by the board that are not immediately required by the board for the purposes of such fund, but such borrowing shall not extend beyond the term of office of the members of the board and, where secondary school moneys are borrowed for public school purposes or public school moneys are borrowed for secondary school purposes, the board shall pay interest to the fund from which such moneys are borrowed at a rate not less than that being earned by the fund at the date of borrowing.

(5) Paragraph 40 of the said section 34 is amended by striking out "and specify when such leave shall be taken" in the second and third lines.

11. Section 37 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 90, section 6 and 1972, chapter 77, section 21, is further amended by adding thereto the following subsection:

(2a) A board shall not enter into an agreement under subsection 1 or 2 that requires the board to provide special services for Indian pupils that it does not provide for its resident pupils unless, in addition to the fees prescribed in subsection 1 or 2, the cost of such services is payable by the Crown in right of Canada.

12. Section 39 of the said Act is repealed and the following substituted therefor:

39.—(1) A board of education, public school board or separate school board may establish and maintain elementary schools or classes in elementary schools, including kindergarten classes, for the purpose of providing for the use of the French language in instruction.

(2) Where, after the first school day in September and on or before the 1st day of April in any year, written evidence is
presented to a board referred to in subsection 1 that a number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following year.

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September in any year, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty-five or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

(4) Where a board referred to in subsection 1 provides or is required to provide for the use of the French language in instruction and in the opinion of the board the number of pupils who elect to be taught in the French language so warrants, the board shall provide a French-language elementary school.

(5) Notwithstanding subsections 1, 2, 3 and 4, English may be a subject of instruction in any grade and shall be a subject of instruction in Grade 5 and all subsequent grades in an elementary school.

(6) A board, on the request of the parent or guardian of an English-speaking pupil of the board, or of the pupil where he is an adult, may admit the pupil to a class formed under subsection 1, 2 or 3 or to a school provided under subsection 4 if his admission is approved by majority vote of an admissions committee appointed by the board, and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in such school and, subject to subsection 7, a French-speaking supervisory officer employed by the board.

(7) Where a board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee.
(8) Where a board has provided one or more French language elementary schools under subsection 4 and a number of pupils of the board elect to be taught in the English language, subsections 1, 2 and 3 apply mutatis mutandis in respect of provision for the use of the English language in instruction.

39a. Where, under Part V of The Secondary Schools and Boards of Education Act, a board of education has established a French-language advisory committee or an English-language advisory committee, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the public schools operated by the board of education as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes.

13. Section 46 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 77, section 24, is amended by adding thereto the following subsection:

(3) A board may retain a person who retires from employment with the board before he attains the age of sixty-five years in a group established for the purposes of a contract referred to in clause a of subsection 1 until he attains such age if he pays the full premium required to be paid to retain his participation in the contract.

14. Section 58 of the said Act is repealed and the following substituted therefor:

58.—(1) Any person entitled to vote at the election of members of a board may commence an action by writ in the county or district court in the county or district in which the head office of the board is situate for a declaration that the office of a member of such board has become vacant under section 39 of The Secondary Schools and Boards of Education Act, section 91 of The Separate Schools Act or section 49, 50 or 57 of this Act.

(2) No action shall be commenced under this section more than ninety days after the facts alleged to cause the vacancy in the board came to the knowledge of the person bringing such action.

(3) Where in an action under this section the court finds that the office of a member of the board has become vacant, the court may order that the member be removed from office and declare that the office is vacant.
The provisions of sections 105 to 108 and 112 of The Municipal Elections Act, 1972 apply mutatis mutandis to an action brought under this section.

A claim in an action under this section may be joined with a claim in an action under section 104 of The Municipal Elections Act, 1972, and such claims may be heard and disposed of in the same action.

Section 60 of the said Act is repealed.

Subsections 3 and 4 of section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 77, section 27, are repealed and the following substituted therefor:

Subject to section 63, a board may erect buildings for its purposes on land owned by the board.

A board may erect a school building on land that is leased by the board where the term of the lease, the school site and the plans of the school building are approved by the Minister.

Subsection 1 of section 71 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 90, section 9 and 1972, chapter 77, section 31, is repealed and the following substituted therefor:

Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing.

The said Act is amended by adding thereto the following Part IX-A.

PART IX-A

LANGUAGES OF INSTRUCTION COMMISSION OF ONTARIO

88a. In this Part,

"Commission" means the Languages of Instruction Commission of Ontario established under this Part;
Establishment of Commission

88b.—(1) A commission to be known as the Languages of Instruction Commission of Ontario is hereby established and shall be composed of five members appointed by the Lieutenant Governor in Council at least two of whom shall be French-speaking and at least two of whom shall be English-speaking, and one of the members shall be appointed as chairman.

(2) Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.

(3) Where a vacancy occurs in the membership of the Commission, the vacancy may be filled for the unexpired portion of the term of the person whose office has become vacant.

(4) The Commission is responsible to the Minister for its operation and shall be assisted by such employees in the public service of Ontario as the Minister may assign for the purpose.

(5) A quorum consists of three members of whom at least one shall be French-speaking and one English-speaking.

(6) A recommendation of the Commission requires the approval of at least a majority of the members of the Commission.

(7) The Commission shall consider matters referred to it by committees and requests for advice and assistance on questions in respect of which a committee may make recommendations, from boards and committees, and where there is no committee, from a group of ratepayers of the board concerned determined by the Commission to be representative of the French-speaking or English-speaking minority, as the case may be, within the jurisdiction of the board.

(8) A group referred to in subsection 7 shall name one of its members as its spokesman.

(9) The Minister may refer to the Commission any matter relating to instruction in the French language or, where the
pupils of a board who receive instruction in the English language are a minority of the pupils of a board, any matter relating to instruction in the English language.

(10) Where, within the area of jurisdiction of a board, there is doubt as to whether the French-speaking or English-speaking pupils are in the minority, the Commission has the power to determine whether there shall be a French-language advisory committee or an English-language advisory committee, or both, and the board shall establish such committee or committees as the Commission determines.

(11) Where, within thirty days of the election of a committee, the board or the committee requests the Commission to investigate an alleged irregularity respecting the election of a member of the committee, the Commission shall investigate such election and give the member an opportunity to make representation to the Commission and shall declare the member to be elected or declare his seat vacant and shall send a copy of its decision and reasons therefor to the board or committee and to the member.

(12) When a matter is referred to the Commission, the board concerned shall defer action thereon until the matter has been resolved.

(13) When a matter is referred to the Commission it shall

(a) forthwith appoint one or more mediators where it considers that the furtherance of such matter may be conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community; or

(b) except where a matter is referred by the Minister, take no further action where it considers that the furtherance of such matter is not conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community.

(14) Where the Commission takes no further action on a referral it shall forthwith send notice in writing of its decision and of the reasons therefor to the board, the Minister and either the committee or the spokesman referred to in subsection 8.

(15) Where the Commission makes an appointment under subsection 13 it shall communicate the name and address of each mediator to,

(a) the Minister;
(b) the secretary of the board; and

(c) the chairman of the committee,

and where a committee has not been established by a board, to the spokesman of the group referred to in subsection 8.

88c.—(1) Mediators shall be paid such remuneration as the Lieutenant Governor in Council may determine.

(2) A mediator shall not be a member of the Commission.

(3) The mediator or mediators shall, after inquiring into the matter referred for mediation and conferring with the parties involved, endeavour to bring about an agreement and shall, within twenty-one days of being appointed, report to the Commission the agreement that has been reached, or the failure to bring about agreement.

(4) The period referred to in subsection 3 may be extended by the Commission or by agreement of the parties to the mediation.

88d.—(1) Where the report of the mediator or mediators to the Commission indicates failure to bring about an agreement, the Commission shall consider and inquire into all pertinent aspects of the matter referred to mediation and shall, within twenty-one days of its receipt of the report, recommend to the board in writing a course of action that it considers appropriate to settle the matter and shall send copies of its recommendation to the Minister, the committee and the spokesman referred to in subsection 8 of section 88b.

(2) Within thirty days of its receipt of a copy of the recommendation of the Commission, the board shall report in writing to the Minister its decision in respect of the recommendation of the Commission and shall forward copies of the decision to the Commission and to the committee or spokesman of the group, as the case may be.

88e. The expenditures necessary for the purposes of the Commission and the mediators under this Part shall be payable until the 31st day of March, 1974, out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

19.—(1) This Act, except sections 2, 4, 5 and 7, comes into force on the day it receives Royal Assent.
(2) Sections 2, 4, 5 and 7 come into force on the 1st day of July, 1973.

20. This Act may be cited as The Schools Administration Amendment Act, 1973.