

# TEACH Bulletin

Thorough Education Achieved in a Caring Home

Number 16

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## Beneficiaries With Exemptions Are Exempt !

When the Government announced its budget on Thursday 14 May, many home educators suddenly found their home education futures threatened.

From 1 July the sickness benefit will be cut to the level of the unemployment benefit. There are home educating families for whom this is their main income. The reduced income may hurt worse since sickness beneficiaries often have extra medical expenses due to their illness.

From 1 February 1999 home educating parents on widows benefits and home educating solo parents on domestic purposes benefits with children aged 6 to 13 will be work-tested and expected to take up parttime work. Those whose youngest child is 14 will be expected to take up full-time work. How will such parents teach their children at home? Good question. The Income Support Service (ISS) is offering up to \$72 a week in child care subsidies so you can let some other person rear your child for you during work hours.

And then spouses of all beneficiaries (sickness, unemployment, invalids), with children 6 to 13 will be expected to take up parttime work and if your youngest is 14, you will be expected to take up full-time work.

This legislation looks at first glance as if it will effectively force out of their homes those mums who home educate their children while also caring for their sick or invalid husbands.

However there is some very good

news for home educators on benefits. The editor of *TEACH Bulletin* contacted Douceline van Arts, the Public Relations Officer of the ISS in Wellington and asked her about the possibility of home educators being exempt from these work requirements. A couple of days later Douceline put the editor in touch with Debbie Raines of the National Office of ISS who was able to confirm that, yes, home educators who have been approved by the Ministry of Education (that is, who hold exemption certificates) will be exempted by the ISS from the new work and work-test requirements. This does not come into effect until 1 February 1999, the same starting date as some of the new work-related requirements.

## Do ERO Reports Become Official Information?

Yes, they do. They become part of the Public Record of the workings of Government through one of its agents, the ERO. But this does not mean that members of the public have access to these reports even should they request a copy under the Official Information Act.

Mark Canning of the ERO head office in Wellington confirms that the ERO's policy regarding review reports of home educators is that they are and will remain private. A request to see such a report would be met with a reference to Section 9(2)(a) of the Official Information Act which says public requests for information

## What Happened to the Education Legislation Amendment Bill?

The Bill is still in the hands of the Science and Education Select Committee, who are having their findings and recommendations written up in a report. This report was originally to have been tabled in Parliament on 18 May, but according to the Clerk of the Committee, Graham Hill, the Report will not now be tabled until the 23rd of June.

## Home Education: A Growing Trend

The numbers of current certificates of exemption on the first of July for the last eight years were:

1990 = 1479	1994 = 4074
1991 = 1873	1995 = 4882
1992 = 2578	1996 = 5151
1993 = 3141	1997 = 5384

(such as ERO reports) can be refused to "protect the privacy of natural persons". The person requesting the report can appeal to the Ombudsman's Office, but they will need to be convinced that releasing the requested report is in the wider public interest before they will let it go.

Mr Canning said that even in the case of separated parents where the parent who does not have custody wants to see a copy of his or her children's home education review report, it has been the practise of the ERO to deny such a request. No denial has yet been appealed to the Ombudsman. In short, our reports remain private.

Desk Copy

## TEACH Bulletin

is a monthly publication of TEACH Publications, and is concerned with those things which may impact on home educators. Articles will deal with political developments, statist and professional trends, correspondence with educationalists, and other items of general interest to home educators. There is also a regular opinion poll regarding educational issues of the day that may impact home schoolers.

TEACH Bulletin is available for a subscription of \$16 per year for 11 issues (none in December), or by becoming a member of TEACH for a donation of \$30 or more. Some of the benefits of membership are:

- Discounts on Christian Home Schoolers of NZ National Family Conference fees
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Your donation toward membership also helps to develop further services exclusively for home schoolers, such as scholarships, summer schools, national tours by overseas experts, curriculum and home school resource fairs, national and international field trips.

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Hear, my son, your father's instruction, and reject not your mother's teaching.  
--- Proverbs 1:8

## A Bit of History

It is very instructive to look back over the years and see what the MOE and ERO had in store for home educators, but what home educators managed to divert by united and vigorous action.

**4 May 1989** — The Minister of Education, David Lange, in answering a written question in Parliament wrote:

"As indicated in 'Tomorrow's Schools', standard charter will be used for home-based schooling. It will be a separate charter, different from that being used by schools, that adheres to national curriculum guidelines but allows for development of an education consistent with the character of home-based education."

In response to the Picot Report and the Government's Tomorrow's Schools document, the Education Amendment Bill of 1989, Clause 20, said, "The Chief Review Officer may, by certificate (grant an exemption from enrolment) if satisfied that the guardian has signed a charter of aims and purposes of home schooling approved by the Secretary for the purpose."

About 85% of the charter was dictated by the state and home educators were left to add in a few "special character" items. Home educators of the day promised the authorities that they would not be signing the charters.

**14 September 1989** — Margaret Austin of the Science and Education Select Committee announced in Parliament that due to the many submissions from home schoolers, the Select Committee had resolved "to ammend (Clause 20) so that it becomes the responsibility of the Secretary, not the Chief Review Officer, to exempt an enrolment."

**19 September 1989** — Minister of Education Phil Goff says, "Home schoolers...will not need

to enter into agreement through a charter."

**21 September 1989** — Associate Minister of Education Noel Scott says, "Home schooling was a central issue in much of the discussion at the select committee and in the House. The Government has put great store on the right of parents to choose to educate their youngsters at home. The Government had thought that it was important that those youngsters educated at home be protected by a charter. By agreement, it is now not necessary to have a charter. The Government is delighted that home schoolers will be able to carry on with what they are doing without having to have an individual charter, but I assure them and the nation that the Government does not intend to allow home schoolers a free hand. They will have to satisfy the needs of youngsters, and what happens in the home will be checked so that the rights of individual youngsters are looked after."

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## Legality of ERO Reviews Questioned: Attorney-General Answers

The following questions were posed to the Attorney-General, the Hon Doug Graham, by letter in April 1998. His answers are dated 20 May 1998.

Q#1. If the MOE has not directed or requested or asked the ERO to do reviews of holders of exemption certificates, is the ERO clearly legally allowed to do them? Where is this authority found in the Education Act, or is it simply assumed?

A#1. You will be aware from a reading of s 21 of the Education

Act, that it does not specifically provide that the Ministry of Education may request the ERO to undertake such a review of home schooling. ERO review powers are clear, however, under s 21(7). In the circumstances, I see no reason why any ERO review of home schooling requires a specific request from the Ministry of Education. I note in any case that, on my understanding of the situation, the question is hypothetical.

Q#2. Is the MOE clearly legally allowed to request blanket reviews of all holders of exemption certificates? Where is this authority found in the Education Act, or is it simply assumed?

A#2. Similarly there is no provision in the Education Act specifically allowing the Ministry of Education to request a "blanket review" of all holders of exemption certificates. This does not mean that any such request would be unlawful.

Q#3. Is the MOE clearly legally allowed to request blanket reviews of "certain limited categories" of holders of exemption certificates? Where is this authority found in the Education Act, or is it simply assumed?

A#3. An equivalent position applies in respect of reviews of "certain limited categories of holders of exemption certificates". Again there is no specific provision whereby the Ministry of Education may request such reviews under the Education Act. However, that does not make such requests, if they occur, unlawful. Any such request may be seen, in fact, as giving effect to s 21 of the Act.

Q#4. Is it possible to unambiguously interpret Section 327 of the Education Act 1989, as it currently stands, to allow the ERO to conduct reviews in private dwellinghouses? If so, how?

A#4. This section gives review  
(Continued on page 4)

## Letter



### NZ Penfriend

I would like a penfriend in New Zealand. I am a 13-year-old boy who lives in Adelaide, South Australia. My hobbies are bird watching, modelling with balsa wood, reading (especially books about animals), gardening and doing karate. I would like a penfriend about my age. I was born in New Zealand, and lived there until I was nearly five.

Duncan Cromb  
PO Box 58  
Greenacres, SA  
5086

*(Continued from page 3)*

*officers powers, at any reasonable time, and having given reasonable notice, to enter any place, other than a dwelling-house, in order to carry out their functions. Section 327 thus clearly provides that review officers have no statutory power to enter a dwelling-house.*

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*Nonetheless, a review officer may request and be given permission to enter a dwelling-house in the course of any review of the educational services provided to students educated at home. As I have previously suggested to you, it may well be in the best interests of any person offering home schooling to allow a review officer access to the dwelling where that schooling occurs. If such access is refused then the officer's ability to conduct an effective review may be compromised. Ultimately, that may mean that the Secretary of Education is obliged to make a decision on revocation of an exemption with only a partial report from the review officer.*

**Q#5.** If the legality of these practices is unclear, is it not a requirement of state servants, such as employees of the MOE and ERO, to stop doing what they may not be allowed to do by law and to do only what the law clearly allows?

*A#5. It follows from the above comments that I do not accept that employees of the Ministry of Education or ERO are acting unlawfully in carrying out home schooling reviews. Accordingly, the question of whether they should stop undertaking these activities does not arise.*

**Q#6.** You have said that it is a "relatively common practice to clarify and confirm

statutory powers", which the Education Legislation Amendment Bill's Clauses 59 and 60 are clearly designed to do. Does this mean that even if a practice is illegal, as long as home educators acquiesce, no action will be taken?

*A#6. In answer to your last question, I would not support any illegal action on the part of public servants, whether those actions are disputed or not.*

## Squashing a Rumour

Is the ERO going to stop sending out unconfirmed reports after a review for home educators to comment on? Yes and no. Since an unconfirmed report is rarely modified, home educators will receive a confirmed report after a review. The same ten day period will follow in which the home education family has opportunity to comment on it. If there is no comment, as is the case most of the time, that same report will be sent to the Secretary for Education. If there is a change, the family and the Secretary for Education will be sent the new confirmed report.

The new practise by the ERO simply drops the term "unconfirmed report" and does not send the family two copies of exactly the same report (the unconfirmed copy and later the confirmed copy), but only sends a second copy (of the new confirmed report) in those few instances when a change is made due to comments by the family.

## Teaching Dangerous

Figures show that for the first three months of this year, 611 students were suspended for physical assaults on other students, compared to 559 for the same period last year. Kevin Bunker, general secretary of the NZ Post Primary Teachers' Association, said that in the comparable period last year 35 students were suspended for physical assaults on staff, and 48 this year, which had eight fewer days! (Newsroom Press Release, 5 May 1998.)