

TEACH Bulletin

Thorough Education Achieved in a Caring Home

Number 23

January 1999

Education Amendment Act (No. 2) 1998

At its third reading the Education Legislation Amendment Bill was split into three separate Bills. The one dealing with home education matters was passed into law in December 1998 and is now known as the "Education Amendment Act (No. 2) 1998". Apart from small changes made as a result of the efforts of Labour MP for Hutt South Trevor Mallard, the amendments to the principle Education Act 1989 are exactly as proposed in the Bill's second reading.

Most of the new Act relating to home educators is quoted below:

328A. Functions of Chief Review Officer — The Chief Review Officer —

- (a) May carry out reviews (which may be general or in relation to particular matters) of the educational services provided to persons exempted from the requirements of section 20 and must carry out such reviews when directed by the Minister to do so; and
- (b) Must administer the preparation of reports to the Minister on the undertaking and results of such reviews; and
- (c) Must give the Minister such other assistance and advice on the educational services provided to persons exempted from the requirements of section 20 as the Minister from time to time requires.

328C. Powers of review officers for purposes of sections 328A to 328D—

- (1) For the purposes of enabling any functions of the Chief Review Officer to be performed for the purposes of section 328A, any re-

view officer may, at any reasonable time and having given reasonable notice,—

(a) Conduct inspections or inquiries;

(b) Require any parent or other person to produce documents or information relating to—

(i) The educational service the parent or other person provides; or

(ii) People to whom such educational service is (or has been) provided,—

and permit the review officer to make copies or extracts of the documents or information:

(c) Require any parent or other person to make or provide statements, in such form and manner as is reasonable in the circumstances, about any matters relating to provision of the educational service provided by that parent or person;

(d) Inspect the work of any person to whom the educational service concerned is (or has been) provided;

(e) Meet and talk with any person to whom the educational service concerned is being provided.

(2) Nothing in this section confers on a review officer the power to enter any dwelling house without the consent of the owner or occupier.

(Continued on page 2)

The "Secular" Clause

In response to a question about the meaning of "secular" in Section 77 of the Education Act 1964 which says, "the teaching shall be entirely of a secular character", a letter from the MOE's Legal services Manager, Jan Breakwell, dated 23 December 1998 says, "Section 77 of the Education Act 1964 was not repealed by the Education Act 1989 and the requirement that the teaching in state primary schools be of a secular character is still in force today.

"Interpretations of the term may vary depending on the circumstances in which it is used, but the explanation given in Hon. David Lange's letter of 23 February 1988 encapsulates its meaning in the context of the Education Act 1964. I am not aware of any change which has affected this."

So what did the then Minister of Education, Hon. David Lange, say

about it back in 1988?

In the absence of any ruling by the courts, the department has in practice taken the term to mean "without any form of religious instruction or observance".

The department agrees with the position taken by the Royal Commission on Education 1962, that the interpretation of secular should be sufficiently broad to permit mention of religion, in appropriate parts of the syllabuses, and an unembarrassed reference to religion and religious history.

You should note that the requirements of Section 77 apply only to state primary schools. Teaching in other situations must be regular, efficient, and follow the official syllabuses of instruction, but need not have the entirely secular character required in state primary schools.

Desk Copy

(Continued from page 1)

3281). **Review officers to prove identity before acting under section 328C**---Every review officer who exercises any power under section 328C must, before exercising that power and, if requested, at any later time, produce to the parent or other person providing the educational service concerned the review officer's certificate of designation.

So what does all this mean? It is now beyond dispute that the ERO has the independent legal power to conduct reviews of home educators in either a "general" sense (blanket reviews of everyone), "or in relation to particular matters"[Sec 328A(1)(a)].

That is, the ERO can now clearly conduct reviews of whomever they like, for whatever reason they like, whenever they like. As it stood previously, it seems only the MOE could initiate reviews and then only 1) if the MOE was concerned

about a particular family or 2) if the MOE had turned down an exemption application and the parents requested a review as a sort of appeal procedure. That is to say further, that most of the reviews conducted all during 1998 may not have been according to the letter of the law.

The ERO also "must" do reviews when the MOE tells them to, prepare reports and help the MOE in any other way it can regarding "the educational services" of home educators [Sec 328A(1)(a)(b) & (c)]. (Trevor Mallard tried to have the reports given to the MOE to be anonymous, so the MOE wouldn't know which family the report was talking about, but that effort failed.)

Although the ERO has no power to enter or conduct a review in our homes unless we give them permission [328C(2)], they do have the power to "require" us to produce "documents or information" about our home educated children, even if they are no longer being home educated, and about the "educational services" we provided them, and we must let them take copies of this information [328C(1)(b)].

The ERO can "require" us "or other person" to tell them about what we do [328C(1)(c)]. Presumably this "or other person" gives the ERO the latitude to include nosey and unsympathetic neighbours as well as any teacher or student at any past school our children may have attended. The intention may not be there, but the option certainly is.

Whereas we are "required" to produce information, documents and statements about what we do should the ERO insist on these things in the course of a review, we are not required to let them inspect our children's work or let them speak to our children. That is, the ERO have the legal right to see the work and talk to the children, but we have no legal obligation to let them do so [328C(1)(d) & (e)]. Now it seems that the

ERO's usual policy on this is to issue an unfavourable report if they are denied access to our children.

An unfavourable report could result in our exemption being revoked. But whereas an unfavourable report reflects our relationship to the ERO, it is our relationship with the MOE that counts when the MOE comes to consider whether they should, on the basis of the ERO report, revoke our exemption. Remember, we have by then not only filled in the exemption application which the MOE approved, but we will have also signed a statutory declaration to the effect that we have continued to meet the "as regular and well" requirements.

One result of this change in legislation is that we home educators now seem to have the responsibility to account for ourselves to two independent and very different government agencies who each have their own legal power to initiate reviews upon us.

(The editor apologises for the "them & us" tone of this article. The object is not to stir up animosity but clearly to inform home educators of where we stand in relation to the ERO in law, who has what powers and who has what protections.)

Supervisory Allowances

Section 10 of this Amendment Act causes exemption certificates to automatically expire when the student "turns 16 or enrolls at a registered school". However, the MOE advises that they will continue their policy (not a legal requirement) to pay out the supervisory allowance to students over 16 as long as they gained their exemption before turning 16. The letter actually states, "These payments will continue as long as parents continue to teach their children at least as regularly and well as in a registered school." This probably does not mean until age 27 but to "the 1st day of January after the person's 19th birthday" as mentioned in Section 3 of the Act.

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.

TEACH Bulletin is available for a subscription of \$16 per year for 11 issues (none in December) or two years for \$30.

All correspondence to:

The Editor
Craig S. Smith
4 Tawa St.
Palmerston North 5301
New Zealand
Ph/Fax: +64 6 357-4399
keystone.teach@xtra.co.nz

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

Trading Post



For Sale:

Modern Teaching Aids "Tutor Systems": Books for the junior tray (pre-school - 10 yrs): Vocab 1, Reading 1B, Practising Reading 2, Aesop's Fables, Look & See, Metric Measurement, Picture Sentence Matching, Using Double Sounds, Practising No. 1 & 2, Questions. (All in good condition. The plastic trays to use with these are available through Modern Teaching Aids)
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Plastic Tray is approx \$30 new and \$5 each book. Sell the lot \$ 55 + P&P (all in good condition)

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Pat and Phillipa Ashton
ph/fax: (03) 522-4 213
Email - p.ashton@xtra.co.nz

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Algebra 1/2 Student Tests
Algebra 1/2 Teacher Answer Key

Contact:

Tricia Pratt
ph. (06) 326-8203 A.H.

Is This a Silly One?

05 Nov 1998

From: <jharris@.....net>

To:
craig.barbara.smith@xtra.co.nz

You were kind enough to send information to us regarding NZ homeschooling at the beginning of the year. We are now closer to moving to NZ (from the USA), and were wondering how the home-visits by the ERO, which you mentioned were being resumed, were going?

How do these work and have there been any bad experiences? Here in the USA a home-visit is often an opportunity for a bureaucrat to go on a fishing expedition to try to find something negative in the way you raise your kids, and report it to the authorities. Is this a concern in NZ? Or are we being silly to be worried about it?

Thank you very much for your advice.

Jim & Marian Harris

John Taylor Gatto's 7 Lessons

No one exposes the hidden (in plain view!) curriculum better than John Taylor Gatto when he talks about the seven lessons that teachers in the school system are teaching their students, knowingly or not. The lessons are:

1. Know your place and stay there.
2. Learn to turn yourself on and off like a light switch.
3. Become indifferent to everything.
4. Surrender your will to a predestined chain of command.
5. Depend on others to tell you what you should learn and what you should be interested in.
6. Depend on others to tell you what you are worth.
7. Learn that you are being watched constantly.

School Failures

Underpinning the Education Act of 1877 was the view that universal, compulsory and secular education will lead to social equality and justice for all. "New Zealand was seen as a brave new world, a land where equal opportunities were available to all, regardless of class background, and where, for those prepared to work hard, there was no barrier to success." (J. Mackey in *The Making of a State Education System*, 1967.) Failure must be the individual's, not the school's, fault. Thus the belief that many children can't learn has become firmly embedded in the minds of society and of teachers. The NZCER Report to the Royal Commission on Social Policy in 1986 showed how teachers' expectations of student progress are influenced by their unconscious gender, race and class association with particular abilities (or lack of them). Those expectations shape their teaching style and content in such a way as to confirm their judgements.

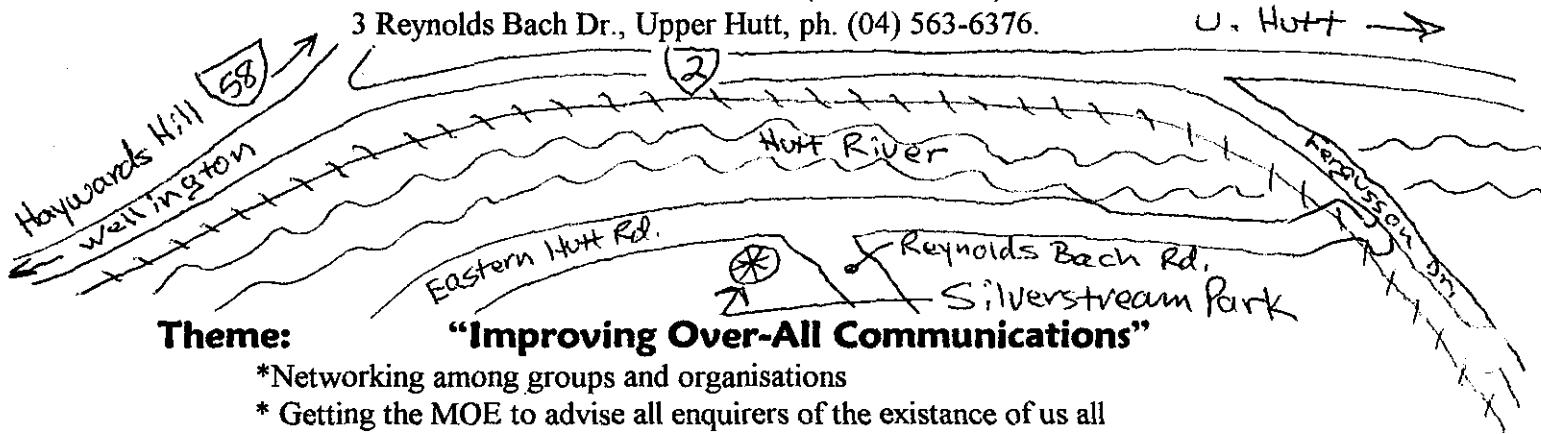
(From *Our Secondary Schools Don't Work Anymore: Why and how New Zealand schooling must change for the 21st century*, 1998, by David Hood, first Chief Executive of the NZ Qualifications Authority.)

Fourth Annual TEACH Forum

For leadership types
within local support groups,
regional and national home education organisations.

When: Friday 26 February (check-in from 1pm) through Saturday evening 27 February 1999

Where: Silverstream Park Christian Centre (Cave Adullam)
3 Reynolds Bach Dr., Upper Hutt, ph. (04) 563-6376.



Theme: "Improving Over-All Communications"

- * Networking among groups and organisations
- * Getting the MOE to advise all enquirers of the existence of us all
- * Issues we can all lobby for together
- * Websites
- * And more

*****Informal time Friday with Tony Cross of the Education Review Office*****

*****Confirmation of representative from Ministry of Education pending*****

Costs: Friday pm cuppa, tea, supper //
Saturday breakfast, am cuppa, lunch, pm cuppa, tea, supper// = \$28 per person.
Friday night accommodation = \$12 per person
Subtotal = \$40
Saturday night accommodation = \$12 per person
Subtotal = \$52

Children aged five through 15 = \$5 off applicable subtotal.

Children under five = Free of Charge

No children's programme is provided.

Bring sleeping bag, and pillows and \$2 coins to operate washing machines and pay phones (if required). Accommodation is in men's and women's bunk rooms with our own showers, toilets, kitchen, dining, lounge and recreation rooms. Usual camp rules apply: no smokes indoors, no alcohol, drugs or pets, lights out at 11pm.

1999 TEACH Forum Registration Form

Number of adults: _____ x (\$40 or \$52) = _____
 Number of children: _____ x (\$35 or \$47) = _____
 Number of children under 5 _____ FOC
 Total = _____

Names: _____

Address: _____

Phone: _____

Send cheques payable to:
Home Education Foundation
4 Tawa St., Palmerston North
by Wednesday 17 February.
For further information contact:
Craig & Barbara Smith
ph/fax: (06) 357-4399
email: hedf@xtra.co.nz