



New South Wales

Education Amendment (School Leaving Age) Regulation 2009

under the

Education Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Education Act 1990*.

VERITY FIRTH, MP
Minister for Education and Training

Explanatory note

The object of this Regulation is to prescribe rules and criteria that are to be applied for the purposes of determining the following matters (as a result of the amendments made to the *Education Act 1990* by the *Education Amendment Act 2009* relating to the change in the school-leaving age):

- (a) whether a child has completed Year 10,
- (b) whether a child is participating in paid work,
- (c) whether a child is participating in approved education or training,
- (d) whether a child is participating in paid work, approved education or training or a combination of both on a full-time basis,
- (e) whether a child was enrolled at a school at the end of the 2009 school year.

The Regulation will commence on 1 January 2010 (being the date of commencement of the *Education Amendment Act 2009*).

This Regulation is made under the *Education Act 1990*, including sections 21B (as inserted by the *Education Amendment Act 2009*) and 130 (the general regulation-making power) and clause 17 of Schedule 3 (as inserted by the *Education Amendment Act 2009*).

2009 No 582

Clause 1 Education Amendment (School Leaving Age) Regulation 2009

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1 Name of Regulation

This Regulation is the *Education Amendment (School Leaving Age) Regulation 2009*.

2 Commencement

This Regulation commences on 1 January 2010 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Education Regulation 2007

[1] Clauses 4–4C

Insert after clause 3:

4 Completion of Year 10

- (1) For the purposes of section 21B of the Act, a child has completed Year 10 of secondary education in this State if:
 - (a) the child has been awarded, or has received, a relevant certificate, or
 - (b) the child has satisfied the relevant participation requirements for Year 10 or Year 10 of home schooling.
- (2) For the purposes of this clause, a *relevant certificate* means:
 - (a) a School Certificate, or Higher School Certificate, granted under Part 8 of the Act, or
 - (b) a record of achievement issued under section 98 of the Act, or
 - (c) a certificate from the proprietor of a non-accredited school confirming that the child has satisfied the relevant participation requirements for Year 10, or
 - (d) in the case of a child who is registered for home schooling—a certificate from an authorised person (within the meaning of section 70 of the Act) confirming that the child has satisfied the relevant participation requirements for Year 10 of home schooling.
- (3) For the purposes of this clause, a child has satisfied the *relevant participation requirements for Year 10* if:
 - (a) the child's attendance at school until the final day of Year 10 is satisfactory in the opinion of the relevant authority, and
 - (b) the child has:
 - (i) in the case of a child attending a non-accredited school—received instruction in courses of study that meet the curriculum requirements for secondary school children during Year 7 to Year 10 and has completed the courses of study for Year 10, and

2009 No 582

Education Amendment (School Leaving Age) Regulation 2009

Schedule 1 Amendment of Education Regulation 2007

- (ii) in any other case—participated in courses of study which have been determined under the Act as appropriate to be undertaken by candidates for the School Certificate, and
 - (c) the child has applied himself or herself with diligence and sustained effort in the opinion of the principal of the school.
- (4) For the purposes of this clause, a child has satisfied the *relevant participation requirements for Year 10 of home schooling* if:
 - (a) the child is, or was, registered for home schooling subject to the condition that he or she receive instruction in courses of study that meet the curriculum requirements for secondary school children during Year 7 to Year 10, and
 - (b) the child has completed the courses of study for Year 10.
- (5) In this clause:
 - non-accredited school* means a registered non-government school that is not accredited to present candidates for the School Certificate.
 - relevant authority* means:
 - (a) in the case of a child attending a government school—the Director-General, and
 - (b) in the case of a child attending a non-government school that is a member of a system of non-government schools—the approved authority appointed under section 40 of the Act, and
 - (c) in the case of a child attending any other non-government school—the proprietor of the school.

4A Participation in paid work

- (1) For the purposes of section 21B of the Act, a child is participating in paid work if:
 - (a) the child is undertaking work as an employee or a self-employed person, and
 - (b) the child is being paid for undertaking that work, and
 - (c) any requirements relating to the age or qualifications of an employee undertaking that work, as imposed by or under legislation, are complied with.

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- (2) A child who undertakes work of a domestic or home maintenance nature for a parent of the child is not participating in paid work for the purposes of section 21B of the Act in relation to that work regardless of whether the child is being paid to undertake the work.
- (3) In this clause:
employee has the same meaning as it has in the *Occupational Health and Safety Act 2000*.
self-employed person has the same meaning as it has in the *Occupational Health and Safety Act 2000*.

4B Participation in approved education or training

For the purposes of section 21B of the Act, participation in approved education or training includes participation in Years 11 and 12 of secondary education.

4C Participation on a full-time basis

For the purposes of section 21B of the Act:

- (a) a child is participating in paid work on a full-time basis if the child is participating in paid work for an average of 25 hours per week over a 4 week period, and
- (b) a child is participating in approved education or training on a full-time basis if the provider of the approved education or training that the child is participating in certifies that the education or training is being provided to the child on a full-time basis, and
- (c) a child is participating in a combination of approved education or training and paid work on a full-time basis if the child participates in any of the following for an average of 25 hours per week over a 4 week period:
- (i) paid work, or
 - (ii) face-to-face instruction in connection with approved education or training.

[2] Clause 15

Insert after clause 14:

15 Transitional provision

- (1) For the purposes of clause 17 of Schedule 3 to the Act, a child is enrolled at a school at the end of the 2009 school year if the

2009 No 582

Education Amendment (School Leaving Age) Regulation 2009

Schedule 1 Amendment of Education Regulation 2007

child's name remained on the register of enrolments kept in accordance with section 24 of the Act until:

- (a) in the case of a child attending a non-government school that is a member of a system of non-government schools—the date determined by the approved authority appointed under section 40 of the Act as the end of the 2009 school year, or
 - (b) in the case of a child attending any other non-government school—the date determined by the proprietor of the school as the end of the 2009 school year, or
 - (c) in any other case or if no date is determined for the school that the child is attending in accordance with paragraph (a) or (b)—10 December 2009.
- (2) However, a child who has his or her enrolment at a school withdrawn or terminated before 10 December 2009 or the date determined in relation to the school under subclause (1) (a) or (b), as appropriate, is not enrolled at that school at the end of the 2009 school year (regardless of whether the child's name remained on the register of enrolments).