



New South Wales

Education Amendment Act 2009 No 25

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Education Amendment Act 2009 No 25

Act No 25, 2009

An Act to amend the *Education Act 1990* to change the school leaving age. [Assented to 19 May 2009]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Education Amendment Act 2009*.

2 Commencement

This Act commences on 1 January 2010.

Schedule 1 Amendment of Education Act 1990 No 8

[1] Section 3 Definitions

Omit the definition of *compulsory school-age* from section 3 (1).

Insert instead:

compulsory school-age—see section 21B.

[2] Section 21B

Insert before section 22:

21B Compulsory school-age

- (1) For the purposes of this Act, a child is of compulsory school-age if the child is of or above the age of 6 years and below the minimum school leaving age.
- (2) The minimum school leaving age is:
 - (a) the age at which the child completes Year 10 of secondary education (subject to participation required by subsection (3)), or
 - (b) the age of 17 years,whichever first occurs.
- (3) A child who completes Year 10 of secondary education but who is below the age of 17 years is of compulsory school-age unless the child participates on a full-time basis in:
 - (a) approved education or training, or
 - (b) if the child is of or above the age of 15 years—paid work or a combination of approved education or training and paid work.
- (4) A child ceasing to be of compulsory school-age because of that participation does not revert to being of compulsory school-age because of a cessation in participation for any reason so long as the interruption in participation does not exceed a total period of 3 months in any 12-month period or such other period approved by the Minister.
- (5) The completion of Year 10 of secondary education is:
 - (a) the completion of Year 10 of secondary education in this State (whether by school education or home schooling), or

- (b) the completion of a course provided by the TAFE Commission that is approved by the Minister as the equivalent of Year 10 of secondary education in this State, or
 - (c) the completion, outside of this State, of the equivalent of Year 10 of secondary education in this State, or
 - (d) the completion of education in any special circumstances approved by the Minister.
- (6) Participation in approved education or training is participation in any of the following:
- (a) a higher education course within the meaning of the *Higher Education Act 2001*,
 - (b) a vocational course within the meaning of the *Vocational Education and Training Act 2005*,
 - (c) an apprenticeship or traineeship within the meaning of the *Apprenticeship and Traineeship Act 2001*,
 - (d) any other education or training approved by the Minister.
- (7) The regulations may prescribe rules and criteria that are to be applied for the purposes of this section in determining:
- (a) whether a child has completed Year 10, or
 - (b) whether a child is participating in paid work, or
 - (c) whether a child is participating in approved education or training, or
 - (d) whether such participation is on a full-time basis.

Subject to the regulations, participation on a full-time basis in paid work is participation for an average of 25 hours per week.

[3] Sections 22 and 23 (1)

Omit “a child of or above the age of 6 and below the age of 15” wherever occurring.

Insert instead “a child of compulsory school-age”.

[4] Section 23 Offence to fail to send child to school

Insert at the end of section 23 (2) (d):

, or

- (e) the child is of or above the age of 16 years and is no longer living with the defendant, and the child’s absence from school was not due to any default of the defendant.

[5] Section 23 (3) (a1)

Insert after section 23 (3) (a):

- (a1) the child has written permission from the principal of a government school or registered non-government school, and from the director of a TAFE establishment, to enrol in a course referred to in section 21B (5) (b) and is so enrolled, or

[6] Sections 122 (a) (i) and 123 (3) (b)

Omit “the age of 15” wherever occurring. Insert instead “the age of 17”.

[7] Section 123 Evidence

Insert at the end of section 123 (1) (c):

or

- (d) a child has or has not, as at a day specified in the certificate, completed Year 10 of secondary education at the school,

[8] Section 123 (4)

Omit “the Director-General stating that, to the best of the Director-General’s belief”.

Insert instead “the Director-General or by an officer prescribed by the regulations stating that, to the best of the belief of the Director-General or officer”.

[9] Section 123 (5)

Insert after section 123 (4):

- (5) In any proceedings under this Act for an offence against section 23 (1), a certificate purporting to be signed by the Director-General or by an officer prescribed by the regulations stating, to the best of the belief of the Director-General or officer, on any day specified in the certificate:
 - (a) whether or not a child has completed Year 10 of secondary education in this State, or
 - (b) whether or not specified education completed outside of the State is the equivalent of Year 10 of secondary education in this State,

is admissible in evidence and is prima facie evidence of the matters stated in the certificate.

[10] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Education Amendment Act 2009

[11] Schedule 3, Part 9

Insert after Part 8:

**Part 9 Provisions consequent on enactment of
Education Amendment Act 2009**

**17 Application of compulsory school-age amendments and
requirement to continue school, work or approved education or
training until the age of 17 years**

- (1) The amendments made by the *Education Amendment Act 2009* do not apply to a child who attained the age of 15 years before 1 January 2010, unless:
 - (a) the child completed Year 10 of secondary education (as referred to in section 21B) during the 2009 school year, or
 - (b) the child was enrolled at a government or registered non-government school at the end of the 2009 school year or was registered for home schooling at the end of 2009.
- (2) The regulations may make provision for the purpose of determining whether a child was enrolled at a school at the end of the 2009 school year.

[Agreement in principle speech made in Legislative Assembly on 11 March 2009

Second reading speech made in Legislative Council on 12 May 2009]

BY AUTHORITY