



New South Wales

Teaching and Education Legislation Amendment (Employment) Act 2018 No 3

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Teaching and Education Legislation Amendment (Employment) Act 2018 No 3

Act No 3, 2018

An Act to amend the *Teaching Service Act 1980*, the *Education (School Administrative and Support Staff) Act 1987* and the *Teacher Accreditation Act 2004* to make further provision with respect to the employment of persons in the Teaching Service and the employment of school administrative and support staff in the Department of Education; to amend the *Education Act 1990*; and for other purposes. [Assented to 20 February 2018]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Teaching and Education Legislation Amendment (Employment) Act 2018*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Teaching Service Act 1980 No 23

[1] Section 4 Definitions

Omit the definition of *Education Gazette* from section 4 (1).

[2] Section 4 (1), definition of “temporary employee”

Omit “or deemed to be a temporary employee under section 48 (3)”.

[3] Section 47 Appointment to positions generally

Omit section 47 (1). Insert instead:

- (1) The Secretary may, subject to section 47A, appoint to positions in the Teaching Service:
 - (a) persons who are accredited under the *Teacher Accreditation Act 2004*, or
 - (b) persons who have, in the opinion of the Secretary, the appropriate qualifications to be employed in the Teaching Service.

[4] Section 50 Temporary employees

Omit section 50 (1). Insert instead:

- (1) The Secretary may employ on a temporary basis:
 - (a) persons who are accredited under the *Teacher Accreditation Act 2004* to carry out work in the Teaching Service, or
 - (b) persons who have, in the opinion of the Secretary, the appropriate qualifications to carry out work in the Teaching Service.

[5] Section 50 (5) (a)

Omit the paragraph. Insert instead:

- (a) may be employed for a period or periods of up to 3 years, and

[6] Section 50 (6) and (7)

Insert after section 50 (5):

- (6) The Secretary may not terminate the employment of a temporary employee for reasons other than for misconduct unless the employee:
 - (a) is given at least 4 weeks notice of the proposed termination, or
 - (b) is paid, at or before the termination, an amount equal to 4 weeks pay.
- (7) A temporary employee whose employment is terminated is not, despite any other Act or law, entitled to any other compensation or entitlement for the termination of employment other than superannuation entitlements.

[7] Section 51B

Insert after section 51A:

51B Dealing with member of Teaching Service whose address is unknown

If:

- (a) the Secretary takes any action under this Act with respect to a person who is an officer or temporary employee (including any disciplinary action under Part 4A or the termination of the person’s employment), and

- (b) the person's address is unknown to the Secretary,
any instrument for giving effect to that action or for notifying the person of that
action may be sent to the address of the person last known to the Secretary.

[8] Sections 74 and 75

Omit the sections.

[9] Sections 77 and 77A

Insert after section 76:

77 Termination or suspension of employment if accreditation is revoked or suspended

- (1) The Secretary may terminate a person's employment as an officer or temporary employee if the person's accreditation is revoked under the *Teacher Accreditation Act 2004*.
- (2) An officer or temporary employee who is required to be accredited under the *Teacher Accreditation Act 2004* may be suspended from employment by the Secretary during any period in which the person's accreditation under that Act is suspended. Any such suspension may be without pay.
- (3) An officer or temporary employee who is suspended from employment under subsection (2) for any period is, for the purposes of section 28 (2) of the *Teacher Accreditation Act 2004*, taken not to be employed as a teacher during that period.
- (4) The Secretary is not required to provide alternative employment to a person whose employment is terminated or suspended under this section.

77A Miscellaneous grounds for terminating employment

- (1) The Secretary may terminate:
 - (a) a person's employment as an officer or temporary employee if the person has abandoned his or her employment, and
 - (b) a person's employment as an officer if the person refuses or fails to commence duties in a position to which the person has been appointed or transferred under this Act.
- (2) This section does not limit the grounds on which the Secretary may terminate a person's employment under this Act.

[10] Section 93Q Officer whose address is unknown

Omit the section.

[11] Sections 95 and 96

Omit the sections.

[12] Section 100 Regulations

Omit section 100 (2).

Schedule 2 Amendment of Education (School Administrative and Support Staff) Act 1987 No 240

[1] Section 19 Permanent employee refusing transfer

Omit the section.

[2] Section 21 Employment of temporary employees

Omit section 21 (2) and (3). Insert instead:

- (2) A person employed under this section may be employed for a period or periods of up to 3 years.

[3] Section 21 (5) and (6)

Insert after section 21 (4):

- (5) The Secretary may not terminate the employment of a temporary employee for reasons other than for misconduct unless the employee:
- (a) is given at least 4 weeks notice of the proposed termination, or
 - (b) is paid, at or before the termination, an amount equal to 4 weeks pay.
- (6) A temporary employee whose employment is terminated is not, despite any other Act or law, entitled to any other compensation or entitlement for the termination of employment other than superannuation entitlements.

[4] Section 32H Permanent employee whose address is unknown

Omit the section.

[5] Section 34 Delegation by Secretary

Omit “public servant” from section 34 (1). Insert instead “Public Service employee”.

[6] Sections 34A and 34B

Insert after section 34:

34A Miscellaneous grounds for terminating employment

- (1) The Secretary may:
- (a) terminate a person’s employment as a permanent or temporary employee if the person has abandoned his or her employment, and
 - (b) terminate a person’s employment as a permanent employee if the person refuses or fails to commence duties in a position to which the person has been appointed or transferred under this Act.
- (2) This section does not limit the grounds on which the Secretary may terminate a person’s employment under this Act.

34B Dealing with permanent or temporary employee whose address is unknown

If:

- (a) the Secretary takes any action under this Act with respect to a person who is a permanent or temporary employee (including any disciplinary action under Part 6 or the termination of the person’s employment), and
 - (b) the person’s address is unknown to the Secretary,
- any instrument for giving effect to that action or for notifying the person of that action may be sent to the address of the person last known to the Secretary.

Schedule 3 Amendment of Teacher Accreditation Act 2004 No 65

[1] Section 29 Provisions relating to employment

Insert after section 29 (4):

- (5) This section does not apply in relation to a person who is employed as a teacher in a government school.

Note. The Secretary may, under section 77 of the *Teaching Service Act 1980*, suspend or terminate a person's employment in the Teaching Service if the person's accreditation is suspended or revoked.

[2] Section 29, note

Omit the note at the end of the section.

Schedule 4 Amendment of Education Act 1990 No 8

[1] Section 29 Kinds of government schools

Insert “Any such determination may, without limiting the generality of this subsection, be made in relation to a particular school that is of a kind referred to in this section.” after “Minister.” in section 29 (3).

[2] Section 31A Overseas students

Insert after section 31A (6):

- (7) This section has effect despite anything to the contrary in the *Anti-Discrimination Act 1977*.

[Second reading speech made in—
Legislative Assembly on 22 November 2017
Legislative Council on 14 February 2018]