



New South Wales

Teaching Service Amendment (Transfers) Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Teaching Service Act 1980* to restore the substantive effect of provisions relating to the transfer of officers within the Teaching Service that applied under the general government sector staff transfer provisions (sections 86A and 87) of the *Public Sector Employment and Management Act 2002* immediately before its repeal by the *Government Sector Employment Act 2013*. The *Government Sector Employment Act 2013* continued provisions relating to the transfer of staff between the services of the Crown, but left transfers within a service of the Crown (other than the Public Service) to be regulated by the separate provisions that apply to those other services. The *Teaching Service Act 1980* does not currently contain specific provision relating to transfers between schools.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Principal amendments of Teaching Service Act 1980 No 23

Schedule 1 [1] removes a note that refers to the application to the Teaching Service of the general public sector transfer provisions of the *Public Sector Employment and Management Act 2002* that have now been repealed by the *Government Sector Employment Act 2013*.

Schedule 1 [2] inserts section 51A into the Act to restore the substantive effect of those repealed provisions (sections 86A and 87) in relation to the permanent or temporary transfer of officers within the Teaching Service. Under the transfer provisions:

- (a) the Secretary of the Department of Education and Communities is required to consult an officer about a permanent transfer, and
- (b) an officer may request (but is not entitled to) a transfer, and
- (c) the Secretary may transfer an officer with or without the officer's consent, and
- (d) a transfer may be made to any workplace location in the State, and
- (e) an officer is entitled to be transferred at the officer's existing level of remuneration.

Schedule 1 [3] amends section 75 of the Act to confirm the power to terminate the employment of an officer who refuses to comply with a direction for the officer's transfer to another position.

Schedule 2 Law revision amendments of Teaching Service Act 1980 No 23

The Schedule makes law revision amendments to take account of changes made by the *Government Sector Employment Act 2013* to government sector employment arrangements.



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New South Wales

Teaching Service Amendment (Transfers) Bill 2014

No. , 2014

A Bill for

An Act to amend the *Teaching Service Act 1980* in relation to the transfer of officers employed in the Teaching Service and for the purposes of law revision.

The Legislature of New South Wales enacts:

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1 Name of Act

2

This Act is the *Teaching Service Amendment (Transfers) Act 2014*.

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2 Commencement

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This Act commences on the date of assent to this Act.

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Schedule 1	Principal amendments of Teaching Service Act 1980 No 23	1
		2
[1] Section 44 The Teaching Service		3
	Omit the note to the section.	4
[2] Section 51A		5
	Insert after section 51:	6
51A Transfer of officers within the Teaching Service	(cf ss 86A and 87 PSEM Act 2002)	7
(1)	The Secretary may, subject to this section, transfer an officer of the Teaching Service to another position within the Teaching Service.	8 9
(2)	A transfer of an officer under this section may be temporary or, following consultation with the officer, permanent.	10 11
(3)	An officer may request a transfer under this section, but is not entitled to be transferred at his or her request.	12 13
(4)	The Secretary may transfer an officer under this section without a request or the consent of the officer.	14 15
(5)	An officer may be transferred under this section to any different workplace location in the State.	16 17
(6)	The Secretary is not required to transfer an officer to another workplace location (whether or not under this section) if the Secretary considers that there is no reasonable prospect of ongoing work for the officer at the other location.	18 19 20
(7)	A transfer under this section is to be made at the officer's existing level of salary. However:	21 22
(a)	a transfer may be made at a level of salary that is higher or lower than the existing level of salary if the percentage variation is within the range determined by the Secretary as a minor variation, or	23 24 25
(b)	a transfer may be made at any lower level of salary with the consent of the officer.	26 27
(8)	An officer transferred under this section must possess the qualifications required for the position to which the officer is transferred.	28 29
(9)	A permanent appointment may be made to the original position of an officer temporarily transferred under this section:	30 31
(a)	if the officer consents, or	32
(b)	if the transfer has continued or is likely to continue for more than 12 months, the officer is advised of the proposed appointment and the officer is given a reasonable opportunity to terminate the transfer and return to his or her original position.	33 34 35 36
(10)	Nothing in this section (apart from subsection (6)):	37
(a)	affects any other method (statutory or otherwise) by which officers can transfer or be transferred, or	38 39
(b)	affects a direction under the procedural guidelines issued under section 93D that an officer undertake alternative duties at any location.	40 41
[3] Section 75 Refusal to comply with directions		42
	Insert "or transfer" after "officer's removal".	43

Schedule 2	Law revision amendments of Teaching Service Act 1980 No 23	1
		2
[1]	Section 4 (1), definitions of “Director-General” and “senior executive officer”	3
	Omit the definitions.	4
[2]	Section 4 (1)	5
	Insert in alphabetical order:	6
	<i>Secretary</i> means the Secretary of the Department.	7
[3]	Whole Act (except Schedule 3)	8
	Omit “Director-General” wherever occurring. Insert instead “Secretary”.	9
[4]	Section 6 General responsibility	10
	Omit section 6 (3).	11
[5]	Section 8 Delegation of functions	12
	Omit paragraph (b) of the definition of <i>authorised person</i> in section 8 (3). Insert instead:	13
	(b) a Public Service employee, or	14
[6]	Section 9 Acting appointment as Secretary	15
	Omit “Despite section 13 of the <i>Public Sector Employment and Management Act 2002</i> ”.	16
	Insert instead “Despite section 24 of the <i>Government Sector Employment Act 2013</i> ”.	17
[7]	Section 13 Determination of conditions of employment	18
	Omit section 13 (2).	19
[8]	Section 45 Transfer of persons from former Teaching Service	20
	Omit the section.	21
[9]	Section 48 Appointments on probation	22
	Omit section 48 (7).	23
[10]	Section 62 No appeal to Industrial Relations Commission	24
	Omit the section.	25
[11]	Section 76 Retirement or transfer of officers through invalidity or incapacity	26
	Omit section 76 (1) (e) (ii). Insert instead:	27
	(ii) to ongoing employment in the Public Service (with the approval of the head of the Public Service agency concerned),	28
		29
[12]	Section 76 (1) (e)	30
	Insert “or employment” after “that position”.	31
[13]	Section 78A Sections 72–78 not to apply to senior executive officers	32
	Omit the section.	33

[14] Section 93B Definitions	1
Omit “except in the case of a senior executive officer—” from paragraph (c) of the definition of <i>disciplinary action</i> in section 93B (1).	2 3
[15] Section 93N Effect of dismissal of senior executive officers	4
Omit the section.	5