

## EDUCATION COMMISSION (AMENDMENT) BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Miscellaneous Acts (Education Commission) Amendment Bill 1988 is cognate with this Bill.

The object of this Bill is to amend the Education Commission Act 1980—

- (a) to abolish the Education Commission of New South Wales; and
- (b) to transfer the functions of the Education Commission with respect to the employment of members of the Education Teaching Service and the Technical and Further Education Teaching Service to the Secretary of the Ministry of Education and Youth Affairs; and
- (c) to increase the scope for promotion on merit to certain teaching positions in the Education Teaching Service; and
- (d) to repeal the provision which gives a preference to female officers in the filling of certain teaching positions in the Education Teaching Service.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act is to commence on a day or days to be appointed by proclamation. However, the repeal of section 59F (preference for female officers) and the savings and transitional provisions will commence on the date of assent to the proposed Act.

**Clause 3** is a formal provision which gives effect to the Schedules of amendments to the Education Commission Act 1980.

#### SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION OF THE EDUCATION COMMISSION

##### Abolition of Education Commission

The Bill repeals Division 1 of Part 2 of the Principal Act which establishes the Education Commission of New South Wales and provides for its membership and other related matters (Schedule 1 (7)).

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The Bill also repeals Subdivision 3 of Division 2 of Part 2 of the Principal Act which specifies the Education Commission's functions in relation to the formulation and implementation of policies concerning public education in New South Wales (Schedule 1 (16)). As a consequence, Subdivision 5, dealing with the regulation of the exercise of those functions, is also omitted (Schedule 1 (18)).

The Bill amends sections 46 (2) and 54 (2) of the Principal Act so as to remove the requirement that the Education Commission approve appointments by a Director-General to certain senior positions in a Teaching Service (Schedule 1 (20)).

As a consequence of the proposed abolition of the Education Commission, the Bill substitutes the short title of the Principal Act which will be the Teaching Services Act 1980 (Schedule 1 (2)).

Schedule 1 (1), (3), (5) (a), (9)-(11), (14), (17), (21), (22), (24) and (25) make other consequential amendments.

**Transfer of Education Commission's functions as an employer**

The Bill transfers the functions of the Education Commission in relation to the employment of members of the Teaching Services to the Secretary of the Ministry of Education and Youth Affairs (Schedule 1 (13) and (19)). The Secretary will act for that purpose on behalf of the Crown (Schedule 1 (12)). As a result of the amendments to be made to sections 24-26 of the Principal Act by Schedule 1(13), the Secretary (instead of the Education Commission)—

- (a) will be the employer of members of the Teaching Services in industrial proceedings; and
- (b) will determine conditions of employment in the Teaching Services; and
- (c) will enter into agreements in relation to industrial matters.

The amendments to be made by Schedule 1 (13) to sections 27 and 28 of the Principal Act will mean that the restrictions which presently apply to the exercise of functions by the Education Commission will apply to the Secretary.

The Bill inserts a new section 28A into the Principal Act which provides for the delegation of powers and functions by the Secretary (Schedule 1 (15)).

The Bill amends sections 38 (2) and 40 (2) of the Principal Act so as to require a Director-General to consult with the Secretary (instead of the Education Commission) before exercising functions in relation to determining staff establishments for schools (Schedule 1 (19)).

The Bill also amends sections 47 (4), 50 (4), 51 (2), 55 (4) and 67 (2) of the Principal Act which provide that certain appointments to the Teaching Services (for example, temporary appointments) are to be made subject to conditions determined or agreed to by the Education Commission. The Secretary will replace the Education Commission in this respect as a result of amendments to be made by Schedule 1 (19).

Amendments as a consequence of the transfer of functions to the Secretary are made by Schedule 1 (5) (b), (6) and (8).

**Savings and transitional provisions**

The Bill inserts savings and transitional provisions into the Principal Act (Schedule 1 (23) and (26)). These provide for any assets, rights or liabilities of the Education Commission to be transferred to the Crown (proposed clause 6). Agreements entered into by the Education Commission in relation to industrial matters and determinations of conditions of employment, and delegations of functions, by the Commission are specifically preserved (proposed clauses 7-9).

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**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION  
ON MERIT****Increased scope for promotion on merit (Schedule 2 (2))**

The Bill repeals the provision of the Principal Act which authorises limited promotion on merit for certain teacher positions in schools. The current provision is limited in that a person is not eligible to be appointed unless he/she is on the promotions list appropriate for the position.

The Bill replaces the repealed provision with new provisions (sections 59C and 59D) that provide for promotion on merit for classes of public school teacher positions which the Minister declares by order published in the Education Gazette to be positions to which the new provision applies. Under the new provisions selection will be on merit from among teachers who are on the appropriate promotions list and any other officers in the Education Teaching Service whom the Director-General of Education determines are fit for the position concerned.

The new sections retain the provision in the section to be repealed which enables the appointment of a teacher on the basis of special qualifications and aptitude if the teacher is on any promotions list. That provision is amended to enable any officer in the Education Teaching Service to be appointed on that basis if the Director-General of Education determines that he or she is specially fit for the position.

As at present, other positions which are not subject to promotion on merit will generally continue to be filled on the basis of seniority.

**Abolition of preference for female officers (Schedule 2 (3))**

The Bill also repeals section 59F which operates to give a preference to female officers in the filling of some vacant teacher positions in schools.

The section currently requires the Director-General of Education to give preference to females in respect of 40 per cent of positions in schools filled on the basis of seniority.

**Consequential amendments**

Schedule 2 (4) inserts a new section 59G which re-enacts (with consequential amendments) the section requiring the principal of a girls' high school to be a female and the principal of a boys' high school to be a male. That section is currently section 59D (repealed by Schedule 2 (2)).

Schedule 2 (1) makes a minor consequential amendment.

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