

## EDUCATION COMMISSION (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

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

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

- (a) to provide that vacancies in the position of principal (other than prescribed exceptions) and other prescribed promotions positions in the Education Teaching Service are to be filled on the basis of fitness rather than, as at present, seniority;
- (b) to introduce a limited preference for female officers in the offer of vacancies in promotions positions in that Service (except under paragraph (a)) so that 40 per cent of vacancies will be offered to female officers each year for 5 years;
- (c) to enable an officer who unsuccessfully applies for a position to which paragraph (a) applies to appeal to the Director-General of Education on the basis that the selection process for the position was irregular or improper; and
- (d) to make other consequential and ancillary amendments.

The Bill also contains a transitional provision.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

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Clause 4 provides that the Principal Act as currently in force continues to apply in respect of a vacancy in the Education Teaching Service if the decision to fill the vacancy is made before the commencement of the proposed Act.

Schedule 1 (1) clarifies the limited circumstances in which a person may be appointed from outside the Education Teaching Service to fill a promotions position in that Service.

Schedule 1 (2) repeals section 59 of the Principal Act and inserts proposed sections 59–59F:

- (a) Proposed section 59 makes it clear that sections 59A–62 of the Principal Act apply to the filling of vacant promotions positions in the Education Teaching Service (positions for which a promotions list is maintained).
- (b) Proposed section 59A defines “fitness” for the purposes of the proposed new sections to mean qualifications and aptitude for the discharge of the duties of a position. The definition is taken from section 59 as currently in force.
- (c) Proposed section 59B makes it clear that the Director-General of Education is not required to fill a vacancy in a promotions position in the Education Teaching Service. If the vacancy is to be filled, it is required to be filled in accordance with the proposed new sections. The proposed section re-enacts various provisions of section 59 as currently in force.
- (d) Proposed section 59C makes fitness for the class of position the basis for appointment of an officer of the Education Teaching Service to the position of principal and other promotions positions prescribed by the regulations. The current requirement in section 59 for the appointee to be on the appropriate promotions list is retained. Further provision is made to enable a person on any promotions list to be appointed to a position to which the proposed section applies on the basis of the person’s special fitness to fill the particular position (rather than the class of position).
- (e) Proposed section 59D re-enacts the current requirement that the principal of a boys’ high school be a male and the principal of a girls’ high school be a female.
- (f) Proposed section 59E applies to promotions positions in the Education Teaching Service to which proposed section 59C does not apply. Those positions are to be filled on the basis of seniority from the appropriate promotions list. Special fitness is sufficient to override seniority and to allow the appointment of an officer from outside the division of the Education Teaching Service concerned. The proposed section re-enacts the provisions of section 59 in their application to those positions.
- (g) Proposed section 59F provides for a limited preference for women in offers of appointment on the basis of seniority under proposed section 59E. The provision is designed to ensure that women will be offered 40 per cent of positions to be filled under that section each year for 5 years.

Schedule 1 (3) enables a person who has unsuccessfully applied for a vacant position to which section 59C applies to appeal to the Director-General of Education. The only ground for the appeal is that the whole or any part of the selection process for the position was irregular or improper.

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Schedule 1 (4) makes consequential amendments.

Schedule I (5) makes it clear that the provision of the Principal Act which empowers the transfer of an officer of a Teaching Service to another position applies even if the position is a vacant promotions position.

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