



New South Wales

Education Amendment (Publication of School Results) Bill 2009

Explanatory note

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

Overview of Bill

The object of this Bill is to transfer to the *Education Act 1990*, and to amend, provisions that are currently contained in the regulations under that Act relating to the prohibition on the public release of school results (including results of national basic skills testing and of School and Higher School Certificate examinations) that disclose the results of particular students or rank particular schools. The amendments will authorise the State to provide school results to the Commonwealth or an authority established by the Commonwealth in accordance with any national agreement to which NSW is a party and for the publication of results relating to particular schools in accordance with any such agreement.

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.

Schedule 1 Amendment of Education Act 1990 No 8

Schedule 1 [1] substitutes section 18A. The substituted section sets out provisions relating to the publication of school results rather than authorising regulations on the matter. The substituted section authorises the provision by the State of school results to the Commonwealth or a Commonwealth authority (such as the proposed Australian Curriculum, Assessment and Reporting Authority) in accordance with an agreement between the Commonwealth and the State. The prohibition on the ranking of schools is transferred to new section 18A, subject to any publication of school results authorised by the Commonwealth/State agreement. The provisions transferred from the regulations also preserve the existing prohibition on the publication of results of particular students, except publication to the students or their parents, to relevant school principals or as approved by the Board of Studies in relation to students who have achieved outstanding results. The new provisions apply despite any other Act or law or decision of any tribunal.

Schedule 1 [2] enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.

Schedule 1 [3] enacts the following savings and transitional provisions:

- (a) provision to ensure that the new arrangements for publication of school results extend to school results for testing, examinations or assessments held before the commencement of the proposed Act,
- (b) provision to preserve an existing freedom of information exemption about school results pending the replacement of the Freedom of Information Act by the proposed *Government Information (Public Access) Act 2009*,
- (c) provision to terminate the effect of provisions in the *Crown Employees (Teachers in Schools and Related Employees) Salaries and Conditions Award 2009* that relate to the application of 1997 protocols concerning the publication of school results and the negotiation of changes to those protocols.

Schedule 2 Amendment of Education Regulation 2007

Schedule 2 repeals clause 4 that contains the provisions authorised by current section 18A of the Act relating to the prohibition of the publication of school results as a consequence of the transfer of provisions on the matter to section 18A by Schedule 1 [1].

First print



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New South Wales

Education Amendment (Publication of School Results) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Education Act 1990* and the *Education Regulation 2007* with respect to the publication of school results.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Education Amendment (Publication of School Results) Act 2009</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Education Act 1990 No 8	1
[1]	Section 18A	2
	Omit the section. Insert instead:	3
	18A Publication of school results	4
	(1) In this section:	5
	<i>relevant national agreement</i> means an agreement between the	6
	State and the Commonwealth that gives effect to a national	7
	protocol or arrangement for the provision and publication of	8
	school results.	9
	<i>school results</i> means the following results (whether they are the	10
	results of individuals or of schools or any other results):	11
	(a) results of national basic skills testing (including testing	12
	under section 18),	13
	(b) results of School Certificate and Higher School Certificate	14
	examinations and related assessments,	15
	(c) results of annual or other periodic assessments of the	16
	academic performance of students contained in reports to	17
	parents on student achievement.	18
	The regulations may determine whether particular results are or	19
	are not results referred to in paragraphs (a)–(c).	20
	(2) School results may, in accordance with a relevant national	21
	agreement, be provided by the State to the Commonwealth or to	22
	an authority established by the Commonwealth.	23
	(3) School results must not be publicly revealed in a way that ranks	24
	or otherwise compares the results of particular schools, except as	25
	authorised by or under a relevant national agreement.	26
	(4) School results must not be publicly revealed if the results of an	27
	identified student are revealed, except as follows:	28
	(a) to the student or to the student’s parents, or to anyone with	29
	the student’s or parent’s consent,	30
	(b) to the principal of a school (including a school in another	31
	State or Territory) at which the student is enrolling, is	32
	enrolled or was previously enrolled,	33
	(c) in the case of results of School Certificate or Higher	34
	School Certificate examinations and related	35
	assessments—by or with the approval of the Board, by	36
	way of the publication of the results of students who the	37
	Board considers have achieved outstanding results.	38

(5)	The functions of the State under this section may be exercised by the Director-General or, if authorised by a relevant national agreement, by a State educational authority that arranges the testing, examinations or assessments concerned.	1 2 3 4
(6)	This section has effect despite any other Act or law or the decision of any tribunal.	5 6
[2]	Schedule 3 Savings, transitional and other provisions	7
	Insert at the end of clause 2 (1):	8
	<i>Education Amendment (Publication of School Results) Act 2009</i>	9
[3]	Schedule 3	10
	Insert at the end of the Schedule:	11
	Part 10 Provisions consequent on enactment of Education Amendment (Publication of School Results) Act 2009	12 13 14
18	Definition and application	15
(1)	In this Part: <i>amending Act</i> means the <i>Education Amendment (Publication of School Results) Act 2009</i> .	16 17 18
(2)	This Part has effect despite any other Act or law or the decision of any tribunal.	19 20
19	Application of amending Act to previous school results	21
	Section 18A (as substituted by the amending Act) extends to school results for testing, examinations and assessments held before the commencement of the amending Act.	22 23 24
20	FOI exemption—transitional arrangement	25
	Until the repeal of the <i>Freedom of Information Act 1989</i> , clause 12 of Schedule 1 to that Act applies to a breach of the confidentiality provisions of section 18A of this Act in the same way as it applies to an offence against an Act.	26 27 28 29

**21 Crown Employees (Teachers in Schools and Related Employees)
Salaries and Conditions Award 2009**

On and from the commencement of the amending Act,
clauses 13.2, 13.3 and 36.1.2 of the *Crown Employees (Teachers
in Schools and Related Employees) Salaries and Conditions
Award 2009* cease to have effect.

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Schedule 2	Amendment of Education Regulation	1
	2007	2
	Clause 4 Publication of results and other matters	3
	Omit the clause.	4