



New South Wales

Education Legislation Amendment Bill 2006

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Education Act 1990*:
 - (i) to facilitate the identification and management of students whose enrolment at a school would pose a risk to the health or safety of any person, and
 - (ii) to empower the Governor to make regulations under that Act with respect to the publication of information contained in periodic reports to parents on student achievement, and
 - (iii) to facilitate successful prosecutions for failure to enrol school-age children for school or to register them for home schooling, and
 - (iv) to make miscellaneous minor amendments, and
- (b) to amend the *Education Regulation 2001* so as to make provision, consistent with the power conferred as referred to in paragraph (a) (ii), with respect to the publication of results of annual assessments of academic achievement contained in such reports to parents, and

- (c) to amend the *Education (School Administrative and Support Staff) Act 1987* so as to provide for the sub-delegation of functions that have been delegated under that Act by the Director-General of the Department of Education and Training, and
- (d) to amend the *Teaching Service Act 1980* so as:
 - (i) to provide that regulations currently made by the Director-General of the Department of Education and Training are in future to be made by the Governor, and
 - (ii) to confirm the validity of existing regulations that have been made under that Act, whether by the Governor or by the Director-General, and of anything done or omitted to be done under those regulations, and to ensure that those regulations continue to have effect as if they had been made by the Governor, and
- (e) to amend the *Freedom of Information Act 1989* so as to include a document containing information provided about a student under Division 2 of proposed Part 5A of the *Education Act 1990* as an **exempt document** for the purposes of the *Freedom of Information Act 1989*.

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 (except for section 7 and Schedules 1 [5] and 5) on the date of assent to the proposed Act. The excepted provisions commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Education Act 1990* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendment to the *Education Regulation 2001* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Education (School Administrative and Support Staff) Act 1987* set out in Schedule 3.

Clause 6 is a formal provision that gives effect to the amendments to the *Teaching Service Act 1980* set out in Schedule 4.

Clause 7 is a formal provision that gives effect to the amendments to the *Freedom of Information Act 1989* set out in Schedule 5.

Clause 8 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Education Act 1990

Amendments concerning identification and management of risk

Schedule 1 [5] inserts proposed Part 5A (proposed sections 26A–26K) in the *Education Act 1990 (the Principal Act)*.

Proposed section 26A inserts definitions for the purposes of the proposed Part, including a definition that makes it clear that the term *enrolment*, when used in the proposed Part, includes both prospective enrolment and continuing enrolment.

Proposed section 26B specifies that information may be obtained under Division 2 (Obtaining information about students) of the proposed Part solely for the purposes of:

- (a) assisting the Director-General (*the Director-General*) of the Department of Education and Training (*the Department*) or schools to assess whether the enrolment of a particular student at a school is likely to constitute a risk to the health or safety of any person (a *risk assessment*), and
- (b) developing strategies to deal with any such risk.

However, the proposed section makes it clear that nothing in proposed Division 2 operates to prevent the provision or disclosure of information as required or permitted by or under any other Act or law.

Proposed section 26C provides that information may be obtained under the proposed Division from certain specified agencies (*relevant agencies*), and permits further such agencies to be prescribed by the regulations. The proposed section also permits any one or more relevant agencies to enter into memoranda of understanding, in accordance with the guidelines, for the provision of information to schools, approved authorities for systems of non-government schools (*non-government schools authorities*) and the Department. (Proposed section 26J provides for the issue of guidelines.)

Proposed section 26D provides for information in relation to particular students to be requested and obtained, by any school, non-government schools authority or the Department, from any relevant agency. The information sought must be information that would assist in making an assessment, or developing or maintaining strategies, of the kind referred to in proposed section 26B. The agency making the request may provide the agency of which the request is made with such information about the student as may assist that agency to provide the information sought.

Information obtained under the proposed section may be passed on to other schools, non-government schools authorities and the Department (and to any other person or body as permitted by the guidelines). A school may provide information of that kind about a student to another school at which the student enrolls without the need for any request from the other school (and regardless of whether the information was obtained under proposed section 26D or otherwise).

However, the proposed section makes it clear that the section does not authorise or require the provision of information if disclosure of the information is prohibited by other laws specified in the proposed section or if the guidelines authorise the agency to refuse to provide the information.

Proposed section 26E makes it clear that the provision of information in good faith and with reasonable care under Division 2 does not constitute an offence or give rise to any liability, unless disclosure of the information is prohibited by other laws specified in the proposed section.

Proposed section 26F clarifies the relationship between proposed Division 3 (Directions about enrolment at government schools) and section 34 (Admission to government schools) of the Principal Act.

Proposed section 26G permits the Director-General to direct that a student is not to be enrolled at any government school other than a government school of a kind specified in the direction. Such a direction may be given only if the Director-General believes on reasonable grounds that the enrolment of the student otherwise than as permitted by the direction would constitute a risk to the health or safety of any person.

Proposed section 26H requires the Director-General to give written notice of any such direction to the student concerned and (unless the guidelines otherwise provide) to the parents or a parent of the student.

Proposed section 26I provides for the variation and revocation of directions.

Proposed section 26J provides for the issue of guidelines for the purposes of the proposed Part. The guidelines must make provision with respect to various specified matters (and may make provision with respect to other matters). The specified matters include the circumstances in which a person may refuse to provide information sought under proposed Division 2, the way in which risk assessments are to be carried out, who may enter memoranda of understanding on behalf of relevant agencies, who may provide information on behalf of those agencies, the procedures to be followed before directions under proposed section 26G are given, varied or revoked, and the way in which such a direction is to be reviewed following an application for a variation or revocation of it.

The guidelines (and any instrument amending or revoking the guidelines) must be published in the Gazette and must be made publicly available (as in force from time to time) in such manner as the Minister thinks appropriate.

Proposed section 26K makes it clear that it is the duty of any person or agency involved in the administration of the proposed Part (or having functions under it) to comply with any applicable guidelines.

Amendments concerning publication of certain results

Section 18A (Publication of results of certain tests and other matters) of the Principal Act provides that the regulations under the Act may make provision for or with respect to the extent to which the results of certain tests, examinations or assessments may be publicly revealed or must be kept confidential.

Schedule 1 [2] changes the reference in section 18A (1) (b) to “School Certificate and Higher School Certificate examinations or other assessments” to a reference to “School Certificate and Higher School Certificate examinations and related assessments”, to make it clear that the assessments concerned are those made in connection with the School Certificate or Higher School Certificate.

Schedule 1 [3] inserts proposed section 18A (1A) in the Principal Act. The proposed subsection extends the regulation-making power in section 18A so as to permit the making of regulations for or with respect to the extent to which the information contained in periodic reports to parents on student achievement may be publicly revealed or must be kept confidential.

Amendment concerning compulsory schooling

Schedule 1 [9] inserts proposed section 123 (4) in the Principal Act. Section 123 deals with evidence in proceedings under the Principal Act. Proposed section 123 (4) provides that, in any proceedings for the offence of failing to enrol a child of compulsory schooling age at a school (or to register the child for home schooling), a certificate purporting to be signed by the Director-General stating that, to the best of the Director-General’s belief, on any day specified in the certificate, the child was not so enrolled or registered is admissible in evidence and is prima facie evidence that the child was not so enrolled or registered.

Miscellaneous amendments

Schedule 1 [1] inserts definitions of *Director-General* (of the Department of Education and Training) and *TAFE establishment* in section 3 (Definitions) of the Principal Act. **Schedule 1 [8]** makes amendments consequential on the insertion of the latter definition.

Schedule 1 [4], [6] and [7] make amendments by way of statute law revision.

Schedule 1 [10] amends clause 2 of Schedule 3 to the Principal Act so as to enable savings and transitional regulations to be made in connection with the enactment of the proposed Act.

Schedule 2 Amendment of Education Regulation 2001

Schedule 2 inserts proposed clause 5 (1) (c) in the *Education Regulation 2001*. The proposed paragraph provides that results of annual assessments of the academic performance of students contained in reports to parents on student achievement are “results” to which clause 5 applies. Accordingly, those results must not be publicly revealed if the results relating to particular students are revealed, and must not be publicly revealed in a way that ranks or otherwise compares the results of particular schools, except as permitted by the clause.

Schedule 3 Amendment of Education (School Administrative and Support Staff) Act 1987

Amendments concerning delegations

Schedule 3 [1] amends section 34 of the *Education (School Administrative and Support Staff) Act 1987* so as to omit words that prevent the sub-delegation of functions that have been delegated under that section.

Schedule 3 [2] further amends section 34 of the *Education (School Administrative and Support Staff) Act 1987* so as to provide that a function that has been delegated under that section may be sub-delegated, but only if sub-delegation is authorised by the terms of the original delegation.

Schedule 4 Amendment of Teaching Service Act 1980

Amendments concerning regulations

Schedule 4 [1] omits section 99 of the *Teaching Service Act 1980 (the Act)* as a consequence of the amendments made to section 100.

Schedule 4 [2] amends section 100 of the Act so as to provide that regulations under that section are to be made by the Governor rather than, as is currently the case, by the Director-General of the Department of Education and Training.

Schedule 4 [3] amends section 100 (1) (j) of the Act so as to omit words that exclude certain matters (being matters for which regulations may currently be made by the Governor under section 99) from the list of matters with respect to which regulations may be made under section 100.

Schedule 4 [4] amends clause 2 of Schedule 3 to the Act so as to enable savings and transitional regulations to be made in connection with the enactment of the proposed Act.

Schedule 4 [5] inserts a new Part 5 into Schedule 3 to the Act. The proposed Part contains a clause that confirms the validity of existing regulations that have been made under the Act, whether by the Governor or by the Director-General, and of anything done or omitted to be done under those regulations, and ensures that those regulations continue to have effect as if they had been made by the Governor.

Schedule 5 Amendment of Freedom of Information Act 1989

Schedule 5 [1] inserts proposed clause 20 (1) (h) in Schedule 1 to the *Freedom of Information Act 1989 (the FOI Act)* so as to include a document containing information provided about a student under Division 2 of proposed Part 5A of the Principal Act as an *exempt document* for the purposes of the FOI Act (that is, a document that an agency may refuse to give access to).

Schedule 5 [2] inserts proposed clause 20 (4) in Schedule 1 to the FOI Act to provide that the exemption afforded a document by proposed clause 20 (1) (h) does not apply in relation to the student the subject of the information, the student's parents or any person nominated in writing for the purposes of the subclause by the student or a parent of the student.



New South Wales

Education Legislation Amendment Bill 2006

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New South Wales

Education Legislation Amendment Bill 2006

No. , 2006

A Bill for

An Act to amend the *Education Act 1990* with respect to students, with respect to compulsory schooling and with respect to reports; to amend the *Education (School Administrative and Support Staff) Act 1987* with respect to delegations; to amend the *Teaching Service Act 1980* with respect to the making of regulations under that Act; to amend the *Freedom of Information Act 1989* in relation to information about students; and for other purposes.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Education Legislation Amendment Act 2006</i> . | 3 |
| 2 Commencement | 4 |
| (1) This Act commences on the date of assent to this Act, except as provided by this section. | 5 6 |
| (2) Section 7 and Schedules 1 [5] and 5 commence on a day or days to be appointed by proclamation. | 7 8 |
| 3 Amendment of Education Act 1990 No 8 | 9 |
| The <i>Education Act 1990</i> is amended as set out in Schedule 1. | 10 |
| 4 Amendment of Education Regulation 2001 | 11 |
| The <i>Education Regulation 2001</i> is amended as set out in Schedule 2. | 12 |
| 5 Amendment of Education (School Administrative and Support Staff) Act 1987 No 240 | 13 14 |
| The <i>Education (School Administrative and Support Staff) Act 1987</i> is amended as set out in Schedule 3. | 15 16 |
| 6 Amendment of Teaching Service Act 1980 No 23 | 17 |
| The <i>Teaching Service Act 1980</i> is amended as set out in Schedule 4. | 18 |
| 7 Amendment of Freedom of Information Act 1989 No 5 | 19 |
| The <i>Freedom of Information Act 1989</i> is amended as set out in Schedule 5. | 20 21 |
| 8 Repeal of Act | 22 |
| (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced. | 23 24 |
| (2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act. | 25 26 |

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| Schedule 1 | Amendment of Education Act 1990 | 1 |
| | (Section 3) | 2 |
| [1] Section 3 Definitions | | 3 |
| | Insert in alphabetical order in section 3 (1): | 4 |
| | <i>Director-General</i> means the Director-General of the Department of Education and Training. | 5 |
| | <i>TAFE establishment</i> has the same meaning as it has in the <i>Technical and Further Education Commission Act 1990</i> . | 6 |
| [2] Section 18A Publication of results of certain tests and other matters | | 7 |
| | Omit “or other assessments” from section 18A (1) (b). | 8 |
| | Insert instead “and related assessments”. | 9 |
| [3] Section 18A (1A) | | 10 |
| | Insert after section 18A (1): | 11 |
| | (1A) The regulations may also make provision for or with respect to the extent to which information contained in periodic reports to parents on student achievement may be publicly revealed or must be kept confidential. | 12 |
| [4] Sections 26 (1), (2) and (4), 28 (5) (b), 34 (3), 35 (3) and (5), 100 (2) (a), 116 (2) (c) and 119 | | 13 |
| | Omit “of School Education” wherever occurring. | 14 |
| [5] Part 5A | | 15 |
| | Insert after section 26: | 16 |
| Part 5A Health and safety risks at schools arising from student behaviour | | 17 |
| Division 1 Preliminary | | 18 |
| 26A Definitions | | 19 |
| | In this Part: | 20 |
| | <i>enrolment</i> includes prospective and continuing enrolment. | 21 |
| | <i>guidelines</i> means the guidelines under Division 4. | 22 |

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| | <i>non-government schools authority</i> means an approved authority for a system of non-government schools within the meaning of section 40. | 1 2 3 |
| | <i>relevant agency</i> —see section 26C. | 4 |
| | <i>school</i> means a government school or a registered non-government school. | 5 6 |
| | <i>student</i> includes: | 7 |
| | (a) a student who is above the age of 18 years, and | 8 |
| | (b) a prospective student. | 9 |
| Division 2 | Obtaining information about students | 10 |
| 26B | Purpose of obtaining information about students | 11 |
| | (1) Information may be obtained under this Division solely for the purposes of assisting the Director-General or schools: | 12 13 |
| | (a) to assess whether the enrolment of a particular student at a school is likely to constitute a risk to the health or safety of any person (including the student), and | 14 15 16 |
| | (b) to develop and maintain strategies to eliminate or minimise any such risk. | 17 18 |
| | (2) However, nothing in this Division operates to prevent the provision or disclosure of information as required or permitted by or under any other Act or law. | 19 20 21 |
| 26C | Relevant agencies from which information may be obtained about students | 22 23 |
| | (1) Information may be obtained in accordance with this Division from any one or more of the following (<i>relevant agencies</i>): | 24 25 |
| | (a) schools, | 26 |
| | (b) the Department of Education and Training, | 27 |
| | (c) a non-government schools authority, | 28 |
| | (d) the TAFE Commission and TAFE establishments, | 29 |
| | (e) public health organisations within the meaning of the <i>Health Services Act 1997</i> , | 30 31 |
| | (f) the Department of Ageing, Disability and Home Care, | 32 |
| | (g) the Department of Community Services, | 33 |
| | (h) the Department of Juvenile Justice, | 34 |
| | (i) NSW Police, | 35 |
| | (j) any other agency prescribed by the regulations. | 36 |

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| (2) | For the purposes of this Division, memoranda of understanding for the provision of information to: | 1 |
| (a) | schools, or | 2 |
| (b) | a non-government schools authority, or | 3 |
| (c) | the Department of Education and Training, | 4 |
| | may be entered into, in accordance with the guidelines, between any one or more relevant agencies. | 5 |
| | | 6 |
| | | 7 |
| 26D | Obtaining information about particular students | 8 |
| (1) | The Department of Education and Training, a non-government schools authority or a school may request a relevant agency to provide such information about a particular student as would assist in making an assessment, or developing or maintaining strategies, of the kind referred to in section 26B. | 9 |
| | | 10 |
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| (2) | The Department, authority or school may provide the relevant agency with such information about the student as may assist the agency to provide the information sought. | 14 |
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| | | 16 |
| (3) | A relevant agency has a duty to provide information sought under this section if the agency has the information in its possession or under its control. | 17 |
| | | 18 |
| | | 19 |
| (4) | Information obtained under this section may be passed on to other schools, the Department or a non-government schools authority (or to any other person or body as permitted by the guidelines). | 20 |
| | | 21 |
| | | 22 |
| | | 23 |
| (5) | Information of the kind referred to in subsection (1) may be provided by one school to another school at which the student concerned enrolls: | 24 |
| | | 25 |
| | | 26 |
| (a) | without the need for any request from the other school, and | 27 |
| (b) | regardless of whether the information was obtained under this section or otherwise. | 28 |
| | | 29 |
| (6) | However, this section: | 30 |
| (a) | does not authorise or require the provision of information if its disclosure is prohibited by: | 31 |
| | | 32 |
| (i) | section 20G, 20P or 23 of the <i>Health Administration Act 1982</i> , or | 33 |
| | | 34 |
| (ii) | section 29 (1) (f) of the <i>Children and Young Persons (Care and Protection) Act 1998</i> , and | 35 |
| | | 36 |

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| | (b) does not require the provision of information if the guidelines authorise the relevant agency to refuse to provide the information. | 1 2 3 |
| 26E | No offence or liability for disclosure of information | 4 |
| | (1) An Act or law that prohibits the disclosure of information does not operate to prevent the provision of information under this Division. This subsection applies unless its operation is expressly excluded by this or some other Act. | 5 6 7 8 |
| | (2) Subsection (1) does not apply to a disclosure of information that is prohibited by: | 9 10 |
| | (a) section 20G, 20P or 23 of the <i>Health Administration Act 1982</i> , or | 11 12 |
| | (b) section 29 (1) (f) of the <i>Children and Young Persons (Care and Protection) Act 1998</i> . | 13 14 |
| | (3) If information about a student is provided under this Division in good faith and with reasonable care: | 15 16 |
| | (a) no liability for defamation is incurred because of the provision of the information, and | 17 18 |
| | (b) the provision of the information does not constitute a ground for any other civil proceedings, and | 19 20 |
| | (c) the provision of the information does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct. | 21 22 23 |
| | Note. If the information is provided in the form of a document, the document is an exempt document for the purposes of the <i>Freedom of Information Act 1989</i> (except in relation to the student, the student's parents and any person nominated by the student or the student's parents)—see clause 20 (1) (h) and (4) of Schedule 1 to that Act. | 24 25 26 27 28 |
| Division 3 | Directions about enrolment at government schools | 29 30 |
| 26F | Operation of Division | 31 |
| | (1) This Division has effect despite any entitlement to enrolment at a government school under section 34 (1) or (2). | 32 33 |
| | (2) Nothing in this Division affects the operation of section 34 (4). | 34 |
| 26G | Directions about enrolment | 35 |
| | (1) The Director-General may direct that a student is not to be enrolled at any government school other than a government school of a kind specified in the direction. | 36 37 38 |

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| (2) | A direction under this section may be given only if the Director-General believes on reasonable grounds that the enrolment of the student otherwise than as permitted by the direction would constitute a risk to the health or safety of any person (including the student). | 1 2 3 4 5 |
| (3) | A student is not to be enrolled at a government school in contravention of a direction in force under this section. | 6 7 |
| (4) | Any facility conducted by the State for the purpose of educating students in Kindergarten or any of Years 1–12 is taken to be a government school for the purpose of a direction under this section and, for that purpose, may be so referred to in the guidelines. | 8 9 10 11 12 |
| 26H | Notice of direction | 13 |
| | The Director-General is to give written notice of a direction under this Division and of the grounds for the direction: | 14 15 |
| (a) | to the student concerned, and | 16 |
| (b) | to the parents or a parent of the student (unless the guidelines otherwise provide). | 17 18 |
| 26I | Variation and revocation of direction | 19 |
| | The Director-General may vary or revoke a direction under this Division: | 20 21 |
| (a) | on the application of the student concerned, or | 22 |
| (b) | on the application of a parent of the student, or | 23 |
| (c) | on the Director-General's own initiative. | 24 |
| Division 4 | Guidelines | 25 |
| 26J | Issue of guidelines | 26 |
| (1) | The Minister may from time to time issue guidelines (not inconsistent with this Act or the regulations) for the purposes of this Part. | 27 28 29 |
| (2) | The guidelines must make provision with respect to each of the following matters: | 30 31 |
| (a) | the general principles that a person must bear in mind when exercising a function under this Part, | 32 33 |
| (b) | for the purposes of section 26B, matters that are likely to constitute a risk to the health or safety of any person, | 34 35 |

Education Legislation Amendment Bill 2006

Schedule 1 Amendment of Education Act 1990

- (c) the way in which assessments of the kind referred to in section 26B are to be carried out, 1
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- (d) memoranda of understanding between relevant agencies for the purposes of Division 2, including who may enter memoranda of understanding on behalf of relevant agencies, 3
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6
- (e) the kind of information that may, or must (if any), be sought under Division 2, 7
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- (f) who may make a request for information under section 26D on behalf of the Department of Education and Training, a non-government schools authority or a school, 9
10
11
- (g) who may provide information on behalf of relevant agencies, 12
13
- (h) the circumstances in which a relevant agency may refuse to provide information requested under Division 2, 14
15
- (i) the way in which information obtained under Division 2 is to be kept and the length of time that it is to be kept, 16
17
- (j) additional circumstances (if any) in which the information may be passed on, and to whom it may be passed on, 18
19
- (k) the circumstances in which consultations are to be held with students about whom information has been obtained under Division 2, with the parents of the students concerned, or with both parents and students, 20
21
22
23
- (l) the procedures to be followed before a direction under Division 3 is given, varied or revoked by the Director-General, 24
25
26
- (m) the kinds of government schools that may be specified in such a direction, 27
28
- (n) the circumstances in which notice of such a direction is not required to be given to the parents of the student concerned, 29
30
31
- (o) the way in which such a direction is to be reviewed following an application for a variation or revocation of it. 32
33
- (3) The guidelines may also make provision with respect to such other matters as the Minister considers appropriate. 34
35
- (4) The Minister may from time to time amend or revoke the guidelines. 36
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- (5) The guidelines, and any instrument amending or revoking the guidelines, must be published in the Gazette. 38
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| (6) | The guidelines as in force from time to time must be made publicly available in such manner as the Minister thinks appropriate. | 1 2 3 |
| 26K | Compliance with guidelines | 4 |
| | It is the duty of any person or agency involved in the administration of, or having functions under, this Part to comply with any applicable guidelines. | 5 6 7 |
| [6] | Sections 28 (5) (b) and 100 (2) (a) | 8 |
| | Omit “that Director-General” wherever occurring. | 9 |
| | Insert instead “the Director-General”. | 10 |
| [7] | Section 28 (5) (e) | 11 |
| | Omit the paragraph. Insert instead: | 12 |
| | (e) a nominee of the Director-General who is, in the opinion of the Director-General, a senior member of the Department, | 13 14 15 |
| [8] | Sections 95 (1) (b) (iii) and 102 (2) (h) | 16 |
| | Omit “within the meaning of the <i>Technical and Further Education Commission Act 1990</i> ” wherever occurring. | 17 18 |
| [9] | Section 123 Evidence | 19 |
| | Insert after section 123 (3): | 20 |
| | (4) In any proceedings under this Act for an offence against section 23 (1) (a), a certificate purporting to be signed by the Director-General stating that, to the best of the Director-General’s belief, on any day specified in the certificate: | 21 22 23 24 |
| | (a) a child was not enrolled as a student at a government school or registered non-government school, and | 25 26 |
| | (b) the child was not registered for home schooling, | 27 |
| | is admissible in evidence and is prima facie evidence that the child was not so enrolled or registered. | 28 29 |
| [10] | Schedule 3 Savings, transitional and other provisions | 30 |
| | Insert at the end of clause 2 (1): | 31 |
| | <i>Education Legislation Amendment Act 2006</i> | 32 |

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| Schedule 2 | Amendment of Education Regulation | 1 |
| | 2001 | 2 |
| | (Section 4) | 3 |
| | Clause 5 Publication of results and other matters: section 18A | 4 |
| | Insert after clause 5 (1) (b): | 5 |
| | (c) results of annual assessments of the academic performance | 6 |
| | of students contained in reports to parents on student | 7 |
| | achievement. | 8 |

**Schedule 3 Amendment of Education (School
Administrative and Support Staff)
Act 1987**

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(Section 5)

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[1] Section 34 Delegation by Director-General

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Omit “, other than this power of delegation”.

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[2] Section 34 (2)

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Insert at the end of section 34:

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(2) If:

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(a) a function of the Director-General is delegated to a person
in accordance with subsection (1), and

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(b) the instrument of delegation authorises the sub-delegation
of the function,

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then, subject to any conditions to which the delegation is subject,
the person to whom the function is delegated may sub-delegate
the function to any other person to whom the function may be
delegated under subsection (1).

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| Schedule 4 | Amendment of Teaching Service Act 1980 | 1 |
| | | 2 |
| | (Section 6) | 3 |
| [1] Section 99 Making of regulations by Governor | | 4 |
| Omit the section. | | 5 |
| [2] Section 100 Regulations | | 6 |
| Omit “The Director-General may, with the approval of the Governor,” from section 100 (1). | | 7 |
| Insert instead “The Governor may”. | | 8 |
| [3] Section 100 (1) (j) | | 9 |
| Omit “(Schedule 3 excepted)” wherever occurring. | | 10 |
| [4] Schedule 3 Savings and transitional provisions | | 11 |
| Insert at the end of clause 2 (1): | | 12 |
| <i>Education Legislation Amendment Act 2006</i> | | 13 |
| [5] Schedule 3, Part 5 | | 14 |
| Insert after Part 4: | | 15 |
| Part 5 Provisions consequent on enactment of Education Legislation Amendment Act 2006 | | 16 |
| | | 17 |
| | | 18 |
| | | 19 |
| 21 Existing regulations | | 20 |
| (1) Any regulation under this Act that was made, or that purports to have been made, before the date of assent to the <i>Education Legislation Amendment Act 2006</i> , whether by the Governor or by the Director-General: | | 21 |
| (a) in relation to matters arising before that date, is taken to have been validly made and always to have had effect regardless of by whom it was made, and | | 22 |
| (b) in relation to matters arising on or after that date, is taken to have been validly made and has effect, and may be repealed or amended, as if it had been made by the Governor. | | 23 |
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| (2) | Anything done or omitted to be done in accordance with, or in contravention of, a regulation referred to in subclause (1) has the same effect, and is taken always to have had the same effect, as it would have had were this clause to have been in force when it was done or omitted to be done. | 1 2 3 4 5 |
| (3) | Any reference in this clause to making a regulation includes a reference to approving the making of a regulation. | 6 7 |

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| Schedule 5 | Amendment of Freedom of Information Act 1989 | 1 |
| | | 2 |
| | (Section 7) | 3 |
| [1] Schedule 1 Exempt documents | | 4 |
| Insert at the end of clause 20 (1) (g): | | 5 |
| , or | | 6 |
| (h) information provided about a student under Division 2 of Part 5A of the <i>Education Act 1990</i> . | | 7 |
| | | 8 |
| [2] Schedule 1, clause 20 (4) | | 9 |
| Insert after clause 20 (3): | | 10 |
| (4) Despite subclause (1) (h), a document containing information referred to in that paragraph is not an exempt document in relation to the following persons: | | 11 |
| | | 12 |
| (a) the student the subject of the information, | | 13 |
| | | 14 |
| (b) the parents of the student, | | 15 |
| | | 16 |
| (c) any person nominated in writing for the purposes of this subclause by the student or a parent of the student. | | 17 |