



New South Wales

# Education Reform Amendment Bill 1997

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to change the requirements for the curriculum of the Higher School Certificate, and
  - (b) to change the requirements for the examination or other assessment of candidates for the School Certificate, and
  - (c) to enable the President of the Board of Studies to be appointed on a full-time or part-time basis, and
  - (d) to require regulations to be made relating to the extent to which School Certificate and Higher School Certificate results may be published or are to be kept confidential, and
  - (e) to exempt from the *Freedom of Information Act 1989* information relating to the tertiary entrance ranking or assessment of students who have completed the Higher School Certificate.
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## 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 a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Education Reform Act 1990* set out in Schedules 1–3.

**Clause 4** is a formal provision giving effect to the amendments to the *Freedom of Information Act 1989* set out in Schedule 4.

## **Schedule 1      Amendments to Education Reform Act 1990 relating to SC and HSC**

### **Higher School Certificate curriculum**

**Schedule 1 [1]** amends section 6 of the Principal Act to set out the objects of study for the Higher School Certificate.

**Schedule 1 [4]** removes the current requirements, including requirements for study in certain key learning areas, for the curriculum in Years 11 and 12 for the Higher School Certificate. The Minister will determine, on the recommendation of the Board, the courses of study for the Higher School Certificate. A recommendation made by the Board must address certain issues, for example, the need for the course and an assurance of its quality. Those courses of study must include a course in English and must comply with a pattern of study determined by the Minister on the recommendation of the Board (for example, number of courses and units to be studied). The amendment retains the existing requirement that a course of study be taught in accordance with a syllabus developed or endorsed by the Board with the approval of the Minister.

**Schedule 1 [2]** and **[5]** contain consequential amendments.

### **School Certificate examinations**

**Schedule 1 [6]** replaces the current requirements relating to the examination or other assessment of candidates for the School Certificate. The new requirements will continue to enable the examination or other assessment for candidates for the School Certificate to be conducted on a school-basis.

However, the examination or other assessment will include tests conducted on a State-wide basis in the areas of English-literacy, of Mathematics, of Science and of Australian History, Australian Geography and Civics. The Minister will be able to phase in the new requirements.

**Schedule 1 [3]** removes an obsolete provision.

## **Schedule 2      Amendments to Education Reform Act 1990 relating to Board of Studies**

**Schedule 2 [1]** enables the President of the Board to be appointed on a full-time or part-time basis.

**Schedule 2 [2]** enables the Minister to appoint an acting President of the Board.

**Schedule 2 [3]** provides for the President of the Board to appoint committees of the Board with the approval of the Minister and the Board and to determine the procedure of such a committee. At present, committees of the Board are appointed by the Board.

**Schedule 2 [5] and [6]** require that members of the Board include members who have professional experience or demonstrated interest in gender issues in education. This replaces a similar requirement that members of the Board include members that have professional experience or demonstrated interest in the education of girls.

**Schedule 2 [7]** includes a provision that states that it is the duty of a member of the Board to serve the interests of the Board in preference to serving the interests of a body that nominated the member for representation on the Board. This provision confirms the applicable principle of law—see *Bennetts v Board of Fire Commissioners of New South Wales and Others* (1967) 87 WN.

**Schedule 2 [8]** changes the term of office of appointed members of the Board from a maximum of 4 years to a maximum of 3 years.

**Schedule 2 [4] and [9]** contain amendments in the nature of statute law revision.

**Schedule 2 [10]** provides that the existing members of the Board are not affected by the amendment reducing the term of office of appointed members and continues on the appointment of the existing President of the Board.



### **Schedule 3      Miscellaneous amendments to Education Reform Act 1990**

#### **Change of title of Act**

**Schedule 3 [1]** changes the name of the *Education Reform Act 1990* to the *Education Act 1990*.

#### **Restriction on publication of results of School Certificate and Higher School Certificate**

**Schedule 3 [3]** requires regulations to be made relating to the extent to which the results of the School Certificate and the Higher School Certificate may be publicly revealed or must be kept confidential. At present, such regulations are required to be made only in relation to the results of basic skills testing. The amendment makes it clear that documents that contain information the release of which would be a breach of those regulations are exempt documents under the *Freedom of Information Act 1989*.

**Schedule 3 [2]** contains a consequential amendment.

#### **Savings, transitional and other provisions**

**Schedule 3 [4]** and **[5]** contain savings and transitional provisions consequent on the enactment of the proposed Act.

### **Schedule 4      Amendment of Freedom of Information Act 1989**

**Schedule 4** excludes the Department of Training and Education Co-ordination from the operation of the *Freedom of Information Act 1989* in relation to functions carried out by that Department relating to the storing of, reporting on or analysis of information with respect to the ranking or assessment of students who have completed the Higher School Certificate for entrance into tertiary institutions. The universities are similarly excluded for functions relating to dealing with such information.



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New South Wales

## Education Reform Amendment Bill 1997

No , 1997

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### **A Bill for**

An Act to amend the *Education Reform Act 1990* with respect to the curriculum for the Higher School Certificate, School Certificate examinations and assessments, the Board of Studies and the publication of the results of the School Certificate and Higher School Certificate; and to amend the *Freedom of Information Act 1989* to exempt certain documents relating to tests and examinations carried out in schools.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Education Reform Amendment Act 1997*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Education Reform Act 1990 No 8**

The *Education Reform Act 1990* is amended as set out in Schedules 1–3.

**4 Amendment of Freedom of Information Act 1989 No 5** 10

The *Freedom of Information Act 1989* is amended as set out in Schedule 4.



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## **Schedule 1    Amendments to Education Reform Act 1990 relating to SC and HSC**

(Section 3)

### **[1]    Section 6 Objects for administration of this Act or of education**

Insert after section 6 (1):

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(1A) It is the intention of Parliament that the provision of courses of study required by this Act for the Higher School Certificate has the following objects:

- (a) to provide a curriculum structure that encourages students to complete secondary education, 10
- (b) to foster the intellectual, social and moral development of students, in particular by developing:
  - (i) their knowledge, skills, understanding and attitudes in the fields of study they choose, and 15
  - (ii) their capacity to manage their own learning, and
  - (iii) their desire to continue learning in formal or informal settings after school, and 20
  - (iv) their capacity to work with others, and
  - (v) their respect for the cultural diversity of Australian society,
- (c) to provide a flexible structure within which students can prepare for: 25
  - (i) further education and training, and
  - (ii) employment, and
  - (iii) full and active participation as members of the community,
- (d) to provide formal assessment and certification of students' achievements, 30
- (e) to provide a context within which schools also have the opportunity to foster the physical and spiritual development of students.

**[2] Section 9 Key learning areas for secondary education (Years 7 to 10)**

Insert "in Years 7 to 10" after "secondary education".

**[3] Section 11 Curriculum for School Certificate candidates**

Omit section 11 (2).

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**[4] Section 12**

Omit the section. Insert instead:

**12 Curriculum for Higher School Certificate candidates**

- (1) The curriculum during Year 11 and Year 12 for students who are candidates for the Higher School Certificate must meet the following requirements: 10
  - (a) courses of study of a general description determined by the Minister on the recommendation of the Board are to be provided for each student in each Year, 15
  - (b) those courses of study are to include a course of study in English,
  - (c) those courses of study are to comply with a pattern of study determined by the Minister on the recommendation of the Board, 20
  - (d) those courses of study are to be taught in accordance with a syllabus developed or endorsed by the Board and approved by the Minister.
- (2) In making a recommendation to the Minister under this section with respect to a course of study to be provided for students, the Board is, in accordance with criteria specified by the Minister: 25
  - (a) to establish the need for the course, and
  - (b) to provide an assurance of its quality, and
  - (c) to identify assessment procedures for the course, and 30
  - (d) to identify other implications for educational institutions on the implementation of the course.

- (3) A pattern of study determined under this section may include (but is not limited to) the number of courses to be studied, the sequence in which particular courses are to be taught and the number of units of study that a course is to contain. 5
- (4) This section does not limit any requirement imposed under section 95 (Higher School Certificate).

**[5] Section 13 Courses of study in key learning areas**

Insert "for students in Kindergarten to Year 10" after "study".

**[6] Section 94 School Certificate**

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Omit section 94 (2) and (3). Insert instead:

- (2) The requisite examination or other assessment may be conducted on a school-basis, but must include tests conducted on a State-wide basis in the following areas:
  - (a) English-literacy, 15
  - (b) Mathematics,
  - (c) Science,
  - (d) Australian History, Australian Geography and Civics.
- (3) The requirements of subsection (2) do not take effect in relation to a particular area referred to in that subsection until a date determined by the Minister and notified to the Board. 20



## **Schedule 2 Amendments to Education Reform Act 1990 relating to Board of Studies**

(Section 3)

### **[1] Section 101 President of Board**

Omit section 101 (2) and (3). Insert instead: 5

- (2) The office of President may be a full-time or part-time office, according to the terms of appointment.
- (3) If a person is appointed as the President on a full-time basis, the employment of the President is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act. 10
- (4) If a person is appointed as President on a part-time basis:
  - (a) subject to this Act, the person holds office as President for such period (not exceeding 5 years) as may be specified in the person's instrument of appointment (but is eligible for re-appointment), and 15
  - (b) clauses 7–11 of Schedule 1 have effect with respect to the person as if the person were an appointed member. 20

### **[2] Section 101A**

Insert after section 101:

#### **101A Acting President of Board**

- (1) The Minister may, from time to time, appoint a person to act in the office of President during the illness or absence of the President or during a vacancy in the office of President. The person, while so acting, has all the functions of the President and is taken to be the President. 25



- (2) The Minister may, at any time, remove a person from the office to which the person was appointed under this section.
- (3) A person while acting under this section is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine. 5

**[3] Section 103**

Omit the section. Insert instead:

**103 Committees of Board 10**

- (1) The President may, with the approval of the Minister and the Board, appoint such committees and members of committees as the President considers appropriate to assist the Board in the exercise of its functions.
- (2) The President is not to appoint a person as a member of a committee of the Board unless the President is of the opinion that the person has appropriate expertise to make a valuable contribution to the committee. 15
- (3) It does not matter if any or all of the members of a committee are not members of the Board. 20
- (4) The procedure of a committee of the Board is to be determined by the President or (subject to any determination of the President) by the committee.

**[4] Schedule 1 Provisions relating to members and procedure of Board of Studies 25**

Omit "appointed by the Minister" from clause 1.  
Insert instead "referred to in section 100 (1) (c)".



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Schedule 2 Amendments to Education Reform Act 1990 relating to Board of Studies

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**[5] Schedule 1, clause 2 (3)**

Omit "the education of girls".  
Insert instead "gender issues in education".

**[6] Schedule 1, clause 3 (a)**

Omit the paragraph. Insert instead: 5

- (a) members who have professional experience or demonstrated interest in gender issues in education, and

**[7] Schedule 1, clause 3A**

Insert after clause 3: 10

**3A Duties of members of Board**

The duty of a member of the Board to serve the interests of the Board overrides any duty that the member may have to serve the interests of the body that nominated the member. Accordingly, in the event of a conflict between those interests, the member is to give preference to serving the interests of the Board. 15

**[8] Schedule 1, clause 5**

Omit "4". Insert instead "3".

**[9] Schedule 1, clause 6 (1)**

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Insert "for an appointed member" after "member".

**[10] Schedule 3, Part 4**

Insert after clause 9:

**10 Existing members of Board**

- (1) The amendment made by Schedule 2 [8] to the *Education Reform Amendment Act 1997* does not affect the term of office being served by a person holding office as a member of the Board immediately before the commencement of that amendment. 5
- (2) A person holding office as President immediately before the commencement of this clause is taken to have been appointed under section 101 as President on a full-time basis for the balance of the term for which he or she was originally appointed as President. 10

**Schedule 3      Miscellaneous amendments to  
Education Reform Act 1990**

(Section 3)

**[1]      Section 1 Name of Act**

Omit "Reform".

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**[2]      Section 18 Basic skills testing**

Omit section 18 (4) and (5).

**[3]      Section 18A**

Insert after section 18:

**18A Publication of results of certain tests**

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- (1)      The regulations may make provision for or with respect to the extent to which the results of:

(a)      basic skills testing under section 18, and

(b)      School Certificate and Higher School Certificate examinations or other assessments,

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may be publicly revealed or must be kept confidential.

- (2)      The Minister is required to recommend to the Governor that regulations be made under this section and, in making any such recommendation, is to have regard to the privacy of students and the potentially adverse effects of public knowledge about the results for individuals, schools or particular ethnic, racial or socio-economic groups.

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- (3)      Clause 12 of Schedule 1 to the *Freedom of Information Act 1989* applies to a breach of the confidentiality provisions of regulations made under this section in the same way as it applies to an offence against an Act.

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- (4)      In this section, **results** means results of individuals or schools, or any other results.



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**[4] Schedule 3 Savings, transitional and other provisions**

Insert at the end of clause 2 (1):

*Education Reform Amendment Act 1997*

**[5] Schedule 3, Part 4**

Insert after Part 3:

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**Part 4 Provisions consequent on enactment of  
Education Reform Amendment Act 1997**

**9 Regulations relating to basic skills testing**

Regulations made under section 18 and in force immediately before its amendment by the *Education Reform Amendment Act 1997* are taken to have been made under section 18A.

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**Schedule 4      Amendment of Freedom of  
Information Act 1989**

(Section 4)

**Schedule 2 Exempt bodies and offices**

Insert at the end of the Schedule:

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The Department of Training and Education  
Co-ordination—functions relating to the storing of,  
reporting on or analysis of information with respect to  
the ranking or assessment of students who have  
completed the Higher School Certificate for entrance  
into tertiary institutions

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Universities—functions relating to dealing with  
information with respect to the ranking or assessment of  
students who have completed the Higher School  
Certificate for entrance into tertiary institutions

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