

## Second Reading

**The Hon. TONY KELLY** (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.17 a.m.]: I move:

That this bill be now read a second time.

New South Wales is a centre for excellence in education. This is illustrated by the fact that people from around the world send their children to this State to be educated in government primary and high schools. New South Wales government schools are internationally recognised for superb teachers, the excellent quality of our education programs and the pathway our schools offer to a career or to further study, including at Australian and overseas universities. It is reasonable and fair that the parents of overseas students who are not Australian taxpayers make a financial contribution to the system that provides their children with the excellent education they receive. Financial contributions have been collected from overseas students studying in New South Wales government schools since the early 1990s. In excess of \$35 million was paid for the enrolment of these students in New South Wales in the last financial year.

The States of Victoria, Queensland, South Australia, Western Australia and Tasmania all have legislation allowing them to impose fees on overseas students attending government schools, although the details of the legislation differ in each State. Recently, although untested by the courts, there has been some debate in legal circles about the power of the New South Wales Government to charge such fees in the absence of a specific legislative provision enabling it to do so. Given the amount of revenue involved, it is prudent for the New South Wales Government to make plain and unambiguous its power to collect a financial contribution from overseas students in its own education legislation. This will make the system for collecting fees from overseas students in New South Wales transparent and clear to all.

The scheme set out in the bill preserves the features of the existing policy under which fees have been collected from overseas students since the early 1990s. No new categories of fee-paying students will be created by the legislation and this scheme will not apply to Australian citizens or permanent residents of Australia. The director general will take steps to ensure that the current categories of exemptions from the requirement to pay fees, such as those given to residents of Norfolk Island and participants in student exchange programs, will be retained. Existing requirements to give access to education to New Zealanders will also continue to be honoured.

Under the proposed scheme the Director General of the Department of Education and Training will have the discretion to set fees to be paid by overseas students or classes of overseas students studying at government schools. This will include students who travel to Australia under a study visa and the children of temporary residents of Australia. These fees will be published on the department's website. The director general will have the power to exempt an overseas student or class of overseas students from any requirement to pay a fee and to order the refund of a fee that has been paid. This enables the department to respond flexibly and sympathetically to cases of individual hardship or special circumstances.

On occasion the parents of overseas students agree to make a financial contribution to the education system and then break their word although their children have received an education from a government school. If that happens in future the Department of Education and Training will have a legislated right to recover the amount of money a parent has promised to pay and can, if the circumstances warrant, end the student's enrolment at the school if payment is not made. Some may argue that confirming the power to collect fees from overseas students is an admission that there was no authority to impose them in the first place. To provide certainty and avoid unwarranted litigation, the bill provides that such fees paid in the past for instruction received in New South Wales government schools were validly imposed.

The legislation governing education needs sufficient flexibility to meet the needs of individual students while still ensuring that rigorous standards are maintained. Section 22 of the Education Act provides that a child must attend school at all times when the school is open for the child's instruction or participation in school activities. Section 25 of the Education Act provides that the Minister for Education and Training can exempt a child from being enrolled at a school. Exemptions are given in individual cases, such as when expert evidence indicates that a child who is of compulsory school age is not yet ready to start school. The bill amends section 25 to make it clear that the Minister also has a power to exempt a child from attending school for part of the school day. Such an exemption would be granted to meet a student's personal circumstances. An example would be where a child is returning to school after a serious accident or injury. If a doctor recommends that the child attends school for only some of the day initially and gradually works his or her way back up to full-time attendance, an exemption from the requirement that the child attend school full time could be granted.

Section 34 of the Education Act provides that the parent of a child may enrol the child at any government school if the school can accommodate the child. No guidance is given in the Education Act at present about what is

meant by "accommodate the child". The bill amends section 34 of the Act to make clear what the school being able to "accommodate the child" means. The question of whether a school can accommodate a child becomes relevant when the parents apply to enrol the child in a school that is not designated for the local area in which they live. The Act will now make clear that a child's age, the type of school chosen by the parents, the resources allocated to the school, and its existing classroom facilities will be able to be considered when a decision is made whether or not the child can be accommodated at the school.

For example, high schools normally enrol students aged 11 or 12. If a parent seeks to enrol a 10-year-old child in a high school, consideration will be given to the child's age when a decision is made as to whether that child can be accommodated at the school. A parent who seeks to enrol their 15-year-old child in a primary school will be subject to the same considerations. This does not mean that no 10-year-old child will ever be enrolled at a high school or no 15-year-old child will ever be enrolled in a primary school; New South Wales government schools will continue to attempt to meet the reasonable needs of students. It just makes it clear that a child's age and the type of school the parents wish that child to attend ~~are a valid issues consideration~~ ~~or not~~ when considering whether that child can safely, and in an educationally sound manner, be accommodated at that particular school.

Bear in mind that a decision that a child cannot be accommodated in a school can ~~only~~ occur only in relation to a school located outside the intake area for the child's home address. That child has a right to enrol in a local school provided ~~ing~~ he or she is eligible to attend that school, and the director general has a duty to designate such intake areas so that all school-age children are eligible to attend a school. The bill amends the Education Act to make it clear that the financial and other resources provided to the school and the existing number of classrooms and other facilities are considerations when determining whether ~~or not~~ to accept an enrolment from a student who lives outside the local area. It is important to recognise that the right to choose the school in which a child enrolls is subject to the resources made available to schools across the State. This makes clear, for example, that an out-of-area enrolment is not to be a trigger to bring in a new demountable building that would eat into the available playground space.

It can be seen that a child's age and where he or she lives are important when considering whether a child has a right to enrol at a particular school. The vast majority of parents and carers are scrupulously honest when they apply to enrol their child at school. However, for a range of reasons, some public schools have many more people wishing to enrol at them than they can accommodate. Unfortunately, a small number of people provide false and deceptive information in order to enrol their child at a preferred school for which they are not eligible. There have been a number of circumstances in the past where it has been known or suspected that parents have provided false information. These include: using a name other than that on the child's birth certificate when one parent has taken a child away in breach of family court orders or when family relationships have broken down; parents wishing to hide a student's past history of violent behaviour, thereby impeding the ability of the school to assess and manage any risk of violence the student presents to staff and students at his or her new school; or parents claiming a child is older than he or she actually is ~~or that providing a false address-child lives at a false address.~~

It is important that schools can accurately identify children when making decisions about their enrolment. Enrolment of a child who is too young may harm the educational and social needs of both that child and other children. It may also compromise the ability of the school to meet its duty of care for the children's safety. A student's address is also crucial information for the running of the school. It is vital that schools are able to make contact with parents in an emergency. It is also of profound importance that a school is able to communicate effectively with all the parents of its students concerning every aspect of school life.

Finally, as a matter of basic fairness, a child should not be able to jump the queue and be enrolled in preference to the child of parents who have been honest and put the child's name on the waiting list. Steps should be taken to ensure that honest people are not disadvantaged by the unscrupulous behaviour of others. Accordingly, the bill amends the Education Act to empower a principal to require a person seeking to enrol a child at a school to provide proof to the satisfaction of the principal of the child's identity, date of birth and home address. This may include a requirement to produce any document or to provide a statutory declaration, or both. The child will not reasonably be entitled to be enrolled at the school unless and until the requirement is complied with, unless it cannot reasonably be complied with in the circumstances. The director general may terminate the enrolment of a child at a government school if the child was enrolled as a result of providing false information.

The bill also amends the Education Act to add the Department of Corrective Services to the list of agencies that can be asked to provide information to schools about students with a history of violent behaviour. This is necessary because the Department of Corrective Services has assumed responsibility for the Kariong Juvenile Correctional Centre. It will also help the Department of Education and Training to assess the risk of adult offenders who seek to resume their studies at a government school.

One of the ways that parents support schools is through their participation in parents and citizens associations. I wish to acknowledge the efforts of and thank the many parents around the State who give up their free time to participate voluntarily in enriching the life of their children's schools. Whether it is raising funds through school fetes or trivia nights, helping to run special cultural, musical or sporting events, donating their time to working bees, running the school canteens or uniform shops, or making their views clear about how the school can be

improved and run better, the quality of schooling around this State would be immeasurably reduced without the effort of parents and citizens associations.

On occasion a group of school parents and citizens associations may decide to form a district council of parents and citizens associations to represent a region of the State. At the moment the education regulation must be amended to establish formally a district council of parents and citizens associations. This unnecessarily bureaucratic and cumbersome process impedes the active participation of parents in their children's education. The Act will be amended to provide that the Minister for Education and Training can establish a district council of parents and citizens by publishing an order in the *Education Gazette*. The only district council formally established under the regulation—the Far South Coast District Council of Parents and Citizens Associations—will be preserved. The reforms set out in this bill are necessary, timely and appropriate, and I commend them to the House.