



New South Wales

Teaching and Education Legislation Amendment (Employment) Bill 2017

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to enable persons to be employed on a temporary basis in the Teaching Service, or as school administrative and support staff in the Department of Education, for a period or periods of up to 3 years,
- (b) to align the employment of persons in the Teaching Service with the scheme under the *Teacher Accreditation Act 2004* by expressly authorising the Secretary of the Department of Education (the **Secretary**) to employ persons who are accredited under that Act,
- (c) to transfer to the *Teaching Service Act 1980* the existing power of the Secretary under the *Teacher Accreditation Act 2004* to terminate the employment of a person employed in the Teaching Service whose accreditation as a teacher is revoked,
- (d) to provide additional grounds for terminating the employment of persons in the Teaching Service or as school administrative and support staff (including where the person concerned has abandoned his or her employment),
- (e) to make other amendments of a minor or administrative nature relating to the employment of persons in the Teaching Service or as school administrative and support staff.

The Bill also amends the *Education Act 1990* to enable the Secretary to determine the eligibility criteria for student enrolment in a particular government school and to make it clear that requiring overseas students to pay fees to attend government schools does not contravene the *Anti-Discrimination Act 1977*.

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.

Schedule 1 Amendment of Teaching Service Act 1980

Schedule 1 [2] removes a redundant cross-reference.

Schedule 1 [3] and [4] expressly provide that the Secretary may employ persons who are accredited under the *Teacher Accreditation Act 2004* in the Teaching Service.

Schedule 1 [5] provides that the employment of persons in the Teaching Service on a temporary basis may be for a period or periods of up to 3 years instead of the current maximum period of 12 months.

Schedule 1 [6] provides that the employment of a temporary employee cannot be terminated for reasons other than misconduct unless the employee is given 4 weeks notice of the termination or 4 weeks pay. A temporary employee whose employment is terminated is not entitled to any other compensation or entitlement for the termination of employment.

Schedule 1 [7] enables the Secretary, in taking any disciplinary or other action with respect to a person employed in the Teaching Service and whose address is unknown to the Secretary, to send any instrument giving effect to that action to the address last known to the Secretary.

Schedule 1 [10] is a consequential amendment that removes a similar provision that applies only in relation to dealing with misconduct and unsatisfactory performance.

Schedule 1 [9] enables the Secretary to terminate a person's employment in the Teaching Service if the person's accreditation under the *Teacher Accreditation Act 2004* is revoked and to suspend a person's employment if the person's accreditation is suspended. The amendment replaces the existing power of the Secretary under the *Teacher Accreditation Act 2004* to terminate or suspend a person's employment for the same grounds.

Schedule 1 [9] also enables the Secretary to terminate a person's employment if the person has abandoned his or her employment or if the person refuses or fails to commence duties in a position to which the person has been appointed or transferred. **Schedule 1 [8]** removes provisions that are superseded by the amendment made by Schedule 1 [9].

Schedule 1 [11] and [12] remove the requirement for decisions relating to the employment of persons in the Teaching Service, and for the regulations made by the Governor under the Act, to be published in the Education Gazette. **Schedule 1 [1]** is a consequential amendment.

Schedule 2 Amendment of Education (School Administrative and Support Staff) Act 1987

Schedule 2 [2] provides that the employment of members of the school administrative and support staff in the Department of Education on a temporary basis may be for a period or periods of up to 3 years instead of the current maximum period of 12 months.

Schedule 2 [3] provides that the employment of any such temporary employee cannot be terminated for reasons other than misconduct unless the employee is given 4 weeks notice of the termination or 4 weeks pay. A temporary employee whose employment is terminated is not entitled to any other compensation or entitlement for the termination of employment.

Schedule 2 [5] updates a reference relating to persons employed in the Public Service.

Schedule 2 [6] enables the Secretary to terminate a person's employment as a member of the school administrative and support staff if the person has abandoned his or her employment or if the person refuses or fails to commence duties in a position to which the person has been appointed

or transferred. **Schedule 2 [1]** is a consequential amendment that removes a similar provision relating to termination of employment for refusing a transfer.

Schedule 2 [6] also enables the Secretary, in taking any disciplinary or other action with respect to a member of the school administrative and support staff and whose address is unknown to the Secretary, to send any instrument giving effect to that action to the address last known to the Secretary. **Schedule 2 [4]** is a consequential amendment that removes a similar provision that applies only in relation to dealing with misconduct and unsatisfactory performance.

Schedule 3 Amendment of Teacher Accreditation Act 2004

The amendments made by Schedule 3 are consequential on the amendment made by Schedule 1 [9].

Schedule 4 Amendment of Education Act 1990

Schedule 4 [1] makes it clear that the Secretary may determine the eligibility criteria for student enrolment in a particular government school. At present, the eligibility criteria for enrolment is determined by the Secretary for different classes of government schools only.

Schedule 4 [2] makes it clear that the *Anti-Discrimination Act 1977* does not prevent overseas students from being charged fees to attend government schools.