

FIRST PRINT

## EDUCATION COMMISSION (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Education Commission Act 1980—

- (a) to provide that vacancies in the position of principal (other than prescribed exceptions) and other prescribed promotions positions in the Education Teaching Service are to be filled on the basis of fitness rather than, as at present, seniority;
- (b) to introduce a limited preference for female officers in the offer of vacancies in promotions positions in that Service (except under paragraph (a)) so that 40 per cent of vacancies will be offered to female officers each year for 5 years;
- (c) to enable an officer who unsuccessfully applies for a position to which paragraph (a) applies to appeal to the Director-General of Education on the basis that the selection process for the position was irregular or improper; and
- (d) to make other consequential and ancillary amendments.

The Bill also contains a transitional provision.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

*Education Commission (Amendment) 1987*

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Clause 4 provides that the Principal Act as currently in force continues to apply in respect of a vacancy in the Education Teaching Service if the decision to fill the vacancy is made before the commencement of the proposed Act.

Schedule 1 (1) clarifies the limited circumstances in which a person may be appointed from outside the Education Teaching Service to fill a promotions position in that Service.

Schedule 1 (2) repeals section 59 of the Principal Act and inserts proposed sections 59-59F:

- (a) Proposed section 59 makes it clear that sections 59A-62 of the Principal Act apply to the filling of vacant promotions positions in the Education Teaching Service (positions for which a promotions list is maintained).
- (b) Proposed section 59A defines "fitness" for the purposes of the proposed new sections to mean qualifications and aptitude for the discharge of the duties of a position. The definition is taken from section 59 as currently in force.
- (c) Proposed section 59B makes it clear that the Director-General of Education is not required to fill a vacancy in a promotions position in the Education Teaching Service. If the vacancy is to be filled, it is required to be filled in accordance with the proposed new sections. The proposed section re-enacts various provisions of section 59 as currently in force.
- (d) Proposed section 59C makes fitness for the class of position the basis for appointment of an officer of the Education Teaching Service to the position of principal and other promotions positions prescribed by the regulations. The current requirement in section 59 for the appointee to be on the appropriate promotions list is retained. Further provision is made to enable a person on any promotions list to be appointed to a position to which the proposed section applies on the basis of the person's special fitness to fill the particular position (rather than the class of position).
- (e) Proposed section 59D re-enacts the current requirement that the principal of a boys' high school be a male and the principal of a girls' high school be a female.
- (f) Proposed section 59E applies to promotions positions in the Education Teaching Service to which proposed section 59C does not apply. Those positions are to be filled on the basis of seniority from the appropriate promotions list. Special fitness is sufficient to override seniority and to allow the appointment of an officer from outside the division of the Education Teaching Service concerned. The proposed section re-enacts the provisions of section 59 in their application to those positions.
- (g) Proposed section 59F provides for a limited preference for women in offers of appointment on the basis of seniority under proposed section 59E. The provision is designed to ensure that women will be offered 40 per cent of positions to be filled under that section each year for 5 years.

Schedule 1 (3) enables a person who has unsuccessfully applied for a vacant position to which section 59C applies to appeal to the Director-General of Education. The only ground for the appeal is that the whole or any part of the selection process for the position was irregular or improper.

*Education Commission (Amendment) 1987*

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Schedule 1 (4) makes consequential amendments.

Schedule 1 (5) makes it clear that the provision of the Principal Act which empowers the transfer of an officer of a Teaching Service to another position applies even if the position is a vacant promotions position.

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# EDUCATION COMMISSION (AMENDMENT) BILL 1987

NEW SOUTH WALES



## TABLE OF PROVISIONS

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2. Commencement
3. Amendment of Act No. 23, 1980
4. Transitional

SCHEDULE 1—AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980

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THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 350

LECTURE 10: THE HADRONIC SPECTRUM

10/10/1988

# EDUCATION COMMISSION (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

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## A BILL FOR

An Act to amend the Education Commission Act 1980 to make further provision with respect to the filling of vacant positions in the Education Teaching Service.

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*Education Commission (Amendment) 1987*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**5 Short title**

1. This Act may be cited as the "Education Commission (Amendment) Act 1987".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this  
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 23, 1980**

15 3. The Education Commission Act 1980 is amended in the manner set forth in Schedule 1.

**Transitional**

4. The Education Commission Act 1980 (as in force immediately before  
20 the commencement of this Act) continues to apply as if this Act had not been enacted—

(a) to the filling of a vacancy in the Education Teaching Service if the decision to fill the vacancy was made by the Director-General of Education before the commencement of this Act; and

(b) to an appeal against that decision.

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## SCHEDULE 1

(Sec. 3)

## AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980

(1) Section 47 (**Appointment of permanent staff**)—

## 5 (a) Section 47 (2), (3)—

Omit “Notwithstanding the provisions of section 59, the” wherever occurring, insert instead “The”.

## (b) Section 47 (5)—

10 Omit “Notwithstanding the provisions of section 59, and except as provided by subsections (2) and (3), the Director-General of Education may appoint to a permanent position in the Education Teaching Service a person who is not an officer of that service if—”, insert instead “An appointment may be made under this section to a position to which Subdivision 1 of Division 4 applies  
15 (vacant position for which there is a promotions list) but only if the appointment is under subsection (2) or (3) or if—”.

## (2) Sections 59–59F—

Omit section 59, insert instead:

**Application of Subdivision**

20 59. This Subdivision applies to a position in the Education Teaching Service for which there is a promotions list.

**Meaning of “fitness”**

59A. In this Subdivision—

25 “fitness” means qualifications and aptitude for the discharge of the duties of a position or class of positions.

**Power of Director-General to fill vacancies**

30 59B. (1) If there is a vacancy in a position to which this Subdivision applies, the Director-General of Education may, if of the opinion that the vacancy should be filled, appoint a person to fill the vacancy.

(2) A vacancy to be filled shall be filled in accordance with this Subdivision, unless the vacancy is filled by the transfer of an officer under section 71.

SCHEDULE 1—*continued*AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued***Certain vacancies—appointment on basis of fitness**

59C. (1) This section applies to a vacancy in—

5 (a) the position of principal of any class, other than a class prescribed as exempt from the operation of this section; or

(b) any other position in a school which is a position of a class prescribed for the purposes of this paragraph.

10 (2) The person appointed to fill a vacancy to which this section applies shall be an officer whose name is on the appropriate promotions list for the vacant position.

(3) The appointment shall be made on the basis of the officer's fitness to fill a position of the class to which the vacant position belongs.

15 (4) Notwithstanding subsection (2), a person whose name is on any promotions list may be appointed to fill a vacancy to which this section applies on the basis of the person's special fitness to fill the particular position concerned.

**Principal of boys' or girls' high school**

20 59D. (1) Only a female officer shall be appointed to fill a vacancy in the position of principal of a girls' high school unless—

(a) no female officer's name is on the appropriate promotions list; or

(b) no female officer whose name is on that promotions list applies for and accepts appointment to the position.

25 (2) Only a male officer shall be appointed to fill a vacancy in the position of principal of a boys' high school unless—

(a) no male officer's name is on the appropriate promotions list; or

30 (b) no male officer whose name is on that promotions list applies for and accepts appointment to the position.

*Education Commission (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued***Vacancies in other positions**

59E. (1) This section applies to a vacancy in a position to which this Subdivision applies, other than a position to which section 59C applies.

5 (2) The person appointed to fill a vacancy to which this section applies shall be—

(a) an officer whose name is on the appropriate promotions list for the position, regard being had to the relative seniority and fitness respectively of officers whose names are on that promotions list; or

10 (b) an officer of another division of the Education Teaching Service whom the Director-General of Education considers it desirable to appoint on the ground of the officer's special fitness to fill the vacant position.

15 (3) In making an appointment under subsection (2) (a), seniority shall be subordinate to considerations of special fitness.

**Preference for female officers**

20 59F. (1) The Director-General of Education shall establish and give effect to arrangements for the giving of preference to female officers in the offering of vacant positions under section 59E.

25 (2) The arrangements shall operate so that, in so far as is reasonably practicable, 40 per cent of the positions to be filled under section 59E (2) (a) in a relevant period shall be offered to female officers in preference to male officers.

(3) A relevant period is each of 5 consecutive periods of 1 year, the first of which begins on the commencement of this section.

30 (4) Under the arrangements, the positions to which the preference is to apply shall be allocated on a fair and equitable basis.

(5) The Anti-Discrimination Act 1977 does not prevent arrangements being made and given effect to under this section.

*Education Commission (Amendment) 1987*

SCHEDULE 1—*continued*

AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued*

(3) Section 60 (**Appeals in respect of seniority etc.**)—

(a) Section 60 (1) (b)—

Omit “or”.

(b) Section 60 (1) (c), (d)—

5 At the end of section 60 (1) (c), insert:

; or

(d) the filling of a vacant position in the Education Teaching Service to which section 59C applies for which the officer has unsuccessfully applied,

10 (c) Section 60 (1A)—

After section 60 (1), insert:

(1A) The only ground for an appeal under subsection (1) (d) is that the whole or any part of the selection process for the position was irregular or improper.

15 (4) Section 62 (**Appeals under the Government and Related Employees Appeal Tribunal Act 1980**)—

(a) Section 62 (2)—

Omit “section 59”, insert instead “section 59E”.

(b) Section 62 (3)—

20 Omit the subsection.

(5) Section 71 (**Transfers within a Teaching Service**)—

Section 71 (2)—

At the end of section 71, insert:

25 (2) This section empowers the transfer of an officer to a position even if it is a vacant position to which Subdivision 1 or 2 applies.

**EDUCATION COMMISSION (AMENDMENT) ACT 1987**  
**No. 30**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Act No. 23, 1980
4. Transitional

SCHEDULE 1—AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980

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**EDUCATION COMMISSION (AMENDMENT) ACT 1987 No. 30**

**NEW SOUTH WALES**



**Act No. 30, 1987**

An Act to amend the Education Commission Act 1980 to make further provision with respect to the filling of vacant positions in the Education Teaching Service. [Assented to 15 May 1987]

*Education Commission (Amendment) 1987*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Education Commission (Amendment) Act 1987".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 23, 1980**

3. The Education Commission Act 1980 is amended in the manner set forth in Schedule 1.

**Transitional**

4. The Education Commission Act 1980 (as in force immediately before the commencement of this Act) continues to apply as if this Act had not been enacted—

- (a) to the filling of a vacancy in the Education Teaching Service if the decision to fill the vacancy was made by the Director-General of Education before the commencement of this Act; and
  - (b) to an appeal against that decision.
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## SCHEDULE 1

(Sec. 3)

## AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980

(1) Section 47 (**Appointment of permanent staff**)—

## (a) Section 47 (2), (3)—

Omit “Notwithstanding the provisions of section 59, the” wherever occurring, insert instead “The”.

## (b) Section 47 (5)—

Omit “Notwithstanding the provisions of section 59, and except as provided by subsections (2) and (3), the Director-General of Education may appoint to a permanent position in the Education Teaching Service a person who is not an officer of that service if—”, insert instead “An appointment may be made under this section to a position to which Subdivision 1 of Division 4 applies (vacant position for which there is a promotions list) but only if the appointment is under subsection (2) or (3) or if—”.

## (2) Sections 59–59F—

Omit section 59, insert instead:

**Application of Subdivision**

59. This Subdivision applies to a position in the Education Teaching Service for which there is a promotions list.

**Meaning of “fitness”**

59A. In this Subdivision—

“fitness” means qualifications and aptitude for the discharge of the duties of a position or class of positions.

**Power of Director-General to fill vacancies**

59B. (1) If there is a vacancy in a position to which this Subdivision applies, the Director-General of Education may, if of the opinion that the vacancy should be filled, appoint a person to fill the vacancy.

(2) A vacancy to be filled shall be filled in accordance with this Subdivision, unless the vacancy is filled by the transfer of an officer under section 71.

*Education Commission (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued*

**Certain vacancies—appointment on basis of fitness**

59C. (1) This section applies to a vacancy in—

- (a) the position of principal of any class, other than a class prescribed as exempt from the operation of this section; or
- (b) any other position in a school which is a position of a class prescribed for the purposes of this paragraph.

(2) The person appointed to fill a vacancy to which this section applies shall be an officer whose name is on the appropriate promotions list for the vacant position.

(3) The appointment shall be made on the basis of the officer's fitness to fill a position of the class to which the vacant position belongs.

(4) Notwithstanding subsection (2), a person whose name is on any promotions list may be appointed to fill a vacancy to which this section applies on the basis of the person's special fitness to fill the particular position concerned.

**Principal of boys' or girls' high school**

59D. (1) Only a female officer shall be appointed to fill a vacancy in the position of principal of a girls' high school unless—

- (a) no female officer's name is on the appropriate promotions list; or
- (b) no female officer whose name is on that promotions list applies for and accepts appointment to the position.

(2) Only a male officer shall be appointed to fill a vacancy in the position of principal of a boys' high school unless—

- (a) no male officer's name is on the appropriate promotions list; or
- (b) no male officer whose name is on that promotions list applies for and accepts appointment to the position.

*Education Commission (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued*

**Vacancies in other positions**

59E. (1) This section applies to a vacancy in a position to which this Subdivision applies, other than a position to which section 59C applies.

(2) The person appointed to fill a vacancy to which this section applies shall be—

- (a) an officer whose name is on the appropriate promotions list for the position, regard being had to the relative seniority and fitness respectively of officers whose names are on that promotions list; or
- (b) an officer of another division of the Education Teaching Service whom the Director-General of Education considers it desirable to appoint on the ground of the officer's special fitness to fill the vacant position.

(3) In making an appointment under subsection (2) (a), seniority shall be subordinate to considerations of special fitness.

**Preference for female officers**

59F. (1) The Director-General of Education shall establish and give effect to arrangements for the giving of preference to female officers in the offering of vacant positions under section 59E.

(2) The arrangements shall operate so that, in so far as is reasonably practicable, 40 per cent of the positions to be filled under section 59E (2) (a) in a relevant period shall be offered to female officers in preference to male officers.

(3) A relevant period is each of 5 consecutive periods of 1 year, the first of which begins on the commencement of this section.

(4) Under the arrangements, the positions to which the preference is to apply shall be allocated on a fair and equitable basis.

(5) The Anti-Discrimination Act 1977 does not prevent arrangements being made and given effect to under this section.

*Education Commission (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued*

(3) Section 60 (**Appeals in respect of seniority etc.**)—

(a) Section 60 (1) (b)—

Omit “or”.

(b) Section 60 (1) (c), (d)—

At the end of section 60 (1) (c), insert:

; or

(d) the filling of a vacant position in the Education Teaching Service to which section 59C applies for which the officer has unsuccessfully applied,

(c) Section 60 (1A)—

After section 60 (1), insert:

(1A) The only ground for an appeal under subsection (1) (d) is that the whole or any part of the selection process for the position was irregular or improper.

(4) Section 62 (**Appeals under the Government and Related Employees Appeal Tribunal Act 1980**)—

(a) Section 62 (2)—

Omit “section 59”, insert instead “section 59E”.

(b) Section 62 (3)—

Omit the subsection.

*Education Commission (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE EDUCATION COMMISSION ACT 1980—  
*continued*

(5) Section 71 (**Transfers within a Teaching Service**)—

Section 71 (2)—

At the end of section 71, insert:

(2) This section empowers the transfer of an officer to a position even if it is a vacant position to which Subdivision 1 or 2 applies.





