

Education Commission (Amendment) 1988

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued***

(2) Nothing in this clause affects any arrangement for the appointment of any such person to a position in the service of the Government.

References to the Commission etc.

5. On and from the relevant commencement, a reference in any other Act, or in any instrument made under any Act or in any other instrument of any kind, to the Commission, to the Chairman of the Commission or to a member of the Commission shall be read as a reference to the Secretary.

Transfer of assets, liabilities etc. of Commission

6. On and from the relevant commencement, any assets, rights, liabilities or obligations of the Commission shall become assets, rights, liabilities or obligations of the Crown.

Agreements

7. Any agreement between the Commission and an association or organisation made under section 26 and in force immediately before the relevant commencement shall be taken to be, after that commencement, an agreement between the Secretary and the association or organisation made under that section, as amended by the 1988 Act.

Determination of conditions of employment by the Commission

8. Any determination of conditions of employment under section 25, 47 (4), 50 (4), 55 (4) or 58 (4) made by the Commission and in force immediately before the relevant commencement shall be taken to be, after that commencement, a determination made by the Secretary under the section concerned, as amended by the 1988 Act.

Delegations by Commission of functions as an employer

9. Any delegation under section 34 made by the Commission and in force immediately before the relevant commencement shall (if the function delegated is exercisable by the Secretary) be taken to be, after that commencement, a delegation made by the Secretary under section 28A, as inserted by the 1988 Act.

Repeal of Education Commission (Teaching Services Elections) Regulation 1980

10. On the relevant commencement, the Education Commission (Teaching Services Elections) Regulation 1980 is repealed.

**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON
MERIT**

(Sec. 3)

(1) Section 41 (**Delegation of functions**)—

Section 41 (5)—

After “a Teaching Service”, insert “(except under section 59C—appointment on merit)”.

(2) Sections 59C, 59D—

EDUCATION COMMISSION (AMENDMENT) ACT 1988
No. 29

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Education Commission Act 1980 No. 23

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION OF THE
EDUCATION COMMISSION**

SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON MERIT

Education Commission (Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Education Commission (Amendment) Act 1988.

Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Schedules 1 (23) and (26) and 2 (3), and section 3 in its application to those provisions, commence on the date of assent.

Amendment of Education Commission Act 1980 No. 23

3. The Education Commission Act 1980 is amended as set out in Schedules 1 and 2.

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION**

(Sec. 3)

(1) Long title—

Omit “to constitute the Education Commission of New South Wales and to specify its functions;”.

(2) Section 1—

Omit the section, insert instead:

Short title

1. This Act may be cited as the Teaching Services Act 1980.

(3) Section 2 (**Commencement**)—

Section 2 (3)—

Omit the subsection.

(4) Section 3 (**Arrangement**)—

Omit the section.

(5) Section 4 (**Definitions**)—

(a) Section 4 (1), definitions of “Chairman”, “Commission”, “member”—

Omit the definitions.

(b) Section 4 (1)—

After the definition of “school”, insert:

**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON
MERIT—*continued***

Omit the sections, insert instead:

Appointment on merit—certain vacancies

59C. (1) This section applies to positions of teachers in public schools which are positions of a class declared by the Minister by order published in the Education Gazette to be a class of positions to which this section applies.

(2) If a vacancy in such a position is to be filled, the person appointed to fill the vacancy must be a person who is eligible under section 59D to be considered for the position.

(3) Of the eligible persons who apply and are prepared to accept the appointment, the person appointed must be the person whose fitness for the position is greater than that of any other applicant.

(4) Despite subsection (3), a person may be appointed to fill such a vacancy on the basis of the person's special fitness for the position.

Eligibility for appointment on merit

59D. (1) A person is eligible to be considered for a position under section 59C on the basis of fitness only if—

- (a) the person's name is on the promotions list appropriate to the position; or
- (b) the person is an officer in the Education Teaching Service and the Director-General of Education has determined that the person is, or persons of a class of which that person is a member are, fit for the position.

(2) A person is eligible to be considered for the position on the basis of special fitness only if—

- (a) the person's name is on a promotions list (whether or not appropriate to the position); or
- (b) the person is an officer in the Education Teaching Service and the Director-General of Education has determined that the person is, or persons of a class of which the person is a member are, specially fit for the position.

(3) Section 59F (Preference for female officers)—

Omit the section.

(4) Section 59G—

Before section 60, insert:

Education Commission (Amendment) 1988

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued***

Delegation

28A. The Secretary may delegate to any person any of the Secretary's functions under this Act, other than this power of delegation.

- (16) Part 2, Division 2, Subdivision 3 (**Functions relating to the provision of education services**) (section 29)—

Omit the Subdivision.

- (17) Part 2, Division 2, Subdivision 4 (**Miscellaneous**) (sections 30–34)—
Omit the Subdivision.

- (18) Part 2, Division 2, Subdivision 5 (**Regulation of exercise of functions**) (sections 35, 36)—

Omit the Subdivision.

- (19) Sections 37 (2), 38 (2), 39 (2), 40 (2), 47 (4), 50 (4), 51 (2), 55 (4), 58 (4), 67 (2), 71A (4), 73 (1)—

Omit “Commission” wherever occurring, insert instead “Secretary”.

- (20) Sections 46 (2), 54 (2)—

Omit “, with the approval of the Commission,” wherever occurring.

- (21) Section 99—

Omit the section, insert instead:

Making of regulations by the Governor

99. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by Part 2 or Schedule 3 is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to Part 2 or Schedule 3.

- (22) Sections 100 (1) (j), 101 (1) (k)—

Omit “Schedules 1 and 2” wherever occurring, insert instead “Schedule 3”.

- (23) Section 103—

After section 102, insert:

Savings and transitional provisions

103. Schedule 3 has effect.

- (24) Schedule 1 (**Provisions relating to the preservation of rights of the Chairman**)—

Omit the Schedule.

Education Commission (Amendment) 1988

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued***

- (25) Schedule 2 (**Provisions relating to meetings of the Commission**)—
Omit the Schedule.

- (26) Schedule 3—

At the end of the Act, insert:

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 103)

PART 1—GENERAL

Definitions

1. In this Schedule—

“Commission” means the Education Commission of New South Wales as constituted in accordance with this Act immediately before the relevant commencement;

“relevant commencement” means the commencement of Schedule 1 (7) to the 1988 Act;

“the 1988 Act” means the Education Commission (Amendment) Act 1988.

Savings and transitional regulations

2. (1) The regulations made by the Governor may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

The 1988 Act.

Miscellaneous Acts (Education Commission) Amendment Act 1988.

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—PROVISIONS CONSEQUENT ON THE EDUCATION
COMMISSION (AMENDMENT) ACT 1988**

Abolition of the Commission

3. On the relevant commencement, the Commission is abolished.

Members of the Commission

4. (1) A person who, immediately before the relevant commencement, held office as a member of the Commission—

- (a) ceases to hold office as such on that commencement; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON
MERIT—*continued*****Principal of boys' or girls' high school**

59G. (1) The person appointed to fill a vacancy in the position of principal of a single sex high school must be a person of that sex unless no person of that sex who is eligible for the position applies for and accepts appointment to the position.

(2) This section applies no matter which provision of this Subdivision the vacancy is filled under.

Education Commission (Amendment) 1988

SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued*

“Secretary” means the Secretary of the Ministry of Education and Youth Affairs;

- (6) Part 2, heading (**The Commission**)—
Omit the heading, insert instead:
PART 2—EMPLOYMENT FUNCTIONS OF SECRETARY
- (7) Part 2, Division 1 (**Constitution of the Commission**) (sections 6–21)—
Omit the Division.
- (8) Part 2, Division 2, heading (**Functions of the Commission**)—
Omit “Commission”, insert instead “Secretary”.
- (9) Part 2, Division 2, Subdivision 1 (**General**) (section 22)—
Omit the Subdivision.
- (10) Part 2, Division 2, Subdivision 2, heading (**Functions as an employer**)—
Omit the heading.
- (11) Section 23 (**Commission’s functions as an employer**)—
Omit the section.
- (12) Section 23A—
Before section 24, insert:
Secretary to act for Crown
23A. The Secretary, in exercising a function under this Part, acts for the Crown.
- (13) Sections 24–28—
Omit “Commission” wherever occurring, insert instead “Secretary”.
- (14) Section 27—
Omit “Without limiting or derogating from section 6 (2), the”, insert instead “The”.
- (15) Section 28A—
After section 28, insert:

EDUCATION COMMISSION (AMENDMENT) ACT 1988 No. 29

NEW SOUTH WALES



Act No. 29, 1988

An Act to amend the Education Commission Act 1980 to abolish the Education Commission of New South Wales and to make further provision for the promotion of school teachers on merit. [Assented to 6 July 1988]

See also Miscellaneous Acts (Education Commission) Amendment Act 1988.

EDUCATION COMMISSION (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Miscellaneous Acts (Education Commission) Amendment Bill 1988 is cognate with this Bill.

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

- (a) to abolish the Education Commission of New South Wales; and
- (b) to transfer the functions of the Education Commission with respect to the employment of members of the Education Teaching Service and the Technical and Further Education Teaching Service to the Secretary of the Ministry of Education and Youth Affairs; and
- (c) to increase the scope for promotion on merit to certain teaching positions in the Education Teaching Service; and
- (d) to repeal the provision which gives a preference to female officers in the filling of certain teaching positions in the Education Teaching Service.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation. However, the repeal of section 59F (preference for female officers) and the savings and transitional provisions will commence on the date of assent to the proposed Act.

Clause 3 is a formal provision which gives effect to the Schedules of amendments to the Education Commission Act 1980.

SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION OF THE EDUCATION COMMISSION

Abolition of Education Commission

The Bill repeals Division 1 of Part 2 of the Principal Act which establishes the Education Commission of New South Wales and provides for its membership and other related matters (Schedule 1 (7)).

Education Commission (Amendment) 1988

The Bill also repeals Subdivision 3 of Division 2 of Part 2 of the Principal Act which specifies the Education Commission's functions in relation to the formulation and implementation of policies concerning public education in New South Wales (Schedule 1 (16)). As a consequence, Subdivision 5, dealing with the regulation of the exercise of those functions, is also omitted (Schedule 1 (18)).

The Bill amends sections 46 (2) and 54 (2) of the Principal Act so as to remove the requirement that the Education Commission approve appointments by a Director-General to certain senior positions in a Teaching Service (Schedule 1 (20)).

As a consequence of the proposed abolition of the Education Commission, the Bill substitutes the short title of the Principal Act which will be the Teaching Services Act 1980 (Schedule 1 (2)).

Schedule 1 (1), (3), (5) (a), (9)–(11), (14), (17), (21), (22), (24) and (25) make other consequential amendments.

Transfer of Education Commission's functions as an employer

The Bill transfers the functions of the Education Commission in relation to the employment of members of the Teaching Services to the Secretary of the Ministry of Education and Youth Affairs (Schedule 1 (13) and (19)). The Secretary will act for that purpose on behalf of the Crown (Schedule 1 (12)). As a result of the amendments to be made to sections 24–26 of the Principal Act by Schedule 1 (13), the Secretary (instead of the Education Commission)—

- (a) will be the employer of members of the Teaching Services in industrial proceedings; and
- (b) will determine conditions of employment in the Teaching Services; and
- (c) will enter into agreements in relation to industrial matters.

The amendments to be made by Schedule 1 (13) to sections 27 and 28 of the Principal Act will mean that the restrictions which presently apply to the exercise of functions by the Education Commission will apply to the Secretary.

The Bill inserts a new section 28A into the Principal Act which provides for the delegation of powers and functions by the Secretary (Schedule 1 (15)).

The Bill amends sections 38 (2) and 40 (2) of the Principal Act so as to require a Director-General to consult with the Secretary (instead of the Education Commission) before exercising functions in relation to determining staff establishments for schools (Schedule 1 (19)).

The Bill also amends sections 47 (4), 50 (4), 51 (2), 55 (4) and 67 (2) of the Principal Act which provide that certain appointments to the Teaching Services (for example, temporary appointments) are to be made subject to conditions determined or agreed to by the Education Commission. The Secretary will replace the Education Commission in this respect as a result of amendments to be made by Schedule 1 (19).

Amendments as a consequence of the transfer of functions to the Secretary are made by Schedule 1 (5) (b), (6) and (8).

Savings and transitional provisions

The Bill inserts savings and transitional provisions into the Principal Act (Schedule 1 (23) and (26)). These provide for any assets, rights or liabilities of the Education Commission to be transferred to the Crown (proposed clause 6). Agreements entered into by the Education Commission in relation to industrial matters and determinations of conditions of employment, and delegations of functions, by the Commission are specifically preserved (proposed clauses 7–9).

Education Commission (Amendment) 1988

**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION
ON MERIT****Increased scope for promotion on merit (Schedule 2 (2))**

The Bill repeals the provision of the Principal Act which authorises limited promotion on merit for certain teacher positions in schools. The current provision is limited in that a person is not eligible to be appointed unless he/she is on the promotions list appropriate for the position.

The Bill replaces the repealed provision with new provisions (sections 59C and 59D) that provide for promotion on merit for classes of public school teacher positions which the Minister declares by order published in the Education Gazette to be positions to which the new provision applies. Under the new provisions selection will be on merit from among teachers who are on the appropriate promotions list and any other officers in the Education Teaching Service whom the Director-General of Education determines are fit for the position concerned.

The new sections retain the provision in the section to be repealed which enables the appointment of a teacher on the basis of special qualifications and aptitude if the teacher is on any promotions list. That provision is amended to enable any officer in the Education Teaching Service to be appointed on that basis if the Director-General of Education determines that he or she is specially fit for the position.

As at present, other positions which are not subject to promotion on merit will generally continue to be filled on the basis of seniority.

Abolition of preference for female officers (Schedule 2 (3))

The Bill also repeals section 59F which operates to give a preference to female officers in the filling of some vacant teacher positions in schools.

The section currently requires the Director-General of Education to give preference to females in respect of 40 per cent of positions in schools filled on the basis of seniority.

Consequential amendments

Schedule 2 (4) inserts a new section 59G which re-enacts (with consequential amendments) the section requiring the principal of a girls' high school to be a female and the principal of a boys' high school to be a male. That section is currently section 59D (repealed by Schedule 2 (2)).

Schedule 2 (1) makes a minor consequential amendment.

EDUCATION COMMISSION (AMENDMENT) BILL 1988

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Education Commission Act 1980 No. 23
- SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION OF THE
EDUCATION COMMISSION
- SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON MERIT
-

EDUCATION COMMISSION (AMENDMENT) BILL 1988

NEW SOUTH WALES



No. , 1988

A BILL FOR

An Act to amend the Education Commission Act 1980 to abolish the Education Commission of New South Wales and to make further provision for the promotion of school teachers on merit.

See also Miscellaneous Acts (Education Commission) Amendment Bill 1988.

Education Commission (Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Education Commission (Amendment) Act 1988.

5 Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Schedules 1 (23) and (26) and 2 (3), and section 3 in its application to those provisions, commence on the date of assent.

10 Amendment of Education Commission Act 1980 No. 23

3. The Education Commission Act 1980 is amended as set out in Schedules 1 and 2.

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION**

15 (Sec. 3)

(1) Long title—

Omit “to constitute the Education Commission of New South Wales and to specify its functions;”.

(2) Section 1—

20 Omit the section, insert instead:

Short title

1. This Act may be cited as the Teaching Services Act 1980.

(3) Section 2 (**Commencement**)—

Section 2 (3)—

25 Omit the subsection.

(4) Section 3 (**Arrangement**)—

Omit the section.

(5) Section 4 (**Definitions**)—

30 (a) Section 4 (1), definitions of “Chairman”, “Commission”, “member”—

Omit the definitions.

(b) Section 4 (1)—

After the definition of “school”, insert:

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued***

“Secretary” means the Secretary of the Ministry of Education
and Youth Affairs;

- (6) Part 2, heading (**The Commission**)—
Omit the heading, insert instead:
- 5 **PART 2—EMPLOYMENT FUNCTIONS OF SECRETARY**
- (7) Part 2, Division 1 (**Constitution of the Commission**) (sections 6–21)—
Omit the Division.
- (8) Part 2, Division 2, heading (**Functions of the Commission**)—
Omit “Commission”, insert instead “Secretary”.
- 10 (9) Part 2, Division 2, Subdivision 1 (**General**) (section 22)—
Omit the Subdivision.
- (10) Part 2, Division 2, Subdivision 2, heading (**Functions as an
employer**)—
Omit the heading.
- 15 (11) Section 23 (**Commission’s functions as an employer**)—
Omit the section.
- (12) Section 23A—
Before section 24, insert:
Secretary to act for Crown
- 20 23A. The Secretary, in exercising a function under this Part,
acts for the Crown.
- (13) Sections 24–28—
Omit “Commission” wherever occurring, insert instead
“Secretary”.
- 25 (14) Section 27—
Omit “Without limiting or derogating from section 6 (2), the”,
insert instead “The”.
- (15) Section 28A—
After section 28, insert:

Education Commission (Amendment) 1988

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued***

Delegation

28A. The Secretary may delegate to any person any of the Secretary's functions under this Act, other than this power of delegation.

- 5 (16) Part 2, Division 2, Subdivision 3 (**Functions relating to the provision of education services**) (section 29)—
Omit the Subdivision.
- (17) Part 2, Division 2, Subdivision 4 (**Miscellaneous**) (sections 30–34)—
Omit the Subdivision.
- 10 (18) Part 2, Division 2, Subdivision 5 (**Regulation of exercise of functions**) (sections 35, 36)—
Omit the Subdivision.
- (19) Sections 37 (2), 38 (2), 39 (2), 40 (2), 47 (4), 50 (4), 51 (2), 55 (4), 58 (4), 67 (2), 71A (4), 73 (1)—
- 15 Omit “Commission” wherever occurring, insert instead “Secretary”.
- (20) Sections 46 (2), 54 (2)—
Omit “, with the approval of the Commission,” wherever occurring.
- 20 (21) Section 99—
Omit the section, insert instead:
Making of regulations by the Governor
99. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by Part 2 or
25 Schedule 3 is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to Part 2 or Schedule 3.
- (22) Sections 100 (1) (j), 101 (1) (k)—
Omit “Schedules 1 and 2” wherever occurring, insert instead
30 “Schedule 3”.
- (23) Section 103—
After section 102, insert:
Savings and transitional provisions
103. Schedule 3 has effect.
- 35 (24) Schedule 1 (**Provisions relating to the preservation of rights of the Chairman**)—
Omit the Schedule.

Education Commission (Amendment) 1988

**SCHEDULE 1—AMENDMENTS CONCERNING THE ABOLITION
OF THE EDUCATION COMMISSION—*continued***

(25) Schedule 2 (**Provisions relating to meetings of the Commission**)—
Omit the Schedule.

(26) Schedule 3—

At the end of the Act, insert:

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 103)

PART 1—GENERAL

Definitions

1. In this Schedule—

10 “Commission” means the Education Commission of New South Wales as constituted in accordance with this Act immediately before the relevant commencement;

“relevant commencement” means the commencement of Schedule 1 (7) to the 1988 Act;

15 “the 1988 Act” means the Education Commission (Amendment) Act 1988.

Savings and transitional regulations

2. (1) The regulations made by the Governor may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

20 The 1988 Act.

Miscellaneous Acts (Education Commission) Amendment Act 1988.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

25 (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

30 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—PROVISIONS CONSEQUENT ON THE EDUCATION
COMMISSION (AMENDMENT) ACT 1988**

35 **Abolition of the Commission**

3. On the relevant commencement, the Commission is abolished.

Members of the Commission

4. (1) A person who, immediately before the relevant commencement, held office as a member of the Commission—

40 (a) ceases to hold office as such on that commencement; and

(b) is not entitled to any remuneration or compensation because of the loss of that office.

(2) Nothing in this clause affects any arrangement for the appointment of any such person to a position in the service of the Government.

5 5. On and from the relevant commencement, a reference in any other Act, or in any instrument made under any Act or in any other instrument of any kind, to the Commission, to the Chairman of the Commission or to a member of the Commission shall be read as a reference to the Secretary.

10 6. On and from the relevant commencement, any assets, rights, liabilities or obligations of the Commission shall become assets, rights, liabilities or obligations of the Crown.

15 7. Any agreement between the Commission and an association or organisation made under section 26 and in force immediately before the relevant commencement shall be taken to be, after that commencement, an agreement between the Secretary and the association or organisation made under that section, as amended by the 1988 Act.

20 8. Any determination of conditions of employment under section 25, 47 (4), 50 (4), 55 (4) or 58 (4) made by the Commission and in force immediately before the relevant commencement shall be taken to be, after that commencement, a determination made by the Secretary under the section concerned, as amended by the 1988 Act.

25 9. Any delegation under section 34 made by the Commission and in force immediately before the relevant commencement shall (if the function delegated is exercisable by the Secretary) be taken to be, after that commencement, a delegation made by the Secretary under section 28A, as inserted by the 1988 Act.

10. On the relevant commencement, the Education Commission (Teaching Services Elections) Regulation 1980 is repealed.

35 (Sec. 3)

- Section 41 (5)—

40 (2) Sections 59C, 59D—

**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON
MERIT—*continued***

Omit the sections, insert instead:

Appointment on merit—certain vacancies

5 59C. (1) This section applies to positions of teachers in public schools which are positions of a class declared by the Minister by order published in the Education Gazette to be a class of positions to which this section applies.

(2) If a vacancy in such a position is to be filled, the person appointed to fill the vacancy must be a person who is eligible under section 59D to be considered for the position.

10 (3) Of the eligible persons who apply and are prepared to accept the appointment, the person appointed must be the person whose fitness for the position is greater than that of any other applicant.

15 (4) Despite subsection (3), a person may be appointed to fill such a vacancy on the basis of the person's special fitness for the position.

Eligibility for appointment on merit

20 59D. (1) A person is eligible to be considered for a position under section 59C on the basis of fitness only if—

(a) the person's name is on the promotions list appropriate to the position; or

25 (b) the person is an officer in the Education Teaching Service and the Director-General of Education has determined that the person is, or persons of a class of which that person is a member are, fit for the position.

(2) A person is eligible to be considered for the position on the basis of special fitness only if—

(a) the person's name is on a promotions list (whether or not appropriate to the position); or

30 (b) the person is an officer in the Education Teaching Service and the Director-General of Education has determined that the person is, or persons of a class of which the person is a member are, specially fit for the position.

(3) Section 59F (**Preference for female officers**)—

35 Omit the section.

(4) Section 59G—

Before section 60, insert:

**SCHEDULE 2—AMENDMENTS CONCERNING PROMOTION ON
MERIT—*continued*****Principal of boys' or girls' high school**

5 59G. (1) The person appointed to fill a vacancy in the position of principal of a single sex high school must be a person of that sex unless no person of that sex who is eligible for the position applies for and accepts appointment to the position.

(2) This section applies no matter which provision of this Subdivision the vacancy is filled under.

