

First print



New South Wales

Education Reform Amendment (Board Inspectors) Bill 1997

Explanatory note

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

Overview of Bill

The object of this Bill is to enable Board inspectors to be employed by the Board of Studies otherwise than under Part 2 of the *Public Sector Management Act 1988*.

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 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 Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] amends section 104 of the Act, which deals with staff of the Board of Studies. Currently those members of the Board's staff who are known as Board inspectors are either temporarily employed under section 38 of the *Public Sector Management Act 1988* or seconded under section 41 of that Act. The amendments have the effect of designating Board inspectors as a special class of employees of the Board, whose conditions of employment are to be regulated in accordance with provisions contained in a new Schedule to the Act.

Schedule 1 [2] amends section 105 of the Act to replace a reference to a particular officer. The reference is outdated owing to administrative changes since the enactment of the Act.

Schedule 1 [3] inserts a new Schedule 1A into the Act, which describes the general nature of the conditions of employment of Board inspectors. They will remain public sector employees, and their conditions of employment will in many respects resemble those of officers of the Public Service. Their salary, wages and other conditions, to the extent that they are not determined by a State industrial instrument or otherwise by law, may be fixed by the Department Head of the Office of the Board.

Schedule 1 [4] amends Schedule 3 to the Act to enable the making of any necessary regulations of a savings or transitional nature in consequence of the enactment of the Bill.

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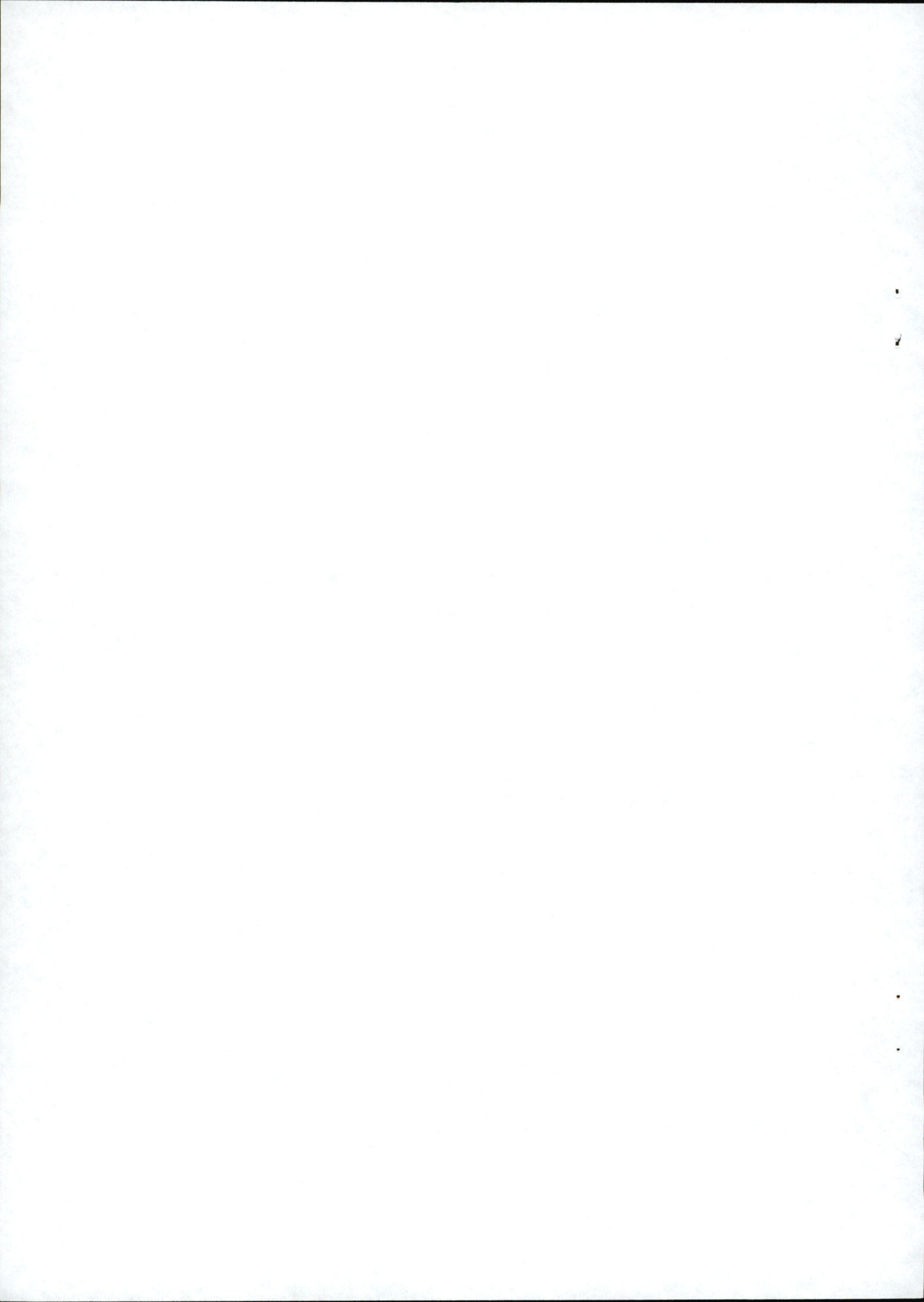


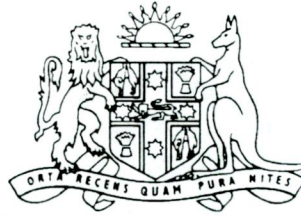
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Education Reform Amendment (Board Inspectors) Bill 1997

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New South Wales

Education Reform Amendment (Board Inspectors) Bill 1997

No. , 1997

A Bill for

An Act to amend the *Education Reform Act 1990* with respect to the employment of Board of Studies inspectors.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Education Reform Amendment (Board Inspectors) Act 1997*.

2 Commencement

5

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

3 Amendment of Education Reform Act 1990 No 8

The *Education Reform Act 1990* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 104 Staff of the Board

Omit section 104 (1). Insert instead:

- (1) The Board may employ temporarily such persons, to be known as Board inspectors, as it requires: 5
 - (a) to be primarily responsible, under the direction of the Board, for leading statewide developments in school curriculum, and
 - (b) to exercise such functions as the Board may specify in connection with approvals and registrations under Part 7 or accreditations under Part 8, and 10
 - (c) to exercise such other functions as may be conferred on Board inspectors by this Act or as the Board may determine. 15

Schedule 1A has effect with respect to the employment of Board inspectors in accordance with this subsection.

- (1A) Such other staff as may be necessary to enable the Board to exercise its functions are to be employed under Part 2 of the *Public Sector Management Act 1988*. 20

[2] Section 105 Casual staff

Omit "the Executive Director of the Ministry of Education and Youth Affairs" from section 105 (2) (a).

Insert instead "the Department Head of the Office of the Board". 25

[3] Schedule 1A

Insert after Schedule 1:

Schedule 1A Board inspectors

(Section 104)

1 Application of this Schedule 5

This Schedule applies to Board inspectors employed temporarily in accordance with section 104 (1), but not to persons exercising any of the functions of Board inspectors in accordance with section 104 (3).

2 Board inspectors are public sector employees 10

Board inspectors are public sector employees for the purposes of the *Industrial Relations Act 1996* or any other Act.

3 Employment to be temporary

(1) A person may be employed as a Board inspector for a period of up to 5 years determined by the Board, and is eligible (if otherwise qualified) for re-employment for a further such period or periods. 15

(2) The Board may dispense with the services of a Board inspector at any time. 20

4 Conditions of employment

(1) Except as otherwise determined by or under a State industrial instrument or any other Act or law, a Board inspector has the same conditions of employment regarding: 25

(a) rates and conditions of payment of allowances, and

(b) leave (including extended or long service leave) entitlements, and

(c) public holidays, and 30

(d) attendance at, fitness for and absences from work, as officers of the Public Service, and for that purpose, Schedule 5 to the *Public Sector Management Act 1988*,

and the provisions of any regulations made under that Act in connection with any of those matters, apply (with any necessary modifications) to the employment of Board inspectors.

- (2) The salary, wages and other conditions of employment of Board inspectors, in so far as they are not fixed by or under this Act, a State industrial instrument or any other Act or law, are to be determined by the Department Head of the Office of the Board. 5

5 Appointments to be on merit 10

- (1) The basis of selection procedures in connection with employment as a Board inspector is to be the respective merits of applicants for such employment.

- (2) The merit of an applicant is to be determined having regard to: 15

- (a) the nature of the duties of a Board inspector, and
(b) abilities, qualifications, experience, standard of work performance and personal qualities of the applicant that are relevant to the performance of those duties. 20

6 Legal proceedings not to be brought in respect of employment or re-employment of Board inspectors

- (1) A decision to employ or a failure to employ a person as a Board inspector, and any matter, question or dispute relating to such a decision or failure, are not industrial matters for the purposes of the *Industrial Relations Act 1996*. 25

- (2) No proceedings, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of any decision to employ or any failure to employ a person as a Board inspector, the entitlement or non-entitlement of a person to be so employed or the validity or invalidity of any such employment. 30

Education Reform Amendment (Board Inspectors) Bill 1997

Schedule 1 Amendments

- (3) Subclause (2) does not affect the operation of the *Government and Related Employees Appeal Tribunal Act 1980*.
- (4) In this clause, *employment* includes re-employment.

[4] Schedule 3 Savings, transitional and other provisions

5

Insert at the end of clause 2 (1):

*Education Reform Amendment (Board Inspectors) Act
1997*

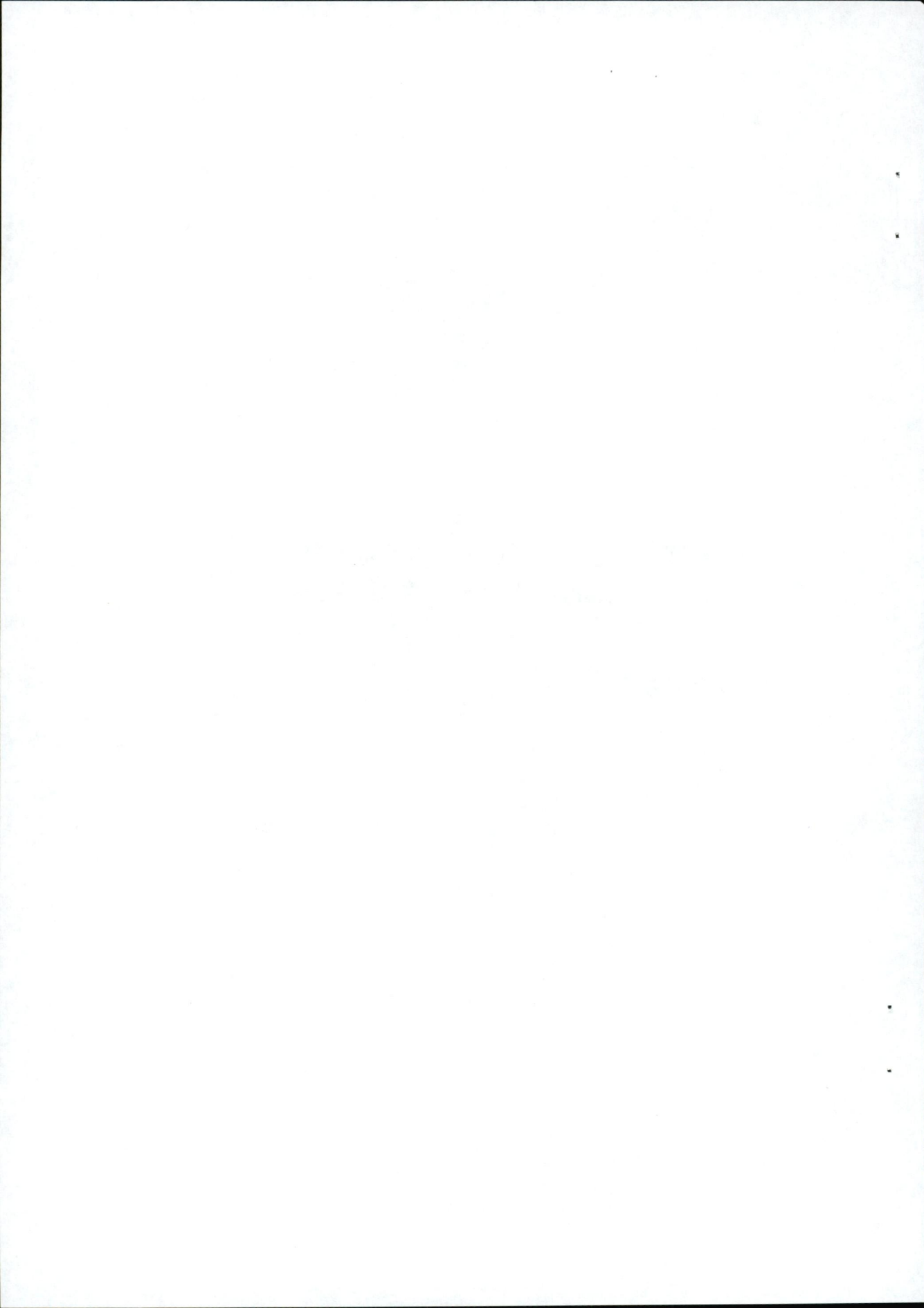


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New South Wales

Education Reform Amendment (Board Inspectors) Act 1997 No 7

Act No 7, 1997

An Act to amend the *Education Reform Act 1990* with respect to the employment of Board of Studies inspectors. [Assented to 20 May 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Education Reform Amendment (Board Inspectors) Act 1997*.

2 Commencement

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

3 Amendment of Education Reform Act 1990 No 8

The *Education Reform Act 1990* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 104 Staff of the Board

Omit section 104 (1). Insert instead:

- (1) The Board may employ temporarily such persons, to be known as Board inspectors, as it requires:
 - (a) to be primarily responsible, under the direction of the Board, for leading statewide developments in school curriculum, and
 - (b) to exercise such functions as the Board may specify in connection with approvals and registrations under Part 7 or accreditations under Part 8, and
 - (c) to exercise such other functions as may be conferred on Board inspectors by this Act or as the Board may determine.

Schedule 1A has effect with respect to the employment of Board inspectors in accordance with this subsection.

- (1A) Such other staff as may be necessary to enable the Board to exercise its functions are to be employed under Part 2 of the *Public Sector Management Act 1988*.

[2] Section 105 Casual staff

Omit "the Executive Director of the Ministry of Education and Youth Affairs" from section 105 (2) (a).

Insert instead "the Department Head of the Office of the Board".

[3] Schedule 1A

Insert after Schedule 1:

Schedule 1A Board inspectors

(Section 104)

1 Application of this Schedule

This Schedule applies to Board inspectors employed temporarily in accordance with section 104 (1), but not to persons exercising any of the functions of Board inspectors in accordance with section 104 (3).

2 Board inspectors are public sector employees

Board inspectors are public sector employees for the purposes of the *Industrial Relations Act 1996* or any other Act.

3 Employment to be temporary

- (1) A person may be employed as a Board inspector for a period of up to 5 years determined by the Board, and is eligible (if otherwise qualified) for re-employment for a further such period or periods.
- (2) The Board may dispense with the services of a Board inspector at any time.

4 Conditions of employment

- (1) Except as otherwise determined by or under a State industrial instrument or any other Act or law, a Board inspector has the same conditions of employment regarding:
 - (a) rates and conditions of payment of allowances, and
 - (b) leave (including extended or long service leave) entitlements, and
 - (c) public holidays, and
 - (d) attendance at, fitness for and absences from work, as officers of the Public Service, and for that purpose, Schedule 5 to the *Public Sector Management Act 1988*,

and the provisions of any regulations made under that Act in connection with any of those matters, apply (with any necessary modifications) to the employment of Board inspectors.

- (2) The salary, wages and other conditions of employment of Board inspectors, in so far as they are not fixed by or under this Act, a State industrial instrument or any other Act or law, are to be determined by the Department Head of the Office of the Board.

5 Appointments to be on merit

- (1) The basis of selection procedures in connection with employment as a Board inspector is to be the respective merits of applicants for such employment.
- (2) The merit of an applicant is to be determined having regard to:
 - (a) the nature of the duties of a Board inspector, and
 - (b) abilities, qualifications, experience, standard of work performance and personal qualities of the applicant that are relevant to the performance of those duties.

6 Legal proceedings not to be brought in respect of employment or re-employment of Board inspectors

- (1) A decision to employ or a failure to employ a person as a Board inspector, and any matter, question or dispute relating to such a decision or failure, are not industrial matters for the purposes of the *Industrial Relations Act 1996*.
- (2) No proceedings, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of any decision to employ or any failure to employ a person as a Board inspector, the entitlement or non-entitlement of a person to be so employed or the validity or invalidity of any such employment.

- (3) Subclause (2) does not affect the operation of the *Government and Related Employees Appeal Tribunal Act 1980*.
- (4) In this clause, *employment* includes re-employment.

[4] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

*Education Reform Amendment (Board Inspectors) Act
1997*

[Minister's second reading speech made in—
Legislative Assembly on 16 April 1997
Legislative Council on 7 May 1997]

BY AUTHORITY