

EDUCATION REFORM BILL 1990*

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to reform the law relating to the education of school children. The Bill includes the reforms contained in the recent white paper on curriculum reform in New South Wales schools and the major reforms recommended by the Committee of Review of New South Wales Schools (the Carrick Report).

The Bill repeals the Education and Public Instruction Act 1987 and provides a new legislative framework relating to the education of school children.

The Bill:

- (a) sets out the school curriculum for primary and secondary education, including a minimum curriculum for children of compulsory school-age for the purposes of school registration and the curriculum for School Certificate and Higher School Certificate candidates;
- (b) provides for curriculum requirements to be based on the selection of courses from key areas of learning to ensure a more balanced and diverse curriculum;
- (c) provides for a regular testing of students' skills;
establishes a Board of Studies (to replace the present Board of Secondary Education) with responsibilities for primary as well as secondary school education;
- (d) retains the School Certificate and expressly requires the requisite examination or other assessment to be moderated on a State-wide basis and for results to be recorded using a common scale;
- (e) retains the Higher School Certificate and expressly requires a public examination conducted on a State-wide basis;
- (f) contains provisions for the establishment and operation of government schools and gives parents a wider choice in the selection of schools for their children;

* Amended in committee - see table at end of volume.

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- (h) requires government as well as non-government schools to be registered by the Minister and requires any such schools presenting candidates for the School or Higher School Certificate to be accredited separately by the Board of Studies;
- (i) provides that government and non-government schools are required to meet the same standards for registration and accreditation;
- (j) enables the formation of systems of schools which will monitor compliance of the schools in the system with the registration and accreditation requirements of the proposed Act;
- (k) enables parents to register their children for home schooling;
- (l) provides for financial and other assistance in respect of non-government school children;
- (m) provides for assistance in respect of government school children with special needs;
- (n) continues the provisions for the compulsory schooling of children between 6 and 15 years of age; and
- (o) contains other related and ancillary provisions.

PART 1 - PRELIMINARY

Part 1 (cll. 1 - 3) contains provisions relating to the citation and commencement of the proposed Act and defines expressions used in the proposed Act.

PART 2 - OBJECTS OF ACT

Part 2 (cll. 4 - 6) sets out the principles and objects of the proposed Act, including:

- * the right of every child to receive an education
- * that the principal responsibility of the State in the education of children is the provision of public education.

PART 3 - THE SCHOOL CURRICULUM

This Part is divided into 3 Divisions.

Division 1 (cll. 7 and 8) deals with primary education. Clause 7 specifies the 6 key learning areas for primary education. Clause 8 specifies the requirements that the curriculum for primary school children must meet (e.g. courses of study in each of the 6 key learning areas are to be provided). Those requirements constitute the minimum curriculum for registration of primary schools.

Division 2 (cll. 9 - 12) deals with secondary education. Clause 9 specifies the 8 key learning areas for secondary education. Clause 10 specifies the minimum curriculum for registration of secondary schools. Clause 11 specifies the curriculum for School Certificate candidates, which includes courses of study in each of the 8 key learning areas. Clause 12 specifies the curriculum for Higher School Certificate candidates, which includes courses of study in at least 3 key learning areas (including English and at least one Maths/Science/Technology based subject and at least one Humanities

based subject). Courses of study in a key learning area are required (in the case of the School Certificate and Higher School Certificate curriculum) to be taught in accordance with a syllabus developed or endorsed by the Board of Studies and approved by the Minister.

Division 3 (cll. 13 - 18) deals with general matters in relation to the school curriculum. In particular, clause 13 deals with the general description of courses of study, clauses 14 and 15 deal with syllabuses, clause 17 enables the Minister to determine additional curriculum requirements for government schools and clause 18 enables the Minister to arrange for basic skills testing in government schools and certain other schools.

PART 4 - THE MINISTER'S FUNCTIONS

Part 4 (cll. 19 - 21) contains provisions relating to the functions of the Minister. Clause 19 specifies the Minister's general functions, including functions in connection with the school curriculum, establishing government schools, registration of schools, the recognised certificates and educational audits and program reviews. Clause 20 authorises the Minister to provide or arrange special or additional assistance for government school children with special needs. Clause 21 provides for financial or other assistance to non-government school children. Financial assistance is to be based (from a proclaimed date) on 25% of the assessed cost of educating government school children and the needs of the school concerned.

PART 5 - ATTENDANCE OF CHILDREN AT SCHOOL

Part 5 (cll. 22 - 26) provides for the compulsory attendance at school by a child of or above the age of 6 and below the age of 15. The duty lies on the parent of the child and a penalty (\$1,000) is provided for a failure to observe this duty. Clause 24 makes it compulsory for registered schools to keep a register of enrolments and attendances. Clause 25 allows the Minister to exempt children from attendance at school in appropriate cases. Clause 26 enables the parent of a child in a non-government school to seek exemption from attendance at classes to which the parent has a conscientious objection on religious grounds.

PART 6 - GOVERNMENT SCHOOLS

Part 6 (cll. 27 - 36) deals with the establishment, closure and operation of government schools. In particular, clauses 27, 28 and 29 empower the Minister to establish, name and close government schools and set out the kinds of government schools that may be established. Clause 30 provides that education in government schools is to be non-sectarian and clause 31 provides that the instruction provided there is to be free of charge. Clause 32 regulates religious education in government schools and clause 33 provides for the exemption of children from religious education. Clause 34 enables a child to be enrolled at the government school of the parent's choice if the child is eligible to attend the school and the school can accommodate the child. If not, the child is entitled to be enrolled at the designated school for the relevant intake area. Clause 35 gives the Minister power to control and regulate student discipline in government schools. Clause 36 enables the regulations

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to provide for the establishment and functions of school councils at government schools.

PART 7 - REGISTRATION OF SCHOOLS AND OF CHILDREN FOR HOME SCHOOLING

This Part is divided into 6 Divisions.

Division 1 (cll. 37 - 45) contains provisions relating to the formation of systems of schools with the approval of the Minister. Government schools are to form a single system.

Division 2 (cll. 46 - 53) contains provisions relating to the registration requirements for schools and the determination by the Minister of applications for registration of non-government schools on the advice of the Board of Studies.

Division 3 (cll. 54 - 63) contains provisions relating to continuing registration. In particular, clause 54 provides for school inspections by Board inspectors, clause 55 requires the Board to recommend to the Minister whether or not a registration should be renewed and clause 59 enables the Minister, on the Board's recommendation, to cancel the registration of a school.

Division 4 (cll. 64 - 69) contains general provisions in relation to registration. In particular, clause 65 prohibits a person from conducting an unregistered school and clause 69 requires a school to furnish returns about the requirements for registration.

Division 5 (cll. 70 - 74) enables a parent of a child to apply to the Minister for registration of the child for home schooling (i.e. schooling in the child's home). The child is required to receive instruction which meets the relevant requirements of Part 3 relating to minimum curriculum for the registration of schools.

Division 6 (cll. 75 - 83) contains provisions relating to conscientious objections to registration. In particular, clause 78 enables the Minister to issue a certificate of exemption to a school from the requirement to be registered under the proposed Act and to a parent from the requirement to have a child registered for home schooling.

PART 8 - CERTIFICATES OF STUDY

This Part is divided into 2 Divisions.

Division 1 (cll. 84 - 93) deals with accreditation of government and non-government schools for the purposes of presenting candidates for the School and Higher School Certificates. Accreditation is to be granted by the Board or, in the case of a dispute, by the Minister.

Division 2 (cll. 94 - 98) contains provisions relating to the School Certificate and the Higher School Certificate. In particular, clauses 94 and 95 set out the requirements for the certificates (including a State-wide moderator for the School Certificate and a State-wide public examination for the Higher School Certificate) and provide for the granting of the certificates by the Board, clause 96 makes provision for candidates affected by illness or misadventure, clause 97 requires the Board to reconsider certain of its decisions on the request of the persons affected by

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them and clause 98 requires the Board to issue a record of achievement to certain students in Years 10, 11 and 12.

PART 9 - THE BOARD OF STUDIES

Part 9 (cll. 99 - 106) constitutes the Board of Studies and provides that it is to consist of 17 members (the President, 3 ex-officio and 13 appointed by the Minister). Of the appointed members, 9 are to be persons nominated by various bodies which represent certain interests. Clause 102 specifies the functions of the Board, which include providing advice and making recommendations to the Minister about the registration of schools, developing or endorsing syllabuses, preparing curriculum support material, determining courses of study and granting the recognised certificates. Other provisions are as follows:

- * clause 103 which enables the Board to appoint committees to assist the Board in its functions
- * clause 104 which provides that Board inspectors and other staff are to be employed under the Public Sector Management Act 1988
- * clause 105 which enables the Board to employ casual staff for certain purposes (such as marking examinations)
- * clause 106 which requires the Board to report to the Minister on its activities.

PART 10 - SCHOOLS APPEALS TRIBUNAL

Part 10 (cll. 107 - 113) provides for a Schools Appeals Tribunal before which appeals may be brought against certain decisions and recommendations of the Board and others concerning registration and accreditation of schools etc.

The Part also deals with the manner for making an appeal and requires the Tribunal to state its reasons for making a decision in respect of an appeal.

PART 11 - PARENTS AND CITIZENS AND KINDRED ASSOCIATIONS

Part 11 (cll. 114 - 117) provides for the constitution of parents and citizens and kindred associations and district councils, specifies the objects and functions of the associations and councils and enables the associations and councils to make rules (to be approved by the Minister) for the conduct of their business and affairs.

PART 12 - MISCELLANEOUS

Part 12 (cll. 118 - 135) contains miscellaneous provisions, including provisions relating to the public inspection of registers kept under the proposed Act, delegations by the Minister, liability of members of the Board, evidentiary matters, proceedings for offences and regulation-making powers. Other provisions include:

- * clause 122 enables authorised attendance officers to investigate the case of any child apparently of school age who is not at school

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- * clause 125 provides for the acquisition of land by the Minister for educational and certain other purposes and enables the disposal of land
- * clause 128 provides for the establishment of scholarships attached to government schools
- * clause 132 amends the Children (Care and Protection) Act 1987 to enable care applications and orders to be made under that Act concerning children who fail (not through any parental default or neglect) to attend school regularly
- * clause 134 repeals the Education and Public Instruction Act 1987 and certain other legislation.

SCHEDULES

Schedule 1 contains provisions relating to the members and procedure of the Board of Studies.

Schedule 2 contains provisions relating to the members and procedure of the Schools Appeals Tribunal.

Schedule 3 contains savings, transitional and other provisions. In particular, the Board of Secondary Education constituted under the Education and Public Instruction Act 1987 is dissolved.
