

**MISCELLANEOUS ACTS (EDUCATION AND PUBLIC
INSTRUCTION) REPEAL AND AMENDMENT ACT 1987**
No. 63

NEW SOUTH WALES



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**MISCELLANEOUS ACTS (EDUCATION AND PUBLIC
INSTRUCTION) REPEAL AND AMENDMENT ACT 1987 No. 63**

NEW SOUTH WALES



Act No. 63, 1987

An Act to repeal certain Acts in whole or in part and to amend certain other Acts, consequent on the enactment of the Education and Public Instruction Act 1987, and to enact savings and transitional provisions consequent on and in connection with the enactment of that Act. [Assented to 3 June 1987]

*Miscellaneous Acts (Education and Public Instruction) Repeal and
Amendment 1987*

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 "Miscellaneous Acts (Education and Public Instruction) Repeal and 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 the day appointed and notified under section 2 (2) of the Education and Public Instruction Act 1987.

Repeals

3. Each Act specified in Schedule 1 is, to the extent indicated in that Schedule, repealed.

Amendment of certain Acts

4. Each Act specified in Schedule 2 is amended in the manner set forth in that Schedule.

Savings and transitional provisions

5. Schedule 3 has effect.

SCHEDULE 1

(Sec. 3)

REPEALS

Public Instruction Act 1880, 43 Vic. No. 23—the whole Act

Free Education Act 1906 No. 12—the whole Act

Public Instruction (Amendment) Act 1916 No. 51—the whole Act

Public Instruction (Amendment) Act 1917 No. 20—the whole Act

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SCHEDULE 1—*continued*

REPEALS—*continued*

- Statute Law Revision Act 1937 No. 35—so much of the Second Schedule as amends Act 43 Vic. No. 23 and Act No. 51, 1916
- Child Welfare Act 1939 No. 17—section 177
- Child Welfare (Amendment) Act 1956 No. 9—section 3
- Deserted Wives and Children (Amendment) Act 1960 No. 21—section 4
- Education Act 1961 No. 47—the whole Act
- Youth and Community Services Act 1973 No. 90—so much of the Schedule as amends Act No. 51, 1916
- Metric Conversion Act 1974 No. 51—Items Nos. 539 and 540 of the Schedule
- Technical and Further Education Act 1974 No. 72—so much of Schedule 2 as amends Act No. 47, 1961
- Children (Equality of Status) Act 1976 No. 97—so much of Schedule 1 as amends Act No. 51, 1916
- Public Service Act 1979 No. 89—so much of Schedule 5 as amends Act 43 Vic. No. 23
- Miscellaneous Acts (Planning) Repeal and Amendment Act 1979 No. 205—so much of Part 1 of Schedule 2 as amends Act 43 Vic. No. 23
- Miscellaneous Acts (Education Commission) Repeal and Amendment Act 1980 No. 24—so much of Schedule 2 as amends Act 43 Vic. No. 23 and Act No. 47, 1961
- Public Instruction (Community Welfare) Amendment Act 1982 No. 90—the whole Act
- Statute Law (Miscellaneous Provisions) Act 1985 No. 231—so much of Schedule 31 as amends Act 43 Vic. No. 23

SCHEDULE 2

(Sec. 4)

AMENDMENT OF CERTAIN ACTS

Anti-Discrimination Act 1977 No. 48—

Section 4 (1), definition of “private educational authority”—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

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Amendment 1987*

SCHEDULE 2—*continued*
AMENDMENT OF CERTAIN ACTS—*continued*

Broken Hill Water and Sewerage Act 1938 No. 20—

Section 76 (1) (i)—

Omit “Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916”, insert instead “Education and Public Instruction Act 1987”.

Bursary Endowment Act 1912 No. 14—

(1) Sections 4 (1) (a) (iii), 7 (1)—

Omit “this Act” wherever occurring, insert instead “the Education and Public Instruction Act 1987”.

(2) Section 11 (1) (a), (b)—

Omit the paragraphs.

Child Welfare Act 1939 No. 17—

(1) Section 4 (2)—

Omit the subsection.

(2) Sections 23 (4)—(7), 27C (1)—

Omit “school leaving age” wherever occurring, insert instead “age of 15 years”.

(3) Section 28 (3) (a)—

Omit the paragraph, insert instead:

- (a) a State school established under the Education and Public Instruction Act 1987 or a school registered under that Act;

Community Welfare Act 1982 No. 76—

(1) Section 4 (1)—

(a) Definition of “exempt premises”—

Omit paragraph (a), insert instead:

- (a) a State school established under the Education and Public Instruction Act 1987 or a school registered under that Act;

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Amendment 1987*

SCHEDULE 2—*continued*
AMENDMENT OF CERTAIN ACTS—*continued*

(b) Definition of “school leaving age”—

Omit the definition, insert instead:

“school leaving age” means the age of 15 years;

(2) Section 44 (1)—

(a) Definitions of “certified school”, “certified special school”, “special school”—

Omit the definitions.

(b) Definition of “State school”—

Omit the definition, insert instead:

“State school” means a State school established under the Education and Public Instruction Act 1987.

(3) Section 55 (1)—

Omit the subsection, insert instead:

(1) In this section, “school” means a State school established under the Education and Public Instruction Act 1987 or a school registered under that Act.

(4) Section 58—

Omit the section.

(5) Section 80 (1) (c) (v)—

Omit “school leaving age applicable to him”, insert instead “age of 15 years”.

Dog Act 1966 No. 2—

Section 9 (1), definition of “schoolground”—

Omit “Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916”, insert instead “Education and Public Instruction Act 1987”.

Dormant Funds Act 1942 No. 25—

Section 5 (4) (b)—

Omit “Public Instruction Act of 1880, as amended by subsequent Acts”, insert instead “Education and Public Instruction Act 1987”.

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Amendment 1987*

SCHEDULE 2—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

Drug and Alcohol Authority Act 1980 No. 82—

Section 6 (2) (c)—

Omit “Education Act 1961”, insert instead “Education and Public Instruction Act 1987”.

Education Commission Act 1980 No. 23—

(1) Section 4 (1), definition of “public school”—

Omit the definition, insert instead:

“public school” means a school established as a State school under the Education and Public Instruction Act 1987;

(2) Section 29 (1)—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

(3) Section 36 (1)—

Omit “the Secondary Schools Board, the Board of Senior School Studies”, insert instead “the Board of Secondary Education”.

Factories, Shops and Industries Act 1962 No. 43—

(1) Section 9 (1), definition of “Child”—

Omit “school leaving age”, insert instead “age of 15”.

(2) Section 9 (2)—

Omit the subsection.

Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 No. 50—

Section 2, definition of “association”—

Omit the definition, insert instead:

“association” means a parents and citizens association, or a district council, established or constituted under the Education and Public Instruction Act 1987 or any Act repealed in consequence of the enactment of that Act;

Geographical Names Act 1966 No. 13—

Section 2, definition of “Place”—

(a) Omit “, railway station or school”, insert instead “or railway station”.

(b) Omit “as amended by subsequent Acts,” wherever occurring.

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Amendment 1987*

SCHEDULE 2—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

(c) After "1912," insert "any school".

Inclosed Lands Protection Act 1901 No. 33—

(1) Section 3—

(a) Definition of "Inclosed lands"—

Omit the definition, insert instead:

"Inclosed lands" means—

(a) a school; or

(b) any land, either public or private, inclosed or surrounded by any fence, wall or other erection, or partly by a fence, wall or other erection and partly by a canal or by some natural feature such as a river or cliff by which its boundaries may be known or recognised, including the whole or part of any building or structure and any land occupied or used in connection with the whole or part of any building or structure.

(b) Definition of "School"—

After the definition of "Road", insert:

"School" means any land occupied or used in connection with—

(a) a State school established under the Education and Public Instruction Act 1987; or

(b) a school registered under that Act,

and any building or structure erected on any such land, but does not include any building or structure or any part of any building or structure that is for the time being occupied or used for a purpose unconnected with the conduct of the school.

(2) Section 3(2)—

At the end of section 3, insert:

2 Where a road is lawfully inclosed with the lands of any person, those lands but not the road, shall be deemed for the purposes of this Act to be the inclosed lands of the person

Intoxicated Persons Act 1979 No. 67—

Section 3 (1) definition of "school"—

Omit "Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916," insert instead "Education and Public Instruction Act 1987".

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Amendment 1987*

SCHEDULE 2—*continued*
AMENDMENT OF CERTAIN ACTS—*continued*

Land Tax Management Act 1956 No. 26—

Section 10 (1) (g) (ii)—

Omit “section 10 of the Public Instruction (Amendment) Act, 1916, as amended by subsequent Acts”, insert instead “the Education and Public Instruction Act 1987”.

Local Government Act 1919 No. 41—

Sections 132 (1) (j), 379 (4B) (b)—

Omit “Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916” wherever occurring, insert instead “Education and Public Instruction Act 1987”.

Macquarie University Act 1964 No. 29—

Section 31 (1) (a)—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

Metropolitan Water, Sewerage, and Drainage Act 1924 No. 50—

Section 88 (1) (k)—

Omit “Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916,” insert instead “Education and Public Instruction Act 1987”.

Offences in Public Places Act 1979 No. 63—

Section 4 (1), definition of “school”—

Omit “Bursary Endowment Act, 1912, or any certified school under the Public Instruction (Amendment) Act, 1916,” insert instead “Education and Public Instruction Act 1987”.

School Forest Areas Act 1936 No. 20—

Section 2 (1), definition of “School”—

Omit the definition, insert instead:

“School” means a State school established under the Education and Public Instruction Act 1987.

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Amendment 1987*

SCHEDULE 2—*continued*
AMENDMENT OF CERTAIN ACTS—*continued*

Search Warrants Act 1985 No. 37—

Section 10, definition of “search warrant”—

Insert (in appropriate alphabetical order):

section 41 of the Education and Public Instruction Act 1987;

Teacher Housing Authority Act 1975 No. 27—

Sections 4, definition of “Minister for Education”, 19 (3) (a), 20 (1) (a)—

Omit “Public Instruction Act of 1880” wherever occurring, insert instead “Education and Public Instruction Act 1987”.

Technical and Further Education Act 1974 No. 72—

Section 22 (b) (ii)—

Omit “certified under the Public Instruction (Amendment) Act, 1916”, insert instead “registered under the Education and Public Instruction Act 1987”.

University and University Colleges Act 1900 No. 22—

(1) Section 3, definition of “Higher School Certificate”—

Omit the definition, insert instead:

“Higher School Certificate” means a higher school certificate granted under the Education and Public Instruction Act 1987 or any Act repealed in consequence of the enactment of that Act.

(2) Section 31B—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

University of Newcastle Act 1964 No. 72—

Section 32 (1)—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

University of New England Act 1953 No. 34—

Section 33 (1)—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

*Miscellaneous Acts (Education and Public Instruction) Repeal and
Amendment 1987*

SCHEDULE 2—*continued*
AMENDMENT OF CERTAIN ACTS—*continued*

University of Wollongong Act 1972 No. 72—

Section 37 (1) (a)—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

Voluntary Workers (Soldiers’ Holdings) Act 1917 No. 25—

Section 11—

Omit “Public Instruction Act of 1880”, insert instead “Education and Public Instruction Act 1987”.

SCHEDULE 3

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2) of the Principal Act;

“Principal Act” means the Education and Public Instruction Act 1987;

“the 1880 Act” means the Public Instruction Act 1880;

“the 1916 Act” means the Public Instruction (Amendment) Act 1916;

“the 1961 Act” means the Education Act 1961.

State schools

2. A public school established under the 1880 Act (including a special school referred to in section 7A of the 1916 Act) and in existence immediately before the appointed day shall be deemed to be a State school established under the Principal Act.

Registered schools

3. (1) A primary school which, immediately before the appointed day, was certified under Part III of the 1916 Act shall be deemed to be registered, under and subject to the Principal Act, until the expiration of the period for which it was so certified.

*Miscellaneous Acts (Education and Public Instruction) Repeal and
Amendment 1987*

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(2) A secondary school which, immediately before the appointed day, was certified under Part III of the 1916 Act and registered under Part III of the 1961 Act shall be deemed to be registered, under and subject to the Principal Act, until the expiration of the period for which it was so certified and registered.

(3) A secondary school which, immediately before the appointed day, was certified under Part III of the 1916 Act but not registered under Part III of the 1961 Act may, under and subject to the Principal Act, continue to be conducted until the expiration of the period for which it was so certified or for a period of 18 months commencing on the appointed day, whichever is the longer, and shall, for the purposes only of section 21 (1) of the Principal Act, be deemed to be registered under Part 4 of the Principal Act.

(4) In this clause, "school" includes a part of a school.

Certificate of exemption

4. A certificate granted under section 6 of the 1916 Act and in force immediately before the appointed day shall be deemed to be a certificate granted under and subject to section 6 of the Principal Act.

Register of attendances

5. (1) A register kept for the purposes of section 5 of the 1916 Act shall be deemed to be a register kept for the purposes of section 5 of the Principal Act and shall be maintained accordingly.

(2) A notice filed under section 13 of the 1916 Act shall be kept as part of the register.

Delegations

6. Nothing in this Act affects the validity or operation, on and after the appointed day, of a delegation under section 3A of the 1916 Act in force immediately before the appointed day.

Associations and councils

7. (1) A parents and citizens association or kindred association established under the 1880 Act, or a district council so established, that was in existence immediately before the appointed day shall be deemed to be a parents and citizens association or kindred association, or a district council, constituted under the Principal Act.

(2) Rules made by any such association or council and in force immediately before the appointed day shall continue in force and shall be deemed to have been made under the Principal Act.

*Miscellaneous Acts (Education and Public Instruction) Repeal and
Amendment 1987*

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

Construction of certain references

8. On and from the appointed day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before the appointed day) to—

- (a) a public school;
- (b) a certified school under the 1916 Act or a school registered under the Bursary Endowment Act 1912;
- (c) the Secondary Schools Board or the Board of Senior School Studies; or
- (d) the school leaving age,

shall be read as a reference to—

- (e) a State school established under the Principal Act;
- (f) a school registered under the Principal Act;
- (g) the Board of Secondary Education constituted under the Principal Act; and
- (h) the age of 15,

respectively.

School certificates in 1987

9. Even though the 1961 Act is repealed by this Act, the Board of Secondary Education may, if it thinks fit, grant school certificates in 1987, and shall for that purpose be empowered to exercise the same powers, authorities and functions, and be bound by the same duties, as pertained to the granting of such certificates immediately before the appointed day by virtue of the 1961 Act and any rules and regulations under that Act.

Regulations

10. (1) Regulations under the Principal Act may contain provisions of a savings or transitional nature consequent on the enactment of this Act and the Principal Act.

(2) A provision made in accordance with this clause may, if the regulations under the Principal Act so provide, take effect as from the appointed day 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 that publication; or

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SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (b) to impose a liability 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 that publication.
- (4) Such a provision may, if the regulations under the Principal Act so provide, have effect notwithstanding any of the preceding clauses of this Schedule.