

EDUCATION AND PUBLIC INSTRUCTION ACT 1987 No. 62

NEW SOUTH WALES



Act No. 62, 1987

An Act to provide for education in State schools; to provide for the registration of other schools; to provide for the granting of certificates of secondary education and higher school certificates; to constitute a Board of Secondary Education and to define its functions; and for other purposes. [Assented to 3 June 1987]

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See also Miscellaneous Acts (Education and Public Instruction) Repeal and Amendment Act 1987.

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“proprietor”, in relation to a registered school, means the person designated, in the school’s certificate of registration, as the proprietor of the school;

“registered school” means a school for the time being registered under Part 4;

“regulations” means regulations under this Act;

“secondary certificate” means a certificate of secondary education, or a higher school certificate, granted under Part 6;

“State school” means a school established under this Act by the Minister.

(2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## PART 2

## ATTENDANCE OF CHILDREN AT SCHOOL

**Compulsory attendance**

4. (1) It is the duty of the parent, guardian or other person having the custody or care of a child of or above the age of 6 and below the age of 15 to cause the child—

(a) to be enrolled at a State school or registered school; and

(b) to attend the school on each day on which instruction for the child is provided by the school.

(2) A person who, being the parent or guardian of a child of or above the age of 6 and below the age of 15, or having the custody or care of such a child—

(a) neglects or fails to cause the child to be enrolled at a State school or registered school; or

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- (b) neglects or fails to cause the child to attend, at all times when the school is open for the child's instruction or participation in school activities, the State school or registered school at which the child is enrolled,
- is guilty of an offence and liable to a penalty not exceeding \$1,000.
- (3) It is a defence to a prosecution under this section if—
- (a) the child is enrolled at, and regularly attends, in accordance with the law of another State or a Territory of the Commonwealth, a school in the other State or Territory;
  - (b) the child has been expelled from a State school or cannot gain admission to any State school within the State; or
  - (c) a certificate under section 6 has been granted in respect of the child and any conditions for the time being attached to the certificate are complied with.
- (4) It is also a defence to a prosecution under this section for a neglect or failure to cause a child to attend a State school or registered school if—
- (a) the child is enrolled at a State school that is a correspondence school and satisfies the requirements (if any) prescribed with respect to performance of school work;
  - (b) the child was prevented from attending school by—
    - (i) sickness, danger of infection or temporary or permanent infirmity; or
    - (ii) some misadventure or unforeseen event,
 and within 7 days of the occurrence of that sickness, danger or infirmity, or of that misadventure or unforeseen event, the defendant gave notice of it to the child's teacher;
  - (c) at all material times the child attended a school which the defendant reasonably believed to be a State school or a registered school whose registration was appropriate for the education of the child;
  - (d) the child has not been absent—
    - (i) on more than 6 occasions; or
    - (ii) for more than 3 days,
 during the 3 months during which the school had been open immediately preceding the absence complained of; or

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(2) A certificate under this section may be given subject to conditions and may be limited in its operation to a period specified in the certificate.

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PART 3

STATE SCHOOLS

**Kinds of State schools**

7. State schools shall be of 3 main kinds, namely:
- (a) primary schools, in which the main object shall be to afford the best primary education to all children without sectarian or class distinction;
  - (b) secondary schools, in which courses of study beyond the primary level, without sectarian or class distinction, shall be given;
  - (c) composite schools, in which both such primary education and courses of study beyond the primary level may be given.

**Establishment, etc., of State schools**

8. (1) The Minister may establish a school in any locality in which the Minister is satisfied there are sufficient children who will regularly attend the school.
- (2) The Minister may name a State school or change the name of a State school.
- (3) The Minister may close a State school.
- (4) Notice of the Minister's decision to establish a school, to name or to change the name of a school or to close a school shall be published in the Gazette.

**Instruction to be free**

9. The instruction provided in State schools shall be free of charge.