

House of Representatives

Supplementary Order Paper

Tuesday, 16 November 2010

Education Amendment Bill (No 2)

Proposed amendments

Hon Anne Tolley, in Committee, to move the following amendments:

New clauses 12AA to 12AD

To insert the following clauses after *clause 12* (after line 34 on page 23):

12AA Interpretation

The definition of **authorisation** in section 120 is amended by omitting “persons” and substituting “people”.

12AB Restrictions on appointment of teachers

Section 120A is amended by repealing subsection (1) and substituting the following subsection:

- “(1) An employer must not appoint to a teaching position—
- “(a) any person—
 - “(i) whose registration has been cancelled; and
 - “(ii) who has not since been registered again; or
 - “(b) any person whose practising certificate is suspended under section 139AU or 139AW(1)(d); or
 - “(c) any person whose authorisation has been cancelled, and who has not since—
 - “(i) been authorised again; or
 - “(ii) been registered as a teacher; or
 - “(d) any person whose limited authority to teach is suspended under section 139AU or 139AW(1)(d).”

12AC Restrictions on continued employment of teachers

Section 120B is amended by repealing subsection (1) and substituting the following subsection:

- “(1) An employer must not continue to employ in a teaching position—
- “(a) any person—
 - “(i) whose registration has been cancelled; and
 - “(ii) who has not since been registered again; or
 - “(b) any person whose practising certificate is suspended under section 139AW(1)(d); or
 - “(c) any person whose authorisation has been cancelled, and who has not since—
 - “(i) been authorised again; or
 - “(ii) been registered as a teacher; or
 - “(d) any person whose limited authority to teach is suspended under section 139AW(1)(d).”

12AD New section 120C inserted

The following section is inserted after section 120B:

- “**120C Restrictions on activities of teachers whose practising certificate or limited authority to teach subject to interim suspension**
- “(1) This subsection applies to a person employed in a teaching position if—
- “(a) he or she holds a practising certificate that is suspended under section 139AU; or
 - “(b) he or she has a limited authority to teach that is suspended under section 139AU.
- “(2) While **subsection (1)** applies to a person, his or her employer—
- “(a) must ensure that he or she does not carry out any of the duties of the teaching position concerned; and
 - “(b) if the person is employed at a registered school (within the meaning of section 2(1)) or an early childhood education and care service, must take all reasonably practicable steps to ensure that he or she does not undertake any activities that might bring him or her into contact with students enrolled at the school or, as the case may be, children who attend the service.
- “(3) While **subsection (1)** applies to a person, he or she must not carry out any of the duties of the teaching position concerned.”

New clauses 12BA to 12BC

To insert the following clauses after *clause 12B* (after line 17 on page 24):

12BA Practising certificates

Section 130 is amended by adding the following subsections:

- “(7) This subsection applies to a renewed practising certificate issued to a person if—

- “(a) the practising certificate he or she already holds when the renewed certificate is issued is suspended under section 139AU; or
 - “(b) he or she does not already hold a practising certificate when the renewed certificate is issued; but—
 - “(i) the practising certificate he or she last held was suspended under section 139AU when it expired; and
 - “(ii) its suspension was not due to expire until a time after the issue of the renewed certificate.
- “(8) A renewed practising certificate to which **subsection (7)** applies must be treated as being suspended under section 139AU; and its suspension expires when the suspension of the previous practising certificate held by its holder would have expired.”

12BB Offences

Section 137(1) is amended by inserting the following paragraphs after paragraph (f):

- “(fa) being the employer of a person to whom **section 120C(1)** applies, fails or refuses to ensure that the person does not carry out any of the duties of the teaching position in which he or she is employed; or
- “(fb) being the employer of a person to whom **section 120C(1)** applies, and the board of a State school, the managers of a school registered under **section 35A**, or the person or body who appoints staff at an early childhood education and care service, fails or refuses to take all reasonably practicable steps to ensure that the person does not undertake any activities that might bring him or her into contact with students enrolled at the school or, as the case may be, children who attend the service; or
- “(fc) being a person to whom **section 120C(1)** applies, carries out any of the duties of the teaching position in which he or she is employed; or”.

12BC Interpretation

Section 139AB is amended by repealing the definition of **authorised person** and substituting the following definitions:

“**authorised person** means the holder of an authority

“**authority** means a limited authority to teach given under Part 10”.

Explanatory note

It is proposed to insert into the Bill the 7 new clauses set out in this Supplementary Order Paper.

Proposed *new clause 12AA* rectifies a minor verbal discrepancy between 2 definitions in section 120 of the principal Act.

Proposed *new clauses 12AB to 12AD, and 12BA* amend the principal Act to provide expressly for the consequences of the suspension of practising certificates and limited authorities to teach.

Proposed *new clause 12AB* amends section 120A of the principal Act so as to enlarge the category of people who cannot be appointed to a teaching position. At present, this is—

- teachers who have had their registration cancelled, and have not since been registered again; and
- people who have had their limited authority to teach cancelled, and have not since been registered as a teacher.

It will now also not be possible to appoint to a teaching position a teacher whose practising certificate is suspended or a person whose limited authority to teach is suspended. This will be the case whether the suspension is a disciplinary suspension under section 139AW(1)(d) of the principal Act, or is merely an interim suspension under section 139AU.

Proposed *new clause 12AC* amends section 120B of the principal Act so as to enlarge the category of people whose employment in a teaching position cannot be allowed to continue. At present, this is also—

- teachers who have had their registration cancelled, and have not since been registered again; and
- people who have had their limited authority to teach cancelled, and have not since been registered as a teacher.

It will now also not be possible to continue to employ in a teaching position a teacher whose practising certificate is subject to a disciplinary suspension or a person whose limited authority to teach is subject to a disciplinary suspension. Employment will, however, be able to continue in the case of an interim suspension.

Proposed *new clause 12AD* inserts into the principal Act a *new section 120C* dealing with the consequences of the interim suspension of practising certificates and limited authorities to teach. The employer of the holder of a teaching position whose practising certificate or limited authority to teach is subject to an interim suspension—

- must ensure that he or she does not carry out any of the duties of the position; and
- must take all reasonably practicable steps to ensure that he or she does not undertake any activities that might bring him or her into contact with students.

And the holder of a teaching position whose practising certificate or limited authority to teach is subject to an interim suspension must not carry out any of the duties of the position.

Proposed *new clause 12BA* amends section 130 of the principal Act, which relates to practising certificates, by adding provisions having the effect that where a teacher's practising certificate is subject to an interim suspension, any renewed practising certificate will be issued subject to that suspension.

Proposed *new clause 12BB* creates offences in relation to breaches of the obligations imposed by *new section 120C*.

Proposed *new clause 12BC* amends section 139AB of the principal Act so as to supply a minor omission in the definitions it contains.
