

Queensland



EDUCATION (TEACHER REGISTRATION) ACT 1988

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(includes amendments up to Act No. 58 of 1995)**

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Information about this reprint

This Act is reprinted as at 27 September 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**EDUCATION (TEACHER
REGISTRATION) ACT 1988**

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EDUCATION (TEACHER REGISTRATION) ACT 1988

[as amended by all amendments that commenced on or before 27 September 1996]

An Act to establish a Board of Teacher Registration to provide for the registration of teachers in Queensland and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Education (Teacher Registration) Act 1988*.

Commencement

2.(1) Section 1, this section and section 62 shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the proclamation shall commence on the day or days appointed by proclamation for the commencement of this Act or, as the case may be, those provisions.

Interpretation

4. In this Act—

“**Board**” means the Board of Teacher Registration constituted under this Act.

“**executive officer**” means the executive officer of the Board of Teacher Registration and includes a person who at any time performs the duties

of executive officer.

“financial year” means the period of 12 months ending on 31 December.

“higher education” means tertiary education, other than technical and further education, and includes those advanced education courses offered in technical and further education colleges which are specifically recognised by State and Commonwealth authorities as higher education courses.

“Higher Education Forum” means the Ministerial advisory committee of that name appointed pursuant to the *Education (General Provisions) Act 1989*.

“materials” means any publication, written document, computer software, video, sound recording, film, photograph or other like works produced by the Board.

“misconduct” means—

- (a) behaviour that does not satisfy a standard of behaviour generally expected of a teacher; or
- (b) disgraceful or improper conduct that shows unfitness to be or continue to be registered as a teacher.

“parent” includes a guardian and every person who is liable to maintain or has the actual custody of a child.

“practising teacher” means a registered teacher who is part of the educational staff of a school.

“register” means the Register of Teachers.

“registered teacher” means a person registered as a teacher under this Act, and includes a person who has provisional registration as a teacher under this Act.

“State school” means any preschool centre, primary school, secondary school or special school or such other means of educational instruction established by the Minister.

“student” means a person enrolled in a school.

“teacher” means a person who is or is eligible to be part of the educational staff of a school.

“tertiary education” means education, other than primary or secondary education, offered wholly or primarily to students who have completed their primary and secondary education and who are above the age of compulsory attendance at school.

PART 2—BOARD OF TEACHER REGISTRATION

Division 1—Constitution, functions and powers of the Board

Constitution of the Board

5.(1) There shall be constituted a Board to be called the ‘Board of Teacher Registration’ which shall consist of—

- (a) 1 nominee of the Minister who shall, on appointment, be designated and shall be chairperson;
- (b) 3 nominees of the chief executive, of whom at least 2 shall be practising teachers;
- (c) 2 representatives of non-Government bodies employing teachers, 1 each to be nominated by the Queensland Catholic Education Commission and by the Association of Independent Schools;
- (d) 1 nominee of the Queensland Teachers’ Union, who shall be a practising teacher in a State school;
- (e) 1 nominee of the Queensland Association of Teachers in Independent Schools, who shall be a practising teacher in a non-State school;
- (f) 1 nominee of the Professional Officers’ Association, who shall be a registered teacher;
- (g) 2 representatives of institutions of higher education, who shall be practising teacher educators, nominated by the Higher Education Forum;
- (h) 1 representative of community groups involved in education, who shall at the time of appointment as a member of the Board be a

parent of a student attending a Queensland school, to be nominated, in accordance with the procedure prescribed in the regulations, by the Queensland Council of Parents and Citizens' Associations Incorporated, the Parents and Friends Federation, Queensland and the Independent Parents and Friends Council of Queensland;

- (i) 3 representatives of registered teachers, who shall be registered teachers, to be nominated in accordance with the procedure prescribed in the regulations;
- (j) 1 person nominated by the Minister if, in the opinion of the Minister, additional representation is desirable.

(2) The members of the Board determined in accordance with this Act shall be appointed by the Governor in Council, on the recommendation of the Minister, by notification published in the Gazette.

(3) The members of the Board shall appoint from among their number a person to be deputy chairperson of the Board and such person, subject to this Act, shall be deputy chairperson for such period, not exceeding the term for which that person is appointed as a member, as the Board determines.

Functions and powers of the Board

6.(1) The functions of the Board of Teacher Registration shall be—

- (a) to be responsible to the Minister for the registration of persons entitled to be registered as teachers under this Act;
- (b) to keep teacher registration in Queensland under continuous review and to make reports and recommendations to the Minister thereon;
- (c) to confer and collaborate with employing authorities, teacher education institutions, the teaching profession, teacher organisations and the general community in relation to standards of courses of teacher education acceptable for the purpose of teacher registration and to advise the Minister accordingly;
- (d) to appoint such committees as it thinks fit to assist and advise it in the performance of its functions;
- (e) to undertake relevant review and research projects as

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commissioned and funded by the Minister from time to time;

- (f) to undertake, with the approval of the Minister first had and obtained, review and research projects using funds raised by the Board by its registration and assessment functions or funds provided by sources other than the Minister, or fees and charges collected under this Act;
- (g) to make recommendations to the Minister with respect to special projects not inconsistent with its other functions, and special project funding required to undertake such projects;
- (h) to make recommendations to the Minister with respect to—
 - (i) the employment of additional staff as necessary to undertake approved research functions in paragraphs (e) and (f);
 - (ii) the employment of additional staff as necessary to undertake approved special projects in paragraph (g);
- (i) to make by-laws under section 7;
- (j) to direct and control the work of staff appointed to the Board in order to fulfil its functions;
- (k) to furnish to the Minister as soon as practicable, but not later than 4 months from 31 December in each year, a report of its work and activities during the year.

(2) The Board shall have and may exercise such powers and authorities as are incidental to the proper discharge by it of any of its functions under this Act, including the powers and authorities—

- (a) to impose and collect fees for registration in respect of persons eligible to be registered as teachers in Queensland and assessment fees from persons seeking to establish such eligibility, such fees being subject to the approval of the Governor in Council;
- (b) to produce materials in the performance of its functions and, with the approval of the Minister first had and obtained, to enter into an agreement with any person or body to sell such materials;
- (c) to enter into, with the approval of the Minister first had and obtained, an agreement with any person for the leasing of premises as accommodation for the Board.

Board may make by-laws

7.(1) The Board may from time to time make by-laws not inconsistent with this Act or the regulations for or with respect to—

- (a) teacher registration—
 - (i) the registration of persons as teachers; and
 - (ii) the cancellation of provisional registration; and
 - (iii) the inspection of the Register of Teachers and the fees to be paid by a person inspecting the register; and
 - (iv) the authorisation of persons to employ as teachers persons who are not registered teachers; and
 - (v) the furnishing by principals of reports and returns in respect of persons employed as teachers in schools; and
 - (vi) the fees to be paid by a person applying to the Board to be registered as a teacher, for the retention of the person's name in the register or for the restoration of the person's name to the register;
- (b) committees of inquiry appointed pursuant to section 39—
 - (i) the quorum of a committee;
 - (ii) majority and minority findings of a committee;
 - (iii) the practices and procedures of a committee generally;
- (c) the procedures for and rules governing the conduct of the election of registered teachers in Queensland for the purposes of section 5;
- (d) such other matters as by this Act are required or permitted to be prescribed or as are necessary or convenient for the carrying into effect of the several provisions, objects and purposes of this Act.

(2) The Board may by by-law repeal, rescind, revoke, alter, vary, amend or otherwise modify any by-law or part of a by-law.

(3) A by-law may authorise the Board to make rules for the carrying into effect of all or any of the provisions and objects of the by-laws.

(4) All rules made pursuant to any by-law by the Board shall be of full force and effect on and from the day on which they are promulgated in accordance with the by-law under which they are made or on and from such

later date as may be specified in the rule, and the production of a copy of any such rule verified by the Board is sufficient evidence of the making and authenticity of the same in all courts and before all persons acting judicially.

(5) Every by-law made by the Board shall be submitted to the Minister and by the Minister to the Governor in Council.

Division 2—Administrative provisions relating to the Board

Failure to nominate

8. Where a vacancy on the Board arises from the expiration of a member's term of appointment or because of a casual vacancy on the Board, and the person, body or group required as prescribed by this Act in relation to the membership of the Board to nominate a person to be a member of the Board to fill the vacancy fails to nominate such person at least 14 days prior to the date appointed for the filling of the vacancy, the Minister may nominate the person in lieu of the person, body or group and thereupon the person shall be taken to have been nominated by the person, body or group in question.

Term of appointment

9.(1) The chairperson of the Board shall, subject to this Act, hold office for a period of 4 years.

(2) All other members of the Board shall, subject to this Act, hold office for a period of 3 years.

Disqualification from office

11. A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (b) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by the person in Queensland

would have constituted an indictable offence, unless the Minister is of the opinion that the circumstances of the offence do not warrant disqualification from office; or

(c) is a patient within the meaning of the *Mental Health Act 1974*;

shall not be capable of being, or continuing to be, a member of the Board.

Vacation of office of members of the Board

12. A member of the Board shall be taken to have vacated office as such member if—

- (a) the member dies;
- (b) the member declines to act or to further act as such member;
- (c) the member resigns office as such member in writing delivered to the chairperson of the Board;
- (d) the member is absent, without leave of the Board first had and obtained, from 3 consecutive ordinary meetings of the Board of which meetings a notice—
 - (i) has been served personally upon the member; or
 - (ii) has been sent by prepaid post letter addressed to the member at the member's place of business or place of residence last known to the chairperson of the Board;
- (e) the member ceases to be qualified to be a member of the Board;
- (f) the member is removed from office as such member by the Governor in Council.

Vacancy on the Board from expiry of term of appointment

13.(1) Where a vacancy in the membership of the Board occurs on the expiration of a member's term of appointment, the Governor in Council shall, by notification published in the Gazette, appoint a date on or before which a person is to be appointed to fill such vacancy.

(1A) The appointment of a person to fill such vacancy shall be made, as prescribed by this Act in relation to the membership of the Board, on or before the date so appointed.

(2) Subsection (1) does not apply in the case of a vacancy occurring in the membership of the Board in respect of a member nominated by the Minister.

(3) Where a vacancy occurs in respect of a member nominated by the Minister, the Minister shall, or, in the case of a member appointed pursuant to section 5(1)(j), may, nominate a person to fill such vacancy.

Removal of member

14.(1) The Governor in Council may at any time before the expiration of the period for which a member of the Board was appointed remove such member from his or her membership by notification published in the Gazette.

(2) Upon publication of such notification in the Gazette the person so removed shall cease to be a member of the Board.

Casual vacancies on the Board

15.(1) Where a casual vacancy occurs in the membership of the Board the Governor in Council shall, by notification published in the Gazette, appoint a date on or before which a person is to be appointed to fill such casual vacancy.

(1A) The appointment of a person to fill such a casual vacancy shall be made, as prescribed by this Act in relation to the membership of the Board, on or before the date so appointed as prescribed by this Act.

(2) Subsection (1) does not apply in the case of a casual vacancy occurring in the membership of the Board in respect of a member nominated by the Minister.

(2A) Where a casual vacancy occurs in respect of a member nominated by the Minister, the Minister shall nominate a person to fill such casual vacancy, and subsection (3) applies in respect of the appointment of the person so nominated.

(3) The person appointed to fill a casual vacancy in the membership of the Board shall be appointed for the balance of the term for which the person's predecessor was appointed.

(4) Subsection (1) does not apply in the case of a casual vacancy

occurring in the membership of the Board in respect of a member nominated pursuant to section 5(1)(i).

(4A) Where a casual vacancy occurs in respect of a member nominated pursuant to section 5(1)(i), the Board shall nominate a person to fill such casual vacancy in the manner prescribed in the regulations, and subsection (3) applies in respect of the person so nominated.

Manner of exercising power

16.(1) The Board shall exercise a power or authority or perform a duty or function by majority vote of its members present and voting at the meeting at which such exercise or performance is to occur.

(2) A member who abstains from voting shall be deemed to have voted for the negative.

(3) The chairperson of the Board (including any person for the time being acting as such chairperson) shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

Validity of proceedings

17. An act or proceeding of the Board shall not be invalidated or in any way prejudiced by reason only of the fact that, at the time such act was done or proceeding taken, there were vacancies in the membership of the Board not exceeding $\frac{1}{3}$ of the total number of members for the time being required to constitute such Board or that all the members of such Board were not present at the meeting at which such act or proceeding was done or authorised or that there is a defect in the qualification, membership or appointment of any 1 or more members of such Board who joined in doing such act or taking such proceeding or in authorising such act or proceeding.

Quorum and business of the Board

18.(1) The power to make regulations conferred upon the Governor in Council by section 51 includes power to fix the quorum of members of the Board required to constitute a meeting of the Board.

(2) Meetings of the Board shall be called and conducted in the manner determined by the Board.

(2A) Subsection (2) shall not be construed or applied to prejudice the operation of section 12(d).

(3) The chairperson of the Board shall preside at every meeting of the Board at which the chairperson is present and, in the chairperson's absence, the deputy chairperson of the Board, if the deputy chairperson is present, shall preside at every meeting of the Board.

(4) Should both the chairperson and the deputy chairperson of the Board be absent from the meeting thereof a member of the Board elected from among the members who are present shall preside at such meeting.

Proceedings in relation to the Board

19.(1) Proceedings in any court may be taken and prosecuted in the name of the Board through the chairperson or any person appointed in writing for the purpose by the chairperson.

(2) Every court of law shall take judicial notice of the signature of the chairperson to any such appointment.

(3) In any such proceedings it shall not be necessary to prove the authority of the person by or through whom the same are taken or prosecuted or the due appointment of any member of the Board.

(4) Proceedings in any court may be taken against the Board in its name, the 'Board of Teacher Registration'.

Chairperson to sign agreements for the Board

20.(1) Subject to this Act, the chairperson of the Board is empowered to sign agreements for and on behalf of the Board.

(1A) However, the Board has first passed a resolution to enter into such agreement.

(2) Upon the chairperson's signature being affixed to any agreement, in accordance with the provisions of this Act, the Board shall be bound by the terms and conditions of that agreement.

Remuneration to members of the Board and other committees

21.(1) Members of the Board and other committees established or appointed under this Act shall be paid such fees, allowances and expenses (if any) as the Governor in Council from time to time determines.

(2) Fees, allowances and expenses may differ in respect of different members according to class of payment, rate or position held on the Board or, as the case may be, other committees.

(3) A provision in any Act requiring the holder of an office specified therein to devote the whole of the holder's time to the duties of his or her office or prohibiting the holder from engaging in employment outside the duties of office shall not operate to disqualify the holder from holding that office and also the office of a member of the Board or other committee or from accepting and retaining any fees, allowances or expenses payable to the holder pursuant to this section.

(4) A fee, allowance or amount by way of expenses shall not be paid to a member who is an officer of the public service for attendance at a meeting of the Board or any other committee to which this section applies held during the ordinary office working hours of that member.

Delegation by chairperson of board

22. The chairperson may delegate the chairperson's powers under this Act to any person.

Division 3—Financial and accountability provisions relating to the Board

Accounts and audit

23. The *Financial Administration and Audit Act 1977* applies to the Board to the extent provided by that Act.

Funds of the Board

24.(1) The Board shall keep a bank account for a general fund.

(2) There shall be paid into the general fund of the Board all moneys paid

to the Board.

(3) The Board shall pay from the moneys from time to time standing to the credit of the general fund liabilities incurred by it in or in connection with the conduct of the activities for which it is constituted.

(4) However, liability for expenditure for any purpose including purchase of goods and services shall only be incurred within expenditure limits established pursuant to the *Financial Administration and Audit Act 1977*.

Budget of the Board

25.(1) Before 31 October in each year the Board shall, by resolution in that behalf, adopt and lodge with the Minister a budget in respect of the fund maintained wherein the Board shall estimate as accurately as possible—

- (a) the amount to be disbursed by the Board from that fund during the year ending on 31 December in the year next following the proper exercise by the Board of its functions and powers under this Act and in giving effect to this Act;
- (b) the amount to be received from all sources by the Board during the year ending on 31 December in the year next following.

(2) A budget of the Board shall be of no force or effect until it is adopted by the Board and approved by the Minister.

(3) Upon approval by the Minister, the budget shall be binding upon the Board.

(4) If the general fund of the Board contains a surplus or shows a deficit at the end of a financial year, the Board shall take such surplus or deficit into account in the preparation of its budget for the next succeeding financial year.

Observance of budget

26.(1) Subject to this section, the Board shall confine its disbursements from its general fund throughout a financial year within the total amount contained in its budget for that financial year as approved under section 25.

(2) If, during any financial year, it appears to the Board that an extraordinary circumstance has arisen which requires that the Board make a

disbursement from its general fund in that financial year that was not provided for in the budget (as approved) for that financial year, the Board shall, before making such disbursement—

- (a) by resolution, approve that such disbursement be made; and
- (b) obtain approval of the Minister for an amendment to the budget so that the budget as amended and approved will not then be exceeded in total by the disbursement.

(3) If, in any financial year, the Board makes from its general fund a disbursement which was not provided for in the budget (as approved) of the Board for that financial year, all the members of the Board who voted for such disbursement shall be jointly and severally liable to repay to the Board the amount of such disbursement unless the Minister has approved as prescribed of the making of such disbursement.

(4) Such amount may be recovered from such members or any of them as moneys due and owing to the Board by action at the suit of the Minister in any court of competent jurisdiction.

Fees and Penalties

27. All fees and penalties received by the Board under this Act shall be paid into the general fund and applied solely for the purposes of the Board.

Investments

28. Any surplus moneys held by the Board in its general fund may be invested from time to time in any authorised trustee investment or with any authorised and approved dealer in the short term money market.

Temporary finance

29.(1) For the purpose of providing temporary financial accommodation to enable the Board to exercise and perform its functions, the Board may and is hereby authorised, with the prior approval of the Governor in Council, to obtain from time to time advances—

- (a) by way of loan from the Treasurer; or
- (b) by way of loan or overdraft from any bank; or

- (c) by way of loan from any other person, upon, at and subject to such security, rate of interest and other terms and conditions as the Board, subject to the approval of the Governor in Council, thinks fit.

(2) Before entering into negotiations with respect to the obtaining of any advance by way of loan or overdraft from any bank or other person, the Board, with the approval of the Minister first had and obtained, shall obtain the sanction of the Treasurer authorising it to enter into such negotiations and for the purpose of obtaining that sanction the Board shall submit to the Treasurer such information as the Treasurer may require.

Power of the Board to borrow

30.(1) Except as provided by section 29, the Board shall not have any power to borrow money.

(2) A person who lends money to the Board otherwise than in accordance with this Act shall have no remedy or right whatsoever to recover money from the Board in respect of that loan.

(3) If the Board borrows any money which it is not lawfully authorised under this Act to borrow, all the members of the Board who have consented to the borrowing of such money shall be jointly and severally liable to repay the same and to pay all interest thereon to the person from whom the same was borrowed, and the same may be recovered from such members or any of them as money lent by such person to such members or, as the case may be, member by action at the suit of the Minister in any court of competent jurisdiction.

(4) If any moneys are appropriated from any fund for the purpose of repaying any money so borrowed or paying interest thereon, the members of the Board who have consented to the misappropriation of such moneys for that purpose shall be jointly and severally liable to refund the same with interest at the rate of twelve dollars per centum per annum, and the same may be recovered from such members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer who, on recovery of the same, shall pay the amount recovered into the fund concerned, but shall be entitled to full costs of suit, including costs as between solicitor and client.

Division 4—Officers of the Board**Appointment of officers**

31.(1) The executive officer of the Board of Teacher Registration shall be appointed by the Governor in Council under and in accordance with the *Public Service Management and Employment Act 1988* and the executive officer shall hold his or her appointment subject to and in accordance with that Act.

(1A) The executive officer of the Board may attend Board meetings at which the executive officer shall have the right to speak but shall not be entitled to exercise any voting rights.

(2) The Minister or the Governor in Council, as the case may be, may appoint under and in accordance with the *Public Service Management and Employment Act 1988* such officers as may be deemed necessary for carrying out the provisions and objects of this Act.

(3) An officer of the public service may, in addition to the position to which the officer is appointed, be appointed to and hold concurrently with that position an office for the carrying out of the provisions and objects of this Act.

**PART 3—PROVISIONS FOR THE REGISTRATION
OF TEACHERS*****Division 1—Registration provisions*****Register of Teachers**

32.(1) The Board shall keep a Register of Teachers, and the particulars referred to in subsections (3)(a) to (d) in respect of a person entitled to be registered shall be entered therein.

(2) The Register of Teachers kept under the *Education Act 1964* shall, on the commencement of section 1, continue as and be and remain such

register for the purposes of this Act.

(3) A person shall be registered as a teacher by the entering in the register of—

- (a) the person's full name and address; and
- (b) the date on which the person is registered; and
- (c) particulars of the qualifications and experience (if any) in respect of which the person is registered; and
- (d) such other particulars (if any) as may be prescribed in the by-laws.

(4) The register shall be open for inspection by any person at the office of the Board at all reasonable times upon payment of the fee prescribed in the by-laws.

Qualifications for registration

33.(1) A person is, upon application therefor and payment of the prescribed fee (if any) entitled to be registered as a teacher if the person satisfies the Board that—

- (a) he or she is of good character; and
- (b) he or she possesses the qualifications and experience (if any) prescribed for persons applying to be registered.

(2) All persons who, immediately prior to the commencement of section 1, are registered under the *Education Act 1964* repealed herein shall be registered under this Act.

Qualifications for provisional registration

34.(1) The Board may provide for the registration of a person as a provisional registration notwithstanding that he or she does not possess the qualifications and experience prescribed under section 33 where, upon application therefor and payment of the prescribed fee (if any) that person satisfies the Board that—

- (a) he or she is of good character; and
- (b) he or she possesses the qualifications and experience (if any)

prescribed for provisional registration; and

- (c) he or she will, within a time acceptable to the Board, be able to obtain the qualifications and experience prescribed under section 33.

(2) The Board, pursuant to subsection (1)(c), shall inform every person admitted to provisional registration of—

- (a) the additional qualification or experience required of the person for admission to registration;
- (b) the period of time within which such additional qualification or experience shall be obtained or completed.

(3) All persons who, immediately prior to the commencement of section 1, were provisionally registered as teachers under the *Education Act 1964* repealed herein shall have provisional registration as teachers under this Act under the same terms and conditions as were prescribed by the Board of Teacher Education.

Board may cancel provisional registration

35. The Board may provide for the cancellation of provisional registration of a teacher in such circumstances as the Board may determine, either generally or in a particular case.

Unregistered teachers not to be employed

36.(1) A person shall not employ as a teacher in any school a person who is not a registered teacher unless authorised to do so by the Board.

Maximum penalty—

- (a) for a first offence against this subsection—10 penalty units;
- (b) for a second or subsequent offence—10 penalty units and a daily penalty of 1 penalty unit.

(1A) The provisions of subsection (1), other than those that would make the Crown liable for an offence, shall bind the Crown.

(2) A person who is not a registered teacher shall not hold at any school any office or position in which the person is employed to perform the duties

of a teacher unless in accordance with an authorisation issued by the Board pursuant to subsection (1).

Maximum penalty—

- (a) for a first offence against this subsection—10 penalty units;
- (b) for a second or subsequent offence—10 penalty units and a daily penalty of 1 penalty unit.

(3) A person who is not a registered teacher shall not enter a school to supervise or assess the work of a practising teacher or of a student teacher unless authorised to do so by the Board.

(4) In this section—

“**school**” means any of the following—

- (a) a kindergarten or preschool centre that purports to offer an educational program for children in the year prior to enrolment in year 1, a primary school, a secondary school or a special school; or
- (b) any other institution or place or part thereof designated by the Minister, either generally or in respect of a particular institution or place or class or type thereof, by notification published in the Gazette as a school for the purposes of this section.

Duty of registered teacher convicted of indictable offence

37.(1) A registered teacher who is convicted in Queensland (whether upon indictment or summarily) of an indictable offence, or elsewhere of an offence which, if committed in Queensland, would have been an indictable offence, shall within 7 days of such conviction give notice in writing to the Board of the conviction and the circumstances in which the offence was committed.

(2) Failure to comply with subsection (1) is an offence against this Act.

Maximum penalty—2 penalty units.

Removal of name from register

38. The Board shall cause to be removed from the Register of Teachers

the name of any registered teacher if—

- (a) the teacher does not apply for the retention of his or her name in the register at such intervals, within such times and in such manner as may be prescribed in the by-laws;
- (b) the teacher has died;
- (c) the teacher has ceased to possess or does not possess the qualifications and experience (if any) in respect of which the teacher was registered as a teacher;
- (d) the teacher applies in writing to the Board to have his or her name removed from the register;
- (e) in the case of a person who has provisional registration as a teacher—he or she is not complying with the requirements for such registration imposed by the Board pursuant to section 34 or the by-laws prescribed under that section.

Power to caution, suspend or remove name from register

39.(1) Where a registered teacher has been convicted in Queensland of an indictable offence (whether upon indictment or summarily), or elsewhere of an offence which, if committed in Queensland, would have been an indictable offence, the Board may caution the registered teacher, or suspend the teacher's registration for such period and subject to such conditions as the Board thinks fit, or may remove the teacher's name from the register.

(1A) The Board, on suspending the registration of a teacher pursuant to subsection (1), may substitute provisional registration in lieu thereof, such provisional registration to be for such period and subject to such conditions as the Board thinks fit.

(1B) Where a registered teacher has been convicted as mentioned in subsection (1), the Board may direct that the teacher's name shall not be removed from the register or the teacher's registration suspended by reason of the conviction if the offence of which the teacher has been convicted does not, either from its trivial nature or from the circumstances in which it was committed, render the registered teacher unfit in the public interest to engage in teaching.

(1C) For the purpose of better informing itself of the facts and

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circumstances relating to the conviction, the Board may, at its discretion, make inquiry with respect thereto in accordance with this Act.

- (2) Where the Board, after inquiry, is satisfied that a registered teacher—
- (a) has been guilty of habitual drunkenness or of addiction to any deleterious drug; or
 - (b) has been guilty of misconduct; or
 - (c) is incompetent;

the Board may caution the registered teacher, or suspend the teacher's registration for such period and subject to such conditions as the Board thinks fit, or may remove the teacher's name from the register.

(2A) The Board may only conduct an inquiry for the purposes of subsection (2)(c) where a registered teacher has been dismissed from employment as a teacher or has resigned in circumstances which, in the opinion of the teacher's employer, call into question the teacher's suitability for continued employment as a teacher.

(2B) The Board, on suspending the registration of a teacher pursuant to subsection (2), may substitute provisional registration in lieu thereof, such provisional registration to be for such period and subject to such conditions as the Board thinks fit.

(3) Where a registered teacher is a patient within the meaning of the *Mental Health Act 1974* or is otherwise incapable in law of managing the teacher's own affairs, and the Board is satisfied that the teacher is thereby unfit in the public interest to properly exercise and discharge the functions and duties of a teacher, the Board may remove the teacher's name from the register or suspend the teacher's registration for such period and subject to such conditions as the Board thinks fit.

(3A) For the purpose of better informing itself of the facts and circumstances relating to the teacher's ability to properly exercise and discharge the functions and duties of a teacher, the Board, at its discretion, may make inquiry with respect thereto in accordance with this Act.

(4) Where the registration of a registered teacher is suspended under this section, there shall be entered in the register a notation of that fact and the date, cause, duration and conditions of that suspension.

(5) A person whose name has been removed from the register or whose

registration as a teacher has been suspended under this section shall not again be a registered teacher until the person's name is restored to the register or the period of the person's suspension has expired, as the case may be.

(6) Where the Board, after conducting an inquiry, has dealt with a registered teacher under this section, the Board may order that the teacher pay to it by way of costs such sum of money as it thinks fit, having regard to expenses incurred by it in the conduct of the inquiry.

(7) In this section—

“**inquiry**” means an inquiry conducted pursuant to Division 2.

Restoration of name to register

40.(1) Where the name of any person is removed from the Register of Teachers in accordance with section 38 or 39, that person shall not again be registered as a teacher, except by direction of the Board or by order of a Judge of the District Court, jurisdiction in relation to all matters concerned in such an order being hereby conferred accordingly.

(2) The Board may, if it thinks fit in any particular case, direct that the name of any person removed from the register be restored thereto and the name shall be restored accordingly.

Board to monitor registration of teachers

41.(1) It is competent to the Board to require principals of schools to provide such reports and returns in respect of persons employed as teachers in schools, in the manner prescribed in the by-laws.

(2) A person who fails to comply with a requisition of the Board made in accordance with subsection (1) commits an offence against this Act.

Maximum penalty—

- (a) for a first offence against this section—10 penalty units;
- (b) for a second or subsequent offence—10 penalty units and a daily penalty of 1 penalty unit.

(3) The provisions of this section, other than those that would make the Crown liable for an offence, shall bind the Crown.

Division 2—Provisions for inquiry

General power of inquiry

42.(1) The Board may itself make an inquiry referred to in section 39 or may cause the inquiry to be made by a committee of inquiry appointed by it for the purpose.

(2) At an inquiry for the purposes of section 39, the person who is the subject of the inquiry shall be afforded an opportunity of defence by appearance in person with or without legal representation.

Composition of committee of inquiry

43. The composition of a committee of inquiry appointed by the Board shall be a chairperson who shall be appointed from among the members of the Board and 4 other persons who are registered practising teachers.

Powers of Board etc. on inquiry

44.(1) For the purpose of making an inquiry referred to in section 39, the Board or, as the case may be, the committee of inquiry shall be deemed to be a commission of inquiry within the meaning of the *Commissions of Inquiry Act 1950* and that Act, other than sections 4, 4A, 10(3), 13, 14(1A), 19(2), 19A to 19C and 26, shall apply accordingly.

(1A) If a provision of that Act is inconsistent with a provision of this Act, the provision of this Act to the extent of the inconsistency shall prevail.

(2) For the purposes of applying the *Commissions of Inquiry Act 1950*, each member of the Board or, as the case may be, the committee of inquiry shall be deemed to be a commissioner, and the chairperson shall in each case be deemed to be the chairperson, within the meaning of that Act.

(3) There shall be payable to a witness who appears before the Board or, as the case may be, the committee of inquiry an allowance for expenses being—

- (a) the allowance payable pursuant to section 24 of the *Commissions of Inquiry Act 1950*; or
- (b) such other allowances as the chairperson in special circumstances

considers reasonable;

whichever is the greater and that allowance shall be paid out of funds of the Board.

Committee to report to the Board

45. Where an inquiry is made by a committee pursuant to this Act, the committee shall, on completion of the inquiry, report its findings and recommendations to the Board and the Board, in making any decision or determination in relation to the inquiry, shall take those findings and recommendations into consideration.

Division 3—Appeal provisions

Right of appeal

46.(1) Any person who feels aggrieved by any refusal of the Board to register the person as a teacher or by any decision of the Board made on any of the grounds referred to in sections 38(c), 38(e), 39(1), 39(2) and 39(3) may appeal against the refusal or decision to a Judge of the District Court who shall have jurisdiction to hear and determine any appeal under this section.

(2) Every such appeal shall be by way of hearing de novo and the decision of a Judge of the District Court upon such an appeal shall be final and binding on the Board and all persons concerned.

(3) A Judge of the District Court, in exercising jurisdiction pursuant to this section, may exercise any of the powers of the Board under sections 38 and 39 and make such order as the Judge thinks fit, including any order as to costs.

(4) A person who desires to appeal against a refusal or decision of the Board shall, within 28 days after being notified of such refusal or, as the case may be, decision, file with the registrar of the District Court a notice of appeal setting out the grounds of appeal, and serve on the executive officer of the Board a copy of such notice.

(5) Upon being served with a copy of the notice of appeal pursuant to subsection (4), the executive officer shall forthwith forward to the District

Court registry a copy of any resolution or direction or other writing of or in the possession of the Board relevant to the matter of appeal.

(6) All such rules of court as may be deemed necessary or desirable or convenient for regulating the procedure and practice of the District Court for the purpose of giving full effect to this section may be made and the *District Courts Act 1967* shall apply and extend in respect of such rules of court.

(7) Until such rules of court are made, or in so far as such rules of court do not extend, the Judge hearing any appeal under this section may, in the particular case, give such directions as the Judge may deem fit, and the directions shall, according to their tenor, have the force and effect of rules of court made for the purposes thereof.

PART 4—GENERAL PROVISIONS

Offences generally

47. A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

General penalty

48.(1) A person guilty of an offence against a provision of this Act is liable, if no specific penalty is provided for that offence, to a penalty—

- (a) for a first offence against that provision—10 penalty units;
- (b) for a second or subsequent offence against that provision—10 penalty units and a daily penalty of 1 penalty unit.

(2) All penalties recovered in respect of offences against this Act shall be paid to the Board.

Proceedings for offences

49.(1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of the chairperson or a person authorised by the Board in that behalf.

(2) A prosecution for an offence against this Act may be commenced within 1 year from the time when the matter of complaint arose or within 6 months after the matter of complaint comes to the knowledge of the complainant whichever is the period later to expire.

(3) Without prejudice to any other right or remedy available to the Board with respect thereto all fees payable to the Board under this Act and all penalties and costs ordered by the Board to be paid to it under this Act may be recovered in a summary way under the *Justices Act 1886* or as a debt due and owing to the Board by action in any court of competent jurisdiction.

Evidentiary provisions

50. In any proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the executive officer certifying the state of any part of the register at a date or during a period specified in the certificate or certifying that a person named therein was not at a date or during a period specified therein a registered teacher shall, upon its production, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (b) every part of the register, and an extract of any part of the register purporting to be certified as correct by the executive officer shall, upon its production, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (c) a certificate purporting to be signed by the executive officer certifying that at a date or during a period specified therein, the Board had or had not approved any of the persons or things it is empowered by this Act to approve and the conditions (if any) specified in such approval shall, upon its production, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (d) a statement, in a complaint commencing that proceeding, of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of its content;

- (e) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the Board unless evidence is given to the contrary;
- (f) proof shall not be required of the appointment of the executive officer or of any other officer appointed for the effectual administration of this Act or of the signature of the executive officer.

Annual report

52. The Minister shall in every year cause to be laid before the Legislative Assembly a report on the administration of this Act during the preceding year, prepared and tabled in accordance with the *Financial Administration and Audit Act 1977*.

Delegation by Minister

53. The Minister may delegate the Minister's powers and functions under this Act to any person.

Regulation making power

54. The Governor in Council may make regulations under this Act.

PART 5—TRANSITIONAL AND SPECIAL ARRANGEMENTS

Provisions relating to Board of Teacher Education

56.(1) Where, after the commencement of section 55, property would have passed by any testamentary disposition or otherwise to or for the benefit of the Board of Teacher Education if it were still in existence, that property shall pass to or for the benefit of the Board of Teacher Registration, and shall vest in the Board, but without prejudice to any lawful claim of any person in relation to that property and the Minister may create

and administer any trust in connection therewith or for any other purpose whatsoever.

(2) All property which immediately prior to the commencement of section 55 is held by or vested in the Board of Teacher Education shall, on that commencement, be divested from that Board and shall vest in the Board of Teacher Registration.

(3) If any property vested in the Board of Teacher Registration by subsection (2) is or shall be subject to any condition or trust, that property shall be held by or for the benefit of the Board of Teacher Registration subject to the conditions or trusts on which it was held immediately before that vesting.

(3A) Any reference in any such conditions or trusts to the Board of Teacher Education shall, on and from the commencement of section 55, be read and construed as a reference to the Board of Teacher Registration.

(4) All rights accruing or accrued to the Board of Teacher Education in respect of any property vested in the Board of Teacher Registration pursuant to subsection (2) are hereby vested in and may be enforced by the Board of Teacher Registration.

(5) All liabilities of the Board of Teacher Education in respect of any property vested in the Board of Teacher Registration pursuant to subsection (2) may be enforced against the Board of Teacher Registration.

(6) All suits, actions and proceedings and all causes of action pending or existing immediately prior to the commencement of section 55 by or against the Board of Teacher Education may be carried on and prosecuted by or against the Board of Teacher Registration and no such suit, action or proceeding shall abate or be prejudicially affected by this Act.

(7) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Board of Teacher Education existing at the commencement of section 55 shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board of Teacher Registration and may be enforced by or against that Board accordingly.

(8) All other matters commenced by the Board of Teacher Education pursuant to the performance of its functions and which remain incomplete at the commencement of section 55 shall be continued by the Board of

Teacher Registration, provided such matters are not inconsistent with the functions of the Board of Teacher Registration under this Act.

Savings

59.(1) Unless otherwise expressly prescribed, every order in council, approval, determination, authority, certificate, direction, notification, order, permission, appointment, arrangement, prohibition, refusal, registration or other act of authority made, granted, issued, done or otherwise originated under Part 7A, Division 2 or Part 8A, Division 4 of the *Education Act 1964* prior to its repeal pursuant to sections 67 and 75, or under any regulation, by-law or rule made under the *Education Act 1964* in relation to the subject matter or operation of Part 7A, Division 2 or Part 8A, Division 4 shall, subject as hereinafter provided, continue in force for the purposes of this Act as fully and effectually as if it had been granted, issued, done or otherwise originated under a corresponding provision of this Act including a corresponding regulation, by-law or rule (and shall, where necessary, be deemed to have so originated) until it expires by effluxion of time or is rescinded, repealed, revoked, cancelled, suspended, or otherwise determined under this Act.

(1A) However, every such order in council, approval, determination, authority, certificate, direction, notification, order, permission, appointment, arrangement, prohibition, refusal, registration or other act of authority shall be read and construed subject to this Act.

(2) Nothing in this section limits the operation and effect of the *Acts Interpretation Act 1954*.

Employment of staff of Board of Teacher Education

60.(1) Subject to this Act, every person who, immediately prior to the Board of Teacher Education ceasing to exist pursuant to section 55 held any salaried office or any full-time permanent employment with the Board of Teacher Education shall become an officer of the public service within the meaning of the terms of the *Public Service Management and Employment Act 1988* and shall be employed subject to that Act.

(1A) However, persons becoming officers—

(a) shall be credited with annual sick leave and long service leave

accrued and owing to them under the conditions of employment with the Board of Teacher Education; and

- (b) shall, in terms of salary, not be employed at a rate less than the rate to which they were entitled under employment with the Board of Teacher Education; and
- (c) shall have previous full-time permanent employment with the Board of Teacher Education recognised as continuous service as an officer of the public service.

Superannuation entitlements

61.(1) A person who immediately prior to becoming an officer of the public service pursuant to section 60 was a contributor to the State Service Superannuation Fund for as long as the person continues in the public service in a full-time permanent capacity—

- (a) shall retain all entitlements which at the time the person becomes such an officer or employee have accrued or are accruing to the person as a contributor under the *Public Service Superannuation Act 1958*, the *State Service Superannuation Act 1972*, or the *Superannuation (Government and Other Employees) Act 1988*; and
- (b) shall be deemed to be an officer within the meaning of each of those Acts and shall continue to contribute to that fund and shall be entitled to payments and other benefits therefrom in respect of himself or herself, his widow or her widower or any child of his or her.

(2) In respect of a person who contributes to the State Service Superannuation Fund and is referred to in subsection (1), the Board of Teacher Registration shall pay the State Service Superannuation Additional Benefits Fund contributions.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 September 1996. Future amendments of the Education (Teacher Registration) Act 1988 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only]

Reprint No.	Amendments included	Reprint date
1	to Act No. 87 of 1994	22 December 1994

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Education (Teacher Registration) Act 1988 No. 96

date of assent 8 December 1988

ss 1–2, 62 commenced on date of assent

remaining provisions commenced 6 February 1989 (proc pubd gaz 4 February 1989 p 728)

as amended by—

Griffith University and Queensland Conservatorium of Music Amalgamation and Miscellaneous Amendments Act 1991 No. 23 s 20 sch

date of assent 5 June 1991

commenced 16 December 1994 (1994 SL No. 457)

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 2

date of assent 3 June 1993

commenced on date of assent

Statute Law (Miscellaneous Provisions) (No. 2) Act 1994 No. 87 ss 1–3 sch 1

date of assent 1 December 1994

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

7 List of annotations

Long title

amd R1 (see RA s 39)

Arrangement of Act

s 3 om R1 (see RA s 36)

Interpretation

s 4 def “**Department**” om R1 (see RA s 39)

def “**Director-General**” om R1 (see RA s 39)

def “**Minister**” om R1 (see RA s 39)

Functions and powers of the Board

s 6 amd 1995 No. 58 s 4 sch 1

Board may make by-laws

s 7 amd 1993 No. 32 s 3 sch 2

Eligibility for reappointment

s 10 om 1994 No. 87 s 3 sch 1

Quorum and business of the Board

s 18 amd 1995 No. 58 s 4 sch 1

Chairperson to sign agreements for the Board

s 20 amd 1995 No. 58 s 4 sch 1

Delegation by chairperson of board

s 22 sub 1995 No. 58 s 4 sch 1

Accounts and audit

s 23 amd 1995 No. 58 s 4 sch 1

Budget of the Board

s 25 amd 1995 No. 58 s 4 sch 1

Observance of budget

s 26 amd 1995 No. 58 s 4 sch 1

Register of Teachers

s 32 amd 1995 No. 58 s 4 sch 1

Qualifications for registration

s 33 amd 1995 No. 58 s 4 sch 1

Qualifications for provisional registration

s 34 amd 1995 No. 58 s 4 sch 1

Power to caution, suspend or remove name from register

s 39 amd 1995 No. 58 s 4 sch 1

Powers of Board etc. on inquiry

s 44 amd 1995 No. 58 s 4 sch 1

Right of appeal

s 46 amd 1995 No. 58 s 4 sch 1

Regulations

s 51 om 1995 No. 58 s 4 sch 1

Annual report

s 52 amd 1995 No. 58 s 4 sch 1

Delegation by Minister

s 53 sub 1995 No. 58 s 4 sch 1

Regulation making power

s 54 sub 1995 No. 58 s 4 sch 1

Board of Teacher Education to cease to exist

s 55 om R1 (see RA s 38)

Compliance with accounts and audit requirements

s 57 om R1 (see RA s 38)

Compliance with annual reporting requirements

s 58 om R1 (see RA s 38)

Employment of staff of Board of Teacher Education

s 60 amd 1995 No. 58 s 4 sch 1

Special provisions for first constitution of the Board

s 62 om R1 (see RA s 38)

PART 6—AMENDMENT OF EDUCATION ACT 1964

pt 6 (ss 63–84) om 1991 No. 23 s 20 sch