

Queensland



# **EDUCATION (TEACHER REGISTRATION) ACT 1988**

**Reprinted as in force on 27 January 2004  
(includes commenced amendments up to 2003 Act No. 88)**

**Reprint No. 4D revised edition**

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- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

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

**Also see endnotes for information about—**

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

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- a correction
- a retrospective provision
- other relevant information.

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**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 January 2004]

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

## PART 1—PRELIMINARY

### 1 Short title

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

### 2 Definitions

In this Act—

**“application for registration”** means an application for registration as a teacher.

**“application for restoration”** means an application for restoration of a person’s name to the register.

**“board”** means the Board of Teacher Registration.

**“committee of inquiry”** means a committee of inquiry appointed by the board under section 51(1)(b)<sup>1</sup> to conduct an inquiry.

**“compulsory school age”** see the *Education (General Provisions) Act 1989*, section 2(1).<sup>2</sup>

**“convicted”** means found guilty, or having a plea of guilty accepted, in a court, whether or not a conviction was recorded.

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1 Section 51 (Board may conduct inquiry itself or appoint a committee of inquiry)

2 *Education (General Provisions) Act 1989*, section 2(1)—

**“compulsory school age”** means at least 6 years and less than 15 years.

“**director**” means the director of the office.

“**foreign regulatory authority**” means—

- (a) an interstate regulatory authority; or
- (b) an entity established under a law applying in a foreign country, other than New Zealand, having functions similar to the board’s functions under this Act.

“**good character**” see section 37.<sup>3</sup>

“**harm**”, to a child, see the *Child Protection Act 1999*, section 9.<sup>4</sup>

“**higher education**” means tertiary education, other than vocational education, and includes advanced education courses offered in registered training organisations which are specifically recognised by State and Commonwealth authorities as higher education courses.

“**Higher Education Forum**” means the committee of that name established under the *Education (General Provisions) Act 1989*.

“**indictable offence**” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,<sup>5</sup> applies to the indictable offence.

“**inquiry**” means an inquiry under part 5.<sup>6</sup>

“**inquiry body**”, for an inquiry, means—

- (a) if a committee of inquiry is established by the board to conduct the inquiry—the committee; or
- (b) in any other case—the board.

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3 Section 37 (Good character of each applicant to be assessed)

4 *Child Protection Act 1999*, section 9—

**9 What is “harm”**

(1) “**Harm**”, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by—

- (a) physical, psychological or emotional abuse or neglect; or
- (b) sexual abuse or exploitation.

5 Criminal Code, section 659 (Effect of summary conviction for indictable offences)

6 Part 5 (Inquiries about respondent teachers and related matters)

*Education (Teacher Registration) Act 1988*

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**“interstate regulatory authority”** means an entity established under the law of another State or New Zealand having functions similar to the functions of the board under this Act.

**“materials”** includes documents.

**“notice for information or documents”** means a notice under section 40(1).<sup>7</sup>

**“notice of non-satisfaction”** means a notice under section 41.<sup>8</sup>

**“office”** means the Office of the Board of Teacher Registration.

**“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.

**“respondent teacher”** means a person about whom the board may conduct an inquiry under section 50.<sup>9</sup>

**“serious offence”** means—

- (a) an offence against a provision mentioned in the schedule to the *Penalties and Sentences Act 1992*,<sup>10</sup> or
- (b) an offence against a provision of the Criminal Code mentioned in the schedule; or
- (c) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a) or (b); or
- (d) an offence against a law of another jurisdiction that substantially corresponds to an offence mentioned in paragraphs (a) to (c).

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7 Section 40 (Board may request information or documents from applicant)

8 Section 41 (Board can not be satisfied about application if its request not met)

9 Section 50 (Board may conduct inquiry about certain persons)

10 *Penalties and Sentences Act 1992*, schedule (Serious violent offences)

“**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 compulsory school age.

## **PART 2—BOARD OF TEACHER REGISTRATION**

### *Division 1—Establishment, functions and powers of the board*

#### **3 Establishment and membership of board**

(1) The Board of Teacher Registration is established.

(2) The board consists of the following persons—

- (a) 1 nominee of the Minister;
- (b) 3 nominees of the chief executive, of whom at least 2 must be practising teachers;
- (c) 2 representatives of entities employing teachers other than in State schools, 1 of whom is to be nominated by the Queensland Catholic Education Commission and the other by the Association of Independent Schools of Queensland Inc.;
- (d) 1 nominee of the Queensland Teachers’ Union, who must be a practising teacher in a State school;
- (e) 1 nominee of the Queensland Independent Education Union of Employees, who must be a practising teacher in a non-State school;
- (f) 1 nominee of the State Public Services Federation, Queensland, who must be a registered teacher;

- (g) 2 representatives of institutions of higher education, who must be practising teacher educators, nominated by the Higher Education Forum;
- (h) 1 representative of community groups involved in education, who is nominated under subsection (3) and, when appointed as a board member, is a parent of a student in a school in Queensland;
- (i) 3 representatives of registered teachers—
  - (i) whose names are submitted as a result of an election involving registered teachers that is held under a by-law; and
  - (ii) who, when appointed as board members, are registered teachers;
- (j) 1 other nominee of the Minister if the Minister considers an additional representative is desirable.

(3) The Minister must arrange for a person to hold a meeting of representatives of the following entities, including a meeting by electronic means, to decide a nominee for subsection (2)(h)—

- (a) Independent Parents and Friends Council of Queensland;
- (b) Parents and Friends Association, Queensland;
- (c) Queensland Council of Parents and Citizens' Associations Incorporated.

(4) The Governor in Council must appoint the members of the board.

(5) The director may not be appointed as a member.

(6) In this section—

**“non-State school”** means a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*.

#### **4 Chairperson and deputy chairperson**

(1) The member of the board mentioned in section 3(2)(a) is the chairperson of the board.

(2) The board members must appoint a member (other than the chairperson) as the deputy chairperson of the board.

(3) The appointment of the deputy chairperson may be for a time decided by the board but not for longer than the deputy chairperson's term of appointment as a member.

## **5 Functions and powers of the board**

(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 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 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 may exercise all powers necessary or convenient for performing its functions, including the following powers—

- (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;
- (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.

(3) For material produced by it, the board may—

- (a) charge for advertising in the material; or
- (b) sell the material or enter into an agreement with an entity to sell the material.

### **5A Primary considerations of board in registration of teachers**

In performing its functions relating to the registration of persons as teachers, the welfare and best interests of children are to be primary considerations of the board.

## **6 By-law and rule-making power**

(1) The board may make by-laws under this Act.

(2) Without limiting subsection (1), the board may make a by-law about—

- (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—
  - (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 3;<sup>11</sup>
- (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.

(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) A by-law has no effect unless approved by the Governor in Council.

## **7 Minister's power to give directions in the public interest**

(1) The Minister may give the board a written direction if the Minister is satisfied it is necessary to give the direction in the public interest.

(2) Without limiting subsection (1), a direction may be that the board must comply with—

- (a) a policy, standard or other instrument of a public sector unit; or
- (b) another document, including, for example, another policy, standard or instrument.

(3) The board must comply with the direction.

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<sup>11</sup> Section 3 (Establishment and membership of board)



(4) In the board's annual report for a financial year, under the *Financial Administration and Audit Act 1977*, the board must include copies of all directions given to it during the financial year.

### *Division 2—Administrative provisions relating to the board*

#### **8 Failure to nominate**

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.

#### **9 Members' term of appointment**

(1) The member appointed as the chairperson of the board holds office for the term, not longer than 4 years, stated in the member's appointment.

(2) A member, other than the chairperson, holds office for the term, not longer than 3 years, stated in the member's appointment.

#### **10 Disqualification from office**

The following persons are not qualified to be, or cease to be qualified to be, board members—

- (a) an undischarged bankrupt or a person who takes advantage of the laws in force for the time being about bankrupt or insolvent debtors;
- (b) a person who has been convicted of an indictable offence, unless the Minister considers the circumstances of the offence do not warrant disqualification from office.

#### **11 Vacation of office of members of the board**

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.

## **12 Vacancy on the board from expiry of term of appointment**

(1) Where a vacancy in the membership of the board occurs on the expiration of a member's term of appointment, the Minister must, by written notice, appoint a date on or before which a person is to be appointed to fill such vacancy.

(2) 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.

(3) 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.

(4) 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 3(2)(j),<sup>12</sup> may, nominate a person to fill such vacancy.

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12 Section 3 (Establishment and membership of board)

### 13 Removal of member

(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 written notice to the member.

(2) A person removed from the board ceases to be a member—

- (a) if a date is stated in the notice as the date it takes effect—from the stated date; or
- (b) in any other case—the date the notice is given to the person.

### 14 Casual vacancies on the board

(1) Where a casual vacancy occurs in the membership of the board the Minister must, by written notice, appoint a date on or before which a person is to be appointed to fill such casual vacancy.

(2) 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.

(3) 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.

(4) 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 (5) applies in respect of the appointment of the person so nominated.

(5) 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.

(6) If a casual vacancy occurs for a member nominated under section 3(2)(i) (the “**original member**”), the board must nominate for appointment the person who—

- (a) obtained the next highest number of votes in the election at which the original member was elected; and
- (b) is willing and able to be a board member.

**15 Way functions performed and powers exercised by board**

(1) The board must perform a function or exercise a power 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 is taken 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.

**16 Disclosure of interests by members of board, members of committees and director**

(1) This section applies to a member of the board, a member of a committee or the director (the “**interested person**”) if—

- (a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the board or the committee; and
- (b) the interest could conflict with the proper performance of the person’s duties about the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the interested person’s knowledge, the person must disclose the nature of the interest to a meeting of the board or committee.

(3) Unless the board or committee otherwise directs, the interested person must not—

- (a) be present when the board or committee considers the issue; or
- (b) take part in a decision of the board or committee about the issue.

(4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).

(5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—

- (a) be present when the board or committee is considering whether to give a direction under subsection (3); or
- (b) take part in making the decision about giving the direction.

(6) If, because of this section, a member of the board or a committee is not present at a board or committee meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3), but there would be a quorum if the member were present, the remaining members present are a quorum of the board or committee for considering or deciding the issue at the meeting.

(7) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.

## **17 Quorum and business of the board**

(1) A quorum for a meeting of the board is—

- (a) if the number of members of the board at the time of the meeting is an even number—half the number of members; or
- (b) if the number of members of the board at the time of the meeting is an odd number—the whole number next higher than half the number of members.

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

(3) Subsection (2) shall not be construed or applied to prejudice the operation of section 11(d).<sup>13</sup>

(3A) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

- (a) a majority of the board members gives written agreement to the resolution; and
- (b) written notice of the resolution is given under procedures approved by the board.

(4) 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.

(5) 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.

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13 Section 11 (Vacation of office of members of the board)

**18 Attendance of director at meetings**

- (1) The director may attend board meetings.
- (2) The director may speak at a meeting but is not entitled to vote.

**19 Proceedings in relation to the board**

(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'.

**20 Chairperson to sign agreements for the board**

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

(2) However, the board must have first passed a resolution to enter into such agreement.

(3) 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.

**21 Remuneration to members of the board and other committees**

(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 decides.

(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.

## **22 Delegation by chairperson of board**

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

### *Division 3—Financial and accountability provisions relating to the board*

## **23 Accounts and audit**

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

## **24 Funds of the board**

(1) The board shall keep an account at a financial institution for its 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*.

## **25 Budget of the board**

(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 year, the board shall take such surplus or deficit into account in the preparation of its budget for the next succeeding year.

## **26 Observance of budget**

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

(2) If, during any 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 year that was not provided for in the budget (as approved) for that 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 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 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.



**27 Fees and penalties**

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.

**28 Board is statutory body**

(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the board is a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

**29 Consequences if money borrowed other than under the Statutory Bodies Financial Arrangements Act 1982**

(1) If the board borrows any money which it is not lawfully authorised under the *Statutory Bodies Financial Arrangements Act 1982* 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.

(2) 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 12% per year, 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.

## **PART 3—OFFICE OF THE BOARD OF TEACHER REGISTRATION**

### **30 Office of the Board of Teacher Registration**

The Office of the Board of Teacher Registration is established.

### **31 Office's function and powers**

(1) The office's function is to assist the board.

(2) The office has power to do anything necessary or convenient in relation to its function.

### **32 Director and staff of the office**

(1) The office consists of the director and other staff of the office.

(2) The director and other staff of the office are to be appointed under the *Public Service Act 1996*.

### **33 Control of the office**

(1) The director is to control the office.

(2) The director has all the functions and powers of the chief executive of a department, so far as the functions and powers relate to the organisational unit comprising the staff of the office.

## **PART 4—PROVISIONS FOR THE REGISTRATION OF TEACHERS**

### *Division 1—Register of teachers and details in it*

### **34 Register of teachers and its inspection**

(1) The board must keep a register of teachers.

(2) The register must be kept at the board's office and, during office hours, it must be open for inspection by any person on payment of the fee prescribed under a by-law.

### **35 Registration by entering various details in register of teachers**

(1) A person is registered as a teacher when, on order of the board, the director enters the following details in the register—

- (a) the person's full name and address;
- (b) the type of registration (full or provisional);
- (c) particulars of the qualifications and experience (if any) by which the person is registered;
- (d) any other particulars required under a by-law;
- (e) the date of entering the details under this subsection.

(2) For a person who is or was registered, the director must, on the order of the board, enter other details in the register, including, for example, an endorsement or notation about the cancellation of the person's registration and the date the cancellation took effect.

### *Division 2—Applications, approvals and notices of decisions*

### **36 Two types of applications may be made to board**

(1) A person may make the following applications to the board—

- (a) an application for registration;
- (b) an application for restoration.

(2) An application must be in the approved form and be accompanied by the fee prescribed under a by-law.

### **37 Good character of each applicant to be assessed**

(1) The board must not, under section 38, approve an application unless the board is also satisfied that the applicant is of good character.

(2) In deciding whether an applicant is of good character for the purpose of registration as a teacher, the board—

- (a) must have regard to the applicant's criminal history; and
- (b) may consider all other matters the board considers relevant even if the matter happened outside of the State.

(3) The board may ask the commissioner of the Police Service for a written report about a person's criminal history.

(4) If asked by the board, the commissioner of the Police Service must give the board a written report about the criminal history of the person, including the criminal history in the commissioner's possession or to which the commissioner has access.

(5) However, without limiting subsection (2), an applicant is not of good character, if the applicant—

- (a) behaves in a way that does not satisfy a standard of behaviour generally expected of a teacher; or
- (b) otherwise behaves in a disgraceful or improper way that shows the applicant is unfit to be registered as a teacher.

(6) Subsections (2) to (5) apply in relation to the board deciding whether a teacher is of good character to continue to be registered as a teacher.

(7) In this section—

**“criminal history”**, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite sections 6, 8 and 9<sup>14</sup> of that Act, includes a conviction of the person to which any of the sections applies; and
- (b) despite section 5<sup>15</sup> of that Act, includes a charge made against the person for an offence.

### **38 Approval of applications**

(1) The board must approve an application for registration by ordering the full registration of the applicant as a teacher if the board is satisfied, on

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14 *Criminal Law (Rehabilitation of Offenders) Act 1986*, sections 6 (Non-disclosure of convictions upon expiration of rehabilitation period), 8 (Lawful to deny certain convictions) and 9 (Duty to disregard certain convictions)

15 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 5 (Matter excluded from criminal history)

reasonable grounds, that the applicant has the qualifications and experience, prescribed under a by-law, for full registration as a teacher.

(2) The board must approve an application for registration by ordering the provisional registration of the applicant if the board is satisfied, on reasonable grounds, that the applicant—

- (a) has the qualifications and experience, prescribed under a by-law, for provisional registration as a teacher; and
- (b) within a time acceptable to the board, will have the qualifications and experience, prescribed under a by-law, for full registration as a teacher.

(3) The board must approve an application for restoration if the board is satisfied, on reasonable grounds, that the applicant—

- (a) was registered but the registration was cancelled or suspended because the person did not apply, in the way prescribed under a by-law, for the retention of the person's name in the register; and
- (b) has paid the fees prescribed under a by-law.

(4) This section has effect subject to section 37.

### **39 Notice of board's decision about application**

(1) Within 7 days after the date of the board's decision about an application, the director must give written notice to the applicant about the board's decision.

(2) For a refusal of an application, the notice must also state—

- (a) the board's reasons for its refusal; and
- (b) that the applicant may appeal against the decision to the District Court; and
- (c) the time within which the applicant must make the appeal.

(3) For an approval for provisional registration, the notice must also state—

- (a) the additional qualification or experience required for an approval for full registration; and
- (b) the time within which the applicant must obtain or complete the stated additional qualification or experience.

***Division 3—Other notices if board not satisfied about application*****40 Board may request information or documents from applicant**

(1) To satisfy itself about an application, the board may ask the applicant, by written notice, to give it stated information or documents by the time stated in the notice.

(2) The time stated in the notice must be a reasonable time having regard to the information or documents and, in any case, not earlier than 28 days after the date of the notice.

(3) The applicant may ask the board to extend the time in the notice and the board must not refuse a reasonable request for an extension.

(4) The board may give to an applicant—

- (a) more than 1 notice for information or documents; and
- (b) more than 1 extension of time.

**41 Board can not be satisfied about application if its request not met**

(1) If a person given a notice for information or documents does not give the board the information or documents by the time stated in the notice or under an extension, the board must give written notice to the person that it is not satisfied—

- (a) the applicant is of good character for the purpose of being registered as a teacher; or
- (b) about a matter for which it must be satisfied under section 38.

(2) The notice must also state—

- (a) the reasons why the board is not satisfied about the applicant's character or the matter; and
- (b) that the person may ask the board for an inquiry within 28 days after receipt of the notice.

**42 Person given certain notices by board may ask for inquiry**

A person given a notice for information or documents, or a notice of non-satisfaction, may ask the board for an inquiry about the person, within 28 days after receipt of the notice.

***Division 4—Unregistered persons and reports about teachers*****43 Unregistered teachers not to be employed**

(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.

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

(3) 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.

(4) 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.

(5) 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.

**44 Duty of registered teacher convicted of indictable offence etc.**

(1) A registered teacher must give written notice to the board about any of the following events within 7 days after the event happening—

- (a) the conviction of the teacher for an indictable offence (whether on indictment or summarily);
- (b) if the teacher was registered in another State—the cancellation or suspension (however described) of the person’s registration in the other State as a teacher;
- (c) if the teacher was employed in another State that does not register teachers—the termination of the teacher’s employment as a teacher in the other State because the teacher’s employer was reasonably satisfied the teacher was not competent or fit to be employed as a teacher in that State.

Maximum penalty—10 penalty units.

(2) The notice must disclose the circumstances of the event that gave rise to the conviction, cancellation, suspension or termination of employment.

**44A Employing authority to notify board about sexual allegation in certain circumstances**

(1) This section applies if the employing authority for a school gave written notice to a relevant teacher that the authority was dissatisfied with the relevant teacher after the employing authority had investigated a sexual allegation involving the teacher and within 6 months of the notice—

- (a) the employing authority dismissed the relevant teacher from the educational staff of the school; or
- (b) the relevant teacher resigned from the educational staff of the school.

(2) The employing authority must give written notice of the dismissal or resignation to the board.

(3) The notice must include the following—

- (a) the name of the employing authority and, if the name of the authority is different to the name of the school, the name of the school;
- (b) the name of the relevant teacher;



- (c) the date the employing authority gave notice to the relevant teacher of the dismissal or the employing authority was given notice of the resignation, and the date of effect of the dismissal or resignation;
- (d) the sexual allegation, particulars of the sexual allegation and any other relevant information;
- (e) the reasons given by the employing authority for the dismissal or by the relevant teacher for resigning.

(4) Regardless of the date of effect of the dismissal or resignation, the notice must be given to the board within 7 days of the employing authority—

- (a) giving notice of the dismissal to the relevant teacher; or
- (b) receiving notice from the relevant teacher of the teacher's resignation.

(5) In this section—

**“employing authority”**, for a school, means the person or entity responsible for the appointment of teachers to the educational staff of the school.

**“relevant teacher”**, in relation to an employing authority, means—

- (a) a person who is a practising teacher at the school for which the employing authority is responsible; or
- (b) a person who was a practising teacher at the school for which the employing authority is responsible.

**“sexual allegation”** means an allegation that a teacher has—

- (a) committed an offence of a sexual nature, including, for example, carnal knowledge of a girl under 16 years and a sexual assault mentioned in the Criminal Code, section 352;<sup>16</sup> or
- (b) engaged in conduct of a sexual nature (other than an offence of a sexual nature) with a student or a child, whether in the teacher's capacity as a teacher or otherwise, and the conduct does not satisfy a standard of behaviour generally expected of a teacher.

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16 Criminal Code, section 352 (Sexual assaults)

**44B Prosecuting authority to notify board about committal, conviction etc.**

(1) This section applies if a person is charged with an indictable offence and the commissioner of the Police Service or the Director of Public Prosecutions (a “**prosecuting authority**”) believes, on reasonable grounds, that the person is a registered teacher or, at any time, was a registered teacher.<sup>17</sup>

(2) If the person is committed for trial for an indictable offence, the prosecuting authority must, within 7 days after the committal, give written notice to the board about the following—

- (a) the name of the person;
- (b) the court in which the person was committed;
- (c) the offence of which the person was committed and particulars of the offence;
- (d) the date of the committal.

(3) If the person is convicted of the indictable offence, the prosecuting authority must, within 7 days after the conviction, give written notice to the board about the following—

- (a) the name of the person;
- (b) the court in which the person was convicted;
- (c) the offence of which the person was convicted and particulars of the offence;
- (d) the date of the conviction;
- (e) the penalty imposed by the court.

(4) If there is an acquittal, mistrial, presentation of nolle prosequi to a court or decision by the prosecuting authority not to present an indictment, in relation to the indictable offence for which the person was charged, the prosecuting authority must, within 7 days after the acquittal, mistrial, presentation or decision, give written notice to the board about the following—

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<sup>17</sup> The office of the commissioner of the Police Service is established under the *Police Service Administration Act 1990*. The office of the Director of Public Prosecutions is established under the *Director of Public Prosecutions Act 1984*.

- (a) the name of the person;
- (b) if relevant—the court in which the person was acquitted, the mistrial took place or the nolle prosequi was presented;
- (c) the offence of which the person was charged and particulars of the offence;
- (d) the date of the acquittal, mistrial, presentation of nolle prosequi to a court or a decision by the prosecuting authority not to present an indictment.

(5) A prosecuting authority must give a notice under subsection (3) or (4) even though a notice was given under subsection (2).

#### **44C Board must consider notices under ss 44A and 44B and decide if inquiry necessary**

As soon as practicable after the board is given a notice under section 44A or 44B, the board must consider the notice and any other information that it considers relevant and decide—

- (a) if grounds exist for the board to conduct an inquiry under section 50;<sup>18</sup> and
- (b) whether an inquiry is to be conducted.

#### **45 Board to monitor registration of teachers**

(1) The board may, by written notice, require the principal of a school to give it reports and returns, in a way prescribed under a by-law, about persons employed as teachers in the school.

(2) The principal must comply with the notice.

Maximum penalty—10 penalty units.

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18 Section 50 (Board may conduct inquiry about certain persons)

***Division 5—Noncompliance with provisional registration conditions*****46 Procedure if board considers teacher is not complying with conditions of provisional registration**

If the board considers a provisionally registered teacher is not complying with the conditions of the provisional registration, the board must give the teacher written notice—

- (a) stating the board may order the cancellation or suspension of the registration (the “**proposed order**”); and
- (b) stating the grounds for the proposed order; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed order is an order suspending registration—stating the proposed suspension period; and
- (e) inviting the teacher to show, within a stated time of at least 28 days, why the proposed order should not be made.

**47 Procedure after teacher has been invited to show cause**

(1) If, after considering all written representations made within the stated time, the board is satisfied the teacher is not complying with the conditions of the provisional registration, the board may—

- (a) if the proposed order was to suspend registration for a stated period—order suspension of the registration for not longer than the proposed suspension period; or
- (b) if the proposed order was to cancel the registration—either order cancellation of the registration or suspension of it for a period.

(2) The director must inform the teacher of the board’s order by written notice.

(3) The notice must be given within 7 days after the board makes its order.

(4) If the board orders the cancellation or suspension of the registration, the notice must state—

- (a) the board's reasons for its order; and
- (b) for an order of suspension—the period of suspension; and
- (c) the date the cancellation or suspension takes effect or, if no date is stated, that the cancellation or suspension takes effect from the date of the notice; and
- (d) that the person may appeal against the order to the District Court; and
- (e) the time within which the person must make the appeal.

*Division 6—Power to cancel registration in some other cases*

**48 Cancellation of registration**

(1) The board must order cancellation of a teacher's registration if—

- (a) the teacher has died; or
- (b) the teacher applies in writing to the board to have the teacher's name removed from the register; or
- (c) the teacher does not apply for retention of the teacher's name in the register at the intervals, within the times and in the way prescribed under a by-law.

(2) However, the board may not order cancellation of a teacher's registration under subsection (1)(c) unless the board has complied with the provisions prescribed under a by-law about giving notice to the teacher of the proposed cancellation.

**49 Date of effect of cancellation of registration under s 48**

A cancellation of registration under section 48 takes effect—

- (a) if a date is stated in the order as the date it takes effect—from the stated date; or
- (b) in any other case—the date of the order.

***Division 7—Immediate suspension of registration*****49A Immediate suspension**

(1) This section applies if the board reasonably believes, at any time, that—

- (a) a registered teacher poses an imminent risk of harm to children; and
- (b) immediate action to suspend the teacher's registration is necessary to protect children.

(2) The board may decide to suspend the teacher's registration.

(3) Immediately after deciding to suspend the teacher's registration, the board must give written notice of the suspension to the teacher.

(4) The notice must state—

- (a) the board's decision; and
- (b) the reasons for the decision; and
- (c) an inquiry about the teacher will be conducted to decide whether the teacher is of good character for the purpose of continuing to be registered as a teacher; and
- (d) that the teacher may appeal against the decision to the District Court; and
- (e) the time within which the teacher must make the appeal.

(5) The decision takes effect on the day the notice is given to the teacher.

(6) The decision continues to have effect until the first of the following happens—

- (a) the decision is set aside by the District Court on appeal;
- (b) if, after the inquiry, the board makes an order under section 70(2A)—the order takes effect;
- (c) after the inquiry, the board decides to end the suspension.

## **PART 5—INQUIRIES ABOUT RESPONDENT TEACHERS AND RELATED MATTERS**

### *Division 1—Power to conduct inquiries about respondent teachers*

#### **50 Board may conduct inquiry about certain persons**

(1) The board may conduct an inquiry if a person, under section 42,<sup>19</sup> has asked for an inquiry.

(2) Also, the board may conduct an inquiry into a matter involving a person who is a registered teacher, or was a registered teacher but is no longer registered (the “**teacher**”), if the board considers there are reasonable grounds to believe—

- (a) the teacher has been convicted of an indictable offence or an offence against this Act; or
- (b) the teacher is incompetent in performing the work of a teacher but only if the teacher has been dismissed from employment as a teacher, or has resigned in circumstances, that, in the opinion of the teacher’s employer in the State, call into question the teacher’s competency to be employed as a teacher; or
- (c) if the teacher was registered in another State—the teacher’s registration in the State as a teacher has been cancelled or suspended; or
- (d) if the teacher was employed in another State that does not register teachers—the teacher’s employment as a teacher in the State has been terminated because the teacher’s employer was reasonably satisfied the teacher was not competent or fit to be employed as a teacher in that State; or
- (e) the teacher has ceased to possess or does not possess the qualifications and experience (if any) on which the teacher was registered as a teacher; or
- (f) the teacher is not of good character for the purpose of being, or continuing to be, registered as a teacher.<sup>20</sup>

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19 Section 42 (Person given certain notices by board may ask for inquiry)

20 See section 37 (Good character of each applicant to be assessed).

(3) However, the board may conduct an inquiry into a person who was a registered teacher only if—

- (a) the board is reasonably satisfied that, because of the nature of the events the subject of the proposed inquiry, it is in the public interest for the board to inquire into the events; and
- (b) the events happened while the person was registered.

### **50A When board must conduct inquiry**

(1) The board must conduct an inquiry about a person whose registration as a registered teacher is suspended under section 49A(2).

(2) The board must ensure the inquiry is held as soon as practicable after the person is given notice of the suspension under section 49A(3).

### **51 Board may conduct inquiry itself or appoint a committee of inquiry**

(1) Subject to subsection (1A), the board may—

- (a) conduct the inquiry itself; or
- (b) appoint a committee of inquiry to conduct the inquiry.

(1A) The board must appoint a committee of inquiry to conduct the inquiry if the matter involves the consideration by the board of whether a person is of good character for the purpose of being, or continuing to be, registered as a teacher.

(2) If the board conducts the inquiry, the inquiry is not affected by a change in the membership of the board.

### **52 Membership of committee of inquiry**

(1) If the board appoints a committee of inquiry to conduct the inquiry, the committee must consist of—

- (a) 1 lawyer of at least 5 years standing; and
- (b) 2 practising teachers; and
- (c) a person who is not a lawyer or registered teacher.



(2) Before choosing a person to be a member of the committee, the board must be satisfied the person does not have a personal or professional connection with the person who is the subject of the inquiry.

(3) A person can not become, or continue as, a member of the committee—

- (a) if the person is, or becomes, a board member; or
- (b) if the person is, or has been, convicted of an indictable offence.

(4) The person mentioned in subsection (1)(a) is the chairperson of the committee.

### *Division 2—Conducting an inquiry*

#### **53 Notice of inquiry**

The board must give at least 14 days written notice to the respondent teacher of—

- (a) the grounds for the inquiry; and
- (b) the time and place for conducting the inquiry; and
- (c) if the board has appointed a committee of inquiry to conduct the inquiry— the names of the committee members.

#### **54 Inquiry open to public**

(1) The inquiry must be open to the public unless—

- (a) the inquiry body decides, in the special circumstances of the particular matter, all or part of the inquiry should be closed to the public; or
- (b) the respondent teacher asks the inquiry body for all or part of the inquiry to be closed to the public.

(2) Also, the inquiry body may order that the following must not be published—

- (a) the name of the respondent teacher or of any person called before it as a witness;
- (b) any evidence given before it;
- (c) the contents of any document produced to it.

**55 Records of proceedings**

The inquiry body must keep a record of the inquiry's proceedings.

**56 Procedure**

(1) The inquiry is to be held with as little formality and technicality, and must proceed as quickly, as is practicable to permit a fair and proper consideration of the matters before the inquiry body.

(2) In conducting the inquiry, the inquiry body—

- (a) is not bound by the rules or practice about evidence but may inform itself about a relevant matter in any way it considers appropriate; but
- (b) must observe the rules of natural justice.

(3) Subject to subsections (1) and (2), the chairperson of the inquiry body may give directions about the procedure to be followed by the inquiry body.

**57 Representation for respondent teacher and board**

(1) In conducting the inquiry, the inquiry body must give the respondent teacher an adequate opportunity to fully and fairly present the teacher's case.

(2) The respondent teacher is entitled to be represented by—

- (a) a lawyer; or
- (b) a person nominated by the respondent teacher as the teacher's agent.

(3) Also a lawyer, or officer of the board, may appear at the inquiry to present evidence to, or help, the inquiry body.

**58 Powers of inquiry body**

(1) At the inquiry, the inquiry body may—

- (a) proceed in the absence of the respondent teacher if the board is satisfied, on reasonable grounds, that the teacher was given notice about the inquiry under section 53;<sup>21</sup> and
- (b) require evidence on oath or by statutory declaration; and
- (c) adjourn the inquiry; and
- (d) permit amendment of a document; and
- (e) disregard any defect, error, insufficiency or omission in a document.

(2) The chairperson of the inquiry body may administer an oath to a person appearing at the inquiry.

(3) Also the inquiry body may, by written notice, require a person to attend the inquiry at a stated time and place—

- (a) to give evidence; or
- (b) to produce a stated document or thing that is relevant to the inquiry.

## **59 Inspection of documents**

(1) When a document or thing is produced to the inquiry body, the body may inspect the document or thing if it is relevant to the inquiry.

(2) The inquiry body may, for the inquiry, take possession of a document or thing produced at an inquiry and keep it for as long as is necessary.

(3) While keeping a document or thing, the inquiry body must permit a person otherwise entitled to possession of the document or thing to inspect the document or thing, at a reasonable place and time decided by the body.

(4) In this section—

“inspect”, for a document or thing, includes make copies of, photograph and take extracts from, the document or thing.

## **60 Evidence and findings etc. in other proceedings may be received or adopted**

During the inquiry, the inquiry body may—

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21 Section 53 (Notice of inquiry)

- (a) receive in evidence a transcript of evidence taken in a proceeding before a court, tribunal or other body constituted under the law of the State, the Commonwealth, a State or a foreign country, and draw conclusions of fact from the evidence that it considers proper; and
- (b) adopt, as it considers proper, decisions, findings, judgments, or reasons for judgment, of the court, tribunal or body that may be relevant to the inquiry.

### **61 Allowance to witness**

A witness who appears before the inquiry body must be paid by the board, out of its funds—

- (a) an allowance for attendance at the inquiry prescribed under a by-law; or
- (b) if no amount is prescribed—an amount the body's chairperson considers reasonable for the witness.

### **62 Offences if failure to attend, appear, produce, be sworn or answer**

(1) A person served with a notice requiring the person to attend the inquiry must not fail, without reasonable excuse—

- (a) to attend the inquiry as required by the notice; or
- (b) to appear from time to time in the course of the inquiry as required by the chairperson of the inquiry body; or
- (c) to produce a document or thing stated in the notice.

Maximum penalty—10 penalty units.

(2) A person appearing as a witness at the inquiry must not fail, without reasonable excuse—

- (a) to be sworn; or
- (b) to answer a question that the person is required by a member of the inquiry body to answer.

Maximum penalty for subsection (2)—10 penalty units.

**63 Protection for individuals against self incrimination**

If an individual before the inquiry objects to producing a document or thing, or to answering a question asked by a member of the inquiry body, on the ground that producing the document or thing or answering the question might tend to incriminate the individual, he or she is not required—

- (a) to produce the document or thing; or
- (b) to answer the question.

**64 Protection of members, legal representatives and witnesses**

(1) The members of the inquiry body have, in the performance of the member's duties for the inquiry, the same protection and immunity as a judge of the Supreme Court.

(2) A lawyer or other person appearing before the inquiry body for someone else has the same protection and immunity as a barrister appearing for a party in a proceeding in the Supreme Court.

(3) A person required to attend, or appearing before the inquiry body as a witness, has the same protection as a witness in a proceeding in the Supreme Court.

**65 Contempt of inquiry body**

A person must not—

- (a) insult the inquiry body; or
- (b) deliberately interrupt the inquiry; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where an inquiry body is conducting its inquiry; or
- (d) attempt to improperly influence the inquiry body; or
- (e) do anything that would be contempt of court if the inquiry body were a judge acting judicially; or

- (f) publish a matter that the inquiry body has ordered not to be published.<sup>22</sup>

Maximum penalty—10 penalty units.

## **66 Removal from inquiry**

(1) The chairperson of the inquiry body may order a person to leave the inquiry, or a part of the inquiry, closed to the public.

(2) The chairperson may order a person to leave the inquiry if the person obstructs or hinders, attempts to obstruct or hinder, or attempts to improperly influence, the conduct of the inquiry.

(3) A person ordered to leave the inquiry must immediately do so.

Maximum penalty—10 penalty units.

(4) If the person (the “**offender**”) does not immediately leave the inquiry, the chairperson may authorise a person (the “**authorised person**”) to remove the offender from the inquiry.

(5) In removing the offender, the authorised person must use only reasonable and necessary force.

(6) The offender must not resist the authorised person in carrying out the authority.

Maximum penalty for subsection (6)—10 penalty units.

## **67 Decisions about questions before inquiry body**

(1) A question before the inquiry body is to be decided according to the opinion of—

- (a) if the body is a committee of inquiry—the majority of the members of the committee; or
- (b) in any other case—the majority of the board members constituting the inquiry body for the inquiry.

(2) If the members of the inquiry body are equally divided on a question, the question is to be decided according to the opinion of the body’s chairperson.

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22 See section 54(2) (Inquiry open to public).

***Division 3—Matters at end of inquiry*****68 Committee of inquiry to report to board**

(1) If the inquiry body is a committee of inquiry, it must report its findings and recommendations to the board as soon as possible after the inquiry.

(2) The board must have regard to the findings and recommendations in making a decision about the respondent teacher.

**69 Report of offences**

If the inquiry body considers material before it discloses an offence, its chairperson may report the offence to 1 or more of the following persons and may make available to the person or persons all relevant material in the possession of the inquiry body—

- (a) the commissioner of the police service;
- (b) Crime and Misconduct Commission;
- (c) the director of public prosecutions;
- (d) the chief executive.

***Division 4—Orders by board after inquiry*****70 Board may order cancellation of registration etc.**

(1) After an inquiry about a registered teacher, if the board is satisfied on the balance of probabilities about a matter mentioned in section 50(2),<sup>23</sup> the board may, as it considers just in the circumstances, make 1 or more of the following orders—

- (a) an order cancelling the teacher's registration;
- (b) an order cancelling the teacher's registration and substituting provisional registration subject to conditions the board considers appropriate;

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23 Section 50 (Board may conduct inquiry about certain persons)

- (c) an order suspending the teacher's registration for a stated time;
- (d) an order requiring the teacher to pay to the board, by way of costs, an amount the board considers appropriate having regard to expenses incurred by it in conducting the inquiry;
- (e) an order requiring the teacher to pay to the board, by way of penalty, an amount fixed by the board but not more than the equivalent of 20 penalty units;
- (f) an order reprimanding the teacher and for the reprimand to be entered in the register.

**(1A)** Subsection (1) applies subject to section 70A.

**(2)** After an inquiry about a person who was a registered teacher, if the board is satisfied on the balance of probabilities about a matter mentioned in section 50(2), the board may, as it considers just in the circumstances—

- (a) make an order mentioned in subsection (1)(d); or
- (b) order a notation or endorsement about the person to be entered in the register.

**(2A)** After an inquiry about a person whose registration as a registered teacher is suspended under section 49A(2), if the board is satisfied on the balance of probabilities that the person no longer is of good character for the purpose of continuing to be registered as a teacher, the board may make 1 or more of the orders mentioned in subsection (1).

**(3)** If, after an inquiry about a person who has asked for an inquiry under section 42,<sup>24</sup> the board is satisfied about the matters mentioned in sections 37 and 38,<sup>25</sup> the board must order that the person be registered.

**(4)** Also, the board may order that the register is endorsed or noted about a respondent teacher in a particular way.

**(5)** However, the board may decide not to make an order under subsection (1) or (2) if—

- (a) the matter is trivial; or
- (b) there are special circumstances.

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24 Section 42 (Person given certain notices by board may ask for inquiry)

25 Sections 37 (Good character of each applicant to be assessed) and 38 (Approval of applications)



(6) If the board orders an amount to be paid as a penalty or as costs, the amount is payable immediately or, if the board allows time for payment, immediately at the end of the time allowed.

(7) The director is to give effect to, or secure compliance with, an order.

### **70A Board must order cancellation of registration in particular circumstances**

(1) Subsection (2) applies if the board, after becoming aware that a registered teacher has been convicted of a serious offence, conducts an inquiry about the teacher on a ground mentioned in section 50(2)(a) or (f).

(2) The board must order the cancellation of the teacher's registration, after the inquiry, unless the board is satisfied it is an exceptional case in which it would not harm the best interests of children for the teacher to work in a child-related field.

(3) To remove any doubt, it is declared that even though the board does not make an order under subsection (2), it may after the inquiry make 1 or more of the orders mentioned in section 70(1)(b) to (f).

### **71 Notice of board's order**

(1) Within 7 days after the date of an order of the board about a person under section 70 or 70A(2), the director must give written notice to the person about the order.

(2) The notice must also state—

- (a) the board's reasons for its order; and
- (b) for an order cancelling or suspending the person's registration—the date the cancellation or suspension takes effect or, if no date is stated, that the cancellation or suspension takes effect from the date of the notice; and
- (c) that the person may appeal against the order to the District Court; and
- (d) the time within which the person must make the appeal.

**71A Board may notify other entities about decision or order**

(1) This section applies if the board makes a decision or order about a person under section 49A(2), 70(1), (2) or (2A) or 70A(2).

(2) The board must, as soon as practicable after making the decision or order, give written notice of it to interstate regulatory authorities with which the board is aware the person is registered.

(3) Also, the board may give written notice of the decision or order to any of the following—

- (a) the chief executive;
- (b) foreign regulatory authorities;
- (c) an employer of the person;
- (d) the Minister;
- (e) any other entity relevant to the person's practice of the teaching profession.

(4) However, the board must not give a notice about the decision or order to an entity under subsection (3) unless the board reasonably believes the entity needs to know about the decision or order.

(5) A notice under this section may include the information the board reasonably believes is appropriate in the circumstances.

**71B Board may notify commissioner for children and young people about particular information**

(1) Subsection (3) applies if—

- (a) the board conducts an inquiry into a matter concerning the conduct of a person; and
- (b) after the inquiry, the board makes an order about the person under section 70(1), (2) or (2A) or 70A(2).

(2) Subsection (3) also applies if the board decides, under section 49A(2), to suspend a person's registration as a registered teacher because of the conduct of the person.

(3) The board may give written notice of the decision or order to the commissioner for children and young people if the board reasonably believes the decision or order is relevant to a consideration by the

commissioner, under the *Commission for Children and Young People Act 2000*, part 6,<sup>26</sup> of whether the person is a suitable person for child-related employment.

(4) A notice under subsection (3) must state the following—

- (a) the person's name and address;
- (b) the person's date of birth;
- (c) the decision or order;
- (d) when the conduct happened;
- (e) the nature of the conduct.

(5) However, if the conduct relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.

## PART 6—APPEALS

### 72 Appeals

(1) A person aggrieved by the following may appeal against the board's decision or order to the District Court—

- (a) the board's refusal of the person's application for registration or application for restoration;
- (b) the board's approval of the person's application for registration by ordering provisional registration;
- (c) the board's order about the person under section 47 or 70;<sup>27</sup>
- (d) the board's decision, under section 49A(2), to suspend the person's registration as a teacher;
- (e) the board's order about the person under section 70A(2).

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<sup>26</sup> *Commission for Children and Young People Act 2000*, part 6 (Employment screening for child-related employment)

<sup>27</sup> Section 47 (Procedure after teacher has been invited to show cause) or 70 (Board may order cancellation of registration etc.)

(2) The appeal is to be started within 28 days after the person receives notice of the board's decision or order, by filing a notice of appeal in a registry of the District Court.

(3) The appeal is by way of rehearing on the material before the board or, if the judge hearing the appeal so orders, on material adduced on the appeal, or on both.

(4) If the appeal is made under subsection (1)(a), the court may—

- (a) allow the appeal and order the board to fully or provisionally register the person as a teacher; or
- (b) dismiss the appeal.

(5) If the appeal is made under subsection (1)(b), the court may—

- (a) allow the appeal and order the board to fully register the person as a teacher; or
- (b) allow the appeal and order the board to vary the conditions of the provisional registration; or
- (c) dismiss the appeal.

(6) If the appeal is made under subsection (1)(c), the court may—

- (a) allow the appeal; or
- (b) allow the appeal and make 1 or more of the orders mentioned in section 70(1); or
- (c) dismiss the appeal.

(6A) If the appeal is made under subsection (1)(d), the court may—

- (a) allow the appeal and order the board to end the suspension; or
- (b) dismiss the appeal.

(6B) If the appeal is made under subsection (1)(e), the court may—

- (a) allow the appeal; or
- (b) allow the appeal and make 1 or more of the orders mentioned in section 70(1)(b) to (f); or
- (c) dismiss the appeal.

(7) The decision of the court on appeal is final and is to be given effect by the board.

(8) If on appeal an order is made for payment of a monetary penalty by the appellant, the payment is to be made to the board and, for purposes of enforcement, the order is taken to be an order of the board.

## **PART 7—GENERAL PROVISIONS**

### **73 False or misleading information**

(1) A person must not state anything to the board or a committee of inquiry the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

(2) It is enough for a complaint for an offence against subsection (1) to state the statement made was false or misleading to the person's knowledge.

### **74 False, incomplete or misleading documents**

(1) A person must not give to the board or a committee of inquiry a document containing information the person knows is false, incomplete or misleading in a material particular.

Maximum penalty—10 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the board or committee of the extent to which the document is false, misleading or incomplete; and
- (b) gives the correct information to the board or committee if the person has, or can reasonably obtain, the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the document was false, incomplete or misleading to the person's knowledge.

### **74A Confidentiality of information**

(1) This section applies to a person (the “**relevant person**”) who is or was—

- (a) a board member; or
- (b) a member of a board committee; or
- (c) a member of a committee of inquiry; or
- (d) the director or a member of the office's staff; or
- (e) otherwise involved in the administration of this Act.

(2) The relevant person must not disclose protected information to anyone else.

Maximum penalty—20 penalty units.

(3) However, the relevant person may disclose the information to someone else—

- (a) to the extent necessary to perform the relevant person's functions under or relating to this Act; or
- (b) if the disclosure is authorised under this or another Act; or
- (c) if the disclosure is otherwise required or permitted by law; or
- (d) if the person to whom the information relates agrees to the disclosure; or
- (e) if the disclosure is in a form that does not disclose the identity of a person; or
- (f) if the information is, or has been, accessible to the public, including, for example, because it is or was recorded in the register; or
- (g) if the disclosure is to a foreign regulatory authority and the disclosure is necessary for the authority to perform its functions; or
- (h) if the disclosure is to the Minister to allow the Minister to act under paragraph (i); or
- (i) if the Minister considers the disclosure is in the public interest and authorises the relevant person to disclose the information.

(4) If the Minister authorises information to be disclosed under subsection (3)(i) about a matter concerning a registered teacher, the Minister must inform the board of the authorisation and its purpose.

(5) In this section—

**“information”** includes a document.

**“protected information”** means information about a person disclosed to, or obtained by, a relevant person in the course of performing, or because of, the relevant person’s functions under this Act.

#### **74B Protection of board members from liability**

(1) A board member is not civilly liable for an act done or omission made, honestly and without negligence under this Act, other than when the board member is performing the board member’s duties as a member of an inquiry body.

(2) If subsection (1) prevents a civil liability attaching to a board member, the liability attaches instead to the State.

#### **74C Effect of suspension**

(1) If a person’s registration as a teacher is suspended under this Act, the person is, during the period of the suspension, taken not to be a registered teacher.

(2) Despite subsection (1), the board may conduct an inquiry about the person and for that purpose the person continues to be a registered teacher.

(3) Subject to any other order of the board under section 70 or 70A(2) or other decision of the District Court, at the end of the period of suspension, the person is registered as a teacher on the same conditions, and in the same type of registration, that applied to the person immediately before the suspension.

(4) Subsection (3) is subject to the person paying any fee, payable under this Act, for the retention of the person’s name in the register.

#### **74D Recording of suspension in register**

(1) This section applies if a person’s registration as a teacher is suspended under this Act.

(2) As soon as practicable after the suspension, the board must record in the register, for the period of the suspension, that the registration is suspended.

## **75 Penalties payable to board**

All penalties received for offences against this Act are payable to the board.

## **76 Proceedings for offences**

(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.

## **77 Evidentiary provisions**

(1) In any proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the executive officer or director 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 or director 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 or director 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 director or of any other officer appointed for the effectual administration of this Act or of the signature of the executive officer or director.

(2) In subsection (1)—

**“executive officer”** means a person who was the executive officer of the board before the commencement of the *Education (School Curriculum P-10) Act 1996*.

## 78 Administrative support for board and office

(1) The board may make arrangements for administrative support services for the board and the office.

(2) If the board makes arrangements with the chief executive for the department to provide 1 or more services for the board or the office, the arrangement must include a provision about the board paying the department a reasonable amount for the service.

## 79 Delegation by Minister

(1) The Minister may delegate the Minister’s powers under this Act, other than under section 7,<sup>28</sup> to an appropriately qualified person.

(2) In subsection (1)—

**“appropriately qualified person”** means a person with the qualifications, experience or standing appropriate to exercise the power.

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28 Section 7 (Minister’s power to give directions in the public interest)

*Example of standing—*

A person's classification level in the public service.

## **80 Regulation-making power**

The Governor in Council may make regulations under this Act.

# **PART 8—TRANSITIONAL AND SPECIAL ARRANGEMENTS**

## *Division 1—Board of Teacher Education*

### **81 Provisions relating to Board of Teacher Education**

(1) Where, after the commencement of section 55,<sup>29</sup> 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.

(4) 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.

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<sup>29</sup> Section 55 (Records of proceedings)

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

## **82 Savings**

(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 the *Education Act 1964* part 8A, division 4 or part 7A, division 2 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 8A, division 4 or part 7A, division 2 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.

(2) 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.

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

### **83 Employment of staff of Board of Teacher Education**

(1) Subject to this Act, every person who, immediately prior to the Board of Teacher Education ceasing to exist pursuant to section 55<sup>30</sup> 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 Act 1996* and shall be employed subject to that Act.

(2) 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.

### **84 Superannuation entitlements**

A person who immediately prior to becoming an officer of the public service pursuant to section 83 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

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30 Section 55 (Records of proceedings)

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 or her surviving spouse or any child of his or her.

### *Division 3—Office of the Board of Teacher Registration*

#### **93 Definitions for div 3**

In this division—

**“commencement day”** means the day this division commences.

**“former office”** means the part of the department that, immediately before the commencement day, was known as the Office of the Board of Teacher Registration.

**“new office”** means the Office of the Board of Teacher Registration established under this Act.

**“transferring officer”** means a person who, immediately before the commencement day, was a public service officer within the former office.

#### **94 Dissolution of former office**

The former office is dissolved.

#### **95 Staff of the office**

(1) Each transferring officer is taken to have been appointed as a public service officer within the new office.

(2) Each transferring officer keeps—

- (a) the salary and conditions of employment; and
- (b) the entitlements with respect to leave and superannuation;

that applied to the officer immediately before the commencement day.

(3) To remove any doubt, it is declared that a transferring officer's continuity of service is not interrupted merely because of the end of the officer's appointment within the former office and the start of the officer's appointment within the new office.

***Division 4—Transitional provisions for Education and Other Legislation  
(Student Protection) Amendment Act 2003***

**96 Definition for div 4**

In this division—

**“amending Act”** means the *Education and Other Legislation (Student Protection) Amendment Act 2003*.

**98 Incomplete inquiries**

(1) Subsection (2) applies if an inquiry was commenced, but not completed, before the commencement of sections 32 and 33 of the amending Act.

(2) The inquiry may be completed as if sections 32 and 33 of the amending Act had not commenced.

**SCHEDULE****SERIOUS OFFENCE PROVISIONS OF THE CRIMINAL CODE**

section 2, definition “serious offence”, paragraph (b)

1. Section 211 (Bestiality)
2. Section 219 (Taking child for immoral purposes)
3. Section 221 (Conspiracy to defile)
4. Section 228 (Obscene publications and exhibitions)
5. Section 238 (Contamination of goods)
6. Section 239 (Hoax contamination of goods)
7. Section 240 (Dealing in contaminated goods)
8. Section 300 (Unlawful homicide)
9. Section 307 (Accessory after the fact to murder)
10. Section 308 (Threats to murder in document)
11. Section 309 (Conspiring to murder)
12. Section 311 (Aiding suicide)
13. Section 314 (Concealing the birth of children)
14. Section 324 (Failure to supply necessities)
15. Section 327 (Setting mantraps)
16. Section 355 (Deprivation of liberty)
17. Section 359 (Threats)
18. Section 359E (Punishment of unlawful stalking)
19. Section 363 (Child-stealing)
20. Section 363A (Abduction of child under 16)
21. Section 364 (Cruelty to children under 16)

## SCHEDULE (continued)

- 22.** Section 415 (Demanding property, benefit or performance of services with threats)
- 23.** Section 416 (Attempts at extortion by threats)
- 24.** Section 417 (Procuring execution of deeds etc. by threats)
- 25.** Section 417A (Taking control of aircraft)



**ENDNOTES****1 Index to endnotes**

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2 Date to which amendments incorporated . . . . .	63
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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 January 2004. 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

### 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
Corrected minor errors	3
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

### 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)

amending legislation—

**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) Act (No. 2) 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

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Education (School Curriculum P–10) Act 1996 No. 65 ss 1–2, 52 sch 2**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 2 May 1997, immediately after the commencement of 1996 No. 72 (1997 SL No. 104)

**Education (Teacher Registration) Amendment Act 1996 No. 72**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 2 May 1997 (1997 SL No. 103)

**Education and Other Legislation Amendment Act 1997 No. 83 pts 1, 9**

date of assent 5 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 1998 (1997 SL No. 464)

**Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch**

date of assent 30 April 1999

commenced on date of assent

**Training and Employment Act 2000 No. 23 ss 1, 2(3), 293 sch 2**

date of assent 27 June 2000

ss 1–2 commenced on date of assent  
 remaining provisions commenced 28 September 2000 (2000 SL No. 248)

**Superannuation and Other Legislation Amendment Act 2000 No. 52 ss 1, 48 sch**

date of assent 17 November 2000  
 commenced on date of assent

**Education (Accreditation of Non-State Schools) Act 2001 No. 60 ss 1–2(1)(a), (c), (2), 218–219 schs 1–2**

date of assent 21 September 2001  
 ss 1–2, 219 sch 2 commenced on date of assent (see s 2(1)(a), (c))  
 remaining provisions commenced 1 January 2002 (see s 2(2))

**Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1**

date of assent 8 November 2001  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 2002 (2001 SL No. 221)

**Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch**

date of assent 13 December 2002  
 ss 1–2 commenced on date of assent  
 s 90 commenced 31 March 2003 (2003 SL No. 51)  
 remaining provisions commenced 1 April 2003 (2003 SL No. 51)

**Education (Miscellaneous Amendments) Act 2002 No. 75 s 1, pt 6, s 74 sch**

date of assent 13 December 2002  
 commenced on date of assent

**Youth Participation in Education and Training Act 2003 No. 62 ss 1, 2(2), pt 8 div 3**

date of assent 13 October 2003  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 2004 (2003 SL No. 278)

**Education and Other Legislation (Student Protection) Amendment Act 2003 No. 88 pts 1, 5**

date of assent 18 November 2003  
 ss 1–2 commenced on date of assent  
 pt 5 hdg, ss 15, 16 (to the extent it ins defs “foreign regulatory authority”, “harm”, “indictable offence”, “interstate regulatory authority” and “serious offence”), 17–19, 21(1), 23, 27, 29–39, 40 (other than to the extent it ins new s 74E), 41 (other than to the extent it ins new s 97) commenced 27 January 2004 (2003 SL No. 345)  
 remaining provisions commence 19 April 2004 (2003 SL No. 345)

## 7 List of annotations

**Title** amd R1 (see RA s 39); 1996 No. 72 s 4

**Definitions**

**prov hdg** sub 1996 No. 72 s 5(1)  
**s 2** prev s 2 om R1 (see RA s 37)  
 pres s 2

- def “**application for registration**” ins 1996 No. 72 s 5(3)
- def “**application for restoration**” ins 1996 No. 72 s 5(3)
- def “**board**” sub 1996 No. 72 s 5(2)–(3)
- def “**committee of inquiry**” ins 1996 No. 72 s 5(3)
- def “**compulsory school age**” ins 2003 No. 62 s 100(1)
- def “**convicted**” ins 1996 No. 72 s 5(3)
- def “**Department**” om R1 (see RA s 39)
- def “**Director-General**” om R1 (see RA s 39)
- def “**executive officer**” om 1996 No. 65 s 52 sch 2
- def “**financial year**” om 1996 No. 72 s 5(2)
- def “**foreign regulatory authority**” ins 2003 No. 88 s 16
- def “**good character**” ins 1996 No. 72 s 5(3)
- def “**harm**” ins 2003 No. 88 s 16
- def “**higher education**” amd 2000 No. 23 s 293 sch 2
- def “**Higher Education Forum**” sub 1996 No. 65 s 52 sch 2
- def “**indictable offence**” ins 2003 No. 88 s 16
- def “**inquiry**” ins 1996 No. 72 s 5(3)
- def “**inquiry body**” ins 1996 No. 72 s 5(3)
- def “**interstate regulatory authority**” ins 2003 No. 88 s 16
- def “**materials**” sub 1996 No. 65 s 52 sch 2
- def “**Minister**” om R1 (see RA s 39)
- def “**misconduct**” om 1996 No. 72 s 5(2)
- def “**notice for information or documents**” ins 1996 No. 72 s 5(3)
- def “**notice of non-satisfaction**” ins 1996 No. 72 s 5(3)
- def “**office**” ins 1996 No. 65 s 52 sch 2
- def “**respondent teacher**” ins 1996 No. 72 s 5(3)
- def “**serious offence**” ins 2003 No. 88 s 16
- def “**tertiary education**” amd 2003 No. 62 s 100(2)

## **PART 2—BOARD OF TEACHER REGISTRATION**

### **Division 1—Establishment, functions and powers of the board**

**div hdg** amd 1996 No. 72 s 3 sch

#### **Establishment and membership of board**

- s 3** prev s 3 om R1 (see RA s 36)
- pres s 3 sub 1996 No. 72 s 6
- amd 1996 No. 65 s 52 sch 2; 1997 No. 83 s 51A; 2001 No. 60 s 218 sch 1

#### **Chairperson and deputy chairperson**

- s 4** ins 1996 No. 72 s 6

#### **Functions and powers of the board**

- s 5** amd 1995 No. 58 s 4 sch 1; 1996 No. 72 s 7; 1996 No. 65 s 52 sch 2

#### **Primary considerations of board in registration of teachers**

- s 5A** ins 2003 No. 88 s 17

#### **By-law and rule-making power**

- prov hdg** sub 1996 No. 72 s 3 sch
- s 6** amd 1993 No. 32 s 3 sch 2; 1996 No. 72 s 3 sch

#### **Minister’s power to give directions in the public interest**

- s 7** ins 1996 No. 65 s 52 sch 2

**Members' term of appointment**

s 9 sub 1996 No. 65 s 52 sch 2

**Disqualification from office**

s 10 prev s 10 om 1994 No. 87 s 3 sch 1  
pres s 10 sub 1996 No. 72 s 3 sch  
amd 2002 No. 75 s 74 sch; 2003 No. 88 s 18

**Vacancy on the board from expiry of term of appointment**

s 12 amd 1996 No. 72 s 3 sch

**Removal of member**

s 13 amd 1996 No. 72 s 3 sch

**Casual vacancies on the board**

s 14 amd 1996 No. 72 s 8

**Way functions performed and powers exercised by board**

prov hdg sub 1996 No. 72 s 3 sch

s 15 amd 1996 No. 72 s 3 sch

**Disclosure of interests by members of board, members of committees and director**

s 16 sub 1996 No. 65 s 52 sch 2

**Quorum and business of the board**

s 17 amd 1995 No. 58 s 4 sch 1; 1996 No. 72 s 9; 2003 No. 88 s 19

**Attendance of director at meetings**

s 18 ins 1996 No. 65 s 52 sch 2

**Chairperson to sign agreements for the board**

s 20 amd 1995 No. 58 s 4 sch 1; 1996 No. 72 s 3 sch

**Remuneration to members of the board and other committees**

s 21 amd 1996 No. 72 s 3 sch

**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; 1996 No. 72 s 3 sch

**Observance of budget**

s 26 amd 1995 No. 58 s 4 sch 1; 1996 No. 72 s 3 sch

**Board is statutory body**

s 28 sub 1996 No. 54 s 9 sch

**Consequences if money borrowed other than under the Statutory Bodies Financial Arrangements Act 1982**

prov hdg sub 1996 No. 54 s 9 sch

s 29 prev s 29 amd 1996 No. 72 s 3 sch

om 1996 No. 54 s 9 sch

pres s 29 amd 1996 No. 54 s 9 sch; 1996 No. 72 s 3 sch

**Division 4—Officers of the Board****div hdg** om 1996 No. 65 s 52 sch 2**PART 3—OFFICE OF THE BOARD OF TEACHER REGISTRATION****pt hdg** ins 1996 No. 65 s 52 sch 2**Office of the Board of Teacher Registration****s 30** ins 1996 No. 65 s 52 sch 2**Office's function and powers****s 31** prev s 31 amd 1996 No. 37 s 147 sch 2

om 1996 No. 65 s 52 sch 2

pres s 31 ins 1996 No. 65 s 52 sch 2

**Director and staff of the office****s 32** ins 1996 No. 65 s 52 sch 2**Control of the office****s 33** ins 1996 No. 65 s 52 sch 2

amd 1997 No. 83 s 52

**PART 4—PROVISIONS FOR THE REGISTRATION OF TEACHERS****Division 1—Register of teachers and details in it****div hdg** prev div 1 hdg om 1996 No. 72 s 10

pres div 1 hdg ins 1996 No. 72 s 11

**Register of teachers and its inspection****s 34** amd 1995 No. 58 s 4 sch 1

sub 1996 No. 72 s 11

**Registration by entering various details in register of teachers****s 35** ins 1996 No. 72 s 11

amd 1996 No. 65 s 52 sch 2

**Division 2—Applications, approvals and notices of decisions****div hdg** prev div 2 hdg om 1996 No. 72 s 10

pres div 2 hdg ins 1996 No. 72 s 11

**Two types of applications may be made to board****s 36** amd 1995 No. 58 s 4 sch 1

sub 1996 No. 72 s 11

**Good character of each applicant to be assessed****s 37** ins 1996 No. 72 s 11

amd 1997 No. 83 s 53; 2003 No. 88 s 21(1)

**Approval of applications****s 38** amd 1995 No. 58 s 4 sch 1

sub 1996 No. 72 s 11

**Notice of board's decision about application****s 39** sub 1996 No. 72 s 11

amd 1996 No. 65 s 52 sch 2; 1999 No. 19 s 3 sch

**Division 3—Other notices if board not satisfied about application**

**div hdg** prev div 3 hdg om 1996 No. 72 s 10  
pres div 3 hdg ins 1996 No. 72 s 11

**Board may request information or documents from applicant**

**s 40** ins 1996 No. 72 s 11

**Board can not be satisfied about application if its request not met**

**s 41** ins 1996 No. 72 s 11  
amd 2003 No. 88 s 23

**Person given certain notices by board may ask for inquiry**

**s 42** ins 1996 No. 72 s 11

**Division 4—Unregistered persons and reports about teachers**

**div hdg** ins 1996 No. 72 s 11

**Duty of registered teacher convicted of indictable offence etc.**

**s 44** sub 1996 No. 72 s 12  
amd 1997 No. 83 s 54

**Employing authority to notify board about sexual allegation in certain circumstances**

**s 44A** ins 1997 No. 83 s 55  
amd 2001 No. 60 s 219 sch 2

**Prosecuting authority to notify board about committal, conviction etc.**

**s 44B** ins 1997 No. 83 s 55  
amd 2002 No. 75 s 74 sch; 2003 No. 88 s 27

**Board must consider notices under ss 44A and 44B and decide if inquiry necessary**

**s 44C** ins 1997 No. 83 s 55

**Board to monitor registration of teachers**

**s 45** sub 1996 No. 72 s 12

**Division 5—Noncompliance with provisional registration conditions**

**div hdg** ins 1996 No. 72 s 12

**Procedure if board considers teacher is not complying with conditions of provisional registration**

**s 46** amd 1995 No. 58 s 4 sch 1  
sub 1996 No. 72 s 12

**Procedure after teacher has been invited to show cause**

**s 47** sub 1996 No. 72 s 12  
amd 1996 No. 65 s 52 sch 2; 1999 No. 19 s 3 sch

**Division 6—Power to cancel registration in some other cases**

**div hdg** ins 1996 No. 72 s 12

**Cancellation of registration**

**s 48** sub 1996 No. 72 s 12

**Date of effect of cancellation of registration under s 48**

**s 49** sub 1996 No. 72 s 12



**Division 7—Immediate suspension of registration****div 7 (s 49A)** ins 2003 No. 88 s 29**PART 5—INQUIRIES ABOUT RESPONDENT TEACHERS AND RELATED MATTERS****pt hdg** ins 1996 No. 72 s 12**Division 1—Power to conduct inquiries about respondent teachers****div hdg** ins 1996 No. 72 s 12**Board may conduct inquiry about certain persons****s 50** ins 1996 No. 72 s 12  
amd 2002 No. 75 s 42; 2003 No. 88 s 30**When board must conduct inquiry****s 50A** ins 2003 No. 88 s 31**Board may conduct inquiry itself or appoint a committee of inquiry****s 51** prev s 51 om 1995 No. 58 s 4 sch 1  
pres s 51 amd 1995 No. 58 s 4 sch 1  
sub 1996 No. 72 s 12  
amd 2003 No. 88 s 32**Membership of committee of inquiry****s 52** sub 1996 No. 72 s 12; 2003 No. 88 s 33**Division 2—Conducting an inquiry****div hdg** ins 1996 No. 72 s 12**Notice of inquiry****s 53** ins 1996 No. 72 s 12  
amd 2003 No. 88 s 34**Inquiry open to public****s 54** ins 1996 No. 72 s 12**Records of proceedings****s 55** prev s 55 om R1 (see RA s 38)  
pres s 55 ins 1996 No. 72 s 12**Procedure****s 56** ins 1996 No. 72 s 12**Representation for respondent teacher and board****s 57** prev s 57 om R1 (see RA s 38)  
pres s 57 ins 1996 No. 72 s 12**Powers of inquiry body****s 58** prev s 58 om R1 (see RA s 38)  
pres s 58 ins 1996 No. 72 s 12**Inspection of documents****s 59** ins 1996 No. 72 s 12**Evidence and findings etc. in other proceedings may be received or adopted****s 60** ins 1996 No. 72 s 12

**Allowance to witness**

s 61 ins 1996 No. 72 s 12

**Offences if failure to attend, appear, produce, be sworn or answer**

s 62 prev s 62 om R1 (see RA s 38)  
pres s 62 ins 1996 No. 72 s 12

**Protection for individuals against self incrimination**

s 63 prev s 63 om 1991 No. 23 s 20 sch  
pres s 63 ins 1996 No. 72 s 12

**Protection of members, legal representatives and witnesses**

s 64 prev s 64 om 1991 No. 23 s 20 sch  
pres s 64 ins 1996 No. 72 s 12

**Contempt of inquiry body**

s 65 prev s 65 om 1991 No. 23 s 20 sch  
pres s 65 ins 1996 No. 72 s 12

**Removal from inquiry**

s 66 prev s 66 om 1991 No. 23 s 20 sch  
pres s 66 ins 1996 No. 72 s 12

**Decisions about questions before inquiry body**

s 67 prev s 67 om 1991 No. 23 s 20 sch  
pres s 67 ins 1996 No. 72 s 12

**Division 3—Matters at end of inquiry**

div hdg ins 1996 No. 72 s 12

**Committee of inquiry to report to board**

s 68 prev s 68 om 1991 No. 23 s 20 sch  
pres s 68 ins 1996 No. 72 s 12

**Report of offences**

s 69 prev s 69 om 1991 No. 23 s 20 sch  
ins 1996 No. 72 s 14  
om R2 (see RA s 37)  
pres s 69 ins 1996 No. 72 s 12  
amd 2001 No. 69 s 378 sch 1

**Division 4—Orders by board after inquiry**

div hdg ins 1996 No. 72 s 12

**Board may order cancellation of registration etc.**

s 70 prev s 70 om 1991 No. 23 s 20 sch  
pres s 70 ins 1996 No. 72 s 12  
amd 1996 No. 65 s 52 sch 2; 2003 No. 88 s 35

**Board must order cancellation of registration in particular circumstances**

s 70A ins 2003 No. 88 s 36

**Notice of board's order**

s 71 prev s 71 om 1991 No. 23 s 20 sch  
ins 1996 No. 72 s 14  
om R2 (see RA s 40)

pres s 71 ins 1996 No. 72 s 12  
 amd 1996 No. 65 s 52 sch 2; 1999 No. 19 s 3 sch; 2003 No. 88 s 37

**Board may notify other entities about decision or order**

s 71A ins 2003 No. 88 s 38

**Board may notify commissioner for children and young people about particular information**

s 71B ins 2003 No. 88 s 38

**PART 6—APPEALS**

**pt hdg** prev pt 6 hdg om 1991 No. 23 s 20 sch  
 pres pt 6 hdg ins 1996 No. 72 s 12

**Appeals**

s 72 prev s 72 om 1991 No. 23 s 20 sch  
 pres s 72 amd 1995 No. 58 s 4 sch 1  
 sub 1996 No. 72 s 12  
 amd 1999 No. 19 s 3 sch; 2003 No. 88 s 39

**PART 7—GENERAL PROVISIONS**

**False or misleading information**

s 73 prev s 73 om 1991 No. 23 s 20 sch  
 pres s 73 sub 1996 No. 72 s 13

**False, incomplete or misleading documents**

s 74 prev s 74 om 1991 No. 23 s 20 sch  
 pres s 74 sub 1996 No. 72 s 13

**Confidentiality of information**

s 74A ins 2003 No. 88 s 40

**Protection of board members from liability**

s 74B ins 2003 No. 88 s 40

**Effect of suspension**

s 74C ins 2003 No. 88 s 40

**Recording of suspension in register**

s 74D ins 2003 No. 88 s 40

**Penalties payable to board**

s 75 prev s 75 om 1991 No. 23 s 20 sch  
 pres s 75 ins 1996 No. 72 s 13

**Proceedings for offences**

s 76 prev s 76 om 1991 No. 23 s 20 sch

**Evidentiary provisions**

s 77 prev s 77 om 1991 No. 23 s 20 sch  
 pres s 77 amd 1996 No. 65 s 52 sch 2

**Administrative support for board and office**

s 78 prev s 78 om 1991 No. 23 s 20 sch  
 pres s 78 amd 1995 No. 58 s 4 sch 1  
 sub 1996 No. 65 s 52 sch 2

**Delegation by Minister**

**s 79** prev s 79 om 1991 No. 23 s 20 sch  
pres s 79 sub 1995 No. 58 s 4 sch 1; 1996 No. 65 s 52 sch 2

**Regulation-making power**

**s 80** prev s 80 om 1991 No. 23 s 20 sch  
pres s 80 sub 1995 No. 58 s 4 sch 1

**PART 8—TRANSITIONAL AND SPECIAL ARRANGEMENTS****Division 1—Board of Teacher Education**

**div hdg** ins 1996 No. 65 s 52 sch 2

**Provisions relating to Board of Teacher Education**

**s 81** prev s 81 om 1991 No. 23 s 20 sch

**Savings**

**s 82** prev s 82 om 1991 No. 23 s 20 sch

**Employment of staff of Board of Teacher Education**

**s 83** amd 1995 No. 58 s 4 sch 1; 1999 No. 19 s 3 sch

**Superannuation entitlements**

**s 84** prev s 84 om 1991 No. 23 s 20 sch  
pres s 84 amd 2000 No. 52 s 48 sch; 2002 No. 74 s 90 sch

**Division 2—Board of Teacher Registration and related matters**

**div hdg** ins 1996 No. 65 s 52 sch 2  
om 2001 No. 60 s 219 sch 2

**Members of board at commencement continue as the members and related matters**

**s 85** ins 1996 No. 72 s 14  
exp 2 May 2000 (see s 85(6))

**Inquiry about teacher who is no longer registered at commencement**

**s 86** ins 1996 No. 72 s 14  
exp 2 May 1998 (see s 92)

**Register and registration**

**s 87** ins 1996 No. 72 s 14  
exp 2 May 1998 (see s 92)

**Applications for registration as teacher before commencement**

**s 88** ins 1996 No. 72 s 14  
exp 2 May 1998 (see s 92)

**Cancellation etc. and application for restoration of name in register before commencement**

**s 89** ins 1996 No. 72 s 14  
exp 2 May 1998 (see s 92)

**Inquiries before commencement to continue**

**s 90** ins 1996 No. 72 s 14  
exp 2 May 1998 (see s 92)

**Appeals**

**s 91** ins 1996 No. 72 s 14

exp 2 May 1998 (see s 92)

**Expiry of certain sections**

**s 92** ins 1996 No. 72 s 14  
exp 2 May 1998 (see s 92)

**Division 3—Office of the Board of Teacher Registration**

**div hdg** ins 1996 No. 65 s 52 sch 2

**Definitions for div 3**

**s 93** ins 1996 No. 65 s 52 sch 2

**Dissolution of former office**

**s 94** ins 1996 No. 65 s 52 sch 2

**Staff of the office**

**s 95** ins 1996 No. 65 s 52 sch 2

**Division 4—Transitional provisions for Education and Other Legislation (Student Protection) Amendment Act 2003**

**div hdg** ins 2003 No. 88 s 41

**Definition for div 4**

**s 96** prev s 96 ins 1996 No. 65 s 52 sch 2  
exp 2 May 1998 (see s 96(3))  
pres s 96 ins 2003 No. 88 s 41

**Incomplete inquiries**

**s 98** ins 2003 No. 88 s 41

**SCHEDULE—SERIOUS OFFENCE PROVISIONS OF THE CRIMINAL CODE**

ins 2003 No. 88 s 41

## 8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS [Reprint No. 2]

under the Reprints Act 1992 s 43 as required by the Education (Teacher Registration) Act 1988 s 69

Previous	Renumbered as
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5(4) 2nd occurring "The director" . . . . .	.3(5)
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6 . . . . .	.5
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7 . . . . .	.6
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15(2A) .....	14(4)
15(3) .....	14(5)
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45R . . . . .	70
45S . . . . .	71
pt 3B hdg . . . . .	pt 6 hdg
46 . . . . .	72
pt 4 hdg . . . . .	pt 7 hdg
47 . . . . .	73
48 . . . . .	74
48A . . . . .	75
49 . . . . .	76
50 . . . . .	77
52 . . . . .	78
53 . . . . .	79
54 . . . . .	80
pt 5 hdg . . . . .	pt 8 hdg
56 . . . . .	81
56(3A) . . . . .	81(4)
56(4) . . . . .	81(5)
56(5) . . . . .	81(6)
56(6) . . . . .	81(7)
56(7) . . . . .	81(8)
56(8) . . . . .	81(9)
59 . . . . .	82
59(1A) . . . . .	82(2)
59(2) . . . . .	82(3)
60 . . . . .	83
60(1A) . . . . .	83(2)
61 . . . . .	84

*Education (Teacher Registration) Act 1988*

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Previous	Renumbered as
62.....	.85
63.....	.86
64.....	.87
65.....	.88
66.....	.89
67.....	.90
68.....	.91
70.....	.92
72.....	.93
73.....	.94
74.....	.95
75.....	.96