



Queensland

Education (Queensland College of Teachers) Act 2005

Act No. 47 of 2005



Queensland

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Queensland

Education (Queensland College of Teachers) Act 2005

Act No. 47 of 2005

An Act to establish the Queensland College of Teachers, to confer functions on the college including functions about the registration of teachers in Queensland and related matters, to establish the Office of the Queensland College of Teachers, and for other purposes

[Assented to 2 November 2005]

The Parliament of Queensland enacts—**Chapter 1 Preliminary****1 Short title**

This Act may be cited as the *Education (Queensland College of Teachers) Act 2005*.

2 Commencement

This Act, other than sections 6, 299 and 304 and schedule 3,¹ commences on 1 January 2006.

3 Main objects of Act

- (1) The main objects of the Act are—
 - (a) to uphold the standards of the teaching profession; and
 - (b) to maintain public confidence in the teaching profession; and
 - (c) to protect the public by ensuring education in schools is provided in a professional and competent way by approved teachers.
- (2) The objects are to be achieved mainly by—
 - (a) establishing the Queensland College of Teachers; and
 - (b) conferring on the college functions and powers about—
 - (i) granting registration or permission to teach to persons; and
 - (ii) taking disciplinary action against approved teachers; and

¹ Sections 6 (Dictionary), 299 (Definitions for ch 12) and 304 (Conduct of election for new board before commencement) and schedule 3 (Dictionary)

- (iii) monitoring compliance with and enforcing this Act; and
- (c) establishing the Office of the Queensland College of Teachers to help the college in the performance of its functions.

4 Act binds all persons

- (1) This Act binds all persons, including the State.
- (2) This Act does not make the State liable to be prosecuted for an offence.

5 Mutual recognition legislation not affected

This Act does not affect the operation of the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*.

6 Dictionary

The dictionary in schedule 3 defines particular words used in this Act.

7 Meaning of *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.

Chapter 2 Registration and permission to teach

Part 1 Eligibility requirements

8 Eligibility for full registration

(1) A person is eligible for full registration if the college is reasonably satisfied—

(a) either—

(i) the person has attained the qualifications and experience for full registration prescribed under a regulation; or

(ii) the person's education, abilities, experience and contribution to education establish the person meets the requirements under the professional standards for full registration; and

Example—

a person has a teaching qualification that is not a prescribed qualification but has long and meritorious teaching experience in a school, whether or not the school is in Queensland

(b) the person is suitable to teach; and

(c) the person meets any other requirements for professional practice for full registration prescribed under a regulation.

(2) The requirements mentioned in subsection (1)(a) and (c) are the ***professional practice requirements*** for full registration.

(3) The requirements mentioned in subsection (1)(a) to (c) are the ***eligibility requirements*** for full registration.

(4) Without limiting subsection (1), the college may be satisfied the person meets the eligibility requirements for full

registration by imposing conditions on the registration under section 20.²

9 Eligibility for provisional registration

- (1) A person is eligible for provisional registration if the college is reasonably satisfied—
 - (a) either—
 - (i) the person has attained the qualifications for provisional registration prescribed under a regulation; or
 - (ii) the person's education, abilities, experience and contribution to education establish the person meets the requirements under the professional standards for provisional registration; and

Example—

a person has a qualification other than a prescribed qualification, at degree level or higher, from a higher education institution and has long and meritorious teaching experience in a non-school setting, such as a TAFE or higher education institution

 - (b) the person is suitable to teach; and
 - (c) the person meets any other requirements for professional practice for provisional registration prescribed under a regulation.
- (2) The requirements mentioned in subsection (1)(a) and (c) are the ***professional practice requirements*** for provisional registration.
- (3) The requirements mentioned in subsection (1)(a) to (c) are the ***eligibility requirements*** for provisional registration.
- (4) Without limiting subsection (1), the college may be satisfied the person meets the eligibility requirements for provisional registration by imposing conditions on the registration under section 20.

2 Section 20 (How college may decide application)

10 Eligibility for permission to teach

- (1) A person is eligible for permission to teach if the college is reasonably satisfied the person—
 - (a) has been offered a teaching position in a school and the employing authority for, or principal of, the school can not find an appropriate registered teacher to fill the position; and
 - (b) has knowledge, qualifications, skills or training reasonably considered by the college to be relevant to the teaching position the person has been offered; and
 - (c) is suitable to teach; and
 - (d) meets any other requirements for professional practice for permission to teach prescribed under a regulation.
- (2) The requirements mentioned in subsection (1)(a) to (d) are the *eligibility requirements* for permission to teach.
- (3) Without limiting subsection (1), the college may be satisfied the person meets the eligibility requirements for permission to teach by imposing conditions on the permission under section 20.

11 Suitability to teach—criminal history information

- (1) In considering whether a person is suitable to teach, the college must have regard to—
 - (a) the person’s criminal history obtained under section 14 or 15; and
 - (b) other information about the person obtained under section 15.
- (2) If the college is aware the person’s criminal history includes a conviction for a serious offence, the college must decide the person is not suitable to teach, unless the college is satisfied it is an exceptional case in which it would not harm the best interests of children for the person to teach.
- (3) In having regard to the person’s criminal history, the college must consider the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—

- (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the offence and its relevance to the duties of a teacher;
 - (c) anything else the college considers relevant to deciding whether the person is suitable to teach.
- (4) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply in relation to the college's decision under subsection (2).

12 Suitability to teach—other considerations

- (1) In considering whether a person is suitable to teach, the college must also—
- (a) have regard to information held by the college or reasonably available to the college about each of the following matters—
 - (i) any conviction of the person of an offence against a corresponding law or another law of a foreign country;
 - (ii) if the person has been refused registration as a teacher by an interstate regulatory authority or an overseas regulatory authority—the reason for the refusal;
 - (iii) if the person has been employed by an employing authority for a school and the person's employment was ended by the employing authority for a reason relating to the person's competency or suitability to teach—the reason for the ending of the person's employment;
 - (iv) if the person has been registered under this Act or a former Act or is, or has been, registered under a corresponding law and the registration was affected—
 - (A) by the imposition of a condition—the nature of the condition and the reasons for its imposition; or

- (B) by its suspension or cancellation—the reason for its suspension or cancellation; or
 - (C) in another way—the way it was affected and the reason for it being affected; and
- (b) consider whether the person is suitable to work in a child-related field.
- (2) Also, in considering whether a person is suitable to teach the college may have regard to any other matter the college considers relevant, even if the matter happened outside the State.
- (3) Without limiting section 11 or subsection (1) or (2), a person is not suitable to teach if the person—
 - (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 person is unfit to be granted registration or permission to teach.
- (4) In this section—

corresponding law means a law applying, or that applied, in another State, the Commonwealth or a foreign country that provides, or provided, for the same matter as this Act or a provision of this Act.

overseas regulatory authority means an entity—

- (a) established under the law of another country, other than New Zealand; and
- (b) that has functions similar to the functions of the college under this Act.

Part 2 **Making and deciding applications for registration or permission to teach**

Division 1 **Applications other than by holders of provisional registration**

13 **Application of div 1**

This division does not apply to a holder of provisional registration who applies for full registration.³

14 **Application for registration or permission to teach**

- (1) A person, other than an excluded person, may apply to the college for any of the following—
 - (a) full registration;
 - (b) provisional registration;
 - (c) permission to teach.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by each of the following—
 - (i) the documents or information on which the person relies to establish the person meets the eligibility requirements;
 - (ii) other documents or information, identified in the approved form, reasonably required by the college to decide the application;
 - (iii) any registration application fee or permission to teach application fee prescribed under a regulation;
 - (iv) the registration fee or permission to teach fee prescribed under a regulation;

³ See division 2 (Application for full registration by holder of provisional registration).

- (v) the criminal history check fee prescribed under a regulation.
- (3) Also, the application must comply with any other requirements prescribed under a regulation.
- (4) The approved form may require disclosure of the person's criminal history.
- (5) If the approved form requires the disclosure of the person's criminal history, the *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure.
- (6) Information contained in or accompanying the application must, if required by the college, be verified by statutory declaration.

15 Criminal history check etc.

- (1) The college must ask the commissioner of police for a written report about the criminal history of an applicant for registration or permission to teach.
- (2) Also, the college may ask the commissioner of police for the following information about the applicant—
 - (a) a brief description of the circumstances of a conviction or charge, for an offence, mentioned in the applicant's criminal history;
 - (b) information about any investigation relating to the possible commission of a serious offence by the applicant.
- (3) For subsections (1) and (2), the college's request may include the following information—
 - (a) the applicant's name and any other name the college believes the applicant may use or have used;
 - (b) the applicant's gender and date and place of birth.
- (4) Subject to subsections (5) and (6), the commissioner of police must comply with a request under subsection (1) or (2).
- (5) The commissioner of police's obligation to comply with the request applies only to information in the possession of the commissioner or to which the commissioner has access.

- (6) The commissioner of police must not give information about an investigation relating to the possible commission of a serious offence by the applicant if—
- (a) the commissioner is reasonably satisfied that giving the information—
 - (i) may prejudice or otherwise hinder an investigation to which the information may be relevant; or
 - (ii) may lead to the identification of an informant; or
 - (iii) may affect the safety of a police officer, complainant or other person; or
 - (b) for an investigation that has been completed—the investigation has not led, and the commissioner is reasonably satisfied it is unlikely to lead, to a reasonable suspicion that the applicant committed a serious offence; or
 - (c) for an investigation that has not been completed—the commissioner is reasonably satisfied the investigation is unlikely to lead to a reasonable suspicion that the applicant committed a serious offence.
- (7) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned in subsection (1) or (2).

16 Requirement to advise applicant of criminal history information received

- (1) This section applies to information received by the college under section 15(4).
- (2) Before using the information in deciding whether the person is suitable to teach, the college must—
 - (a) disclose the information to the applicant; and
 - (b) allow the applicant a reasonable opportunity to make representations to the college about the information.

17 College's power to obtain further information etc. from applicant

- (1) Before deciding an application for registration or permission to teach, the college may, by notice, require the applicant to give the college, within a stated reasonable time, further information or a document the college reasonably requires to decide the application.
- (2) The time stated in the notice must be at least 28 days after giving the notice.
- (3) The notice may require further information to be verified by statutory declaration.
- (4) The applicant may ask the college to extend the time stated in the notice.
- (5) The request must be—
 - (a) in writing; and
 - (b) made before the time ends.
- (6) The college must not refuse a reasonable request for an extension of time.
- (7) The college may give an applicant—
 - (a) more than 1 notice under subsection (1); and
 - (b) more than 1 extension of time.

18 Effect of failure by applicant to comply with a request for further information etc.

The applicant is taken to have withdrawn the application for registration or permission to teach if—

- (a) the college gives the applicant a notice under section 17(1); and
- (b) either—
 - (i) the applicant does not give the college the information or document required within the time required under the notice or an extension of time granted by the college; or

- (ii) the applicant does not verify by statutory declaration any information required under the notice to be verified by statutory declaration.

19 College may use documents or information to verify application

The college may use any documents or information held or obtained by the college to verify information—

- (a) contained in or accompanying an application for registration or permission to teach; or
- (b) obtained by the college under section 17.

20 How college may decide application

- (1) The college must consider an application for registration or permission to teach and—
 - (a) do any of the following—
 - (i) for an application for full registration—grant the applicant full or provisional registration, with or without conditions;
 - (ii) for an application for provisional registration—grant the applicant provisional registration, with or without conditions;
 - (iii) for an application for permission to teach—grant the applicant permission to teach, with or without conditions; or
 - (b) refuse to grant the applicant registration or permission to teach.
- (2) However, the college may grant the applicant registration or permission to teach with a condition only if the college is reasonably satisfied the condition is necessary to ensure the applicant meets the eligibility requirements.

Examples of conditions the college might impose—

- a condition requiring the applicant to complete a course
- a condition requiring the supervision of the applicant
- a condition restricting the subjects the applicant can teach

21 Steps to be taken after college decides application

- (1) If the college decides to grant the application for registration or permission to teach, as soon as practicable after the decision is made the college must—
 - (a) give the applicant an approval notice; and
 - (b) issue a certificate of registration or a certificate of permission to teach to the applicant; and
 - (c) if the applicant is granted full or provisional registration—issue a registration card for the relevant year to the applicant.
- (2) However, if the applicant applied for full registration and the college decides to grant the applicant provisional registration—
 - (a) subsection (1) does not apply; and
 - (b) the college must—
 - (i) give the applicant an information notice about the college's decision; and
 - (ii) issue a certificate of registration and a registration card for the relevant year to the applicant.
- (3) If the college decides not to grant the applicant registration or permission to teach, the college must as soon as practicable—
 - (a) give the applicant an information notice about the college's decision; and
 - (b) refund the registration fee or permission to teach fee paid by the applicant.
- (4) In this section—

approval notice means a notice stating the following—

 - (a) the college's decision to grant the applicant full or provisional registration, or permission to teach;
 - (b) if the college decides to grant the registration or permission to teach with conditions—
 - (i) the conditions and the reasons for them; and

- (ii) that the applicant may apply for review of the conditions under section 39;⁴
- (c) if the college decides to grant the applicant permission to teach—the period of the permission to teach.

relevant year means the registration year starting on the day the registration is granted.

Division 2 Application for full registration by holder of provisional registration

22 Application by holder of provisional registration

A holder of provisional registration may apply for full registration under this division.

23 Requirements for application

- (1) The application must be in the approved form.
- (2) The application must comply with any other requirements prescribed under a regulation.

24 How college may decide application

- (1) The college must consider the application and—
 - (a) grant the applicant full registration, with or without conditions; or
 - (b) refuse to grant the applicant full registration.
- (2) The college may grant the application only if the college is reasonably satisfied—
 - (a) if the applicant's provisional registration is subject to 1 or more conditions—the applicant has fulfilled all of the conditions; and
 - (b) the applicant meets the professional practice requirements for full registration.

4 Section 39 (Application for review of condition)

- (3) The college may grant the applicant full registration with a condition only if the college is reasonably satisfied the condition is necessary to ensure the applicant meets the eligibility requirements.

25 Steps to be taken after college decides application

- (1) As soon as practicable after deciding the application, the college must—
- (a) if it decides to grant the applicant full registration—
 - (i) give the applicant an approval notice; and
 - (ii) issue a certificate of registration and a registration card for the rest of the relevant year to the applicant; or
 - (b) if it decides not to grant the applicant full registration—give the applicant an information notice about the decision.
- (2) In this section—

approval notice means a notice stating the following—

- (a) the college's decision to grant the applicant full registration;
- (b) if the college decides to grant the registration with conditions—
 - (i) the conditions and the reasons for them; and
 - (ii) that the applicant may apply for review of the conditions under section 39.

relevant year means the registration year during which the applicant applies for full registration.

Part 3 **Period, and renewal or extension, of registration or permission to teach**

Division 1 **Period and renewal of full registration and permission to teach**

26 **Period and renewal of full registration**

- (1) The period of full registration is 5 years from the day the college grants the registration.
- (2) However, if the person to whom the registration is granted was the holder of provisional registration, the period of the full registration is reduced by the period for which the person held the provisional registration.

Example—

A person holds provisional registration for 1 year before being granted full registration. The initial period of the person's full registration would be 4 years.

- (3) At the end of the period of the registration, the registration ends.
- (4) However, if an application for renewal of the registration is made before the period of the registration ends, the registration is taken to continue until the application is decided.
- (5) Full registration may be renewed for further periods of 5 years.

27 **Period and renewal of permission to teach**

- (1) The period of a permission to teach is the period stated in the certificate of permission to teach issued to the holder of the permission.
- (2) The stated period must not be longer than 2 years from the day the college grants the permission.

- (3) Permission to teach may be renewed for further periods not longer than 2 years each.
- (4) However, a permission to teach may be renewed only if the holder has held the permission continuously for at least 2 years.
- (5) At the end of the period of the permission to teach, the permission to teach ends.
- (6) If an application for renewal of permission to teach is made before the period of the permission to teach ends, the permission to teach is taken to continue until the application is decided.

28 Application for renewal of full registration or permission to teach

- (1) A person, other than an excluded person, may apply to the college for the renewal of—
 - (a) full registration; or
 - (b) permission to teach.
- (2) The application must—
 - (a) be made before the person's registration or permission to teach ends but not earlier than—
 - (i) for renewing full registration—6 months before the registration ends; or
 - (ii) for renewing permission to teach—3 months before the permission to teach ends; and
 - (b) be in the approved form; and
 - (c) be accompanied by each of the following—
 - (i) documents or information, identified in the approved form, reasonably required by the college to decide the application;
 - (ii) the annual fee;
 - (iii) if the application is for renewal of permission to teach—the criminal history check fee prescribed under a regulation.

- (3) Also, the application must comply with any other requirements prescribed under a regulation.
- (4) The approved form may require disclosure of the person's criminal history.
- (5) If the approved form requires the disclosure of the person's criminal history, the *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure.
- (6) Information contained in or accompanying the application must, if required by the college, be verified by statutory declaration.

29 Requirements for renewal—full registration

- (1) This section applies in relation to a person who applies for renewal of full registration under section 28.
- (2) The college may renew the person's registration if the college is reasonably satisfied—
 - (a) the person is suitable to teach; and
 - (b) each condition of the person's registration (if any)—
 - (i) has been fulfilled; or
 - (ii) is being complied with at the time the college considers the application for renewal; and
 - (c) the person has practised as a teacher, whether or not on a full-time basis, for a period that is—
 - (i) of at least the duration prescribed under a regulation; and
 - (ii) within the period prescribed under a regulation; and
 - (d) the person has undertaken, during the relevant period of registration, the continuing professional learning required for registered teachers under the CPL framework.
- (3) If the college is reasonably satisfied the person meets the requirements under subsection (2)(a) and (b) but does not meet the recency of practice requirement stated in subsection

- (2)(c), the college must renew the person's registration subject to a returning to teaching condition.
- (4) For renewing full registration under subsection (3), the requirement mentioned in subsection (2)(d) need not be met.
- (5) For deciding whether the person is suitable to teach, sections 15 to 19 apply, with any necessary changes, as if—
- (a) the application for renewal were an application for registration; and
 - (b) the applicant for renewal were an applicant for registration; and
 - (c) the renewal of the registration were the grant of the registration.
- (6) In this section—
- relevant period of registration* means the period of the registration during which the application for renewal is made.

30 Development or recognition of CPL framework by college

- (1) The college must develop or recognise a framework (a *CPL framework*) for the continuing professional learning of registered teachers.
- (2) In developing the framework, the college must—
- (a) have regard to the professional standards; and
 - (b) consult with the chief executive and the representative entities.
- (3) Subsection (2) does not prevent the college consulting with another person or entity.
- (4) The college must give notice to all registered teachers to whom the framework is relevant of the matters provided for in the framework.
- (5) The framework may state any of the following, for the requirement stated in section 29(2)(d) for renewing full registration—
- (a) the type of continuing professional learning required;

- (b) the minimum continuing professional learning a registered teacher must undertake.
- (6) The college must—
 - (a) make the framework available for inspection on its Internet site; and
 - (b) ensure copies of the framework are kept available for inspection at the office.

31 Requirements for renewal—permission to teach

- (1) This section applies in relation to a person who applies for renewal of permission to teach under section 28.
- (2) The college may renew the person's permission to teach if the college is reasonably satisfied—
 - (a) the person is suitable to teach; and
 - (b) each condition of the person's permission to teach (if any)—
 - (i) has been fulfilled; or
 - (ii) is being complied with at the time the college considers the application for renewal.
- (3) For deciding whether the person is suitable to teach, sections 15 to 19 apply, with any necessary changes, as if—
 - (a) the application for renewal were an application for permission to teach; and
 - (b) the applicant for renewal were an applicant for permission to teach; and
 - (c) the renewal of the permission to teach were the grant of the permission to teach.

32 How college may decide application for renewal

- (1) The college must consider an application for the renewal of full registration or permission to teach and either—
 - (a) renew the applicant's registration or permission to teach, with or without conditions; or

- (b) refuse to renew the applicant's registration or permission to teach.
- (2) The college may impose any condition under subsection (1)(a) the college considers necessary for the applicant to meet the requirements stated in section 29(2)(a), (c) or (d) or 31(2)(a), in addition to any returning to teaching condition imposed under section 29.
- (3) If the college decides to renew the registration or permission to teach, the registration or permission to teach remains subject to the conditions to which it was subject immediately before the renewal, other than a condition that has been fulfilled.

33 Steps to be taken after college decides application

- (1) If the college decides to renew the applicant's full registration or permission to teach, as soon as practicable after the decision is made the college must—
 - (a) give the applicant an approval notice; and
 - (b) issue a certificate of registration or a certificate of permission to teach to the applicant; and
 - (c) if full registration is renewed—issue a registration card for the relevant year to the applicant.
- (2) If the college decides not to renew the applicant's full registration or permission to teach, the college must as soon as practicable give the applicant an information notice about the college's decision.
- (3) In this section—

approval notice means a notice stating the following—

 - (a) the college's decision to renew the applicant's full registration or permission to teach;
 - (b) if the college decides to renew the registration or permission to teach with conditions—
 - (i) the conditions and the reasons for them; and
 - (ii) that the person may apply for a review of the conditions under section 39;

- (c) if the college decides to renew the permission to teach—the period for which the permission is renewed.

relevant year means the registration year starting on the day from which the registration is renewed.

Division 2 Period and extension of provisional registration

34 Period of provisional registration

- (1) The period of provisional registration is 2 years from the day the college grants the registration.
- (2) At the end of the period of the registration, the registration ends.
- (3) However, the registration may be extended for a further period of 2 years under section 35.

35 Option to extend provisional registration

- (1) A person who holds provisional registration may give the college a notice, before the period of the registration ends, stating that the holder wishes to exercise the option to extend the registration.
- (2) The notice must be accompanied by the annual fee.
- (3) If the holder gives notice under subsection (1), the college must—
 - (a) extend the period of the holder’s registration for 2 years; and
 - (b) as soon as practicable after receiving the notice, issue to the holder—
 - (i) a certificate of registration; and
 - (ii) a registration card for the relevant year.
- (4) The period of provisional registration may be extended under this section only once.
- (5) In this section—

relevant year means the registration year starting on the day from which the provisional registration is extended.

Part 4 Restoration of full registration

36 When application for restoration of full registration may be made

- (1) A person, other than an excluded person, whose full registration has ended may, not later than 2 months after the person's registration ended, apply to the college for restoration of the registration.
- (2) Despite subsection (1), the college may accept an application made more than 2 months after expiry of the registration if the college is satisfied it would be reasonable in all the circumstances to accept the application.

37 Requirements for application for restoration

- (1) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by each of the following—
 - (i) documents or information, identified in the approved form, reasonably required by the college to decide the application;
 - (ii) the restoration application fee prescribed under a regulation;
 - (iii) the annual fee.
- (2) The approved form may require disclosure of the person's criminal history.
- (3) If the approved form requires the disclosure of the person's criminal history, the *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure.

- (4) Information contained in or accompanying the application must, if required by the approved form, be verified by statutory declaration.

38 Application of pt 3, div 1 for restoring full registration

- (1) For restoring full registration, part 3, division 1, other than section 28(2)(a), applies with any necessary changes as if—
- (a) an application for restoration of full registration were an application for renewal of full registration; and
 - (b) the applicant for restoration of full registration were an applicant for renewal of full registration; and
 - (c) restoration of full registration were renewal of full registration.
- (2) For subsection (1), section 29 applies as if—
- (a) the time at which the conditions of the applicant's registration were required to be complied with under section 29(2)(b)(ii) was immediately before the registration ended; and
 - (b) the relevant period of registration were the most recently ended period of the applicant's registration.
- (3) For subsection (1), section 32(3) applies as if the person's registration were required to be restored subject to the conditions to which it was subject immediately before it ended.

Part 5 Conditions

Division 1 Review, amendment and removal of conditions

39 Application for review of condition

- (1) This section applies to a person—

- (a) who is an approved teacher; and
 - (b) whose registration or permission to teach is subject to a condition, other than a condition imposed by a disciplinary committee.
- (2) The person may make a written application to the college asking for the condition to be reviewed and amended or cancelled.

40 Review of condition by college

- (1) The college must, as soon as practicable after being asked to review a condition under section 39, review the condition.
- (2) After conducting the review, the college may do 1 or more of the following—
- (a) amend the condition under section 41 or 42;
 - (b) cancel the condition under section 43;
 - (c) decide to impose a new condition on the person's registration or permission to teach under section 41;
 - (d) refuse to amend or cancel the condition under section 41 or 43.

41 Amendment or imposition of conditions following a review

- (1) This section applies if the college reviews a condition of a person's registration or permission to teach under section 40.
- (2) The college may decide to—
- (a) impose a new condition on the person's registration or permission to teach, if the college is reasonably satisfied the condition is necessary to ensure the person meets the eligibility requirements; or
 - (b) amend the reviewed condition other than under section 42(1); or
 - (c) refuse to amend the reviewed condition as requested by the holder.

- (3) If the college decides to do a thing mentioned in subsection (2), as soon as practicable after making the decision the college must give the person an information notice about the decision.
- (4) The decision takes effect on the day the information notice is given to the person or, if the notice states a later day of effect, the stated day of effect.

42 Non-contentious amendment of conditions

- (1) The college may at any time amend a condition imposed on a person's registration or permission to teach if the registration or permission to teach is amended only—
 - (a) to omit the condition, if doing so is not adverse to the holder's interests; or
 - (b) for a formal or clerical reason; or
 - (c) in another way that is not adverse to the holder's interests; or
 - (d) as requested by the holder in an application for review of the condition.
- (2) The college may make an amendment under subsection (1) by giving notice to the holder.
- (3) The amendment takes effect on the day the notice is given to the holder or, if the notice states a later day of effect, the stated day of effect.

43 Cancellation of conditions

- (1) The college may cancel a condition imposed on a person's registration or permission to teach if the college is reasonably satisfied the condition has been fulfilled or is no longer necessary for the person to meet the eligibility requirements.
- (2) However, if the condition is a returning to teaching condition of full registration, the college may cancel the condition only if the college receives evidence, of a type prescribed under a regulation, of satisfactory completion by the person of the professional learning program required to satisfy the condition.

- (3) The college may cancel a condition under this section by giving notice to the person.
- (4) The notice must state the day the cancellation takes effect.
- (5) If the person requested, in an application for review, the cancellation of a condition and the college decides not to cancel the condition, the college must as soon as practicable give an information notice about the college's decision to the person.

44 Amending or replacing certificate of registration or certificate of permission to teach

- (1) An approved teacher who receives a relevant notice must, unless the teacher has a reasonable excuse, return the teacher's certificate of registration or certificate of permission to teach to the college within 21 days after receiving the notice.

Maximum penalty—10 penalty units.

- (2) On receiving the certificate, the college must—
 - (a) amend it appropriately or issue a replacement certificate to the teacher; and
 - (b) return the amended or replacement certificate to the teacher.
- (3) The effect of the amendment does not depend on the amendment being noted on the teacher's certificate of registration or permission to teach.

- (4) In this section—

relevant notice means—

- (a) a notice under section 41(3), 42(2) or 43(3); or
- (b) a notice under section 104 or 164 stating the Teachers Disciplinary Committee has decided to amend, impose or remove a condition of the teacher's registration or permission to teach.

Division 2 Suspension or cancellation of registration or permission to teach for failing to comply with condition

45 Application of div 2

- (1) This division applies in relation to a person who holds either of the following that is subject to a condition (a *relevant condition*)—
 - (a) provisional registration;
 - (b) permission to teach.
- (2) This division also applies to a person who holds full registration subject to a returning to teaching condition.

46 College to give show cause notice for failing to comply with condition

If the college reasonably believes a person to whom this division applies is not complying with a relevant condition, or has failed to comply with a returning to teaching condition, the college must give the person a notice stating—

- (a) the college may order the cancellation or suspension of the person's registration or permission to teach (the *proposed order*); and
- (b) the grounds for the proposed order; and
- (c) an outline of the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed order is an order suspending the registration or permission to teach—the proposed period of the suspension; and
- (e) an invitation to the person to show in writing, within a stated time that is at least 28 days, why the proposed order should not be made.

47 College's power to suspend or cancel registration or permission to teach

- (1) This section applies if, after considering any written statements made to the college within the time required under section 46(e), the college is satisfied the person is not complying with a relevant condition or has not complied with a returning to teaching condition.
- (2) The college may—
 - (a) if the proposed order was to suspend the registration or permission to teach for a proposed period—order suspension of the registration or permission to teach for not longer than the proposed period; or
 - (b) if the proposed order was to cancel the registration or permission to teach—order either of the following—
 - (i) cancellation of the registration or permission to teach;
 - (ii) suspension of the registration or permission to teach for a period.
- (3) The college must, within 7 days after the decision about whether to make an order under subsection (2) is made, give the person—
 - (a) if the college decides to make the order—an information notice about the college's decision; or
 - (b) if the college decides not to make the order—a notice stating the college's decision.
- (4) In this section—

proposed order means the proposed order stated in the notice given to the person under section 46.

- (a) that the teacher's registration or permission to teach is suspended under section 48;
 - (b) the reasons for the college's decision;
 - (c) that the Teachers Disciplinary Committee will review the continuation of the suspension to decide whether it is an exceptional case in which the best interests of children would not be harmed if the suspension were ended.
- (3) For a suspension under section 49, the notice must state the following—
- (a) that the teacher's registration or permission to teach is suspended under section 49;
 - (b) the reasons for the college's decision;
 - (c) that the college will refer a disciplinary matter to the Teachers Disciplinary Committee about whether a ground for disciplinary action against the teacher exists.
- (4) The college must, at the same time as notice of the suspension is given to the teacher, give a copy of the notice to—
- (a) the employing authority for, and the principal of, each school at which the teacher is employed; and
 - (b) the Teachers Disciplinary Committee.

51 When suspension takes effect

A suspension of an approved teacher's registration or permission to teach under this division takes effect on the day notice of the suspension is given to the teacher under section 50.

52 When suspension ends

A suspension of an approved teacher's registration or permission to teach under this division ends when the earliest of the following happens—

- (a) the Teachers Disciplinary Committee decides, under section 55, 102, 152, 159 or 160,⁶ to end the suspension;
- (b) the teacher's registration or permission to teach is cancelled under division 3 or section 160.

Division 2 Review of continuation of suspension

53 Requirement to review continuation of suspension under s 48

- (1) The Teachers Disciplinary Committee must review the continuation of the suspension of an approved teacher under section 48.
- (2) The purpose of the review is for the committee to decide whether it is an exceptional case in which the best interests of children would not be harmed if the suspension were ended.

54 Committee to give notice inviting submissions to approved teacher

- (1) The Teachers Disciplinary Committee must give the approved teacher a notice inviting the teacher to show, within a stated time, why the matter is an exceptional case in which the best interests of children would not be harmed if the suspension of the teacher's registration or permission to teach were ended.
- (2) The stated time must be not less than 28 days after the notice is given.
- (3) The notice must be given to the teacher immediately after the committee receives, under section 50, a copy of the notice of suspension given to the teacher.

⁶ Section 55 (Committee's decision about continuation of suspension), 102 (Disciplinary action by Teachers Disciplinary Committee—approved teachers), 152 (Interim orders), 159 (Ending of suspension if ground for disciplinary action not established) or 160 (Decision about disciplinary action against approved teacher)

55 Committee's decision about continuation of suspension

- (1) After considering any submissions made by the approved teacher within the stated time under section 54, the Teachers Disciplinary Committee must decide whether it is an exceptional case in which the best interests of children would not be harmed if the suspension of the teacher were ended.
- (2) If the committee is satisfied it is an exceptional case, the committee must order the suspension be ended.
- (3) The committee's decision must be made not later than 14 days after the earlier of the following to happen—
 - (a) the committee receives the approved teacher's submission under section 54;
 - (b) the stated time under section 54 ends.
- (4) If the committee does not make a decision within the 14 day period under subsection (3), the committee is taken to have made an order ending the suspension.
- (5) The committee must, as soon as practicable, give notice of its decision to the approved teacher.
- (6) The notice must state each of the following—
 - (a) the committee's decision and the reasons for it;
 - (b) if the decision is that it is not an exceptional case—
 - (i) that the teacher may, within 28 days after the notice is given, appeal against the committee's decision to the District Court; and
 - (ii) how to appeal.

Division 3 Cancellation**56 Cancellation if conviction for excluding offence and imprisonment or disqualification order imposed**

- (1) This section applies if, after the commencement of this section—
 - (a) an approved teacher is convicted of an excluding offence; and

- (b) the court that convicts the teacher—
 - (i) imposes an imprisonment order; or
 - (ii) makes a disqualification order.
- (2) The college must, as soon as possible after it becomes aware of the conviction, cancel the teacher's registration or permission to teach.
- (3) The college must immediately give notice to the person of the cancellation.
- (4) The notice must state—
 - (a) there is no appeal under this Act in relation to the college's decision to cancel the teacher's registration or permission to teach; and
 - (b) unless paragraph (c) applies, the teacher can never be granted registration or permission to teach; and
 - (c) that the teacher can apply for registration or permission to teach if—
 - (i) the decision to cancel the teacher's registration or permission to teach was made under this section; and
 - (ii) the conviction of the teacher of the excluding offence, or the order mentioned in subsection (1)(b), is not upheld on appeal.
- (5) A copy of the notice must also be given to the employing authority for, and the principal of, each school at which the teacher is employed.
- (6) There is no appeal under this Act against a decision of the college under this section to cancel the teacher's registration or permission to teach.
- (7) In this section—
appeal includes review.

57 Effect of appeal on cancellation

- (1) This section applies if—

- (a) the registration or permission to teach of an approved teacher is cancelled by the college under section 56; and
- (b) any of the following is appealed—
 - (i) the conviction of the teacher of an excluding offence;
 - (ii) the imposition of an imprisonment order for the offence;
 - (iii) the making of a disqualification order.
- (2) The cancellation remains in effect during the appeal.
- (3) If the conviction or an order mentioned in subsection (1)(b)(ii) or (iii) is overturned on appeal, the person is no longer an excluded person for this Act.

Division 4 Disqualification order

58 Disqualification order

- (1) This section applies if—
 - (a) an approved teacher is convicted of an excluding offence; and
 - (b) the court that convicts the teacher does not impose an imprisonment order for the offence.
- (2) The court may, on application by the prosecutor or on its own initiative, make an order (a *disqualification order*) in relation to the teacher stating the teacher may never be granted registration or permission to teach.
- (3) In this section—

Crown prosecutor includes each of the following—

 - (a) the Attorney-General;
 - (b) the director of public prosecutions;
 - (c) another person, other than a police officer, appearing for the State.

prosecutor means—

- (a) in the context of a proceeding before, or an application to, a Magistrates Court—a police officer or Crown prosecutor; or
- (b) otherwise—a Crown prosecutor.

Part 7 **Surrender of registration or permission to teach**

59 Surrender of registration or permission to teach

An approved teacher may surrender the teacher's registration or permission to teach by—

- (a) returning to the college—
 - (i) the teacher's certificate of registration or certificate of permission to teach; and
 - (ii) if applicable, the teacher's registration card; and
- (b) giving notice of the surrender to the college.

Part 8 **Documents evidencing registration or permission to teach**

60 Form of certificate of registration

- (1) A certificate of registration must be in the approved form.
- (2) The approved form must provide for inclusion of the following—
 - (a) the registered teacher's name;
 - (b) whether the teacher holds full registration or provisional registration;
 - (c) the teacher's identification number;

- (d) the period of the registration;
- (e) the qualifications held by the teacher and—
 - (i) relied on by the teacher to obtain registration; or
 - (ii) evidence of which has otherwise been given to the college;
- (f) any conditions of the registration.

61 Form of certificate of permission to teach

- (1) A certificate of permission to teach must be in the approved form.
- (2) The approved form must provide for inclusion of the following—
 - (a) the approved teacher's name;
 - (b) the period of the permission to teach;
 - (c) the teacher's identification number;
 - (d) any conditions of the permission to teach.

62 Replacing certificates of registration or permission to teach

- (1) An approved teacher may apply to the college for replacement of the teacher's registration certificate, or certificate of permission to teach, if it has been lost, stolen, destroyed or damaged.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) The college may decide to grant the application only if it is satisfied the certificate has been lost, stolen, destroyed or damaged in a way to require its replacement.

63 Requirements for registration card

- (1) A registration card must—

- (a) be issued for a period of 1 year;⁷ and
 - (b) be in the approved form.
- (2) The approved form must provide for the inclusion of the following—
- (a) the registered teacher's name;
 - (b) whether the teacher holds full registration or provisional registration;
 - (c) the period for which the card is issued;
 - (d) the teacher's identification number.

64 Requirement to return certificate of registration or permission to teach etc. on suspension or cancellation

- (1) This section applies if an approved teacher's registration or permission to teach is suspended or cancelled by the college or the Teachers Disciplinary Committee.
- (2) The teacher must, unless the teacher has a reasonable excuse, return each of the following to the college within 14 days after receiving notice of the suspension or cancellation—
- (a) the teacher's certificate of registration or permission to teach;
 - (b) for a registered teacher—the teacher's registration card.
- Maximum penalty—20 penalty units.

⁷ See also section 66 (Payment of annual fee by approved teacher and issue of registration card to registered teacher).

Part 9 Miscellaneous provisions

65 College's power to obtain criminal history etc. in relation to an approved teacher

- (1) For deciding whether an approved teacher is or continues to be suitable to teach, the college may ask the commissioner of police for—
 - (a) a written report about the teacher's criminal history; or
 - (b) other information about the teacher mentioned in section 15(2).⁸
- (2) Section 15(3) to (7) applies for the request as if it were made under that section.
- (3) For section 15(3), the college's request may also include a number or date relevant to the teacher's registration or permission to teach.
- (4) Sections 11 and 12⁹ apply for the college's decision about whether the teacher is or continues to be suitable to teach.

66 Payment of annual fee by approved teacher and issue of registration card to registered teacher

- (1) An approved teacher must pay the fee (the *annual fee*) prescribed under a regulation for keeping the teacher's registration or permission to teach, for a registration year, before the year starts.¹⁰
- (2) If the teacher is a registered teacher, on payment of the annual fee the college must issue a registration card for the year to the teacher.
- (3) If the teacher is the holder of a permission to teach, on payment of the annual fee the college must give the teacher a notice stating that the teacher's name has been retained in the register.

8 Section 15 (Criminal history check etc.)

9 Sections 11 (Suitability to teach—criminal history information) and 12 (Suitability to teach—other considerations)

10 See also section 314 (Existing registrations).

- (4) If the teacher does not pay the annual fee as required under subsection (1), the college must give the teacher a notice stating that the teacher's registration or permission to teach will be cancelled unless the teacher pays the annual fee, plus any fee for late payment prescribed under a regulation, by the day (the *due day*) stated in the notice.
- (5) The due day must be at least 14 days after the notice is given.
- (6) If the teacher is given a notice under subsection (4) and fails to pay the amount required under the notice by the due day, the college must—
 - (a) cancel the teacher's registration or permission to teach; and
 - (b) give the teacher notice of the cancellation.

67 Effect of suspension on registration or permission to teach

- (1) This section applies if a person's registration or permission to teach is suspended by the college or the Teachers Disciplinary Committee.
- (2) During the suspension, the person must not start or continue to teach in a prescribed school.
Maximum penalty—100 penalty units.
- (3) At the end of the suspension, the person holds the same registration or permission to teach, and on the same conditions, as the person held it immediately before the suspension.
- (4) Subsection (3) applies subject to—
 - (a) any order to the contrary made by the Teachers Disciplinary Committee in relation to the person; and
 - (b) payment by the person of the annual fee; and
 - (c) if the period of the person's registration or permission to teach ends under section 26 or 27 during the suspension—renewal of the registration or permission to teach.

Chapter 3 Requirements for approved teachers and other persons

Part 1 Giving information to the college

Division 1 Approved teachers

68 Changes in criminal history

- (1) If there is a change in an approved teacher's criminal history, the teacher must immediately disclose to the college the details of the change.
- (2) For an approved teacher who does not have a criminal history, there is taken to be a change in the teacher's criminal history if the teacher acquires a criminal history.

69 Requirements for disclosure of changes in criminal history

- (1) To comply with section 68(1), the approved teacher must give the disclosure in the approved form.
- (2) The information disclosed by the approved teacher about a conviction or charge for an offence in the person's criminal history must include each of the following—
 - (a) the existence of the conviction or charge;
 - (b) when the offence was committed or alleged to have been committed;
 - (c) details adequate to identify the offence or alleged offence;
 - (d) for a conviction—
 - (i) whether or not a conviction was recorded; and
 - (ii) the sentence imposed on the teacher.

70 Failure to disclose changes in criminal history

An approved teacher must not fail to give the college a disclosure required under section 68(1), unless the teacher has a reasonable excuse.

Maximum penalty—100 penalty units.

71 Disclosure of other change in circumstances

- (1) An approved teacher must, within 20 business days after a prescribed change in circumstances, give notice to the college stating details of the change in circumstances.

Maximum penalty—10 penalty units.

- (2) In this section—

prescribed change in circumstances means a change in the approved teacher's circumstances, other than a change in criminal history, of a type prescribed under a regulation.

Division 2 Registered teachers**72 Disclosure about particular changes in teaching status in another State**

- (1) This section applies if a following event happens to a person who is a registered teacher—
- (a) if the person is registered as a teacher in another State—the person's registration as a teacher in the other State is cancelled or suspended, however described;
 - (b) if the person is employed as a teacher in another State that does not register teachers—the person's employment as a teacher in the other State is terminated because the person's employer was satisfied the person was not competent or suitable to be employed as a teacher.
- (2) The person must give notice of the event to the college within 7 days after the event happens.

Maximum penalty—40 penalty units.

- (3) The notice must disclose the circumstances of the event that gave rise to the cancellation or suspension of registration or the termination of employment.

Division 3 Other persons

73 Definition for div 3

In this division—

relevant teacher, of a prescribed school, means a person who is or was an approved teacher teaching at the school.

74 Meaning of *prescribed school*

Any of the following is a *prescribed school*—

- (a) a State school or non-State school;
- (b) a kindergarten or preschool centre that purports to offer an education program for children in the year prior to enrolment in year 1;
- (c) another institution or place, or part of an institution or place, at which an educational program is offered that is based on a syllabus approved or accredited by the Queensland Studies Authority under the *Education (Queensland Studies Authority) Act 2002*.

75 Commissioner of police must notify changes in criminal history

- (1) This section applies if the commissioner of police reasonably suspects a person who is charged with an offence—
- (a) is an approved teacher; or
 - (b) was an approved teacher when the offence is alleged to have been committed.
- (2) The commissioner must notify the college about the change in the person's criminal history.
- (3) The notice must state the following—

- (a) the person's name and address;
 - (b) the person's date of birth;
 - (c) the offence the person is charged with;
 - (d) particulars of the offence;
 - (e) the date of the charge.
- (4) The college may confirm the suspicions of the commissioner of police under subsection (1).
- (5) On receiving a notice under subsection (2) about the person, the college may write to the person to inform the person of their obligation under section 68(1).
- (6) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the giving of a notification under subsection (2).

76 Requirement for employing authority to notify college about particular investigations

- (1) This section applies if the employing authority for a prescribed school investigates an allegation of harm caused, or likely to be caused, to a child because of the conduct of a relevant teacher of the prescribed school.
- (2) The employing authority must, as soon as practicable after the investigation starts, give notice to the college of the investigation.

Maximum penalty—40 penalty units.

- (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 prescribed school, the name of the prescribed school;
 - (b) the name of the relevant teacher;
 - (c) the day the investigation started;
 - (d) the allegation, particulars of the allegation and any other relevant information.

77 Requirement for employing authority to notify college about particular terminations of employment

- (1) This section applies if—
- (a) the employing authority for a prescribed school investigates an allegation of harm caused, or likely to be caused, to a child because of the conduct of a relevant teacher of the prescribed school; and
 - (b) either—
 - (i) after the investigation, the employing authority dismisses the relevant teacher from the educational staff of the prescribed school; or
 - (ii) the relevant teacher resigns from the educational staff of the prescribed school during or after the investigation.

- (2) The employing authority must, within 14 days after the termination day, give notice of the dismissal or resignation to the college.

Maximum penalty—40 penalty units.

- (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 prescribed school, the name of the prescribed school;
 - (b) the name of the relevant teacher;
 - (c) the termination day and the day the dismissal or resignation takes or took effect;
 - (d) the allegation, particulars of the 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) In this section—

termination day means the day the employing authority—

- (a) gave notice of the dismissal to the relevant teacher; or
- (b) received oral or written notice from the relevant teacher of the teacher's resignation.

78 Requirement for employing authority to notify college about certain other dismissals

- (1) This section applies if—
 - (a) an employing authority for a prescribed school dismisses a relevant teacher of the prescribed school in circumstances that, in the opinion of the employing authority, call into question the teacher's competency to be employed as a teacher; and
 - (b) the employing authority is not required to give notice to the college about the dismissal under section 77.
- (2) The employing authority must, within 14 days after the day notice of the dismissal was given to the teacher, give notice of the dismissal to the college.

Maximum penalty—40 penalty units.

- (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 prescribed school, the name of the prescribed school;
 - (b) the name of the relevant teacher;
 - (c) the day notice of the dismissal was given to the relevant teacher and the day the dismissal takes or took effect;
 - (d) the reasons given by the employing authority for the dismissal.

79 College may request information from principal

- (1) The college may, by notice, require the principal of a prescribed school to give the college reports and returns, in the approved form, about approved teachers teaching at the prescribed school.
- (2) The principal must comply with the notice.

Maximum penalty—20 penalty units.

80 Requirement for prosecuting authority to notify college about committal, conviction etc.

- (1) This section applies if—

- (a) a person is charged with an indictable offence; and
 - (b) the commissioner of police or the director of public prosecutions (a ***prosecuting authority***) believes, on reasonable grounds, that the person is an approved teacher or was, at the time the offence is alleged to have been committed, an approved teacher.
- (2) If the person is committed for trial for an indictable offence, the prosecuting authority must, within 7 days after the committal, give notice to the college stating 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 notice to the college stating 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 the prosecution process ends without the person being convicted of the indictable offence for which the person was charged, the prosecuting authority must, within 7 days after the prosecution process ending, give notice to the college stating each of the following—
- (a) the name of the person;
 - (b) if relevant—the court in which the prosecution process ended;
 - (c) the offence of which the person was charged and particulars of the offence;
 - (d) the date the prosecution process ended.

- (5) For subsection (4), a prosecution process ends if—
- (a) the person is acquitted; or
 - (b) there is a mistrial; or
 - (c) the prosecuting authority decides not to continue the prosecution; or
- Examples of how paragraph (c) might apply—*
- the prosecuting authority offers no evidence and the person is not committed for trial
 - a no true bill is presented to a court
 - a nolle prosequi is presented to a court
- (d) the prosecution process has otherwise ended.
- (6) A prosecuting authority must give a notice under subsection (3) or (4) even though a notice was given under subsection (2).

81 Protection from liability for employing authorities giving required notices

- (1) This section applies if an employing authority for a prescribed school gives a notice as required under this division.
- (2) The employing authority is not liable, civilly, criminally or under an administrative process, for disclosing information contained in the notice.
- (3) Without limiting subsection (2)—
 - (a) in a proceeding for defamation, the employing authority has a defence of absolute privilege for publishing the disclosed information; and
 - (b) if the employing authority would otherwise be required to maintain confidentiality about the disclosed information under an Act, oath, rule of law or practice—the employing authority does not contravene the requirement by disclosing the information.

Part 2 General offences

82 Only approved teachers may be employed as teachers

- (1) The employing authority for a prescribed school must not employ a person as a teacher in the prescribed school unless the person is an approved teacher.

Maximum penalty—200 penalty units.

- (2) The employing authority for a prescribed school must not allow an approved teacher to teach in the prescribed school if the person's registration or permission to teach is suspended by the college or the Teachers Disciplinary Committee.

Maximum penalty—200 penalty units.

83 Requirement to hold registration or permission to teach to teach in schools

- (1) A person who is not an approved teacher must not teach in a prescribed school.

Maximum penalty—100 penalty units.

- (2) A person who is not a registered teacher must not supervise, or assess the work of, a teacher or student teacher in a prescribed school.

Maximum penalty—100 penalty units.

84 Offence to misrepresent nature of registration or permission to teach

- (1) A person who holds provisional registration must not claim, or hold himself or herself out, to hold full registration.

Maximum penalty—100 penalty units.

- (2) A person who holds permission to teach must not claim, or hold himself or herself out, to hold registration.

Maximum penalty—100 penalty units.

- (3) An approved teacher whose registration or permission to teach is subject to a condition must not claim, or hold himself or

herself out, to hold registration or permission to teach that is not subject to conditions.

Maximum penalty—100 penalty units.

85 False or misleading information

- (1) A person must not give relevant information to the college that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) For this section—

relevant information means information a person is required or permitted under this Act to give the college.

Examples—

- information in an application for registration or permission to teach, or renewal of registration or permission to teach
- information disclosed to the college under part 1

86 False, incomplete or misleading documents

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

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) informs the college of the extent to which the document is false, incomplete or misleading; and
 - (b) gives the correct information to the college if the person has, or can reasonably obtain, the correct information.

Chapter 4 Complaints about teachers

87 Making a complaint

- (1) A person may make a complaint to the college alleging a ground for disciplinary action exists against a person who—
 - (a) is an approved teacher; or
 - (b) was an approved teacher when the conduct giving rise to the complaint happened.
- (2) The complaint must—
 - (a) be in writing; and
 - (b) contain particulars of the allegation.

88 College may require further information or statutory declaration

- (1) The college may, by notice, ask the complainant to give the college further information about the complaint within the reasonable time stated in the notice.
- (2) Also, the college may require the complainant to verify the complaint or further information by statutory declaration.

89 Refusal to deal with complaint

- (1) The college may refuse to deal with a complaint if the college reasonably believes—
 - (a) the complaint, if proved, would not establish a ground for disciplinary action against the person who is the subject of the complaint; or
 - (b) the complaint is trivial, unreasonable or without substance; or
 - (c) the complaint concerns frivolous matter or was made vexatiously; or
 - (d) the complaint is based on an allegation that could more appropriately be dealt with by another entity; or

- (e) the complaint is based on an allegation that has already been adequately dealt with by the college or another entity; or
 - (f) having regard to the length of time that has elapsed since the matter complained of happened, it is not practicable for the college to deal with the complaint.
- (2) Also, the college may refuse to deal with the complaint if the complainant refuses, without a reasonable excuse, to—
- (a) provide further information reasonably required by the college to decide whether to deal with the complaint; or
 - (b) comply with a requirement of the college under section 88(2).
- (3) The college may not refuse to deal with a complaint under subsection (1)(f) if—
- (a) the person who is the subject of the complaint is an approved teacher; and
 - (b) the college reasonably believes the complaint is based on an allegation that, if proved, would establish a ground for suspending or cancelling the person's registration or permission to teach under chapter 2, part 6.¹¹
- (4) If the college refuses to deal with a complaint, the college must—
- (a) as soon as practicable, give notice of its decision to the complainant; and
 - (b) keep a record about the complaint and the college's refusal to deal with the complaint.
- (5) A disciplinary committee may, for the purpose of taking disciplinary action against the person who is the subject of the complaint, have regard to the making of a complaint about the person, even if the college refuses to deal with the complaint.

11 Chapter 2 (Registration and permission to teach), part 6 (Immediate suspension and cancellation of registration or permission to teach by college)

90 How a complaint must be dealt with

If the college does not refuse to deal with a complaint under section 89, it must—

- (a) start disciplinary proceedings in relation to the complaint under section 97; or
- (b) authorise an investigation of the complaint under section 98.

Chapter 5 Disciplinary action against teachers

Part 1 Preliminary

Division 1 Definitions

91 Definition for ch 5

In this chapter—

disciplinary information means any of the following—

- (a) a complaint, other than a complaint the college refuses to deal with under section 89;
- (b) information in or accompanying an application made by a person under chapter 2;¹²
- (c) information disclosed to the college as required under chapter 3, part 1;¹³
- (d) other information or a document required or permitted to be given to the college under this Act.

12 Chapter 2 (Registration and permission to teach)

13 Chapter 3 (Requirements for approved teachers and other persons), part 1 (Giving information to the college)

92 Grounds for disciplinary action

- (1) Each of the following is a *ground for disciplinary action* against a relevant teacher—
- (a) the relevant teacher has been convicted of a serious offence, except if—
 - (i) the offence is an excluding offence; and
 - (ii) the court that convicts the teacher imposes an imprisonment order or makes a disqualification order;¹⁴
 - (b) the teacher has been convicted of—
 - (i) an indictable offence, other than a serious offence; or
 - (ii) an offence against this Act;
 - (c) if the teacher is the holder of full registration—the teacher fails to comply with a condition of the registration, other than a returning to teaching condition;
 - (d) both of the following apply—
 - (i) the teacher is incompetent in performing the work of a teacher;
 - (ii) the teacher is dismissed, or resigns, from employment in Queensland as a teacher in circumstances that, in the opinion of the teacher's employer, call into question the teacher's competency in performing the work of a teacher;
 - (e) if the teacher was registered as a teacher in another State—the teacher's registration in the State was cancelled or suspended;
 - (f) if the teacher was employed as a teacher in another State that does not register teachers—the teacher's employment as a teacher in the State was terminated because the teacher's employer was reasonably satisfied the teacher was not competent or suitable to be employed as a teacher;

14 See section 56 (Cancellation if conviction for excluding offence and imprisonment or disqualification order imposed).

- (g) the teacher did not possess or no longer possesses the qualifications and experience relied on by the teacher to obtain registration or permission to teach;
 - (h) the teacher is not suitable to teach;
 - (i) the teacher fails to comply with a lawful demand made under this Act by the college, an investigator or a disciplinary committee;
 - (j) the teacher contravenes an order made under this Act by the college or a disciplinary committee.
- (2) The ground for disciplinary action mentioned in subsection (1)(h) is taken to apply to the following—
- (a) a relevant teacher who is suspended under section 48,¹⁵ if the charge for the excluding offence has been dealt with;
 - (b) a relevant teacher who is suspended under section 48 and is convicted of an offence other than an indictable offence;
 - (c) a relevant teacher who is suspended under section 49.¹⁶
- (3) The object of subsection (2)(a) is to ensure the circumstances of the charge are examined by a disciplinary committee.
- (4) Subsection (2) does not limit the application of subsection (1)(h).
- (5) In this section—
- dealt with***, in relation to a charge of an excluding offence, means any of the following—
- (a) the relevant teacher is acquitted of the charge;
 - (b) the charge has been withdrawn or dismissed;
 - (c) a nolle prosequi or no true bill is presented in relation to the charge.

15 Section 48 (Effect of charge for excluding offence pending charge being dealt with)

16 Section 49 (College's power to suspend if approved teacher poses imminent risk of harm to children)

93 Disciplinary matters

Each of the following is a *disciplinary matter*—

- (a) a show cause matter;
- (b) a PP&C matter;
- (c) a general matter.

94 Show cause matters

A matter involving the ground for disciplinary action mentioned in section 92(1)(a) is a *show cause matter*.

95 PP&C matters

(1) A matter involving a ground for disciplinary action mentioned in any of paragraphs (b) to (j) of section 92(1) is a *PP&C matter* if—

- (a) both of the following apply—
 - (i) the college reasonably believes, when it starts disciplinary proceedings in relation to the matter, that minor disciplinary action is likely to be appropriate;
 - (ii) the teacher is not a relevant teacher mentioned in section 92(2)(a), (b) or (c); or
- (b) the college authorises an investigation of the matter under section 98.

(2) In this section—

minor disciplinary action means—

- (a) issuing a warning or reprimand to a relevant teacher; or
- (b) accepting an undertaking from a relevant teacher.

96 General matters

A matter involving a ground for disciplinary action mentioned in any of paragraphs (b) to (j) of section 92(1) is a *general matter* if it is not a PP&C matter.

Division 2 Starting disciplinary proceedings

97 Requirement for college to start disciplinary proceedings

- (1) If the college reasonably believes, on the basis of disciplinary information received by the college, that 1 or more grounds for disciplinary action against a relevant teacher exist, the college must refer the matter to the disciplinary committee stated in subsection (2).
- (2) The disciplinary committee to which the matter must be referred is—
 - (a) for a show cause matter or general matter—the Teachers Disciplinary Committee; or
 - (b) for a PP&C matter—the PP&C committee.
- (3) If the teacher has been suspended under section 49, the college must refer the disciplinary matter to the Teachers Disciplinary Committee immediately after the teacher is suspended.

98 College may authorise investigation

- (1) This section applies if the college reasonably believes, on the basis of disciplinary information received by the college, that a ground for disciplinary action against a relevant teacher may exist.
- (2) The college may authorise an investigation of the matter.
- (3) However, the college may authorise an investigation in relation to a former approved teacher only if—
 - (a) the college is satisfied it is in the public interest for the investigation to be conducted; and
 - (b) the ground arose while the person was an approved teacher.
- (4) If the college authorises an investigation of the matter and appoints an investigator, the college must as soon as practicable give the relevant teacher notice of the investigation.
- (5) The notice must state each of the following—

- (a) if the investigation relates to a complaint—the nature of the complaint;
 - (b) if the investigation does not relate to a complaint—the grounds forming the basis of the investigation;
 - (c) that the teacher may make a submission to the investigator about the matter and how a submission may be made;
 - (d) if the submission may be made orally—a time and place, at least 14 days after the day the notice is given, for the teacher to attend before the investigator to make the submission;
 - (e) if the submission may be made in writing—a stated day, at least 14 days after the day the notice is given, by which the submission must be given to the investigator.
- (6) However, the college need not give the teacher the notice if the college reasonably believes doing so may—
- (a) seriously prejudice the investigation; or
 - (b) place at risk the wellbeing of vulnerable persons; or
 - (c) place the complainant or another person at risk of harassment or intimidation.

99 Proceedings for an offence not prevented by disciplinary proceedings

- (1) This section applies if a ground for disciplinary action against a relevant teacher involves the commission of an offence against this Act.
- (2) Starting disciplinary proceedings against the teacher does not prevent a proceeding being taken or continued for the offence.

Part 2

Show cause matters dealt with by Teachers Disciplinary Committee

100 Application of pt 2

This part applies to a show cause matter referred to the Teachers Disciplinary Committee by—

- (a) the college; or
- (b) the PP&C committee under part 4.

101 Teachers Disciplinary Committee to give show cause notice

(1) The Teachers Disciplinary Committee must give the relevant teacher a notice stating—

- (a) that the committee may make a specified order; and
- (b) the grounds for the specified order; and
- (c) an outline of the facts and circumstances forming the basis for the grounds; and
- (d) an invitation to the person to show in writing, within a stated time that is at least 28 days, why the matter is an exceptional case in which the best interests of children would not be harmed if the specified order were not made.

(2) In this section—

specified order means—

- (a) for an approved teacher—
 - (i) an order cancelling the teacher's registration or permission to teach; and
 - (ii) if the order mentioned in subparagraph (i) is made—an order prohibiting the teacher from reapplying for registration or permission to teach for a stated period that is not more than 5 years; or

- (b) for a former approved teacher—an order prohibiting the teacher from reapplying for registration or permission to teach for a stated period that is not more than 5 years.

102 Disciplinary action by Teachers Disciplinary Committee—approved teachers

- (1) This section applies if the relevant teacher is an approved teacher.
- (2) After considering any written submissions made by the relevant teacher within the stated time under section 101, the Teachers Disciplinary Committee must decide—
 - (a) whether to cancel the teacher’s registration or permission to teach; and
 - (b) if the committee decides not to cancel the teacher’s registration or permission to teach—what disciplinary action mentioned in subsection (5) to take.
- (3) The committee must decide to cancel the teacher’s registration or permission to teach, unless the committee is satisfied it is an exceptional case in which it would not harm the best interests of children for the teacher’s registration or permission to teach not to be cancelled.
- (4) If the committee decides to cancel the teacher’s registration or permission to teach, it may make an order prohibiting the teacher from reapplying for registration or permission to teach for not more than 5 years from the day the order is made.
- (5) If the committee decides not to order the cancellation of the teacher’s registration or permission to teach, the committee may do 1 or more of the following—
 - (a) decide to take no further action in relation to the matter;
 - (b) if the teacher is suspended under section 48¹⁷—end the suspension;
 - (c) issue a warning or reprimand to the teacher;
 - (d) suspend the teacher’s registration or permission to teach for a stated time;

17 Section 48 (Effect of charge for excluding offence pending charge being dealt with)

- (e) make an order requiring the teacher to pay to the college, by way of costs, an amount the committee considers appropriate having regard to—
 - (i) any expenses incurred by the college in investigating the matter; and
 - (ii) the expenses the committee has incurred in considering and deciding the matter;
- (f) make an order requiring the teacher to pay to the college, by way of penalty, an amount fixed by the committee but not more than the equivalent of 20 penalty units;
- (g) impose conditions on, or amend or remove conditions on, the teacher's registration or permission to teach;
- (h) make an order that a particular notation or endorsement about the teacher be entered in the register;
- (i) make another order the committee considers appropriate;
- (j) accept an undertaking from the teacher.

103 Disciplinary action by Teachers Disciplinary Committee—former approved teachers

- (1) This section applies if the relevant teacher is a former approved teacher.
- (2) After considering any written submissions made by the relevant teacher within the stated time under section 101, the Teachers Disciplinary Committee must decide whether to prohibit the teacher from reapplying for registration or permission to teach for a period not longer than the period stated in the notice given to the teacher under section 101.

104 Notice and effect of committee's decision

- (1) As soon as practicable after making its decision under section 102 or 103, the committee must give notice of the decision to—
 - (a) the relevant teacher; and

- (b) the college.
- (2) The notice must state each of the following—
 - (a) the committee's decision and the reasons for it;
 - (b) if the committee decides to cancel the teacher's registration or permission to teach—
 - (i) the day the cancellation takes effect or, if no day is stated, that the cancellation takes effect from the day the notice is given to the teacher; and
 - (ii) if the committee makes an order prohibiting the teacher from reapplying for registration or permission to teach—the period for which the order applies;
 - (c) that the teacher may, within 28 days after the notice is given, appeal against the committee's decision to the District Court;
 - (d) how to appeal.
 - (3) If the disciplinary action originated from a complaint, the committee must also give notice of its decision and the reasons for it to the complainant.
 - (4) If the committee decides to cancel the teacher's registration or permission to teach, the committee must also give notice of its decision to the employing authority for, and the principal of, each school at which the teacher is employed.
 - (5) The committee's decision is binding on the college and the relevant teacher.
 - (6) The college must give effect to, or secure compliance with, the committee's decision.

Part 3

General matters and PP&C matters dealt with by Teachers Disciplinary Committee

105 Application of pt 3

This part applies in relation to—

- (a) a general matter referred to the Teachers Disciplinary Committee by the college under section 97; or
- (b) a PP&C matter referred to the Teachers Disciplinary Committee by the PP&C committee under part 4.

106 Teachers Disciplinary Committee may authorise investigation

- (1) The Teachers Disciplinary Committee may, before considering the matter, authorise an investigation into the matter if it reasonably believes further information is required to decide the matter.
- (2) If the Teachers Disciplinary Committee authorises an investigation under subsection (1)—
 - (a) the committee must, as soon as practicable, give the college a notice stating each of the following—
 - (i) the name of the relevant teacher;
 - (ii) if the investigation relates to a complaint—the nature of the complaint;
 - (iii) if the investigation does not relate to a complaint—the grounds forming the basis of the investigation;
 - (iv) any other information relevant to the investigation that is held by the committee; and
 - (b) the college must arrange for the matter to be investigated as soon as practicable after receiving the notice.

107 Application of ch 6, pt 2, div 2

Chapter 6, part 2, division 2,¹⁸ applies to the hearing and making of decisions about the matter by the Teachers Disciplinary Committee.

Part 4 PP&C matters dealt with by PP&C committee**108 Application of pt 4**

This part applies if—

- (a) the college refers a PP&C matter to the PP&C committee under section 97; or
- (b) the college authorises an investigation of a disciplinary matter under section 98 and the PP&C committee receives the investigator's report about the matter.¹⁹

109 PP&C committee may authorise investigation

The PP&C committee may, before considering the matter, authorise an investigation into the matter if it reasonably believes further information is required to decide the matter.

110 Notice to be given to college if PP&C committee authorise investigation

If the PP&C committee authorises an investigation under section 109—

- (a) the committee must, as soon as practicable, give the college a notice stating each of the following—
 - (i) the name of the relevant teacher;

18 Chapter 6 (Disciplinary committees), part 2 (Teachers Disciplinary Committee), division 2 (Disciplinary proceedings conducted by Teachers Disciplinary Committee)

19 See section 201 (Investigator's report).

- (ii) if the investigation relates to a complaint—the nature of the complaint;
 - (iii) if the investigation does not relate to a complaint—the grounds forming the basis of the investigation;
 - (iv) any other information relevant to the investigation that is held by the committee; and
- (b) the college must arrange for the matter to be investigated as soon as practicable after receiving the notice.

111 Application of ch 6, pt 1, div 2

Chapter 6, part 1, division 2,²⁰ applies to the PP&C committee dealing with the matter.

Part 5 Other provisions

112 Reporting of offences

- (1) This section applies if the college or Teachers Disciplinary Committee becomes aware, or reasonably suspects, that disciplinary information or other information before it discloses an offence.
- (2) The chairperson of the board or committee may—
 - (a) report the offence to 1 or more of the following persons—
 - (i) the commissioner of police;
 - (ii) the Crime and Misconduct Commission;
 - (iii) the chief executive; and
 - (b) make available to the person or persons all relevant information held by the college or committee.

²⁰ Chapter 6 (Disciplinary committees), part 1 (PP&C committee), division 2 (Disciplinary proceedings of PP&C committee)

Chapter 6 Disciplinary committees

Part 1 PP&C committee

Division 1 Establishment, membership and functions

113 Establishment

The college must establish a committee called the Professional Practice and Conduct Committee.

114 Membership

- (1) The PP&C committee must consist of 3 members of the board.
- (2) Of the 3 committee members—
 - (a) 2 must be registered teachers; and
 - (b) 1 must not be a registered teacher.
- (3) The college must appoint 1 of the committee members to be the committee's chairperson.

115 Functions of PP&C committee

- (1) The functions of the PP&C committee are, in relation to a relevant disciplinary matter, to—
 - (a) authorise an investigation into the matter before hearing and deciding it; or
 - (b) refer the matter to the Teachers Disciplinary Committee for hearing; or
 - (c) hear and decide the matter.
- (2) In this section—

relevant disciplinary matter means a disciplinary matter—

- (a) referred to the PP&C committee by the college under section 97; or
- (b) for which the college authorised an investigation under section 98 and the investigator's report has been given to the PP&C committee.

Division 2 Disciplinary proceedings of PP&C committee

116 PP&C committee may conduct disciplinary proceedings by hearing or on correspondence

- (1) The PP&C committee may conduct disciplinary proceedings by hearing or on correspondence.
- (2) However, the proceedings may not be conducted on correspondence if the relevant teacher requires the proceedings be conducted by hearing by giving the committee a notice mentioned in section 118(2)(c)(i).

117 Procedure for hearing by PP&C committee

- (1) If the PP&C committee decides to conduct disciplinary proceedings by hearing, the hearing must be closed to the public.
- (2) The committee must decide the matter in the way it considers appropriate, but must—
 - (a) observe natural justice; and
 - (b) act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.
- (3) The committee—
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself in the way, and to the extent, the committee considers appropriate; and
 - (c) may decide the procedures to be followed for the proceedings; and

- (d) may receive evidence on oath or by statutory declaration.
- (4) The chairperson of the committee, or a member of the committee permitted by the chairperson, may administer an oath to a person appearing before the committee.

118 Notice of intention to conduct disciplinary proceedings by correspondence

- (1) If the PP&C committee decides to conduct disciplinary proceedings by correspondence, it must give notice about its intention to conduct the proceedings by correspondence to—
 - (a) the relevant teacher; and
 - (b) if the disciplinary proceedings originated from a complaint—the complainant.
- (2) The notice must state the following—
 - (a) the ground for the disciplinary action against the relevant teacher;
 - (b) the facts and circumstances forming the basis for the ground;
 - (c) that the relevant teacher may do either of the following within a period stated in the notice—
 - (i) give the committee a notice requiring the committee to conduct the proceedings by hearing; or
 - (ii) give the committee a written submission about the ground;
 - (d) that, even if the teacher does not give a notice or make a submission mentioned in paragraph (c), the committee may—
 - (i) continue the disciplinary proceedings; and
 - (ii) make a decision about whether the ground for disciplinary action is established.
- (3) The period for giving a notice or making a submission stated in the notice under subsection (2)(c) must be at least 14 days after the relevant teacher is given the notice.

119 Substituted service on relevant teacher or complainant

- (1) The PP&C committee may order substituted service of a notice under section 118 on the relevant teacher or the complainant (if any), if the committee is satisfied service can not be effected on the person.
- (2) Substituted service may be effected in any way ordered, including, for example, by facsimile or telephone.
- (3) If the relevant teacher or complainant is served with a notice as ordered by the committee under subsection (1), the notice is taken to have been given to the person under section 118.

120 PP&C committee may require other information

- (1) For conducting disciplinary proceedings by correspondence, the PP&C committee may, by notice given to the relevant teacher or another person, require the relevant teacher or other person to give the committee information, including a document, relevant to the disciplinary proceedings.
- (2) If a document is given to the committee under subsection (1), the committee may make a copy of, or take an extract from, it.

121 Power of PP&C committee to continue disciplinary proceedings without receiving relevant teacher's submission

- (1) This section applies if the relevant teacher does not—
 - (a) make a written submission about the ground for disciplinary action as stated in a notice given to the relevant teacher by the PP&C committee under section 118; or
 - (b) give information as required under section 120.
- (2) The committee may—
 - (a) continue the disciplinary proceedings; and
 - (b) make a decision about whether the ground for disciplinary action is established.

122 Offence for failing to give information and protection against self-incrimination

- (1) A person given a notice under section 120 must not fail, without a reasonable excuse, to give the PP&C committee the information the person is required to give by the notice.

Maximum penalty—60 penalty units.

- (2) For subsection (1), it is a reasonable excuse for an individual to fail to give information, if giving the information might tend to incriminate the individual.
- (3) An individual is not required to produce to the PP&C committee a document or thing, or answer a question asked by the committee, if producing the document or thing or answering the question might tend to incriminate the individual.

123 Disciplinary action by PP&C committee

- (1) This section applies if the PP&C committee reasonably believes a ground for disciplinary action against the relevant teacher exists.
- (2) The committee may, as it considers it appropriate in the circumstances, decide to do 1 or more of the following—
- (a) not take further action against the teacher;
 - (b) refer the matter to the Teachers Disciplinary Committee, if the committee believes disciplinary action mentioned in section 160(2)(d) to (h) or (j)²¹ should be taken against the teacher;
 - (c) issue a warning or reprimand to the teacher;
 - (d) make an order that a particular notation or endorsement about the teacher be entered in the register;
 - (e) accept an undertaking from the teacher.
- (3) In making its decision, the committee must have regard to the following considerations—
- (a) primarily, the welfare and best interests of children;

21 Section 160 (Decision about disciplinary action against approved teacher)

- (b) the objects of this Act;
 - (c) the circumstances of the case and the seriousness of the matter.
- (4) As soon as practicable after making its decision, the committee must—
- (a) if it decides to do a thing mentioned in subsection (2)(c), (d) or (e)—give the teacher an information notice about the decision; or
 - (b) otherwise—give the teacher notice of the decision and the reasons for it.
- (5) Also, if the disciplinary matter originated from a complaint, the committee must, as soon as practicable after making its decision, give notice of the decision and the reasons for it to the complainant.
- (6) The committee's decision is binding on the college and the relevant teacher.
- (7) The college must give effect to, or secure compliance with, the committee's decision.

Part 2 Teachers Disciplinary Committee

Division 1 Establishment, membership and functions

124 Establishment of Teachers Disciplinary Committee

The Teachers Disciplinary Committee is established.

125 Members of Teachers Disciplinary Committee

- (1) The Teachers Disciplinary Committee consists of the following persons nominated by the Minister—

- (a) 1 lawyer of at least 5 years standing who is familiar with school environments;
 - (b) 2 registered teachers;
 - (c) 2 persons who are not registered teachers.
- (2) The persons mentioned in subsection (1)(b) and (c) must be nominated from a list of persons given to the Minister by the chairperson of the board.
- (3) A person can not become, or continue as, a member of the committee if the person is or becomes a member of the board.
- (4) The members of the committee must be appointed by the Governor in Council for a term of not more than 4 years.
- (5) A person who is a member of the committee ceases to be a member if the person—
- (a) resigns by signed notice of resignation given to the Minister; or
 - (b) if the person was nominated under paragraph (b) or (c) of subsection (1)—is no longer a person described by the paragraph; or
 - (c) is removed as a member of the committee by the Governor in Council under subsection (6).
- (6) The Governor in Council may remove a member of the committee if the Governor in Council reasonably considers the member—
- (a) is incapable of properly discharging the functions of a member of the committee; or
 - (b) is performing the member's duties carelessly, incompetently or inefficiently.

126 Chairperson of Teachers Disciplinary Committee

The member of the Teachers Disciplinary Committee mentioned in section 125(1)(a) is the chairperson of the committee.

127 Constitution of Teachers Disciplinary Committee for disciplinary proceedings

- (1) For disciplinary proceedings, the Teachers Disciplinary Committee is to be constituted under the chairperson's direction.
- (2) The chairperson of the Teachers Disciplinary Committee must direct the constitution of the committee as soon as practicable after a disciplinary matter is referred to the committee by the college or the PP&C committee.
- (3) The committee must be constituted by—
 - (a) the chairperson of the committee; and
 - (b) 2 other members of the committee, of whom—
 - (i) 1 must be a registered teacher; and
 - (ii) 1 must be a person who is not a registered teacher.
- (4) The chairperson may direct that another member of the committee be a constituting member under subsection (3)(b) only if the chairperson reasonably believes the member is not an interested member for the proceedings.
- (5) However, subsection (6) applies if, before disciplinary proceedings start, the chairperson believes he or she will be unable to take part in the proceedings as a member of the committee.
- (6) The chairperson may, before the proceedings start, appoint in writing another member of the committee (the *substitute chairperson*) to act as the chairperson of the committee for the proceedings.
- (7) Also, the chairperson must appoint a substitute chairperson under subsection (6) if the chairperson believes he or she is an interested member for the proceedings.
- (8) A substitute chairperson must perform the functions of, and may exercise all the powers of, the chairperson of the committee under this Act for the disciplinary proceedings.

Example of a function to be performed by a substitute chairperson—

directing the constitution of the committee for the disciplinary proceedings under subsection (2)

- (9) In this section—

interested member, for disciplinary proceedings, means a member of the Teachers Disciplinary Committee who has a personal or professional connection with the relevant teacher to whom the proceedings relate that may prejudice the way the member performs the member's functions as a member of the committee.

128 Payment of members

A member of the Teachers Disciplinary Committee is entitled to be paid the remuneration and allowances decided by the Governor in Council.

129 Functions of Teachers Disciplinary Committee

The functions of the Teachers Disciplinary Committee are to conduct a hearing, and make decisions, about disciplinary matters referred to the committee by the college or the PP&C committee.

Division 2 Disciplinary proceedings conducted by Teachers Disciplinary Committee

Subdivision 1 Preliminary

130 Application of div 2

This division applies to disciplinary proceedings before the Teachers Disciplinary Committee relating to—

- (a) a general matter; or
- (b) a PP&C matter referred to the committee by the PP&C committee under section 123(2)(b).²²

²² Section 123 (Disciplinary action by PP&C committee)

131 Parties to disciplinary proceedings

The parties to disciplinary proceedings before the committee are—

- (a) the relevant teacher to whom the proceedings relate; and
- (b) the college.

**Subdivision 2 Proceedings of Teachers
Disciplinary Committee****132 Time and place of hearing**

The hearing for disciplinary proceedings before the committee must be conducted at the time and place decided by the chairperson of the committee.

133 Notice of intention to conduct hearing

- (1) The college must give notice about the committee's intention to conduct the hearing.
- (2) The notice must be given to—
 - (a) the relevant teacher; and
 - (b) if the matter originated from a complaint—the complainant.
- (3) The notice must state each of the following matters—
 - (a) the ground for disciplinary action against the teacher;
 - (b) the facts and circumstances forming the basis of the ground;
 - (c) the time and place of the hearing;
 - (d) the names of the committee members constituting the committee for the disciplinary proceedings;
 - (e) if the matter relates to a complaint—that the complainant may attend the hearing;
 - (f) that the teacher may be accompanied at the hearing by a lawyer or other person.

- (4) The time for the hearing stated in the notice must be—
- (a) if the teacher has been suspended under section 49—not more than 14 days after the day the teacher was suspended; or
 - (b) otherwise—at least 14 days after the day the teacher is given the notice.

134 Substituted service on relevant teacher and complainant

- (1) This section applies if the committee is satisfied service of the notice mentioned in section 133 can not be effected under section 133(2) on the relevant teacher or the complainant (if any).
- (2) The committee may order substituted service of the notice on the person.
- (3) Substituted service may be effected in any way ordered, including, for example, by facsimile or telephone.
- (4) If the relevant teacher or the complainant is served with the notice as ordered by the committee under subsection (2), the notice is taken to have been given to the person under section 133.

135 Pre-hearing conference

- (1) The committee may, before the hearing starts, hold a conference for considering, or giving directions about, any matter within its jurisdiction.

Examples of matters within the committee's jurisdiction—

- the date of the hearing
 - the exchange of documents by the parties before the hearing
- (2) At or after the conference, the committee may give the directions about the matter or proceeding it considers appropriate.
 - (3) A conference may be held, and directions given, on the application of a party or on the committee's own initiative.
 - (4) A conference may be conducted, and directions given, by telephone, video link or another form of communication

allowing reasonably contemporaneous and continuous communication between the persons taking part in the conference.

- (5) The committee may delegate the power to hold a pre-hearing conference to a committee member.

136 Committee may require health assessment

- (1) This section applies if, before or during the hearing, the committee reasonably believes it is necessary for the relevant teacher to undergo a health assessment to enable the committee to decide whether a ground for disciplinary action against the teacher is established.
- (2) The committee may, by notice given to the teacher, require the teacher to undergo a health assessment conducted by an appointed person at a reasonable time and place.
- (3) The committee may appoint a person to conduct the assessment only if the committee is reasonably satisfied the person has the necessary qualifications, expertise or experience.
- (4) The notice must state each following—
 - (a) the reasons for the health assessment;
 - (b) the name and qualifications of the person appointed by the committee to conduct the assessment;
 - (c) the place where, and the day and time at which, the assessment is to be conducted.
- (5) The relevant teacher must not fail, without reasonable excuse—
 - (a) to attend as required by the notice; and
 - (b) to continue to attend as required by the person conducting the health assessment until excused from further attendance; and
 - (c) to cooperate with the person in the conduct of the health assessment.

Maximum penalty—50 penalty units.

- (6) The cost of the assessment must be met by the college.

137 Hearing open to the public

- (1) The hearing is open to the public.
- (2) Subsection (1) does not apply if—
 - (a) the committee decides all or part of the hearing should be closed to the public; or
 - (b) the relevant teacher asks the committee for all or part of the hearing to be closed to the public.
- (3) However, even if the relevant teacher makes a request mentioned in subsection (2)(b), the committee may decide to keep all or a part of the hearing open to the public if the committee considers it would be in the public interest to do so.

138 Attendance and appearance at hearing

- (1) At the hearing, the relevant teacher may be accompanied by a lawyer or another person and has the right to be represented by the lawyer or other person.
- (2) Any of the following persons may appear at the hearing to present evidence to, or help, the committee—
 - (a) a lawyer;
 - (b) a member of the board;
 - (c) a member of the office's staff.
- (3) Also, if the matter originated from a complaint, the complainant may attend the hearing.
- (4) Subsection (3) applies even if all or part of the hearing is closed to the public, but is subject to section 139.

139 Committee may exclude complainant or witness from hearing

- (1) This section applies if any of the following persons are to give evidence at the hearing—
 - (a) if the matter relates to a complaint—the complainant;
 - (b) a witness.

- (2) The committee may direct that the person be excluded from a part or all of the hearing until the person gives evidence, if the committee reasonably believes the person's attendance before giving evidence would seriously prejudice the fairness of the hearing.

140 Committee may exclude disruptive person from hearing

The committee may direct a person attending the hearing, other than the relevant teacher, to leave if the person is disrupting the hearing.

141 Procedure for hearing by committee

- (1) When conducting a hearing, the committee—
- (a) must comply with natural justice; and
 - (b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues before it; and
 - (c) is not bound by the rules of evidence; and
 - (d) may inform itself of anything in the way it considers appropriate.
- (2) The chairperson of the committee may decide the procedures to be followed for the hearing.
- (3) The committee must—
- (a) tell the relevant teacher—
 - (i) the facts and circumstances for bringing the disciplinary proceedings against the teacher; and
 - (ii) the possible disciplinary action the committee may take under section 160 or 161;²³ and
 - (b) if asked by the relevant teacher, explain to the teacher any aspect of the committee's procedures, or any decisions or rulings, relating to the hearing; and

²³ Section 160 (Decision about disciplinary action against approved teacher) or 161 (Decision about disciplinary action against former approved teacher)

- (c) ensure the relevant teacher has the fullest opportunity practicable to be heard.

142 Committee may require evidence on oath or by statutory declaration

At the hearing, the committee may require evidence on oath or by statutory declaration.

143 Evidence by telephone, video link or another form of communication

- (1) The committee may decide to receive evidence or submissions for the hearing by using any technology allowing reasonably contemporaneous and continuous communication between the committee members and other persons taking part in the hearing.

Example of technology allowing reasonably contemporaneous and continuous communication—

teleconferencing

- (2) The committee may impose conditions on the receipt of evidence or submissions under subsection (1).

144 Witnesses

- (1) The committee may, by notice (an *attendance notice*) given to a person, require the person to attend the hearing at a stated reasonable time and place to—
 - (a) give evidence or answer questions; or
 - (b) produce a stated thing.
- (2) The chairperson of the committee, or a member of the committee permitted by the chairperson, may administer an oath to a person appearing as a witness before the committee.
- (3) The relevant teacher or the college may ask the committee for an attendance notice to be given to a person.
- (4) The committee must give the attendance notice to the person unless the committee reasonably believes it is unnecessary or inappropriate to do so.

145 Allowance to witnesses

- (1) A witness who appears at a hearing before the committee is entitled to be paid an allowance for attendance at the hearing.
- (2) The amount of the allowance is—
 - (a) the amount prescribed under a regulation; or
 - (b) if there is no amount prescribed under a regulation—the amount considered reasonable by the chairperson of the committee.
- (3) The allowance must be paid by the college.

146 Provision for witnesses who are children

- (1) This section applies if a witness who appears before the committee is a child.
- (2) The committee may, of its own initiative or on the application of a party to the proceedings, do any of the following things—
 - (a) exclude the relevant teacher from the room in which the hearing is being held while the witness is giving evidence;
 - (b) obscure the relevant teacher from the view of the witness while the witness is giving evidence or is required to appear before the committee for another purpose;
 - (c) while the witness is giving evidence, exclude particular persons from the room in which the hearing is being held;
 - (d) have the witness give evidence in a room—
 - (i) other than the room in which the hearing is being held; and
 - (ii) from which particular persons are excluded;
 - (e) have a person approved by the committee be present while the witness is giving evidence or is required to appear before the committee for any other purpose, to provide emotional support to the witness;
 - (f) allow a videotape of the evidence of the witness or a portion of it to be made under stated conditions and the

videotaped evidence to be viewed and heard in the proceedings instead of the direct testimony of the witness.

- (3) An order must not be made under subsection (2) if it appears to the committee that the making of the order would unfairly prejudice a party to the proceedings.
- (4) If the committee makes an order under subsection (2)(a), (c) or (d), provision must be made, by means of an electronic device or otherwise, for the relevant teacher to see and hear the witness while the witness is giving evidence.
- (5) Also, if the committee makes an order under subsection (2)(f), a person entitled in the proceedings to examine or cross-examine the witness must be given a reasonable opportunity to view any portion of the videotape relevant to the conduct of the examination or cross-examination.

147 Receiving or adopting findings etc. in other proceedings

During the hearing, the committee may—

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

148 Committee may proceed in absence of relevant teacher or may adjourn hearing

- (1) At the hearing, the committee may proceed in the absence of the relevant teacher if it reasonably believes the teacher has been given notice of the hearing.
- (2) The committee may adjourn the hearing from time to time.

149 Questions to be decided by majority of committee members

- (1) Subject to subsection (2), a question before the committee must be decided by a majority vote of the committee members and, if the votes are equal, the chairperson of the committee has a casting vote.
- (2) The chairperson's decision on a question of law is taken to be the committee's decision on the question.

150 Procedure if committee member unable to participate further in the disciplinary proceedings

- (1) This section applies if—
 - (a) the committee has started to hear the matter but has not made its decision under subdivision 4;²⁴ and
 - (b) a constituting member ceases to be a committee member or, for another reason, is unable to take further part in the disciplinary proceedings.
- (2) Unless the committee member mentioned in subsection (1)(b) was or is the committee's chairperson, the remaining constituting members may, if the relevant teacher consents, constitute the Teachers Disciplinary Committee for finishing the proceedings and making the decision.
- (3) A remaining committee member may be a member of the reconstituted committee.
- (4) The reconstituted committee must continue and finish the disciplinary proceedings and, for that purpose, may have regard to any record relating to the proceedings made by the committee as previously constituted.
- (5) A new committee must be constituted to hear the proceedings if—
 - (a) the member mentioned in subsection (1)(b) was or is the committee's chairperson; or
 - (b) the relevant teacher does not consent to the remaining committee members constituting the committee.

24 Subdivision 4 (Decision on completion of disciplinary proceedings)

(6) In this section—

constituting members, of the Teachers Disciplinary Committee, means the committee members constituting the committee for the disciplinary proceedings.

151 Inspection of things

- (1) The committee may inspect anything produced to it at the hearing.
- (2) If the committee reasonably considers the thing may be relevant to the hearing, the committee may do all or any of the following—
 - (a) photograph the thing;
 - (b) for a document—make a copy of, or take an extract from, it;
 - (c) keep the thing while it is necessary for the hearing.
- (3) If the committee keeps the thing, the committee must allow a person otherwise entitled to possession of the thing to—
 - (a) for a document—inspect, copy, or take an extract from, the document, at the reasonable time and place the committee decides; or
 - (b) for another thing—inspect or photograph the thing, at the reasonable time and place the committee decides.

152 Interim orders

- (1) This section applies if the committee reasonably believes it is necessary to make an order (an *interim order*) exercising a power conferred on the committee under section 160 or 161, pending its final decision.
- (2) The committee may make the interim order.
- (3) The interim order must be the least onerous order the committee considers necessary in the circumstances.
- (4) The interim order has effect from the time it is made and ends when the first of the following happens—
 - (a) the disciplinary proceedings end;

- (b) the time stated in the order for it to end arrives;
 - (c) the committee revokes the order.
- (5) The college must give effect to an interim order made by the committee under this section.

153 Committee to make record of proceedings

- (1) The committee must make, in the way it considers appropriate, a record of evidence given to it for the disciplinary proceedings.
- (2) However, the committee is not required to make a transcript of the proceedings.

Subdivision 3 Offences about disciplinary proceedings dealt with by Teachers Disciplinary Committee

154 Offences about attending hearing, answering questions and related matters

- (1) A person given an attendance notice must not fail, without reasonable excuse—
 - (a) to attend as required by the attendance notice; or
 - (b) to continue to attend as required by the committee until excused from further attendance.

Maximum penalty—60 penalty units.

- (2) At the hearing, a person appearing as a witness must not—
 - (a) fail to take an oath or make an affirmation when required by the committee; or
 - (b) fail, without reasonable excuse, to answer a question the person is required by a committee member to answer; or
 - (c) fail, without reasonable excuse, to produce a thing the person is required by an attendance notice to produce.

Maximum penalty—60 penalty units.

- (3) It is a reasonable excuse for a witness to fail to answer a question or produce a thing that answering the question or producing the thing might tend to incriminate the witness.

155 False or misleading information

A person must not state anything to the committee the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

156 False or misleading documents

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

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) informs the committee, to the best of the person's ability, how it is false or misleading; and
 - (b) gives the correct information to the committee if the person has, or can reasonably obtain, the correct information.

157 Contempt of committee

At a hearing by the committee, a person must not—

- (a) insult the committee or a committee member; or
- (b) deliberately interrupt the hearing; or
- (c) create, continue, or join in creating or continuing, a disturbance in or near a place where the hearing is being conducted; or
- (d) attempt to improperly influence the committee; or
- (e) without lawful excuse, disobey a lawful order or direction of the committee; or

- (f) do anything else that would be contempt of court if the committee were a court of record.

Maximum penalty—50 penalty units.

Subdivision 4 Decision on completion of disciplinary proceedings

158 Decision about whether ground for disciplinary action is established

- (1) As soon as practicable after finishing the hearing, the committee must decide whether a ground for disciplinary action against the relevant teacher has been established.
- (2) In making its decision, the committee must have regard to any relevant previous decision by a disciplinary committee of which the committee is aware.
- (3) Subsection (2) does not limit the matters the committee may consider in making its decision.

159 Ending of suspension if ground for disciplinary action not established

- (1) This section applies if—
 - (a) the committee decides no ground for disciplinary action against the relevant teacher has been established; and
 - (b) the relevant teacher is suspended under section 48 or 49.²⁵
- (2) The committee must end the suspension.

160 Decision about disciplinary action against approved teacher

- (1) This section applies if the relevant teacher is an approved teacher.

²⁵ Section 48 (Effect of charge for excluding offence pending charge being dealt with) or 49 (College's power to suspend if approved teacher poses imminent risk of harm to children)

- (2) If the committee decides a ground for disciplinary action against the relevant teacher has been established, the committee may do 1 or more of the following—
- (a) decide to take no further action in relation to the matter;
 - (b) if the teacher is suspended under section 48 or 49—end the suspension;
 - (c) issue a warning or reprimand to the teacher;
 - (d) cancel the teacher’s registration or permission to teach;
 - (e) suspend the teacher’s registration or permission to teach for a stated time;
 - (f) make an order requiring the teacher to pay to the college, by way of costs, an amount the committee considers appropriate having regard to—
 - (i) any expenses incurred by the college in investigating the matter; and
 - (ii) the expenses the committee has incurred in conducting the hearing;
 - (g) make an order requiring the teacher to pay to the college, by way of penalty, an amount fixed by the committee but not more than the equivalent of 20 penalty units;
 - (h) impose conditions on, or amend or remove conditions on, the teacher’s registration or permission to teach;
 - (i) make an order that a particular notation or endorsement about the teacher be entered in the register;
 - (j) if the committee cancels the teachers’ registration or permission to teach—make an order prohibiting the teacher from reapplying for registration or permission to teach for not more than 5 years from the day the order is made;
 - (k) make another order the committee considers appropriate;
 - (l) accept an undertaking from the teacher.

161 Decision about disciplinary action against former approved teacher

- (1) This section applies if the relevant teacher is a former approved teacher.
- (2) If the committee decides a ground for disciplinary action against the relevant teacher has been established, the committee may do 1 or more of the following—
 - (a) decide to take no further action in relation to the matter;
 - (b) make an order requiring the teacher to pay to the college, by way of costs, an amount the committee considers appropriate having regard to—
 - (i) any expenses incurred by the college in investigating the matter; and
 - (ii) the expenses the committee has incurred in conducting the hearing;
 - (c) if the committee would have made an order cancelling the teacher's registration or permission to teach if the teacher had been an approved teacher—make an order prohibiting the teacher from reapplying for registration or permission to teach for not more than 5 years from the day the order is made;
 - (d) make an order that a particular notation or endorsement about the teacher be entered in the register.

162 Committee may make an order prohibiting publication of particular information

The committee may order that any of the following must not be published—

- (a) the name of—
 - (i) the relevant teacher or a complainant; or
 - (ii) a person who appears before the committee as a witness;
- (b) evidence given before the committee;
- (c) the contents of a document produced to the committee.

Subdivision 5 Action after decision about disciplinary action

163 Notification of committee's decision

- (1) The committee must, as soon as practicable after making a decision under subdivision 4, give notice about the decision to the parties.
- (2) The notice must state each of the following—
 - (a) the committee's decision about whether a ground for disciplinary action against the relevant teacher is established;
 - (b) the disciplinary action (if any) the committee has decided to take against the teacher;
 - (c) the reasons for the decisions mentioned in paragraphs (a) and (b);
 - (d) that the teacher and the college may, within 28 days after the notice is given, appeal against a decision mentioned in paragraph (a) or (b) to the District Court;
 - (e) how to appeal.
- (3) The decision takes effect on the later of—
 - (a) the day the notice is given to the teacher; or
 - (b) the day of effect stated in the notice.

164 College may notify other persons

- (1) After the committee makes a decision about disciplinary proceedings against a relevant teacher, the college may, by notice—
 - (a) if the proceedings originated from a complaint—advise the complainant about the committee's decision; or
 - (b) advise any of the following persons about the committee's decision—
 - (i) the chief executive;
 - (ii) interstate or overseas regulatory authorities;

- (iii) the employing authority for a school;
 - (iv) the Minister;
 - (v) any other entity relevant to the teacher's practice of the teaching profession.
- (2) Subject to section 165, the college must not give a notice about the decision to a person under subsection (1)(b) unless the college reasonably believes the entity needs to know about the decision.
- (3) This section does not limit the college's power to record in the register—
- (a) a notation or endorsement about the teacher under an order made by the committee; or
 - (b) a condition imposed on the teacher's registration or permission to teach by the committee.

165 Requirement to notify particular interstate regulatory authorities about decision

The college must, as soon as practicable after the committee makes a decision about disciplinary proceedings against a relevant teacher, give notice of the decision to interstate regulatory authorities with which the college is aware the teacher is registered.

166 Publication of information about disciplinary proceedings by college

- (1) After the committee makes a decision about disciplinary proceedings against a relevant teacher, the college may publish the relevant teacher's identity and the nature and outcome of the proceedings, including, for example, on the college's Internet site or in the college's annual report or a newsletter.
- (2) The college must not publish any other information about the disciplinary proceedings, including, for example, information that identifies, or is likely to identify, a witness or complainant.

- (3) This section does not affect the college's power to record in the register details of a disciplinary order.
- (4) Subsection (1) applies subject to an order prohibiting the publication made by the committee under section 162.

Subdivision 6 Effect of decision

167 Effect of committee's decision

The committee's decision is binding on the college and the relevant teacher.

168 Implementation of decision

The college must give effect to, or secure compliance with, the committee's decision.

Subdivision 7 Immunities

169 Protection of committee members and other persons

- (1) Members of the committee have, in performing their duties for disciplinary proceedings, the same protection and immunity as a Supreme Court judge performing the functions of a judge.
- (2) A lawyer or other person appearing before the committee for someone else has the same protection and immunity as a barrister appearing for a party in the Supreme Court.
- (3) A person required to attend a hearing for disciplinary proceedings, or appearing before the committee as a witness, has the same protection the person would have if the proceedings were being heard before the Supreme Court.

Part 3

Miscellaneous provisions for disciplinary proceedings

170 Office to keep record of disciplinary proceedings

- (1) The office must keep a record of all disciplinary proceedings.
- (2) The record must include—
 - (a) details of the decisions made by the committee in relation to the proceedings; and
 - (b) the reasons for the decisions.

171 Payment of costs or penalty

- (1) This section applies if the Teachers Disciplinary Committee orders, under section 102(5)(e) or (f), 160(2)(f) or (g) or 161(2)(b), the relevant teacher to pay an amount as costs or a penalty.
- (2) The amount is payable immediately or, if the committee allows time for payment, at the end of the time allowed.
- (3) The college may enforce the order by—
 - (a) filing in the appropriate court's registry nearest the place where the relevant teacher lives—
 - (i) a copy of the order made by the committee, certified by the chairperson of the board to be a true copy; and
 - (ii) the chairperson of the board's affidavit about the relevant teacher's failure to pay the amount under the order; and
 - (b) serving a copy of the documents mentioned in paragraph (a) on the relevant teacher.
- (4) The registrar must register the order in the court.
- (5) The order may be enforced as if it were a properly entered judgment of the court.
- (6) In this section—

appropriate court means the court with jurisdiction to order payment of the amount required to be paid under the disciplinary order.

Chapter 7 Investigations

Part 1 Investigations by employing authorities

172 Particular investigation may be carried out on college's behalf by an employing authority

- (1) The college may enter into an agreement with the employing authority for a school under which the employing authority will investigate a disciplinary matter.
- (2) An agreement may be entered into under subsection (1) only if—
 - (a) the relevant teacher to whom the disciplinary matter relates consents in writing to the employing authority carrying out the investigation; and
 - (b) the conditions on which the investigation is to be carried out require that—
 - (i) the process of the investigation must comply with stated requirements of the college; and
 - (ii) an investigation report must be given to the college within a stated period.
- (3) The employing authority is not an investigator for this Act.

Part 2 **Investigators' functions and powers generally**

173 **Functions of investigator**

- (1) An investigator has the functions of carrying out and reporting on the investigation for which the investigator was appointed.
- (2) An investigation may relate to—
 - (a) a disciplinary matter; or
 - (b) monitoring and enforcing compliance with this Act, either generally or in relation to a particular matter.

174 **Powers of investigator**

For performing the investigator's functions, an investigator has the powers given to the investigator under this Act.

Part 3 **Appointment of investigators**

175 **Appointment**

- (1) The college may appoint any of the following persons as an investigator—
 - (a) a member of the office's staff;
 - (b) a member of the board.
- (2) However, the college may appoint a person as an investigator only if it is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.
- (3) More than 1 investigator may be appointed for an investigation.

176 **Appointment conditions and limit on powers**

- (1) An investigator holds office on the conditions stated in—

- (a) the investigator's instrument of appointment; or
 - (b) a signed notice given to the investigator.
- (2) The instrument of appointment or signed notice may limit the investigator's powers under this Act.
- (3) In this section—

signed notice means a notice signed by the chairperson of the board.

177 Issue of identity card

- (1) The college must give an identity card to an investigator.
- (2) The identity card must—
- (a) contain a recent photo of the investigator; and
 - (b) contain a copy of the investigator's signature; and
 - (c) identify the person as an investigator under this Act.

178 Production or display of identity card

- (1) In exercising a power under this Act in relation to a person, an investigator must—
- (a) produce the investigator's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an investigator does not exercise a power in relation to a person only because the investigator has entered a place as mentioned in section 184(1)(b) or (2).

179 Resignation

- (1) An investigator may resign by signed notice of resignation given to the college.

- (2) Within 21 days after resigning, the investigator must give the college a written report about the investigation carried out by the investigator.

180 Return of identity card

A person who ceases to be an investigator must return the person's identity card to the college within 15 business days after ceasing to be an investigator, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Part 4 Powers of investigators

Division 1 Power to obtain information

181 Power to require information or attendance

For carrying out an investigation, an investigator may, by notice given to a person, require the person—

- (a) to give stated information to the investigator within a stated reasonable time and in a stated reasonable way; or
- (b) to attend before the investigator at a stated reasonable time and place—
 - (i) to answer questions; or
 - (ii) to produce a stated thing.

182 Offences

- (1) A person required to give information to an investigator under section 181 must give the information as required by the notice, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person given a notice to attend before an investigator under section 181 must, unless the person has a reasonable excuse—
- (a) attend as required by the notice; and
 - (b) continue to attend as required by the investigator until excused from further attendance; and
 - (c) answer a question the person is required to answer by the investigator; and
 - (d) produce a thing the person is required to produce by the notice.

Maximum penalty—50 penalty units.

- (3) It is a reasonable excuse for an individual not to give information, answer a question or produce a stated thing, that giving the information, answering the question or producing the thing might tend to incriminate the individual.

183 Inspection of produced things

- (1) If a thing is produced to an investigator, whether under a notice under section 181 or otherwise, the investigator may inspect it.
- (2) If the investigator reasonably considers the thing may be relevant to the investigation being carried out by the investigator, the investigator may do all or any of the following—
- (a) photograph the thing;
 - (b) for a document—make a copy of, or take an extract from, it;
 - (c) keep the thing while it is necessary for the investigation.
- (3) If the investigator keeps the thing, the investigator must allow a person otherwise entitled to possession of the thing—
- (a) for a document—to inspect, copy, or take an extract from, the document, at the reasonable time and place the investigator decides; or
 - (b) for another thing—to inspect or photograph the thing, at the reasonable time and place the investigator decides.

Division 2 Entry of places

184 Power to enter places

- (1) An investigator may enter a place for carrying out an investigation if—
 - (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when the place is open to the public; or
 - (c) the entry is authorised by a warrant.
- (2) For the purpose of asking an occupier of a place for consent to enter, an investigator may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the investigator reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Division 3 Procedure for entry

185 Entry with consent

- (1) This section applies if an investigator intends to ask an occupier of a place to consent to the investigator or another investigator entering the place under section 184(1)(a).
- (2) Before asking for the consent, the investigator must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the investigator may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
 - (a) the occupier has been told—

- (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the investigator consent to enter the place and exercise powers under this part; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the investigator must immediately give a copy to the occupier.
- (6) If—
- (a) an issue arises in a proceeding before a court or a disciplinary committee about whether the occupier of the place consented to the entry; and
 - (b) an acknowledgment mentioned in subsection (4) is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

186 Application for warrant

- (1) An investigator may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

187 Issue of warrant

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the *evidence*) that may provide evidence about a matter being investigated by the investigator; and
 - (b) the evidence is at the place, or may be at the place, within the next 7 days.
- (2) The warrant must state—
- (a) that a stated investigator may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and
 - (ii) exercise the investigator's powers under this part; and
 - (b) the matter being investigated for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours of the day or night when the place may be entered; and
 - (e) the date, within 14 days after the warrant's issue, the warrant ends.

188 Warrants—procedure before entry

- (1) This section applies if an investigator named in a warrant issued under this division for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the investigator must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the investigator's identity card or another document evidencing the investigator's appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the investigator is permitted by the warrant to enter the place;

- (d) give the person an opportunity to allow the investigator immediate entry to the place without using force.
- (3) However, the investigator need not comply with subsection (2) if the investigator believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Division 4 Powers after entry

189 General powers after entering places

- (1) This section applies to an investigator who enters a place under section 184.
- (2) However, if an investigator enters a place to get the occupier's consent to enter a place, this section applies to the investigator only if the consent is given or the entry is otherwise authorised.
- (3) The investigator may do all or any of the following for a relevant purpose—
 - (a) search any part of the place;
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
 - (c) take an extract from, or copy, a document at the place;
 - (d) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under this part;
 - (e) require an occupier of the place, or a person at the place, to give the investigator reasonable help to exercise the investigator's powers under paragraphs (a) to (d);
 - (f) require an occupier of the place, or a person at the place, to give the investigator information to help the investigator ascertain—
 - (i) for an investigation about a disciplinary matter—whether a ground for disciplinary action exists; or

- (ii) for another investigation—whether this Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(e) or (f), the investigator must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (5) In this section—
 - relevant purpose* means—
 - (a) for an investigation about a disciplinary matter—establishing whether a ground for disciplinary action exists; or
 - (b) for another investigation—monitoring and enforcing compliance with this Act.

190 Failure to help investigator

- (1) A person required to give reasonable help under section 189(3)(e) must comply with the requirement, unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (2) If an individual is required under section 189(3)(e) to give information, or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

191 Failure to give information

- (1) A person of whom a requirement is made under section 189(3)(f) must comply with the requirement, unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Division 5 Power to seize evidence

192 Seizing evidence at public place if entry made when place open

An investigator who enters a public place when the place is open to the public may seize a thing at the place if the investigator reasonably believes the thing is evidence that is relevant to the investigation being carried out by the investigator.

193 Seizing evidence at a place that may only be entered with consent or warrant

- (1) This section applies if—
 - (a) an investigator is authorised to enter a place under this part only with the consent of the occupier of the place or a warrant; and
 - (b) the investigator enters the place after obtaining the necessary consent or warrant.
- (2) If the investigator enters the place with the occupier's consent, the investigator may seize a thing at the place if—
 - (a) the investigator reasonably believes the thing is evidence that is relevant to the investigation being carried out by the investigator; and
 - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the investigator enters the place with a warrant, the investigator may seize the evidence for which the warrant was issued.
- (4) The investigator also may seize anything else at the place if the investigator reasonably believes—
 - (a) the thing is evidence that is relevant to the investigation; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.

194 Securing seized things

Having seized a thing, an investigator may—

- (a) move the thing from the place where it was seized; or
- (b) leave the thing at the place where it was seized but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted

195 Tampering with seized things

If an investigator restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without the investigator's approval.

Maximum penalty—50 penalty units.

196 Receipt for seized things

- (1) As soon as practicable after an investigator seizes a thing, the investigator must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the investigator must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

197 Forfeiture of seized things

- (1) A thing that has been seized under this division is forfeited to the college if the investigator who seized the thing—
 - (a) can not find its owner, after making reasonable inquiries; or
 - (b) can not return it to its owner, after making reasonable efforts.
- (2) In applying subsection (1)—
 - (a) subsection (1)(a) does not require the investigator to make inquiries if it would be unreasonable to make inquiries to find the owner; and
 - (b) subsection (1)(b) does not require the investigator to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) Regard must be had to a thing's nature, condition and value in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

198 Dealing with forfeited things

- (1) On the forfeiture of a thing to the college, the thing becomes the college's property and may be dealt with by the college as the college considers appropriate.
- (2) Without limiting subsection (1), the college may destroy or otherwise dispose of the thing.

199 Return of seized things

- (1) If a seized thing is not forfeited, the investigator must return it to its owner—
 - (a) at the end of 6 months; or

- (b) if proceedings involving the thing are started within 6 months, at the end of the proceedings and any appeal from the proceedings.
- (2) Despite subsection (1), unless a thing that has been seized as evidence is forfeited, the investigator must immediately return it to its owner if the investigator stops being satisfied its continued retention as evidence is necessary.

200 Access to seized things

- (1) Until a seized thing is forfeited or returned, an investigator must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Part 5 General investigation matters

201 Investigator's report

- (1) This section applies if an investigation involves a disciplinary matter.
- (2) As soon as practicable after completing the investigation, the investigator must give a written report about the investigation to—
 - (a) for an investigation authorised by the college or the PP&C committee—the PP&C committee; or
 - (b) otherwise—the Teachers Disciplinary Committee.

202 Investigator's obligation not to cause unnecessary damage

An investigator must take all reasonable steps to ensure the investigator does not cause any unnecessary damage to property in exercising a power under part 4.

203 Notice of damage

- (1) This section applies if—
 - (a) an investigator damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction of an investigator damages property.
- (2) The investigator must immediately give notice of particulars of the damage to a person who appears to the investigator to be an owner of the property.
- (3) If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the investigator's or other person's control, the investigator may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the investigator must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the investigator reasonably believes is trivial.
- (6) In subsection (2)—

owner, of property, includes a person in possession or control of it.

204 Compensation

- (1) A person may claim compensation from the college if the person incurs loss or expense because of the exercise or purported exercise of a power under part 4, division 2, 4 or 5.²⁶
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the division.

²⁶ Part 4 (Powers of investigators), division 2 (Entry of places), 4 (Powers after entry) or 5 (Power to seize evidence)

- (3) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (4) A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.

205 False or misleading information given to investigator

A person must not state anything to an investigator the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

206 False or misleading documents given to investigator

- (1) A person must not give an investigator a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
 - (a) tells the investigator, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

207 Obstruction of investigator

- (1) A person must not obstruct an investigator in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an investigator and the investigator decides to proceed with the exercise of the power, the investigator must warn the person that—
 - (a) it is an offence to obstruct the investigator, unless the person has a reasonable excuse; and

- (b) the investigator considers the person's conduct is an obstruction.
- (3) In this section—
obstruct includes hinder and attempt to obstruct or hinder.

208 Impersonation of investigator

A person must not pretend to be an investigator.

Maximum penalty—50 penalty units.

Chapter 8 Reviews and appeals

Part 1 Reviews

209 Appeal process for particular decisions starts with internal review

- (1) A person or entity who is given, or is entitled to be given, an information notice for a decision (an *original decision*) and who is dissatisfied with the decision may appeal against the decision under this part.
- (2) To help users of this Act, schedule 1 identifies the decisions for which an information notice must be given under this Act.
- (3) The appeal must be, in the first instance, by way of an application for internal review under section 210.

210 Applying for review

- (1) The application must be made within 28 days after—
 - (a) if the person or entity is given an information notice about the decision—the day the person or entity is given the information notice; or
 - (b) if paragraph (a) does not apply—the day the person or entity otherwise becomes aware of the decision.

- (2) The college may, at any time, extend the time for applying for the review.
- (3) The application for review must be in the approved form and state fully the grounds of the application.

211 Review committee

- (1) The application must initially be dealt with by a committee established by the college to conduct the review (the *review committee*).
- (2) The review committee may include any person, whether or not the person is a member of the board.
- (3) However, if practicable, the review committee must not include a person who was involved in the making of the original decision the application relates to.
- (4) The review committee must conduct the review on—
 - (a) the material before the college or the PP&C committee that led to the original decision; and
 - (b) the reasons for the original decision; and
 - (c) any other relevant material the review committee allows.
- (5) For the review, the review committee must give the applicant a reasonable opportunity to make oral or written submissions to the committee.
- (6) After reviewing the original decision, the review committee must make a recommendation to the college about whether the college should—
 - (a) confirm the original decision; or
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision.
- (7) The college is not required to follow the review committee's recommendation.

212 College's decision

- (1) After considering the review committee's recommendation, the college must make a further decision (a *review decision*) to do any of the following—
 - (a) confirm the original decision;
 - (b) amend the original decision;
 - (c) substitute another decision for the original decision.
- (2) For an appeal—
 - (a) if the review decision confirms the original decision—the original decision is taken to be the review decision; or
 - (b) if the review decision amends the original decision—the original decision as amended is taken to be the review decision; or
 - (c) if the review decision substitutes another decision for the original decision—the substituted decision is taken to be the review decision.

213 Notice of review decision

- (1) The college must, as soon as practicable, give the applicant notice (the *review notice*) of the review decision.
- (2) If the review decision is not the decision sought by the applicant, the review notice must also state the following—
 - (a) the reasons for the decision;
 - (b) that the applicant may, within 28 days after the review notice is given, appeal against the decision to the District Court;
 - (c) how to appeal.
- (3) If the college does not give the review notice within 45 days after the application is made, the college is taken to have made a review decision confirming the original decision.

Part 2 Appeals

214 Definitions for pt 2

In this part—

appealable decision means—

- (a) a review decision; or
- (b) a relevant disciplinary committee decision.

relevant disciplinary committee decision means any of the following decisions made by the Teachers Disciplinary Committee—

- (a) a decision under section 55²⁷ about whether to continue the suspension of a relevant teacher;
- (b) a decision under section 102 or 103²⁸ about the disciplinary action to be taken against a relevant teacher;
- (c) a decision under section 158, 160 or 161²⁹ about—
 - (i) whether a ground for disciplinary action against a relevant teacher is established; or
 - (ii) the disciplinary action to be taken against a relevant teacher.

215 Who may appeal

The following persons may appeal to the District Court against an appealable decision—

- (a) for a review decision—a person who has applied for the review of the original decision under part 1 and is dissatisfied with the review decision;

27 Section 55 (Committee's decision about continuation of suspension)

28 Section 102 (Disciplinary action by Teachers Disciplinary Committee—approved teachers) or 103 (Disciplinary action by Teachers Disciplinary Committee—former approved teachers)

29 Section 158 (Decision about whether ground for disciplinary action is established), 160 (Decision about disciplinary action against approved teacher) or 161 (Decision about disciplinary action against former approved teacher)

- (b) for a relevant disciplinary committee decision—
 - (i) the relevant teacher to whom the decision relates;
or
 - (ii) the college.

216 Starting appeal

- (1) An appeal is started by—
 - (a) filing a notice of appeal with the registrar of—
 - (i) the District Court nearest the place where the person resides or carries on business; or
 - (ii) the District Court at Brisbane; and
 - (b) complying with the rules of court applicable to the appeal.³⁰
- (2) Subsection (1) does not limit a provision of another law about where a proceeding may be started in the District Court.
- (3) The notice of appeal must be filed within 28 days after—
 - (a) for an appeal against a review decision, if the person is given a review notice for the decision—the day the person is given the review notice; or
 - (b) for an appeal against a relevant disciplinary committee decision, if the person is given notice of the decision—the day the person is given the notice; or
 - (c) if paragraphs (a) and (b) do not apply—the day the person otherwise becomes aware of the appealable decision.
- (4) However, the court may, at any time, extend the time for filing the notice of appeal.

217 Hearing procedures

- (1) In deciding an appeal, the District Court—

³⁰ The *Uniform Civil Procedure Rules 1999* contain provisions about appeals to the District Court.

- (a) has the same powers as the entity that made the appealable decision; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the appealable decision, on the material before the entity that made the appealable decision and any further evidence allowed by the court.

218 Court's powers on appeal

- (1) In deciding the appeal, the District Court may do any of the following—
- (a) confirm the appealable decision;
 - (b) amend the appealable decision;
 - (c) set aside the appealable decision and substitute another decision.
- (2) In amending the appealable decision or substituting another decision for it, the court has the same powers as the entity that made the appealable decision.
- (3) If the court amends the appealable decision or substitutes another decision for it, the amended or substituted decision is, for this Act (other than this part), taken to be the decision of the entity that made the appealable decision.

219 Court may prohibit publication of particular information

The District Court may order that any of the following must not be published—

- (a) the name of the appellant or a person who appeared as a witness before the entity that made the appealable decision or the court;
- (b) evidence given before the entity that made the appealable decision or the court;
- (c) the contents of a document produced to the entity that made the appealable decision or the court.

Chapter 9 Legal proceedings

Part 1 Evidence

220 Application of pt 1

This part applies to a proceeding under this Act, including disciplinary proceedings.

221 Appointments and authority

It is not necessary to prove—

- (a) the appointment of any of the following persons or entities—
 - (i) the Minister;
 - (ii) the chief executive;
 - (iii) the chairperson or another member of the board;
 - (iv) the director;
 - (v) an investigator;
 - (vi) a disciplinary committee or a member of a disciplinary committee; or
- (b) the authority of any of the following persons or entities to do anything under this Act—
 - (i) the Minister;
 - (ii) the chief executive;
 - (iii) the college;
 - (iv) the board;
 - (v) the director;
 - (vi) an investigator;
 - (vii) a disciplinary committee or a member of a disciplinary committee; or
- (c) the authority of a person mentioned in section 224(b) to take and prosecute proceedings under this Act.

222 Signatures

A signature purporting to be the signature of any of the following persons is evidence of the signature it purports to be—

- (a) the Minister;
- (b) the chief executive;
- (c) the chairperson or another member of the board;
- (d) the chairperson or another member of the Teachers Disciplinary Committee;
- (e) the director;
- (f) an investigator.

223 Evidentiary matters

A certificate purporting to be signed by the director or the chairperson of the board that states any of the following matters is evidence of the matter—

- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) an order, direction, requirement or notice;
 - (iii) a certificate of registration or certificate of permission to teach;
 - (iv) a record or an extract from a record;
 - (v) the register or an extract from the register;
- (b) a stated document is the professional standards in force under this Act on a stated day or during a stated period;
- (c) a stated document is another document kept under this Act;
- (d) a stated document is a copy of a thing mentioned in paragraph (a), (b) or (c);
- (e) on a stated day, or during a stated period, a stated person was or was not the holder of any of the following—
 - (i) full registration;

- (ii) provisional registration;
- (iii) permission to teach;
- (f) on a stated day, or during a stated period, a registration or permission to teach—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
- (g) on a stated day, or during a stated period, a registration or permission to teach was suspended;
- (h) on a stated day, a registration or permission to teach was cancelled;
- (i) on a stated day, or during a stated period, an appointment as an investigator was, or was not, in force for a stated person;
- (j) on a stated day, a stated person was given a stated notice or direction under this Act;
- (k) on a stated day, a stated requirement was made of a stated person;
- (l) a stated fee or other amount is payable by a stated person to the college and has not been paid.

Part 2 Proceedings

224 Proceedings in the name of the college

Proceedings in a court may be taken and prosecuted in the name of the college by—

- (a) the chairperson of the board; or
- (b) another person authorised for that purpose by the chairperson.

225 Summary proceedings for offences

- (1) Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

226 Allegations of false or misleading information or documents

- (1) This section applies for a complaint for an offence against this Act involving—
 - (a) false or misleading information; or
 - (b) a false or misleading document.
- (2) It is enough for the complaint to state that the statement made, or the document given, was 'false or misleading' to the person's knowledge, without specifying which.

227 Penalties to be paid to college

All penalties recovered as a result of proceedings for offences against this Act are payable to the college.

228 Executive officers must ensure corporation complies with Act

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a stated provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a stated provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the stated provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

- (5) In this section—

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

stated provision, of this Act, means section 76, 77, 78 or 82.³¹

Chapter 10 Queensland College of Teachers

Part 1 Establishment, functions and powers of college

229 Establishment of college

- (1) The Queensland College of Teachers is established.
- (2) The college—

31 Section 76 (Requirement for employing authority to notify college about particular investigations), 77 (Requirement for employing authority to notify college about particular terminations of employment), 78 (Requirement for employing authority to notify college about certain other dismissals) or 82 (Only approved teachers may be employed as teachers)

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

230 College's functions about registration and permission to teach

The college has the following functions about registration of, and permission to teach for, teachers in Queensland—

- (a) to be responsible to the Minister for granting registration or permission to teach to persons under this Act;
- (b) deciding how a person must satisfy initial and ongoing eligibility requirements for registration and permission to teach;
- (c) deciding applications for registration or permission to teach and applications for renewal of registration or permission to teach;
- (d) ensuring approved teachers continue to meet the eligibility requirements mentioned in paragraph (b), including, for example, monitoring the compliance of approved teachers with conditions of registration or permission to teach;
- (e) arranging checks of the criminal history of approved teachers and applicants for registration or permission to teach;
- (f) reviewing registration of teachers, and the granting of permission to teach to teachers;
- (g) reporting, and making recommendations, to the Minister about the matters mentioned in paragraph (f);
- (h) approving and monitoring preservice teacher education programs for provisional registration;
- (i) developing and applying professional standards for entry to, and continuing membership of, the teaching profession;
- (j) keeping a register of, and records relating to, approved teachers.

231 College's discipline and enforcement functions

The college has the following functions about disciplining approved teachers and former approved teachers and enforcing this Act—

- (a) monitoring compliance with this Act and prosecuting persons who fail to comply with it;
- (b) receiving and assessing complaints;
- (c) conducting investigations, in relation to a complaint or on the college's own initiative, about—
 - (i) the professional conduct or competence of an approved teacher or former approved teacher; or
 - (ii) a contravention of this Act;
- (d) referring disciplinary matters to a disciplinary committee;
- (e) giving effect to and monitoring compliance with disciplinary orders;
- (f) developing and applying codes of practice about the professional conduct or practice of approved teachers.

232 College's other functions

The college's functions also include the following—

- (a) undertaking or supporting reviews and research relevant to the regulation of the teaching profession, including reviews and research commissioned and funded by the Minister;
- (b) collecting data about approved teachers, and providing the data to other persons, as required or permitted under this Act;
- (c) promoting the teaching profession to the public;
- (d) advising relevant entities in Queensland and interstate regulatory authorities about the operation of this Act, as required or permitted under this Act;
- (e) informing approved teachers and the public about the operation of this Act;

- (f) reviewing the operation of this Act and reporting to the Minister about its operation;
- (g) performing other functions conferred on the college under this or another Act.

233 Primary considerations of college in performing its functions

In performing its functions under this Act, the welfare and best interests of children are to be the primary considerations of the college.

234 Powers of college

- (1) The college has all the powers of an individual and may, for example, do any of the following—
 - (a) enter into contracts;
 - (b) acquire, hold, dispose of, and deal with, property;
 - (c) appoint agents and attorneys;
 - (d) engage consultants;
 - (e) produce documents in performing its functions and charge for advertising in the documents;
 - (f) fix charges and other terms for services and other facilities it supplies;
 - (g) do anything else necessary or convenient to be done in performing its functions.
- (2) However, the college must not enter into an agreement about real property, including, for example, leasing premises for its accommodation, unless the Minister has approved its entering into the agreement.
- (3) Without limiting subsection (1), the college has the powers given to it under this or another Act.
- (4) The college may exercise its powers inside or outside Queensland.
- (5) Without limiting subsection (4), the college may exercise its powers outside Australia.

235 Professional standards

- (1) The college must develop professional standards.
- (2) The purpose of the standards is to detail the abilities, experience, knowledge or skills expected of teachers to—
 - (a) be the criteria for the college's decision about whether to approve a preservice teacher education program; and
 - (b) help the college decide whether a following person meets the professional practice requirements—
 - (i) an applicant for provisional or full registration;
 - (ii) an applicant for the renewal of full registration.
- (3) The standards may provide for all or any of the following matters—
 - (a) the abilities, knowledge and skills required for provisional registration;
 - (b) the abilities, experience, knowledge and skills required for full registration;
 - (c) the abilities, experience, knowledge and skills required for renewal of full registration.
- (4) In developing or amending the professional standards, the college must consult with the chief executive and the representative entities.
- (5) Subsection (4) does not prevent the college consulting with another person or entity.
- (6) If the professional standards are inconsistent with a requirement under this Act, the standards are invalid to the extent of the inconsistency.
- (7) The college must—
 - (a) make the professional standards available for inspection on its Internet site;³² and
 - (b) ensure copies of the standards, and each document applied, adopted or incorporated by the standards, are

32 On the commencement of this section, the college's Internet site was located at <www.qct.edu.au>.

kept available for inspection, free of charge, at the office.

236 Approval of preservice teacher education programs

- (1) A higher education entity may apply in writing to the college for the approval of a preservice teacher education program.
- (2) The college may approve the program only if—
 - (a) it considers the qualification resulting from successful completion of the program is suitable to be prescribed as a qualification for provisional registration under section 9(1)(a)(i); and
 - (b) the college is reasonably satisfied a person who completes the program will attain the abilities, knowledge and skills required under the professional standards; and
 - (c) the program is offered at a place in Queensland.
- (3) The college must decide whether to approve the program as soon as practicable after receiving the application.
- (4) If the college approves the program, it must give the applicant notice of the approval.
- (5) If the college decides not to approve the program, it must give the applicant an information notice about the decision.
- (6) An approval of a program given by the college under this section has effect only in relation to the professional practice requirements for provisional registration under this Act.

Part 2 Board of the college

237 The board

The college has a board.

238 Role of board

- (1) The board is the governing body of the college.
- (2) The board—
 - (a) decides the policies of the college; and
 - (b) controls the affairs of the college; and
 - (c) carries out the functions of the college; and
 - (d) exercises the powers of the college.
- (3) Anything done by the board is taken to have been done by the college.

239 Membership of board

- (1) The board consists of the following persons appointed by the Governor in Council—
 - (a) 1 nominee of the Minister;
 - (b) 1 nominee of the chief executive;
 - (c) 1 nominee of the Queensland Catholic Education Commission;
 - (d) 1 nominee of the Association of Independent Schools of Queensland Inc.;
 - (e) 2 persons who are practising teachers, of whom—
 - (i) 1 is to be nominated by the Queensland Teachers' Union; and
 - (ii) 1 is to be nominated by the Queensland Independent Education Union of Employees;
 - (f) 1 nominee of the Queensland Public Sector Union who is a registered teacher;
 - (g) 1 nominee of the Higher Education Forum who is a practising teacher educator;
 - (h) 2 persons who, at the time of appointment, are parents or guardians of students enrolled at a school, of whom—
 - (i) 1 is to be nominated by the Queensland Council of Parents and Citizens' Associations Incorporated; and

- (ii) 1 is to be nominated jointly by the Federation of Parents and Friends Associations of Catholic Schools in Queensland and the Queensland Independent Schools Parents Council Inc.;
- (i) 3 persons who are practising teachers, of whom—
 - (i) 2 are to represent State schools and are to be nominated by the chief executive; and
 - (ii) 1 is to represent non-State schools and is to be nominated jointly by the Queensland Catholic Education Commission and the Association of Independent Schools Queensland;
- (j) 3 persons who are practising teachers, of whom—
 - (i) 2 are to be employed by the State and elected by registered teachers who identify themselves as affiliated with State schooling; and
 - (ii) 1 is to be employed by the employing authority for a non-State school and elected by registered teachers who identify themselves as affiliated with non-State schooling;
- (k) 1 other nominee of the Minister who—
 - (i) must represent the interests of the community generally in the conduct and practice of the teaching profession; and
 - (ii) is not a practising teacher.
- (2) The director may not be appointed as a member of the board.
- (3) In this section—

Higher Education Forum means the entity by that name whose membership includes the following—

- (a) the vice-chancellors of universities established in the State;
- (b) the chief executive;
- (c) a nominee of the Minister administering the *Vocational Education, Training and Employment Act 2000*.

practising teacher educator means a person who—

- (a) has expertise and experience in preparing people to be teachers; and
- (b) is employed by a higher education institution to provide education programs for preparing people to be teachers.

240 Requirements for elections

- (1) This section applies in relation to an election for section 239(1)(j).
- (2) The election must be carried out as required under a regulation.
- (3) A person may be a candidate in the election only if—
 - (a) a written report about the person's criminal history has been obtained by the director; and
 - (b) the director is reasonably satisfied the person has not been convicted of an indictable offence, other than a conviction—
 - (i) that is a spent conviction; or
 - (ii) for which the Minister has given a notice or written approval under section 246(4) stating the conviction does not prevent the person being appointed or reappointed to the board.
- (4) For subsection (3)(a)—
 - (a) the director may act under section 247(1) in place of the Minister; and
 - (b) section 247 applies, with any necessary changes, as if a reference to the Minister were a reference to the director.
- (5) If the election is carried out and insufficient persons are elected to comply with section 239(1)(j)—
 - (a) the Minister may nominate the number of practising teachers required to comply; and
 - (b) a practising teacher nominated by the Minister under this subsection is taken to have been elected for section 239(1)(j).

241 Nomination by entities for membership of board

- (1) This section applies for the nomination of a person for membership of the board by an entity or entities mentioned in any of paragraphs (c) to (h) or (i)(ii) of section 239(1).
- (2) The Minister must give the entity or entities a notice stating a reasonable time within which it or they may nominate a person for the membership.
- (3) If the entity does not nominate, or the entities do not nominate jointly, a person within the time stated in the notice, the Minister may nominate a person for the membership and the nomination is taken to have been made by the entity or entities.
- (4) A person nominated under subsection (3) must be a person whom the entity or entities may nominate for membership of the board as stated in section 239(1).

242 Term of appointment of members

- (1) The member of the board appointed as its chairperson may be appointed as a member for a term of not more than 4 years.
- (2) Any other member of the board may be appointed for a term of not more than 3 years.
- (3) This section is subject to section 243.

243 Minister may extend a member's term of appointment

- (1) The Minister may, by notice given to the board, extend the term of appointment of members of the board for not more than 1 year if the Minister is satisfied it is necessary for the board to perform its functions and exercise its powers appropriately, effectively and efficiently.
- (2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the term of appointment of all the members.
- (3) The extension applies only to members holding office when the notice is given.

- (4) This section does not allow the Minister to extend the terms of appointment of the members for more than 1 year by again acting under subsection (1).

244 Chairperson of board

- (1) The Governor in Council must appoint the member mentioned in section 239(1)(a) to be the chairperson of the board.
- (2) A person may be appointed as the chairperson at the same time as the person is appointed as a member.
- (3) The chairperson holds office while a member under section 239(1)(a).

245 Deputy chairperson of board

- (1) The board must appoint a member, other than the chairperson, to be the deputy chairperson of the board.
- (2) The deputy chairperson holds office for the term decided by the board.
- (3) A vacancy occurs in the office of deputy chairperson if the person holding office—
- (a) resigns it by giving notice of the resignation to the Minister; or
 - (b) ceases to be a member of the board.
- (4) However, a person resigning the office of deputy chairperson may continue to be a member of the board.
- (5) The deputy chairperson is to act as chairperson—
- (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

246 Disqualification from membership

- (1) A person can not become, or continue as, a member of the board if the person—

- (a) is, or has been, convicted of an indictable offence and the conviction is not a spent conviction; or
 - (b) is an insolvent under administration within the meaning of the Corporations Act, section 9 (an *insolvent under administration*).
- (2) Also, a person can not become a member of the board if the person refuses to consent to the Minister requesting a report about the person's criminal history under section 247(1).
- (3) The Minister may act under subsection (4) if the Minister considers it would be reasonable to do so having regard to—
- (a) primarily, the welfare and best interests of children; and
 - (b) the circumstances of the indictable offence of which a person has been convicted or the circumstances under which the person became an insolvent under administration.
- (4) The Minister may—
- (a) if the person was a member when convicted or becoming an insolvent under administration—give notice to the chairperson and the person that the person is restored as a member of the board, and may be later reappointed, despite the conviction or being an insolvent under administration; or
 - (b) otherwise—give written approval for the person to become a member of the board despite the conviction or being an insolvent under administration.
- (5) On the day the chairperson receives a notice under subsection (4)(a)—
- (a) the person is restored as a member; and
 - (b) if another person has been appointed to fill the vacancy—the other person's appointment ends.
- (6) If a person is restored as a member under subsection (5), the person's term of appointment as a member ends when it would have ended if the person had not been convicted of the offence or an insolvent under administration.

247 Report about person's criminal history

- (1) To decide whether a person is disqualified from membership of the board under section 246(1)(a), the Minister may ask the commissioner of police for—
 - (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) The commissioner of police must comply with the request.
- (3) However, the Minister may make a request under subsection (1) about a person who is not a member of the board only if the person has given the Minister written consent for the request.
- (4) The duty imposed on the commissioner of police to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The Minister must ensure a report given to the Minister under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) In this section—

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

248 Vacation of office

- (1) The office of a member of the board becomes vacant if the member—
 - (a) resigns the member's office by signed notice of resignation given to—
 - (i) for a member other than the chairperson of the board—the chairperson of the board; or
 - (ii) for the chairperson of the board—the Minister; or
 - (b) can not continue as a member under section 246; or

- (c) is absent, without the board's permission, from 3 consecutive meetings of which proper notice has been given; or
 - (d) is removed from office by the Governor in Council under subsection (4).
- (2) Subsection (1)(c) does not apply if the member is absent under a leave of absence approved by the Minister under section 250.
- (3) Also, the office of a member becomes vacant if—
- (a) both of the following apply—
 - (i) the member was nominated for membership of the board under section 239(1)(e), (g) or (i), or the member was elected under section 239(1)(j);
 - (ii) the member stops being a practising teacher or practising teacher educator; or
 - (b) the member was nominated for membership of the board under section 239(1)(f) and the member stops being a registered teacher; or
 - (c) the member was elected by registered teachers under section 239(1)(j) and—
 - (i) if the member was elected under section 239(1)(j)(i)—the member is employed by the employing authority for a non-State school; or
 - (ii) if the member was elected under section 239(1)(j)(ii)—the member is employed by the State.
- (4) The Governor in Council may remove a member from office if the member—
- (a) is incapable of properly discharging the functions of a member of the board; or
 - (b) is performing the member's duties carelessly, incompetently or inefficiently.
- (5) In this section—
- meeting*** means—

- (a) if the member does not attend—a board meeting with a quorum present; or
- (b) if the member attends—a board meeting with or without a quorum present.

249 Requirement for board members to disclose changes in criminal history

- (1) If there is a change in the criminal history of a member of the board, the member must, unless the member has a reasonable excuse, immediately disclose the change to the Minister.

Maximum penalty—100 penalty units.

- (2) For a member who does not have a criminal history, there is taken to be a change in the member's criminal history if the member acquires a criminal history.
- (3) To comply with subsection (1), the information disclosed by the member about a conviction for an offence in the member's criminal history must include the following—
- (a) the existence of the conviction;
 - (b) when the offence was committed;
 - (c) details adequate to identify the offence;
 - (d) whether or not a conviction was recorded;
 - (e) the sentence imposed on the member.

- (4) In this section—

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

250 Leave of absence

- (1) The Minister may approve a leave of absence for a member of the board (the *approved absent member*).
- (2) The Minister may appoint someone else to act in the office of the approved absent member while the member is absent on the leave.

- (3) If the approved absent member is an eligible person for a nominating entity, the Minister must, before making the appointment, give the entity a notice stating a reasonable time within which it may nominate a person to act in the office of the approved absent member while the member is absent on the leave.
- (4) If the entity does not make the nomination within the time stated in the notice, the Minister may appoint a person who is an eligible person for the nominating entity.
- (5) A person is a member of the board during the term of the person's appointment to act in the office of an approved absent member.
- (6) The Minister's power to appoint a person to act in the office of an approved absent member does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(v).³³
- (7) If the approved absent member is the deputy chairperson, the board may appoint another member to act in the deputy chairperson's office while the deputy chairperson is absent on the leave.
- (8) In this section—

eligible person, for a nominating entity, means a person whom the entity may nominate for membership of the board as mentioned in section 239(1)(c) to (h) or (i)(ii).

nominating entity means an entity or entities that, under section 239(1)(c) to (h) or (i)(ii), may nominate, or nominate jointly, a person to be a member.

251 Filling vacancies—board members nominated by Minister or another entity etc.

- (1) This section applies if—
 - (a) a board member's office becomes vacant other than because the member's term of appointment has ended; and

³³ *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

- (b) the member was nominated for membership—
 - (i) by the Minister under section 239(1)(a) or (k); or
 - (ii) by an entity or entities under section 239(1)(b) to (i).
- (2) If the Minister considers it practicable to fill the vacancy before the end of the vacating member's term of appointment, the person nominated to fill the vacancy must be appointed for the remainder of the vacating member's term of appointment.

252 Filling vacancies—board member elected by registered teachers

- (1) This section applies if—
 - (a) a board member's office becomes vacant other than because the member's term of appointment has ended; and
 - (b) the member was elected by registered teachers under section 239(1)(j).
- (2) If the Minister considers it practicable to fill the vacancy before the end of the vacating member's term of appointment—
 - (a) the director must nominate for appointment the person who—
 - (i) obtained the next highest number of votes in the election at which the vacating member was elected; and
 - (ii) is willing and able to be a member; or
 - (b) if there is no person suitable for nomination under paragraph (a)—the Minister must nominate a practising teacher for appointment.
- (3) A person nominated for appointment under subsection (2) must be appointed for the remainder of the vacating member's term of appointment.
- (4) A person nominated under this section is taken to have been elected under section 239(1)(j).

253 Conduct of business

Subject to sections 254 to 270, the board may conduct its business, including its meetings, in the way it considers appropriate.

254 Presiding at meetings

- (1) The chairperson of the board must preside at all board meetings at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson of the board must preside.
- (3) If both the chairperson and deputy chairperson are absent from a board meeting, a member chosen by the members present must preside.

255 Quorum for meetings

A quorum for a board meeting is the number equal to one-half of the number of its members for the time being holding office or, if one-half is not a whole number, the next highest whole number.

256 Attendance by proxy by member

- (1) A member may, not more than twice in a year, attend a board meeting by proxy.
- (2) A member is not entitled to preside at a board meeting merely because the member is the proxyholder for another member who, if present, would be entitled to preside.

257 Conduct of meetings

- (1) A question at a board meeting is to be decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

- (3) A member who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meetings, including, for example, teleconferencing.
- (5) A member who takes part in a meeting of the board under subsection (4) is taken to have been present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
 - (a) notice of the resolution is given under procedures approved by the board; and
 - (b) a majority of members agrees in writing to the resolution.

258 Minutes

The board must keep minutes of its meetings.

259 Committees

- (1) The board may establish committees of the board for effectively and efficiently performing the board's functions.
- (2) A committee may include any person, whether or not the person is a member of the board.
- (3) The functions of a committee are—
 - (a) to advise and make recommendations to the board about matters relevant to the board's functions that are referred by the board to the committee; and
 - (b) to exercise powers delegated to it by the board.
- (4) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the board.
- (5) Subject to any requirements under this Act, a committee may decide its own procedures.

260 Disclosure of interest

- (1) This section applies to a member of the board or a member of a committee established by the board (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 interested person's duties for considering the issue.
- (2) As soon as practicable after becoming aware of the relevant facts, the interested 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) about the interested person; or
 - (b) take part in making the decision about giving the direction.
- (6) Subsection (7) applies if—
 - (a) 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); and
 - (b) there would be a quorum if the member were present.

- (7) The remaining members present are a quorum of the board or committee for considering or deciding the issue, or considering or deciding whether to give the direction, at the meeting.
- (8) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.

261 Attendance of director at meetings

- (1) The director may attend board meetings.
- (2) The director has no voting rights at a board meeting.

262 Requirement for board approval before college enters into agreements

- (1) Before the college enters into an agreement, the board must have first passed a resolution to enter into the agreement.
- (2) However, failure to comply with subsection (1) does not affect the validity of the agreement.

263 Remuneration of board members and committee members

A member of the board or a committee of the board is entitled to be paid the fees and expenses decided by the Governor in Council.

264 Delegation

- (1) The board may delegate the board's powers under this Act to any of the following—
 - (a) a member of the board;
 - (b) a committee of the board;
 - (c) the director.
- (2) The chairperson of the board may delegate the chairperson's powers under this Act, other than a power under section 125(2), to any person.
- (3) Subsection (2) applies subject to section 254.

265 College is statutory body under the Financial Administration and Audit Act 1977

The college is a statutory body under the *Financial Administration and Audit Act 1977*.

266 College is statutory body under the Statutory Bodies Financial Arrangements Act 1982

- (1) The college is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) Part 2B³⁴ of that Act sets out the way in which the college's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

267 College's financial year

The financial year of the college is a period of 12 months beginning on 1 January.³⁵

268 Money borrowed other than under the Statutory Bodies Financial Arrangements Act 1982

- (1) This section applies if the college borrows money it is not lawfully authorised to borrow under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) All the members of the board who consented to the borrowing of the money (the *consenting board members*) are jointly and severally liable to repay the money, and to pay interest on it, to the person from whom the money was borrowed.
- (3) The money and interest mentioned in subsection (2) may be recovered from the consenting board members by the Minister as a debt in a court of competent jurisdiction.
- (4) If money is appropriated from a fund to repay the borrowed money or interest on it, the members of the board who

34 *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

35 See also the *Financial Administration and Audit Act 1977*, schedule 3 (Dictionary), definition *financial year*.

consented to the misappropriation of the money are jointly and severally liable to refund—

- (a) the misappropriated money; and
 - (b) interest at the rate of 12% per year.
- (5) The misappropriated money and interest mentioned in subsection (4) may be recovered from the board members mentioned in the subsection by the Treasurer as a debt in a court of competent jurisdiction.
- (6) On recovering all or part of the misappropriated money and interest, the Treasurer—
- (a) must pay the amount recovered into the fund from which the money was appropriated; and
 - (b) is entitled to recover from the board members the full costs incurred in recovering the amount, including legal costs.

269 Budget

- (1) The college must, for each financial year, develop, adopt and submit to the Minister a budget by the day the Minister directs.
- (2) A budget has no effect until approved by the Minister.
- (3) During a financial year, the college may develop, adopt and submit to the Minister amendments to its approved budget for the financial year.
- (4) An amendment has no effect until approved by the Minister.

270 Compliance with approved budget

- (1) The college must comply with its approved budget for a financial year.
- (2) If the college makes a disbursement in a financial year that is not provided for in its approved budget for the financial year, the members who knowingly agreed to the disbursement (the *relevant members*) are jointly and severally liable to repay the amount of the disbursement to the college.

- (3) A person appointed in writing by the Minister for the purpose may recover, on the college's behalf, the amount from the relevant members as a debt.

Part 3 Relationship of the college with the Minister

271 Performance of college

- (1) The Minister has the responsibility to ensure the college operates to best practice standards.
- (2) To help the Minister discharge the responsibility, the college must report to the Minister, when and in the way required by the Minister, on the efficiency, effectiveness, economy and timeliness of the college and its systems and processes, including operational processes.
- (3) The college must comply with a Ministerial request under this section.

272 Minister's power to give directions to college

- (1) The Minister may give the college a written direction about a matter relevant to its functions if the Minister is satisfied it is necessary to give the direction in the public interest.
- (2) Without limiting subsection (1), the direction may require the college to comply with—
- (a) a policy, standard or other instrument applying to a public sector unit; or
 - (b) another document, including, for example, another policy, standard or instrument.
- (3) However, the direction can not be about any of the following matters—
- (a) a decision to grant, or refuse to grant, an application for—
 - (i) registration or permission to teach; or

- (ii) the renewal or restoration of full registration; or
 - (iii) the renewal of permission to teach;
 - (b) a decision to approve or not approve a preservice teacher education program;
 - (c) a disciplinary order made or to be made by a disciplinary committee;
 - (d) a decision about whether to take or continue proceedings for an offence against this Act;
 - (e) a review decision made or to be made by the college.
- (4) The college must comply with the direction.

273 Minister's power to require production of document

- (1) The Minister may, by notice given to the college, require it to make available for inspection by the Minister, or produce to the Minister for inspection, a stated Act document held by, or in the control of, the college.
- (2) The Act document must be made available for inspection, or produced, at a reasonable time and place stated in the notice.
- (3) The Minister may copy the Act document and must return it to the college after copying it.
- (4) In this section—

Act document means a document relevant to the college's functions.

274 Ministerial request or direction to be included in college's annual report

In the college's annual report for a financial year under the *Financial Administration and Audit Act 1977*, the college must include copies of all requests, directions or notices given to it by the Minister under this part in the financial year.

275 College must give annual report to the Minister

The college must, not later than 30 April in each year, give the Minister a report about its work and activities during the previous year.

Part 4 Office of the Queensland College of Teachers**276 Establishment of office**

- (1) The Office of the Queensland College of Teachers is established.
- (2) The office consists of the director and staff of the office.

277 Office's functions and powers

- (1) The office's function is to help the college in the performance of its functions.
- (2) The office may do anything necessary or convenient to be done in performing its function.

278 Appointment, function and powers of director

- (1) There is to be a director of the office.
- (2) The director is to be appointed under the *Public Service Act 1996*.
- (3) Subject to direction by the college, the director is to control the office and is responsible for its efficient and effective administration and operation.
- (4) The director has all of the functions and powers of the chief executive of a department, to the extent the functions and powers relate to the organisational unit comprising the staff of the office.

279 Delegation by director

- (1) The director may delegate the director's powers under this Act to an appropriately qualified member of the office's staff.
- (2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

the staff member's classification level in the office

280 Acting director

The Minister may appoint a person to act as the director—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the director is absent from duty or can not, for another reason, perform the functions of that office.

281 Office staff

The staff of the office are to be appointed under the *Public Service Act 1996*.

Chapter 11 Miscellaneous

Part 1 Disclosure and use of information

282 Definition for pt 1

In this part—

relevant personal information means—

- (a) information about a person received by the college under any of the following provisions—

- (i) section 15(4);³⁶
 - (ii) section 15(4) as applied by 29(5), 31(3) or 38(1);³⁷
 - (iii) section 65;³⁸
 - (iv) section 72;³⁹
 - (v) section 75;⁴⁰ or
- (b) information about a person to which the college has regard under section 12(1).⁴¹

283 Confidentiality of particular information

- (1) This section applies to a person who, in performing functions under this Act, has acquired information about another person, including relevant personal information.
- (2) The person must not disclose the information to anyone else, unless the disclosure is permitted under subsection (3).

Maximum penalty—40 penalty units.

- (3) The person may disclose the information to someone else—
 - (a) to the extent necessary to perform the person’s functions under 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 is an adult and consents to the disclosure; or

36 Section 15 (Criminal history check etc.)

37 Section 29 (Requirements for renewal—full registration), 31 (Requirements for renewal—permission to teach) or 38 (Application of pt 3, div 1 for restoring full registration)

38 Section 65 (College’s power to obtain criminal history etc. in relation to an approved teacher)

39 Section 72 (Disclosure about particular changes in teaching status in another State)

40 Section 75 (Commissioner of police must notify changes in criminal history)

41 Section 12 (Suitability to teach—other considerations)

- (e) if the disclosure is in a form that does not disclose the identity of the person to whom the information relates; or
 - (f) if the information is, or has been, accessible to the public, including, for example, because it is or was recorded in the publicly available part of the register; or
 - (g) if the disclosure is to a disciplinary committee in relation to a disciplinary matter being heard by the committee;
 - (h) if the disclosure is to a foreign regulatory authority and is necessary for the authority to perform its functions; or
 - (i) if the disclosure is to the Minister to allow the Minister to act under paragraph (j); or
 - (j) if the Minister considers the disclosure is in the public interest and authorises the person to disclose the information.
- (4) If the Minister authorises information to be disclosed under subsection (3)(j) about a matter concerning an approved teacher, the Minister must inform the college of the authorisation and its purpose.
- (5) In this section—
publicly available part, of the register, see section 289(3).

284 Guidelines for dealing with relevant personal information

- (1) The college must make guidelines about dealing with relevant personal information.
- (2) The purpose of the guidelines is to ensure each of the following—
 - (a) natural justice is observed in relation to a person to whom the relevant personal information relates;
 - (b) only relevant information is used for deciding whether a person is suitable to teach;
 - (c) decisions made under this Act about whether a person is suitable to teach, based on the information, are made consistently.

- (3) The college must give a copy of the guidelines, on request, to an applicant for the grant, renewal or restoration of registration or permission to teach.

285 College may give information about teachers to commissioner for children in particular circumstances

- (1) This section applies if—
- (a) the college suspends an approved teacher's registration or permission to teach under section 49;⁴² or
 - (b) a disciplinary committee makes a decision about disciplinary proceedings against a relevant teacher.
- (2) The college may give notice of the decision to the commissioner for children if the college reasonably believes the decision is relevant to the functions or powers of the commissioner under the *Commission for Children and Young People and Child Guardian Act 2000*, part 6.⁴³
- (3) A notice given under subsection (2) must state the following—
- (a) the teacher's name and address;
 - (b) the teacher's date of birth;
 - (c) the decision;
 - (d) when the teacher's conduct giving rise to the suspension happened;
 - (e) the nature of the conduct.
- (4) However, if a notice given under subsection (3) relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- (5) In this section—
- commissioner for children*** means the Commissioner for Children and Young People and Child Guardian under the

42 Section 49 (College's power to suspend if approved teacher poses imminent risk of harm to children)

43 *Commission for Children and Young People and Child Guardian Act 2000*, part 6 (Screening for regulated employment and regulated businesses)

Commission for Children and Young People and Child Guardian Act 2000.

286 College may enter into information sharing arrangement with commissioner of police

- (1) This section applies only to the extent another provision of this Act allows the college to give information to the commissioner of police or the commissioner of police to give information, including criminal history information, to the college.
- (2) The college and the commissioner of police may enter into a written arrangement by which the information is given or received.
- (3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- (4) However, if the information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.
- (5) In this section—

criminal history information means information about a person that is required or permitted to be given to the college under any of the following provisions—

- (a) section 15(4);
- (b) section 15(4) as applied by 29(5), 31(3) or 38(1);
- (c) section 65;
- (d) section 75.

287 Other information sharing agreements

- (1) The college may enter into an arrangement (an *information sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging any information held by the college or the relevant agency.

- (2) The information to which the information sharing arrangement may relate is limited to information that—
 - (a) helps the college in the exercise of its functions under this Act or the relevant agency in the exercise of its functions; and
 - (b) is not information about a person’s criminal history.
- (3) Under an information sharing arrangement, the college and relevant agency are, despite any other Act or law of the State, authorised to—
 - (a) request and receive information held by the other party to the arrangement; and
 - (b) disclose the information to the other party.
- (4) In this section—

relevant agency means any of the following—

 - (a) a department;
 - (b) the Crime and Misconduct Commission;
 - (c) an interstate regulatory authority.

Part 2 Register of approved teachers

288 Register of approved teachers to be kept

- (1) The college must keep a register about approved teachers.
- (2) The register may be kept in the way the college considers appropriate, including, for example, in electronic form.
- (3) The register must contain the following details for each approved teacher—
 - (a) the teacher’s full name;
 - (b) any former names of the teacher;
 - (c) the address for the teacher most recently notified by the teacher to the college;
 - (d) the teacher’s date of birth;

- (e) the teacher's gender;
 - (f) for a registered teacher—the day the teacher was first granted registration as a teacher under this Act or a former Act;
 - (g) whether the teacher holds full registration, provisional registration or permission to teach;
 - (h) the teacher's identification number;
 - (i) details of any qualifications and experience relied on by the teacher to obtain the registration or permission to teach;
 - (j) any conditions of the registration or permission to teach;
 - (k) the current period of the registration or permission to teach;
 - (l) if the teacher's registration or permission to teach is suspended—
 - (i) the day the suspension took effect; and
 - (ii) the period of the suspension;
 - (m) an endorsement or notation about the teacher entered in the register under a disciplinary order;
 - (n) details of any other disciplinary order made against the teacher, including the day the order was made and the ground for disciplinary action;
 - (o) if applicable, the name of—
 - (i) the employing authority for each school at which the teacher is employed; and
 - (ii) if the name of the school is different to the name of the employing authority—each school at which the teacher is employed;
 - (p) other details prescribed under a regulation.
- (4) For subsection (3)(j), the information must be contained in the register while the conditions are in force.
- (5) The register must also contain the following information for a person whose registration or permission to teach was

cancelled by the college under section 56⁴⁴ or by the Teachers Disciplinary Committee under section 160⁴⁵—

- (a) the person's full name;
 - (b) that the person's registration or permission to teach was cancelled on disciplinary grounds;
 - (c) the person's former identification number;
 - (d) if a disciplinary order prevents the person reapplying for registration or permission to teach for a stated period—the period for which the person can not reapply for registration or permission to teach;
 - (e) if a disqualification order has been made against the person—that the disqualification order has been made against the person.
- (6) However, the information mentioned in subsection (5) must be removed from the register 3 years from the day the person's registration or permission to teach was cancelled.

289 Inspection of register

- (1) The college must—
 - (a) keep the publicly available part of the register open for inspection, free of charge, at the office by members of the public during ordinary office hours; and
 - (b) on request, give a person a copy of the publicly available part of the register, or a part of the publicly available part of the register.
- (2) Also, the college may allow the employing authority for a school to inspect a part of the register, other than the publicly available part.
- (3) In this section—

publicly available part, of the register, means the part of the register containing the following—

44 Section 56 (Cancellation if conviction for excluding offence and imprisonment or disqualification order imposed)

45 Section 160 (Decision about disciplinary action against approved teacher)

- (a) the details or information about an approved teacher mentioned in section 288(3)(a), (g), (h), (k) and (l);
- (b) any other details or information about an approved teacher mentioned in section 288(3) if the teacher has given notice to the college stating the teacher consents to the details or information being made available for inspection by members of the public;
- (c) the details or information about a person mentioned in section 288(5)(a) to (d).

Part 3 **Codes of practice**

290 **College may develop codes of practice**

- (1) The college may develop codes of practice to provide guidance to approved teachers about appropriate professional conduct or practice.
- (2) In developing or amending a code of practice, the college must consult with—
 - (a) the chief executive; and
 - (b) the representative entities.
- (3) Subsection (2) does not prevent the college consulting with another person or entity.
- (4) A code of practice, or an amendment of a code of practice, has no effect until it is approved by the Minister by gazette notice.
- (5) The college must ensure approved teachers are notified of the approval of a code of practice, or an amendment of a code of practice.

291 **Inspection of code of practice**

The college must—

- (a) make a code of practice available for inspection on its Internet site;⁴⁶ and

- (b) ensure copies of the code of practice are kept available for inspection at the office.

292 Use of code of practice in disciplinary proceedings

A code of practice may be used in disciplinary proceedings only to provide evidence of appropriate professional conduct or practice for the teaching profession.

Part 4 Other provisions

293 Higher education entities must not misrepresent approval of preservice teacher education programs

A higher education entity offering a preservice teacher education program that has not been approved by the college under this Act must not claim or represent to another person that the program has been approved by the college under this Act.

Maximum penalty—20 penalty units.

294 Protection from liability

- (1) This section applies to the following persons—
- (a) the Minister;
 - (b) the commissioner of police;
 - (c) a member of the board or a committee of the board;
 - (d) a member of a disciplinary committee;
 - (e) an investigator;
 - (f) a person acting under the direction of an investigator;

46 On the commencement of this section, the college's Internet site was located at <www.qct.edu.au>.

- (g) a person appointed by the Teachers Disciplinary Committee to conduct a health assessment under section 136.
- (2) The person is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a liability attaching to the person, the liability attaches instead to—
 - (a) for a person mentioned in subsection (1)(g)—the college; or
 - (b) for another person mentioned in subsection (1)—the State.

295 Delegation by Minister

- (1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified person.
- (2) However, the Minister may not delegate the Minister's power under section 272 or 273.⁴⁷

296 Administrative support for college etc.

- (1) The college may make arrangements for administrative support services for the college, the office and the Teachers Disciplinary Committee.
- (2) If the college makes arrangements with the chief executive to provide 1 or more services for the college, the office or the Teachers Disciplinary Committee, the arrangement must include a provision about the college paying the department a reasonable amount for the service.

297 Approved forms

The college may approve forms for use under this Act.

⁴⁷ Section 272 (Minister's power to give directions to college) or 273 (Minister's power to require production of document)

298 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide for fees for this Act and waiving and refunding fees.
- (3) A regulation may prescribe a penalty of not more than 20 penalty units for a contravention of the regulation.

Chapter 12 Repeal and transitional provisions

Part 1 Interpretation

299 Definitions for ch 12

In this chapter—

commencement means the commencement of section 300.

existing register means the register of teachers kept by the former board under the repealed Act immediately before the commencement.

former board means the Board of Teacher Registration under the repealed Act.

former by-law means the repealed *Education (Teacher Registration) By-law 1999*.

former office means the Office of the Board of Teacher Registration under the repealed Act.

new board means the board of the Queensland College of Teachers established under this Act.

repealed Act means the *Education (Teacher Registration) Act 1988* as in force from time to time before its repeal.

Part 2 Repeal

300 Repeal of Education (Teacher Registration) Act 1988

The Education (Teacher Registration) Act 1988 No. 96 is repealed.

Part 3 Provisions relating to former board and college

301 Dissolution of former board

- (1) On the commencement—
 - (a) the former board is dissolved; and
 - (b) members of the former board go out of office.
- (2) No compensation is payable to a member because of subsection (1).

302 College is legal successor of former board

- (1) The college is the successor in law of the former board.
- (2) Section 303 does not limit subsection (1).

303 Assets and liabilities etc.

On the commencement—

- (a) anything that was an asset or liability of the former board immediately before the commencement becomes an asset or liability of the college; and
- (b) an agreement or arrangement in force immediately before the commencement between the former board and another entity is taken to be an agreement or arrangement between the college and the other entity; and

- (c) any property that was, immediately before the commencement, held by the former board on trust or subject to conditions continues to be held by the college on the same trusts or subject to the same conditions.

304 Conduct of election for new board before commencement

- (1) The purpose of this section is to allow the former board and the former director to conduct, before the commencement, an election of practising teachers for the purpose of making an appointment of members of the new board under section 239(1)(j) to take effect on 1 January 2006.
- (2) For conducting the election—
 - (a) the former board may perform the functions and exercise the powers of the college or the new board under this Act; and
 - (b) the former director may perform the functions and exercise the powers of the director under this Act; and
 - (c) a person recorded in the register of teachers kept under the repealed Act as having full registration or provisional registration is taken to be a registered teacher under this Act.
- (3) An election conducted under this section is taken to be an election for section 239(1)(j).
- (4) This section applies in addition to, but does not limit, the *Acts Interpretation Act 1954*, section 17.⁴⁸
- (5) In this section—

former director means the director under the repealed Act.

305 Former board's budget for 2006

- (1) This section applies to a budget for the year ending on 31 December 2006 that is adopted by the former board, and

⁴⁸ *Acts Interpretation Act 1954*, section 17 (Exercise of powers between enactment and commencement)

approved by the Minister, under section 25⁴⁹ of the repealed Act.

- (2) The budget is taken to have been adopted by the new board, and approved by the Minister, under section 269⁵⁰ for the new board's 2006 financial year.

306 Former board's annual report for 2005

- (1) The college must prepare the annual report required under the *Financial Administration and Audit Act 1977*, section 46J,⁵¹ and otherwise comply with the former board's obligations under the section, in relation to the operations of the former board for its financial year ending on 31 December 2005.
- (2) Section 7(4)⁵² of the repealed Act continues to apply in relation to the annual report mentioned in subsection (1).

307 Proceedings

- (1) A proceeding that could have been started by or against the former board before the commencement may be started by or against the college.
- (2) From the commencement, an existing proceeding may be continued and finished by or against the college.
- (3) In this section—
- existing proceeding*** means a proceeding that—
- (a) was taken by or against a following person before the commencement—
- (i) the former board;
 - (ii) a member of the former board in the capacity as a member of the former board; and
- (b) has not been finished before the commencement.

49 Section 25 (Budget of the board) of the repealed Act

50 Section 269 (Budget)

51 *Financial Administration and Audit Act 1977*, section 46J (Annual report)

52 Section 7 (Minister's power to give directions in the public interest) of the repealed Act

308 Proceedings for offences against repealed Act

- (1) Proceedings for an offence against the repealed Act may be continued or started by the college.
- (2) For subsection (1), the repealed Act continues to apply, with any necessary changes, as if it had not been repealed.
- (3) This section is not limited by the *Acts Interpretation Act 1954*, section 20.⁵³

309 Appeals

- (1) Subsection (2) applies if—
 - (a) a person has appealed to the District Court under the repealed Act before the commencement against a decision or order mentioned in section 72(1)⁵⁴ of the repealed Act; and
 - (b) the appeal has not been decided before the commencement.
- (2) The District Court may hear, or continue to hear, and decide the appeal under the repealed Act as if it had not been repealed.
- (3) Subsection (4) applies if—
 - (a) immediately before the commencement, a person could have appealed to the District Court under the repealed Act against a decision or order mentioned in section 72(1) of the repealed Act; and
 - (b) the person has not appealed before the commencement.
- (4) The person may appeal, and the District Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.
- (5) For giving effect to its decision under subsection (2) or (4), the District Court may make the orders it considers necessary having regard to the provisions of this Act.

⁵³ *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)

⁵⁴ Section 72 (Appeals) of the repealed Act

Example—

on an appeal against a refusal by the former board to register a person under the repealed Act, the court may order the college to register the person under this Act

310 Continuing effect of Ministerial directions given before commencement

- (1) This section applies to a direction—
 - (a) given to the former board by the Minister under section 7 of the repealed Act; and
 - (b) with which the former board would have had to comply after the commencement if the repealed Act had not been repealed.
- (2) If the context permits, on the commencement the direction is taken to have been given by the Minister to the college under section 272.⁵⁵

311 References to former board

A reference in an Act or document to the former board may, if the context permits, be taken to be a reference to the college.

Part 4 Provisions relating to the former office**312 Dissolution of former office**

The former office is dissolved.

⁵⁵ Section 272 (Minister's power to give directions to college)

313 Staff of former office

- (1) An existing staff member is, on the commencement, taken to be appointed as a staff member of the new office under section 281.⁵⁶
- (2) The terms and conditions of employment applying to each existing staff member immediately before the commencement continue to apply.
- (3) To remove any doubt, it is declared that the continuity of service of the existing staff member is not interrupted merely because of the person's appointment within the former office ending and the starting of the person's appointment within the new office.
- (4) In this section—

existing staff member means a person who, immediately before the commencement, was the director or another staff member of the former office.

new office means the Office of the Queensland College of Teachers established under this Act.

terms and conditions of employment, for the existing staff members, means—

- (a) the salary and conditions of the person's employment; and
- (b) the person's entitlements in relation to leave and superannuation.

Part 5

Provisions relating to registration etc.

314 Existing registrations

- (1) This section applies to a person who, immediately before the commencement, was recorded in the existing register as having full registration or provisional registration.
- (2) If the person was recorded as having full registration, on the commencement the person is taken to be the holder of full registration under this Act that remains in force, subject to the provisions of this Act about suspension and cancellation, until 31 December 2010.
- (3) If the person was recorded as having provisional registration, on the commencement the person is taken to be the holder of provisional registration under this Act that remains in force, subject to the provisions of this Act about suspension and cancellation, until 31 December 2007.
- (4) For subsections (2) and (3), the person's registration under this Act is subject to the same conditions to which the person's registration under the repealed Act was subject immediately before the commencement.
- (5) The annual fee payable by the person under section 66⁵⁷ for the registration year starting on 1 January 2006 must be paid not later than 31 March 2006.
- (6) Subsection (5) applies despite section 66(1).
- (7) As soon as practicable after the person pays the annual fee for the registration year starting on 1 January 2006, the college must issue a certificate of registration to the person.

315 Existing authorisations to teach

- (1) This section applies if, immediately before the commencement, a person is authorised by the former board,

⁵⁷ Section 66 (Payment of annual fee by approved teacher and issue of registration card to registered teacher)

under section 43⁵⁸ of the repealed Act, to employ another person (the *authorised teacher*) as a teacher.

- (2) On the commencement, the authorised teacher is taken to be the holder of a permission to teach.
- (3) For subsection (2), the permission to teach is subject to the same conditions as the authorisation mentioned in subsection (1) was subject to immediately before the commencement.
- (4) The annual fee payable by the person under section 66 for the registration year starting on 1 January 2006 must be paid not later than 31 March 2006.
- (5) Subsection (4) applies despite section 66(1).

316 Deciding existing applications for registration

- (1) This section applies if—
 - (a) an application was made before the commencement under the repealed Act for full registration or provisional registration; and
 - (b) the former board has not decided the application before the commencement.
- (2) The application—
 - (a) is taken to have been made under this Act; and
 - (b) must be decided by the college under this Act.
- (3) For this Act—
 - (a) a report about the applicant's criminal history obtained by the former board under section 37A of the repealed Act is taken to have been requested and received by the college under section 15; and
 - (b) a notice given to the applicant by the former board under section 40 of the repealed Act is taken to be a notice given to the applicant by the college under section 17(1).

58 Section 43 (Unregistered teachers not to be employed) of the repealed Act

317 Deciding existing applications for restoration of registration

- (1) This section applies if—
 - (a) an application was made before the commencement under the repealed Act for restoration of full registration or provisional registration; and
 - (b) the former board has not decided the application before the commencement.
- (2) The application must be decided by the college under the repealed Act.
- (3) For subsection (2)—
 - (a) the provisions of the repealed Act and former by-law continue to apply, with any necessary changes, as if this Act had not commenced; and
 - (b) a reference in the repealed Act to the former board is taken to be a reference to the college.
- (4) If the application is granted, the restoration of the registration is taken to have had effect from 31 December 2005.
- (5) If the application is not granted, the applicant may appeal against the college's decision under part 6 of the repealed Act as if that Act had not been repealed.

318 Particular higher education courses taken to be approved preservice teacher education programs

- (1) This section applies to a course of preservice teacher education, or a post-graduate course of preservice teacher education, within the meaning of the former by-law—
 - (a) provided by a higher education entity before the commencement; and
 - (b) that was recognised by the former board as a prescribed course of higher education under the former by-law.

- (2) On the commencement, the course is taken to be a preservice teacher education program approved by the college under section 236.⁵⁹

319 Continuation of existing register until 30 June 2006

- (1) On the commencement, the existing register is taken to comply with the requirements for the register under section 288.⁶⁰
- (2) Subsection (1) stops applying on 30 June 2006.

320 Particular matters under repealed Act to be included in register

- (1) Subsection (2) applies if—
 - (a) section 314 applies to a person; and
 - (b) the former board ordered under the repealed Act that a notation or endorsement about the person be entered in the existing register for a stated period; and
 - (c) the period has not ended on 1 January 2006.
- (2) The notation or endorsement must be included in the register under section 288 until the period ends.
- (3) Section 288(5) and (6) are taken to apply to a person whose registration under the repealed Act was cancelled by the former board on or after 1 January 2003 under part 5 of the repealed Act.

Part 6 Disciplinary matters

321 Existing show cause procedure

- (1) This section applies if—

⁵⁹ Section 236 (Approval of preservice teacher education programs)

⁶⁰ Section 288 (Register of approved teachers to be kept)

- (a) before the commencement, the former board gave a provisionally registered teacher a notice under section 46⁶¹ of the repealed Act; and
 - (b) the former board has not decided, before the commencement, whether to make the proposed order stated in the notice.
- (2) The college must decide under the repealed Act whether to make the proposed order.
- (3) For subsection (2)—
- (a) the repealed Act continues to apply, with any necessary changes, as if it had not been repealed; and
 - (b) a reference in the repealed Act to the former board is taken to be a reference to the college; and
 - (c) a reference in the repealed Act to the director under that Act is taken to be a reference to the director under this Act.
- (4) If the college decides to make the proposed order, the order has effect as if it had been made under section 47.⁶²

322 Existing inquiries

- (1) This section applies if—
- (a) before the commencement, the former board starts to conduct an inquiry under part 5⁶³ of the repealed Act; and
 - (b) the inquiry is not finished before the commencement.
- (2) The inquiry must be finished under the repealed Act as if that Act had not been repealed.
- (3) For finishing the inquiry, the inquiry body is—

61 Section 46 (Procedure if board considers teacher is not complying with conditions of provisional registration) of the repealed Act

62 Section 47 (College's power to suspend or cancel registration or permission to teach)

63 Part 5 (Inquiries about respondent teachers and related matters) of the repealed Act

- (a) if the former board appointed a committee of inquiry to conduct the inquiry under section 51 of the repealed Act—the committee of inquiry; or
 - (b) otherwise—the members of the former board immediately before the commencement.
- (4) For subsection (2), part 5, divisions 3 and 4⁶⁴ of the repealed Act applies as if the college were the former board.
- (5) For finishing the inquiry, a member of a committee of inquiry has the member's entitlements under the repealed Act.

323 Suspended registrations

- (1) This section applies if a registered teacher's registration has been suspended under the repealed Act and the period of the suspension has not ended before the commencement.
- (2) The suspension continues to have effect under this Act.
- (3) The suspension ends when it would have ended under the repealed Act if that Act had not been repealed.

324 Suspension for charge for excluding offence not to apply to particular approved teachers

- (1) This section applies to a person who, immediately before the commencement—
- (a) was a registered teacher under the repealed Act; and
 - (b) had been charged with an offence that has not been dealt with.
- (2) If, immediately after the commencement, the offence is an excluding offence, section 48⁶⁵ does not apply to the person.
- (3) However if, after the commencement, the person is convicted of the excluding offence with which the person was charged before the commencement, or another excluding offence—
- (a) a court may make a disqualification order; and

⁶⁴ Part 5 (Inquiries about respondent teachers and related matters), divisions 3 (Matters at end of inquiry) and 4 (Orders by board after inquiry) of the repealed Act

⁶⁵ Section 48 (Effect of charge for excluding offence pending charge being dealt with)

- (b) if an imprisonment order is imposed for the offence or a disqualification order is made, section 56⁶⁶ applies to the person.

325 Disciplinary information received by former board

- (1) This section applies if—
 - (a) before the commencement, the former board receives relevant information about a registered teacher, or a person who was a registered teacher, under the repealed Act; and
 - (b) the former board has not, before the commencement—
 - (i) suspended the person's registration under section 49A⁶⁷ of the repealed Act; or
 - (ii) authorised an inquiry about the person under section 50⁶⁸ of the repealed Act; or
 - (iii) otherwise dealt with the information.
- (2) The information is taken to be disciplinary information for chapter 5.⁶⁹
- (3) In this section—

relevant information means information that is or may be relevant to a decision of the former board about—

- (a) whether to suspend a registered teacher's registration under section 49A of the repealed Act; or
- (b) whether to conduct an inquiry about a person under section 50 of the repealed Act.

66 Section 56 (Cancellation if conviction for excluding offence and imprisonment or disqualification order imposed)

67 Section 49A (Immediate suspension) of the repealed Act

68 Section 50 (Board may conduct inquiry about certain persons) of the repealed Act

69 Chapter 5 (Disciplinary action against teachers)

Part 7 Other provisions

326 Document taken to be professional standards

- (1) The document called ‘Professional Standards for Graduates and Guidelines for Preservice Teacher Education Programs’ published by the former board in August, 2002 is, to the extent it provides for a matter mentioned in section 235(3),⁷⁰ taken to be the professional standards for this Act.
- (2) The college may amend or replace the professional standards under section 235.
- (3) Subsection (1) stops applying on 31 December 2006.

327 Document taken to be code of practice

- (1) The document called ‘Ethical Standards for Teachers’ published by the former board in 2005 is taken to be a code of practice for this Act.
- (2) The college may amend, replace or revoke the code of practice under chapter 11, part 3.⁷¹
- (3) Subsection (1) stops applying on 31 December 2006.

328 Continuation of existing guidelines

- (1) This section applies to guidelines—
 - (a) made by the former board under section 42F⁷² of the repealed Act; and
 - (b) in force immediately before the commencement.
- (2) On the commencement, the guidelines are taken to be guidelines about dealing with relevant personal information made by the college under section 284.⁷³

70 Section 235 (Professional standards)

71 Chapter 11 (Miscellaneous), part 3 (Codes of practice)

72 Section 42F (Guidelines for dealing with information) of the repealed Act

73 Section 284 (Guidelines for dealing with relevant personal information)

- (3) The guidelines apply under this Act with any necessary changes.

Chapter 13 Amendment of Acts

329 Acts amended in sch 2

Schedule 2 amends the Acts it mentions.

Schedule 1 Decisions for which information notice must be given

section 209(2)

Section	Description of decision
21(2)(b)	College's decision to grant provisional registration to an applicant who applied for full registration
21(3)(a)	College's decision not to grant application for registration or permission to teach
25(1)(b)	College's decision not to grant full registration to holder of provisional registration
33(2)	College's decision not to renew full registration or permission to teach
41(3)	College's decision to take particular action in relation to a condition of registration or permission to teach following a review
43(5)	College's decision not to cancel a condition of registration or permission to teach
47(3)(a)	College's decision to suspend or cancel registration or permission to teach for failure to comply with condition
123(4)(a)	PP&C committee's decision to take particular disciplinary action
236(5)	College's decision to refuse to approve a preservice teacher education program

Schedule 2 Amendments of Acts

section 329

Commission for Children and Young People and Child Guardian Act 2000

1 Schedule 4, definition *disciplinary information*, paragraph (c), ‘the’—

omit, insert—

‘the *Education (Queensland College of Teachers) Act 2005*, section 285,⁷⁴ or the repealed’.

2 Schedule 4, definition *registered teacher*—

omit, insert—

‘*registered teacher* means a person who holds full registration, provisional registration or permission to teach under the *Education (Queensland College of Teachers) Act 2005*.’.

3 Schedule 4, definition *teacher registration information*—

omit.

⁷⁴ *Education (Queensland College of Teachers) Act 2005*, section 285 (College may give information about teachers to commissioner for children in particular circumstances)

Schedule 2 (continued)

Criminal Law (Sexual Offences) Act 1978

- 1 **Section 8(1)(c), ‘Board of Teacher Registration’—**
omit, insert—
‘Queensland College of Teachers’.

Education (General Provisions) Act 1989

- 1 **Section 2(1), definition *registered teacher*, ‘Education (Teacher Registration) Act 1988’—**
omit, insert—
‘Education (Queensland College of Teachers) Act 2005’.

Education (Queensland Studies Authority) Act 2002

- 1 **Schedule 2, definition *teacher*, paragraph (a), ‘Education (Teacher Registration) Act 1988’—**
omit, insert—
‘Education (Queensland College of Teachers) Act 2005’.

Schedule 3 Dictionary

section 6

annual fee see section 66(1).

appealable decision, for chapter 8, part 2, see section 214.

approved form means a form approved by the college under section 297.

approved teacher means a person who—

- (a) is a registered teacher; or
- (b) holds a permission to teach.

attendance notice see section 144(1).

board means the board of the college.

certificate of permission to teach means a certificate of permission to teach issued by the college to the holder of a permission to teach under this Act.

certificate of registration means a certificate of registration issued by the college to a registered teacher under this Act.

charge, of an offence, means a charge in any form, including, for example, the following—

- (a) a charge on an arrest;
- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 214;⁷⁵
- (c) a complaint under the *Justices Act 1886*;
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A),⁷⁶ or another provision of an Act;
- (e) an indictment.

⁷⁵ *Police Powers and Responsibilities Act 2000*, section 214 (Notice to appear may be issued for offence)

⁷⁶ *Justices Act 1886*, section 42 (Commencement of proceedings)

Schedule 3 (continued)

code of practice means a code of practice approved by the Minister under section 290.

college means the Queensland College of Teachers established under section 229.

commencement, for chapter 12, see section 299.

commissioner of police means the commissioner of the police service appointed under the *Police Service Administration Act 1990*.

complaint means a complaint made under chapter 4.

complainant, in relation to a complaint, means the person who made the complaint.

conviction means a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

CPL framework see section 30(1).

criminal history, of a person, means all of the following—

- (a) every conviction of the person for an offence, in Queensland or elsewhere, whether before or after the commencement of this Act;
- (b) every charge of an offence made against the person, in Queensland or elsewhere, whether before or after the commencement of this Act.

director means the director of the office.

disciplinary action means action taken against a relevant teacher by a disciplinary committee under chapter 5, part 2 or 4 or chapter 6, part 2, division 2.

disciplinary committees means the PP&C committee and the Teachers Disciplinary Committee.

disciplinary information, for chapter 5, see section 91.

disciplinary matter see section 93.

disciplinary order means an order made against a relevant teacher by a disciplinary committee under chapter 5, part 2 or 4 or chapter 6, part 2, division 2.

Schedule 3 (continued)

disciplinary proceedings means proceedings conducted by a disciplinary committee in relation to a disciplinary matter.

disqualification order see section 58(2).

eligibility requirements—

- (a) for full registration, see section 8(3); and
- (b) for provisional registration, see section 9(3); and
- (c) for permission to teach, see section 10(2).

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

excluded person means a person—

- (a) against whom a disqualification order has been made, other than a person mentioned in section 57(3); or
- (b) who has previously held registration or permission to teach that was cancelled under section 56, other than a person mentioned in section 57(3); or
- (c) who is prohibited from reapplying for registration or permission to teach by a disciplinary order.

excluding offence see the *Commission for Children and Young People and Child Guardian Act 2000*, section 99E.⁷⁷

existing register, for chapter 12, see section 299.

financial year means the college's financial year under section 267.

former Act means a repealed Act, or a repealed provision of an Act, that provided for the same matter as this Act or a provision of this Act.

Examples—

the repealed *Education Act 1964*

the repealed *Education (Teacher Registration) Act 1988*

⁷⁷ *Commission for Children and Young People and Child Guardian Act 2000*, section 99E (What is an *excluding offence*)

Schedule 3 (continued)

former approved teacher means—

- (a) a former registered teacher; or
- (b) a former holder of a permission to teach.

former board, for chapter 12, see section 299.

former by-law, for chapter 12, see section 299.

former holder of a permission to teach, in relation to a disciplinary matter, means a person who—

- (a) was the holder of a permission to teach when the conduct to which the disciplinary matter relates happened; and
- (b) does not hold a permission to teach when disciplinary proceedings in relation to the matter start.

former office, for chapter 12, see section 299.

former registered teacher, in relation to a disciplinary matter, means a person who—

- (a) was a registered teacher, whether under this Act or a former Act, when the conduct to which the disciplinary matter relates happened; and
- (b) is not a registered teacher when disciplinary proceedings in relation to the matter start.

full registration means full registration under chapter 2.

general matter see section 96.

ground for disciplinary action see section 92(1).

harm see section 7.

higher education course see the *Higher Education (General Provisions) Act 2003*, schedule 2.

higher education entity means—

- (a) a higher education institution that is established or recognised, under an Act, as a university in Queensland; or

Schedule 3 (continued)

- (b) an interstate university within the meaning of the *Higher Education (General Provisions) Act 2003*, schedule 2, including an interstate university operating in Queensland under an agency agreement approved by the Minister under that Act; or
- (c) a non-university provider, within the meaning of the *Higher Education (General Provisions) Act 2003*, schedule 2, that offers a higher education course accredited under that Act.

higher education institution see the *Higher Education (General Provisions) Act 2003*, schedule 2.

identification number, of an approved teacher, means the number assigned by the college to the teacher for the purposes of the teacher's registration or permission to teach.

imprisonment order means an order of a court convicting a person for an offence, if the order includes a penalty that includes imprisonment for the offence, including imprisonment that is entirely or partially suspended.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659⁷⁸ applies to the indictable offence.

information notice, for a decision, means a notice stating each of the following—

- (a) the decision and the reasons for it;
- (b) that the person may apply to the college for a review of the decision within 28 days after the person is given the notice;
- (c) how to apply for a review.

interstate regulatory authority means an entity—

- (a) established under the law of another State or New Zealand; and

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

Schedule 3 (continued)

- (b) that has functions similar to the functions of the college under this Act.

investigator means an investigator appointed under section 175.

new board, for chapter 12, see section 299.

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

notice means written notice.

office means the Office of the Queensland College of Teachers established under section 276.

original decision see section 209(1).

permission to teach means permission to teach under chapter 2.

PP&C committee means the Professional Practice and Conduct Committee established under section 113.

PP&C matter see section 95(1).

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

prescribed school see section 74.

preservice teacher education program means—

- (a) a course of preservice teacher education; or
(b) a graduate course of preservice teacher education.

principal, of a school with no position by that name, means the person responsible for the day-to-day management of the school.

professional practice requirements—

- (a) for full registration, see section 8(2); and
(b) for provisional registration, see section 9(2).

professional standards means the standards developed by the college under section 235.

Schedule 3 (continued)

provisional registration means provisional registration under chapter 2.

register means the register of approved teachers kept by the college under section 288.

registered teacher means a person who holds full registration or provisional registration under this Act.

registration means full registration or provisional registration under chapter 2.

registration card means a registration card issued to a registered teacher by the college under this Act.

registration year means—

- (a) for a person who is taken to be an approved teacher on 1 January 2006 under section 314 or 315—
 - (i) 1 January 2006 to 31 December 2006; and
 - (ii) subsequent years starting on 1 January and ending on 31 December; or
- (b) for a person who becomes an approved teacher after 1 January 2006—
 - (i) the year starting on the day the person's registration or permission to teach is granted; and
 - (ii) subsequent years starting on the anniversary of the day the person's registration or permission to teach is granted.

relevant condition see section 45(1).

relevant disciplinary committee decision, for chapter 8, part 2, see section 214.

relevant personal information, for chapter 11, part 1, see section 282.

relevant teacher—

- (a) for chapter 3, part 1, division 3, see section 73; or
- (b) otherwise, means—
 - (i) an approved teacher; or

Schedule 3 (continued)

(ii) a former approved teacher.

repealed Act, for chapter 12, see section 299.

representative entities means the following entities—

- (a) unions representing teachers in Queensland;
- (b) the employing authorities, or entities representing employing authorities, for schools in Queensland;
- (c) entities representing parents or guardians of students enrolled at schools in Queensland;
- (d) 1 or more persons considered by the college to be representative of providers of preservice teacher education programs;
- (e) another entity in Queensland the college considers is representative of the interests of teachers.

returning to teaching condition, for full registration, means a condition requiring the holder of the registration to undertake, within the time prescribed under a regulation, a professional learning program for returning to teaching that meets the requirements for the program prescribed under a regulation.

review committee see section 211(1).

review decision see section 212(1).

review notice see section 213(1).

school means a State school or non-State school.

serious offence see the *Commission for Children and Young People and Child Guardian Act 2000*, section 99C.⁷⁹

show cause matter see section 94.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

⁷⁹ *Commission for Children and Young People and Child Guardian Act 2000*, section 99C (What is a serious offence)

Schedule 3 (continued)

- (b) that is not revived as prescribed by section 11 of that Act.

State school means an educational institution established under the *Education (General Provisions) Act 1989*, section 16, 17 or 18(1)(c).

teach means undertake duties as a teacher.

teacher—

- (a) means a person who undertakes duties in a school that include any of the following—
- (i) delivering an educational program;
 - (ii) assessing student participation in an educational program;
 - (iii) otherwise administering an educational program; and
- (b) does not include a teacher's aide, a teacher's assistant or a student teacher.

Teachers Disciplinary Committee means the Teachers Disciplinary Committee established under section 124.