



Education (Queensland College of Teachers) Act 2005

Reprinted as in force on 4 March 2010

Reprint No. 2E

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 4 March 2010. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

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

Also see endnotes for information about—

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

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Education (Queensland College of Teachers) Act 2005

Contents

		Page
Chapter 1	Preliminary	
1	Short title	15
2	Commencement	15
3	Main objects of Act	15
4	Act binds all persons	16
5	Mutual recognition legislation not affected	16
6	Dictionary	16
7	Meaning of harm	16
Chapter 2	Registration and permission to teach	
Part 1	Eligibility requirements	
8	Eligibility for full registration	17
9	Eligibility for provisional registration	18
10	Eligibility for permission to teach	19
11	Suitability to teach—criminal history information	20
12	Suitability to teach—other considerations	21
12A	Suitability to work in child-related field—interstate information	23
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	24
14	Application for registration or permission to teach	24
15	Criminal history check etc.	25
15A	Requesting further information about interstate convictions and charges	27
16	Requirement to advise applicant of criminal history information received	27

Contents

17	College's power to obtain further information etc. from applicant.	28
18	Effect of failure by applicant to comply with a request for further information etc.	28
19	College may use documents or information to verify application .	29
20	How college may decide application	29
21	Steps to be taken after college decides application	30
Division 2	Application for full registration by holder of provisional registration	
22	Application by holder of provisional registration	31
23	Requirements for application	31
24	How college may decide application	31
25	Steps to be taken after college decides application	32
Division 3	Literacy, numeracy or science tests required for certain registrations	
25A	Literacy, numeracy or science test may be prescribed.	33
25B	Person may apply for reassessment of test result	33
25C	Application for registration may lapse after unsatisfactory test result	34
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	35
27	Period and renewal of permission to teach	35
28	Application for renewal of full registration or permission to teach	36
29	Requirements for renewal—full registration	37
30	Development or recognition of CPD framework by college	39
31	Requirements for renewal—permission to teach	39
32	How college may decide application for renewal	40
33	Steps to be taken after college decides application	41
Division 2	Period and extension of provisional registration	
34	Period of provisional registration	42
35	Option to extend provisional registration	42
Part 4	Restoration of full registration	
36	When application for restoration of full registration may be made	43
37	Requirements for application for restoration.	43
38	Application of pt 3, div 1 for restoring full registration.	44

Part 5	Conditions	
Division 1	Review, amendment and removal of conditions	
39	Application for review of condition	44
40	Review of condition by college	45
41	Amendment or imposition of conditions following a review	45
42	Non-contentious amendment of conditions	46
43	Cancellation of conditions	46
44	Amending or replacing certificate of registration or certificate of permission to teach	47
Division 2	Suspension or cancellation of registration or permission to teach for failing to comply with condition	
45	Application of div 2	48
46	College to give show cause notice for failing to comply with condition	48
47	College's power to suspend or cancel registration or permission to teach	49
Part 6	Immediate suspension and cancellation of registration or permission to teach by college	
Division 1	Suspension	
48	Effect of charge for disqualifying offence pending charge being dealt with	50
49	College's power to suspend if approved teacher poses imminent risk of harm to children	50
50	Requirement to give notice of suspension	50
51	When suspension takes effect	51
52	When suspension ends	52
Division 2	Review of continuation of suspension	
53	Requirement to decide whether to continue suspension under s 48	52
54	QCAT to give notice inviting submissions to approved teacher	52
55	QCAT's decision about continuation of suspension	53
Division 3	Cancellation	
56	Cancellation if conviction for disqualifying offence and imprisonment or disqualification order imposed	54
57	Effect of appeal on cancellation	55
Division 4	Disqualification order	
58	Disqualification order	55
Part 7	Surrender of registration or permission to teach	
59	Surrender of registration or permission to teach	56

Contents

Part 8	Documents evidencing registration or permission to teach	
60	Form of certificate of registration	57
61	Form of certificate of permission to teach	57
62	Requirements for registration card	58
63	Replacing certificate of registration, registration card or certificate of permission to teach	58
64	Requirement to return certificate of registration or permission to teach etc. on suspension or cancellation	59
Part 9	Miscellaneous provisions	
65	College's power to obtain criminal history etc. in relation to an approved teacher	59
66	Payment of annual fee by approved teacher and issue of registration card to registered teacher	60
67	Effect of suspension on registration or permission to teach	61
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	62
69	Requirements for disclosure of changes in criminal history	62
70	Failure to disclose changes in criminal history	63
71	Disclosure of other change in circumstances	63
Division 2	Registered teachers	
72	Disclosure about particular changes in teaching status in another State	63
Division 3	Other persons	
73	Definition for div 3	64
74	Meaning of prescribed school	64
75	Commissioner of police must notify changes in criminal history	65
76	Requirement for employing authority to notify college about particular investigations	66
77	Requirement for employing authority to notify college about particular terminations of employment	66
78	Requirement for employing authority to notify college about certain other dismissals	67
79	College may request information from principal	68
80	Requirement for prosecuting authority to notify college about committal, conviction etc.	68
81	Protection from liability for employing authorities giving required notices	70

Part 2	General offences	
82	Only approved teachers may be employed as teachers.	71
83	Requirement to hold registration or permission to teach to teach in schools	71
84	Offence to misrepresent nature of registration or permission to teach	71
85	False or misleading information	72
86	False, incomplete or misleading documents	72
Chapter 4	Complaints about teachers	
87	Making a complaint	73
88	College may require further information or statutory declaration	73
89	Refusal to deal with complaint	73
90	How a complaint must be dealt with	75
Chapter 5	Disciplinary action against teachers	
Part 1	Preliminary	
Division 1	Definitions	
91	Definition for ch 5	75
92	Grounds for disciplinary action	76
93	Disciplinary matters	78
94	Show cause matters.	78
95	PP&C matters.	78
96	General matters	79
Division 2	Starting disciplinary proceedings	
97	Requirement for college to start disciplinary proceedings	79
98	College may authorise investigation.	80
99	Proceedings for an offence not prevented by disciplinary proceedings	81
Part 2	Show cause matters dealt with by QCAT	
100	Application of pt 2.	81
101	QCAT to give show cause notice	82
102	Disciplinary action by QCAT—approved teachers	82
103	Disciplinary action by QCAT—former approved teachers	84
104	Notice and effect of QCAT's decision	84
Part 3	General matters and PP&C matters dealt with by QCAT	
105	Application of pt 3.	85
106	QCAT may authorise investigation	85
107	Application of ch 6, pt 2, div 2	85

Contents

Part 4	PP&C matters dealt with by PP&C committee	
108	Application of pt 4	86
109	PP&C committee may authorise investigation	86
110	Notice to be given to college if PP&C committee authorises investigation	86
111	Application of ch 6, pt 1, div 2	87
111A	PP&C committee may refer matter to QCAT	87
Part 5	Other provisions	
112	Reporting of offences	87
Chapter 6	Disciplinary bodies	
Part 1	PP&C committee	
Division 1	Establishment, membership and functions	
113	Establishment.	88
114	Membership	88
115	Functions of PP&C committee	89
Division 2	Disciplinary proceedings of PP&C committee	
116	PP&C committee may conduct disciplinary proceedings by hearing or on correspondence	89
117	Procedure for hearing by PP&C committee	90
118	Notice of intention to conduct disciplinary proceedings by correspondence	90
119	Substituted service on relevant teacher or complainant.	91
120	PP&C committee may require other information	92
121	Power of PP&C committee to continue disciplinary proceedings without receiving relevant teacher's submission	92
122	Offence for failing to give information and protection against self-incrimination	92
123	Disciplinary action by PP&C committee	93
Part 2	Disciplinary proceedings of QCAT	
Division 1	Constitution of QCAT for disciplinary proceedings	
124	Constitution of QCAT for disciplinary proceedings	95
125	Presiding member of QCAT	95
Division 2	Disciplinary proceedings conducted by QCAT	
Subdivision 1	Preliminary	
130	Application of div 2	96
Subdivision 2	Proceedings of QCAT	
133	Notice of intention to conduct hearing	96

136	QCAT may require health assessment	97
138	Attendance and appearance at hearing	98
147	Receiving or adopting findings etc. in other proceedings	98
152	Interim orders	99
Subdivision 3	Decision on completion of disciplinary proceedings	
158	Decision about whether ground for disciplinary action is established	99
159	Ending of suspension if ground for disciplinary action not established	100
160	Decision about disciplinary action against approved teacher.	100
161	Decision about disciplinary action against former approved teacher	101
Subdivision 4	Action after decision about disciplinary action	
164	College may notify other persons	102
165	Requirement to notify particular interstate regulatory authorities about decision.	103
166	Publication of information about disciplinary proceedings by college	103
Subdivision 5	Effect of decision	
167	Effect of QCAT's decision	104
168	Implementation of decision.	104
Part 3	Miscellaneous provisions for disciplinary proceedings	
170	Office to keep record of disciplinary proceedings.	104
Chapter 7	Investigations	
Part 1	Investigations by employing authorities	
172	Particular investigation may be carried out on college's behalf by an employing authority.	105
Part 2	Investigators' functions and powers generally	
173	Functions of investigator.	105
174	Powers of investigator	106
Part 3	Appointment of investigators	
175	Appointment.	106
176	Appointment conditions and limit on powers	106
177	Issue of identity card	107
178	Production or display of identity card	107
179	Resignation	107
180	Return of identity card	108

Contents

Part 4	Powers of investigators	
Division 1	Power to obtain information	
181	Power to require information or attendance	108
182	Offences	108
183	Inspection of produced things	109
Division 2	Entry of places	
184	Power to enter places.	110
Division 3	Procedure for entry	
185	Entry with consent	110
186	Application for warrant	111
187	Issue of warrant	112
188	Warrants—procedure before entry	113
Division 4	Powers after entry	
189	General powers after entering places.	113
190	Failure to help investigator	114
191	Failure to give information	115
Division 5	Power to seize evidence	
192	Seizing evidence at public place if entry made when place open	115
193	Seizing evidence at a place that may only be entered with consent or warrant	115
194	Securing seized things	116
195	Tampering with seized things	117
196	Receipt for seized things	117
197	Forfeiture of seized things	117
198	Dealing with forfeited things	118
199	Return of seized things.	118
200	Access to seized things	119
Part 5	General investigation matters	
201	Investigator’s report	119
202	Investigator’s obligation not to cause unnecessary damage	119
203	Notice of damage	119
204	Compensation	120
205	False or misleading information given to investigator.	121
206	False or misleading documents given to investigator.	121
207	Obstruction of investigator	121
208	Impersonation of investigator	122

Chapter 8	Internal and external reviews	
Part 1	Internal reviews	
209	Review process for particular decisions starts with internal review	122
210	Applying for review	122
211	Review committee	123
212	College's decision.	124
213	Notice of review decision	124
Part 2	External reviews	
215	Who may apply for external review.	125
Chapter 9	Legal proceedings	
Part 1	Evidence	
220	Application of pt 1	125
221	Appointments and authority	125
222	Signatures	126
223	Evidentiary matters.	126
Part 2	Proceedings	
224	Proceedings in the name of the college	128
225	Summary proceedings for offences	128
226	Allegations of false or misleading information or documents	129
227	Penalties to be paid to college	129
228	Executive officers must ensure corporation complies with Act.	129
Chapter 10	Queensland College of Teachers	
Part 1	Establishment, functions and powers of college	
229	Establishment of college.	130
230	College's functions about registration and permission to teach	130
230A	College's functions for testing applicants for registration	131
231	College's discipline and enforcement functions	132
232	College's other functions	133
233	Primary considerations of college in performing its functions	133
234	Powers of college	134
235	Professional standards	134
236	Approval of preservice teacher education programs	136
Part 2	Board of the college	
237	The board	136
238	Role of board	137

Contents

239	Membership of board	137
240	Requirements for elections.	139
241	Nomination by entities for membership of board	140
242	Term of appointment of members.	140
243	Minister may extend a member's term of appointment.	141
244	Chairperson of board	141
245	Deputy chairperson of board	141
246	Disqualification from membership	142
247	Report about person's criminal history	143
248	Vacation of office	144
249	Requirement for board members to disclose changes in criminal history	146
250	Leave of absence	146
251	Filling vacancies—board members nominated by Minister or another entity etc.	147
252	Filling vacancies—board member elected by registered teachers	148
253	Conduct of business.	149
254	Presiding at meetings.	149
255	Quorum for meetings	149
256	Attendance by proxy by member	149
257	Conduct of meetings	149
258	Minutes	150
259	Committees	150
260	Disclosure of interest	151
261	Attendance of director at meetings.	152
262	Requirement for board approval before college enters into agreements	152
263	Remuneration of board members and committee members	152
264	Delegation	153
265	College is statutory body under the Financial Accountability Act 2009	153
266	College is statutory body under the Statutory Bodies Financial Arrangements Act 1982	153
267	College's financial year.	154
268	Money borrowed other than under the Statutory Bodies Financial Arrangements Act 1982	154
269	Budget	155
270	Compliance with approved budget	155

Part 3	Relationship of the college with the Minister	
271	Performance of college	155
272	Minister's power to give directions to college	156
273	Minister's power to require production of document	157
274	Ministerial request or direction to be included in college's annual report	157
275	College must give annual report to the Minister	157
Part 4	Office of the Queensland College of Teachers	
276	Establishment of office	158
277	Office's functions and powers	158
278	Appointment, function and powers of director	158
279	Delegation by director	158
280	Acting director	159
281	Office staff	159
Chapter 11	Miscellaneous	
Part 1	Disclosure and use of information	
282	Definition for pt 1	159
283	Confidentiality of particular information	160
284	Guidelines for dealing with relevant personal information	162
285	College may give information about teachers to commissioner for children in particular circumstances	162
286	Information sharing arrangement with commissioner of police for information otherwise lawfully given	163
287	Other information sharing agreements	164
Part 2	Register of approved teachers	
288	Register of approved teachers to be kept	165
289	Inspection of register	167
Part 3	Codes of practice	
290	College may develop codes of practice	168
291	Inspection of code of practice	168
292	Use of code of practice in disciplinary proceedings	169
Part 4	Other provisions	
293	Higher education entities must not misrepresent approval of preservice teacher education programs	169
294	Protection from liability	169
295	Delegation by Minister	170
296	Administrative support for college etc.	170

Contents

297	Approved forms	170
298	Regulation-making power.	171
Chapter 12	Repeal and transitional provisions	
Part 1	Interpretation	
299	Definitions for ch 12	171
Part 2	Repeal	
300	Repeal of Education (Teacher Registration) Act 1988	172
Part 3	Provisions relating to former board and college	
301	Dissolution of former board	172
302	College is legal successor of former board	172
303	Assets and liabilities etc.	172
304	Conduct of election for new board before commencement	173
305	Former board's budget for 2006	174
306	Former board's annual report for 2005.	174
307	Proceedings	174
308	Proceedings for offences against repealed Act	175
309	Appeals	175
310	Continuing effect of ministerial directions given before commencement	176
311	References to former board	176
Part 4	Provisions relating to the former office	
312	Dissolution of former office.	176
313	Staff of former office.	177
Part 5	Provisions relating to registration etc.	
314	Existing registrations	177
315	Existing authorisations to teach	178
316	Deciding existing applications for registration	179
317	Deciding existing applications for restoration of registration.	179
318	Particular higher education courses taken to be approved preservice teacher education programs.	180
319	Continuation of existing register until 30 June 2006.	180
320	Particular matters under repealed Act to be included in register	181
Part 6	Disciplinary matters	
321	Existing show cause procedure	181
322	Existing inquiries	182
323	Suspended registrations.	182

324	Suspension for charge for excluding offence not to apply to particular approved teachers	183
325	Disciplinary information received by former board	183
Part 7	Other provisions	
326	Document taken to be professional standards	184
327	Document taken to be code of practice	184
328	Continuation of existing guidelines	185
Part 8	Transitional provision for Education Legislation Amendment Act 2008	
329	Professional development	185
Part 9	Transitional provisions for Commission for Children and Young People and Child Guardian and Another Act Amendment Act 2008	
330	Existing section 48 suspensions	186
Part 10	Transitional provision for the State Penalties Enforcement and Other Legislation Amendment Act 2009	
331	Interstate charge and interstate spent conviction	187
Schedule 1	Decisions for which information notice must be given	188
Schedule 3	Dictionary	189
 Endnotes		
1	Index to endnotes	199
2	Date to which amendments incorporated.	199
3	Key	200
4	Table of reprints	200
5	List of legislation.	201
6	List of annotations	203
7	List of forms notified or published in the gazette	212

Education (Queensland College of Teachers) Act 2005

[as amended by all amendments that commenced on or before 4 March 2010]

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

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, 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.

[s 4]

- (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
 - (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, demonstrated abilities, experience, knowledge and skills establish that 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

[s 9]

- (c) if the person is a person prescribed by regulation as being required to take a test for literacy, numeracy or science prescribed by regulation, the person—
 - (i) has taken the test; and
 - (ii) achieved a test result the college considers is satisfactory for full registration; and

Note—

Chapter 2, part 2, division 3 states the matters that may be prescribed for tests for literacy, numeracy or science.

- (d) 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 (d) are the ***professional practice requirements*** for full registration.
 - (3) The requirements mentioned in subsection (1)(a) to (d) 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.

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, demonstrated abilities, experience, knowledge and skills establish that 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) if the person is a person prescribed by regulation as being required to take a test for literacy, numeracy or science prescribed by regulation, the person—
 - (i) has taken the test; and
 - (ii) achieved a test result the college considers is satisfactory for provisional registration; and

Note—

Chapter 2, part 2, division 3 states the matters that may be prescribed for tests for literacy, numeracy or science.

- (d) 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 (d) are the ***professional practice requirements*** for provisional registration.
 - (3) The requirements mentioned in subsection (1)(a) and (d) 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.

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

[s 11]

- 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).
- (5) This section is subject to section 12A.

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—

[s 12]

- (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) This section is subject to section 12A.
- (5) 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.

12A Suitability to work in child-related field—interstate information

- (1) In considering whether a person is suitable to work in a child-related field as mentioned in section 12(1)(b), the college must consider whether the person poses a risk of harm to children.
- (2) In considering whether the person poses a risk of harm to children, the college must have regard to—
 - (a) the person’s expanded interstate criminal history; and
 - (b) any other information, that relates to the person’s expanded interstate criminal history, disclosed by the commissioner of police under section 15, or an interstate commissioner of police under section 15A.
- (3) In having regard to the matters mentioned in subsection (2), 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 poses a risk of harm to children.
- (4) This section does not limit the matters the college may consider under section 11(2) or 12(1)(b).
- (5) However, despite section 11 or 12, in considering whether a person is suitable to teach, the college may have regard to the person’s expanded interstate criminal history, or information of the type mentioned in subsection (2)(b), only to consider whether the person poses a risk of harm to children.

Notes—

- 1 This section implements the Council of Australian Governments’ (COAG) agreement dated 29 November 2008 to facilitate the

[s 13]

inter-jurisdictional exchange of criminal history information for people working with children.

- 2 A copy of COAG's communiqué about the agreement is available on COAG's website.

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.

Editor's note—

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

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, other than the eligibility requirement mentioned in section 8(1)(c) or section 9(1)(c);
 - (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;
 - (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;

[s 15]

- (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).

15A Requesting further information about interstate convictions and charges

- (1) This section applies if a person's criminal history obtained under section 14 or 15 includes—
- (a) a conviction of the person for an offence in another State, including an interstate spent conviction of the person; or
 - (b) an interstate charge against the person.
- (2) The college may ask an interstate commissioner of police for a brief description of the circumstances of the conviction or charge.
- (3) 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.

16 Requirement to advise applicant of criminal history information received

- (1) This section applies to information received by the college under section 15(4) or 15A.
- (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.

[s 17]

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

[s 21]

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;
- (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—

[s 25]

- (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.
- (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.

Division 3 Literacy, numeracy or science tests required for certain registrations

25A Literacy, numeracy or science test may be prescribed

A regulation prescribing a test for literacy, numeracy or science for full or provisional registration may provide for the following—

- (a) details of the matters to be tested;
- (b) who must take the test;
- (c) the times at which the test is available to be taken;
- (d) how often a person may take the test;
- (e) the fees payable for taking or retaking the test or applying for a reassessment of the test result;
- (f) that the college may decide the matters to be tested and publish these matters;
- (g) any other matter that is necessary or convenient for literacy, numeracy or science testing.

25B Person may apply for reassessment of test result

- (1) A person who has taken a literacy, numeracy or science test may ask the college to reassess the person's result for the test.
- (2) The request must—
 - (a) be in the approved form; and

[s 25C]

- (b) be made within 20 days after the person is issued with the person's result for the test; and
 - (c) be accompanied by the reassessment fee.
- (3) The college must as soon as practicable reassess the person's result for the test.
- (4) If, after reassessing the person's result, the college decides the test result is satisfactory for registration the college must as soon as practicable—
 - (a) issue the person with a replacement result; and
 - (b) refund the reassessment fee to the person.
- (5) If, after reassessing the person's result, the college decides the test result is not satisfactory for registration, the college must give the person notice of the decision.
- (6) In this section—

reassess, a person's test result, means to check the accuracy of the test result in the way decided by the college.

25C Application for registration may lapse after unsatisfactory test result

- (1) This section applies to a person who applies for registration and is required to take a literacy, numeracy or science test but does not take the test or achieve a satisfactory test result.
- (2) A regulation may prescribe the circumstances in which the person's application for registration lapses.

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.

[s 28]

- (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—
 - (i) has practised as a teacher, whether or not on a full-time basis, for a period that is—
 - (A) of at least the duration prescribed under a regulation; and

[s 29]

- (B) within the period prescribed under a regulation; or
 - (ii) has attained experience the college recognises is the equivalent of teaching at a school for a period that is—
 - (A) of at least the duration prescribed under a regulation; and
 - (B) within the period prescribed under a regulation; and
 - (d) the person has undertaken, during the relevant period of registration, the continuing professional development required for registered teachers under the CPD 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 CPD framework by college

- (1) The college must develop or recognise a framework (a *CPD framework*) for the continuing professional development 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 development required;
 - (b) the minimum continuing professional development 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—

[s 32]

- (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.

[s 34]

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.

[s 38]

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.

[s 42]

- (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 development 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

[s 45]

- (b) a notice under section 104 stating QCAT 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.

Part 6 **Immediate suspension and cancellation of registration or permission to teach by college**

Division 1 **Suspension**

48 **Effect of charge for disqualifying offence pending charge being dealt with**

- (1) This section applies if, after the commencement of this section, an approved teacher is charged with a disqualifying offence.

Editor's note—

See also section 324 (Suspension for charge for excluding offence not to apply to particular approved teachers).

- (2) The college must, immediately after it becomes aware of the charge, suspend the teacher's registration or permission to teach.

49 **College's power to suspend if approved teacher poses imminent risk of harm to children**

The college may suspend an approved teacher's registration or permission to teach if the college reasonably believes—

- (a) the teacher poses an imminent risk of harm to children;
and
- (b) it is necessary to immediately suspend the teacher's registration or permission to teach to protect children.

50 **Requirement to give notice of suspension**

- (1) If the college suspends an approved teacher's registration or permission to teach under this division, the college must immediately give notice of the suspension to the teacher.

- (2) For a suspension under section 48, the notice must state the following—
 - (a) that the teacher's registration or permission to teach is suspended under section 48;
 - (b) the reasons for the college's decision and the evidence or other material on which the decision was based;
 - (c) that QCAT 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 and the evidence or other material on which the decision was based;
 - (c) that the college will refer a disciplinary matter to QCAT 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) QCAT.
- (5) The college must refer the continuation of the suspension of an approved teacher to QCAT for review under section 53.

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) QCAT decides, under section 55, 102, 152, 159 or 160, 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 decide whether to continue suspension under s 48

- (1) QCAT must decide whether to continue the suspension of an approved teacher under section 48.
- (2) The matter is to be decided in QCAT's original jurisdiction.
- (3) The purpose of the decision is for QCAT 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 QCAT to give notice inviting submissions to approved teacher

- (1) QCAT 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 QCAT receives, under section 50, a copy of the notice of suspension given to the teacher.

55 QCAT's decision about continuation of suspension

- (1) After considering any submissions made by the approved teacher within the stated time under section 54, QCAT 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 QCAT is satisfied it is an exceptional case, QCAT must order the suspension be ended.
- (3) QCAT's decision must be made not later than 14 days after the earlier of the following to happen—
 - (a) QCAT receives the approved teacher's submission under section 54;
 - (b) the stated time under section 54 ends.
- (4) If QCAT does not make a decision within the 14 day period under subsection (3), QCAT is taken to have made an order ending the suspension.
- (5) QCAT must, as soon as practicable, give notice of its decision to the approved teacher and the college.
- (6) The notice must state each of the following—
 - (a) QCAT's decision and the reasons for it;
 - (b) if the decision is that it is not an exceptional case—that the teacher may apply, within 28 days after the notice is given and as otherwise provided under the QCAT Act, to QCAT for a review of QCAT's decision.

Division 3 Cancellation

56 Cancellation if conviction for disqualifying 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 a disqualifying 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 or the QCAT 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 disqualifying 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 or the QCAT 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 a disqualifying 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 a disqualifying offence; 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—

[s 62]

- (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 Requirements for registration card

- (1) A registration card must—
 - (a) be issued for a period of 1 year; and
Editor's note—
See also section 66 (Payment of annual fee by approved teacher and issue of registration card to registered teacher).
 - (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.

63 Replacing certificate of registration, registration card or certificate of permission to teach

- (1) An approved teacher may apply to the college for replacement of the teacher's registration certificate, registration card, 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 or card has been lost, stolen, destroyed or damaged in a way to require its replacement.

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 QCAT.
- (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.

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—
- (a) ask the commissioner of police for—
 - (i) a written report about the teacher's criminal history; or
 - (ii) a brief description of the circumstances of a conviction or charge, for an offence, mentioned in the applicant's criminal history; or

[s 66]

- (iii) information about any investigation relating to the possible commission of a serious offence by the applicant; or
 - (b) ask an interstate commissioner of police for a brief description of the circumstances of—
 - (i) a conviction of the person for an offence in another State, including an interstate spent conviction of the person; or
 - (ii) an interstate charge against the person.
- (2) Section 15(3) to (7) applies for the request mentioned in subsection (1)(a) as if it were made under section 15(1) or (2).
- (3) Section 15A(3) applies for the request mentioned in subsection (1)(b) as if it were made under section 15A(2).
- (4) For sections 15(3) and 15A(3), the college's request may also include a number or date relevant to the teacher's registration or permission to teach.
- (5) Sections 11, 12 and 12A 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.

Editor's note—

See also section 314 (Existing registrations).

- (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.

- (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 QCAT.
- (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 QCAT in relation to the person; and
 - (b) payment by the person of the annual fee; and

[s 68]

- (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—

[s 73]

- (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*

- (1) Any of the following is a *prescribed school*—
- (a) a State school or non-State school;
 - (b) 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*.
- (2) Subsection (3) applies if—

-
- (a) a child is registered or provisionally registered for home education under the *Education (General Provisions) Act 2006*; and
 - (b) the home education is being provided by 1 or both of the child's parents.
- (3) An institution or place mentioned in subsection (1)(b) does not include the child's usual place of residence.

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).

[s 76]

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

[s 79]

- (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—

[s 81]

- (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).
- (7) In this section—
penalty includes a disqualification order.

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 QCAT.

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.

[s 85]

- (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

[s 89]

- (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.
- (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.

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

(1) In this chapter—

disciplinary information—

- (a) means any of the following—
 - (i) a complaint, other than a complaint the college refuses to deal with under section 89;
 - (ii) information in or accompanying an application made by a person under chapter 2;
 - (iii) information disclosed to the college as required under chapter 3, part 1;
 - (iv) other information or a document required or permitted to be given to the college under this Act; and

[s 92]

- (b) does not include interstate information.
- (2) To remove any doubt, it is declared that information disclosed by a person to the college as required under chapter 3, part 1 is not interstate information even if the information is also disclosed to the college by the commissioner of police or an interstate commissioner.

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 a disqualifying offence; and
 - (ii) the court that convicts the teacher imposes an imprisonment order or makes a disqualification order;

Editor's note—

See section 56 (Cancellation if conviction for disqualifying offence and imprisonment or disqualification order imposed).
 - (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;
 - (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, if the charge for the disqualifying 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.
- (3) The object of subsection (2)(a) is to ensure the circumstances of the charge are examined by a disciplinary committee.

[s 93]

- (4) Subsection (2) does not limit the application of subsection (1)(h).
- (5) In this section—
dealt with, in relation to a charge of a disqualifying 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.

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 body stated in subsection (2).
- (2) The disciplinary body to which the matter must be referred is—
 - (a) for a show cause matter or general matter—QCAT; 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 QCAT immediately after the teacher is suspended.
- (4) If a matter is referred to QCAT—

[s 98]

- (a) the college must inform QCAT about the grounds for the disciplinary matter and the facts and circumstances forming the basis for the grounds; and
- (b) QCAT must conduct a hearing and make decisions about the disciplinary matter referred to QCAT having regard to the information provided by the college.

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 QCAT

100 Application of pt 2

This part applies to a show cause matter referred to QCAT by—

- (a) the college; or
- (b) the PP&C committee under chapter 6, part 1.

[s 101]

101 QCAT to give show cause notice

- (1) QCAT must give the relevant teacher a notice stating—
 - (a) that QCAT 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 QCAT—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, QCAT must decide—
 - (a) whether to cancel the teacher's registration or permission to teach; and

- (b) if QCAT decides not to cancel the teacher's registration or permission to teach—what disciplinary action mentioned in subsection (5) to take.
- (3) QCAT must decide to cancel the teacher's registration or permission to teach, unless QCAT 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 QCAT 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 QCAT decides not to order the cancellation of the teacher's registration or permission to teach, QCAT 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—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;
 - (e) make an order requiring the teacher to pay to the college, by way of costs, an amount QCAT considers appropriate having regard to—
 - (i) any expenses incurred by the college in investigating the matter; and
 - (ii) the expenses incurred by the college in the proceedings before QCAT;
 - (f) make an order requiring the teacher to pay to the college, by way of penalty, an amount fixed by QCAT 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;

[s 103]

- (h) make an order that a particular notation or endorsement about the teacher be entered in the register;
- (i) make another order QCAT considers appropriate;
- (j) accept an undertaking from the teacher.

103 Disciplinary action by QCAT—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, QCAT 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 QCAT's decision

- (1) If QCAT makes a decision under section 102 or 103 and the disciplinary action originated from a complaint, the college must give to the complainant notice of the decision of QCAT and the reasons for the decision.
- (2) If QCAT decides to cancel the teacher's registration or permission to teach, the college must also give to the employing authority for, and the principal of, each school at which the teacher is employed notice of the decision of QCAT.
- (3) QCAT's decision is binding on the college and the relevant teacher.
- (4) The college must give effect to, or secure compliance with, QCAT's decision.

- (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, applies to the PP&C committee dealing with the matter.

111A PP&C committee may refer matter to QCAT

- (1) This section applies if the PP&C committee reasonably believes that, in relation to a matter mentioned in section 108—
 - (a) a ground for disciplinary action against a teacher may exist; and
 - (b) if the ground is established, disciplinary action mentioned in section 160(2)(d) to (h) or (j) should be taken against the teacher.
- (2) The PP&C committee may refer the matter to QCAT without—
 - (a) authorising an investigation into the matter; or
 - (b) hearing the matter.

Part 5 Other provisions

112 Reporting of offences

- (1) This section applies if the college or QCAT becomes aware, or reasonably suspects, that disciplinary information or other information before it discloses an offence.

[s 113]

- (2) The chairperson of the board or the President of QCAT 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 QCAT.
- (3) To remove any doubt, it is declared that in subsection (1), a reference to other information does not include interstate information.

Chapter 6 Disciplinary bodies

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, in relation to a relevant disciplinary matter, are as follows—
- (a) to authorise an investigation into the matter;
 - (b) to refer the matter to QCAT with or without—
 - (i) authorising an investigation into the matter; or
 - (ii) hearing the matter;
 - (c) to hear and decide the matter with or without authorising an investigation into 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.

[s 117]

- (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.

[s 120]

- (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 QCAT if the committee believes disciplinary action mentioned in section 160(2)(d) to (h) or (j) 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;
 - (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—

[s 123]

- (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.
- (4A) If the committee decides to refer the disciplinary matter to QCAT—
- (a) the college must inform QCAT about the grounds for the disciplinary matter and the facts and circumstances forming the basis for the grounds; and
 - (b) QCAT must conduct a hearing and make decisions about the disciplinary matter referred to QCAT having regard to the information provided by the college.
- (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 Disciplinary proceedings of QCAT

Division 1 Constitution of QCAT for disciplinary proceedings

124 Constitution of QCAT for disciplinary proceedings

- (1) For disciplinary proceedings under this Act, QCAT must be constituted by —
- (a) a legally qualified member who is familiar with school environments; and
 - (b) 2 other QCAT members, of whom—
 - (i) 1 must be a registered teacher; and
 - (ii) 1 must be a person who is not a registered teacher.
- (2) In this section—

legally qualified member means a legally qualified member under the QCAT Act.

QCAT member means a member under the QCAT Act.

125 Presiding member of QCAT

For a disciplinary proceeding under this Act, the legally qualified member mentioned in section 124 is the presiding member of QCAT.

Division 2 Disciplinary proceedings conducted by QCAT

Subdivision 1 Preliminary

130 Application of div 2

This division applies to disciplinary proceedings before QCAT relating to—

- (a) a general matter; or
- (b) a PP&C matter referred to QCAT by the PP&C committee under section 111A(2) or 123(2)(b).

Subdivision 2 Proceedings of QCAT

133 Notice of intention to conduct hearing

- (1) QCAT must give notice of its intention to conduct a proceeding or hearing to—
 - (a) each party; and
 - (b) any other person the tribunal directs to be given notice.
- (2) If the matter originated from a complaint, the college must give the complainant a notice that complies with subsection (3).
- (3) The notice must state each of the following matters—
 - (a) the ground for disciplinary action against the teacher given to QCAT under section 97 or 123;
 - (b) the facts and circumstances forming the basis of the ground given to QCAT under section 97 or 123;
 - (c) the time and place of the hearing;

-
- (d) if the matter relates to a complaint—that the complainant may attend the hearing;
 - (e) 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.

136 QCAT may require health assessment

- (1) This section applies if, before or during the hearing, QCAT reasonably believes it is necessary for the relevant teacher to undergo a health assessment to enable QCAT to decide whether a ground for disciplinary action against the teacher is established.
- (2) QCAT 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) QCAT may appoint a person to conduct the assessment only if QCAT is reasonably satisfied the person has the necessary qualifications, expertise or experience.
- (4) The notice must state each of the following—
 - (a) the reasons for the health assessment;
 - (b) the name and qualifications of the person appointed by QCAT 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

[s 138]

- (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.

138 Attendance and appearance at hearing

- (1) Any of the following persons may appear at the hearing to present evidence to, or help, QCAT—
 - (a) a lawyer;
 - (b) a member of the board;
 - (c) a member of the office's staff.
- (2) Also, if the matter originated from a complaint, the complainant may attend the hearing.

147 Receiving or adopting findings etc. in other proceedings

During the hearing, QCAT 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, judgements, or reasons for judgement, of a disciplinary body, court, tribunal or other entity that may be relevant to the hearing.

152 Interim orders

- (1) This section applies if QCAT reasonably believes it is necessary to make an interim order exercising a power conferred on QCAT under section 160 or 161.
- (2) QCAT may make the interim order.
- (3) The interim order must be the least onerous order QCAT 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) QCAT revokes the order.
- (5) The college must give effect to an interim order made by QCAT.
- (6) In this section—

interim order means an interim order under the QCAT Act, section 58.

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

[s 159]

(4) In this section—

disciplinary committee includes the former Teachers Disciplinary Committee.

former Teachers Disciplinary Committee means the Teachers Disciplinary Committee established under this Act before its abolition by the QCAT Act.

159 Ending of suspension if ground for disciplinary action not established

(1) This section applies if—

- (a) QCAT 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.

(2) QCAT must end the suspension.

160 Decision about disciplinary action against approved teacher

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

(2) If QCAT decides a ground for disciplinary action against the relevant teacher has been established, QCAT 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 QCAT considers appropriate having regard to—
 - (i) any expenses incurred by the college in investigating the matter; and
 - (ii) the expenses incurred by the college in the proceedings before QCAT;
 - (g) make an order requiring the teacher to pay to the college, by way of penalty, an amount fixed by QCAT 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 QCAT 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 QCAT 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 QCAT decides a ground for disciplinary action against the relevant teacher has been established, QCAT 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 QCAT considers appropriate having regard to—

[s 164]

- (i) any expenses incurred by the college in investigating the matter; and
- (ii) the expenses incurred by the college in the proceedings before QCAT;
- (c) if QCAT 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.

Subdivision 4 Action after decision about disciplinary action

164 College may notify other persons

- (1) After QCAT 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 QCAT's decision; or
 - (b) advise any of the following persons about QCAT'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 QCAT; or
 - (b) a condition imposed on the teacher's registration or permission to teach by QCAT.

165 Requirement to notify particular interstate regulatory authorities about decision

The college must, as soon as practicable after QCAT 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 QCAT 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 QCAT under the QCAT Act.

Subdivision 5 Effect of decision

167 Effect of QCAT's decision

QCAT'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, QCAT's decision.

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 before the PP&C committee.
- (2) The record must include—
 - (a) details of the decisions made by the PP&C committee in relation to the proceedings; and
 - (b) the reasons for the decisions.

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—

[s 174]

- (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;
 - (c) another person the college considers appropriate to be appointed as an investigator.
- (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.

[s 180]

- (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—

[s 184]

- (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 acknowledgement of the consent.
 - (4) The acknowledgement 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 acknowledgement, 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 acknowledgement 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.

[s 187]

- (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;

[s 190]

- (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

[s 194]

- (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

[s 198]

- (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—QCAT.

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

[s 204]

- (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.
- (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.
- (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.

[s 208]

208 Impersonation of investigator

A person must not pretend to be an investigator.

Maximum penalty—50 penalty units.

Chapter 8 Internal and external reviews

Part 1 Internal reviews

209 Review 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 apply for a review of 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 review 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 give the applicant a notice stating that the applicant may make oral or written submissions about the original decision to the committee within 21 days after the notice is given (the *submission period*).
- (5) 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 including material in any submissions made before the end of the submission period.
- (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.

[s 212]

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 a review under part 2—
 - (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 college must give the applicant a review notice that complies with the QCAT Act, section 157(2).
- (3) If the college does not give the review notice within 60 days after the application is made, the college is taken to have made a review decision confirming the original decision.

Part 2 External reviews

215 Who may apply for external review

A person who has applied for a review of an original decision under part 1 and is dissatisfied with the review may apply to QCAT for a review of the original decision.

Chapter 9 Legal proceedings

Part 1 Evidence

220 Application of pt 1

This part applies to—

- (a) a disciplinary proceeding in QCAT; and
- (b) another proceeding under this Act, including other 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;

[s 222]

- (vi) the PP&C committee or a member of the PP&C 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) the PP&C committee or a member of the PP&C 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 director;
- (e) 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;

[s 224]

- (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

[s 229]

(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.

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—
 - (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.

230A College's functions for testing applicants for registration

- (1) The college has the function of testing of applicants for registration in relation to literacy, numeracy or science.
- (2) Without limiting subsection (1), the college may do the following—
 - (a) develop and revise the tests;

[s 231]

- (b) purchase and revise tests developed by entities other than the college;
 - (c) develop and revise documents and procedures for the administration of the tests;
 - (d) conduct and mark the tests;
 - (e) assess or reassess the results of a person who took the test and give the results to the person;
 - (f) analyse systemic information about the performance of persons who took the test and report the results of the analysis to the Minister, the chief executive and higher education institutions.
- (3) The college may engage another entity to undertake a function mentioned in subsection (1) or (2).
- (4) In this section—

higher education institution means a higher education institution that provides a course of education for a qualification required for registration as a teacher.

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; and

Editor's note—

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

- (b) ensure copies of the standards, and each document applied, adopted or incorporated by the standards, are kept available for inspection, free of charge, at the office.

[s 236]

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—

[s 239]

- (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

[s 241]

- (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

[s 246]

- (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, unless the Minister has given a notice or approval under subsection (4) in relation to the conviction; or
 - (b) is an insolvent under administration within the meaning of the Corporations Act, section 9 (an *insolvent under administration*), unless the Minister has given a notice or approval under subsection (4) in relation to the person being an insolvent under administration.
- (2) Also, a person can not become a member of the board if the person does not 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, and the term of the person's appointment as a member of the board has not since ended—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.

[s 248]

- (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* to the extent the criminal history relates to indictable offences, 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.

[s 249]

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* to the extent the criminal history relates to indictable offences, 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).
- (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
 - (b) the member was nominated for membership—
 - (i) by the Minister under section 239(1)(a) or (k); or

[s 252]

- (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.

[s 258]

- (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

[s 261]

- (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;
 - (d) an appropriately qualified member of the office's staff.
- (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.
- (4) 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

**265 College is statutory body under the Financial
Accountability Act 2009**

The college is a statutory body under the *Financial Accountability Act 2009*.

**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 2B 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.

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 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

[s 272]

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 Accountability Act 2009*, 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.

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 2008*.

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—

[s 283]

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

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) or (3A).

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
 - (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; or
 - (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.
- (3A) However, if the information is interstate information—
- (a) the person may, and may only, disclose the information to someone else—
 - (i) to the extent necessary to perform the person’s functions under section 12A, 15A, 65(1)(b) or 285; or
 - (ii) for a proceeding relating to section 12A; and
 - (b) subsection (3) does not apply other than as mentioned in subsection (3)(d), (e) or (f).
- (3B) Subsection (3A) applies despite any other provision of an Act.
- (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).

[s 284]

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 decides to suspend an approved teacher's registration or permission to teach under section 49; 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.
- (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) either—
 - (i) for a decision about a suspension—when the conduct giving rise to the suspension happened; or
 - (ii) for a decision about disciplinary proceedings—when the grounds for disciplinary action arose;
 - (e) the nature of the conduct or grounds for disciplinary action.
- (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 *Commission for Children and Young People and Child Guardian Act 2000*.

286 Information sharing arrangement with commissioner of police for information otherwise lawfully given

- (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

[s 287]

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 15A;
- (c) section 15(4) as applied by 29(5), 31(3) or 38(1);
- (d) section 65;
- (e) 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 subsection (1), a reference to information does not include interstate information.

Note—

See section 12A (Suitability to work in child-related field—interstate information).

(5) 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;

[s 288]

- (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 56 or by QCAT under section 160—
- (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—
- (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

[s 290]

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; and

Editor's note—

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

- (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;

[s 295]

- (f) a person acting under the direction of an investigator;
 - (g) a person appointed by QCAT 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.

296 Administrative support for college etc.

- (1) The college may make arrangements for administrative support services for the college and the office.
- (2) If the college makes arrangements with the chief executive to provide 1 or more services for the college or the office, 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.

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.

[s 305]

(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 approved by the Minister, under section 25 of the repealed Act.
- (2) The budget is taken to have been adopted by the new board, and approved by the Minister, under section 269 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, 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) 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.

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.

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) 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.

[s 310]

- (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.

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.

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.

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.
- (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

[s 315]

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 66 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, under section 43 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).

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.

[s 318]

- (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.

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.
- (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—
 - (a) before the commencement, the former board gave a provisionally registered teacher a notice under section 46 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

[s 322]

- (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.

322 Existing inquiries

- (1) This section applies if—
- (a) before the commencement, the former board starts to conduct an inquiry under part 5 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—
- (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 4 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 48 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
 - (b) if an imprisonment order is imposed for the offence or a disqualification order is made, section 56 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 49A of the repealed Act; or
 - (ii) authorised an inquiry about the person under section 50 of the repealed Act; or
 - (iii) otherwise dealt with the information.

[s 326]

- (2) The information is taken to be disciplinary information for chapter 5.
- (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.

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), 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.
- (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 42F 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.
- (3) The guidelines apply under this Act with any necessary changes.

**Part 8 Transitional provision for
Education Legislation
Amendment Act 2008**

329 Professional development

- (1) On the commencement of this section—
 - (a) a CPL framework under the pre-amended Act is taken to be a CPD framework; and
 - (b) a reference in an Act or document to continuing professional learning in relation to a CPL framework may, if the context permits, be taken to be a reference to continuing professional development; and
 - (c) a reference in an Act or document to a professional learning program for returning to teaching may, if the context permits, be taken to be a reference to a professional development program.
- (2) In subsection (1)—

pre-amended Act means this Act as in force immediately before the commencement of the *Education Legislation Amendment Act 2008*, part 2.

Part 9

Transitional provisions for Commission for Children and Young People and Child Guardian and Another Act Amendment Act 2008

330 Existing section 48 suspensions

- (1) On the commencement, an existing section 48 suspension—
 - (a) continues in force according to its terms; and
 - (b) is taken to have been made in relation to a charge for a disqualifying offence.
- (2) In this section—

commencement means the commencement of this section.

existing section 48 suspension means a suspension of a teacher's registration or permission to teach—

- (a) made under section 48 as in force immediately before the commencement; and
- (b) for which the period of suspension had not ended before the commencement.

Part 10 **Transitional provision for the
State Penalties Enforcement
and Other Legislation
Amendment Act 2009**

331 Interstate charge and interstate spent conviction

- (1) To remove any doubt, it is declared that—
- (a) for schedule 3, definition *interstate charge*, a reference to a charge against a person for an offence includes a charge for an offence alleged to have been committed by the person before the commencement; and
 - (b) for schedule 3, definition *interstate spent conviction*, a reference to a conviction of a person includes a conviction of the person before the commencement.
- (2) In this section—
- commencement* means the commencement of the *State Penalties Enforcement and Other Legislation Amendment Act 2009*, chapter 3.

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 3 Dictionary

section 6

annual fee see section 66(1).

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 382;
- (c) a complaint under the *Justices Act 1886*;
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A), or another provision of an Act;
- (e) an indictment.

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*.

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

complaint means a complaint made under chapter 4.

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.

CPD 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 QCAT when undertaking disciplinary action under this Act.

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.

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

disqualification order see section 58(2).

disqualifying offence see the *Commission for Children and Young People and Child Guardian Act 2000*, section 120B.

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.

existing register, for chapter 12, see section 299.

expanded interstate criminal history, of a person, means—

- (a) every interstate spent conviction of the person; and
- (b) every interstate charge against the person.

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*

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) no longer holds a permission to teach.

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 no longer a registered teacher.

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 2008*, schedule 2.

higher education entity means each of the following within the meaning given by the *Higher Education (General Provisions) Act 2008*, schedule 2—

- (a) a non self-accrediting higher education institution;
- (b) a self-accrediting higher education institution;
- (c) an interstate self-accrediting higher education institution that holds a recognised self-accrediting authority under that Act;
- (d) a university;
- (e) a specialised university;
- (f) a university college;

-
- (g) a specialised university college;
 - (h) an interstate university, interstate specialised university, interstate university college or interstate specialised university college, that holds a recognised authority under that Act;
 - (i) an overseas higher education institution for which an approval is held under part 5 of that Act.

higher education institution see the *Higher Education (General Provisions) Act 2008*, 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 659 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 charge, made against a person, means a charge against the person for an offence alleged to have been committed by the person against a law of another State or the Commonwealth.

interstate commissioner of police means the commissioner of a police force or service of another State or the Commonwealth.

interstate information means—

- (a) a person's expanded interstate criminal history disclosed by the commissioner of police to the college under section 15, 65 or 75; or
- (b) any other information, that relates to a person's expanded interstate criminal history, disclosed by the commissioner of police under section 15, 65 or 75, or an interstate commissioner of police under section 15A or 65, to the college.

interstate regulatory authority means an entity—

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

interstate rehabilitation law means a law applying, or that applied, in another State or the Commonwealth, that provides, or provided, for the same matter as the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

interstate spent conviction, of a person, means a conviction for an offence committed by the person against a law of another State or the Commonwealth that the person is not required to disclose under an interstate rehabilitation law because—

- (a) a rehabilitation period prescribed under that law for the conviction has expired; and
- (b) the conviction has not been revived under that law.

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.

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
 - (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 development 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.

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

State school means a State instructional institution within the meaning of the *Education (General Provisions) Act 2006*, schedule 4.

teach means undertake duties as a teacher.

teacher—

- (a) means—
 - (i) a person who undertakes duties in a school including any of the following—
 - (A) delivering an educational program;

Schedule 3

- (B) assessing student participation in an educational program;
 - (C) otherwise administering or providing consistent and substantial educational leadership to an educational program; or
- (ii) a person who undertakes duties, other than in a school, for an educational program prescribed under a regulation, including any of the following—
 - (A) delivering the program;
 - (B) assessing student participation in the program;
 - (C) otherwise administering or providing consistent and substantial educational leadership to the program; and
- (b) does not include a teacher's aide, a teacher's assistant or a student teacher.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	199
3 Key	200
4 Table of reprints	200
5 List of legislation	201
6 List of annotations	203
7 List of forms notified or published in the gazette	212

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 4 March 2010. Future amendments of the Education (Queensland College of Teachers) Act 2005 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

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

4 Table of reprints

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

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
0A	none	2 November 2005	
1	none	1 January 2006	
1A	2000 Act No. 5 (amd 2006 Act No. 26)	21 July 2006	
1B	2006 Act No. 39	30 October 2006	
1C	2006 Act No. 55	7 December 2006	
1D	2006 Act No. 39	1 January 2007	
1E	2008 Act No. 1	20 February 2008	
1F	2008 Act No. 18	2 June 2008	
1G	2008 Act No. 25	1 August 2008	R1G withdrawn, see R2
2 rv	—	1 August 2008	rv Revision notice issued for R2
2A	2009 Act No. 9	1 July 2009	

Reprint No.	Amendments included	Effective	Notes
2B	2009 Act No. 25	2 November 2009	
2C	2009 Act No. 48	27 November 2009	
2D	2009 Act No. 24	1 December 2009	
	2009 Act No. 40		
	2009 Act No. 48		
2E	2010 Act No. 4	4 March 2010	

5 List of legislation

Education (Queensland College of Teachers) Act 2005 No. 47

date of assent 2 November 2005

ss 1–2, 6, 299, 304, sch 3 commenced on date of assent

remaining provisions commenced 1 January 2006 (see s 2)

amending legislation—

Police Powers and Responsibilities Act 2000 No. 5 s 810 sch 4 (prev s 459A sch 3A) (this Act is amended, see amending legislation below)

amending legislation—

Police Powers and Responsibilities and Other Acts Amendment Act 2006 No. 26 ss 1–2, 84, 86 (amends 2000 No. 5 above)

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 21 July 2006 (2006 SL No. 185)

Education (General Provisions) Act 2006 No. 39 ss 1–2(1), (3), 512(1)–(2) schs 1–2

date of assent 11 August 2006

ss 1–2 commenced on date of assent

s 512(2) sch 2 commenced 1 January 2007 (see s 2(1))

remaining provisions commenced 30 October 2006 (2006 SL No. 247)

Education Legislation Amendment Act 2006 No. 55 s 1, pt 3

date of assent 7 December 2006

commenced on date of assent

Education Legislation Amendment Act 2008 No. 1 pts 1–2

date of assent 20 February 2008

commenced on date of assent

Commission for Children and Young People and Child Guardian and Another Act Amendment Act 2008 No. 18 pt 1, s 51 sch

date of assent 23 April 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 2 June 2008 immediately after the commencement of the Child Protection (Offender Prohibition Order) Act 2008 (see s 2)

Higher Education (General Provisions) Act 2008 No. 25 ss 1–2, 164 sch 1

date of assent 9 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 2008 (2008 SL No. 242)

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 4 pt 4

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Education and Training Legislation Amendment Act 2009 No. 40 pts 1, 4

date of assent 15 October 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 immediately after the commencement of the Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ch 4 (2009 SL No. 267 and 2009 SL No. 252)

State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 48 ss 1, 2(2)–(3), ch 3 pt 1

date of assent 19 November 2009

ss 1–2 commenced on date of assent

s 54 commenced 1 December 2009 immediately after the commencement of the Queensland Civil and Administrative Tribunal Act 2009 No. 23 ch 7 (see s 2(3) and 2009 SL No. 251)

remaining provisions commenced 27 November 2009 (2009 SL No. 275)

Child Care and Another Act Amendment Act 2010 No. 4 s 1, pt 3

date of assent 4 March 2010

commenced on date of assent

Criminal History Screening Legislation Amendment Act 2010 No. 5 pts 1, 9

date of assent 4 March 2010

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

6 List of annotations

Eligibility for full registration

s 8 amd 2009 No. 40 s 21; 2010 No. 4 s 7

Eligibility for provisional registration

s 9 amd 2009 No. 40 s 22; 2010 No. 4 s 8

Suitability to teach—criminal history information

s 11 amd 2009 No. 48 s 46

Suitability to teach—other considerations

s 12 amd 2009 No. 48 s 47

Suitability to work in child-related field—interstate information

s 12A ins 2009 No. 48 s 48

Application for registration or permission to teach

s 14 amd 2010 No. 4 s 9

Requesting further information about interstate convictions and charges

s 15A ins 2009 No. 48 s 49

Requirement to advise applicant of criminal history information received

s 16 amd 2009 No. 48 s 50

Division 3—Literacy, numeracy or science tests required for certain registrations

div 3 (ss 25A–25C) ins 2010 No. 4 s 10

Requirements for renewal—full registration

s 29 amd 2008 No. 1 s 3; 2010 No. 4 s 11

Development or recognition of CPD framework by college

prov hdg amd 2008 No. 1 s 4(1)

s 30 amd 2008 No. 1 s 4(2)–(3)

Cancellation of conditions

s 43 amd 2008 No. 1 s 5

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

s 44 amd 2009 No. 24 s 178

Effect of charge for disqualifying offence pending charge being dealt with

prov hdg amd 2008 No. 18 s 51 sch

s 48 amd 2008 No. 18 s 51 sch

Requirement to give notice of suspension

s 50 amd 2009 No. 24 s 179

When suspension ends

s 52 amd 2009 No. 24 s 180

Requirement to decide whether to continue suspension under s 48

s 53 sub 2009 No. 24 s 181

QCAT to give notice inviting submissions to approved teacher

prov hdg amd 2009 No. 24 s 182(1)
s 54 amd 2009 No. 24 s 182(2)–(3)

QCAT’s decision about continuation of suspension

prov hdg amd 2009 No. 24 s 183(1)
s 55 amd 2009 No. 24 s 183(2)–(9)

Cancellation if conviction for disqualifying offence and imprisonment or disqualification order imposed

prov hdg amd 2008 No. 18 s 51 sch
s 56 amd 2008 No. 18 s 51 sch; 2009 No. 24 s 184

Effect of appeal on cancellation

s 57 amd 2008 No. 18 s 51 sch

Disqualification order

s 58 amd 2008 No. 18 s 51 sch

Requirements for registration card

s 62 (prev s 63) renum 2009 No. 40 s 24

Replacing certificate of registration, registration card or certificate of permission to teach

prov hdg sub 2009 No. 40 s 23(1)
s 63 (prev s 62) amd 2009 No. 40 s 23(2)–(3)
renum 2009 No. 40 s 24

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

s 64 amd 2009 No. 24 s 185

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

s 65 amd 2009 No. 48 s 51

Effect of suspension on registration or permission to teach

s 67 amd 2009 No. 24 s 186

Meaning of “prescribed school”

s 74 amd 2006 No. 39 s 512(1)–(2) schs 1–2; 2008 No. 1 s 6

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

s 80 amd 2009 No. 40 s 25

Only approved teachers may be employed as teachers

s 82 amd 2009 No. 24 s 187

Definition for ch 5

s 91 sub 2009 No. 48 s 52

Grounds for disciplinary action

s 92 amd 2008 No. 18 s 51 sch

Requirement for college to start disciplinary proceedings

s 97 amd 2009 No. 24 s 188

PART 2—SHOW CAUSE MATTERS DEALT WITH BY QCAT

pt hdg amd 2009 No. 24 s 189

Application of pt 2

s 100 sub 2009 No. 24 s 190

QCAT to give show cause notice

prov hdg amd 2009 No. 24 s 191(1)

s 101 amd 2009 No. 24 s 191(2)–(3)

Disciplinary action by QCAT—approved teachers

prov hdg amd 2009 No. 24 s 192(1)

s 102 amd 2009 No. 24 s 192(2)–(8)

Disciplinary action by QCAT—former approved teachers

prov hdg amd 2009 No. 24 s 193(1)

s 103 amd 2009 No. 24 s 193(2)

Notice and effect of QCAT's decision

prov hdg amd 2009 No. 24 s 194(1)

s 104 amd 2009 No. 24 s 194(2)–(5)

PART 3—GENERAL MATTERS AND PP&C MATTERS DEALT WITH BY QCAT

pt hdg amd 2009 No. 24 s 195

Application of pt 3

s 105 sub 2009 No. 24 s 196

QCAT may authorise investigation

prov hdg amd 2009 No. 24 s 197(1)

s 106 amd 2009 No. 24 s 197(2)–(4)

Application of ch 6, pt 2, div 2

s 107 amd 2009 No. 24 s 198

Notice to be given to college if PP&C committee authorises investigation

s 110 prov hdg sub 2009 No. 40 s 26

PP&C committee may refer matter to QCAT

s 111A ins 2009 No. 40 s 27

Reporting of offences

s 112 amd 2009 No. 48 s 53; 2009 No. 24 s 199

CHAPTER 6—DISCIPLINARY BODIES

ch hdg amd 2009 No. 24 s 200

Functions of PP&C committee

s 115 amd 2009 No. 24 s 201; 2009 No. 40 s 28

Disciplinary action by PP&C committee

s 123 amd 2009 No. 24 s 202

PART 2—DISCIPLINARY PROCEEDINGS OF QCAT

pt hdg sub 2009 No. 24 s 203

Division 1—Constitution of QCAT for disciplinary proceedings

div hdg sub 2009 No. 24 s 204

Constitution of QCAT for disciplinary proceedings

s 124 sub 2009 No. 24 s 204
 amd 2009 No. 48 s 54

Presiding member of QCAT

s 125 amd 2006 No. 55 s 23
 sub 2009 No. 24 s 204

Chairperson of Teachers Disciplinary Committee

s 126 om 2009 No. 24 s 204

Disqualification from membership

s 126A ins 2006 No. 55 s 24
 om 2009 No. 24 s 204

Report about person's criminal history

s 126B ins 2006 No. 55 s 24
 om 2009 No. 24 s 204

Requirement for committee members to disclose changes in criminal history

s 126C ins 2006 No. 55 s 24
 om 2009 No. 24 s 204

Constitution of Teachers Disciplinary Committee for disciplinary proceedings

s 127 om 2009 No. 24 s 204

Payment of members

s 128 om 2009 No. 24 s 204

Functions of Teachers Disciplinary Committee

s 129 om 2009 No. 24 s 204

Division 2—Disciplinary proceedings conducted by QCAT

div hdg amd 2009 No. 24 s 205

Application of div 2

s 130 amd 2009 No. 24 s 206; 2009 No. 40 s 29

Parties to disciplinary proceedings

s 131 om 2009 No. 24 s 207

Subdivision 2—Proceedings of QCAT

sdiv hdg amd 2009 No. 24 s 208

Time and place of hearing

s 132 om 2009 No. 24 s 209

Notice of intention to conduct hearing

s 133 amd 2009 No. 24 s 210

Substituted service on relevant teacher and complainant

s 134 om 2009 No. 24 s 211

Pre-hearing conference

s 135 om 2009 No. 24 s 211

QCAT may require health assessment

prov hdg amd 2009 No. 24 s 212(1)

s 136 amd 2006 No. 55 s 25; 2009 No. 24 s 212(2)–(6)

Hearing open to the public

s 137 om 2009 No. 24 s 213

Attendance and appearance at hearing

s 138 amd 2009 No. 24 s 214

Committee may exclude complainant or witness from hearing

s 139 om 2009 No. 24 s 215

Committee may exclude disruptive person from hearing

s 140 om 2009 No. 24 s 215

Procedure for hearing by committee

s 141 om 2009 No. 24 s 215

Committee may require evidence on oath or by statutory declaration

s 142 om 2009 No. 24 s 215

Evidence by telephone, video link or another form of communication

s 143 om 2009 No. 24 s 215

Witnesses

s 144 om 2009 No. 24 s 215

Allowance to witnesses

s 145 om 2009 No. 24 s 215

Provision for witnesses who are children

s 146 om 2009 No. 24 s 215

Receiving or adopting findings etc. in other proceedings

s 147 amd 2009 No. 24 s 216

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

s 148 om 2009 No. 24 s 217

Questions to be decided by majority of committee members

s 149 om 2009 No. 24 s 217

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

s 150 om 2009 No. 24 s 217

Endnotes

Inspection of things

s 151 om 2009 No. 24 s 217

Interim orders

s 152 amd 2009 No. 24 s 218

Committee to make record of proceedings

s 153 om 2009 No. 24 s 219

Subdivision 3—Decision on completion of disciplinary proceedings

sdiv hdg prev sdiv 3 hdg om 2009 No. 24 s 220

pres sdiv 3 hdg (prev sdiv 4 hdg) renum 2009 No. 24 s 221

Offences about attending hearing, answering questions and related matters

s 154 om 2009 No. 24 s 220

False or misleading information

s 155 om 2009 No. 24 s 220

False or misleading documents

s 156 om 2009 No. 24 s 220

Contempt of committee

s 157 om 2009 No. 24 s 220

Decision about whether ground for disciplinary action is established

s 158 amd 2009 No. 24 s 222

Ending of suspension if ground for disciplinary action not established

s 159 amd 2009 No. 24 s 223

Decision about disciplinary action against approved teacher

s 160 amd 2009 No. 24 s 224

Decision about disciplinary action against former approved teacher

s 161 amd 2009 No. 24 s 225

Committee may make an order prohibiting publication of particular information

s 162 om 2009 No. 24 s 226

Subdivision 4—Action after decision about disciplinary action

sdiv hdg (prev sdiv 5 hdg) renum 2009 No. 24 s 227

Notification of committee's decision

s 163 om 2009 No. 24 s 228

College may notify other persons

s 164 amd 2009 No. 24 s 229

Requirement to notify particular interstate regulatory authorities about decision

s 165 amd 2009 No. 24 s 230

Publication of information about disciplinary proceedings by college

s 166 amd 2009 No. 24 s 231

Subdivision 5—Effect of decision**sdiv hdg** (prev sdiv 6 hdg) renum 2009 No. 24 s 232**Effect of QCAT’s decision****prov hdg** amd 2009 No. 24 s 233(1)**s 167** amd 2009 No. 24 s 233(2)**Implementation of decision****s 168** amd 2009 No. 24 s 234**Subdivision 7—Immunities****sdiv 7 (s 169)** om 2009 No. 24 s 235**Office to keep record of disciplinary proceedings****s 170** amd 2009 No. 24 s 236**Payment of costs or penalty****s 171** om 2009 No. 24 s 237**Appointment****s 175** amd 2009 No. 40 s 30**Investigator’s report****s 201** amd 2009 No. 24 s 238**CHAPTER 8—INTERNAL AND EXTERNAL REVIEWS****ch hdg** sub 2009 No. 24 s 239**PART 1—INTERNAL REVIEWS****pt hdg** sub 2009 No. 24 s 239**Review process for particular decisions starts with internal review****prov hdg** amd 2009 No. 24 s 240(1)**s 209** amd 2009 No. 24 s 240(2)–(3)**Review committee****s 211** amd 2009 No. 40 s 31**College’s decision****s 212** amd 2009 No. 24 s 241**Notice of review decision****s 213** amd 2009 No. 24 s 242; 2009 No. 40 s 32**PART 2—EXTERNAL REVIEWS****pt hdg** sub 2009 No. 24 s 243**Definitions for pt 2****s 214** om 2009 No. 24 s 244**Who may apply for external review****s 215** sub 2009 No. 24 s 245**Starting appeal****s 216** om 2009 No. 24 s 246

Hearing procedures

s 217 om 2009 No. 24 s 246

Court's powers on appeal

s 218 om 2009 No. 24 s 246

Court may prohibit publication of particular information

s 219 om 2009 No. 24 s 246

Application of pt 1

s 220 sub 2009 No. 24 s 247

Appointments and authority

s 221 amd 2009 No. 24 s 248

Signatures

s 222 amd 2009 No. 24 s 249

College's functions for testing applicants for registration

s 230A ins 2010 No. 4 s 12

Disqualification from membership

s 246 amd 2006 No. 55 s 26

Report about person's criminal history

s 247 amd 2006 No. 55 s 27

Requirement for board members to disclose changes in criminal history

s 249 amd 2006 No. 55 s 28

Delegation

s 264 amd 2009 No. 40 s 33

College is statutory body under the Financial Accountability Act 2009

prov hdg amd 2009 No. 9 s 136 sch 1

s 265 amd 2009 No. 9 s 136 sch 1

College's financial year

s 267 amd 2009 No. 9 s 136 sch 1

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

s 274 amd 2009 No. 9 s 136 sch 1

Appointment, function and powers of director

s 278 amd 2009 No. 25 s 83 sch

Office staff

s 281 amd 2009 No. 25 s 83 sch

Definition for pt 1

s 282 def "relevant personal information" amd 2009 No. 48 s 55

Confidentiality of particular information

s 283 amd 2009 No. 48 s 56

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

s 285 amd 2006 No. 55 s 29

Information sharing arrangement with commissioner of police for information otherwise lawfully given

prov hdg sub 2009 No. 48 s 57(1)

s 286 amd 2009 No. 48 s 57(2)–(3)

Other information sharing agreements

s 287 amd 2009 No. 48 s 58

Register of approved teachers to be kept

s 288 amd 2009 No. 24 s 250

Protection from liability

s 294 amd 2009 No. 24 s 251

Administrative support for college etc.

s 296 amd 2009 No. 24 s 252

PART 8—TRANSITIONAL PROVISION FOR EDUCATION LEGISLATION AMENDMENT ACT 2008

pt hdg ins 2008 No. 1 s 7

Professional development

s 329 prev s 329 om R1 (see RA s 40)

pres s 329 ins 2008 No. 1 s 7

PART 9—TRANSITIONAL PROVISIONS FOR COMMISSION FOR CHILDREN AND YOUNG PEOPLE AND CHILD GUARDIAN AND ANOTHER ACT AMENDMENT ACT 2008

pt hdg ins 2008 No. 18 s 51 sch

Existing section 48 suspensions

s 330 ins 2008 No. 18 s 51 sch

PART 10—TRANSITIONAL PROVISION FOR THE STATE PENALTIES ENFORCEMENT AND OTHER LEGISLATION AMENDMENT ACT 2009

pt 10 (s 331) ins 2009 No. 48 s 59

CHAPTER 13—AMENDMENT OF ACTS

ch hdg om R1 (see RA s 7(1)(k))

SCHEDULE 2—AMENDMENTS OF ACTS

om R1 (see RA s 40)

SCHEDULE 3—DICTIONARYdef “**appealable decision**” om 2009 No. 24 s 253(1)def “**charge**” amd 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86)def “**CPD framework**” ins 2008 No. 1 s 8(1)def “**CPL framework**” om 2008 No. 1 s 8(1)def “**disciplinary committees**” amd 2009 No. 24 s 253(2)def “**disqualifying offence**” ins 2008 No. 18 s 51 sch

- def “**excluding offence**” om 2008 No. 18 s 51 sch
- def “**expanded interstate criminal history**” ins 2009 No. 48 s 60
- def “**former holder of a permission to teach**” amd 2009 No. 40 s 34(1)
- def “**former registered teacher**” amd 2009 No. 40 s 34(2)
- def “**higher education course**” sub 2008 No. 25 s 164 sch 1
- def “**higher education entity**” sub 2008 No. 25 s 164 sch 1
- def “**higher education institution**” sub 2008 No. 25 s 164 sch 1
- def “**interstate charge**” ins 2009 No. 48 s 60
- def “**interstate commissioner of police**” ins 2009 No. 48 s 60
- def “**interstate information**” ins 2009 No. 48 s 60
- def “**interstate rehabilitation law**” ins 2009 No. 48 s 60
- def “**interstate spent conviction**” ins 2009 No. 48 s 60
- def “**returning to teaching condition**” amd 2008 No. 1 s 8(2)
- def “**State school**” sub 2006 No. 39 s 512(1) sch 1
- def “**teacher**” sub 2010 No. 4 s 13
- def “**Teachers Disciplinary Committee**” om 2009 No. 24 s 253(1)

7 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form A101/06 Version 2—Application for Teacher Registration in Queensland
pubd gaz 17 March 2006 p 1088

Form A101/07 Version 1—Certificate of Queensland Teacher Registration
pubd gaz 30 November 2007 p 1821

Form A102/07 Version 1—Queensland Teacher Registration Card
pubd gaz 30 November 2007 p 1821

Form A125/06 Version 1—Permission to Teach
pubd gaz 17 March 2006 p 1088

Form A126/06 Version 1—Application to Replace a Certificate of Registration or Permission to Teach
pubd gaz 17 March 2006 p 1088

Form A128/06 Version 1—Disclosure of Change in Teacher’s Criminal History
pubd gaz 17 March 2006 p 1088

Form A130/06 Version 1—Application for Internal Review of a Decision
pubd gaz 17 March 2006 p 1088

Form A131/06 Version 1—Application for Permission to Teach
pubd gaz 17 March 2006 p 1088

© State of Queensland 2010