



# Education (Queensland College of Teachers) Act 2005

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## **Reprint note**

The *COVID-19 Emergency Response Act 2020* and the *Education Legislation (COVID-19 Emergency Response) Regulation 2020* modified this legislation from 26 June 2020 until 30 April 2022. These modifications did not amend the text of this law. Accordingly, while this point-in-time version does not contain textual amendments, it is affected by and must be read with the modifications that were in force at the same time.

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## Queensland

# Education (Queensland College of Teachers) Act 2005

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# Education (Queensland College of Teachers) Act 2005

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

## 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.
- (2) The objects are to be achieved mainly by—

[s 4]

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- (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) certifying teachers as highly accomplished teachers or lead teachers; and
  - (iii) taking disciplinary action against approved teachers; and
  - (iv) 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.
- (4) Harm can be caused by—
  - (a) a single act, omission or circumstance; or
  - (b) a series or combination of acts, omissions or circumstances.

## **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
- (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

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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) to (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—

[s 11]

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

## **11 Suitability to teach—police information**

- (1) In considering whether a person is suitable to teach, the college must have regard to—
- (a) police information about the person obtained under section 14 or 15; and
  - (b) other information about the person obtained under section 15; and
  - (c) information about the person obtained under section 15B, 15C or 15D.
- (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



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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—

- (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 behaves in a way that—
- (a) does not satisfy a standard of behaviour generally expected of a teacher; and
  - (b) 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.

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**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 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 1A Eligibility declarations

### Division 1 Preliminary

#### 12B Purpose of pt 1A

The purpose of this part is to allow a person who is an eligibility applicant to apply to the college for a declaration (*eligibility declaration*) that the person is not an excluded person.

#### 12C Application of part 1A

This part applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

#### 12D Definitions for pt 1A

In this part—

*eligibility applicant* means a person who—

- (a) is, or has been, convicted of a serious offence, other than a person whose conviction for the offence is overturned on appeal; and
- (b) is not subject to an imprisonment order for the offence; and
- (c) is not a relevant excluded person.

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## Division 2                      Eligibility application

### 12E    Application for eligibility declaration

- (1) An eligibility applicant may make an application (*eligibility application*) to the college for an eligibility declaration.
- (2) However, the applicant can not make an eligibility application within 2 years after making a previous eligibility application that has been refused, unless the decision to refuse the previous eligibility application was based on wrong or incomplete information.
- (3) The eligibility application must be—
  - (a) in the approved form; and
  - (b) signed by the applicant; and
  - (c) accompanied by each of the following—
    - (i) the prescribed fee;
    - (ii) the criminal history check fee;
    - (iii) other documents or information, identified in the approved form, reasonably required by the college to decide the application.
- (4) The approved form—
  - (a) must include provision for—
    - (i) identifying information about the applicant; and
    - (ii) certification by a prescribed person that the prescribed person has sighted the applicant's proof of identity documents; and
  - (b) may require disclosure of police information about the applicant.
- (5) Information contained in or accompanying the application must, if required by the college, be verified by statutory declaration.
- (6) In this section—

[s 12F]

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*commissioner for declarations* means commissioner for declarations under the *Justices of the Peace and Commissioners for Declarations Act 1991*.

*identifying information*, about an applicant, means information that identifies the applicant.

*prescribed person* means a justice, commissioner for declarations, lawyer or police officer.

*proof of identity documents*, for an eligibility applicant, means the documents, relating to proof of the identity of the applicant, prescribed under a regulation.

## **12F Decision on eligibility application**

- (1) The college must refuse to grant the eligibility application unless the college is satisfied it is an exceptional case in which it would not harm the best interests of children to issue the eligibility declaration.
- (2) The college may obtain information about the applicant under sections 14 to 15D as if the application were an application for registration or permission to teach.
- (3) In deciding whether there is an exceptional case, the college must have regard to the information mentioned in subsection (2).
- (4) In having regard to the criminal history of the applicant, the college must consider the following matters relating to information about the commission, or alleged or possible commission, of an offence by the applicant—
  - (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) any penalty imposed by the court and the court's reasons for the penalty.
- (5) Also, in deciding whether there is an exceptional case, the college must have regard to the following—

- 
- (a) documents or information contained in the applicant's eligibility application;
  - (b) if the applicant has been refused registration in another jurisdiction or has held registration in another jurisdiction that has been suspended or cancelled—
    - (i) the reason for the refusal, suspension or cancellation; and
    - (ii) the way in which the refusal, suspension or cancellation relates to the applicant's suitability to teach;
  - (c) if the applicant has had the applicant's employment terminated by an employing authority for a school for a reason relating to the applicant's suitability to teach—the reason for the termination;
  - (d) anything else the college considers relevant in deciding whether an exceptional case exists.

*Example of an exceptional case—*

The eligibility applicant was convicted, at 17 years, of unlawful carnal knowledge of his 15 year girlfriend and has not been convicted of a further serious offence.

## **12G Grant or refusal to grant eligibility application**

- (1) If the eligibility application is granted, the college must issue an eligibility declaration to the eligibility applicant.
- (2) If the application is refused, the college must give the applicant a notice stating the reasons for the refusal.
- (3) If the college considers the applicant has not been convicted of a serious offence, the college must give notice to the applicant stating the following—
  - (a) the college may issue an eligibility declaration only if the applicant has been convicted of a serious offence;
  - (b) the college does not consider the applicant has been convicted of a serious offence and, for that reason, the

- college can not issue an eligibility declaration to the applicant;
- (c) that, if the applicant is not an excluded person for another reason, the applicant may apply for registration or permission to teach;
  - (d) that the application will not be further dealt with by the college.
- (4) There is no review or appeal under this Act in relation to a decision of the college under this section to refuse to grant an eligibility application.

## **Division 3                      Withdrawal of eligibility application**

### **12H      Withdrawal by notice**

- (1) An eligibility applicant may, by notice, withdraw the applicant's eligibility application at any time before the college—
  - (a) issues an eligibility declaration; or
  - (b) gives the applicant a notice, relating to the application, under section 12G(2) or (3).
- (2) The notice must be—
  - (a) signed by the eligibility applicant; and
  - (b) given to the college.

### **12I      Deemed withdrawal—identity of eligibility applicant not established**

An eligibility applicant is taken to have withdrawn the applicant's eligibility application if—

- (a) the college gives the applicant a notice—
  - (i) asking the applicant to provide, within a reasonable stated time, stated information that the



- 
- college reasonably needs to establish the applicant's identity; and
- (ii) warning the applicant that, if the applicant does not comply with the notice, the applicant's application may be taken to have been withdrawn; and
  - (b) the applicant does not comply with the notice within the stated time; and
  - (c) the college can not establish with certainty the applicant's identity; and
  - (d) the college gives the applicant a notice stating that the applicant is taken to have withdrawn the application.

## **12J Deemed withdrawal—notice not complied with**

An eligibility applicant is taken to have withdrawn the applicant's eligibility application if—

- (a) the college gives the applicant a notice asking the applicant to provide, within a reasonable stated time—
  - (i) stated information, including by way of a submission, about a stated matter that the college reasonably believes is relevant to the application; or
  - (ii) a consent that the college reasonably believes is relevant to the application; and
- (b) the notice includes a warning that, if the applicant does not comply with the notice, the applicant's application may be taken to have been withdrawn; and
- (c) the applicant does not comply with the notice within the stated time; and
- (d) the college gives the applicant a notice stating that the applicant is taken to have withdrawn the application.

### **12K Deemed withdrawal—other circumstances**

An eligibility applicant is taken to have withdrawn the applicant's eligibility application if the applicant—

- (a) is charged with a serious offence; or
- (b) becomes an excluded person.

## **Division 4 Miscellaneous**

### **12L Revocation of decision to refuse eligibility declaration**

- (1) The college may revoke a decision to refuse an eligibility application and issue an eligibility declaration if—
  - (a) the college is satisfied the decision on the application was based on wrong or incomplete information; and
  - (b) based on the correct or complete information, the college decides under section 12F that the college may issue the eligibility declaration.
- (2) The college may exercise the power under subsection (1) on—
  - (a) the college's own initiative; or
  - (b) application by the eligibility applicant whose eligibility application was refused.

### **12M Automatic expiry of eligibility declaration**

- (1) This section applies to an eligibility declaration if—
  - (a) the holder of the declaration is not an approved teacher; and
  - (b) after the declaration is issued, the holder—
    - (i) is charged with a serious offence; or
    - (ii) becomes an excluded person.
- (2) This section also applies to an eligibility declaration if—
  - (a) the holder of the declaration is an approved teacher; and

- (b) after the declaration is issued, the holder becomes an excluded person.
- (3) The eligibility declaration expires on the day the holder is charged with the offence or becomes an excluded person.

## **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.

*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; and
- (c) be accompanied by the following—
- (i) for an applicant who is the holder of a positive notice under the Working with Children Act—
    - (A) if there is no police information about the applicant—the employment-screening fee; or
    - (B) if there is police information about the applicant—the criminal history check fee;
  - (ii) for another applicant—the criminal history check fee.
- (3) Also, the application must comply with any other requirements prescribed under a regulation.
- (4) The approved form may require disclosure of police information about the person.
- (5) If the approved form requires the disclosure of police information about the person, 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.
- (7) Subsection (8) applies if—
- (a) the person is the holder of a positive notice under the Working with Children Act; and

- 
- (b) the application was accompanied by the employment-screening fee and not the criminal history check fee; and
  - (c) before the application is decided, the college—
    - (i) is given advice by the chief executive (employment screening) under section 15D(2)(c); or
    - (ii) otherwise becomes aware there is police information about the person.
  - (8) The college may—
    - (a) by notice ask the person to pay the criminal history check fee; and
    - (b) defer deciding the application until the criminal history check fee is paid.
  - (9) For subsection (8), it is immaterial whether or not there was police information about the person when the application was made.
  - (10) In this section—

*employment-screening fee* means the fee prescribed by regulation under the Working with Children Act for obtaining information from the chief executive (employment screening) under section 15D.

## 15 Obtaining police information about applicant

- (1) The college must ask the commissioner of police for a written report containing details of the police information, if any, existing in relation to an applicant for registration or permission to teach.
- (2) Also, the college may ask the commissioner of police for the following information about the applicant—
  - (a) a brief description of the circumstances of a conviction or charge, for an offence, mentioned in the applicant's criminal history;

- (b) information about any investigation relating to the possible commission of a serious offence by the applicant.
- (3) For subsections (1) and (2), the college's request may include the following information—
- (a) the applicant's name and any other name the college believes the applicant may use or have used;
  - (b) the applicant's gender and date and place of birth;
  - (c) the applicant's address.
- (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.

- 
- (6A) If the commissioner of police gives a written report in response to a request under subsection (1) about a person who is or has been a relevant excluded person, the report must include the following information—
- (a) that the person is or has been a relevant excluded person;
  - (b) if the person is or has been subject to an offender prohibition order—
    - (i) a brief description of the conduct that gave rise to the order; and
    - (ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or a final offender prohibition order;
  - (c) if the person is or has been subject to an offender prohibition disqualification order—the duration and details of the disqualification order.
- (6B) If the commissioner of police gives a written report in response to a request under subsection (1) about a person who is or has been named as the respondent for an application for an offender prohibition order, or the subject of an application for an offender prohibition disqualification order, and the order was not made, the report must include the following information—
- (a) that the person is or has been named as the respondent for an application for an offender prohibition order, or the subject of an application for an offender prohibition disqualification order, and the order was not made;
  - (b) the reasons why the application was made;
  - (c) the reasons why the order was not made;
  - (d) if the application was for an offender prohibition order and the magistrate or court hearing the application decided not to make an offender prohibition disqualification order for the person—the reasons why

the offender prohibition disqualification order was not made.

- (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), (2), (6A) or (6B).
- (8) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner of police may disclose information to which that part applies to the college for complying with a request under subsection (1) or (2).
- (9) This section does not apply if—
  - (a) the college—
    - (i) has, under section 15D, been advised that the applicant is the holder of a positive notice under the Working with Children Act whose positive notice has not been suspended under that Act; and
    - (ii) has not, under section 15D, been advised that the college may need to have regard to the matters mentioned in section 11(1) for deciding whether the applicant is suitable to teach; and
  - (b) having regard to advice given to the college under section 15D and any other information about the applicant the college is aware of, the college is reasonably satisfied that there is no police information in relation to the applicant.

### **15AA Obtaining other information from commissioner of police**

- (1) This section applies if the college—
  - (a) becomes aware that an applicant for registration or permission to teach has been charged with or convicted of an offence; and
  - (b) reasonably believes information about the offence—
    - (i) may help the college in deciding whether the applicant is suitable to teach; and



- (ii) is not, or is not likely to be, in the possession of control of an entity, other than the commissioner of police, from whom the college may request the information.
- (2) The college may, by notice, ask the commissioner of police for the following—
  - (a) a copy or written summary of evidentiary material about the offence;
  - (b) if a charge for the offence was not proceeded with—a written summary of the reasons why the charge was not proceeded with.
- (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.
- (4) The commissioner of police may comply with a request under subsection (2) if the commissioner reasonably believes—
  - (a) the statement, copy or summary may help the college in deciding whether the applicant is suitable to teach; and
  - (b) the statement, copy or summary is not, or is not likely to be, in the possession or control of another entity from whom the college may request the information.
- (5) Without limiting subsection (4), the commissioner of police must not give the college a copy or written summary of evidentiary material about the offence that relates only to a person other than the applicant.
- (6) The commissioner of police must not give information, or a document containing information, to the college under this section if the commissioner is reasonably satisfied that giving the information may do any of the following—
  - (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;

[s 15A]

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- (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
- (c) endanger a person's life or physical safety;
- (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
- (e) prejudice a prosecution or another matter before a court.

*Note—*

See section 283 for restrictions on disclosing or giving access to information or documents obtained under this Act.

## **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.

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**15B Obtaining information from director of public prosecutions**

- (1) If the college becomes aware that an applicant for registration or permission to teach has been charged with or convicted of an offence, the college may, by notice, ask the director of public prosecutions for the following—
  - (a) a written statement briefly describing the circumstances of a charge or conviction for the offence;
  - (b) a copy or written summary of evidentiary material about the offence;
  - (c) if a charge for the offence was not proceeded with—a written summary of the reasons why the charge was not proceeded with.
- (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.
- (3) The director of public prosecutions may comply with a request under subsection (1) if the director reasonably believes the statement, copy or summary may help the college in deciding whether the applicant is suitable to teach.
- (4) Without limiting subsection (3), the director of public prosecutions must not give the college a copy or written summary of evidentiary material about the offence that relates only to a person other than the applicant.
- (5) The director of public prosecutions must not give information, or a document containing information, to the college under this section if the director is reasonably satisfied that giving the information may do any of the following—
  - (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;

[s 15C]

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- (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
  - (c) endanger a person's life or physical safety;
  - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
  - (e) prejudice a prosecution or another matter before a court.
- (6) The giving of information, or a document containing information, under this section by the director of public prosecutions is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

*Note—*

See section 283 for restrictions on disclosing or giving access to information or documents obtained under this Act.

- (7) Without limiting subsection (6), this section applies despite the *Director of Public Prosecutions Act 1984*, section 24A.

### **15C Obtaining information from chief executive (corrective services)**

- (1) The chief executive (corrective services) must give the college notice of each person who is or becomes subject to a sexual offender order.
- (2) The notice must state the following—
  - (a) the person's name;
  - (b) that the person is subject to a sexual offender order;
  - (c) any other information the chief executive (corrective services) reasonably considers is necessary for the college to perform a function or exercise a power under this chapter.

- (3) The chief executive (corrective services) and the college may enter into a written arrangement by which notices are given under subsection (1).
- (4) Without limiting subsection (3), the arrangement may provide for giving the notices electronically.
- (5) However, if notices under subsection (1) are to be given electronically and, under an Act, there is a limitation on who may access the information mentioned in the notices or the purposes for which that information may be used, the arrangement must provide for the limitation.
- (6) The disclosure of information by the chief executive (corrective services) under this section is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

*Note—*

See section 283 for restrictions on disclosing or giving access to information or documents obtained under this Act.

- (7) In this section—

*chief executive (corrective services)* means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

## **15D Obtaining information from chief executive (employment screening)**

- (1) This section applies if an applicant for registration or permission to teach claims to be the holder of a positive notice under the Working with Children Act.
- (2) The college may ask the chief executive (employment screening) to advise the college about—
  - (a) whether or not the applicant is the holder of a positive notice under the Working with Children Act; and
  - (b) whether or not the applicant's positive notice is suspended under the Working with Children Act; and

- (c) if the applicant is the holder of a positive notice under that Act that is not suspended—whether the college may need to have regard to the matters mentioned in section 11(1) for deciding whether the applicant is suitable to teach.
- (3) For subsection (2), the college’s request may include the following information—
  - (a) the person’s name and any other name that the college believes the person may use or may have used;
  - (b) the person’s gender and date and place of birth;
  - (c) the person’s address;
  - (d) any number or date given by the person about the positive notice the person holds or claims to hold.
- (4) The chief executive (employment screening) must comply with the request.
- (5) However—
  - (a) the chief executive (employment screening) may give advice under subsection (2)(c) only if he or she is aware of police information about the person; and
  - (b) if paragraph (a) applies, the advice must be that the college may need to have regard to the matters mentioned in section 11(1) for deciding whether the applicant is suitable to teach.
- (6) If the chief executive (employment screening) gives advice under subsection (2)(c) about the applicant, the advice must be accompanied by a notice stating that no adverse inference about the applicant’s police information or suitability to teach may be drawn by the fact the advice was given.

## **16 Requirement to advise applicant of police information received**

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

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- (2) Before using the information in deciding whether the person is suitable to teach, the college must—
    - (a) disclose the information to the applicant; and
    - (b) allow the applicant a reasonable opportunity to make representations to the college about the information.

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

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

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

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

- (a) the college gives the applicant a notice under section 17(1); and
- (b) either—
  - (i) the applicant does not give the college the information or document required within the time required under the notice or an extension of time granted by the college; or
  - (ii) the applicant does not verify by statutory declaration any information required under the notice to be verified by statutory declaration.

## **19 College may use documents or information to verify application**

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

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

## **20 How college may decide application**

- (1) The college must consider an application for registration or permission to teach and—
  - (a) do any of the following—
    - (i) for an application for full registration—grant the applicant full or provisional registration, with or without conditions;
    - (ii) for an application for provisional registration—grant the applicant provisional registration, with or without conditions;
    - (iii) for an application for permission to teach—grant the applicant permission to teach, with or without conditions; or



- 
- (b) refuse to grant the applicant registration or permission to teach.
- (2) However, the college may grant the applicant registration or permission to teach with a condition only if the college is reasonably satisfied the condition is necessary to ensure the applicant meets the eligibility requirements.

*Examples of conditions the college might impose—*

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

## **21 Steps to be taken after college decides application**

- (1) If the college decides to grant the application for registration or permission to teach, as soon as practicable after the decision is made the college must—
- (a) give the applicant an approval notice; and
- (b) issue a certificate of registration or a certificate of permission to teach to the applicant.
- (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 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.

## **Division 2                      Application for full registration by holder of provisional registration**

### **22            Application by holder of provisional registration**

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

### **23            Requirements for application**

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

### **24            How college may decide application**

- (1) The college must consider the application and—
  - (a) grant the applicant full registration, with or without conditions; or
  - (b) refuse to grant the applicant full registration.

- (2) The college may grant the application only if the college is reasonably satisfied—
  - (a) if the applicant’s provisional registration is subject to 1 or more conditions—the applicant has fulfilled all of the conditions; and
  - (b) the applicant meets the professional practice requirements for full registration.
- (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 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.

## **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
  - (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.

### **25D Definition for div 1**

In this division—

*previously-provided police information*, for a person who applies, under section 28, for renewal of full registration or permission to teach, means information that—

- (a) relates to the person; and
- (b) was given to the college under section 15 or 15A before the person applied for the renewal.

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

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

#### **26**      **Period and renewal of full registration**

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

*Example—*

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

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

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

- (1) The period of a permission to teach is the period stated in the certificate of permission to teach issued to the holder of the permission.

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

## **28 Application for renewal of full registration or permission to teach**

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

- (ii) the annual fee;
  - (iii) if the application is for renewal of permission to teach—the fee mentioned in section 14(2)(c).
- (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 police information.
- (5) If the approved form requires the disclosure of the person's police information, 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.
- (7) Section 14(7) to (9) applies in relation to the application as if a reference in the section to the application were a reference to an application under this section.

## **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



- 
- (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) For deciding the person's application for renewal 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.
- (4) However, section 16 applies in relation to previously-provided police information for the person only if—
- (a) the college proposes to make a decision under section 32(1)—
- (i) to renew the person's registration with conditions; or
- (ii) to refuse to renew the person's registration; and
- (b) the previously-provided police information is relevant to the decision.
- (5) 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—
  - (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.
  - (4) However, section 16 applies in relation to previously-provided police information for the person only if—
    - (a) the college proposes to make a decision under section 32(1)—
      - (i) to renew the person's permission to teach with conditions; or
      - (ii) to refuse to renew the person's permission to teach; and
    - (b) the previously-provided police information is relevant to the decision.

## **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.

*Note—*

For requirements relating to particular proposed decisions under this subsection to which previously-provided police information for an applicant is relevant—see sections 29(4) and 31(4).

- (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).
- (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.
- (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.

## **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 a certificate of registration to the holder.
- (4) The period of provisional registration may be extended under this section only once.

## 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 police information.
- (3) If the approved form requires the disclosure of the person's police information, 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.

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### **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 practice and conduct body.

- (2) The person may make a written application to the college asking for the condition to be reviewed and amended or cancelled.

#### **40 Review of condition by college**

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

#### **41 Amendment or imposition of conditions following a review**

- (1) This section applies if the college reviews a condition of a person's registration or permission to teach under section 40.
- (2) The college may decide to—
  - (a) impose a new condition on the person's registration or permission to teach, if the college is reasonably satisfied the condition is necessary to ensure the person meets the eligibility requirements; or
  - (b) amend the reviewed condition other than under section 42(1); or
  - (c) refuse to amend the reviewed condition as requested by the holder.
- (3) If the college decides to do a thing mentioned in subsection (2), as soon as practicable after making the decision the college must give the person an information notice about the decision.



- (4) The decision takes effect on the day the information notice is given to the person or, if the notice states a later day of effect, the stated day of effect.

## **42 Non-contentious amendment of conditions**

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

## **43 Cancellation of conditions**

- (1) The college may cancel a condition imposed on a person's registration or permission to teach if the college is reasonably satisfied the condition has been fulfilled or is no longer necessary for the person to meet the eligibility requirements.
- (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 notice under section 41(3), 42(2) or 43(3).

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

#### **45 Application of div 2**

This division applies in relation to a person who holds one of the following that is subject to a condition (a *relevant condition*), other than a condition imposed under a practice and conduct order or a voluntary practice and conduct agreement—

- (a) full registration;
- (b) provisional registration;
- (c) permission to teach.

**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, 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.
- (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



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*Note—*

See also section 343 (Effect of serious offence charge before relevant commencement).

- (2) This section also applies if an approved teacher is or becomes a relevant excluded person because the teacher is or becomes subject to a temporary offender prohibition order or interim sexual offender order.
- (3) The college must, immediately after it becomes aware of the charge or order, suspend the teacher's registration or permission to teach.

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

The college may suspend an approved teacher's registration or permission to teach if the college reasonably believes the teacher poses an unacceptable risk of harm to 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 suspension and the evidence or other material on which the suspension 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—

[s 51]

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- (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 QCAT will review the continuation of the suspension to decide whether the teacher poses an unacceptable risk of harm to children;
  - (d) that if QCAT continues the suspension, the college will—
    - (i) authorise an investigation under section 98; or
    - (ii) refer a practice and conduct matter to a practice and conduct body, under section 97, about whether a ground for disciplinary action against the teacher is established.
- (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, 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;
  - (c) if the college authorises an investigation under section 98 of the matter giving rise to a suspension under section 49—
    - (i) the investigator's report includes a finding that the matter does not raise a ground for disciplinary action against the approved teacher; and
    - (ii) the college is reasonably satisfied there is no ground for disciplinary action against the approved teacher.

## **Division 2                      Review of continuation of suspension**

### **53                      Requirement to decide whether to continue suspension under s 48 or 49**

- (1) QCAT must decide whether to continue the suspension of an approved teacher under section 48 or 49.
- (2) The matter is to be decided in QCAT's original jurisdiction.
- (3) QCAT must decide to continue the suspension unless satisfied—
  - (a) if the decision is about the suspension of an approved teacher under section 48—the matter is an exceptional case in which the best interests of children would not be harmed if the suspension were ended; or
  - (b) if the decision is about the suspension of an approved teacher under section 49—the teacher does not pose an unacceptable risk of harm to children.

**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—
  - (a) if the notice relates to the review of the suspension of the approved teacher under section 48—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; or
  - (b) if the notice relates to the review of the suspension of the approved teacher under section 49—the teacher does not pose an unacceptable risk of harm to children.
- (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—
  - (a) if the review is of the suspension of an approved teacher under section 48—whether it is an exceptional case in which the best interests of children would not be harmed if the suspension were ended; or
  - (b) if the review is of the suspension of an approved teacher under section 49—whether the teacher does not pose an unacceptable risk of harm to children.
- (2) QCAT must order the suspension be ended if—
  - (a) if the review is of the suspension of an approved teacher under section 48—QCAT is satisfied it is an exceptional case; or



- 
- (b) if the review is of the suspension of an approved teacher under section 49—QCAT is satisfied the teacher does not pose an unacceptable risk of harm to children.
  - (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 or that the teacher poses an unacceptable risk to children—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.

### **55A Requirement for college to refer practice and conduct matter or authorise investigation**

If QCAT continues the suspension of the approved teacher under section 49, the college must, as soon as practicable—

- (a) if the college reasonably believes the matter forming the basis of the suspension is a ground for disciplinary action against the approved teacher—refer a practice and conduct matter to the relevant practice and conduct body under section 97; or
- (b) otherwise—authorise an investigation of the matter forming the basis of the suspension under section 98.

## **Division 3                      Cancellation**

### **56            Cancellation in particular circumstances**

- (1) This section applies if, after the relevant commencement, an approved teacher—
  - (a) is convicted of a serious offence; or
  - (b) becomes a relevant excluded person.

*Note—*

See also section 344 (Effect of serious offence conviction before relevant commencement).

- (2) The college must, as soon as practicable after it becomes aware of a matter mentioned in subsection (1), cancel the teacher's registration or permission to teach.
- (3) The college must immediately give notice to the teacher of the cancellation.
- (4) The notice must state that—
  - (a) there is no appeal under this Act or the QCAT Act in relation to the cancellation of the teacher's registration or permission to teach; and
  - (b) unless subsection (c) applies, the teacher can never be granted registration or permission to teach; and
  - (c) the teacher can apply for registration or permission to teach if the cancellation of the teacher's registration or permission to teach was under this section and any of the following apply in relation to the teacher—
    - (i) the conviction of the teacher for the serious offence is overturned on appeal;
    - (ii) the decision or order of the court resulting in the teacher becoming a relevant excluded person—
      - (A) is overturned on appeal; and
      - (B) was not made in relation to a conviction for a serious offence;

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- (iii) an eligibility declaration is issued to the teacher under part 1A.
  - (5) A copy of the notice must 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 the cancellation under this section of 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 for the serious offence;
    - (ii) the decision or order of the court resulting in the teacher becoming a relevant excluded person.
- (2) The cancellation remains in effect during the appeal.
- (3) The person is no longer an excluded person in relation to the cancellation if—
  - (a) the conviction is overturned on appeal; or
  - (b) the decision or order—
    - (i) is overturned on appeal; and
    - (ii) was not made in relation to a conviction for a serious offence.

## **Part 7**

### **Surrender of registration or permission to teach**

#### **59 Surrender of registration or permission to teach**

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

- (a) returning to the college the teacher's certificate of registration or certificate of permission to teach; 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.

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**61 Form of certificate of permission to teach**

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

**63 Replacing certificate of registration or certificate of permission to teach**

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

**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 the teacher's certificate of registration or permission to teach to the college within 14 days after receiving notice of the suspension or cancellation.

Maximum penalty—20 penalty units.

## Part 9 Miscellaneous provisions

### 65 College's power to obtain police information 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 containing details of the police information, if any, existing in relation to the teacher; or
    - (ii) a brief description of the circumstances of a conviction or charge, for an offence, mentioned in the applicant's criminal history; or
    - (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.

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- (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**

- (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.

*Note—*

See also section 314 (Existing registrations).

- (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
  - (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 2A Certification of teachers

### Part 1 Obtaining certification

#### 67A Who may apply for certification

- (1) A teacher may apply (the *certification application*) to the college for certification as—
  - (a) a highly accomplished teacher; or
  - (b) a lead teacher.
- (2) However, the teacher may make the certification application only if the teacher—
  - (a) is an Australian citizen or permanent resident; and
  - (b) holds full registration; and
  - (c) is employed by an employing authority, prescribed by regulation, for a prescribed school.



(3) In this section—

*permanent resident* means the holder of a permanent visa within the meaning of the *Migration Act 1958* (Cwlth), section 30(1).

## **67B Requirements for certification applications**

The certification application must—

- (a) be in the approved form; and
- (b) be accompanied by the fee prescribed by regulation; and
- (c) comply with any other requirements prescribed by regulation.

## **67C Stages of assessment process**

- (1) The assessment process for the certification application involves—
  - (a) a first stage (*assessment stage 1*) during which a preliminary assessment of the application is carried out; and
  - (b) a second stage (*assessment stage 2*) during which an assessment of the applicant's teaching practice is carried out.
- (2) However, if the college decides under section 67D that the certification application may not proceed to assessment stage 2, the assessment process for the application ends.

*Note—*

See also section 67F(3).

- (3) A regulation may prescribe requirements or procedures for assessment stage 1 or assessment stage 2.

### **67D Decision after assessment stage 1**

- (1) As soon as practicable after carrying out assessment stage 1, the college must decide whether the certification application may proceed to assessment stage 2.
- (2) The college may decide that the certification application may proceed to assessment stage 2 only if satisfied the applicant's abilities, experience, knowledge and skills meet the requirements stated in the professional standards for the application to proceed to assessment stage 2.

### **67E Steps after making decision under s 67D**

- (1) As soon as practicable after making a decision under section 67D, the college must give the applicant—
  - (a) notice of the decision; and
  - (b) a report about the outcome of assessment stage 1.
- (2) If the decision is that the certification application may not proceed to assessment stage 2, the notice must be an information notice for the decision.

### **67F Notice about intention to proceed to assessment stage 2**

- (1) This section applies if the college decides that the certification application may proceed to assessment stage 2.
- (2) The applicant may give the college notice that the applicant—
  - (a) wants the certification application to proceed to assessment stage 2; or
  - (b) does not want the certification application to proceed to assessment stage 2.
- (3) Assessment stage 2 is carried out for the certification application only if—
  - (a) the applicant gives the college notice under subsection (2)(a); and

- 
- (b) the notice is accompanied by the fee prescribed by regulation.

### **67G Decision after assessment stage 2**

- (1) As soon as practicable after carrying out assessment stage 2, the college must decide—
  - (a) for an application for certification as a highly accomplished teacher—to certify, or refuse to certify, the applicant as a highly accomplished teacher; or
  - (b) for an application for certification as a lead teacher—to certify, or refuse to certify, the applicant as a lead teacher.
- (2) The college may decide to certify the applicant as a highly accomplished teacher or lead teacher only if satisfied the applicant has the abilities, experience, knowledge and skills stated in the professional standards for the certification.

### **67H Steps after making decision under s 67G**

- (1) As soon as practicable after making a decision under section 67G, the college must give the applicant—
  - (a) notice of the decision; and
  - (b) a report about the outcome of assessment stage 2.
- (2) If the decision is to certify the applicant as a highly accomplished teacher or lead teacher, the notice must state the day the certification takes effect.
- (3) If the decision is to refuse to certify the applicant as a highly accomplished teacher or lead teacher, the notice must be an information notice for the decision.

### **67I Duration of certification**

A teacher's certification under this part as a highly accomplished teacher or lead teacher—

- (a) takes effect on the day stated under section 67H(2); and
- (b) continues in force for a period of 5 years.

## Part 2                      **Renewal of certification**

### **67J    Who may apply for renewal of certification**

- (1) This section applies to a teacher who—
  - (a) is certified under part 1 as a highly accomplished teacher or lead teacher; or
  - (b) is certified by a certifying entity as a highly accomplished teacher or lead teacher.
- (2) The teacher may apply (the *renewal application*) to the college for renewal of the certification.
- (3) However, the renewal application may be made only if the teacher—
  - (a) holds full registration; and
  - (b) is employed by an employing authority, prescribed by regulation, for a prescribed school.
- (4) The renewal application must be made at least 6 months before the certification stops having effect.
- (5) However, the college may accept a renewal application that is not made at least 6 months before the certification stops having effect if—
  - (a) the application is made at least 4 months before the certification stops having effect; and
  - (b) the college is reasonably satisfied exceptional circumstances exist in relation to the making of the application.

### **67K    Requirements for renewal applications**

The renewal application must—

- (a) be in the approved form; and
- (b) be accompanied by the fee prescribed by regulation; and
- (c) comply with any other requirements prescribed by regulation.

### **67L Assessment process for renewal applications**

- (1) The assessment process for the renewal application involves an assessment of whether the applicant continues to have the abilities, experience, knowledge and skills stated in the professional standards for the certification.
- (2) A regulation may prescribe requirements or procedures for carrying out the assessment.

### **67M Decision in relation to renewal application**

- (1) As soon as practicable after carrying out the assessment under section 67L, the college must decide—
  - (a) to renew the applicant's certification; or
  - (b) to refuse to renew the applicant's certification.
- (2) The college may decide to renew the certification only if satisfied the applicant continues to have the abilities, experience, knowledge and skills stated in the professional standards for the certification.
- (3) If the decision is to renew the certification, the certification is renewed for a period of 5 years starting on the day stated under section 67N(2).
- (4) However, if the certification was given by a certifying entity, the certification is renewed for this Act only.

### **67N Steps after making decision**

- (1) As soon as practicable after making a decision under section 67M, the college must give the applicant notice of the decision.

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- (2) If the decision is to renew the certification, the notice must state the day the renewal takes effect.
- (3) If the decision is to refuse to renew the certification, the notice must be an information notice for the decision.

## **Part 3 Information requests**

### **67O Application of part**

This part applies in relation to—

- (a) a certification application; or
- (b) a renewal application.

### **67P College may make information request**

- (1) Before deciding the application, the college may, by notice given to the applicant (an *information request*), ask the applicant to give the college, within a stated reasonable period of at least 14 days, further information or a document the college reasonably requires to decide the application.
- (2) The applicant may, by notice given to the college before the information request period ends, ask the college to extend the period.
- (3) The college must not refuse a reasonable request to extend the information request period.
- (4) To remove any doubt, it is declared that the college may give the applicant more than 1 information request.

### **67Q Failure to comply with information request**

The applicant is taken to have withdrawn the application if—

- (a) the college gives the applicant an information request; and

- (b) the applicant does not comply with the information request within the information request period.

## **Part 4                      Records about certification**

### **67R    College must keep records about certification**

- (1) The college must keep a record of—
  - (a) teachers whom the college has certified under part 1 as a highly accomplished teacher or lead teacher; and
  - (b) teachers whose certification has been renewed under part 2.
- (2) The record must contain the following details for each teacher—
  - (a) the name of the teacher;
  - (b) the day the teacher's certification took effect;
  - (c) whether the teacher is certified as a highly accomplished teacher or lead teacher;
  - (d) the day the teacher's certification ends.

## **Chapter 3            Requirements for approved teachers and other persons**

### **Part 1                Giving information to the college**

#### **Division 1            Approved teachers**

##### **68            Changes in police information**

- (1) If there is a change in an approved teacher's police information, the teacher must immediately disclose to the college the details of the change.
- (2) For an approved teacher in relation to whom police information does not exist, there is taken to be a change in the teacher's police information if the teacher acquires police information.

##### **69            Requirements for disclosure of changes in police information**

- (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.
- (3) The information disclosed by the approved teacher about the teacher being or becoming a relevant excluded person must include the following information—
- (a) that the teacher is or has been a relevant excluded person;
  - (b) if the teacher is or has been subject to an offender prohibition order—
    - (i) a brief description of the conduct that gave rise to the order; and
    - (ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or final offender prohibition order;
  - (c) if the teacher is or has been subject to an offender prohibition disqualification order—the duration and details of the disqualification order.
- (4) The information disclosed by the approved teacher about the teacher being named as the respondent for an application for an offender prohibition order that was not made, or becoming the subject of an application for an offender prohibition disqualification order that was not made, must include the following information—
- (a) that the teacher is or has been named as the respondent for an application for an offender prohibition order, or the subject of an application for an offender prohibition disqualification order, and the order was not made;
  - (b) the reasons why the application was made;
  - (c) the reasons why the order was not made;
  - (d) if the application was for an offender prohibition order and the magistrate or court hearing the application decided not to make an offender prohibition disqualification order for the teacher—the reasons why the offender prohibition disqualification order was not made.

## **70 Failure to disclose changes in police information**

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 police information, of a type prescribed under a regulation.

## **Division 2 Registered teachers**

### **72 Disclosure about particular changes in teaching status in another State**

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

Maximum penalty—40 penalty units.

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

## Division 3                      Other persons

### 73            Definition for div 3

In this division—

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

### 74            Meaning of *prescribed school*

- (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—
    - (i) the national curriculum developed and administered by the Australian Curriculum, Assessment and Reporting Authority under the *Australian Curriculum, Assessment and Reporting Authority Act 2008* (Cwlth); or
    - (ii) a syllabus developed, revised or purchased for a senior subject or P–10 subject by the Queensland Curriculum and Assessment Authority under the *Education (Queensland Curriculum and Assessment Authority) Act 2014*.
- (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 police information**

- (1) This section applies if—
  - (a) police information about a person changes because of any of the following (the *relevant event*)—
    - (i) the person's criminal history changes;
    - (ii) the person becomes, or is no longer, a relevant excluded person;
    - (iii) the person is named as the respondent for an application for an offender prohibition order;
    - (iv) the person becomes subject to an application for an offender prohibition disqualification order; and
  - (b) the commissioner of police reasonably suspects the person—
    - (i) is an approved teacher; or
    - (ii) was an approved teacher when the act or omission leading to the relevant event happened.
- (2) The commissioner of police must notify the college of the relevant event.
- (3) The notice must state the following—
  - (a) the person's personal information;
  - (b) if the person's criminal history has changed—
    - (i) the offence the person is charged with or convicted of; and
    - (ii) particulars of the offence; and
    - (iii) the date of the charge or conviction;

- (c) if the person has become a relevant excluded person—
  - (i) that the person has become a relevant excluded person; and
  - (ii) if the person has become subject to an offender prohibition order—
    - (A) a brief description of the conduct that gave rise to the order; and
    - (B) the duration and details of the order, including whether it is or was a temporary offender prohibition order or final offender prohibition order; and
  - (iii) if the person has become subject to an offender prohibition disqualification order—the duration and details of the disqualification order;
- (d) if the person is named as the respondent for an application for an offender prohibition order, or becomes subject to an application for an offender prohibition disqualification order—
  - (i) the reasons why the application was made; and
  - (ii) if the magistrate or court hearing the application for the order decides not to make the order—the reasons why the order is not made; and
  - (iii) if the application was for an offender prohibition order and the magistrate or court hearing the application decides not to make an offender prohibition disqualification order for the person—the reasons why the offender prohibition disqualification order is not made.
- (4) The college may confirm the suspicions of the commissioner of police under subsection (1).
- (5) The commissioner of police's obligation to comply with this section applies only to information in the possession of the commissioner or to which the commissioner has access.

- (6) 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).
- (7) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the giving of a notification under subsection (2).
- (8) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner of police may disclose information to which that part applies to the college under subsection (2).
- (9) In this section—  
*personal information*, for a person, means the following—
  - (a) the person's name and address, or any other name the commissioner of police believes that the person may use or may have used;
  - (b) the person's gender and place and date of birth.

## **76 Requirement for employing authority to notify college about particular allegations**

- (1) This section applies if the employing authority for a prescribed school deals with 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 starting to deal with the allegation, give notice to the college of that fact.

Maximum penalty—40 penalty units.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 228, to have also committed the offence.

- (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 employing authority started dealing with the allegation;
  - (d) the allegation, particulars of the allegation and any other relevant information;
  - (e) details about what actions the employing authority has taken to deal with the allegation.
- (4) For subsection (1), an employing authority deals with an allegation if the employing authority takes action in relation to the allegation, including by—
- (a) investigating, inquiring into, or examining the allegation; or
  - (b) referring the allegation to another entity to investigate, inquire into, examine or otherwise deal with.

## **77 Requirement for employing authority to notify college about outcome of particular allegations**

- (1) This section applies if the employing authority for a prescribed school starts to deal with an allegation mentioned in section 76(1).
- (2) The employing authority must, as soon as practicable after the employing authority stops dealing with the allegation for any reason, give notice to the college of the outcome of the employing authority's dealing with the allegation.

Maximum penalty—40 penalty units.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 228, to have also committed the offence.

- (3) The notice must include the following—

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- (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 employing authority stopped dealing with the allegation;
- (d) the allegation, particulars of the allegation and any other relevant information;
- (e) the findings made by the employing authority;
- (f) the outcome of the employing authority's dealing with the allegation and any reasons for the outcome;
- (g) if relevant, the employing authority's decision and the reasons for the authority's decision.

## **78 Requirement for employing authority to notify college about certain dismissals**

- (1) This section applies if—
  - (a) an employing authority for a prescribed school dismisses a relevant teacher of the prescribed school in circumstances that, in the opinion of the employing authority, call into question the teacher's competency to be employed as a teacher; and
  - (b) a notice is not required to be given under sections 76 and 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.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 228, to have also committed the offence.

- (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;
  - (e) the way in which the prosecution process ended under subsection (5).
- (5) For subsection (4), a prosecution process ends if—
- (a) the person is acquitted; or
  - (b) there is a mistrial; or
  - (c) the prosecuting authority decides not to continue the prosecution; or

*Examples of how paragraph (c) might apply—*

- the prosecuting authority offers no evidence and the person is not committed for trial
  - a no true bill is presented to a court
  - a nolle prosequi is presented to a court
- (d) the prosecution process has otherwise ended.
- (6) A prosecuting authority must give a notice under subsection (3) or (4) even though a notice was given under subsection (2).

## **81 Protection from liability for employing authorities giving required notices**

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

## **Part 2 General offences**

### **82 Only approved teachers may be employed as teachers**

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

Maximum penalty—200 penalty units.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 228, to have also committed the offence.

- (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.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 228, to have also committed the offence.

### **83 Requirement to hold registration, or permission to teach, in schools**

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

### **84 Offence to misrepresent nature of registration or permission to teach**

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

## 85 False or misleading information

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

Maximum penalty—50 penalty units.

- (2) For this section—

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

*Examples—*

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

## 86 False, incomplete or misleading documents

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

Maximum penalty—50 penalty units.

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

## Chapter 4      Complaints about teachers

### 87      Making a complaint

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

### 88      College may require further information or statutory declaration

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

### 89      Refusal to deal with complaint

- (1) The college may refuse to deal with a complaint if the college reasonably believes—
  - (a) the complaint, if proved, would not establish a ground for disciplinary action against the person who is the subject of the complaint; or
  - (b) the complaint is trivial, unreasonable or without substance; or
  - (c) the complaint concerns frivolous matter or was made vexatiously; or

- (d) the complaint is based on an allegation that could more appropriately be dealt with by another entity; or
  - (e) the complaint is based on an allegation that has already been adequately dealt with by the college or another entity; or
  - (f) having regard to the length of time that has elapsed since the matter complained of happened, it is not practicable for the college to deal with the complaint.
- (2) Also, the college may refuse to deal with the complaint if the complainant refuses, without a reasonable excuse, to—
- (a) provide further information reasonably required by the college to decide whether to deal with the complaint; or
  - (b) comply with a requirement of the college under section 88(2).
- (3) The college may not refuse to deal with a complaint under subsection (1)(f) if—
- (a) the person who is the subject of the complaint is an approved teacher; and
  - (b) the college reasonably believes the complaint is based on an allegation that, if proved, would establish a ground for suspending or cancelling the person's registration or permission to teach under chapter 2, part 6.
- (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 practice and conduct body 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 Practice and conduct matters

## Part 1 Preliminary

### Division 1 Definitions

## 92 Grounds for disciplinary action

- (1) Each of the following is a *ground for disciplinary action* against a relevant teacher—
  - (b) the relevant teacher has been convicted of an indictable offence that is not a serious offence, or an offence against this Act, except if, in relation to the conviction, the teacher becomes a relevant excluded person;

*Note—*

See section 56 for action that may be taken against an approved teacher who becomes a relevant excluded person.

- (d) both of the following apply—
  - (i) the teacher is incompetent in performing the work of a teacher;



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- (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 person behaves in a way, whether connected with the teaching profession or otherwise, that does not satisfy the standard of behaviour generally expected of a teacher;
  - (i) the teacher fails to comply with a lawful demand made under this Act by the college, an investigator or a practice and conduct body;
  - (j) the teacher contravenes—
    - (i) an order made under this Act by the college or a practice and conduct body; or
    - (ii) a practice and conduct agreement.
- (2) The ground for disciplinary action mentioned in subsection (1)(h) is taken to apply to a relevant teacher whose registration or permission to teach is suspended under section 48 if any of the following applies—
- (a) the teacher has been charged with a serious offence and the charge has been dealt with;

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- (b) the teacher has been charged with a serious offence and the teacher is convicted of an offence other than an indictable offence;
  - (c) the teacher is or becomes subject to a temporary offender prohibition order or interim sexual offender order.
- (3) The object of subsection (2) is to ensure the circumstances of the change are examined by a practice and conduct body.
- (4) Subsection (2) does not limit the application of subsection (1)(h).
- (5) In this section—
- dealt with***, in relation to a charge against a relevant teacher for a serious 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 Practice and conduct matters**

Each of the following is a ***practice and conduct matter***—

- (a) a PC&TC matter;
- (b) a general matter.

### **95 PC&TC matters**

- (1) A matter involving a ground for disciplinary action mentioned in any of paragraphs (b) to (j) of section 92(1) is a ***PC&TC matter*** if—
- (a) both of the following apply—
    - (i) the college reasonably believes, when it starts practice and conduct 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); or
  - (b) the college authorises an investigation of the matter under section 98 and the investigator's report includes a finding that there is 1 or more grounds for disciplinary action against the relevant teacher.
- (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 PC&TC matter.

## Division 2 Starting practice and conduct proceedings

### 96A Meaning of *interstate information* for division

In this division—

*interstate information* does not include information disclosed by a person to the college as required under chapter 3, part 1 even if the information is also disclosed to the college by the commissioner of police or an interstate commissioner.

### 97 Requirement for college to start practice and conduct proceedings

- (1) If the college reasonably believes, other than on the basis of interstate information, that 1 or more grounds for disciplinary action against a relevant teacher exist, the college must refer

the matter to the practice and conduct body stated in subsection (2).

- (2) The practice and conduct body to which the matter must be referred is—
  - (a) for a general matter—QCAT; or
  - (b) for a PC&TC matter—the PC&TC committee.
- (3) However, subsection (1) does not apply to a matter in relation to which the college and the relevant teacher have entered into a practice and conduct agreement.
- (4) If a matter is referred to QCAT—
  - (a) the college must inform QCAT about the grounds for the practice and conduct matter and the facts and circumstances forming the basis for the grounds; and
  - (b) QCAT must conduct a hearing and make decisions about the practice and conduct 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, other than on the basis of interstate information, 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.

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- (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.
- (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 practice and conduct 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 practice and conduct proceedings against the teacher does not prevent a proceeding being taken or continued for the offence.

**Part 2 PC&TC matters dealt with by college**

**100 Application of part**

- (1) This part applies if, in relation to a PC&TC matter, the college and the relevant teacher agree—
  - (a) a ground for disciplinary action against the teacher exists; and

- (b) on the disciplinary action to be taken against the teacher in relation to the matter.
- (2) However, this part does not apply if the college reasonably believes the relevant teacher may have an impairment that may have caused, or contributed to, behaviour of the relevant teacher that is the basis for the practice and conduct proceedings.

### **101 College may enter into practice and conduct agreement with relevant teacher**

- (1) The college may, if it considers it appropriate in the circumstances and with the written consent of the relevant teacher, enter into an agreement (a *practice and conduct agreement*) with the teacher to do 1 or more of the following—
- (a) not take further action against the teacher;
  - (b) issue a warning or reprimand to the teacher;
  - (c) impose conditions on the teacher's registration or permission to teach.
- (2) In deciding whether it would be appropriate to enter into a practice and conduct agreement, the college 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.
- (3) As soon as practicable after making its decision, the college must give the teacher notice of the decision and the reasons for it.
- (4) A practice and conduct agreement is binding on the college and the relevant teacher.

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## **Part 3**                      **General matters and PC&TC matters dealt with by QCAT**

### **105     Application of pt 3**

This part applies in relation to—

- (a) a general matter referred to QCAT by the college under section 97; or
- (b) a PC&TC matter referred to QCAT by the PC&TC Committee under chapter 6, part 1.

### **106     QCAT may authorise investigation**

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

### **107     Application of ch 6, pt 2, div 2**

Chapter 6, part 2, division 2, applies to the hearing and making of decisions about the matter by QCAT.

## **Part 4                      PC&TC matters dealt with by                                     PC&TC committee**

### **108      Application of pt 4**

This part applies if—

- (a) the college refers a PC&TC matter to the PC&TC committee under section 97; or
- (b) the college authorises an investigation of a practice and conduct matter under section 98 and the PC&TC committee receives the investigator's report about the matter.

*Note—*

See section 201 (Investigator's report).

### **108A   PC&TC committee may take no further action**

- (1) If, after considering an investigator's report mentioned in section 108(b), the PC&TC committee reasonably believes no ground for disciplinary action against the relevant teacher has been established, the committee may decide to take no further action in relation to the matter.
- (2) If the committee decides to take no further action in relation to the matter, the committee must, as soon as practicable after making its decision, give notice of the decision and the reasons for it to—
  - (a) the teacher; and
  - (b) if the disciplinary matter originated from a complaint—the complainant.

### **109      PC&TC committee may authorise investigation**

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



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**110 Notice to be given to college if PC&TC committee authorises investigation**

If the PC&TC committee authorises an investigation under section 109—

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

**111 Application of ch 6, pt 1, div 2**

Chapter 6, part 1, division 2, applies to the PC&TC committee dealing with the matter.

**111A PC&TC committee may refer matter to QCAT**

- (1) This section applies if the PC&TC committee reasonably believes that, in relation to a matter mentioned in section 108—
  - (a) a ground for disciplinary action against a relevant teacher may exist; and
  - (b) if the ground is established—
    - (i) for an approved teacher—disciplinary action mentioned in section 160(2)(d) to (h) or (j) should be taken against the teacher; or

- (ii) for a former approved teacher—disciplinary action mentioned in section 161(2)(b) or (c) should be taken against the teacher.
- (2) The PC&TC 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 information before it discloses an offence.
- (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 Corruption 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.

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## **Chapter 6      Teacher practice and conduct bodies**

### **Part 1            PC&TC committee**

#### **Division 1       Establishment, membership and functions**

##### **113    Establishment**

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

##### **114    Membership**

- (1) Generally, the PC&TC committee must consist of 3 members of the board, of which—
  - (a) 2 must be registered teachers; and
  - (b) 1 must not be a registered teacher.
- (2) However, for the hearing of a practice and conduct matter involving an impairment of the relevant teacher, the committee must include an additional member who is—
  - (a) a registered health practitioner; and
  - (b) listed on the health practitioner panel.
- (3) The college must appoint 1 of the committee members to be the committee’s chairperson.

##### **115    Functions of PC&TC committee**

- (1) The functions of the PC&TC committee, in relation to a relevant practice and conduct matter, are as follows—
  - (a) to authorise an investigation into the matter;

- (b) to make an order, under division 2, for a relevant teacher to undergo a health assessment;
  - (c) to refer the matter to QCAT with or without—
    - (i) authorising an investigation into the matter; or
    - (ii) hearing the matter;
  - (d) to hear and decide the matter with or without authorising an investigation into the matter.
- (2) In this section—
- relevant practice and conduct matter* means a practice and conduct matter—
- (a) referred to the PC&TC 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 PC&TC committee.

## **Division 2                      Practice and conduct proceedings     of the PC&TC committee**

### **116    PC&TC committee may conduct disciplinary proceedings           by hearing or on correspondence**

- (1) The PC&TC committee may conduct practice and conduct proceedings by hearing or on correspondence.
- (2) However, the proceedings may not be conducted on correspondence if the relevant teacher requires the proceedings be conducted by hearing by giving the committee a notice mentioned in section 118(2)(c)(i).
- (3) Also, if the committee has ordered that the relevant teacher undergo a health assessment under section 119A, the committee must not conduct the proceedings before the committee receives the health assessment report in relation to the assessment.

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### **117 Procedure for hearing by PC&TC committee**

- (1) If the PC&TC committee decides to conduct practice and conduct 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 practice and conduct proceedings by correspondence**

- (1) If the PC&TC committee decides to conduct practice and conduct 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 practice and conduct proceedings originated from a complaint—the complainant.
- (2) The notice must state the following—

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

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## **119A PC&TC committee may require health assessment**

- (1) This section applies if, before or during practice and conduct proceedings—
  - (a) the PC&TC committee reasonably believes—
    - (i) the relevant teacher may have an impairment; and
    - (ii) the impairment may have caused or contributed to behaviour of the relevant teacher that is the basis for the practice and conduct proceedings; and
  - (b) the relevant teacher consents to undergoing a health assessment.
- (2) The committee may, by notice given to the teacher, require the teacher to undergo a health assessment conducted by a registered health practitioner at a reasonable time and place.
- (3) The committee may appoint a registered health practitioner to conduct the assessment only if—
  - (a) the practitioner is included on the health practitioner panel; and
  - (b) the practitioner is not a member of the committee; and
  - (c) the committee is reasonably satisfied the practitioner 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 registered health practitioner appointed by the committee to conduct the assessment;
  - (c) the place where, and the day and time at which, the assessment is to be conducted.
- (5) The relevant teacher must not fail, without reasonable excuse—
  - (a) to attend as required by the notice; and

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- (b) to continue to attend as required by the registered health practitioner conducting the health assessment until excused from further attendance; and
  - (c) to cooperate with the registered health practitioner in the conduct of the health assessment.
- (6) The cost of the assessment must be met by the college.

### **119B Health assessment report**

- (1) A registered health practitioner conducting a health assessment of a relevant teacher must prepare a report about the assessment (a *health assessment report*).
- (2) The health assessment report must include—
  - (a) the registered health practitioner’s findings as to whether the relevant teacher has an impairment; and
  - (b) if the registered health practitioner finds that the relevant teacher has an impairment—
    - (i) the nature, and extent of, the impairment; and
    - (ii) whether the impairment caused, or contributed to, behaviour that is the basis of the practice and conduct proceedings.
- (3) If the registered health practitioner finds that the relevant teacher has an impairment, the health assessment report may also include the practitioner’s assessment of any adverse impact the impairment has, or is likely to have, on the teacher’s ability to practise as a teacher.

### **120 PC&TC committee may require other information**

- (1) For conducting practice and conduct proceedings by correspondence, the PC&TC 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 practice and conduct 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 PC&TC committee to continue practice and conduct 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 PC&TC committee under section 118; or
  - (b) give information as required under section 120.
- (2) The committee may—
- (a) continue the practice and conduct proceedings; and
  - (b) make a decision about whether the ground for disciplinary action is established.

**121A Power of PC&TC committee to continue practice and conduct proceedings in absence of relevant teacher**

At a hearing, a PC&TC committee may proceed in the absence of the relevant teacher the subject of the practice and conduct proceedings if the committee reasonably believes the relevant teacher has been given notice of the hearing.

**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 PC&TC 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 PC&TC 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 PC&TC committee**

- (1) This section applies if, after conducting practice and conduct proceedings by hearing or on correspondence, the PC&TC committee reasonably believes a ground for disciplinary action against the relevant teacher has been established.
- (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—
    - (i) for an approved teacher—disciplinary action mentioned in section 160(2)(d) to (h) or (j) should be taken against the teacher; or
    - (ii) for a former approved teacher—disciplinary action mentioned in section 161(2)(b) or (c) should be taken against the teacher;
  - (c) issue a warning or reprimand to the teacher;
  - (d) impose conditions on, or amend or remove conditions imposed by the committee on, the teacher’s registration or permission to teach;
  - (e) make an order that a particular notation or endorsement about the teacher be entered in the register;
  - (f) 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;
  - (d) if the committee ordered a health assessment of the relevant teacher—the health assessment report, including any recommendations in the report.
- (3A) For subsection (3)(c), the committee may only consider the issue of impairment of the relevant teacher if the committee ordered a health assessment of the teacher in the proceedings.
- (3B) Also, the committee may only make an order, under subsection (2)(d), that the committee considers appropriate because of an impairment of the relevant teacher if—
- (a) a health assessment report about the teacher has been given to the committee in the proceedings; and
  - (b) the health assessment report includes findings that—
    - (i) the relevant teacher has the impairment; and
    - (ii) the impairment caused, or contributed to, behaviour that is the basis of the proceeding.
- (4) As soon as practicable after making its decision, the committee must—
- (a) if it decides to do a thing mentioned in subsection (2)(c), (d), (e) or (f)—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 practice and conduct matter to QCAT—
- (a) the college must inform QCAT about the grounds for the practice and conduct matter and the facts and circumstances forming the basis for the grounds; and
  - (b) QCAT must conduct a hearing and make decisions about the practice and conduct matter referred to QCAT having regard to the information provided by the college.

- (5) Also, if the practice and conduct 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                      Practice and conduct proceedings of QCAT**

### **Division 1                      Constitution of QCAT for practice and conduct proceedings**

#### **124      Constitution of QCAT for practice and conduct proceedings**

- (1) For practice and conduct 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.

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## **125 Presiding member of QCAT**

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

## **Division 2 Practice and conduct proceedings conducted by QCAT**

### **Subdivision 1 Preliminary**

#### **130 Application of div 2**

This division applies to practice and conduct proceedings before QCAT relating to—

- (a) a general matter; or
- (b) a PC&TC matter referred to QCAT by the PC&TC 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 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—
- (a) the relevant teacher may have an impairment; and
  - (b) the impairment may have caused or contributed to behaviour of the relevant teacher that is the basis for the practice and conduct proceedings.
- (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

- (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 practice and conduct 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 practice and conduct 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 practice and conduct body of which QCAT is aware.
- (3) Subsection (2) does not limit the matters QCAT may consider in making its decision.
- (4) In this section—



*former PP&C committee* means the PP&C committee under the Act as in force before the commencement.

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

*practice and conduct body* includes the former Teachers Disciplinary Committee and the former PP&C committee.

**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's registration or permission to teach 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's registration or permission to teach 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 a stated period from the day the order is made or indefinitely;
- Note—*
- See also section 350 (Decision about disciplinary action against approved teacher).
- (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—
    - (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 a stated period from the day the order is made or indefinitely;
- Note—*
- See also section 352 (Decision about disciplinary action against former approved teacher).
- (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 practice and conduct 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 practice and conduct 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 practice and conduct proceedings by college**

- (1) After QCAT makes a decision about practice and conduct 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 practice and conduct 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 practice and conduct 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 practice and conduct proceedings**

### **170      Office to keep record of practice and conduct proceedings**

- (1) The office must keep a record of all practice and conduct proceedings before the PC&TC committee.
- (2) The record must include—
  - (a) details of the decisions made by the PC&TC 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 practice and conduct matter.
- (2) An agreement may be entered into under subsection (1) only if—
  - (a) the relevant teacher to whom the practice and conduct matter relates consents in writing to the employing authority carrying out the investigation; and
  - (b) the conditions on which the investigation is to be carried out require that—
    - (i) the process of the investigation must comply with stated requirements of the college; and
    - (ii) an investigation report must be given to the college within a stated period.
- (3) The employing authority is not an investigator for this Act.

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

#### **173      Functions of investigator**

- (1) An investigator has the functions of carrying out and reporting on the investigation for which the investigator was appointed.
- (2) An investigation may relate to—

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



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## **180 Return of identity card**

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

Maximum penalty—10 penalty units.

# **Part 4 Powers of investigators**

## **Division 1 Power to obtain information**

### **181 Power to require information or attendance**

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

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

### **182 Offences**

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

Maximum penalty—50 penalty units.

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

- (c) answer a question the person is required to answer by the investigator; and
- (d) produce a thing the person is required to produce by the notice.

Maximum penalty—50 penalty units.

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

### **183 Inspection of produced things**

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

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## **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 practice and conduct 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.
- (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.

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## 187 Issue of warrant

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

## 188 Warrants—procedure before entry

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

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

## **Division 4                      Powers after entry**

### **189      General powers after entering places**

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

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- (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 practice and conduct 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 practice and conduct matter—establishing whether a ground for disciplinary action exists; or
    - (b) for another investigation—monitoring and enforcing compliance with this Act.

## 190 Failure to help investigator

- (1) A person required to give reasonable help under section 189(3)(e) must comply with the requirement, unless the person has a reasonable excuse.

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

## **191 Failure to give information**

- (1) A person of whom a requirement is made under section 189(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

## **Division 5 Power to seize evidence**

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

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

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

- (1) This section applies if—
- (a) an investigator is authorised to enter a place under this part only with the consent of the occupier of the place or a warrant; and
  - (b) the investigator enters the place after obtaining the necessary consent or warrant.
- (2) If the investigator enters the place with the occupier's consent, the investigator may seize a thing at the place if—
- (a) the investigator reasonably believes the thing is evidence that is relevant to the investigation being carried out by the investigator; and



- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the investigator enters the place with a warrant, the investigator may seize the evidence for which the warrant was issued.
- (4) The investigator also may seize anything else at the place if the investigator reasonably believes—
  - (a) the thing is evidence that is relevant to the investigation; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.

#### **194 Securing seized things**

Having seized a thing, an investigator may—

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

*Examples of restricting access to a thing—*

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

#### **195 Tampering with seized things**

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

Maximum penalty—50 penalty units.

## **196 Receipt for seized things**

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

## **197 Forfeiture of seized things**

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

- (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

### **198 Dealing with forfeited things**

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

### **199 Return of seized things**

- (1) If a seized thing is not forfeited, the investigator must return it to its owner—
  - (a) at the end of 6 months; or
  - (b) if proceedings involving the thing are started within 6 months, at the end of the proceedings and any appeal from the proceedings.
- (2) Despite subsection (1), unless a thing that has been seized as evidence is forfeited, the investigator must immediately return it to its owner if the investigator stops being satisfied its continued retention as evidence is necessary.

### **200 Access to seized things**

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

## Part 5 General investigation matters

### 201 Investigator's report

- (1) This section applies if an investigation involves a practice and conduct 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—
    - (i) if the report includes a finding that there is no ground for disciplinary action against the relevant teacher—the college; or
    - (ii) otherwise—the PC&TC committee; or
  - (b) for an investigation authorised by the PC&TC committee—the PC&TC committee; or
  - (c) for an investigation authorised by QCAT—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
  - (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.

## **208 Impersonation of investigator**

A person must not pretend to be an investigator.

Maximum penalty—50 penalty units.

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## Chapter 8 Internal and external reviews

### Part 1 Internal reviews

#### Division 1 Preliminary

##### 208A Definitions for part

In this part—

*college decision* means an original decision other than a delegated decision.

*delegated decision* means an original decision made by a person under a power delegated to the person under section 264.

*review decision* means—

- (a) a decision of the review committee under section 210B(4); or
- (b) a decision of the college under section 212(1).

#### Division 2 Internal review process

##### 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.

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- (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.

## **210A Review committee**

- (1) The application must be dealt with by a committee (a *review committee*) established by the college to conduct the review.
- (2) The review committee must consist of at least 3 persons, of whom—
  - (a) 1 is to be appointed by the board as chairperson of the committee; and
  - (b) 1 is to be a board member who is a practising teacher; and
  - (c) 1 is to be a board member who is a representative of an employing authority for a school.
- (3) If the application relates to an original decision about a practice and conduct matter involving an impairment of a relevant teacher, the review committee must also include a registered health practitioner who is listed on the health practitioner panel.
- (4) The review committee may include any other person, whether or not the person is a member of the board.



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- (5) 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.

### **210B Review committee's review of delegated decision**

- (1) This section applies to the review committee for dealing with an application for the review of a delegated decision.
- (2) The review committee must give the applicant a notice stating that the applicant may make oral or written submissions about the delegated decision to the committee within a stated period, of not less than 21 days, after the notice is given (the *submission period*).
- (3) The review committee must conduct the review on—
- (a) the material before the person who made the delegated decision that led to the delegated decision; and
  - (b) the reasons for the delegated decision; and
  - (c) any other relevant material the review committee allows including material in any submissions made before the end of the submission period.
- (4) After reviewing the delegated decision, the review committee must make a decision (a *review decision*) to do any of the following—
- (a) confirm the delegated decision; or
  - (b) amend the delegated decision; or
  - (c) substitute another decision for the delegated decision.
- (5) 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.

## **211 Review committee’s review of college decision**

- (1) This section applies to the review committee for dealing with an application for the review of a college decision.
- (2) 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, or a longer period the committee considers reasonable, after the notice is given (the *submission period*).
- (3) 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.
- (4) 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.
- (5) The college is not required to follow the review committee’s recommendation.

## **212 College’s decision**

- (1) This section applies if the review committee makes a recommendation under section 211(4).

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- (2) After considering the review committee's recommendation, the college must make a further decision (also 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.
  - (3) 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 relevant decision maker for a review decision 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 relevant decision maker must give the applicant a review notice that complies with the QCAT Act, section 157(2).
- (3) If the relevant decision maker does not give the review notice within 60 days after the application is made, the relevant decision maker is taken to have made a review decision confirming the original decision.
- (4) In this section—

*relevant decision maker*, for a review decision, means—

  - (a) for a review decision made under section 210B(4)—the review committee; or

- (b) for a review decision made under section 212(1)—the college.

## **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 practice and conduct proceeding in QCAT; and
- (b) another proceeding under this Act, including other practice and conduct proceedings.

#### **221 Appointments and authority**

It is not necessary to prove—

- (a) the appointment of any of the following persons or entities—
  - (i) the Minister;
  - (ii) the chief executive;
  - (iii) the chairperson or another member of the board;

- (iv) the director;
  - (v) an investigator;
  - (vi) 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;
- (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 officer may be taken to have committed offence**

- (1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—
  - (a) the officer authorised or permitted the corporation's conduct constituting the offence; or
  - (b) the officer was, directly or indirectly, knowingly concerned in the corporation’s conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
  - (a) the liability of the corporation for the offence against the deemed executive liability provision;
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer



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of the corporation, for the offence against the deemed executive liability provision.

(4) In this section—

*deemed executive liability provision* means any of the following provisions—

- section 76(2)
- section 77(2)
- section 78(2)
- section 82(1)
- section 82(2).

## 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 police information 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 or adopting, 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.

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### **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;
  - (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.

### **230B College's functions about certification of teachers**

- (1) The college has the function of administering the process for the certification of teachers under chapter 2A.
- (2) Without limiting subsection (1), the college's functions include the following—
  - (a) deciding certification applications and renewal applications;
  - (b) keeping records in relation to certifications;

- (c) coordinating training for persons involved in the assessment of teachers for certification, or the renewal of certifications, under chapter 2A.
- (3) The college may engage another entity prescribed by regulation to assist the college in performing its functions under this section.

### **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 practice and conduct matters to a practice and conduct committee;
- (e) giving effect to and monitoring compliance with practice and conduct orders;
- (f) dealing with matters under chapter 5, part 2;
- (g) giving effect to and monitoring compliance with practice and conduct agreements;
- (h) developing and applying codes of practice about the professional conduct or practice of approved teachers;
- (i) keeping a panel of registered health practitioners who are appropriately qualified to conduct health assessments of relevant teachers or be appointed to the PC&TC committee.

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## **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—
- (a) adopt the national professional standards; or
  - (b) with the approval of the Minister, adopt or develop standards other than the national professional standards.
- (2) The college may amend standards it has adopted or developed under subsection (1)(b).
- (3) When acting under subsection (1) or (2), the college—
- (a) must consult with the chief executive and the representative entities; and
  - (b) may consult with other entities it considers appropriate.
- (4) The purpose of the professional standards is to detail the abilities, experience, knowledge or skills expected of teachers to help the college decide—

- (a) whether to approve a preservice teacher education program; and
  - (b) whether an applicant for provisional or full registration, or an applicant for the renewal of full registration, meets the professional practice requirements; and
  - (c) whether to certify a teacher as a highly accomplished teacher or lead teacher, or renew a certification.
- (5) The professional 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;
  - (d) the abilities, experience, knowledge and skills required for a certification application to proceed to assessment stage 2;
  - (e) the abilities, experience, knowledge and skills required for certification as a highly accomplished teacher or lead teacher, or the renewal of a certification.
- (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
  - (b) ensure copies of the professional standards, and each document applied, adopted or incorporated by the standards, are kept available for inspection, free of charge, at the office.
- (8) In this section—

*national professional standards* means the national professional standards prescribed under a regulation.

## **236 Approval of preservice teacher education programs**

- (1) A registered higher education provider 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.



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### **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 who has skills and experience relevant to the college's corporate, strategic or regulatory functions;
  - (b) 1 nominee of the chief executive who has skills and experience relevant to the college's corporate, strategic or regulatory functions;
  - (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;
  - (g) 1 person who is a practising teacher educator who is to be nominated jointly by the vice-chancellors of universities, established or recognised under an Act, that

- provide a preservice teacher education program approved under section 236;
- (h) 2 persons who, at the time of appointment, are parents or guardians of students enrolled at a school, of whom—
- (i) 1 is to be nominated by the Queensland Council of Parents and Citizens' Associations Incorporated; and
  - (ii) 1 is to be nominated jointly by the Federation of Parents and Friends Associations of Catholic Schools in Queensland and the Queensland Independent Schools Parents' Network Ltd;
- (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.
- (2) The director may not be appointed as a member of the board.
- (3) In this section—
- 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.

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## 240 Requirements for elections

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

## **241 Nomination by entities for membership of board**

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

## **242 Term of appointment of members**

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

## **243 Minister may extend a member's term of appointment**

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

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

#### **244 Chairperson of board**

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

#### **245 Deputy chairperson of board**

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

## **246 Disqualification from membership**

- (1) A person can not become, or continue as, a member of the board if the person—
  - (a) is, or has been, convicted of an indictable offence and the conviction is not a spent conviction, 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.

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- (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.
- (7) In this section—
- convicted*, of an indictable offence, does not include being found guilty of the offence, on a plea of guilty or otherwise, without a conviction being recorded for the offence.
- indictable offence* does not include an indictable offence dealt with summarily.

## **247 Report about person’s criminal history**

- (1) To decide whether a person is disqualified from membership of the board under section 246(1)(a), the Minister may ask the commissioner of police for—
- (a) a written report about the person’s criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) The commissioner of police must comply with the request.
- (3) However, the Minister may make a request under subsection (1) about a person who is not a member of the board only if the person has given the Minister written consent for the request.
- (4) The duty imposed on the commissioner of police to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.

(5) The Minister must ensure a report given to the Minister under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

(6) In this section—

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

*indictable offence* does not include an indictable offence dealt with summarily.

## 248 Vacation of office

(1) The office of a member of the board becomes vacant if the member—

(a) resigns the member's office by signed notice of resignation given to—

(i) for a member other than the chairperson of the board—the chairperson of the board; or

(ii) for the chairperson of the board—the Minister; or

(b) can not continue as a member under section 246; or

(c) is absent, without the board's permission, from 3 consecutive meetings of which proper notice has been given; or

(d) is removed from office by the Governor in Council under subsection (4).

(2) Subsection (1)(c) does not apply if the member is absent under a leave of absence approved by the Minister under section 250.

(3) Also, the office of a member becomes vacant if—

(a) both of the following apply—

(i) the member was nominated for membership of the board under section 239(1)(e), (g) or (i), or the member was elected under section 239(1)(j);



- (ii) the member stops being a practising teacher or practising teacher educator; or
- (b) the member was nominated for membership of the board under section 239(1)(f) and the member stops being a registered teacher; or
- (c) the member was elected by registered teachers under section 239(1)(j) and—
  - (i) if the member was elected under section 239(1)(j)(i)—the member is employed by the employing authority for a non-State school; or
  - (ii) if the member was elected under section 239(1)(j)(ii)—the member is employed by the State.
- (4) The Governor in Council may remove a member from office if the member—
  - (a) is incapable of properly discharging the functions of a member of the board; or
  - (b) is performing the member's duties carelessly, incompetently or inefficiently.
- (5) In this section—

*meeting* means—

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

## **249 Requirement for board members to disclose changes in criminal history**

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

Maximum penalty—100 penalty units.

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

- (4) In this section—

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

*indictable offence* does not include an indictable offence dealt with summarily.

## 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
    - (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 255 to 270, the board may conduct its business, including its meetings, in the way it considers appropriate.

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**255 Quorum for meetings**

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

**256 Attendance by proxy by member**

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

**257 Conduct of meetings**

- (1) A question at a board meeting is to be decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meetings, including, for example, teleconferencing.
- (5) A member who takes part in a meeting of the board under subsection (4) is taken to have been present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
  - (a) notice of the resolution is given under procedures approved by the board; and

- (b) a majority of members agrees in writing to the resolution.

## 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—

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- (a) be present when the board or committee considers the issue; or
  - (b) take part in a decision of the board or committee about the issue.
- (4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
- (a) be present when the board or committee is considering whether to give a direction under subsection (3) about the interested person; or
  - (b) take part in making the decision about giving the direction.
- (6) Subsection (7) applies if—
- (a) because of this section, a member of the board or a committee is not present at a board or committee meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
  - (b) there would be a quorum if the member were present.
- (7) The remaining members present are a quorum of the board or committee for considering or deciding the issue, or considering or deciding whether to give the direction, at the meeting.
- (8) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.

## **261 Attendance of director at meetings**

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

**262 Requirement for board approval before college enters into agreements**

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

**263 Remuneration of board members and committee members**

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

**264 Delegation**

- (1) The board may delegate the board's functions 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 functions under this Act to any appropriately qualified person.
- (3) In this section—

*functions* includes powers.

**265 Application of particular Acts**

- (1) The college is—
  - (a) a statutory body under the *Financial Accountability Act 2009*; and
  - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.



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

**266 College represents the State**

- (1) The college represents the State.
- (2) Without limiting subsection (1), the college has the status, privileges and immunities of the State.

**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.

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## **Part 3                      Relationship of the college with the Minister**

### **271      Performance of college**

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

### **272      Minister's power to give directions to college**

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

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- (b) a decision to certify, or refuse to certify, a teacher under chapter 2A, part 1;
  - (c) a decision under section 67M to renew, or refuse to renew, a teacher's certification as a highly accomplished teacher or lead teacher;
  - (d) a decision to approve or not approve a preservice teacher education program;
  - (e) a practice and conduct order made or to be made by a practice and conduct committee;
  - (f) a decision about whether to take or continue proceedings for an offence against this Act;
  - (g) 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.

**Part 4 Office of the Queensland  
College of Teachers**

**276 Establishment of office**

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

**277 Office's functions and powers**

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

**278 Appointment, function and powers of director**

- (1) There is to be a director of the office.
- (2) The director is to be appointed under the *Public Service Act 2008*.
- (3) Subject to direction by the college, the director is to control the office and is responsible for its efficient and effective administration and operation.
- (4) The director has all of the functions and powers of the chief executive of a department, to the extent the functions and powers relate to the organisational unit comprising the staff of the office.

## **279 Delegation by director**

The director may delegate the director's powers under this Act to an appropriately qualified member of the office's staff.

## **280 Acting director**

- (1) 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.
- (2) Subsection (1) does not limit the power, under the *Acts Interpretation Act 1954*, section 25(1)(b)(v) to appoint a person to act in the 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—

- (i) section 15(4);
  - (ii) section 15A;
  - (iii) section 15B;
  - (iv) section 15C;
  - (v) section 15D;
  - (vi) section 15(4), 15B, 15C or 15D as applied by section 29(3), 31(3) or 38(1);
  - (vii) section 65;
  - (viii) section 72;
  - (ix) 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 practice and conduct committee in relation to a practice and conduct 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).



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## **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.

### **284A Use of health assessment report**

- (1) A health assessment report is not admissible in any proceeding, and a person can not be compelled to produce the report or to give evidence about the report or its contents in any proceeding.
- (2) Subsection (1) does not apply in relation to—
  - (a) the practice and conduct proceeding in relation to which the report was prepared;
  - (b) a review of the proceeding mentioned in paragraph (a) under chapter 8.
- (3) Also, subsection (1) does not apply if the report is admitted or produced, or evidence about the report or its contents is given, in a proceeding with the consent of—
  - (a) the registered health practitioner assessor who prepared the report; and
  - (b) the person to whom the report relates.
- (4) In this section—

*health assessment report* includes a copy of the report or a part of the report or copy.

**285 College may give information about disciplinary action etc. against teachers to chief executive (employment screening) in particular circumstances**

- (1) This section applies if—
  - (a) a practice and conduct body makes a decision about practice and conduct proceedings against a relevant teacher; and
  - (b) the college reasonably believes the decision may be relevant to the functions or powers of the chief executive (employment screening) under the Working with Children Act.
- (2) The college may give notice of the decision to the chief executive (employment screening).
- (3) A notice under subsection (2) must state the following—
  - (a) the teacher's name and address;
  - (b) the teacher's date of birth;
  - (c) that disciplinary action has been taken against the person, without stating anything further about the disciplinary action.
- (4) Subsection (5) applies if the chief executive (employment screening)—
  - (a) requests further information about disciplinary action mentioned in a notice under subsection (3) about an approved teacher; and
  - (b) notifies the college that the approved teacher is an applicant for, or holder of, a prescribed notice or exemption notice under the Working with Children Act.
- (5) The college must give the chief executive (employment screening) a notice stating the following—
  - (a) when the grounds for the disciplinary action arose;

- (b) the nature of the grounds for disciplinary action;
  - (c) any other information the college considers may be relevant to employment screening under the Working with Children Act, chapter 8.
- (6) If a notice given under subsection (2) or (5) about a suspension mentioned in subsection (1)(a) relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- (7) If the college gives the chief executive (employment screening) a notice under subsection (5) about a decision mentioned in subsection (1)(a) and the decision is set aside on review or appeal, the college must notify the chief executive (employment screening) of the following—
- (a) that the decision has been set aside;
  - (b) the reasons given by the entity that set the decision aside for setting it aside.
- (8) This section does not limit section 285A.

**285AA College must give information about suspension of teacher's registration etc. under s 48 or 49 to chief executive (employment screening)**

- (1) This section applies if an approved teacher's registration or permission to teach is suspended under section 48 or 49.
- (2) The college must give notice of the suspension to the chief executive (employment screening).
- (3) A notice under subsection (2) must state the following—
- (a) the teacher's name and address;
  - (b) the teacher's date of birth;
  - (c) that the teacher's registration or permission to teach has been suspended under section 48 or 49.
- (4) Subsection (5) applies if—
- (a) the college gives the chief executive (employment screening) a notice, under subsection (2), about the

- suspension of an approved teacher's registration or permission to teach; and
- (b) the chief executive (employment screening)—
- (i) requests further information about the suspension of the approved teacher's registration or permission to teach; and
- (ii) notifies the college that the approved teacher is an applicant for, or holder of, a prescribed notice or exemption notice under the Working with Children Act.
- (5) The college must give the chief executive (employment screening) a notice stating—
- (a) when the conduct that led to the suspension happened; and
- (b) the nature of the conduct that led to the suspension; and
- (c) any other information the college considers may be relevant to employment screening under the Working with Children Act, chapter 8.
- (6) If a notice given under subsection (2) or (5) about a suspension mentioned in subsection (1) relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- (7) If the college gives the chief executive (employment screening) information under subsection (5) about a suspension mentioned in subsection (1) and the suspension is set aside on review or appeal, or ends under section 52(c), the college must notify the chief executive (employment screening) of the following—
- (a) that the suspension has been set aside or has ended;
- (b) if the suspension was set aside—the reasons given by the entity that set the suspension aside for setting it aside.

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**285A College must give information about the status of a teacher's registration to chief executive (employment screening) in particular circumstances**

- (1) This section applies if—
  - (a) any of the following happens (each a *relevant matter*) in relation to a registered teacher—
    - (i) the teacher's registration ends under section 26(3);
    - (ii) the teacher's registration is cancelled under section 47;
    - (iii) the teacher's registration is cancelled under section 56, 66(6) or 160(2)(d);
    - (iv) the teacher surrenders the teacher's registration under section 59; and
  - (b) the chief executive (employment screening) has notified the college that the registered teacher is an applicant for, or the holder of, an exemption notice under the Working with Children Act.
- (2) The college must give notice of the relevant matter to the chief executive (employment screening).
- (3) A notice under subsection (2) must state the following—
  - (a) the teacher's name and address;
  - (b) the teacher's date of birth;
  - (c) for the end of the teacher's registration as mentioned in subsection (1)(a)(i)—that on a stated date the person's registration ended under this Act;
  - (d) for a cancellation mentioned in subsection (1)(a)(ii) or (iii)—
    - (i) that the teacher's registration has been cancelled; and
    - (ii) when the conduct giving rise to the cancellation happened; and
    - (iii) the nature of the conduct that led to the cancellation;

- (f) for a surrender mentioned in subsection (1)(a)(iv)—that on a stated date the person surrendered the person’s registration under this Act;
  - (g) any other information the college considers may be relevant to employment screening under the Working with Children Act, chapter 8.
- (4) However, if a notice about a decision mentioned in subsection (1)(a)(ii) or (iii) relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- (5) If, under this section, the college gives the chief executive (employment screening) information about a cancellation mentioned in subsection (1)(a)(ii) or (iii) and the cancellation is set aside on review or appeal, the college must notify the chief executive (employment screening) of the following—
- (a) that the cancellation has been set aside;
  - (b) the reasons given by the entity that set the cancellation aside for setting it aside.

**285B College may enter into information sharing agreement with chief executive (employment screening)**

- (1) This section applies only to the extent—
- (a) another provision of this Act allows the college to give information to the chief executive (employment screening); or
  - (b) a provision of the Working with Children Act allows the chief executive (employment screening) to give information to the college.
- (2) The college and the chief executive (employment screening) 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.

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- (4) However, if the information is to be electronically transferred and, under this Act or the Working with Children Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

**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 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(3), 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 Corruption Commission;
  - (c) the Non-State Schools Accreditation Board continued in existence under the *Education (Accreditation of Non-State Schools) Act 2017*, section 97(1);
  - (d) an interstate regulatory authority.



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## Part 2 Register of approved teachers

### 288 Register of approved teachers to be kept

- (1) The college must keep a register about approved teachers.
- (2) The register may be kept in the way the college considers appropriate, including, for example, in electronic form.
- (3) The register must contain the following details for each approved teacher—
  - (a) the teacher's full name;
  - (b) any former names of the teacher;
  - (c) the address for the teacher most recently notified by the teacher to the college;
  - (d) the teacher's date of birth;
  - (e) the teacher's gender;
  - (f) for a registered teacher—the day the teacher was first granted registration as a teacher under this Act or a former Act;
  - (g) whether the teacher holds full registration, provisional registration or permission to teach;
  - (h) the teacher's identification number;
  - (i) details of any qualifications and experience relied on by the teacher to obtain the registration or permission to teach;
  - (j) any conditions of the registration or permission to teach;
  - (k) the current period of the registration or permission to teach;
  - (l) if the teacher's registration or permission to teach is suspended—
    - (i) the day the suspension took effect; and
    - (ii) the period of the suspension;

- (m) an endorsement or notation about the teacher entered in the register under a practice and conduct order;
  - (n) details of any other practice and conduct order made against the teacher, including the day the order was made and the ground for disciplinary action;
  - (o) details of any practice and conduct agreement entered into with the teacher, including the day the agreement was entered into and the ground for disciplinary action that resulted in the agreement;
  - (p) 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;
  - (q) 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.
- (6) However, the information mentioned in subsection (5) must be removed from the register—

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- (a) if the person's registration or permission to teach was cancelled under section 56—as soon as practicable after the person stops being an excluded person in relation to the cancellation under section 57(3); or
  - (b) if the person's registration or permission to teach was cancelled under section 160 and the order prevents the person reapplying for registration or permission to teach for a stated period—the day on which the stated period ends.
- (7) To avoid doubt, it is declared that an order of QCAT made under the QCAT Act, section 66(1)(c), does not prevent the college from including the information mentioned in subsections (3) and (5) in the register.

## 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

- 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 2A                      Registered health practitioner panel**

### **289A Panel of registered health professionals to be kept**

- (1) The college must keep a panel of appropriately qualified registered health practitioners who may conduct health assessments of relevant teachers or be appointed to the PC&TC committee.
- (2) The panel may be kept in the way the college considers appropriate, including, for example, in electronic form.
- (3) The panel must contain the following for each registered health practitioner—
- (a) the registered health practitioner's name;
  - (b) the registered health practitioner's business address.

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

### **292 Use of code of practice in practice and conduct proceedings**

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

## **Part 4 Other provisions**

### **293 Registered higher education providers must not misrepresent approval of preservice teacher education programs**

A registered higher education provider 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;
  - (c) a member of a committee of the board;
  - (e) an investigator;
  - (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.
- (4) This section does not apply to a person who is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

*Note—*

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

## **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) Without limiting subsection (2) or the *Statutory Instruments Act 1992*, sections 25 and 30B, a regulation may prescribe different fees in relation to certification applications and renewal applications made by teachers employed by different employing authorities.
- (4) 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).



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**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.
- (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

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Act against a decision or order mentioned in section 72(1) of the repealed Act; and

- (b) the person has not appealed before the commencement.
- (4) The person may appeal, and the District Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.
- (5) For giving effect to its decision under subsection (2) or (4), the District Court may make the orders it considers necessary having regard to the provisions of this Act.

*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.

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## 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 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.
- (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.



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- (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
  - (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.

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- (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.
  - (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.

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**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 provision 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.

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## **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.

## **Part 11**                      **Transitional provisions for Criminal History Screening Legislation Act 2010**

### **Division 1**                      **Transitional provision about giving information under section 285**

### **332 Giving particular information to children’s commissioner**

- (1) This section applies if—
- (a) before the commencement—

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- (i) the college decided to suspend an approved teacher's registration or permission to teach under section 49; or
  - (ii) the disciplinary committee made a decision about disciplinary proceedings against a relevant teacher; and
- (b) at the commencement, the college has neither given nor decided not to give the children's commissioner notice of the decision as provided under section 285 of this Act as in force before the commencement.
- (2) Section 285 as in force after the commencement applies in relation to the decision.
- (3) In this section—
- commencement* means the day this section commences.

## **Division 2                    Other transitional provisions**

### **333    Definition div 2**

In this division—

*commencement* means the commencement of this division.

### **334    Existing applications by new excluded persons**

- (1) This section applies if—
- (a) a person has applied to the college for—
    - (i) full or provisional registration or permission to teach; or
    - (ii) the renewal of full registration or permission to teach; or
    - (iii) the restoration of the person's full registration that has ended; and



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- (b) the application has not been decided or withdrawn at the commencement; and
  - (c) the person is a new excluded person.
- (2) The application is taken to be withdrawn.
  - (3) The college must give notice of the withdrawal to the person.
  - (4) In this section—

*new excluded person* means a person who is an excluded person immediately after the commencement but was not an excluded person under this Act as in force immediately before the commencement.

### **335 Other existing applications**

- (1) This section applies if—
  - (a) a person has applied to the college for—
    - (i) full or provisional registration or permission to teach; or
    - (ii) the renewal of full registration or permission to teach; or
    - (iii) the restoration of the person's full registration that has ended; and
  - (b) the application has not been decided or withdrawn at the commencement; and
  - (c) section 334 does not apply to the application.
- (2) This Act applies to the application and, if the application complies with the requirements of the unamended Act, the application is not invalid only because it does not comply with this Act as in force immediately after the commencement.
- (3) In this section—

*unamended Act* means this Act as in force immediately before the commencement.

**336 Obtaining particular information from commissioner of police about particular persons**

- (1) This section applies in relation to a person if—
  - (a) the person has applied to the college for—
    - (i) full or provisional registration or permission to teach; or
    - (ii) the renewal of full registration or permission to teach; or
    - (iii) the restoration of the person’s full registration that has ended; and
  - (b) the application has not been decided or withdrawn at the commencement; and
  - (c) in relation to the application, the college requested information from the commissioner of police about the applicant under section 15 before the commencement.
- (2) This section also applies in relation to a person if—
  - (a) the person is an approved teacher; and
  - (b) the college requested information about the approved teacher under section 65 before the commencement.
- (3) If, at the commencement, the commissioner of police has complied with the request, the college may ask the commissioner of police for a written report containing details of any non-criminal history police information about the person.
- (4) Section 15(3) to (7) applies in relation to the college’s request under subsection (3) as if it were made under section 15 in relation to only non-criminal history police information.
- (5) If, at the commencement, the commissioner of police has not complied with the request, section 15(3) to (7) as in force from the commencement applies in relation to the request.
- (6) In this section—

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*non-criminal history police information*, of a person, means police information about the person other than the person's criminal history.

**337 Disqualification orders for acts done or omissions made before commencement**

A court may make a disqualification order under section 58 in relation to a person convicted of an offence after the commencement arising out of an act done or omission made before the commencement.

**338 Disclosure of changes in police information**

(1) To remove any doubt, it is declared that—

- (a) section 68 only requires a person to disclose to the college a change in the person's non-criminal history police information if the change happened after the commencement; and
- (b) section 75 only requires the commissioner of police to disclose to the college a change in a person's non-criminal history police information if the change happened after the commencement.

(2) In this section—

*non-criminal history police information*, of a person, means police information about the person other than the person's criminal history.

**339 References to Youth Justice Act 1992**

- (1) This section applies to a reference to the *Youth Justice Act 1992* in a provision of this Act if the provision commences before the JJA short title amendment commences.
- (2) Until the JJA short title amendment commences, the reference is taken to be a reference to the *Juvenile Justice Act 1992*.
- (3) In this section—

*JJA short title amendment* means the *Juvenile Justice and Other Acts Amendment Act 2009*, section 9.

## Part 12                      Transitional provisions for Education and Training Legislation (Skills Queensland) Amendment Act 2010

### 340 Existing applications by new excluded persons

- (1) This section applies if—
  - (a) a person has applied to the college for—
    - (i) full or provisional registration or permission to teach; or
    - (ii) the renewal of full registration or permission to teach; or
    - (iii) the restoration of the person's full registration that has ended; and
  - (b) the application has not been decided or withdrawn at the commencement; and
  - (c) the person is a new excluded person.
- (2) The application is taken to be withdrawn.
- (3) The college must give notice of the withdrawal to the person.
- (4) In this section—

*commencement* means the commencement of this section.

*new excluded person* means a person who is an excluded person immediately after the commencement but was not an excluded person under this Act as in force immediately before the commencement.

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**341 Transitional provision for s 77**

Section 77, as amended by the *Education and Training Legislation (Skills Queensland) Amendment Act 2010*, applies to an investigation that ends after the commencement of this section.

**Part 13 Transitional provisions for  
Education and Training  
Legislation Amendment Act  
2011**

**342 Existing applications by new excluded persons**

- (1) This section applies if—
  - (a) before the relevant commencement, a person applied to the college for—
    - (i) full or provisional registration or permission to teach; or
    - (ii) the renewal of full registration or permission to teach; or
    - (iii) the restoration of the person's full registration that has ended; and
  - (b) on the relevant commencement, the application has not been decided or withdrawn; and
  - (c) the person is a new excluded person.
- (2) However, this section does not apply to an approved teacher mentioned in section 344(5).
- (3) The application is taken to be withdrawn.
- (4) The college must—
  - (a) immediately give notice to the person of the withdrawal; and
  - (b) refund each fee accompanying the application; and

- (c) if the application is an application mentioned in subsection (1)(a)(ii) or (iii)—give a copy of the notice to the employing authority for, and the principal of, each school at which the teacher is employed.
- (5) The notice must state that—
  - (a) the application is withdrawn; and
  - (b) if the person is an eligibility applicant—the person may apply for an eligibility declaration under chapter 2, part 1A.
- (6) In this section—

*new excluded person* means a person who was not an excluded person immediately before the relevant commencement but is an excluded person on the relevant commencement.

### **343 Effect of serious offence charge before relevant commencement**

- (1) This section applies if—
  - (a) before the relevant commencement, an approved teacher was charged with a serious offence; and
  - (b) on the relevant commencement—
    - (i) the charge has not been dealt with; and
    - (ii) the teacher’s registration or permission to teach has not been suspended under section 48.
- (2) The provisions of this Act as in force from the relevant commencement apply in relation to the teacher.
- (3) In this section—

*dealt with*, in relation to a charge against an approved teacher for a serious offence, means any of the following—

  - (a) the teacher has been acquitted of the charge;
  - (b) the charge has been withdrawn or dismissed;

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- (c) a nolle prosequi or no true bill has been presented in relation to the charge.

**344 Effect of serious offence conviction before relevant commencement**

- (1) Subsection (2) applies if—
- (a) before the relevant commencement—
    - (i) an approved teacher was convicted of a serious offence; and
    - (ii) the college was not aware of the conviction; and
  - (b) on the relevant commencement, the conviction has not been overturned on appeal.
- (2) The college must, as soon as practicable after it becomes aware of the conviction—
- (a) cancel the teacher’s registration or permission to teach; and
  - (b) comply with section 56(3) to (5) in relation to the cancellation.
- (3) Subsection (4) applies if—
- (a) before the relevant commencement—
    - (i) an approved teacher was convicted of a serious offence for which an imprisonment order was made; and
    - (ii) the college was aware of the conviction; and
  - (b) on the relevant commencement, neither of the following has been overturned on appeal—
    - (i) the conviction;
    - (ii) the imprisonment order.
- (4) The college must, as soon as practicable after the relevant commencement—

- (a) cancel the teacher's registration or permission to teach; and
  - (b) comply with section 56(3) to (5) in relation to the cancellation.
- (5) Subsection (6) applies if—
- (a) before the relevant commencement—
    - (i) an approved teacher was convicted of a serious offence for which no imprisonment order was made; and
    - (ii) the college was aware of the conviction; and
  - (b) on the relevant commencement, the conviction has not been overturned on appeal.
- (6) The college must, as soon as practicable after the relevant commencement, comply with section 345.

### **345 Show cause notice**

- (1) If section 344(5) applies in relation to an approved teacher, the college must give the approved teacher a notice under this section (a *show cause notice*).
- (2) The show cause notice must state the following—
  - (a) that the college proposes to cancel the registration or permission to teach (the *proposed action*);
  - (b) that the college is required under this section to give the show cause notice;
  - (c) an outline of the facts and circumstances forming the basis for giving the notice;
  - (d) an invitation to the teacher to show within a stated period (the *show cause period*) why the proposed action should not be taken;
  - (e) that, until the college issues an eligibility notice under section 347(2) or gives the teacher an information notice under section 347(3)—



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- (i) the teacher's registration or permission to teach continues; and
  - (ii) the teacher is not an excluded person.
- (3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the teacher.
- (4) Until the college issues an eligibility notice under section 347(2) or gives the teacher an information notice under section 347(3)—
- (a) the teacher's registration or permission to teach continues; and
  - (b) the teacher is not an excluded person.

### **346 Representations about show cause notice**

- (1) The approved teacher may make written representations about the show cause notice to the college during the show cause period.
- (2) The college must consider all written representations (the *accepted representations*) made under subsection (1).

### **347 Decision after considering accepted representations**

- (1) The college must cancel the approved teacher's registration unless, after considering the accepted representations for the show cause notice and the matters mentioned in section 12F(2) to (4), the college is satisfied it is an exceptional case in which it would not harm the best interests of children for the proposed action not to be taken.
- (2) If college decides not to take the proposed action, the college must issue an eligibility declaration to the approved teacher.
- (3) If the college decides to take the proposed action, the college must give the approved teacher an information notice.

### **348 Grounds for disciplinary action**

- (1) This section applies if, before the relevant commencement—
  - (a) a relevant teacher's registration or permission to teach was suspended under section 48 because the teacher was charged with a disqualifying offence; and
  - (b) either—
    - (i) the charge was dealt with; or
    - (ii) the teacher was convicted of an offence other than an indictable offence.
- (2) Section 92 as in force immediately before the relevant commencement continues to apply in relation to the teacher.
- (3) In this section—

*dealt with*, in relation to a charge against a relevant teacher for a serious offence, means any of the following—

- (a) the teacher has been acquitted of the charge;
- (b) the charge has been withdrawn or dismissed;
- (c) a nolle prosequi or no true bill has been presented in relation to the charge.

*disqualifying offence* see the Working with Children Act, section 168.

### **349 QCAT show cause notice given but not dealt with**

- (1) Subsection (2) applies if—
  - (a) before the relevant commencement, QCAT gave a notice under section 101 to a relevant teacher; and
  - (b) on the relevant commencement, QCAT has not made a decision under section 102 or 103.
- (2) On the relevant commencement—
  - (a) the notice is taken to be withdrawn; and
  - (b) any disciplinary action started under chapter 5, part 2 is taken to be discontinued.

*Note—*

See section 344 (Effect of serious offence conviction before relevant commencement).

**350 Decision about disciplinary action against approved teacher**

- (1) Subsection (2) applies if—
  - (a) before the relevant commencement—
    - (i) a general matter in relation to an approved teacher was referred to QCAT under section 97(2); or
    - (ii) a PP&C matter in relation to an approved teacher was referred to QCAT under section 111A(2) or 123(2)(b); and
  - (b) on the relevant commencement, QCAT has not made a decision under section 160.
- (2) Section 160 as in force immediately before the relevant commencement continues to apply in relation to the approved teacher.

**351 Referral to QCAT under ss 111A and 123**

- (1) This section applies if, before the relevant commencement, a PP&C matter in relation to a former approved teacher was referred to QCAT under section 111A(2) or 123(2)(b).
- (2) Sections 111A(1)(b) and 123(2)(b) are taken always to have referred to disciplinary action mentioned in section 161(2)(b) or (c).

**352 Decision about disciplinary action against former approved teacher**

- (1) Subsection (2) applies if—
  - (a) before the relevant commencement—

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- (i) a general matter in relation to a former approved teacher was referred to QCAT under section 97(2);  
or
  - (ii) a PP&C matter in relation to a former approved teacher was referred to QCAT under section 111A(2) or 123(2)(b); and
- (b) on the relevant commencement, QCAT has not made a decision under section 161.
- (2) Section 161 as in force immediately before the relevant commencement continues to apply in relation to the former approved teacher.

## **Part 14**                      **Transitional provision for Education Legislation Amendment Act 2012**

### **353 Existing standards continue in force**

- (1) This section applies to the professional standards developed by the college and in force immediately before the commencement of this section.
- (2) The professional standards mentioned in subsection (1) continue in force until the college adopts or develops professional standards under section 235(1)(a) or (b).

## **Part 15**                      **Transitional provisions for Education and Other Legislation Amendment Act 2016**

### **354 Definitions for part**

In this part—

*amended*, in relation to a provision of the Act, means the provision as in force after the commencement.

*disciplinary proceedings* means disciplinary proceedings under the unamended Act.

*previous*, in relation to a provision, means the provision as in force before the commencement.

*unamended Act* means the Act as in force before the commencement.

### **355 Delegation of functions**

- (1) Section 264(1) is taken to have always included a power of the board to delegate a function of the board under the Act to a person mentioned in section 264(1)(a) to (d).
- (2) Section 264(2) is taken to have always included a power of the chairperson of the board to delegate a function of the chairperson under the Act to an appropriately qualified person.

### **356 Current disciplinary orders taken to be practice and conduct order**

- (1) From the commencement, a current disciplinary order is taken to be a practice and conduct order.
- (2) In this section—

*current disciplinary order* means a disciplinary order under the unamended Act that was in force immediately before the commencement.

### **357 References to practice and conduct proceedings includes disciplinary proceedings**

From the commencement, a reference in the following sections to practice and conduct proceedings includes, if the context permits, disciplinary proceedings—

- (a) section 95(1)(a)(i);

- (b) section 164(1);
- (c) section 165;
- (d) section 166(1) and (2);
- (e) section 170;
- (f) section 285(1)(a).

### **358 Particular references to practice and conduct body**

Until the commencement of the *Education and Other Legislation Amendment Act 2016*, section 138(2), definition *practice and conduct body*, a reference in the following sections to a practice and conduct body is taken to be a reference to a disciplinary committee—

- (a) section 50(3)(d)(ii);
- (b) section 55A(a);
- (c) section 92(3);
- (d) section 285(1)(a).

### **359 Particular references to practice and conduct matter**

Until the commencement of the *Education and Other Legislation Amendment Act 2016*, section 138(2), definition *practice and conduct matter*, a reference in the following sections to a practice and conduct matter is taken to be a reference to a disciplinary matter—

- (a) section 50(3)(d)(ii);
- (b) section 55A.

### **360 References to former disciplinary committees**

In an Act or document—

- (a) a reference to a disciplinary committee includes, if the context permits, a practice and conduct body; and

- (b) a reference to the former PP&C committee includes, if the context permits, the PC&TC committee.

**361 References to PC&TC committee include former PP&C committee**

From the commencement, a reference in section 170 to the PC&TC committee includes, if the context permits, the former PP&C committee.

**362 Notice of referral to QCAT under s 50**

- (1) This section applies if, before the commencement, the college gave a relevant teacher a notice under section 50(1) about a suspension under section 49.
- (2) A reference in the notice to—
- (a) a disciplinary matter is taken to be a reference to a practice and conduct matter; and
  - (b) a disciplinary action is taken to be a reference to a practice and conduct matter.

**363 Matters referred to former PP&C committee before commencement**

- (1) This section applies to—
- (a) a matter referred to the former PP&C committee under previous section 97(1); or
  - (b) a matter about which the college authorised an investigation under section 98 and the former PP&C has received the investigator's report about the matter before the commencement.
- (2) From the commencement—
- (a) if, immediately before the commencement, the former PP&C committee had started disciplinary proceedings in relation to the matter—

- (i) the PC&TC committee is to continue to deal with the matter; and
  - (ii) previous chapter 5, part 4 and previous chapter 6, part 1, division 2 apply to the PC&TC for continuing to deal with the matter as if a reference to the PP&C committee in those provisions were a reference to the PC&TC committee; or
- (b) otherwise—
- (i) the PC&TC committee is to continue to deal with the matter; and
  - (ii) amended chapter 5, part 4 and amended chapter 6, part 1, division 2 apply to the PC&TC committee for dealing with the matter.
- (3) In this section—

*disciplinary proceedings* means disciplinary proceedings in relation to the matter under previous chapter 6, part 1, division 2, and includes the authorising of an investigation under previous section 109.

*former PP&C committee* means the PP&C committee under the unamended Act.

### **364 End of term of appointment of particular board members**

- (1) This section applies to a person who, immediately before the commencement, held an appointment as a member of the board under section 239(1)(f) or 239(1)(k).
- (2) On the commencement, the term of the person's appointment ends.
- (3) No compensation is payable to any person for anything done under this section.

### **365 Particular board members continue**

- (1) A person who, immediately before the commencement, held an appointment as a member of the board other than under



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section 239(1)(f) or 239(1)(k) continues as a member of the board on the same conditions as the conditions of the person's appointment immediately before the commencement.

- (2) This section applies despite amended section 239.

## **Part 16**

# **Transitional provisions for Education (Queensland College of Teachers) Amendment Act 2019**

### **366 Teachers certified by college before commencement**

- (1) This section applies in relation to a teacher who, before the commencement of this section, was given notice by the college that the teacher had been assessed as having the abilities, experience, knowledge and skills stated in the professional standards for certification as a highly accomplished teacher or lead teacher.
- (2) The teacher may, under section 67J, make a renewal application in relation to the notice as if the notice were a certification under chapter 2A, part 1.
- (3) Section 67R applies in relation to the teacher as if the teacher were certified as a highly accomplished teacher or lead teacher under chapter 2A, part 1.

### **367 Existing applications for certification**

- (1) This section applies if—
- (a) after 1 January 2019 but before the commencement of this section, a teacher made an application to the college to be assessed as having the abilities, experience, knowledge and skills stated in the professional standards for certification as a highly accomplished teacher or lead teacher; and

- (b) immediately before the commencement of this section, the application had not been decided or withdrawn.
- (2) On the commencement of this section, the application is taken to have been made under section 67A.

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## **Schedule 1**      **Decisions for which information notice must be given**

section 209(2)

<b>Section</b>	<b>Description of decision</b>
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
67D	college's decision that certification application may not proceed to assessment stage 2
67G	college's decision to refuse to certify teacher as highly accomplished teacher or lead teacher
67M	college's decision to refuse to renew certification
123(4)(a)	PP&C committee's decision to take particular disciplinary action

<b>Section</b>	<b>Description of decision</b>
236(5)	college's decision to refuse to approve a preservice teacher education program
347(3)	college's decision to cancel registration or permission to teach for a conviction for a serious offence

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## Schedule 3 Dictionary

## section 6

*accepted representations* see section 346(2).

*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.

*assessment stage 1* see section 67C(1)(a).

*assessment stage 2* see section 67C(1)(b).

*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.

*certification application* see section 67A(1).

*certifying entity* means an entity, other than the college, that certifies teachers as highly accomplished teachers or lead teachers.

*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.

**chief executive (employment screening)** means the chief executive of the department in which the Working with Children Act is administered.

**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.

**college decision**, for chapter 8, part 1, see section 208A.

**commencement**—

- (a) for chapter 12, parts 1 to 7—see section 299; or
- (b) for chapter 12, part 11, division 2—see section 333.

**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.

**criminal history check fee** means the criminal history check fee prescribed under a regulation.

***delegated decision***, for chapter 8, part 1, see section 208A.

***director*** means the director of the office.

***disciplinary action*** means action taken against a relevant teacher by a practice and conduct body under chapter 5, part 4 or chapter 6, part 2, division 2.

***eligibility applicant*** see section 12D.

***eligibility application***, for chapter 2, part 1A, see section 12E(1).

***eligibility declaration*** see section 12B.

***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.

***evidentiary material***, about an offence, means material compiled in the course of the investigation or prosecution of the offence, including, for example, the following—

- (a) a summary of the circumstances of the alleged offence prepared by a police officer;

*Examples—*

bench charge sheet, QP9

- (b) a witness statement;
- (c) an indictment;
- (d) a record of an interview or a transcript of a record of an interview;
- (e) a report by an expert about the applicant.

***excluded person*** means a person—

- (a) who is a relevant excluded person, other than a person mentioned in section 57(3); or

- (b) who is, or has been, convicted of a serious offence other than—
  - (i) a person to whom an eligibility declaration is issued, and not revoked, under chapter 2, part 1A; or
  - (ii) a person mentioned in section 57(3)(a); or
- (c) who is prohibited from reapplying for registration or permission to teach by a practice and conduct order.

***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.

***existing register***, for chapter 12, parts 1 to 7, 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.

***final offender prohibition order*** means a final order under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

***final sexual offender order*** means a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

***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, parts 1 to 7, see section 299.



**former by-law**, for chapter 12, parts 1 to 7, 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, parts 1 to 7, 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.

**health assessment**, of a relevant teacher, means a medical, physical, psychological or psychiatric examination or test of the relevant teacher by a registered health practitioner.

**health assessment report** see section 119B(1).

**health practitioner panel** means the panel of registered health practitioners kept under section 289A.

**higher education course** means an accredited course under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth).

**higher education institution** means an educational institution that provides, or proposes to provide, a higher education course.

**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.

***impairment*** means a physical or mental condition or disorder (including substance abuse or dependence).

***imprisonment order***—

- (a) means either of the following orders—
  - (i) an order of a court that convicts a person for an offence, if the order includes a penalty that includes imprisonment for the offence, whether wholly or partially suspended;
  - (ii) an intensive correction order under the *Penalties and Sentences Act 1992* or an order of another jurisdiction that substantially corresponds to an intensive correction order; but
- (b) does not include an order of imprisonment that is imposed as a consequence of a breach of a community service order or probation order within the meaning of the *Penalties and Sentences Act 1992*.

***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.

***information request*** see section 67P(1).

***information request period*** means the period mentioned in 67P(1) and any extension of that period given by the college.

***interim sexual offender order*** means an interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

***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***—

- (a) means—
  - (i) a person's expanded interstate criminal history disclosed by the commissioner of police to the college under section 15, 65 or 75; or
  - (ii) 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; and
- (b) for chapter 5, part 1, division 2—see section 96A.

***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, parts 1 to 7, see section 299.

**non-State school** means an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*.

**notice** means written notice.

**offender prohibition disqualification order** means a disqualification order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 13T.

**offender prohibition order** means an offender prohibition order under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

**offender reporting obligations** means reporting obligations under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

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

**original decision** see section 209(1).

**PC&TC committee** means the Professional Capacity and Teacher Conduct Committee established under section 113.

**PC&TC matter** see section 95(1).

**permission to teach** means permission to teach under chapter 2.

**police information**, about a person, means the following—

- (a) the person's criminal history;
- (b) information as to whether the person is or has been—
  - (i) a relevant excluded person; or
  - (ii) named as the respondent to an application for an offender prohibition order; or
  - (iii) the subject of an application for an offender prohibition disqualification order.

***practice and conduct agreement*** see section 101(1).

***practice and conduct body*** means the PC&TC committee or QCAT when undertaking disciplinary action under this Act.

***practice and conduct matter*** see section 93.

***practice and conduct order*** means an order made against a relevant teacher by a practice and conduct body under chapter 5, part 4 or chapter 6, part 2, division 2.

***practice and conduct proceedings*** means proceedings conducted by a practice and conduct body in relation to a practice and conduct matter.

***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.

***previously-provided police information***, for chapter 2, part 3, division 1, see section 25D.

***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 adopted or developed under section 235(1)(a) or (b).

***proposed action*** see section 345(2)(a).

***provisional registration*** means provisional registration under chapter 2.

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

**registered health practitioner** means an individual registered under the Health Practitioner Regulation National Law (Queensland) to practise a health profession, other than as a student.

**registered higher education provider** see the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth), section 5.

**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 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 commencement** means the commencement of the *Education and Training Legislation Amendment Act 2011*, part 4.

**relevant condition** see section 45(1).

**relevant excluded person** means a person who is subject to—

- (a) offender reporting obligations; or
- (b) an offender prohibition order; or
- (c) an offender prohibition disqualification order; or
- (d) a sexual offender order.

**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.

**renewal application** see section 67J(2).

**repealed Act**, for chapter 12, parts 1 to 7, 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.

**review committee** see section 211(1).

**review decision**, for chapter 8, part 1, see section 208A.

**school** means a State school or non-State school.

**serious offence** see the Working with Children Act, section 167.

**sexual offender order** means a division 3 order, interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

**show cause notice** see section 345(1).

**show cause period** see section 345(2)(d).

**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;
    - (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.

**temporary offender prohibition order** means a temporary order under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.



***Working with Children Act*** means the *Working with Children (Risk Management and Screening) Act 2000*.