



Queensland

Education (Queensland College of Teachers) Regulation 2005

Explanatory Notes for SL 2005 No. 279

made under the

Education (Queensland College of Teachers) Act 2005

General outline

Short title

The *Education (Queensland College of Teachers) Regulation 2005*.

Authorising law

The proposed *Education (Queensland College of Teachers) Regulation 2005* (the Regulation) will be made under the *Education (Queensland College of Teachers) Act 2005* (the Act). Section 298 of the Act provides for the Governor in Council to make regulations under the Act. This section specifically prescribes for a regulation to provide for fees for the Act and for the waiving and refunding of those fees.

The Act also provides for a range of other matters, which will be prescribed in the Regulation. These matters include:

- qualifications, experience and other requirements for professional practice for full registration (section 8(1)(a)(i));

- qualifications and other requirements for professional practice for provisional registration (section 9(1)(a)(i));
- requirements for professional practice for permission to teach, other than those specified in the Act (section 10(1)(d));
- the recency of practice requirements for renewal of full registration (section 29(2)(c));
- the type of evidence of satisfactory completion of the professional learning program that is required for the Queensland College of Teachers (the College) to cancel a returning to teaching condition (section 43(2));
- the types of changes in circumstances that must be notified to the College (section 71(2)); and
- procedures for elections of practising teacher members to the Board of the College (section 240(2)).

Policy Objective of the Legislation

In March 2004, the Queensland Government commissioned a review of the State's teacher registration regime under the *Education (Teacher Registration) Act 1988*, to ensure Queensland remains progressive in the development and maintenance of high professional standards in the teaching workforce. The review was undertaken by Professor Marilyn McMeniman, Pro-Vice Chancellor (Arts and Education), Griffith University. The recommended reforms flowing from the review were published in November 2004, in the *Review of the Powers and Functions of the Board of Teacher Registration* (the 2004 Report).

The Act was passed in October 2005 to address the recommendations flowing from the review and published in the 2004 Report. The policy objectives of the Act are to uphold standards of teaching, maintain public confidence in the teaching profession and to protect the public by ensuring education in schools is provided in a professional and competent way by approved teachers.

The Regulation is being made to support the Act to meet these objectives and to implement the reforms recommended in the 2004 Report.

How policy objectives will be achieved

To achieve the policy objectives, the Act establishes the College with functions and powers regarding teacher registration, permission to teach, disciplinary action and monitoring compliance with the Act.

The Regulation will replace the existing *Education (Teacher Registration) By-Law 1999* (the By-law) and provide for:

- preservice requirements for full and provisional teacher registration and permission to teach;
- matters relating to renewal of full registration and cancellation of returning to teaching conditions;
- the process for the election of teachers to the Board of the College; and
- prescribed fees under the Act and for the waiver of those fees.

The Regulation will increase initial and annual registration fees and introduce new fees to meet the costs of providing for the new permission to teach regime.

Consistency with authorising Act

The Regulation is consistent with the Authorising Act.

Possible alternative approach

The Regulation will increase initial and annual registration fees and fees for the restoration of registration. The Regulation will also introduce new fees for the permission to teach regime, for the replacement of a lost or stolen certificate of registration or permissions to teach and a fee for late payment of annual registration fees (in lieu of the previous restoration fee that was used for this purpose).

The alternative option considered was to maintain the current level of fees prescribed under the By-law. Increasing the fees to the proposed level is necessary in order to provide adequate resources for the College to administer the teacher registration regime that will ensure that Queensland has a vital and effective teaching profession and that public confidence is maintained in the profession. This includes implementation of new teacher service initiatives arising from the reforms proposed in the 2004 Report, including:

- the permission to teach regime;
- five yearly renewal of registration;
- compulsory criminal history checks for renewal of registration;
- approval of preservice teacher education programs;
- revised complaint procedures and investigative and disciplinary procedures;
- development of professional standards detailing the abilities skills and knowledge expected of teachers and implemented through the approval processes for preservice teacher education programs and compliance with professional practice requirements; and
- development of a framework for continuing professional learning programs and supporting the implementation of returning to teaching professional learning programs.

Benefits and costs of implementing the legislation

A full analysis of the costs and benefits of the proposed fee increases in initial and annual registration fees and introduction of new fees for the permission to teach regime was considered in the Regulatory Impact Statement, released for consultation in May 2005.

Fundamental legislative principles

The proposed Regulation is consistent with the fundamental legislative principles established under the *Legislative Standards Act 1992*.

Consultation

Extensive community consultation has been undertaken in relation to the reforms to the teacher registration regime through the 2004 Review. In May 2005, the draft *Education (Queensland College of Teachers) Bill 2005* (the draft Bill), together with an Explanatory Paper was released for public consultation. Apart from the proposed fee structure and levels, the substantial changes from the current Regime that are being implemented through the Regulation, were canvassed through this consultation process.

A Regulatory Impact Statement assessing the impact of the proposed initial and annual registration fee increases and the additional fee for permission

to teach was released for consultation in May 2005 in conjunction with the exposure draft of the Bill.

Consultation on provisions relating to the election of teacher representatives to the Board of the College, notification of changes in circumstances, the waiver of fees and repeal of the By-law has occurred through the inter-systemic Implementation Committee, established by the Minister for Education and Minister for the Arts to oversee implementation of the Review. On the recommendation of the inter-systemic Implementation Committee separate consultation on the election provisions has occurred with the Queensland Teachers Union and the Queensland Independent Education Union.

Consultation with relevant Queensland Government agencies has occurred through the release of a Discussion Paper relating to the Regulation. Agencies consulted included Departments of the Premier and Cabinet, Employment and Training, Communities, Child Safety, Industrial Relations, Police, Justice and Attorney General and State Development, Trade and Innovation and Queensland Treasury. The Commission for Children and Young People and Child Guardian was also consulted through the release of the Discussion Paper.

A Discussion Paper regarding the release of the Regulatory Impact Statement was sent to the Department of the Premier and Cabinet, Queensland Treasury and the Department of State Development, Trade and Innovation during April 2005.

Notes on provisions

Part 1 Functions and powers generally

1 Short title

Clause 1 provides that the regulation is the *Education (Queensland College of Teachers) Regulation 2005*.

2 Commencement

Clause 2 provides for the regulation to commence on 1 January 2006.

3 Dictionary

Clause 3 provides that the dictionary in schedule 2 defines particular words used in the regulation.

4 References to period of academic study or education

Clause 4 provides that a reference in the regulation to a number of years of academic study or education is a reference to the stated number of years of full-time academic study or education, and includes a reference to an amount of academic study or education that the college is satisfied is the equivalent of the stated number of years of full-time academic study or education.

Part 2 Registration or permission to teach

Division 1 Eligibility for full registration

5 Qualifications

Clause 5 provides that for section 8(1)(a)(i) of the Act, the qualifications for eligibility for full registration are successful completion of:

- (a) a course of preservice teacher education consisting of at least four years academic study, including professional studies that are at least one year of academic study;
- (b) a graduate course of preservice teacher education consisting of professional studies that are at least one year of academic study;
or
- (c) another course of teacher education, provided by a higher education institution, that the College is satisfied is the equivalent of a course mentioned in paragraph (a) or (b).

6 Experience

Clause 6(1) provides that for section 8(1)(a)(i) of the Act, the experience is successful completion of one year of teaching at a school, or experience the College is satisfied is the equivalent of one year of teaching at a school.

Clause 6(2) provides that the College may be satisfied of the experience if it receives a notice about the experience from the principal of the school at which the person taught, or from another person who the College believes can provide adequate information about the experience.

7 Requirement for professional practice

Clause 7 provides that for section 8(1)(c) of the Act, the ability to communicate in spoken and written English at a professional level with students, parents, teachers and other persons is a requirement for professional practice for full registration.

Division 2 Eligibility for provisional registration

8 Qualifications

Clause 8 provides that for section 9(1)(a)(i) of the Act, the qualifications for provisional registration are successful completion of:

- (a) a course of preservice teacher education consisting of at least four years academic study, including professional studies that are at least one year of academic study;
- (b) a graduate course of preservice teacher education consisting of professional studies that are at least one year of academic study;
or
- (c) another course of teacher education, provided by a higher education institution, that the college is satisfied is the equivalent of a course mentioned in paragraph (a) or (b).

9 Requirement for Professional practice

Clause 9 provides that for section 9(1)(c) of the Act, the ability to communicate in spoken and written English at a professional level with

students, parents, teachers and other persons is a requirement for professional practice for provisional registration.

Division 3 Eligibility for permission to teach

10 Requirement for professional practice

Clause 10 provides that for section 10(1)(d) of the Act, the ability to communicate in spoken and written English at a professional level with students, parents, teachers and other persons is a requirement for professional practice for eligibility for a permission to teach.

Division 4 Renewal of full registration

11 Full registration—requirement for renewal

Clause 11 provides that for section 29(2)(c) of the Act:

- (a) the prescribed duration a person must have practised as a teacher is one year; and
- (b) the prescribed period within which the person must have practice as a teacher is five years immediately preceding the day the teacher's full registration ends.

12 Cancellation of returning to teaching condition

Clause 12 provides that for section 43(2) of the Act, evidence of satisfactory completion of a relevant program, required to satisfy a returning to teaching condition, is a notice from either the provider of the program or the principal of the school where the relevant registered teacher teaches.

13 Returning to teaching condition-prescribed time

Clause 13 provides that for the definition of *returning to teaching condition* in schedule 3 of the Act, the period prescribed for undertaking a relevant program for returning to teaching is from one year immediately before, to one year immediately after:

- (a) for a teacher who is not teaching at a school when the condition is imposed-the day the teacher returns to teaching at a school; or
- (b) for a teacher who is teaching at a school when the condition is imposed-the day the condition is imposed.

14 Returning to teaching condition-professional development program

Clause 14(1) provides that for the definition of *returning to teaching condition* in schedule 3 of the Act, the professional development program for returning to teaching meets the prescribed requirements for the program if it:

- (a) includes elements that focus on:
 - (i) effective teaching practice;
 - (ii) contemporary issues about education; and
 - (iii) legislation applying in the State, and relevant to teachers, about the care or protection of children; and
- (b) has regard to the professional standards.

Clause 14(2) provides that, without limiting subsection (1)(a)(ii), a program must include elements that focus on the following contemporary issues:

- (a) curriculum and assessment initiatives for Queensland schools;
- (b) syllabus implementation for Queensland schools; and
- (c) policies about education for Queensland schools.

Clause 14(3) provides that a professional development program is a professional learning program.

During the Parliamentary debate on the Education (Queensland College of Teachers) Bill 2005, the Minister for Education and Minister for the Arts noted his preference for use of the term "professional development" rather than "professional learning". During the speech in reply, the Minister indicated his intention to amend the Act in the future to replace the references to "professional learning" with "professional development" (Hansard, 25 October 2005, at page 3467). The term "professional development" is being used in the Regulation to reflect the intended amendment to the Act.

Part 3 Requirements for elections of practising teachers to board

Division 1 Preliminary

15 Purpose of pt 3

Clause 15 provides that this part states the requirements, under section 240(2) of the Act, for an election (a *board member election*) of practising teachers for appointment as members of the board under section 239(1)(j) of the Act.

Division 2 Matters before the election

16 Election day to be fixed

Clause 16 provides that for a board member election, the board must fix an election day that is at least 45 days before the end of the term of appointment of the elected members of the board. For this clause *elected members of the board* means the members elected for section 239(1)(j) of the Act.

17 Notice of election

Clause 17(1) provides that the director must publish a gazette notice stating the election day and the final day (the *final nomination day*) for the receipt of nominations of candidates. Clause 17(2) provides that the final nomination day must be at least 10 days after the day of the gazette notice and at least 28 days before the election day.

18 Roll of electors

Clause 18 provides that the director must prepare a roll (the *roll of electors*) of persons (each an *elector*) who are registered teachers on the day the gazette notice is published under section 17(1).

19 Nomination of candidates—nominators and nominees

Clause 19(1) provides that a practising teacher may be nominated as a candidate for the election only if the teacher's name is on the roll of electors for the election and the teacher is nominated as a candidate by six other registered teachers whose names are on the roll of electors. Clause 19(2) provides that a practising teacher must not be nominated as both a State schools candidate and a non-State schools candidate.

20 Form of nominations

Clause 20(1) provides that a nomination of a candidate must be in writing, signed by the candidate as accepting the nomination and six registered teachers making the nomination.

Clause 20(2) provides that the nomination must be given to the director before 4.00 p.m. on the final nomination day. Clause 20(3) provides that a candidate may withdraw his or her consent to his or her nomination before 4.00 p.m. on the final nomination day by giving the director a notice of withdrawal. Clause 20(4) provides that, if before sending the voting papers to the electors, the director receives notice of the death of a candidate, the director may cancel the nomination of the candidate.

Division 3 When no ballot is needed

21 If no more candidates than number to be elected—State schools members

Clause 21(1) provides that this section applies if the number of State schools candidates for the election is not more than the number of State schools members to be elected. Clause 21(2) provides that the director need not conduct a ballot for the election of the State schools members. Clause 21(3) provides that the candidates are taken to have been elected unopposed. Clause 21(4) provides that the director must:

- (a) declare the candidates to be elected; and
- (b) give the Minister a notice, signed by the director, stating the name of each candidate, that the candidate is elected as a State schools member and the day the result of the election is declared.

22 If no more candidates than number to be elected—non-State schools member

Clause 22(1) provides that this section applies if there is only one non-State schools candidate for the election. Clause 22(2) provides that the director need not conduct a ballot for the election of the non-State schools member. Clause 22(3) provides that the candidate is taken to have been elected unopposed. Clause 22(4) provides that the director must:

- (a) declare the candidate to be elected; and
- (b) give the Minister a notice, signed by the director, stating the name of the candidate, that the candidate is elected as a non-State schools member and the day the result of the election is declared.

Division 4 When a ballot is needed

23 Application of div 4

Clause 23 provides that this division applies if a ballot is needed for the election.

24 Ballot papers—order of candidates

Clause 24(1) provides that as soon as practicable after the final nomination day, the director must decide, by lot, the order of the candidates on the ballot paper for the election.

Clause 24(2) provides that subsections (3) and (4) apply if a ballot is needed for both State schools candidates and non-State schools candidates (each a *ballot group*). Clause 24(3) provides that the names of candidates for each ballot group must be stated separately from the names of candidates for the other ballot group. Clause 24(4) provides that the names of candidates for a ballot group must be stated in the order decided by the director by lot for the group.

25 Ballot papers—content

The ballot paper for the election must state:

- (a) the election day and election time;

- (b) the name of each candidate, listed in the order decided under section 24;
- (c) whether each candidate is a State schools candidate or a non-State schools candidate; and
- (d) instructions about how a person may cast a vote.

26 Voting papers

Clause 26(1) provides that the director must, at least 21 days before the election day, send the following (the *voting papers*) to each elector:

- (a) a ballot paper;
- (b) an unsealed envelope for the ballot paper (the *ballot envelope*);
- (c) an unsealed stamped or postage paid envelope addressed to the director (the *return envelope*).

Clause 26(2) provides that the ballot envelope must show the name and identification number of the elector to whom it is sent and a place for the elector to sign the envelope.

Clause 26(3) provides that if the voting papers are posted to an address outside Australia, the return envelope need not be stamped or postage paid.

27 Statement by candidate

Clause 27(1) provides that a candidate may prepare a statement consisting of not more than the candidate's home address, age, academic qualifications, current professional position, professional address and a statement of not more than 100 words about anything else the candidate decides.

Clause 27(2) provides that if a candidate prepares a statement under clause 27(1) and gives it to the director on or before the final nomination day, the director must include the statement with the voting papers sent to the electors, unless the director has a reasonable excuse for not including the statement. Examples of a reasonable excuse are if a statement includes a matter the director believes may be unlawful or defamatory or the director is not able to include the statement due to a circumstance beyond the director's control.

28 Voting

Clause 28(1) provides that an elector may vote for:

- (a) if the elector is a registered teacher who identifies himself or herself as affiliated with State schooling-a State schools candidate; or
- (b) if the elector is a registered teacher who identifies himself or herself as affiliated with non-State schooling-a non-State schools candidate.

Clause 28(2) provides that an elector may vote for a candidate only by:

- (a) marking a ballot paper with a cross opposite the candidate's name;
- (b) signing the ballot envelope in the place provided for the elector's signature;
- (c) putting the ballot paper in the ballot envelope and sealing the ballot envelope;
- (d) putting the ballot envelope in the return envelope and sealing the return envelope; and
- (e) returning the return envelope to the director by the election time.

Clause 28(3) provides that an elector's vote is not invalid merely because:

- (a) the elector has not signed the ballot envelop;
- (b) the ballot envelope is not sealed; or
- (c) the return envelope is not sealed.

29 Director to keep ballot box

Clause 29 provides that the director must keep a ballot box for the election and place in the ballot box each return envelope received by the director before the election time. The ballot box must be sealed in a way preventing return envelopes from being taken from it until the election time.

30 Scrutineers

Clause 30(1) provides that the chairperson of the board must appoint two persons to be scrutineers for the opening of the return envelopes and the ballot envelopes, the examination of the voting papers and the counting of

the votes. Clause 30(2) provides that each candidate for the election may appoint one person to be a scrutineer for the opening of the return envelopes and the ballot envelopes, the examination of the voting papers and the counting of the votes.

Clause 30(3) provides that the appointment of a candidate's scrutineer must be by a notice given to the director at least five days before the election day. Clause 30(4) provides that the election is not invalid because a candidate does not appoint a scrutineer or because a person appointed as a scrutineer by a candidate does not carry out the duties of a scrutineer.

31 Director to count votes

Clause 31(1) provides that at, or as soon as practicable after, the election time the director must:

- (a) open each return envelope in the ballot box;
- (b) check whether the person from whom the return envelope was received is an elector;
- (c) open each ballot envelope received from an elector;
- (d) accept each formal ballot paper and reject each informal ballot paper; and
- (e) count and record the number of votes for each candidate on the formal ballot papers.

Clause 31(2) provides that despite clause 31(1)(d), the director may accept an informal ballot paper if, in the opinion of the director, the intention of the voter is clear.

Clause 31(3) provides that if the director is not satisfied a voter is an elector for the election (that is, the person is not entitled to vote at the election) the vote must not be counted.

Clause 31(4) provides that the director may appoint persons as assistants to help in opening the envelopes, examining the voting papers and counting the votes. However, clause 31(5) provides that the director must not appoint, under clause 31(4), a candidate or a scrutineer appointed by either a candidate or the chairperson.

Clause 31(6) provides that opening of the envelopes, examining of the voting papers and counting of votes must take place in the presence of the

two scrutineers appointed by the chairperson and any scrutineer appointed by a candidate.

Clause 31(7) provides that a candidate must not be present when the envelopes are opened, the voting papers are examined or the votes are counted.

Clause 31(8) provides the definitions of *formal ballot paper* and *informal ballot paper* for the purpose of this section.

32 Declaration of result of election

Clause 32(1) provides that when all the voting papers have been examined and the votes counted, the director must prepare and sign a notice that states:

- (a) each candidate's name;
- (b) the number, in words and figures, of the votes for each candidate;
- (c) subject to section 33, that the following are declared elected:
 - (i) if a ballot is needed for State schools candidates-the State schools candidates who receive the greatest number, and the next highest number, of votes;
 - (ii) if a ballot is needed for non-State schools candidates-the non-State schools candidate who receives the greatest number of votes;
- (d) for each candidate declared elected, whether the candidate is elected as a State schools member or a non-State schools member; and
- (e) the day the result of the election is declared.

Clause 32(2) provides that for subsection (1)(c)(i), if two candidates both receive the greatest number of votes, those two candidates are to be declared elected.

Clause 32(3) provides that the statement may be countersigned by scrutineers who are present and consent to sign it.

Clause 32(4) provides that the director must give the notice to the Minister as soon as practicable after the notice is prepared and signed.

33 Tied candidates

Clause 33 applies if two or more candidates (the *tied candidates*) receive an equal number of votes and because of the required number of board members to be elected, not all the tied candidates can be declared elected. In this instance, clause 33 requires the director to decide, by lot, which of the tied candidates is to be declared elected. The director must declare to be elected under section 32 each tied candidate decided by lot to be declared elected.

Division 5 Other matters

34 Keeping ballot papers and roll of electors after election

Clause 34 provides that the director must keep the ballot papers and a copy of the roll of electors, signed by the director, for at least one year after the declaration of the result of the election.

35 Election not to be invalid

Clause 35 provides that the election is not invalid because of:

- (a) a formal error or defect in a declaration or other instrument or in a publication made, or intended to be made, under this regulation;
- (b) a publication being out of time;
- (c) a delay in holding the election at the time appointed or in taking action in relation to the election;
- (d) an inadvertent failure to give an elector a notice or ballot paper;
or
- (e) a defect of a merely formal nature.

Part 4 Miscellaneous

36 Notice of change in circumstances

Clause 36 provides what matters are a prescribed change in circumstances, requiring notification to the College for the purpose of section 71(2) of the Act. The following are a prescribed change in circumstances:

- (a) the teacher's name;
- (b) the teacher's address;
- (c) if a teacher is employed at a school on a permanent full or part-time basis, the school at which the teacher is employed; and
- (d) removal or variation of a qualification, possession of which was relied upon by the teacher in obtaining their registration or permission to teach.

Further, if the teacher's registration is subject to a returning to teaching condition and the teacher was not teaching at a school on a permanent full-time or part-time basis at the time the condition was imposed, it is a prescribed change in circumstance when the teacher starts teaching at a school on a permanent full-time or part-time basis. The details of the prescribed change in circumstance include the day the teacher starts teaching at a school and the school where the teacher starts teaching.

37 Fees

Clause 37 provides that the fees payable under the Act are stated in schedule 1.

38 Waiver of fee-financial hardship

The board may waive, wholly or partly, the payment of a fee by a person if the board is satisfied payment of the fee would cause the person financial hardship.

39 Repeal

Clause 39 repeals the *Education (Teacher Registration) By-law 1999*.

Schedule 1 Fees

Schedule 1 prescribes the fees payable under the Act. The fees set in the schedule are as follows:

1	Registration application fee—	
	(a) for a person who holds a qualification from a higher education entity for a preservice teacher education program:	
	(i) approved by the college; and	
	(ii) successfully completed not more than 2 years before the application is made	nil
	(b) for another person	\$70.00
2	Permission to teach application fee	\$70.00
3	Criminal history check fee	\$22.50
4	Registration fee	\$90.00
5	Permission to teach fee	\$90.00
6	Annual fee, for each registration year	\$60.00
7	Fee for late payment of annual fee	\$20.00
8	Restoration application fee	\$55.00
9	Fee for replacing certificate of registration or permission to teach	\$25.00

Schedule 2 Dictionary

Schedule 2 sets out the definitions for particular words used in the Regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Education and the Arts.