

Queensland



**EDUCATION (TEACHER
REGISTRATION)
AMENDMENT BILL 1996**



EDUCATION (TEACHER REGISTRATION) AMENDMENT BILL 1996

TABLE OF PROVISIONS

Section	Page
1 Short title	6
2 Commencement	6
3 Amended Act	6
4 Amendment of long title	6
5 Amendment of s 4 (Interpretation)	6
6 Replacement of s 5 (Constitution of the Board)	7
5 Establishment and membership of board	7
5A Chairperson and deputy chairperson	9
7 Amendment of s 6 (Functions and powers of the Board)	9
8 Amendment of s 15 (Casual vacancies on the Board)	10
9 Insertion of new s 16A	10
16A Disclosure of interests by members and executive officer	10
10 Amendment of s 18 (Quorum and business of the Board)	11
11 Omission of pt 3, div headings	11
12 Replacement of ss 32–35	11
<i>Division 1—Register of teachers and details in it</i>	
32 Register of teachers and its inspection	12
32A Registration by entering various details in register of teachers	12
<i>Division 2—Applications, approvals and notices of decisions</i>	
33 Two types of applications may be made to board	12
33A Good character of each applicant to be assessed	13
34 Approval of applications	13

35	Notice of board's decision about application	14
	<i>Division 3—Other notices if board not satisfied about application</i>	
35A	Board may request information or documents from applicant	14
35B	Board cannot be satisfied about application if its request not met	15
35C	Person given certain notices by board may ask for inquiry	15
	<i>Division 4—Unregistered persons and reports about teachers</i>	
13	Replacement of ss 37–46	15
37	Duty of registered teacher convicted of indictable offence etc. ...	16
38	Board to monitor registration of teachers	16
	<i>Division 5—Non-compliance with provisional registration conditions</i>	
39	Procedure if board considers teacher is not complying with conditions of provisional registration	16
40	Procedure after teacher has been invited to show cause	17
	<i>Division 6—Power to cancel registration in some other cases</i>	
41	Cancellation of registration	18
42	Date of effect of cancellation of registration under s 41	18
	PART 3A—INQUIRIES ABOUT RESPONDENT TEACHERS AND RELATED MATTERS	
	<i>Division 1—Power to conduct inquiries about respondent teachers</i>	
43	Board may conduct inquiry about certain persons	19
44	Board may conduct inquiry itself or appoint a committee of inquiry	20
45	Constitution of committee for inquiry	20
	<i>Division 2—Conducting an inquiry</i>	
45A	Notice of inquiry	20
45B	Inquiry open to public	21
45C	Records of proceedings	21
45D	Procedure	21
45E	Representation for respondent teacher and board	22
45F	Powers of inquiry body	22
45G	Inspection of documents	23
45H	Evidence and findings etc. in other proceedings may be received or adopted	23

45I	Allowance to witness	23
45J	Offences if failure to attend, appear, produce, be sworn or answer	24
45K	Protection for individuals against self incrimination	24
45L	Protection of members, legal representatives and witnesses	24
45M	Contempt of inquiry body	25
45N	Removal from inquiry	25
45O	Decisions about questions before inquiry body	26
<i>Division 3—Matters at end of inquiry</i>		
45P	Committee of inquiry to report to board	26
45Q	Report of offences	26
<i>Division 4—Orders by board after inquiry</i>		
45R	Board may order cancellation of registration etc.	27
45S	Notice of board's order	28
PART 3B—APPEALS		
46	Appeals	29
14	Replacement of ss 47 and 48	30
47	False or misleading information	30
48	False, incomplete or misleading documents	30
48A	Penalties payable to board	31
15	Insertion of new ss 62–71	31
62	Members of board at commencement continue as the members and related matters	31
63	Inquiry about teacher who is no longer registered at commencement	32
64	Register and registration	32
65	Applications for registration as teacher before commencement . . .	32
66	Cancellation etc. and application for restoration of name in register before commencement	33
67	Inquiries before commencement to continue	33
68	Appeals	33
69	Numbering and renumbering	33
70	Expiry of certain sections	33
71	Repeal of existing regulation	34

SCHEDULE	35
MINOR OR CONSEQUENTIAL AMENDMENTS	

1996

A BILL

FOR

An Act to amend the Education (Teacher Registration) Act 1988

Education (Teacher Registration) Amendment

The Parliament of Queensland enacts—

1

Short title

2

Clause **1.** This Act may be cited as the *Education (Teacher Registration) Amendment Act 1996*.

3

4

Commencement

5

Clause **2.** This Act commences on a day to be fixed by proclamation.

6

Amended Act

7

Clause **3.** This Act amends the *Education (Teacher Registration) Act 1988*.

8

Amendment of long title

9

Clause **4.** Long title, ‘related’—
 omit, insert—
 ‘other’.

10

11

12

Amendment of s 4 (Interpretation)

13

Clause **5.(1)** Section 4, heading—
 omit, insert—

14

15

‘Definitions’.

16

(2) Section 4, definitions **“Board”, “financial year”** and **“misconduct”**—
 omit.

17

18

19

(3) Section 4—

20

insert—

21

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

22

23

Education (Teacher Registration) Amendment

“application for restoration” means an application for restoration of a person’s name to the register.	1 2
“board” means the Board of Teacher Registration.	3
“committee of inquiry” means a committee of inquiry appointed by the board under section 44(1)(b) to conduct an inquiry.	4 5
“convicted” means found guilty, or having a plea of guilty accepted, in a court, whether or not a conviction was recorded.	6 7
“good character” see section 33A. ¹	8
“inquiry” means an inquiry under part 3A. ²	9
“inquiry body” , for an inquiry, means—	10
(a) if a committee of inquiry is established by the board to conduct the inquiry—the committee; or	11 12
(b) in any other case—the board.	13
“notice for information or documents” means a notice under section 35A(1). ³	14 15
“notice of non-satisfaction” means a notice under section 35B. ⁴	16
“respondent teacher” means a person about whom the board may conduct an inquiry under section 43.’.	17 18

Replacement of s 5 (Constitution of the Board)	19
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Clause	6. Section 5—	20
	<i>omit, insert—</i>	21
	‘Establishment and membership of board	22
	‘5.(1) The Board of Teacher Registration is established.	23
	‘(2) The board consists of the following persons—	24

¹ Section 33A (Good character of each applicant to be assessed)

² Part 3A (Inquiries about respondent teachers and related matters)

³ Section 35A (Board may request information or documents from applicant)

⁴ Section 35B (Board cannot be satisfied about applicant if its request not met)

Education (Teacher Registration) Amendment

- (a) 1 nominee of the Minister; 1
 - (b) 3 nominees of the chief executive, of whom at least 2 must be practising teachers; 2
3
 - (c) 2 representatives of entities employing teachers other than in State schools, 1 of whom is to be nominated by the Queensland Catholic Education Commission and the other by the Association of Independent Schools of Queensland Inc.; 4
5
6
7
 - (d) 1 nominee of the Queensland Teachers' Union, who must be a practising teacher in a State school; 8
9
 - (e) 1 nominee of the Queensland Association of Teachers in Independent Schools, who must be a practising teacher in a non-State school; 10
11
12
 - (f) 1 nominee of the State Public Services Federation, Queensland, who must be a registered teacher; 13
14
 - (g) 2 representatives of institutions of higher education, who must be practising teacher educators, nominated by the Higher Education Forum; 15
16
17
 - (h) 1 representative of community groups involved in education, who is nominated under subsection (3) and, when appointed as a board member, is a parent of a student in a school in Queensland; 18
19
20
 - (i) 3 representatives of registered teachers— 21
 - (i) whose names are submitted as a result of an election involving registered teachers that is held under a by-law; and 22
23
 - (ii) who, when appointed as board members, are registered teachers; 24
25
 - (j) 1 other nominee of the Minister if the Minister considers an additional representative is desirable. 26
27
- ‘(3) The Minister must arrange for a person to hold a meeting of representatives of the following entities, including a meeting by electronic means, to decide a nominee for subsection (2)(h)— 28
29
30
- (a) Independent Parents and Friends Council of Queensland; 31
 - (b) Parents and Friends Association, Queensland; 32

Education (Teacher Registration) Amendment

(c) Queensland Council of Parents and Citizens' Associations Incorporated. 1
2

'(4) The Governor in Council must appoint the members of the board. 3

'Chairperson and deputy chairperson 4

'5A.(1) The member of the board mentioned in section 5(2)(a) is the 5
chairperson of the board. 6

'(2) The board members must appoint a member (other than the 7
chairperson) as the deputy chairperson of the board. 8

'(3) The appointment of the deputy chairperson may be for a time 9
decided by the board but not for longer than the deputy chairperson's term 10
of appointment as a member.' 11

Amendment of s 6 (Functions and powers of the Board) 12

Clause 7.(1) Section 6(1)— 13

insert— 14

'(1) anything else— 15

(i) complementary, helpful or incidental to its other 16
functions; or 17

(ii) likely to enhance the effective and efficient performance 18
of its other functions.' 19

(2) Section 6(2), from 'shall have' to 'authorities—'— 20

omit, insert— 21

'may exercise all powers necessary or convenient for performing its 22
functions, including the following powers—' 23

(3) Section 6(2)(b), from 'and,'— 24

omit. 25

(4) Section 6— 26

insert— 27

'(3) For material produced by it, the board may— 28

Education (Teacher Registration) Amendment

- | | | |
|--|---|--------|
| | (a) charge for advertising in the material; or | 1 |
| | (b) sell the material or enter into an agreement with an entity to sell the material.’. | 2
3 |

	Amendment of s 15 (Casual vacancies on the Board)	4
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|--------|--|---|
| Clause | 8.(1) Section 15(1), ‘the Governor in Council shall, by notification published in the Gazette,’—
<i>omit, insert—</i>
‘the Minister must, by written notice,’
(2) Section 15(4) and (4A)—
<i>omit, insert—</i>
‘ (4) If a casual vacancy occurs for a member nominated under section 5(2)(i) (the “ original member ”), the board must nominate for appointment the person who—
(a) obtained the next highest number of votes in the election at which the original member was elected; and
(b) is willing and able to be a board member.’. | 5
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	Insertion of new s 16A	17
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|--------|---|--|
| Clause | 9. After section 16—
<i>insert—</i>
‘Disclosure of interests by members and executive officer
‘ 16A.(1) A member of the board or the executive officer must disclose to a meeting of the board the member’s or officer’s direct or indirect interest in an issue being considered, or about to be considered, by the board if the interest could conflict with the appropriate performance of the member’s or officer’s duties about the consideration of the issue.
‘ (2) The disclosure must be recorded in the board’s minutes.
‘ (3) Unless the board otherwise directs—
(a) the member or officer must not be present when the board considers the issue; and | 18
19
20
21
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|--------|---|--|

Education (Teacher Registration) Amendment

- (b) the member or officer must not take part in the board's decision about the issue.

‘(4) If there is another person who must, under subsection (1), also disclose an interest in the issue, the other person must not—

- (a) be present when the board is considering whether to give a direction under subsection (3); or

- (b) take part in making the decision about giving a direction.

‘(5) If, because of this section, a member is not present at a board meeting for considering or deciding an issue, but there would be a quorum if the member were present, the remaining members present are a quorum for considering or deciding the issue at the meeting.’.

Amendment of s 18 (Quorum and business of the Board)

Clause 10. Section 18(1)—

omit, insert—

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

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

Omission of pt 3, div headings

Clause 11. Part 3, divisions 1 to 3, division headings—

omit.

Replacement of ss 32–35

Clause 12. Sections 32 to 35—

omit, insert—

‘Division 1—Register of teachers and details in it

1

‘Register of teachers and its inspection

2

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

3

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

4

5

6

‘Registration by entering various details in register of teachers

7

‘32A.(1) A person is registered as a teacher when, on order of the board, the executive officer enters the following details in the register—

8

9

(a) the person’s full name and address;

10

(b) the type of registration (full or provisional);

11

(c) particulars of the qualifications and experience (if any) by which the person is registered;

12

13

(d) any other particulars required under a by-law;

14

(e) the date of entering the details under this subsection.

15

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

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‘Division 2—Applications, approvals and notices of decisions

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‘Two types of applications may be made to board

21

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

22

(a) an application for registration;

23

(b) an application for restoration.

24

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

25

26

‘Good character of each applicant to be assessed

‘33A.(1) The board must not, under section 34, approve an application unless the board is also satisfied that the applicant is of good character.

‘(2) In deciding whether an applicant is of good character for registration, the board may consider all matters the board believes are relevant to the decision, including a matter that happened outside the State.

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

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

‘(4) Subsections (2) and (3) apply in relation to the board deciding whether a teacher is of good character to continue to be registered as a teacher.

‘Approval of applications

‘34.(1) The board must approve an application for registration by ordering the full registration of the applicant as a teacher if the board is satisfied, on reasonable grounds, that the applicant has the qualifications and experience, prescribed under a by-law, for full registration as a teacher.

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

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

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

- (a) was registered but the registration was cancelled or suspended because the person did not apply, in the way prescribed under a

by-law, for the retention of the person's name in the register; and 1

(b) has paid the fees prescribed under a by-law. 2

‘(4) This section has effect subject to section 33A. 3

‘Notice of board’s decision about application 4

‘35.(1) Within 7 days after the date of the board’s decision about an 5
application, the executive officer must give written notice to the applicant 6
about the board’s decision. 7

‘(2) For a refusal of an application, the notice must also state— 8

(a) the board’s reasons for its refusal; and 9

(b) that the applicant may appeal against the decision to a District 10
Court; and 11

(c) the time within which the applicant must make the appeal. 12

‘(3) For an approval for provisional registration, the notice must also 13
state— 14

(a) the additional qualification or experience required for an approval 15
for full registration; and 16

(b) the time within which the applicant must obtain or complete the 17
stated additional qualification or experience. 18

‘Division 3—Other notices if board not satisfied about application 19

‘Board may request information or documents from applicant 20

‘35A.(1) To satisfy itself about an application, the board may ask the 21
applicant, by written notice, to give it stated information or documents by 22
the time stated in the notice. 23

‘(2) The time stated in the notice must be a reasonable time having regard 24
to the information or documents and, in any case, not earlier than 28 days 25
after the date of the notice. 26

‘(3) The applicant may ask the board to extend the time in the notice and 27
the board must not refuse a reasonable request for an extension. 28

- ‘(4) The board may give to an applicant— 1
- (a) more than 1 notice for information or documents; and 2
 - (b) more than 1 extension of time. 3

‘Board cannot be satisfied about application if its request not met 4

‘35B.(1) If a person given a notice for information or documents does 5
not give the board the information or documents by the time stated in the 6
notice or under an extension, the board must give written notice to the 7
person that it is not satisfied— 8

- (a) the applicant is of good character to be registered as a teacher; or 9
- (b) about a matter for which it must be satisfied under section 34. 10

‘(2) The notice must also state— 11

- (a) the reasons why the board is not satisfied about the applicant’s 12
character or the matter; and 13
- (b) that the person may ask the board for an inquiry within 28 days 14
after receipt of the notice. 15

‘Person given certain notices by board may ask for inquiry 16

‘35C. A person given a notice for information or documents, or a notice 17
of non-satisfaction, may ask the board for an inquiry about the person, 18
within 28 days after receipt of the notice. 19

‘Division 4—Unregistered persons and reports about teachers’. 20

Replacement of ss 37–46 21

- Clause 13. Sections 37 to 46— 22
- omit, insert— 23*

‘Duty of registered teacher convicted of indictable offence etc.

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

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

Maximum penalty—2 penalty units.

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

‘Board to monitor registration of teachers

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

‘(2) The principal must comply with the notice.

Maximum penalty—10 penalty units.

‘Division 5—Non-compliance with provisional registration conditions**‘Procedure if board considers teacher is not complying with conditions of provisional registration**

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

(a) stating the board may order the cancellation or suspension of the registration (the “ proposed order ”); and	1 2
(b) stating the grounds for the proposed order; and	3
(c) outlining the facts and circumstances forming the basis for the grounds; and	4 5
(d) if the proposed order is an order suspending registration—stating the proposed suspension period; and	6 7
(e) inviting the teacher to show, within a stated time of at least 28 days, why the proposed order should not be made.	8 9
‘Procedure after teacher has been invited to show cause	10
‘ 40.(1) If, after considering all written representations made within the stated time, the board is satisfied the teacher is not complying with the conditions of the provisional registration, the board may—	11 12 13
(a) if the proposed order was to suspend registration for a stated period—order suspension of the registration for not longer than the proposed suspension period; or	14 15 16
(b) if the proposed order was to cancel the registration—either order cancellation of the registration or suspension of it for a period.	17 18
‘ (2) The executive officer must inform the teacher of the board’s order by written notice.	19 20
‘ (3) The notice must be given within 7 days after the board makes its order.	21 22
‘ (4) If the board orders the cancellation or suspension of the registration, the notice must state—	23 24
(a) the board’s reasons for its order; and	25
(b) for an order of suspension—the period of suspension; and	26
(c) the date the cancellation or suspension takes effect or, if no date is stated, that the cancellation or suspension takes effect from the date of the notice; and	27 28 29
(d) that the person may appeal against the order to a District Court;	30

and	1
(e) the time within which the person must make the appeal.	2
<i>‘Division 6—Power to cancel registration in some other cases</i>	3
‘Cancellation of registration	4
‘41.(1) The board must order cancellation of a teacher’s registration if—	5
(a) the teacher has died; or	6
(b) the teacher applies in writing to the board to have the teacher’s name removed from the register; or	7
(c) the teacher does not apply for retention of the teacher’s name in the register at the intervals, within the times and in the way prescribed under a by-law.	8
(2) However, the board may not order cancellation of a teacher’s registration under subsection (1)(c) unless the board has complied with the provisions prescribed under a by-law about giving notice to the teacher of the proposed cancellation.	9
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	11
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	15
‘Date of effect of cancellation of registration under s 41	16
‘42. A cancellation of registration under section 41 takes effect—	17
(a) if a date is stated in the order as the date it takes effect—from the stated date; or	18
(b) in any other case—the date of the order.	19
	20

‘PART 3A—INQUIRIES ABOUT RESPONDENT TEACHERS AND RELATED MATTERS

‘Division 1—Power to conduct inquiries about respondent teachers

‘Board may conduct inquiry about certain persons

‘43.(1) The board may conduct an inquiry if a person, under section 35C, has asked for an inquiry.

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

- (a) the teacher has been convicted of an indictable offence (whether on indictment or summarily) or an offence against this Act; or
- (b) the teacher is incompetent in performing the work of a teacher but only if the teacher has been dismissed from employment as a teacher, or has resigned in circumstances, that, in the opinion of the teacher’s employer in the State, call into question the teacher’s competency to be employed as a teacher; or
- (c) if the teacher was registered in another State—the teacher’s registration in the State as a teacher has been cancelled or suspended; or
- (d) if the teacher was employed in another State that does not register teachers—the teacher’s employment as a teacher in the State has been terminated because the teacher’s employer was reasonably satisfied the teacher was not competent or fit to be employed as a teacher in that State; or
- (e) the teacher has ceased to possess or does not possess the qualifications and experience (if any) on which the teacher was registered as a teacher; or
- (f) the teacher is not, or no longer is, of good character to be

registered as a teacher.⁵

‘(3) However, the board may conduct an inquiry into a person who was a registered teacher only if the board is reasonably satisfied that, because of the nature of the events the subject of the proposed inquiry, it is in the public interest for the board to inquire into the events and—

- (a) the events happened while the person was registered; and
- (b) it is not more than 1 year since the registration ended.

‘Board may conduct inquiry itself or appoint a committee of inquiry

‘44.(1) The board may—

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

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

‘Constitution of committee for inquiry

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

- (a) a member of the board; and
- (b) 4 practising teachers.

‘(2) The member of the board is the chairperson of the committee.

‘Division 2—Conducting an inquiry

‘Notice of inquiry

‘45A. The board must give at least 28 days written notice to the respondent teacher of—

- (a) the grounds for the inquiry; and

⁵ See section 33A (Good character of each applicant to be assessed).

(b) the time and place for conducting the inquiry; and	1
(c) if the board has appointed a committee of inquiry to conduct the inquiry— the names of the committee members.	2 3
‘Inquiry open to public	4
‘45B.(1) The inquiry must be open to the public unless—	5
(a) the inquiry body decides, in the special circumstances of the particular matter, all or part of the inquiry should be closed to the public; or	6 7 8
(b) the respondent teacher asks the inquiry body for all or part of the inquiry to be closed to the public.	9 10
‘(2) Also, the inquiry body may order that the following must not be published—	11 12
(a) the name of the respondent teacher or of any person called before it as a witness;	13 14
(b) any evidence given before it;	15
(c) the contents of any document produced to it.	16
‘Records of proceedings	17
‘45C. The inquiry body must keep a record of the inquiry’s proceedings.	18
‘Procedure	19
‘45D.(1) The inquiry is to be held with as little formality and technicality, and must proceed as quickly, as is practicable to permit a fair and proper consideration of the matters before the inquiry body.	20 21 22
‘(2) In conducting the inquiry, the inquiry body—	23
(a) is not bound by the rules or practice about evidence but may inform itself about a relevant matter in any way it considers appropriate; but	24 25 26
(b) must observe the rules of natural justice.	27
‘(3) Subject to subsections (1) and (2), the chairperson of the inquiry	28

body may give directions about the procedure to be followed by the inquiry body. 1
2

‘Representation for respondent teacher and board

 3

‘45E.(1) In conducting the inquiry, the inquiry body must give the respondent teacher an adequate opportunity to fully and fairly present the teacher’s case. 4
5
6

‘(2) The respondent teacher is entitled to be represented by— 7

(a) a lawyer; or 8

(b) a person nominated by the respondent teacher as the teacher’s agent. 9
10

‘(3) Also a lawyer, or officer of the board, may appear at the inquiry to present evidence to, or help, the inquiry body. 11
12

‘Powers of inquiry body

 13

‘45F.(1) At the inquiry, the inquiry body may— 14

(a) proceed in the absence of the respondent teacher if the board is satisfied, on reasonable grounds, that the teacher was given notice about the inquiry under section 45A; and 15
16
17

(b) require evidence on oath or by statutory declaration; and 18

(c) adjourn the inquiry; and 19

(d) permit amendment of a document; and 20

(e) disregard any defect, error, insufficiency or omission in a document. 21
22

‘(2) The chairperson of the inquiry body may administer an oath to a person appearing at the inquiry. 23
24

‘(3) Also the inquiry body may, by written notice, require a person to attend the inquiry at a stated time and place— 25
26

(a) to give evidence; or 27

(b) to produce a stated document or thing that is relevant to the inquiry. 28
29

‘Inspection of documents

‘45G.(1) When a document or thing is produced to the inquiry body, the body may inspect the document or thing if it is relevant to the inquiry.

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

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

‘(4) In this section—

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

‘Evidence and findings etc. in other proceedings may be received or adopted

‘45H. During the inquiry, the inquiry body may—

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

‘Allowance to witness

‘45I. A witness who appears before the inquiry body must be paid by the board, out of its funds—

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

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

‘45J.(1) A person served with a notice requiring the person to attend the inquiry must not fail, without reasonable excuse—

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

Maximum penalty—10 penalty units.

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

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

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

‘Protection for individuals against self incrimination

‘45K. If an individual before the inquiry objects to producing a document or thing, or to answering a question asked by a member of the inquiry body, on the ground that producing the document or thing or answering the question might tend to incriminate the individual, he or she is not required—

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

‘Protection of members, legal representatives and witnesses

‘45L.(1) The members of the inquiry body have, in the performance of the member’s duties for the inquiry, the same protection and immunity as a judge of the Supreme Court.

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

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

‘Contempt of inquiry body

‘45M. A person must not—

- (a) insult the inquiry body; or
- (b) deliberately interrupt the inquiry; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where an inquiry body is conducting its inquiry; or
- (d) attempt to improperly influence the inquiry body; or
- (e) do anything that would be contempt of court if the inquiry body were a judge acting judicially; or
- (f) publish a matter that the inquiry body has ordered not to be published.⁶

Maximum penalty—10 penalty units.

‘Removal from inquiry

‘45N.(1) The chairperson of the inquiry body may order a person to leave the inquiry, or a part of the inquiry, closed to the public.

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

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

Maximum penalty—10 penalty units.

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

⁶ See section 45B(2) (Inquiry open to public).

‘(5) In removing the offender, the authorised person must use only reasonable and necessary force. 1
2

‘(6) The offender must not resist the authorised person in carrying out the authority. 3
4

Maximum penalty for subsection (6)—10 penalty units. 5

‘Decisions about questions before inquiry body 6

‘45O.(1) A question before the inquiry body is to be decided according to the opinion of— 7
8

(a) if the body is a committee of inquiry—the majority of the members of the committee; or 9
10

(b) in any other case—the majority of the board members constituting the inquiry body for the inquiry. 11
12

‘(2) If the members of the inquiry body are equally divided on a question, the question is to be decided according to the opinion of the body’s chairperson. 13
14
15

‘Division 3—Matters at end of inquiry 16

‘Committee of inquiry to report to board 17

‘45P.(1) If the inquiry body is a committee of inquiry, it must report its findings and recommendations to the board as soon as possible after the inquiry. 18
19
20

‘(2) The board must have regard to the findings and recommendations in making a decision about the respondent teacher. 21
22

‘Report of offences 23

‘45Q. If the inquiry body considers material before it discloses an offence, its chairperson may report the offence to 1 or more of the following persons and may make available to the person or persons all relevant material in the possession of the inquiry body— 24
25
26
27

(a) the commissioner of the police service; 28

- (b) the Criminal Justice Commission; 1
- (c) the director of public prosecutions; 2
- (d) the chief executive. 3

‘Division 4—Orders by board after inquiry 4

‘Board may order cancellation of registration etc. 5

‘45R.(1) After an inquiry about a registered teacher, if the board is 6
 satisfied on the balance of probabilities about a matter mentioned in 7
 section 43(2), the board may, as it considers just in the circumstances, make 8
 1 or more of the following orders— 9

- (a) an order cancelling the teacher’s registration; 10
- (b) an order cancelling the teacher’s registration and substituting 11
 provisional registration subject to conditions the board considers 12
 appropriate; 13
- (c) an order suspending the teacher’s registration for a stated time; 14
- (d) an order requiring the teacher to pay to the board, by way of 15
 costs, an amount the board considers appropriate having regard to 16
 expenses incurred by it in conducting the inquiry; 17
- (e) an order requiring the teacher to pay to the board, by way of 18
 penalty, an amount fixed by the board but not more than the 19
 equivalent of 20 penalty units; 20
- (f) an order reprimanding the teacher and for the reprimand to be 21
 entered in the register. 22

‘(2) After an inquiry about a person who was a registered teacher, if the 23
 board is satisfied on the balance of probabilities about a matter mentioned in 24
 section 43(2), the board may, as it considers just in the circumstances— 25

- (a) make an order mentioned in subsection (1)(d) or (e); or 26
- (b) order a notation or endorsement about the person to be entered in 27
 the register. 28

‘(3) If, after an inquiry about a person who has asked for an inquiry 29
 under section 35C, the board is satisfied about the matters mentioned in 30

Education (Teacher Registration) Amendment

sections 33A and 34, the board must order that the person be registered.

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

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

(a) the matter is trivial; or

(b) there are special circumstances.

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

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

‘Notice of board’s order

‘45S.(1) Within 7 days after the date of an order of the board about a person under section 45R, the executive officer must give written notice to the person about the order.

‘(2) The notice must also state—

(a) the board’s reasons for its order; and

(b) for an order cancelling or suspending the person’s registration—the date the cancellation or suspension takes effect or, if no date is stated, that the cancellation or suspension takes effect from the date of the notice; and

(c) that the person may appeal against the order to a District Court; and

(d) the time within which the person must make the appeal.

‘PART 3B—APPEALS**‘Appeals**

‘46.(1) A person aggrieved by the following may appeal against the board’s decision or order to a District Court—

- (a) the board’s refusal of the person’s application for registration or application for restoration;
- (b) the board’s approval of the person’s application for registration by ordering provisional registration;
- (c) the board’s order about the person under section 40 or 45R.⁷

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

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

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

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

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

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

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

- (a) allow the appeal; or

⁷ Section 40 (Procedure after teacher has been invited to show cause) or 45R (Board may order cancellation of registration etc.)

(b) allow the appeal and make any other order that the board may make under section 45R;⁸ or

(c) dismiss the appeal.

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

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

Replacement of ss 47 and 48

Clause 14. Sections 47 and 48—

omit, insert—

‘False or misleading information

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

Maximum penalty—10 penalty units.

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

‘False, incomplete or misleading documents

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

Maximum penalty—10 penalty units.

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

(a) informs the board or committee of the extent to which the document is false, misleading or incomplete; and

⁸ Section 45R (Board may order cancellation of registration etc.)

(b) gives the correct information to the board or committee if the person has, or can reasonably obtain, the correct information.

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

‘Penalties payable to board

‘48A. All penalties received for offences against this Act are payable to the board.’.

Insertion of new ss 62–71

Clause 15. After section 61—

insert—

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

‘62.(1) This section applies to a person who was a member of the board immediately before the commencement of this section.

‘(2) The person continues to be a member of the board—

(a) as the representative or nominee of an entity for which the person was appointed to the board; and

(b) until the end of the period of the person’s appointment before the commencement, unless the person is taken to have vacated office as a member.⁹

‘(3) However, to remove any doubt, the person mentioned in the notice under this Act gazetted on 3 February 1995 at page 402 as the nominee of the State Public Services’ Federation, Queensland is taken to have been validly appointed as a member of the board and continues as a member as the nominee mentioned in section 5(2)(f).

‘(4) The person who was the chairperson of the board before the commencement continues to be the chairperson until the end of the person’s

⁹ See section 12 (Vacation of office of members of the board).

appointment as member.	1
‘(5) The person who was the deputy chairperson of the board before the commencement continues to be the deputy chairperson until the end of the person’s appointment as a member or the board decides otherwise.	2 3 4
‘(6) This section expires 3 years after its commencement.	5
‘Inquiry about teacher who is no longer registered at commencement	6
‘63.(1) This section applies to a person who was a registered teacher at any time within 1 year before the commencement of this section but is not registered at the commencement.	7 8 9
‘(2) An inquiry may be made about the person for a matter mentioned in section 43(2) that happened while the person was registered and within 1 year before the commencement.	10 11 12
‘Register and registration	13
‘64.(1) The register kept under this Act immediately before the commencement of this section is taken to be the register kept by the board under section 32.	14 15 16
‘(2) If a teacher’s registration before the commencement is subject to an express condition, including, for example, a condition about additional qualifications or experience, the registration continues to be subject to the same condition.	17 18 19 20
‘(3) An endorsement or notation appearing in the register before the commencement continues to have effect under this Act, except that a caution of a teacher appearing in the register before the commencement is taken to be an order reprimanding the teacher under section 45R(1)(f).	21 22 23 24
‘Applications for registration as teacher before commencement	25
‘65. An application for registration as a teacher made before the commencement of this section and not decided by the board before the commencement must be dealt with as an application for registration.	26 27 28

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

‘66.(1) If a person’s registration as a teacher has been cancelled or suspended before the commencement of this section because the person did not apply for the retention of the person’s name on the register at the intervals, within the times or in the way prescribed under a by-law, the person may make an application for restoration.

‘(2) An application for restoration of the person’s name in the register made, but not decided by the board, before the commencement must be dealt with as an application for restoration.

‘Inquiries before commencement to continue

‘67.(1) If the board had started an inquiry under this Act before the commencement of this section, the board may continue the inquiry under part 3, division 2 before the commencement.

‘(2) However, the board must make its order under section 45R.

‘Appeals

‘68. If, before the commencement of this section, a person had a right of appeal against a decision of the board, the appeal must be made and dealt with under part 3B.

‘Numbering and renumbering

‘69. In the first reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted under the *Reprints Act 1992*, section 43.

‘Expiry of certain sections

‘70. Sections 63 to 69 and this section expire 1 year after this section commences.

Education (Teacher Registration) Amendment

‘Repeal of existing regulation

1

‘71. The *Education (Teacher Registration) Regulation 1989* is repealed.’.

2

3

4

SCHEDULE	1
MINOR OR CONSEQUENTIAL AMENDMENTS	2
section 3	3
1. Part 2, division 1 heading, “Constitution”—	4
<i>omit, insert—</i>	5
‘Establishment’.	6
2. Section 7, heading—	7
<i>omit, insert—</i>	8
‘By-law and rule making power’.	9
3. Section 7(2)—	10
<i>omit.</i>	11
4. Section 7(1)(b), ‘appointed pursuant to section 39’—	12
<i>omit.</i>	13
5. Section 7(1), ‘from time to time’ to ‘with respect to’—	14
<i>omit, insert—</i>	15
‘make by-laws under this Act.	16
‘(2) Without limiting subsection (1), the board may make a by-law	17
about’.	18
6. Section 7(5) and (6)—	19
<i>omit, insert—</i>	20

SCHEDULE (continued)

‘(5) A by-law has no effect unless approved by the Governor in Council.’.	1 2
7. Section 11—	3
<i>omit, insert—</i>	4
‘ Disqualification from office	5
‘ 11. The following persons are not qualified to be, or cease to be qualified to be, board members—	6 7
(a) an undischarged bankrupt or a person who takes advantage of the laws in force for the time being about bankrupt or insolvent debtors;	8 9 10
(b) a person who has been convicted of an indictable offence, unless the Minister considers the circumstances of the offence do not warrant disqualification from office.’.	11 12 13
8. Section 13(1), ‘the Governor in Council shall, by notification published in the Gazette,’—	14 15
<i>omit, insert—</i>	16
‘the Minister must, by written notice,’.	17
9. Section 13(3), ‘section 5(1)(j)’—	18
<i>omit, insert—</i>	19
‘section 5(2)(j)’.	20
10. Section 14(1), ‘ by notification published in the Gazette’—	21
<i>omit, insert—</i>	22
‘by written notice to the member’.	23

SCHEDULE (continued)

11. Section 14(2)—	1
<i>omit, insert—</i>	2
‘(2) A person removed from the board ceases to be a member—	3
(a) if a date is stated in the notice as the date it takes effect—from the	4
stated date; or	5
(b) in any other case—the date the notice is given to the person.’.	6
12. Section 16, heading—	7
<i>omit, insert—</i>	8
‘Way functions performed and powers exercised by board’.	9
13. Section 16(1), ‘shall exercise a power or authority or perform a	10
duty or function’—	11
<i>omit, insert—</i>	12
‘must perform a function or exercise a power’.	13
14. Section 16(2), ‘shall be deemed’—	14
<i>omit, insert—</i>	15
‘is taken’.	16
15. Section 20(1A), ‘has’—	17
<i>omit, insert—</i>	18
‘must have’.	19
16. Section 21(1), ‘from time to time determines’—	20
<i>omit, insert—</i>	21
‘decides’.	22

SCHEDULE (continued)

17. Section 21(4)—	1
<i>omit.</i>	2
18. Section 24(1), ‘a bank account for a’—	3
<i>omit, insert—</i>	4
‘an account at a financial institution for its’.	5
19. Sections 25(4) and 26(1), (2) and (3), ‘financial’—	6
<i>omit.</i>	7
20. Section 29(1)(b) and (2), ‘bank’—	8
<i>omit, insert—</i>	9
‘financial institution’.	10
21. Section 30(4), ‘twelve dollars per centum per annum’—	11
<i>omit, insert—</i>	12
‘12% per year’.	13