

**NORTHERN TERRITORY OF AUSTRALIA**

**TEACHER REGISTRATION (NORTHERN TERRITORY) ACT 2004**

As in force at 1 May 2016

**Table of provisions**

<b>Part 1</b>		<b>Preliminary</b>	
1	Short title .....		1
2	Commencement .....		1
3	Objective of Act .....		1
4	Definitions .....		1
5	Act binds Crown .....		4
<b>Part 2</b>		<b>Teacher Registration Board</b>	
6	Establishment of Board .....		4
7	Composition of Board .....		5
8	Term of appointment .....		6
9	Alternate members .....		6
10	Chairperson and deputy chairperson.....		6
11	Functions of Board .....		6
12	Powers of Board .....		7
<b>Part 3</b>		<b>Administration of Teacher Registration Board</b>	
14	Director .....		8
15	Delegation .....		8
16	Meetings .....		8
17	Quorum and voting at meetings.....		9
18	Attendance at meetings .....		9
19	Minutes .....		9
20	Validity of proceedings .....		9
21	Confidentiality .....		9
22	Disclosure of interest .....		10
23	Vacation of office .....		10
24	Filling of vacancies .....		11
25	Board may establish committees.....		11
<b>Part 4</b>		<b>Registration of Teachers</b>	
<b>Division 1</b>		<b>Register</b>	
26	Register .....		12
26A	Removal of name from register .....		13
27	Correction of register .....		13

28	Notice of change of name or address .....	13
29	Public access to register .....	14

## **Division 2            Registration**

### **Subdivision 1        Eligibility for registration**

30	Eligibility for full registration .....	14
31	Eligibility for provisional registration.....	14
32	Fit and proper person .....	15

### **Subdivision 2        Application for, and grant of, registration**

33	Application .....	16
34	Interim certificate of registration pending Board decision .....	16
35	Board may seek further information.....	16
36	Grant of registration .....	17

### **Subdivision 3        Renewal of registration**

37	Application for renewal .....	17
38	Board may seek further information.....	18
39	Grant of renewal .....	18

### **Subdivision 4        Administrative matters**

40	Certificate of registration.....	19
40A	Payment of registration fees .....	19
40B	Changes to conditions of registration .....	20
40C	Refusal of application .....	20

## **Part 5                    Authorisation to employ unregistered person as teacher**

41	Employer may apply for authorisation .....	20
42	Grant of authorisation .....	21
43	Refusal of application .....	22
44	No appeal against refusal to grant.....	22
45	No automatic right of renewal .....	23
46	Notification of change of details.....	23
47	Board to maintain records of authorisations granted etc. ....	23

## **Part 6                    Disciplinary proceedings**

### **Division 1            Complaints**

49	Complaint about teacher or authorised person.....	23
----	---	----

---

<b>Division 2</b>	<b>Board's functions and powers in relation to preliminary investigations and inquiries</b>	
50	Basis for holding preliminary investigation or inquiry .....	24
51	Inquiry may only be held if in public interest .....	26
52	Exercise of Board's power to hold inquiry .....	26
53	Board may suspend or impose or vary conditions .....	26
<b>Division 3</b>	<b>Preliminary investigations</b>	
54	Purpose of preliminary investigation .....	27
55	Investigation panel .....	27
56	Notice of preliminary investigation .....	27
57	Procedure of preliminary investigation .....	28
58	Result of preliminary investigation .....	28
<b>Division 4</b>	<b>Inquiries</b>	
59	Purpose of inquiry .....	30
60	Inquiry committee .....	30
61	Notice of inquiry .....	31
62	Inquiry proceedings .....	31
63	Report of inquiry .....	32
64	Decision of Board .....	32
65	Information notice for decision .....	33
<b>Division 4A</b>	<b>Requests for information</b>	
66	Board may request information from teacher .....	34
<b>Division 4B</b>	<b>Notifications</b>	
67	Board notification to authorised person, employer and registration authorities .....	34
67A	Employer notification to Board .....	35
67B	Relevant person to notify Board of offence .....	36
<b>Division 5</b>	<b>Sexual offences</b>	
68	Sexual offence .....	36
69	Cancellation of registration or authorisation without inquiry .....	37
70	Inquiry may be held .....	37
71	Board not liable for loss or damage .....	38
<b>Part 7</b>	<b>General offences and appeals</b>	
<b>Division 1</b>	<b>General offences</b>	
72	Offence to employ certain persons .....	38

---

73	Penalty for teaching unregistered or without authorisation .....	38
74	False or misleading statements .....	39
74A	Return of certificate of registration on cancellation .....	39

**Division 2      Appeals**

74B	Appeal against decision of Board .....	39
-----	--	----

**Part 8            General provisions**

75	Transfer of information .....	40
76	Protection from liability – Director, Board members and other members.....	41
76A	Protection from liability – persons giving information.....	41
77	Replacement certificate .....	42
78	Monitoring of compliance.....	42
79	Annual report.....	42
80	Approved forms .....	42
81	Regulations.....	42

**Part 9            Transitional matters for Teacher  
Registration (Northern Territory)  
Amendment Act 2010**

82	Transitional regulations .....	43
----	--------------------------------	----

**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

---

As in force at 1 May 2016

---

## TEACHER REGISTRATION (NORTHERN TERRITORY) ACT 2004

**An Act to provide for the registration of teachers and the regulation of the teaching profession and for related purposes**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Teacher Registration (Northern Territory) Act 2004*.

#### **2 Commencement**

- (1) This Act, other than sections 7(3), 23(6), 72 and 73, comes into operation on the day on which the Administrator's assent to this Act is declared.
- (2) Sections 7(3), 23(6), 72 and 73 come into operation on 1 February 2005.

#### **3 Objective of Act**

- (1) The objective of this Act is to ensure that only persons who are fit and proper, appropriately qualified and competent to teach, are employed as teachers in the Territory.
- (2) The objective is to be achieved by establishing a Teacher Registration Board to register persons as teachers and to facilitate the continuing competence of teachers in the Territory.

#### **4 Definitions**

In this Act:

***alternate member*** means an alternate member of the Board, appointed under section 9.

***approved*** means approved by the Board.

***authorisation*** means an authorisation under Part 5 to employ an unregistered person as a teacher.

**authorised person** means a person in relation to whom an authorisation is, or has been, in effect.

**Board** means the Teacher Registration Board of the Northern Territory established by section 6.

**Board member** means a member of the Board appointed under section 7.

**committee** means a committee established under section 25.

**criminal history**, of a person, means the person's criminal record as defined in section 3(1) of the *Criminal Records (Spent Convictions) Act 1992*.

**Director** means the Director of the Board appointed under section 14.

**education courses** means teacher education courses delivered by institutions in the Territory that lead to the prescribed qualifications required for registration.

**educator** means a person:

- (a) who is a specialist in the administration of education; or
- (b) who is a specialist in the theory and practice of education; or
- (c) who delivers, outside of a school, a course of academic instruction to adults.

**employer**, of a person, means a person who employs the person as a teacher.

**full registration** means full registration as a teacher granted under section 36(1).

**information notice** means a written notice to a person about a decision specifying:

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) the rights of appeal available to the person in relation to the decision and the period within which, and way in which, the appeal must be made.

**inquiry** means an inquiry held in accordance with Part 6, Division 4.

***inquiry committee*** means a committee appointed under section 60.

***interim certificate of registration*** means a certificate issued under section 34.

***investigation panel*** means a panel appointed under section 55.

***investigator***, see section 55(1).

***personal details***, of a person who is a teacher or in relation to whom an authorisation is granted, means the person's name, residential address, private telephone numbers and email address and includes details of any health related condition of which the Board is notified and the person's criminal history.

***preliminary investigation*** means an investigation held in accordance with Part 6, Division 3.

***prescribed*** means prescribed by regulation.

***provisional registration*** means provisional registration as a teacher granted under section 36(2).

***referee***, for a specified person, means each of the following:

- (a) a current or previous employer of the specified person;
- (b) a registration authority;
- (c) an institution at which the specified person is, or was previously, enrolled for the purpose of obtaining a prescribed qualification;
- (d) the Commissioner of Police;
- (e) the Screening Authority established by section 196 of the *Care and Protection of Children Act 2007*;
- (f) a person nominated by the specified person to give a character reference for the specified person.

***register*** means the Register of Teachers kept under section 26.

***registered***, in relation to a teacher, means currently registered under this Act.

***registration*** means provisional registration or full registration.

**registration authority** means a statutory body in a State or another Territory of the Commonwealth, or in New Zealand, established to register teachers and includes a similar body in other jurisdictions.

**relevant person** means:

- (a) a registered teacher; or
- (b) a teacher whose registration is suspended; or
- (c) a person to whom an authorisation relates if the authorisation is in effect or suspended.

**school**, see section 5 of the *Education Act 2015*.

**school year** means the period from the beginning of the first term of school to the end of the last term within the same calendar year.

**sexual offence** has the meaning in section 68.

**teacher** means:

- (a) a person who is qualified to program and deliver a course of instruction at a school and to assess the work of students in relation to that course of instruction; and
- (b) for Part 6 – a person who is, or has been, a registered teacher.

**unregistered person** means a person who is not registered under this Act.

## **5 Act binds Crown**

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

## **Part 2 Teacher Registration Board**

### **6 Establishment of Board**

- (1) The Teacher Registration Board of the Northern Territory is established.
- (2) The Board:
  - (a) is a body corporate with perpetual succession; and

- (b) has a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real, leasehold and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially are to take judicial notice of the common seal of the Board affixed to a document and must assume that it was duly affixed.

## **7 Composition of Board**

- (1) The Board consists of 12 members appointed by the Administrator, of whom:
- (a) one is to be a person nominated by the Chief Executive Officer; and
  - (b) 2 are to be teachers (of whom one is to be based at a remote school) nominated by the Northern Territory Branch of the Australian Education Union; and
  - (c) one is to be an indigenous teacher at a government school and is to be nominated by the Chief Executive Officer; and;
  - (d) one is to be a teacher nominated by the Association of Northern Territory School Educational Leaders; and
  - (e) one is to be an educator nominated by the Association of Independent Schools of the Northern Territory; and
  - (f) one is to be a teacher nominated by the Independent Education Union; and
  - (g) one is to be an educator nominated by the Catholic Education Office; and
  - (h) one is to be an educator nominated by the Charles Darwin University; and
  - (i) one is to be an educator nominated by the Batchelor Institute of Indigenous Tertiary Education; and
  - (j) one is to be a person nominated by the Northern Territory Council of Government School Organisations; and
  - (k) one is to be a teacher nominated by the Northern Territory Joint Council of Professional Teaching Associations.

- (2) An organisation or body referred to in subsection (1) must nominate a panel of persons from which the Board member, and an alternate member if required, can be selected.
- (3) A Board member (or alternate member) who is required to be a teacher must be a registered teacher.

## **8 Term of appointment**

- (1) Subject to this Act, a Board member holds office until the expiration of the period, not exceeding 4 years, specified in his or her instrument of appointment, but is eligible for re-appointment.
- (2) If a period of appointment is not specified in an instrument of appointment of a Board member, the Board member holds office, subject to this Part, for 4 years.
- (3) The appointments of Board members are to be arranged so that, as far as practicable, the terms of office of 6 Board members expire together, with the terms of office of the other 6 Board members expiring 2 years later.

## **9 Alternate members**

- (1) If the Board requests, the Minister may appoint a person to be an alternate member to act in the place of a Board member of the Board during the absence or inability to act of the Board member.
- (2) The Minister must not appoint a person to be an alternate member unless the person is eligible for appointment as a Board member under the same paragraph of section 7(1) as the Board member to whom he or she is an alternate.

## **10 Chairperson and deputy chairperson**

- (1) The Board members must elect a chairperson and a deputy chairperson who are to be chosen by the Board members from among their own number.
- (2) The deputy chairperson acts as chairperson when the chairperson is absent from a meeting of the Board (or a committee), or is otherwise unable to perform the functions of the chairperson, or there is a vacancy in the office of the chairperson, despite that an alternate member may be acting in the place of the chairperson.

## **11 Functions of Board**

- (1) The Board has the following functions:
  - (a) to administer the scheme of registration under Part 4;

- (b) to make recommendations to the Minister in relation to the minimum qualifications and other requirements for registration;
  - (c) to grant, if satisfied it is appropriate to do so, authorisation to a person to employ an unregistered person as a teacher;
  - (d) to accredit education courses and liaise with institutions providing education courses;
  - (e) to liaise with the Agency administering the *Education Act 2015* in relation to strategic priorities for professional development of teachers in the Territory;
  - (f) to develop and improve professional teaching standards;
  - (g) to develop and maintain a code of professional ethics for the teaching profession;
  - (h) to liaise with employers of teachers in the Territory in relation to developing the competencies of teachers during the early stages of the teachers' careers;
  - (i) to research and promote best practice in teaching in the Territory;
  - (j) to deal with complaints about teachers, hold preliminary investigations and inquiries in relation to teachers and take disciplinary action under Part 6;
  - (k) to prosecute offences against this Act.
- (2) In addition, the Board has those functions imposed on it by this or any other Act or that are prescribed.

## **12 Powers of Board**

- (1) The Board has power to do all things necessary or convenient to be done in connection with the performance of its functions.
- (2) In particular, the Board has power to do the following:
- (a) suspend or cancel the registration of a person, or an authorisation;
  - (b) disqualify a person from registration, or from teaching under an authorisation, for a specified period;
  - (c) share information with registration authorities (whether within Australia and New Zealand or elsewhere);
  - (d) charge a fee for the provision of a service;

- (e) accredit education courses;
- (f) with the permission of an applicant for grant or renewal of registration, or an unregistered person – seek information about the applicant or unregistered person from a referee for the applicant or unregistered person.

## **Part 3 Administration of Teacher Registration Board**

### **14 Director**

- (1) The Minister must appoint a person to be the Director of the Board.
- (2) The Director is subject to the direction of the Board in the performance of his or her duties.

### **15 Delegation**

- (1) The Board may delegate to a Board member, a committee or the Director any of its powers and functions under this Act, other than this power of delegation, the power to grant registration or the power to take disciplinary action under Part 6.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, is taken to have been exercised or performed by the Board.
- (3) A delegation under this section:
  - (a) must be in writing; and
  - (b) does not prevent the exercise of a power or the performance of a function by the Board.

### **16 Meetings**

- (1) The Board will meet as determined by the Board but must meet at least 3 times per year.
- (2) The chairperson:
  - (a) may convene a meeting of the Board; and
  - (b) must convene a meeting on request by any 5 Board members.
- (3) The Minister may at any time direct the chairperson to convene a meeting of the Board and the chairperson must convene a meeting accordingly.

- (4) Subject to this Act, the Board determines the procedure to be followed at or in connection with its meetings.

### **17 Quorum and voting at meetings**

- (1) At a meeting of the Board, 7 Board members form a quorum.
- (2) When deciding a matter at a meeting of the Board:
- (a) the chairperson has a deliberative vote only; and
  - (b) a question is decided by a majority of votes of the Board members present and voting.
- (3) If there is an equality of votes, the question stands adjourned until the next meeting of the Board but if there is again an equality of votes, the question is resolved in favour of the status quo.

### **18 Attendance at meetings**

- (1) The employer of a person who is a Board member or alternate member must, without penalty or deduction from the person's salary, allow him or her the time that is necessary to attend Board meetings.
- (2) If a school incurs expense through engaging a relief teacher to cover for a teacher who is attending a Board meeting as a Board member or alternate member, the Board must reimburse the school for the expense.

### **19 Minutes**

The Board must keep full and accurate minutes of its meetings.

### **20 Validity of proceedings**

An act or proceeding of the Board or of a person acting under the direction of the Board is valid even if:

- (a) the appointment of a Board member was defective; or
- (b) there is a vacancy in the membership of the Board.

### **21 Confidentiality**

A Board member or an alternate member of the Board must not disclose information obtained in the course of his or her duties as a Board member or alternate member unless the disclosure is made in the course of those duties.

Maximum penalty: 50 penalty units.

**22 Disclosure of interest**

- (1) If a Board member or an alternate member has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the Board member's or alternate member's functions in relation to a matter being considered or about to be considered by the Board, the Board member or alternate member must disclose the nature of the interest at a meeting of the Board.

Maximum penalty: 50 penalty units.

- (2) A disclosure under subsection (1) must be recorded in the minutes.
- (3) Unless the Board (exclusive of the Board member or alternate member) determines otherwise, the Board member or alternate member:
- (a) must not be present during any deliberations of the Board in relation to the matter; and
  - (b) must not take part in any decision of the Board in relation to the matter.

Maximum penalty: 50 penalty units.

**23 Vacation of office**

- (1) A Board member or an alternate member may resign his or her office in writing to the Minister.
- (2) The chairperson or deputy chairperson may resign the office of chairperson or deputy chairperson but remain a Board member.
- (3) A Board member or an alternate member vacates office if he or she:
- (a) resigns; or
  - (b) is removed from office under subsection (4) or (5); or
  - (c) ceases to be qualified for office by virtue of subsection (6).
- (4) The Minister may remove a Board member or an alternate member from office if the Board member or alternate member:
- (a) is absent from 3 consecutive meetings of the Board, or (if an alternate member) is absent from 3 consecutive meetings of the Board that the Board member in whose stead he or she was appointed to act requested him or her to attend in the

Board member's place, without permission of the Board; or

- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration or estate for their benefit; or
  - (c) is found guilty in the Territory or elsewhere of an offence punishable by imprisonment; or
  - (d) fails, without reasonable excuse, to comply with his or her obligation under section 22; or
  - (e) is found guilty of an offence against this Act.
- (5) The Minister may remove a Board member or an alternate member from office if satisfied that the Board member or alternate member:
- (a) has acted improperly in the performance of his or her duties as a Board member or alternate member; or
  - (b) has disclosed confidential information provided to the Board member or alternate member in the course of his or her duties as a Board member or alternate member; or
  - (c) is unable to competently perform his or her duties as a Board member or alternate member.
- (6) A Board member or an alternate member who is required to be a teacher vacates office if he or she ceases to be registered.

## **24 Filling of vacancies**

If the office of a Board member becomes vacant, the Minister may appoint to the vacant office for the remainder of that Board member's term of office a person who is eligible for appointment as a Board member under the same paragraph of section 7(1) as the former Board member.

## **25 Board may establish committees**

- (1) The Board may establish committees as it considers appropriate to assist the Board in performing its functions.
- (2) A committee is to be comprised of one or more Board members of the Board and any other persons as the Board considers appropriate.
- (3) The Board may give written directions to a committee established by it and the committee must comply with those directions.

- (4) A committee must keep accurate minutes of its proceedings.
- (5) Except as provided by this Act, a committee may regulate its own proceedings.
- (6) The powers and functions of a committee are limited to enquiring into, and making recommendations to the Board in relation to, a matter referred to it by the Board.

## **Part 4            Registration of Teachers**

### **Division 1        Register**

#### **26            Register**

- (1) The Board must keep a register called the Register of Teachers.
- (2) The Board must record the following information in the register in relation to each person to whom it grants registration:
  - (a) the person's name and other personal details provided under sections 33(2) and 35(2);
  - (b) the business address at which the person will be teaching, if known;
  - (c) the person's qualifications;
  - (d) the date of the person's registration;
  - (e) any conditions imposed on the person's registration under Part 4.
- (3) The Board must also record the following matters in the register:
  - (a) the renewal of a person's registration;
  - (b) the suspension of a person's registration or the imposition of conditions on the person's registration under Part 6;
  - (c) the removal from the register of a person's name;
  - (d) the restoration to the register of a person's name;
  - (e) any change in the personal details or business address of a registered person.
- (4) The register may contain any other information that the Board considers necessary or appropriate.

- (5) The register may be kept in electronic form.

## **26A Removal of name from register**

- (1) The Board may remove a person's name from the register if:
- (a) the person dies; or
  - (b) the person requests, in writing, that the person's name be removed; or
  - (c) the person's registration is cancelled or ceases under Part 6; or
  - (d) the term of the person's registration ends without being renewed; or
  - (e) the person's registration ceases under section 40A(2).
- (2) If a person's name is removed from the register under subsection (1)(b), the person's registration ceases on the date of the removal.
- (3) A person is not entitled to a refund of any registration fees paid by the person following the removal of the person's name from the register.

## **27 Correction of register**

- (1) A person may apply to the Board to have an inaccurate or erroneous entry in the register corrected and, if the Board is satisfied that the entry is inaccurate or erroneous, it must correct the register accordingly.
- (2) No fee is payable for an application under subsection (1).
- (3) The Board may require an applicant under subsection (1) to provide information or evidence as it considers necessary in order to consider the application.

## **28 Notice of change of name or address**

- (1) A registered teacher must, within 90 days of changing his or her name, other personal details or business address, give the Board notice of the change and provide the new details.

Maximum penalty: 2 penalty units.

- (2) An offence against subsection (1) is a regulatory offence.

(3) In this section:

**registered teacher** includes a teacher whose registration is suspended.

## **29 Public access to register**

(1) Subject to subsection (2), a person may, on payment of the prescribed fee:

- (a) inspect the register; and
- (b) copy or take extracts from the register.

(2) The Board must ensure that the only details about a teacher on the register that are made available to a person under subsection (1) are the teacher's name and registration number and the date to which the teacher's registration fees have been paid.

## **Division 2 Registration**

### **Subdivision 1 Eligibility for registration**

#### **30 Eligibility for full registration**

A person is eligible for full registration if the Board is satisfied the person:

- (a) holds the prescribed qualifications for registration; and
- (b) is a fit and proper person to teach as decided under section 32; and
- (c) is competent to teach as decided in accordance with the regulations; and
- (d) has the prescribed professional experience and currency of practice for full registration; and
- (e) meets any other prescribed requirement for registration.

#### **31 Eligibility for provisional registration**

A person is eligible for provisional registration if the Board is satisfied the person does not have the prescribed professional experience and currency of practice for full registration but is otherwise eligible for full registration under section 30.

### **32 Fit and proper person**

- (1) In deciding whether a person is a fit and proper person to teach, the Board:
  - (a) must take into account the person's criminal history; and
  - (b) must take into account any behaviour of the person that:
    - (i) does not meet the standard of behaviour reasonably expected of a teacher; or
    - (ii) is not in accordance with a code of professional ethics developed and maintained by the Board; or
    - (iii) shows that the person is not of good character; and
  - (c) must take into account whether the person:
    - (i) has had an application for registration as a teacher, in the Territory or elsewhere, refused; or
    - (ii) has had his or her registration as a teacher, in the Territory or elsewhere, suspended or cancelled; or
    - (iii) has been disqualified from registration by the Board; or
    - (iv) is, or has been, disqualified from registration as a teacher by a registration authority; and
  - (d) must take into account any conditions currently or previously imposed on the person's registration as a teacher, either in the Territory or elsewhere; and
  - (e) may take into account other matters it considers relevant.
- (2) If, after considering the matters mentioned in subsection (1), the Board is not satisfied a person is a fit and proper person to teach, the Board must:
  - (a) give the person written notice of the reasons the Board is not satisfied the person is a fit and proper person to teach; and
  - (b) invite the person to appear before the Board within a reasonable period, as specified in the notice, to respond to those reasons.
- (3) The person may be accompanied by another person when appearing before the Board, but is not entitled to be represented by the other person.

- (4) The Board must not decide whether the person is a fit and proper person to teach until:
- (a) the person has appeared before the Board; or
  - (b) if the person does not appear before the Board during the period mentioned in subsection (2)(b) – the end of the period.

## **Subdivision 2 Application for, and grant of, registration**

### **33 Application**

- (1) A person may apply for registration if the person:
- (a) holds the prescribed qualifications for registration; and
  - (b) is not disqualified from registration by the Board.
- (2) The application must be:
- (a) made in the approved form; and
  - (b) accompanied by the prescribed documents; and
  - (c) accompanied by the prescribed fee.

### **34 Interim certificate of registration pending Board decision**

- (1) An applicant for registration may apply to the Director for the issue of an interim certificate of registration pending the Board deciding the application for registration.
- (2) If the Director reasonably believes the Board is likely to grant registration to the applicant, the Director may issue an interim certificate of registration in the approved form to the applicant.
- (3) The interim certificate of registration is in force from the date it is issued to the date the Board considers the applicant's application for registration.

### **35 Board may seek further information**

- (1) To decide whether an applicant is eligible for registration, the Board may:
- (a) with the permission of the applicant – seek information about the applicant from a referee for the applicant; and
  - (b) consider any information given by the referee.

- (2) In addition, the Board may require the applicant to give the Board any further information it considers necessary to decide the application.

### **36 Grant of registration**

- (1) If an applicant is eligible for full registration, the Board must grant full registration to the applicant for a term that:
- (a) ends at the end of a specified calendar year; and
  - (b) does not exceed 5 years or, if another period is prescribed, the prescribed period.
- (2) If an applicant is eligible for provisional registration but not eligible for full registration, the Board must grant provisional registration to the applicant for a term that:
- (a) ends at the end of a specified calendar year; and
  - (b) does not exceed 3 years or, if another period is prescribed, the prescribed period.
- (3) In granting registration, the Board may impose on the registration any conditions the Board considers appropriate.

## **Subdivision 3 Renewal of registration**

### **37 Application for renewal**

- (1) A person may apply for a renewal of the person's registration.
- (2) The application must be:
- (a) except with the Board's approval – made within the prescribed period before the term of the applicant's registration ends; and
  - (b) made in the approved form; and
  - (c) accompanied by the prescribed documents; and
  - (d) accompanied by the prescribed fee.
- (3) An applicant may include in an application a request that the Board vary or revoke a condition imposed on the applicant's registration.

**38 Board may seek further information**

- (1) To decide whether an applicant should be granted a renewal of his or her registration, the Board may:
  - (a) with the permission of the applicant – seek information about the applicant from a referee for the applicant; and
  - (b) consider any information given by the referee.
- (2) In addition, the Board may require the applicant to give the Board any further information it considers necessary to decide the application.

**39 Grant of renewal**

- (1) The Board must grant a renewal of an applicant's full registration if satisfied the applicant:
  - (a) continues to be eligible for full registration; and
  - (b) has complied with the conditions imposed on the applicant's full registration.
- (2) The Board must grant a renewal of an applicant's provisional registration if:
  - (a) the applicant's provisional registration has not previously been renewed; and
  - (b) the Board is satisfied the applicant:
    - (i) continues to be eligible for provisional registration; and
    - (ii) has complied with the conditions imposed on the applicant's provisional registration.
- (3) A renewal of full registration may only be granted for a term that:
  - (a) ends at the end of a specified calendar year; and
  - (b) does not exceed 5 years.
- (4) A renewal of provisional registration may only be granted for a term that:
  - (a) ends at the end of a specified calendar year; and
  - (b) does not exceed 2 years.

- (5) If the Board decides to grant a renewal of an applicant's registration, the Board:
- (a) must consider a request for the variation or revocation of a condition imposed on the registration; and
  - (b) may vary or revoke a condition imposed on the registration (whether or not there is a request), or impose a condition on the registration, as it considers appropriate.

## **Subdivision 4 Administrative matters**

### **40 Certificate of registration**

- (1) The Director must issue a person with a certificate of registration if:
- (a) the Board grants registration, or a renewal of registration, to the person; or
  - (b) any of the details specified in the certificate of registration change.
- (2) A certificate of registration must be in the approved form and specify the following:
- (a) whether the registration is full registration or provisional registration;
  - (b) the date the term of the registration starts;
  - (c) the date the term of the registration ends;
  - (d) whether there are any conditions imposed on the registration;
  - (e) the date to which registration fees have been paid.

### **40A Payment of registration fees**

- (1) A registered teacher must pay the prescribed registration fees in accordance with the regulations.
- (2) If a registered teacher fails to pay a registration fee by the date it is due, the teacher's registration ceases on the day after that date.
- (3) However, the Board may, on application by the teacher, reinstate the teacher's registration if the Board considers it appropriate to do so.

(4) In this section:

**registered teacher** includes a teacher whose registration is suspended.

#### **40B Changes to conditions of registration**

The Board may at any time, by written notice to a person, vary or revoke a condition imposed on, or impose a condition on, the person's registration:

- (a) on the request of the person; or
- (b) on the Board's own initiative.

#### **40C Refusal of application**

(1) If the Board refuses an application for registration, or a renewal of registration, the Board must:

- (a) return to the applicant all documents given to the Board by the applicant for the application; and
- (b) give the applicant an information notice for the decision; and
- (c) refund any registration fee that accompanied the application (but not a fee for lodging and processing the application); and
- (d) notify each registration authority in Australia and New Zealand of the refusal.

(2) The Board may, on the request of one of the following persons, notify the person as to whether or not the Board has refused an application for registration, or a renewal of registration, made by a particular person:

- (a) a registration authority outside Australia and New Zealand;
- (b) a person considering employing the person as a teacher.

## **Part 5 Authorisation to employ unregistered person as teacher**

### **41 Employer may apply for authorisation**

(1) A person may apply to the Board for authorisation for the person to employ an unregistered person as a teacher for a specified period not exceeding a calendar year.

- (2) However, an application may not be made in relation to an unregistered person who is, at the time of the application:
- (a) a person who is disqualified from registration, or from teaching under an authorisation, by the Board; or
  - (b) a person whose registration is suspended; or
  - (c) a person to whom an authorisation relates if the authorisation is suspended.
- (3) An application must be:
- (a) made in the approved form and must include the following details:
    - (i) the name of the applicant;
    - (ii) the name of the unregistered person;
    - (iii) the name and address of each school at which the unregistered person will teach if authorisation is granted;
    - (iv) each subject the unregistered person will teach, and the level at which the unregistered person will teach the subject, if authorisation is granted; and
  - (b) accompanied by the prescribed documents; and
  - (c) accompanied by the prescribed fee.
- (4) The Board may require the applicant to give the Board any further information it considers necessary to decide the application.

## **42 Grant of authorisation**

- (1) The Board may grant the authorisation if the Board is satisfied the unregistered person:
- (a) is a fit and proper person to teach as decided under section 32; and
  - (b) is competent to teach each subject specified in the application for authorisation at the level specified in the application as decided in accordance with the regulations; and
  - (c) will be appropriately supervised to ensure necessary learning outcomes for students.

- (2) To decide whether the unregistered person satisfies the requirements mentioned in subsection (1), the Board may:
  - (a) with the permission of the unregistered person – seek information about the unregistered person from a referee for the unregistered person; and
  - (b) consider any information given by the referee.
- (3) If the Board grants the authorisation, the Board must give the applicant and the unregistered person written notice of the decision, specifying the following:
  - (a) the period of the authorisation, which must not end later than the end of the calendar year in relation to which the authorisation is granted;
  - (b) each school at which the unregistered person is authorised to teach;
  - (c) each subject the unregistered person is authorised to teach, and the level at which the unregistered person is authorised to teach the subject;
  - (d) any conditions imposed on the authorisation.

#### **43 Refusal of application**

If the Board refuses to grant the authorisation, the Board must:

- (a) give the applicant written notice of the Board's decision; and
- (b) return to the applicant all documents given to the Board by the applicant for the application.

#### **44 No appeal against refusal to grant**

- (1) If the Board refuses to grant authorisation, the applicant may request that the Board reconsider the matter.
- (2) If the Board agrees to reconsider the matter, the Board may request additional information from the applicant as it sees fit.
- (3) However, no appeal lies (whether for the applicant or the unregistered person in relation to whom the authorisation is sought) from a refusal by the Board to grant an authorisation.

**45            No automatic right of renewal**

If the Board grants an authorisation in relation to a calendar year, there is no right of renewal of the authorisation for a subsequent year and a fresh application must be made if required.

**46            Notification of change of details**

- (1) An employer who has been granted an authorisation must, without undue delay, notify the Board of any change to the employment details or teaching arrangements in relation to the unregistered person that were provided in the application for authorisation.

Maximum penalty:        50 penalty units.

- (2) A person in relation to whom an authorisation has been granted must, without undue delay, notify the Board of any change of his or her personal details that were provided in relation to the authorisation.

Maximum penalty:        2 penalty units.

- (3) In this section:

**employment details** includes the school (or schools) at which the person is to teach, whether the person is to teach full-time or part-time and similar matters.

**teaching arrangements** includes the subjects the person is to teach, the level at which the person is to teach, and similar matters.

**47            Board to maintain records of authorisations granted etc.**

- (1) The Board must keep records of all authorisations granted, suspended or cancelled.
- (2) The Board may, on request, provide information to other registration authorities, or to a prospective employer, in relation to authorisations granted, suspended or cancelled.

**Part 6            Disciplinary proceedings**

**Division 1        Complaints**

**49            Complaint about teacher or authorised person**

- (1) A person may, in writing, complain to the Board about the professional conduct of a teacher or authorised person.

- (2) The Board may dismiss the complaint without taking further action if the Board considers the complaint:
  - (a) is frivolous or vexatious; or
  - (b) does not relate to the professional conduct of the teacher or authorised person.
- (3) The Board may do anything to inform itself in order to decide whether or not the complaint is frivolous or vexatious or relates to the professional conduct of the teacher or authorised person.
- (4) If the Board dismisses the complaint under subsection (2), the Board must give the teacher or authorised person notice of the complaint, including:
  - (a) the details of the complaint; and
  - (b) the Board's decision to dismiss the complaint.
- (5) If the Board does not dismiss the complaint, the Board must give the employer of the teacher or authorised person notice of the complaint, including:
  - (a) the details of the complaint; and
  - (b) the Board's decision not to dismiss the complaint.

*Note for subsection (5)*

*If the Board does not dismiss the complaint, under section 50(3) the Board must hold a preliminary investigation or inquiry and make a decision under section 58 or 64 (as appropriate).*

- (6) Despite subsection (5), the Board is only required to give notice to the employer if the employer is identifiable from the details of the complaint, or otherwise known to the Board.

## **Division 2 Board's functions and powers in relation to preliminary investigations and inquiries**

### **50 Basis for holding preliminary investigation or inquiry**

- (1) This section applies subject to section 51.

- (2) The Board must hold an inquiry in relation to a teacher or authorised person if:
- (a) the Board becomes aware that the teacher or authorised person has been found guilty of an indictable offence other than a sexual offence; or
  - (b) the Board becomes aware that the teaching qualifications of the teacher or authorised person have been withdrawn; or
  - (c) the Board becomes aware that a registration authority has suspended or cancelled the teacher's registration as a teacher due to misconduct or incompetence, or has disqualified the teacher from registration as a teacher; or
  - (d) the Board reasonably believes the teacher was registered on the basis of false or misleading information.
- (3) The Board must hold a preliminary investigation or inquiry in relation to a teacher or authorised person if:
- (a) the Board receives a complaint about the professional conduct of the teacher or authorised person under section 49 and does not dismiss the complaint; or
  - (b) the Board otherwise becomes aware of a matter that, in the Board's opinion, calls into question whether:
    - (i) the teacher is eligible for registration in accordance with section 30 or 31; or
    - (ii) the authorised person is a fit and proper person to teach, or competent to teach, in accordance with section 42.
- (4) The Board may hold a preliminary investigation or inquiry in relation to a teacher or authorised person if:
- (a) the Board is notified under section 67A of an event in relation to the teacher or authorised person; or
  - (b) the Board becomes aware that the teacher or authorised person has been committed to trial for an indictable offence; or
  - (c) the Board is notified under section 75(2) of a matter in relation to the teacher or authorised person (other than a matter mentioned in subsection (2) or (3)); or

- (d) the Board is notified by a registration authority of a matter in relation to the teacher or authorised person that the Board considers justifies holding a preliminary investigation or inquiry (other than a matter mentioned in subsection (2)(c)); or
- (e) the Board reasonably believes the teacher has failed to comply with a condition imposed on the teacher's registration, or the authorised person has failed to comply with a condition imposed on the authorisation relating to the authorised person.

### **51 Inquiry may only be held if in public interest**

The Board may hold an inquiry only if the Board is reasonably satisfied it is in the public interest to do so.

### **52 Exercise of Board's power to hold inquiry**

- (1) The Board may hold an inquiry in relation to a teacher or authorised person without first holding a preliminary investigation for the same matter.
- (2) If the Board decides to hold a preliminary investigation, at any stage before the investigation is completed, the Board may decide to hold an inquiry:
  - (a) on the request of the teacher or authorised person to whom the investigation relates; or
  - (b) on the recommendation of the investigator conducting the investigation.

*Note for section 52*

*Under section 58(2), the Board may also decide to hold an inquiry after a preliminary investigation.*

### **53 Board may suspend or impose or vary conditions**

- (1) After deciding to hold an inquiry in relation to a teacher or authorised person, the Board may, if the Board considers it necessary to do so, decide to:
  - (a) suspend the registration of the teacher, or the authorisation relating to the authorised person; or
  - (b) impose a condition on, or vary a condition imposed on, the registration of the teacher or authorisation relating to the authorised person.

- (2) The decision has effect until the earlier of the following:
  - (a) the Board revokes the decision;
  - (b) the Board makes a decision under section 64 in relation to the teacher or authorised person.
- (3) If the Board makes a decision under subsection (1) in relation to a teacher, the Board must give the teacher an information notice for the decision.

### **Division 3 Preliminary investigations**

#### **54 Purpose of preliminary investigation**

The purpose of a preliminary investigation in relation to a teacher or authorised person is to assist the Board to decide whether or not the Board should do any of the following:

- (a) take further action under this Act in relation to the teacher or authorised person without first holding an inquiry;
- (b) hold an inquiry in relation to the teacher or authorised person.

*Note for section 54*

*Section 58(3) limits the actions the Board can take without first holding an inquiry.*

#### **55 Investigation panel**

- (1) If the Board decides to hold a preliminary investigation, the Board must appoint one of the following (the **investigator**) to conduct the investigation:
  - (a) the Director;
  - (b) an investigation panel.
- (2) An investigation panel must be comprised of:
  - (a) 2 or 3 Board members; or
  - (b) the Director and one or 2 Board members.

#### **56 Notice of preliminary investigation**

- (1) Following the appointment of an investigator, the Board must give written notice of the preliminary investigation to the teacher or authorised person to whom the investigation relates.

- (2) The notice must include the following information:
  - (a) details of the basis of the preliminary investigation as mentioned in section 50;
  - (b) if applicable – the names of the members of the investigation panel;
  - (c) a statement that the teacher or authorised person may, within 14 days after receiving the notice, give the investigator a written statement about the basis of the investigation.

#### **57            Procedure of preliminary investigation**

- (1) Except as provided by subsections (2) to (4), the investigator may decide the procedure of the preliminary investigation.
- (2) The investigator is not bound by the rules of evidence, and may inform itself as it thinks fit.
- (3) The investigator must observe the principles of procedural fairness.
- (4) The investigator may, by written notice, require a person (including the teacher or authorised person to whom the preliminary investigation relates) to give information to the investigator.
- (5) A notice under subsection (4) must include the following information:
  - (a) details of the basis of the preliminary investigation as mentioned in section 50;
  - (b) if applicable – the names of the members of the investigation panel;
  - (c) a direction that the person must give the specified information to the investigator within a specified time.
- (6) A person given a notice under subsection (4) must comply with a direction in the notice to give information.

Maximum penalty:        20 penalty units.

#### **58            Result of preliminary investigation**

- (1) After completing the preliminary investigation, the investigator must recommend to the Board, in writing and with reasons:
  - (a) that the Board take no further action in relation to the teacher or authorised person; or

- (b) that the Board take specified further action under this Act in relation to the teacher or authorised person without first holding an inquiry; or
  - (c) that an inquiry be held in relation to the matter.
- (2) After receiving the recommendation, the Board must decide to:
  - (a) take no further action in relation to the teacher or authorised person; or
  - (b) subject to subsections (3) and (4), take specified further action under this Act in relation to the teacher or authorised person without first holding an inquiry; or
  - (c) hold an inquiry in relation to the matter.
- (3) The Board cannot decide to take either of the following actions without first holding an inquiry:
  - (a) cancel the registration of the teacher or the authorisation relating to the authorised person;
  - (b) disqualify the teacher from registration, or the authorised person from teaching under an authorisation, for a specified period.
- (4) Also, the Board must not suspend the registration of the teacher, or authorisation relating to the authorised person, except to ensure the teacher or authorised person meets a requirement before the teacher or authorised person can teach again.
- (5) The Board is not bound by the recommendation of the investigator, but must take it into account in making a decision under subsection (2).
- (6) If an investigation panel conducted the preliminary investigation, a Board member who was a member of the investigation panel must not:
  - (a) be present during any deliberations of the Board in relation to the investigation; and
  - (b) take part in a decision under subsection (2).
- (7) The Board must give the following persons an information notice for a decision mentioned in subsection (2)(a) or (b):
  - (a) if the preliminary investigation was in relation to a teacher – the teacher;

- (b) if the basis of the investigation was a complaint made under section 49 – the person who made the complaint.

## **Division 4            Inquiries**

### **59            Purpose of inquiry**

The purpose of an inquiry in relation to a teacher or authorised person is to assist the Board to decide whether or not the Board should do any of the following:

- (a) impose a condition on, or vary a condition imposed on, the registration of the teacher or authorisation relating to the authorised person;
- (b) suspend the registration of the teacher, or authorisation relating to the authorised person, for a specified period;
- (c) cancel the registration of the teacher or authorisation relating to the authorised person;
- (d) disqualify the teacher from registration, or authorised person from teaching under an authorisation, for a specified period.

### **60            Inquiry committee**

- (1) If the Board decides to hold an inquiry, the Board must appoint an inquiry committee to conduct the inquiry.
- (2) The inquiry committee must be comprised of:
  - (a) a chairperson who is a legal practitioner who has practised as a legal practitioner in Australia for at least 5 years; and
  - (b) 2 Board members.
- (3) The members of the inquiry committee must not be persons who have been appointed to an investigation panel for a preliminary investigation in relation to the same matter.
- (4) If practicable, one (but not both) of the Board members appointed to the inquiry committee must be a Board member appointed under section 7(1)(b) or (f).
- (5) If a Board member is a member of an inquiry committee and his or her term of office as a Board member expires:
  - (a) the Board member remains a member of the inquiry committee until the completion of the inquiry; and

- (b) a recommendation or decision of the inquiry committee is not affected by the expiry.

## **61 Notice of inquiry**

- (1) Following the appointment of an inquiry committee, the Board must give written notice of the inquiry to the teacher or authorised person to whom the inquiry relates.
- (2) The notice must include the following information:
  - (a) details of the basis of the inquiry as mentioned in section 50;
  - (b) the date, time and place of the inquiry;
  - (c) the names of the members of the inquiry committee;
  - (d) a statement that the teacher or authorised person may, within 14 days after receiving the notice, give the inquiry committee a written statement about the basis of the inquiry.

## **62 Inquiry proceedings**

- (1) Except as provided by subsections (2) to (9), the inquiry committee may decide the procedure of the inquiry.
- (2) The teacher or authorised person to whom the inquiry relates may be represented by a person (who may be a legal practitioner) at the inquiry.
- (3) The proceedings of the inquiry must be conducted with as little formality and technicality, and as quickly, as a proper consideration of the subject matter allows.
- (4) However, if criminal proceedings have been or are likely to be started in relation to the same matter, the inquiry committee may suspend the inquiry until the outcome of the criminal proceedings is known.
- (5) The inquiry committee is not bound by the rules of evidence, and may inform itself as it thinks fit.
- (6) The inquiry committee must observe the rules of procedural fairness.
- (7) Unless the inquiry committee decides otherwise, the inquiry is open to the public.

- (8) The inquiry committee may, by written notice, require a person (including the teacher or authorised person to whom the inquiry relates) to:
- (a) appear before the inquiry committee; or
  - (b) give information to the inquiry committee.
- (9) A notice under subsection (8) must include the following information:
- (a) details of the basis of the inquiry as mentioned in section 50;
  - (b) the date, time and place of the inquiry;
  - (c) the names of the members of the inquiry committee;
  - (d) a direction that the person must:
    - (i) appear before the inquiry committee, either in person or by another specified means; or
    - (ii) give the inquiry committee specified information within a specified time.
- (10) A person given a notice under subsection (8) must comply with a direction in the notice to:
- (a) appear before the inquiry committee; or
  - (b) give information to the inquiry committee.

Maximum penalty:     20 penalty units.

### **63            Report of inquiry**

The inquiry committee must, in writing, report its findings and recommendations to the Board as soon as practicable after completing the inquiry.

### **64            Decision of Board**

- (1) After receiving the report of the inquiry committee, the Board must decide to do one or more of the following:
- (a) impose a condition on, or vary a condition imposed on, the registration of the teacher or authorisation relating to the authorised person;
  - (b) suspend the registration of the teacher, or authorisation relating to the authorised person, for a specified period;

- (c) cancel the registration of the teacher or authorisation relating to the authorised person;
  - (d) disqualify the teacher from registration, or authorised person from teaching under an authorisation, for a specified period;
  - (e) take no further action in relation to the teacher or authorised person.
- (2) However, the Board must not suspend the registration of the teacher, or authorisation relating to the authorised person, except to ensure the teacher or authorised person meets a requirement before the teacher or authorised person can teach again.
- (3) Also, the Board may take an action mentioned in subsection (1)(c) or (d) in relation to a teacher or authorised person only if satisfied:
- (a) the teacher is not eligible for registration in accordance with section 30 or 31; or
  - (b) the authorised person is not a fit and proper person to teach, or not competent to teach, in accordance with section 42.
- (4) The Board is not bound by the findings and recommendations of the inquiry committee, but must take the findings and recommendations into consideration in making a decision under subsection (1).
- (5) A Board member who was a member of the inquiry committee, or an investigation panel for a preliminary investigation in relation to the same matter, must not:
- (a) be present during any deliberations of the Board in relation to the inquiry; or
  - (b) take part in a decision under subsection (1).

## **65 Information notice for decision**

The Board must give the following persons an information notice for a decision under section 64:

- (a) if the inquiry was in relation to a teacher – the teacher;
- (b) if the basis of the inquiry was a complaint under section 49 – the person who made the complaint.

## **Division 4A      Requests for information**

### **66            Board may request information from teacher**

- (1) The Board may, by written notice, require a registered teacher, or a teacher whose registration is suspended, to give the Board specified information that is required by the Board to assess whether the teacher:
  - (a) continues to be eligible for registration; or
  - (b) is complying with a condition imposed on the teacher's registration.
- (2) If the teacher fails to comply with the request within 28 days after receiving the notice, the Board may cancel the teacher's registration by written notice to the teacher.

## **Division 4B      Notifications**

### **67            Board notification to authorised person, employer and registration authorities**

- (1) The Board must notify the employer of a teacher, and may notify a former employer of a teacher, if the Board:
  - (a) imposes a condition on, or varies a condition imposed on, the registration of the teacher under this Part; or
  - (b) suspends or cancels the registration of the teacher; or
  - (c) disqualifies the teacher from registration.
- (2) The Board must notify an authorised person if the Board:
  - (a) imposes a condition on, or varies a condition imposed on, the authorisation relating to the authorised person; or
  - (b) suspends or cancels the authorisation relating to the authorised person; or
  - (c) disqualifies the authorised person from teaching under an authorisation for a specified period.
- (3) The Board must also notify the employer of the authorised person, and may notify a former employer of the authorised person, if the Board takes an action mentioned in subsection (2).

- (4) The Board must notify each registration authority in Australia and New Zealand if the Board:
  - (a) suspends or cancels the registration of a teacher, or an authorisation relating to an authorised person; or
  - (b) disqualifies a teacher from registration, or authorised person from teaching under an authorisation, for a specified period.
- (5) The Board may also, on the request of the registration authority, notify:
  - (a) a registration authority outside Australia and New Zealand as to whether or not the Board has taken any of the following actions in relation to a particular person:
    - (i) suspended or cancelled the person's registration, or an authorisation relating to the person;
    - (ii) disqualified the person from registration, or from teaching under an authorisation, for a specified period; and
  - (b) a registration authority as to whether or not the Board has imposed a condition on the registration of, or the authorisation relating to, a particular person.
- (6) A notice about an action of the Board under this section must include details of the action as the Board considers appropriate and be given as soon as practicable.
- (7) The Board must give notice to each person notified of an action of the Board under this section if the Board cancels or changes the action.

#### **67A Employer notification to Board**

- (1) An employer of a relevant person must notify the Board in writing if any of the following events occur:
  - (a) the employer dismisses the person;
  - (b) the person resigns or otherwise leaves the employment of the employer, in circumstances that call into question the person's competence or fitness to teach;
  - (c) the employer takes any action against the person in relation to the serious misconduct, or lack of competence or fitness to teach, of the person.

- (2) The notice must:
- (a) be given within 28 days after the occurrence of the event; and
  - (b) specify full details of the event and the circumstances involved.

Maximum penalty: 50 penalty units.

### **67B Relevant person to notify Board of offence**

- (1) A relevant person must notify the Board in writing if:
- (a) the person is committed to trial for a sexual offence or another indictable offence; or
  - (b) the person is found guilty of a sexual offence or another indictable offence.

- (2) The notice must:
- (a) be given within 14 days after the committal or finding; and
  - (b) specify the offence and whether the person has been committed to trial for, or found guilty of, the offence.

Maximum penalty: 50 penalty units.

## **Division 5 Sexual offences**

### **68 Sexual offence**

A sexual offence is an offence, committed in the Territory or elsewhere, that, if committed in the Territory, would be:

- (a) an offence against Part V, Division 2 of the Criminal Code; or
- (b) an offence against section 188(1) of the Criminal Code, committed in the circumstances referred to in subsection (2)(k) of that section; or
- (c) an offence against section 192, 192B or 201 of the Criminal Code; or
- (d) an offence prescribed as a sexual offence for the purposes of this section; or
- (e) an offence of:
  - (i) counselling or procuring; or

- (ii) aiding or abetting the commission of; or
- (iii) conspiring to commit; or
- (iv) attempting to commit; or
- (v) being an accessory after the fact to,

an offence referred to in this definition or an equivalent offence.

## **69 Cancellation of registration or authorisation without inquiry**

- (1) A teacher who is registered under this Act, or whose registration is suspended, ceases to be registered on being found guilty of a sexual offence.
- (2) An authorisation in relation to a person is revoked on the person being found guilty of a sexual offence.
- (3) Subsection (1) or (2) takes effect on the date of the finding of guilt and the lodging of an appeal against the finding does not affect the operation of the subsection.
- (4) The Board, on becoming aware that a teacher has been found guilty of a sexual offence, must note in the register that the teacher's registration is cancelled and must notify the teacher, the employer (if known) and other registration authorities in Australia and New Zealand accordingly.
- (5) The Board, on becoming aware that a person in relation to whom an authorisation was in effect has been found guilty of a sexual offence, must notify the person, the employer to whom the authorisation was granted and other registration authorities in Australia and New Zealand accordingly.
- (6) The Board may, on request, advise other registration authorities elsewhere, or other employers, of the cancellation of the registration or the revocation of the authorisation.

## **70 Inquiry may be held**

- (1) Despite section 69, a person whose registration is cancelled, or in relation to whom an authorisation is revoked, by force of that section may request that the Board hold an inquiry into the matter.
- (2) The Board may appoint an inquiry committee into the matter if the Board considers that the circumstances of the offence may not necessarily give rise to a conclusion that the person is no longer a fit and proper person.

- (3) The inquiry committee may recommend to the Board that the cancellation of the person's registration or the revocation of the authorisation be rescinded.
- (4) The Board must take into account the recommendation of the inquiry committee and determine whether or not to rescind the cancellation or revocation.
- (5) If the Board rescinds the cancellation or revocation, it must notify any person who was notified of the cancellation or revocation.

**71            Board not liable for loss or damage**

If the Board acts with reasonable timeliness in relation to the holding of an inquiry under section 70 and the rescinding of the cancellation or revocation in an appropriate case, the Board is not liable for any loss or damage suffered by a person as a result of the person's registration being cancelled or an authorisation in relation to the person being revoked under section 69.

**Part 7            General offences and appeals**

**Division 1        General offences**

**72            Offence to employ certain persons**

An employer must not knowingly employ or continue to employ a person to teach in a school in the Territory unless:

- (a) the person is a registered teacher; or
- (b) the person holds an interim certificate of registration that:
  - (i) indicates the Director reasonably believes the Board is likely to grant the person's application for registration; and
  - (ii) is in force under section 34; or
- (c) the employer has been granted authorisation in relation to the person.

Maximum penalty:        50 penalty units.

**73            Penalty for teaching unregistered or without authorisation**

- (1) A person must not teach in a school in the Territory unless:
  - (a) the person is a registered teacher; or

- (b) the person holds an interim certificate of registration that:
  - (i) indicates the Director reasonably believes the Board is likely to grant the person's application for registration; and
  - (ii) is in force under section 34; or
- (c) the person's employer has been granted authorisation for the person to teach.

Maximum penalty:     50 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1)(c) if the person believed on reasonable grounds that authorisation had been granted.

#### **74            False or misleading statements**

A person, in connection with an application for registration or in providing information or giving evidence under this Act, must not:

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter knowing that without that matter the information is misleading.

Maximum penalty:     50 penalty units.

#### **74A         Return of certificate of registration on cancellation**

- (1) A person whose registration is cancelled must, within 28 days of the cancellation, return to the Director the certificate of registration issued to the person.

Maximum penalty:     20 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

### **Division 2        Appeals**

#### **74B         Appeal against decision of Board**

- (1) A person who is given an information notice for a decision may appeal to the Local Court against the decision.

- (2) The appeal must be started:
  - (a) for an appeal against a decision made under Part 4, Division 2 – within 14 days after the person receives the information notice for the decision; or
  - (b) for an appeal against a decision made under Part 6 – within 28 days after the person receives the information notice for the decision.
- (3) An appeal lies as of right on a question of law or fact.
- (4) The notice of appeal must state the grounds of appeal.
- (5) An appeal must be made in accordance with the *Local Court (Civil Procedure) Act 1989*.
- (6) Fresh evidence or evidence in addition to, or in substitution for, the evidence before the Board may be given on an appeal.
- (7) On hearing the appeal, the Local Court may make the order it considers appropriate.
- (8) An appeal does not affect the operation of the decision to which the appeal relates, unless the Local Court orders that the decision is stayed until proceedings in relation to the appeal end.

## **Part 8                      General provisions**

### **75                      Transfer of information**

- (1) If the Board receives a complaint in relation to a person who is or was a registered teacher or in relation to whom an authorisation is or was in effect and it appears to the Board that the matter should be investigated by the police, the Board must, without delay, advise:
  - (a) the Commissioner; and
  - (b) if the person complained of is still employed in a teaching role – the employer.
- (2) If the Commissioner:
  - (a) receives information in relation to a person who is a teacher (whether registered or under an authorisation); and

- (b) considers that the Board would be required under section 50(2), (3) or (4) to hold a preliminary investigation or inquiry in relation to the matter,

the Commissioner must inform the Board of the nature of the complaint and the name and place of employment of the person about whom the information was received.

- (3) In this section:

**Commissioner** means the Commissioner of Police within the meaning of the *Police Administration Act 1978*.

## **76 Protection from liability – Director, Board members and other members**

- (1) This section applies to a person who is or has been:
- (a) the Director; or
  - (b) a Board member; or
  - (c) a member of a committee, investigation panel or inquiry committee.
- (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (3) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Board or a committee, investigation panel or inquiry committee in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (4) Subsections (2) and (3) do not affect any liability the Territory or the Board would, apart from those subsections, have for the act or omission.

## **76A Protection from liability – persons giving information**

- (1) This section applies if a person, acting in good faith, gives information under this Act to:
- (a) the Board; or
  - (b) an investigator; or
  - (c) an inquiry committee.

- (2) The person is not civilly or criminally liable for giving the information.

**77 Replacement certificate**

The Board, on payment of the prescribed fee, may issue a replacement certificate of registration if satisfied that the original certificate is lost or misplaced.

**78 Monitoring of compliance**

- (1) By the end of the first term in each school year, an employer must give the Board a return in the approved form specifying the name of each person who taught at the employer's school at any time during the period 1 January to 1 March of that year.

Maximum penalty: 20 penalty units

- (2) The Board may, by written notice, require an employer to give the Board specified information about the employment by the employer of a person as a teacher (including, for example, the dates the person was employed, the subjects the person taught and the duties of the person).
- (3) The employer must comply with the notice within 14 days of receiving it.

Maximum penalty: 20 penalty units

**79 Annual report**

The Board must, not later than 30 September of each year, give to the Minister a report on its operations for the preceding financial year.

**80 Approved forms**

The Board may approve forms for this Act.

**81 Regulations**

- (1) The Administrator may make regulations under this Act.
- (2) The regulations may provide for:
- (a) the Board to approve professional teaching standards; and
  - (b) the application, adoption or incorporation (with or without changes) of the whole or part of a document as in force or existing at a particular time or from time to time.

---

## **Part 9**                      **Transitional matters for Teacher Registration (Northern Territory) Amendment Act 2010**

### **82**                      **Transitional regulations**

- (1) The regulations may make provision about a matter for which:
  - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the old Act to the new Act; and
  - (b) this Act does not make provision or sufficient provision.
- (2) Without limiting subsection (1), the regulations may make provision for a matter for which the old Part 9 provided.
- (3) A regulation under subsection (1) must not have effect before:
  - (a) if the regulation relates to provisions of the amending Act that commence at different times – the commencement of any of the provisions that first commences; or
  - (b) otherwise – the commencement of the provisions of the amending Act to which the regulation relates.
- (4) To the extent to which the regulation has retrospective operation, it must not operate to the disadvantage of a person (other than the Territory or a Territory authority) by decreasing the person's rights or imposing liabilities on the person.
- (5) In this section:

**amending Act** means the *Teacher Registration (Northern Territory) Amendment Act 2010*.

**new Act** means this Act as in force immediately after the commencement of this section.

**old Act** means this Act as in force immediately before the commencement of this section.

**old Part 9** means Part 9 of this Act as in force immediately before the commencement of this section.

---

**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Teacher Registration (Northern Territory) Act 2004 (Act No. 47, 2004)***

Assent date	13 September 2004
Commenced	ss 7(3), 23(6), 72 and 73: 1 February 2005; rem: 13 September 2004

***Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)***

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 ( <i>Gaz</i> G26, 27 June 2007, p 3); rem: 17 May 2007

***Teacher Registration (Northern Territory) Amendment Act 2010 (Act No. 9, 2010)***

Assent date	17 March 2010
Commenced	1 September 2010 ( <i>Gaz</i> G34, 25 August 2010, p 7)

***Education Act 2015 (Act No. 28, 2015)***

Assent date	10 December 2015
Commenced	pt 6, divs 2 and 4 and pt 7: 1 April 2016; pt 3: 1 July 2016; rem: 1 January 2016 (s 2)

***Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)***

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 <i>Local Court (Repeals and Related Amendments) Act 2016</i> (Act No. 9, 2016) and <i>Gaz</i> S34, 29 April 2016)

**3 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 11, 74B and 75.

---

**4 LIST OF AMENDMENTS**

s 3	amd No. 9, 2010, s 4
s 4	amd No. 9, 2010, ss 5 and 26; No. 28, 2015, s 195
ss 6 – 10	amd No. 9, 2010, s 26
s 11	amd No. 9, 2010, s 6
s 12	amd No. 9, 2010, s 7
s 13	rep No. 9, 2010, s 8
ss 15 – 18	amd No. 9, 2010, s 26
ss 20 – 22	amd No. 9, 2010, s 26
s 23	amd No. 9, 2010, s 26; No. 8, 2016, s 45
ss 24 – 26	amd No. 9, 2010, s 26
s 26A	ins No. 9, 2010, s 9
s 28	amd No. 9, 2010, s 26
s 29	sub No. 9, 2010, s 10
pt 4	
div 2 hdg	sub No. 9, 2010, s 11
pt 4	
div 2	
sdiv 1 hdg	ins No. 9, 2010, s 11
s 30	repNo. 9, 2010, s 10 ins No. 9, 2010, s 11
ss 31 – 32	sub No. 9, 2010, s 11
pt 4	
div 2	
sdiv 2 hdg	ins No. 9, 2010, s 11
ss 33 – 36	sub No. 9, 2010, s 11
pt 4	
div 2	
sdiv 3 hdg	ins No. 9, 2010, s 11
ss 37 – 39	sub No. 9, 2010, s 11
pt 4	
div 2	
sdiv 4 hdg	ins No. 9, 2010, s 11
s 40	sub No. 9, 2010, s 11
ss 40A – 40C	ins No. 9, 2010, s 11
ss 41 – 43	sub No. 9, 2010, s 12
s 45	amd No. 9, 2010, s 13
s 46	amd No. 9, 2010, s 26
pt 6 hdg	sub No. 9, 2010, s 14
pt 6	
div 1 hdg	sub No. 9, 2010, s 14
s 48	rep No. 9, 2010, s 14
s 49	sub No. 9, 2010, s 14
pt 6	
div 2 hdg	sub No. 9, 2010, s 14
ss 50 – 53	sub No. 9, 2010, s 14
pt 6	
div 3 hdg	sub No. 9, 2010, s 14
ss 54 – 58	sub No. 9, 2010, s 14
pt 6	
div 4 hdg	sub No. 9, 2010, s 14
s 59	sub No. 9, 2010, s 14
s 60	amd No. 7, 2007, s 16 sub No. 9, 2010, s 14
ss 61 – 65	sub No. 9, 2010, s 14
pt 6	
div 4A hdg	ins No. 9, 2010, s 14

## ENDNOTES

---

s 66	sub No. 9, 2010, s 14
pt 6	
div 4B hdg	ins No. 9, 2010, s 14
s 67	sub No. 9, 2010, s 14
ss 67A – 67B	ins No. 9, 2010, s 14
s 68	amd No. 9, 2010, s 26
s 69	amd No. 9, 2010, s 15
s 70	amd No. 9, 2010, s 26
pt 7 hdg	sub No. 9, 2010, s 16
pt 7	
div 1 hdg	ins No. 9, 2010, s 16
s 72	amd No. 9, 2010, s 17
s 73	amd No. 9, 2010, s 18
s 74	amd No. 9, 2010, s 26
s 74A	ins No. 9, 2010, s 19
pt 7	
div 2 hdg	ins No. 9, 2010, s 19
s 74B	ins No. 9, 2010, s 19
	amd No. 8, 2016, s 45
s 75	amd No. 9, 2010, s 20
s 76	amd No. 9, 2010, s 21
s 76A	ins No. 9, 2010, s 22
s 77	amd No. 9, 2010, s 26
s 78	sub No. 9, 2010, s 23
ss 80 – 81	sub No. 9, 2010, s 24
pt 9 hdg	sub No. 9, 2010, s 25
s 82	sub No. 9, 2010, s 25
ss 83 – 85	rep No. 9, 2010, s 25