

NORTHERN TERRITORY OF AUSTRALIA
TEACHER REGISTRATION (NORTHERN TERRITORY) ACT 2004

Act No. 47 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 47 of 2004

AN ACT

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

[Assented to 13 September 2004]

[Second reading 17 June 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

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, and who are appropriately qualified, 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, unless the contrary intention appears –

"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;

"Board" means the Teacher Registration Board of the Northern Territory established by section 6;

"committee" means a committee established under section 25;

"Director" means the Director of the Board appointed under section 14;

"educator" means a person –

- (a) who is a specialist in the administration of education;
- (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;

"member" means a member of the Board appointed under section 7;

"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 results of a criminal history check;

"register" means the Register of Teachers kept under section 26;

"registered", in relation to a teacher, means currently registered under this Act;

"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;

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"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 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.

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;

(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;

(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;

(c) one is to be an indigenous teacher at a government school and is to be nominated by the Chief Executive;

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- (d) one is to be a teacher nominated by the Association of Northern Territory School Educational Leaders;
 - (e) one is to be an educator nominated by the Association of Independent Schools of the Northern Territory;
 - (f) one is to be a teacher nominated by the Independent Education Union;
 - (g) one is to be an educator nominated by the Catholic Education Office;
 - (h) one is to be an educator nominated by the Charles Darwin University;
 - (i) one is to be an educator nominated by the Batchelor Institute of Indigenous Tertiary Education;
 - (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 member, and an alternate member if required, can be selected.
- (3) A member (or alternate member) who is required to be a teacher must be a registered teacher.
- (4) In this section –
- "Chief Executive" means the Chief Executive Officer, within the meaning of the *Public Sector Employment and Management Act*, of the Agency administering this Act.

8. Term of appointment

- (1) Subject to this Act, a 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 member, the member holds office, subject to this Part, for 4 years.

(3) The appointments of members are to be arranged so that, as far as practicable, the terms of office of 6 members expire together, with the terms of office of the other 6 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 member of the Board during the absence or inability to act of the member.

(2) The Minister must not appoint a person to be an alternate member unless the person is eligible for appointment as a member under the same paragraph of section 7(1) as the member to whom he or she is an alternate.

10. Chairperson and deputy chairperson

(1) The members of the Board must elect a chairperson and a deputy chairperson who are to be chosen by the members of the Board 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 school to engage as a teacher a person who is not registered;
- (d) to liaise with institutions providing teacher education courses in relation to standards and relevance of those programs to the teaching profession in the Territory;
- (e) to liaise with the Agency administering the *Education Act* 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 investigate complaints made against teachers and, if warranted, take 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;
- (b) suspend or cancel an authorisation;
- (c) share information with other registration authorities (whether within Australia and New Zealand or elsewhere);
- (d) charge a fee for the provision of a service.

13. Determination of good character

(1) In determining whether a person who is an applicant for registration, or in relation to whom an application for authorisation has been made, is of good character, the Board –

- (a) must obtain a criminal history check in relation to the person and take into account any finding of guilt or charge made against him or her;
- (b) must take into account any behaviour of the person that –
 - (i) does not satisfy a standard of behaviour generally expected of a teacher;
 - (ii) is improper or otherwise not in accordance with a code of ethics developed and promulgated by the Board; or

- (iii) shows that the person is unfit to be a teacher; and
- (c) may take into account any other matters that it considers relevant.

(2) If the Board, in taking into account the matters referred to in subsection (1), is not satisfied that the person is of good character, it must give the person an opportunity to appear before it.

(3) The person, when appearing before the Board, may be accompanied by any other person, but is not entitled to be represented.

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 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 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 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 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 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 member of the Board was defective; or

(b) there is a vacancy in the membership of the Board.

21. Confidentiality

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

Penalty: 50 penalty units.

22. Disclosure of interest

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

Penalty: 50 penalty units.

(2) A disclosure under subsection (1) must be recorded in the minutes.

(3) Unless the Board (exclusive of the member or alternate member) determines otherwise, the 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.

Penalty: 50 penalty units.

23. Vacation of office

(1) A 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 member.

(3) A member or an alternate member vacates office if he or she –

- (a) resigns;
- (b) is removed from office under subsection (4) or (5); or
- (c) ceases to be qualified for office by virtue of subsection (6).

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(4) The Minister may remove a member or an alternate member from office if the 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 member in whose stead he or she was appointed to act requested him or her to attend in the member's place, without permission of the Board;
- (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;
- (c) is found guilty in the Territory or elsewhere of a crime or an offence punishable by imprisonment;
- (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 member or an alternate member from office if satisfied that the member or alternate member –

- (a) has acted improperly in the performance of his or her duties as a member or alternate member;
- (b) has disclosed confidential information provided to the member or alternate member in the course of his or her duties as a member or alternate member; or
- (c) is unable to competently perform his or her duties as a member or alternate member.

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

25. Board may establish committees

(1) The Board may establish committees as it considers appropriate to assist the Board in performing its functions.

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(2) A committee is to be comprised of one or more 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 section 32(1)(a) and (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 to which the person's registration is subject under section 36(3).

(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 section 54(1) or 64;
- (c) the removal from the register of a person's name;
- (d) the restoration to the register of a person's name;

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(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.

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.

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. Inspection of register

(1) A person may, on paying the inspection fee, inspect the register at the office of the Board.

(2) A person may, on paying the copy or extract fee, obtain a copy of an entry in the register or an extract from the register.

30. Protection of private information

Despite section 29, a teacher's personal details (other than his or her name) must not appear in the register that is made available for public inspection.

Division 2 – Registration

31. Application for registration

A person may apply to the Board for registration if he or she has –

- (a) successfully completed an accredited course for registration in the Territory; or
- (b) successfully completed a course outside the Territory that the Board considers is at least substantially equivalent to an accredited course for registration.

32. Requirements of application for registration

(1) An application must –

- (a) be in the approved form;
- (b) be lodged with the Board;
- (c) be accompanied by an authorisation for the Board to obtain a criminal history check in relation to the applicant;
- (d) be accompanied by the application fee and the required fee for a criminal history check; and
- (e) be accompanied by any other information or evidence that the Board may require.

(2) The Board may require an applicant to provide further information or evidence as it considers necessary in order to consider the application.

33. Entitlement to registration

(1) An applicant is entitled to registration if the Board is satisfied that the applicant is a fit and proper person.

(2) For subsection (1), a person is fit and proper if he or she –

- (a) meets the prescribed educational qualifications;
- (b) is competent to teach (including having a good command of the English language);
- (c) is of good character as determined by the Board under section 13; and
- (d) is not disqualified, in the Territory or elsewhere, from registration as a teacher.

(3) For the purposes of subsection (2)(b), the Board may take into account evidence of an applicant's recent practice or continued competence in teaching in addition to anything else the Board thinks fit.

34. Qualifications from outside Australia or New Zealand

(1) If an applicant's qualifications were obtained outside of Australia and New Zealand, the Board must consult with other teacher registration authorities to determine whether or not the applicant's qualifications are equivalent to (or exceed) the prescribed educational qualifications for registration.

(2) However, the Board need not consult if the applicant's qualifications are recognised as appropriate (or not) for registration in the Territory.

35. Interim certificate of registration

(1) An applicant for registration may, in writing and giving reasons, request the Director to issue an interim certificate of registration pending a resolution of the Board to grant registration.

(2) If the Director is satisfied that the applicant meets the criteria in section 33 and, in the Director's opinion, is entitled to registration, the Director may issue the applicant with an interim certificate of registration in the approved form.

36. Board may grant registration

(1) If the Board is satisfied that the applicant is entitled to registration, it may, by resolution, grant registration, subject to any conditions the Board thinks appropriate, for the period (not exceeding 5 years) specified in the application.

(2) If the Board resolves to grant registration in relation to an applicant, the Director must issue a certificate of registration.

(3) The certificate must specify any conditions imposed by the Board and indicate the period of registration.

37. If Board refuses registration

(1) If the Board refuses to grant registration to an applicant, the Board must –

- (a) refund any registration fee that accompanied the application (but not a fee in relation to lodging and processing the application);
- (b) return to the applicant any documents lodged by him or her (and also the results of the criminal history check); and

- (c) notify other registration authorities in Australia and New Zealand of the refusal.

(2) The Board may, on request, advise any other registration authorities elsewhere, and any potential employer, of the refusal.

38. Appeal against decision not to register

(1) An applicant may appeal against a refusal by the Board to register the applicant.

(2) An appeal must be made within 14 days after notice of the Board's decision is given to the affected person.

(3) An appeal is to the Local Court and is to be a hearing de novo.

(4) The Court may affirm the decision of the Board, or quash the decision of the Board and substitute its own decision.

(5) At the hearing of an appeal, the Court may make an order as to costs as it thinks fit.

39. Renewal of registration

(1) The Board must, on application by a registered teacher, extend the teacher's registration.

(2) An application for extension of registration must be made in the approved form and accompanied by the fee for the period of extension (not exceeding 5 years at a time) specified in the application.

(3) If a teacher's registration has expired but the teacher applies for an extension of registration for (or including) the following school year within the time permitted by the Board, the teacher's registration will be taken to be continuous and no fresh application need be made.

(4) At the time of applying to extend his or her registration, a teacher may request the Board to review any conditions to which the person's registration is subject and the Board must review the conditions and make any changes it is satisfied are appropriate.

(5) The Director must issue a new certificate of registration for the period of extension of registration, indicating the new period of registration and any conditions to which the registration is subject.

40. Removal of name from register

- (1) The Board may remove the name of a person from the register if –
- (a) the person has died;
 - (b) the person requests in writing that his or her name be removed from the register;
 - (c) the person's registration is cancelled under Part 6; or
 - (d) the person's registration has expired and he or she has not extended the registration period in accordance with section 39.

(2) Despite that a person's name is removed from the register, if the person is or becomes the subject of an inquiry and is subsequently disqualified from registration in the Territory, the Board must notify other registration authorities in Australia and New Zealand, and may advise other registration authorities elsewhere on request.

**PART 5 – AUTHORISATION TO EMPLOY UNREGISTERED PERSON
AS TEACHER**

41. Unregistered person

In this Part –

"unregistered person" means a person who is not a registered teacher.

42. Employer may apply for authorisation

- (1) A person may apply to the Board for authorisation to employ an unregistered person as a teacher.
- (2) An application must be in the approved form and must state –
- (a) the name of the employer;
 - (b) the name of the unregistered person;
 - (c) the school (or schools) at which the unregistered person will teach if authorisation is granted;
 - (d) the subject that the unregistered person will teach, and the level at which the subject will be taught, if authorisation is granted; and
 - (e) the reason the employer is seeking the authorisation.

- (3) An application must be accompanied by –
 - (a) an authorisation from the unregistered person for the Board to obtain a criminal history check in relation to the unregistered person; and
 - (b) the application fee and the required fee for a criminal history check.
- (4) The Board may require an applicant to provide further information or evidence as it considers necessary in order to consider the application.

43. Board may grant authorisation

- (1) If the Board is satisfied that –
 - (a) the unregistered person in relation to whom an application for authorisation is made is a fit and proper person; and
 - (b) the person will be appropriately supervised to safeguard learning outcomes,

the Board may grant authorisation, subject to any conditions the Board thinks appropriate, for the applicant to employ the unregistered person as a teacher.

- (2) For subsection (1), a person is fit and proper if he or she –
 - (a) is of good character as determined by the Board under section 13;
 - (b) is competent to teach the subject specified in the application at the level specified; and
 - (c) is not disqualified, in the Territory or elsewhere, from registration as a teacher.
- (3) For the purposes of subsection (2)(b), the Board may take into account any teaching qualification held by the person in addition to anything else the Board thinks fit.

- (4) An authorisation is to specify –
 - (a) the school (or schools) at which the person is to teach;
 - (b) the subject the person is to teach and the level at which the subject is to be taught; and
 - (c) the period (not extending later than the end of the current school year) for which the authorisation is granted.

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 school 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.

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.

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 – INQUIRY AND DISCIPLINE

Division 1 – General

48. Indictable offence

In this Part –

"indictable offence" includes an offence committed outside of the Territory that could be prosecuted on indictment if committed in the Territory.

49. Investigation of complaints

The Board must investigate a complaint of serious incompetence, serious misconduct or a complaint that calls into question the continued fitness to teach of a person who is or was a registered teacher or in relation to whom an authorisation is or was in effect.

50. Complaints

(1) A person may complain, in writing to the Board, about the professional conduct of a person who is or was a registered teacher or a person in relation to whom an authorisation is or was in effect.

(2) The Board may dismiss a complaint if it considers it to be frivolous or vexatious.

(3) The Board must notify the contents of a complaint to –

- (a) the person who is the subject of the complaint; and
- (b) if the employer of the person is identifiable from the details of the complaint (or is otherwise known) – the employer.

51. Inquiry without complaint

The Board may, on its own motion, hold an inquiry into the competence, conduct or fitness to teach of a person who is or was a registered teacher, or in relation to whom an authorisation is or was in effect, without holding a preliminary investigation.

52. Notice to Board

An employer must notify the Board of –

- (a) the dismissal by the employer, and the grounds for the dismissal, of a registered teacher or a person teaching under an authorisation;
- (b) the resignation of a person who is a registered teacher, or who has been teaching under an authorisation, who was employed by the employer, in circumstances that call into question the fitness of the person to teach; and
- (c) any action taken by the employer against a person who is a registered teacher, or who has been teaching under an authorisation, in relation to the person's serious misconduct, serious incompetence or lack of fitness to teach,

without delay and in any case within 28 days after the dismissal, resignation or action, as the case may be.

Penalty: 50 penalty units.

53. Notice of indictable offences

A registered teacher, or a person in relation to whom an authorisation is in effect, must advise the Board within 28 days if he or she has been committed for trial or found guilty of a sexual offence or any other indictable offence.

Penalty: 50 penalty units.

54. Board may suspend or impose conditions

(1) At any stage after receiving a complaint, or determining to hold an inquiry on its own motion, in relation to a teacher or a person to whom an authorisation relates, the Board may, if it considers it necessary and appropriate in the circumstances –

- (a) suspend the registration of the teacher or the authorisation in relation to the person; or
- (b) impose conditions on the registration or authorisation.

(2) The Board may, on its own motion or at the request of the person affected, revoke a suspension or condition imposed under subsection (1) if satisfied that it is appropriate to do so.

Division 2 – Preliminary investigation

55. Board may hold preliminary investigation

The Board may –

- (a) hold a preliminary investigation into a complaint received under section 50; or
- (b) hold an inquiry into a complaint without holding a preliminary investigation.

56. Preliminary investigation

(1) If the Board holds a preliminary investigation, it must, in writing, delegate to –

- (a) the Director;
- (b) not more than 3 members of the Board; or
- (c) the Director and not more than 2 members of the Board,

its power to conduct a preliminary investigation into a complaint, but not the power to make determinations upon a preliminary investigation.

(2) On completing a preliminary investigation, the person or persons conducting the investigation must recommend to the Board, in writing and with reasons, either –

- (a) that the investigation into the matter should not proceed further; or
 - (b) that an inquiry should be held into the matter.
- (3) On receipt of the recommendation, the Board must either –
- (a) advise the complainant and the person the subject of the preliminary investigation (and the employer, if notified of the complaint) that the matter will proceed no further; or
 - (b) hold an inquiry,

but the Board is not bound by the recommendation arising from the preliminary investigation.

- (4) At any stage before the completion of a preliminary investigation –
 - (a) the person the subject of the investigation may request; or

- (b) the person or persons conducting the preliminary investigation may decide to recommend to the Board,

that the matter be referred to an inquiry.

Division 3 – Inquiry

57. When inquiry must be held or may be held

(1) The Board must hold an inquiry in respect of a person who is or was a registered teacher if –

- (a) the person's registration in a State or another Territory is cancelled or suspended;
- (b) the person was registered on the basis of false or misleading information;
- (c) the person's teaching qualifications are withdrawn; or
- (d) the person is convicted or found guilty, in the Territory or elsewhere, of a sexual offence or any other indictable offence.

(2) The Board may hold an inquiry in respect of a person who is or was a registered teacher or in relation to whom an authorisation is or was in effect, if the Board reasonably believes that –

- (a) the person is not competent to teach and has been dismissed from employment or has resigned in circumstances that, in the opinion of the person's employer, call into question the person's competence to teach;
- (b) the person's employment in another State or Territory to teach has been terminated because the person's employer was reasonably satisfied the person was not competent to teach; or
- (c) the person is not of good character.

(3) The Board may also hold an inquiry into –

- (a) a complaint received under section 50; or
- (b) a matter notified to the Board in accordance with section 52.

(4) The Board can hold an inquiry in respect of a person only if reasonably satisfied that it is the public interest to do so.

58. Notice of inquiry

(1) If the Board determines that an inquiry is to be held in respect of a person who is or was a registered teacher, or in relation to whom an authorisation is or was in effect, it must serve the person with a notice of the proposed inquiry.

(2) The notice must state the following:

- (a) the nature and details of the subject matter of the proposed inquiry;
- (b) the date on which and the time and place at which the inquiry is to be held;
- (c) the names of the members of the committee of inquiry;
- (d) that the person may submit to the Board within 14 days of service of the notice a statement in writing –
 - (i) admitting to, or refuting, the substance of any matter to be inquired into; or
 - (ii) notifying the Board of the intention to appear in person.

(3) The notice may also specify that the person must produce documents to the inquiry that are or may be relevant to the inquiry.

59. Person served with notice must appear

A person who is served with a notice under section 58 must –

- (a) appear on the date, at the time and place specified in the notice; and
- (b) produce any documents required by the notice to be produced.

Penalty: 20 penalty units.

60. Committee of inquiry

(1) If the Board determines that an inquiry is to be held, the Board must appoint a committee to conduct the inquiry.

(2) The committee of inquiry must be comprised of –

- (a) a chairperson who is enrolled (and who has been so enrolled for not less than 5 years) as a legal practitioner of the High Court or of the Supreme Court of a State or Territory of the Commonwealth; and
- (b) 2 members of the Board.

(3) The members of the committee of inquiry cannot be persons who participated in a preliminary investigation into the same matter.

(4) Of the 2 Board members, one (if practicable), but not both, is to be a person who was appointed under section 7(1)(b) or (f).

(5) If a member of the Board is sitting on a committee of inquiry and his or her term of office expires, that person remains a member of the committee of inquiry until the completion of the inquiry and no recommendation or decision of the inquiry is affected by the expiry of the term of office.

61. Procedure of inquiry

(1) A person who is the subject of an inquiry may be represented by a legal practitioner or any other person at an inquiry.

(2) The proceedings are to be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matter permits.

(3) However, if criminal proceedings have been or are likely to be initiated in relation to the same matter, the committee may stay the inquiry until the outcome of the criminal proceedings is known.

(4) The committee is not bound by the rules of evidence, and may inform itself as it thinks fit.

(5) The committee must observe the rules of procedural fairness.

(6) An inquiry is open to the public unless the committee of inquiry determines that the hearing is closed to the public for the whole or part of the inquiry.

(7) The procedure is otherwise at the discretion of the committee of inquiry.

62. Assistance to Board

(1) A person who is in a position to assist an inquiry and who is required by the Board to do so must assist the committee of inquiry by providing information or giving evidence to the inquiry.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 50 penalty units.

(2) An employer must provide to the Board any information that is reasonably requested by the Board in relation to a person who is the subject of an inquiry.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 50 penalty units.

(3) No civil or criminal proceedings lie against a person who provides information or gives evidence to the Board or a committee of inquiry in good faith about the conduct of a person who is or was a teacher, or in relation to whom an authorisation is or was in effect.

63. Committee to report to Board

(1) A committee of inquiry, on completion of the inquiry, must report its findings and recommendations to the Board as soon as practicable.

(2) The Board, in making any decision in relation to the inquiry, must take into consideration the findings and recommendations of the committee.

Division 4 – Result of inquiry

64. Decisions

(1) The Board may decide to do any of the following as a result of an inquiry:

- (a) impose conditions on the registration of the teacher, or an authorisation in relation to the person, the subject of the inquiry;
- (b) suspend the teacher's registration or the authorisation in relation to the person for any period, and subject to any conditions it considers appropriate;
- (c) determine that the person –
 - (i) is unfit to be a teacher; or
 - (ii) is not of good character,and cancel the teacher's registration or the authorisation in relation to the person;
- (d) determine that the complaint or matter being inquired into is without substance or lacks sufficient substance to warrant suspension or cancellation of the teacher's registration or the authorisation in relation to the person.

(2) The Board may impose a period of suspension of registration or authorisation in order that the Board can be satisfied the person has met a condition or requirement stipulated by the Board before the person can again teach.

(3) However, the Board must not impose a period of suspension of registration or authorisation as a sanction for misconduct.

65. Effect of cancellation of registration

A teacher whose registration is cancelled is disqualified from again being registered as a teacher.

66. Appeal against decision of Board

(1) A party to a complaint who is aggrieved by a decision of the Board under this Part may appeal to the Local Court against the decision.

(2) An appeal must be made –

(a) not later than 28 days after the day on which the decision was made; or

(b) if the committee of inquiry did not give written reasons at the time the decision was made, and the party making the appeal subsequently requests the committee of inquiry to do so – not later than 28 days after the day on which the party received the reasons in writing.

(3) An appeal is to be a hearing de novo and the Court may –

(a) affirm the decision of the Board; or

(b) quash the decision of the Board and substitute its own decision.

67. Board to notify registration authorities

(1) If the Board suspends or cancels the registration of a teacher, it must give notice of the suspension or cancellation to –

(a) the teacher;

(b) the employer; and

(c) other registration authorities in Australia and New Zealand,

and may, on request, advise other registration authorities elsewhere of the suspension or cancellation.

Teacher Registration (Northern Territory) Act 2004

(2) If the Board imposes conditions or restrictions on a teacher's registration, it must notify the teacher and the employer of the teacher (if known) of the action taken, and may, on request, give details of the action to any other registration authority.

(3) If the Board –

- (a) lifts the suspension of a teacher's registration;
- (b) removes conditions on a teacher's registration; or
- (c) rescinds the cancellation of a teacher's registration,

it must notify the persons who were notified under subsection (1) or (2) of the original action taken.

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;
- (b) an offence against section 188(1) of the Criminal Code, committed in the circumstances referred to in subsection (2)(k) of that section;
- (c) an offence against section 192, 192B or 201 of the Criminal Code;
- (d) an offence prescribed as a sexual offence for the purposes of this section; or
- (e) an offence of –
 - (i) counselling or procuring;
 - (ii) aiding or abetting the commission of;
 - (iii) conspiring to commit;
 - (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 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 a committee of inquiry 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 committee of inquiry 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 committee of inquiry 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 – 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;
- (b) the person holds an interim certificate of registration that –
 - (i) indicates that the person's application for registration appears to be in order; and
 - (ii) the indicated date for the Board to consider the application has not passed; or
- (c) the employer has been granted authorisation in relation to the person.

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;
 - (b) the person has applied for registration and has been issued with an interim certificate of registration; or
 - (c) the person's employer has been granted authorisation for the person to teach.

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.

Penalty: 50 penalty units.

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 49 to investigate 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*.

76. Protection from liability

- (1) This section applies to a person who is or has been –
- (a) the Director;

(b) a member of the Board; or

(c) a member of a 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 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.

77. Replacement certificate

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

78. Annual return

(1) An employer of teachers must provide the Board, by the end of the first term in each school year, with a return in the approved form of all persons teaching at the employer's school (or schools) as at 1 March of that year.

Penalty: 20 penalty units.

(2) The return must include all persons who have been called on to act as relief teachers during the school year to 1 March.

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. Fees and charges

(1) The Minister may, by notice in the *Gazette*, determine the fees to be paid under this Act.

(2) The Board may waive all or part of any fee or charge payable to it under this Act.

81. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

PART 9 – PROVISIONS IN RELATION TO EXISTING TEACHERS

82. Teacher not holding prescribed qualifications

- (1) Despite section 33(2)(a), a person who –
 - (a) holds a teaching qualification that does not meet the prescribed educational qualifications; and
 - (b) is employed in the Territory as a teacher at the time of commencement of this Part,

is entitled to registration provided the Board is satisfied as to the person's competence as a teacher.

(2) For subsection (1), if the person is not the subject of disciplinary, inability or other proceedings that call into question his or her competence as a teacher, the Board must presume the person is competent.

(3) Also, the person is assumed to have a good command of the English language and is not required to undergo a proficiency test.

83. Criminal history check

- (1) A person who –
 - (a) is a teacher in the Territory at the time of commencement of this Act; and
 - (b) who has previously been the subject of a criminal history check that is available to the Board,

is not required to authorise under section 32(1)(c) or 42(3)(a) a further criminal history check in order to be first registered, or for an employer to obtain an authorisation (as the case may be).

- (2) A person who –
 - (a) is a teacher in the Territory at the time of commencement of this Act; and

- (b) has not been the subject of a criminal history check or is unable to provide the Board with the result of a check,

is, in order to be first registered, or for an employer to obtain an authorisation (as the case may be) required to authorise a criminal history check under section 32(1)(c) or 42(3)(a) but is not required to pay the fee for the check.

84. Relief teachers

(1) A person to whom this subsection applies is taken to be employed as a teacher in the Territory for this Part.

(2) Subsection (1) applies if the person was, at any time from the beginning of the 2004 school year until the commencement of this Act, employed as a relief teacher (whether or not on a casual basis) by a school in the Territory.

(3) The Regulations may provide that subsection (1) applies to a person who was available to act (but who was not called on to act) as a relief teacher during the period referred to in subsection (2), if the Board is satisfied as to the matters prescribed.

85. Annual registration fee

(1) A teacher who is first registered in 2004 must pay the annual fee but no further fee is payable in respect of the period ending 31 December 2005.

(2) The annual fee for registration or an authorisation is \$60 or, if another amount is prescribed, that amount.