

Serial 78
Teacher Registration (Northern Territory) Amendment Bill 2009
Mr Henderson

A Bill for an Act to amend the *Teacher Registration (Northern Territory) Act*

NORTHERN TERRITORY OF AUSTRALIA

TEACHER REGISTRATION (NORTHERN TERRITORY)
AMENDMENT ACT 2009

Act No. [] of 2009

Table of provisions

1	Short title	1
2	Commencement	1
3	Act amended	1
4	Amendment of section 3 (Objective of Act)	1
5	Amendment of section 4 (Definitions).....	2
6	Amendment of section 11 (Functions of Board).....	4
7	Amendment of section 12 (Powers of Board)	5
8	Repeal of section 13.....	5
9	New section 26A.....	5
	26A Removal of name from register	
10	Repeal and substitution of sections 29 and 30	6
	29 Public access to register	
11	Repeal and substitution of Part 4, Division 2	6
	Division 2 Registration	
	Subdivision 1 Eligibility for registration	
	30 Eligibility for full registration	
	31 Eligibility for provisional registration	
	32 Fit and proper person	
	Subdivision 2 Application for, and grant of, registration	
	33 Application	
	34 Interim certificate of registration pending Board decision	
	35 Board may seek further information	
	36 Grant of registration	
	Subdivision 3 Renewal of registration	
	37 Application for renewal	
	38 Board may seek further information	
	39 Grant of renewal	
	Subdivision 4 Administrative matters	
	40 Certificate of registration	
	40A Payment of registration fees	
	40B Changes to conditions of registration	
	40C Refusal of application	
12	Repeal and substitution of sections 41 to 43	13
	41 Employer may apply for authorisation	

	42	Grant of authorisation	
	43	Refusal of application	
13		Amendment of section 45 (No automatic right of renewal)	15
14		Repeal and substitution of Part 6, Divisions 1 to 4	15
	Part 6	Disciplinary proceedings	
	Division 1	Complaints	
	49	Complaint about teacher or authorised person	
	Division 2	Board's functions and powers in relation to preliminary investigations and inquiries	
	50	Basis for holding preliminary investigation or inquiry	
	51	Inquiry may only be held if in public interest	
	52	Exercise of Board's power to hold inquiry	
	53	Board may suspend or impose or vary conditions	
	Division 3	Preliminary investigations	
	54	Purpose of preliminary investigation	
	55	Investigation panel	
	56	Notice of preliminary investigation	
	57	Procedure of preliminary investigation	
	58	Result of preliminary investigation	
	Division 4	Inquiries	
	59	Purpose of inquiry	
	60	Inquiry committee	
	61	Notice of inquiry	
	62	Inquiry proceedings	
	63	Report of inquiry	
	64	Decision of Board	
	65	Information notice for decision	
	Division 4A	Requests for information	
	66	Board may request information from teacher	
	Division 4B	Notifications	
	67	Board notification to authorised person, employer and registration authorities	
	67A	Employer notification to Board	
	67B	Relevant person to notify Board of offence	
15		Amendment of section 69 (Cancellation of registration or authorisation without inquiry)	28
16		Repeal and substitution of Part 7 heading	28
	Part 7	General offences and appeals	
	Division 1	General offences	
17		Amendment of section 72 (Offence to employ certain persons)	28
18		Amendment of section 73 (Penalty for teaching unregistered or without authorisation)	29
19		New section 74A and Part 7, Division 2.....	29
	74A	Return of certificate of registration on cancellation	
	Division 2	Appeals	
	74B	Appeal against decision of Board	

20	Amendment of section 75 (Transfer of information).....	30
21	Amendment of section 76 (Protection from liability).....	30
	76 Protection from liability – Director, Board members and other members	
22	New section 76A.....	31
	76A Protection from liability – persons giving information	
23	Repeal and substitution of section 78.....	32
	78 Monitoring of compliance	
24	Repeal and substitution of sections 80 and 81	32
	80 Approved forms	
	81 Regulations	
25	Repeal and substitution of Part 9.....	33
	Part 9 Transitional matters for Teacher Registration (Northern Territory) Amendment Act 2009	
	82 Transitional regulations	
26	Further amendments	34

Schedule Further amendments of Teacher Registration (Northern Territory) Act



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend the *Teacher Registration (Northern Territory) Act*

[Assented to [] 2009]
[Second reading [] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Teacher Registration (Northern Territory) Amendment Act 2009*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Act amended

This Act amends the *Teacher Registration (Northern Territory) Act*.

4 Amendment of section 3 (Objective of Act)

Section 3(1)

omit

and who are appropriately qualified,

substitute

appropriately qualified and competent to teach

5 Amendment of section 4 (Definitions)

(1) Section 4

omit

In this Act, unless the contrary intention appears –

substitute

In this Act:

(2) Section 4, definitions **member** and **teacher**

omit

(3) Section 4

insert (in alphabetical order)

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

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

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

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

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).

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).

registration means provisional registration or full registration.

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*;
- (f) a person nominated by the specified person to give a character reference for the specified person.

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 4(1) of the *Education Act*.

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.

(4) Section 4, definition **personal details**

omit

results of a criminal history check

substitute

person's criminal history

6 Amendment of section 11 (Functions of Board)

(1) Section 11(1)(c)

omit

school to engage as a teacher a person who is not registered

substitute

person to employ an unregistered person as a teacher

(2) Section 11(1)(d)

omit, substitute

(d) to accredit education courses and liaise with institutions providing education courses;

(3) Section 11(1)(j)

omit, substitute

(j) to deal with complaints about teachers, hold preliminary investigations and inquiries in relation to teachers and take disciplinary action under Part 6;

7 Amendment of section 12 (Powers of Board)

Section 12(2)

omit, substitute

- (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.

8 Repeal of section 13

Section 13

repeal

9 New section 26A

After section 26

insert

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.

10 Repeal and substitution of sections 29 and 30

Sections 29 and 30

repeal, substitute

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.

11 Repeal and substitution of Part 4, Division 2

Part 4, Division 2

repeal, substitute

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.

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- (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.

12 Repeal and substitution of sections 41 to 43

Sections 41 to 43

repeal, substitute

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.

13 Amendment of section 45 (No automatic right of renewal)

Section 45

omit

school year

substitute

calendar year

14 Repeal and substitution of Part 6, Divisions 1 to 4

Part 6, Divisions 1 to 4

repeal, substitute

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.

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- (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.

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- (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.

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- (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.

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- (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

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- (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).

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- (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.

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- (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.

15 Amendment of section 69 (Cancellation of registration or authorisation without inquiry)

Section 69(1)

omit

Act

substitute

Act, or whose registration is suspended,

16 Repeal and substitution of Part 7 heading

Part 7, heading

repeal, substitute

Part 7 General offences and appeals

Division 1 General offences

17 Amendment of section 72 (Offence to employ certain persons)

(1) Section 72(a) and (b)

omit, substitute

(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

(2) Section 72, penalty provision

omit

Penalty:

substitute

Maximum penalty:

18 Amendment of section 73 (Penalty for teaching unregistered or without authorisation)

(1) Section 73(1)(a) and (b)

omit, substitute

(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

(2) Section 73(1), penalty provision

omit

Penalty:

substitute

Maximum penalty:

19 New section 74A and Part 7, Division 2

After section 74, in Part 7

insert

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.

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- (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 procedure prescribed under the *Local Court Act*.
 - (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.

20 Amendment of section 75 (Transfer of information)

Section 75(2)(b)

omit

section 49 to investigate

substitute

section 50(2), (3) or (4) to hold a preliminary investigation or inquiry in relation to

21 Amendment of section 76 (Protection from liability)

- (1) Section 76, heading

omit, substitute

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

(2) Section 76(1)

omit, substitute

(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.

(3) Section 76(3)

omit

committee

substitute

committee, investigation panel or inquiry committee

22 New section 76A

After section 76

insert

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.

23 Repeal and substitution of section 78

Section 78

repeal, substitute

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

24 Repeal and substitution of sections 80 and 81

Sections 80 and 81

repeal, substitute

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.

25 Repeal and substitution of Part 9

Part 9

repeal, substitute

**Part 9 Transitional matters for Teacher Registration
(Northern Territory) Amendment Act 2009**

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 2009*.

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.

26 Further amendments

The Schedule has effect.

Schedule Further amendments of Teacher Registration (Northern Territory) Act

section 26

Provision	Amendment	
	<i>omit</i>	<i>substitute</i>
section 4, definition educator , paragraph (a)	;	; or
section 6(2)(a)	;	; and
section 7(1)(a) and (c)	Chief Executive;	Chief Executive Officer; and
section 7(1)(b) and (d) to (i)	;	; and
section 7(2)	the member	the Board member
section 7(3)	A member	A Board member
section 7(4)	whole subsection	
section 8(1) and (2)	member (all references)	Board member
section 8(3)	members (all references)	Board members
section 9(1) and (2)	a member the member	a Board member the Board member
section 10(1)	members of the Board (all references)	Board members
section 15(1)	member	Board member
sections 16(2)(b) and 17(1) and (2)(b)	members	Board members
section 18(2)	a member	a Board member
section 20(a)	member of the Board	Board member

section 21	A member a member Penalty:	A Board member a Board member Maximum penalty:
section 22(1)	a member the member's the member Penalty:	a Board member the Board member's the Board member Maximum penalty:
section 22(3)	the member (all references) Penalty:	the Board member Maximum penalty:
section 23(1)	A member	A Board member
section 23(2)	member	Board member
section 23(3)	A member	A Board member
section 23(3)(a)	;	; or
section 23(4)	a member the member	a Board member the Board member
section 23(4)(a)	the member the member's ;	the Board member the Board member's ; or
section 23(4)(b) and (c)	;	; or
section 23(5)	a member the member	a Board member the Board member
section 23(5)(a)	a member ;	a Board member ; or
section 23(5)(b)	the member a member	the Board member a Board member
section 23(5)(c)	a member	a Board member
section 23(6)	A member	A Board member
section 24	member	Board member

	(all references)	
	member's	Board member's
section 25(2)	members	Board members
section 26(2)(a)	section 32(1)(a) and (2)	sections 33(2) and 35(2)
section 26(2)(e)	to which the person's registration is subject under section 36(3).	imposed on the person's registration under Part 4.
section 26(3)(b)	section 54(1) or 64;	Part 6;
sections 28(1) and 46(1) and (2)	Penalty:	Maximum penalty:
section 68(a) to (c) and (e)(i) to (iii)	;	; or
section 70(2)	a committee of inquiry	an inquiry committee
section 70(3) and (4)	committee of inquiry	inquiry committee
section 74	Penalty:	Maximum penalty:
section 77	replacement fee	prescribed fee
