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New Registration Standards for Teachers under the Education (Queensland College of Teachers) Bill 2005 (Qld)

The Education (Queensland College of Teachers) Bill 2005 (Qld) (the Bill) was introduced on 23 August 2005 to respond to the needs of a modern and changing education system. A new College of Teachers will be established, replacing the Board of Teacher Registration, with responsibility for registering teachers, undertaking criminal history checks, developing Professional Standards for teachers, and for taking disciplinary action against teachers where necessary.

In essence, the Bill will require that applicants for teacher registration will be assessed against the new Professional Standards to ensure that their skills, knowledge and experience are those required of a teacher. Registration must be renewed every five years, and renewal will depend on the teacher being able to demonstrate continued professional learning and recency of practice. The Bill will introduce a two-tiered disciplinary system and a process for undertaking investigations. This Brief will discuss these, and other, measures introduced by the Bill.

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EXECUTIVE SUMMARY

The **Education (Queensland College of Teachers) Bill 2005 (Qld)** (the Bill) was introduced into the Queensland Parliament by the Hon Rod Welford MP, Minister for Education, on 23 August 2005 and will commence on 1 January 2006. The Bill replaces the **Education (Teacher Registration) Act 1988 (Qld)**. A new College of Teachers will be established with responsibility for registering teachers, undertaking criminal history checks, developing Professional Standards for teachers, and for taking disciplinary action against teachers where necessary. Applicants for teacher registration will be assessed against the new Professional Standards and renewal of registration every five years will depend on the teacher being able to demonstrate continued professional learning and recency of practice. The Bill will introduce a two-tiered disciplinary system and a process for undertaking investigations: **(page 1)**.

There has not been a major review of teacher registration in Queensland for around 17 years. The impetus for change in the manner in which the teaching profession is regulated and standards of teaching are maintained has come about through a number of disparate factors. These include –

- the drive under **National Competition Policy** to discourage licensing systems based on anti-competitive practices;
- **child protection** and child abuse concerns highlighted by the Report of the Board of Inquiry Into Past Handling of Complaints of Sexual Abuse in the Anglican Church Diocese of Brisbane; and
- a number of **education and training reforms** for the future announced by the Queensland Government in 2003.

The issue of the **development and maintenance of professional standards** for teachers has been the subject of a number of recent studies and reviews and has been a focus of the Ministerial Council for Education, Employment, Training and Youth Affairs which has endorsed a National Framework for Professional Standards for Teaching aimed at achieving national consistency in recognition of quality **(pages 1-3)**.

In March 2004, the Queensland Government commissioned a review of the powers and functions of the Board of Teacher Registration (BTR). The **Report of the Review of the Powers and Functions of the Board to Teacher Registration** was published in November 2004, containing 84 recommendations. All of the relevant recommendations are implemented by the Bill **(pages 4-5)**.

The **objects** of the Bill and how these will be achieved are set out on **page 5**.

The **Queensland College of Teachers** (the College) will replace the present body having regulatory oversight of teachers, the BTR. The Bill will clearly set out the functions of the College concerning the registration of teachers; development of professional standards for assessment of new applicants and applicants for re-registration; carrying out criminal history checks; undertaking disciplinary action; and compliance with the legislation **(pages 5-7)**.

The manner in which an applicant's **professional qualifications** for **provisional** and **full registration** will be assessed against new criteria set out in the Bill, including the role of professional standards in the College's decision, is examined on **pages 7-12** and a comparison is made with the present requirements. The current requirement of '**suitability to teach**' is continued by the Bill with the College having the function of undertaking criminal history checks of applicants (**pages 12-13**).

The importance of the **Register of Teachers**, to be kept by the College, is considered on **page 14**.

The requirements for **renewal of teacher registration** every five years are examined on **pages 14-16**. Renewal will depend on the applicant being able to demonstrate ongoing **suitability to teach, continued professional learning and recency of practice**. Those teachers who have left the profession for a period of time (e.g. through illness or to raise a family) will be accommodated by 'Returning to Teach' programs.

The **notification obligations** upon an employing authority and other bodies regarding the competency of teachers, an investigation into allegations of harm to a child, and other matters are considered on **pages 16-17**.

The **disciplinary functions** of the College will vary from those of the BTR. The College will have clear powers to undertake preliminary investigations of complaints. A two-tiered disciplinary system will be established. If a ground for disciplinary action appears to exist, the matter can be referred to the **Teachers Disciplinary Committee** if it appears to be serious but if only a minor sanction is warranted, it can be handled by the **Professional Practice and Conduct Committee**. If a teacher has had his or her registration suspended on the basis of a belief of imminent harm to children, the matter must be referred to the Teachers Disciplinary Committee (**pages 17-22**).

The circumstances in which a teacher's registration can be **immediately suspended** or **cancelled** are explored on **pages 22-23**. An instance of automatic suspension is where the College reasonably believes that the teacher poses an imminent risk of harm to children.

Provisions regarding **reviews** and **appeals** are considered on **page 24**.

An overview of some recent developments regarding teacher registration and professional standards in other jurisdictions is provided on **pages 25-30**. For this purpose, legislative and administrative changes in **Victoria, New South Wales, and Western Australia** are briefly examined.

1 INTRODUCTION

The Education (Queensland College of Teachers) Bill 2005 (Qld) (the Bill) was introduced into the Queensland Parliament by the Hon Rod Welford MP, Minister for Education, on 23 August 2005 to respond to the needs of a modern and changing education system.¹ A new College of Teachers will be established, replacing the Board of Teacher Registration, with responsibility for registering teachers, undertaking criminal history checks, developing Professional Standards for teachers, and for taking disciplinary action against teachers where necessary.

In essence, the Bill will require that applicants for teacher registration be assessed against the new Professional Standards to ensure that their skills, knowledge and experience are those required of a teacher. Registration must be renewed every five years. Replacing the current system where registration is renewed on payment of an annual fee, renewal will now depend on the teacher being able to demonstrate continued professional learning and recency of practice. The Bill will introduce a two-tiered disciplinary system and a process for undertaking investigations. An independent Teachers Disciplinary Committee will be established to hear and determine serious disciplinary matters, including those involving sexual offences involving a child, and a committee of the Board of the College will hear less serious matters. This Brief will discuss these, and other, measures introduced by the Bill.

2 BACKGROUND

The new Bill provides the legislative support for strengthening teaching standards and safety of students in Queensland from 1 January 2006. It will replace the current *Education (Teacher Registration) Act 1988 (Qld)* (the *ETR Act*) and establish a new body, the Queensland College of Teachers, to take over from, and enhance the work of, the Board of Teacher Registration (BTR). It is intended that the changes will support recent state and national level education and training reforms.²

¹ Hon RJ Welford MP, Minister for Education and Minister for the Arts, Education (Queensland College of Teachers) Bill 2005 (Qld), Second Reading Speech, *Queensland Parliamentary Debates*, 23 August 2005, pp 2583-2485, p 2483.

² Hon A Bligh MP, Minister for Education and the Arts, 'Minister invites public comment on draft Bill to raise teacher standards', 20 May 2005; Queensland Department of Education and the Arts, 'Strengthening Teaching Standards in Queensland', Summary of Review Recommendations Endorsed by Government, p 2.

Teacher registration was made compulsory in Queensland in 1975, an Australian first. In 1989, the BTR replaced the Board of Teacher Education as the statutory authority responsible for registering Queensland teachers under the *ETR Act*.

There has not been a major review of teacher registration in Queensland for around 17 years. The impetus for change in the manner in which the teaching profession is regulated and standards of teaching are maintained has come about through a number of disparate factors. These include –

- the drive under National Competition Policy to ensure that the licensing of professionals is based on public interest policies as opposed to anti-competitive practices – a matter which was further enhanced by the enactment of the *Mutual Recognition Act 1992 (Qld)* to enable recognition in one jurisdiction of professional registration in another;
- concerns about child abuse and child protection arising during the 1990s – in particular, the complaints of sexual abuse in the Anglican Church Diocese of Brisbane. The Ministerial Taskforce on the Report of the Board of Inquiry Into Past Handling of Complaints of Sexual Abuse in the Anglican Church Diocese of Brisbane,³ made a number of recommendations focussing on child protection issues. These included the need for amendments to the *ETR Act* regarding screening and criminal history checks of teachers and other staff who work with children. The Taskforce indicated that a further and more in-depth review of the BTR's oversight of teachers, powers of investigation of complaints and disciplinary procedures was being undertaken;
- a number of education and training reforms for the future announced by the Government during 2003 has renewed thinking about the types of settings in which learning occurs and the knowledge and experience needed by today's teachers. A related issue is whether more flexibility is needed in the qualifications required of graduates choosing to enter the teaching profession.

Other Australian jurisdictions, such as New South Wales, Victoria, Western Australia and Tasmania, have also engaged in a similar review process over the past decade. In NSW, Professor Tony Vinson's Report of the *Inquiry into the Provision of Public Education in NSW* (the Vinson Report) in May 2002 reiterated findings of an earlier report by Gregor Ramsay in 2000, *Quality Matters: Revitalising teaching – critical times, critical choices* (the Ramsay Report). Both reports indicated that there was a need for ongoing evidence of competence and

³ The complaints were investigated by a Board of Inquiry (Mr P O'Callaghan QC & Professor F Briggs) which produced the *Report of the Board of Inquiry Into Past Handling of Complaints off Sexual Abuse in the Anglican Church Diocese of Brisbane*, May 2003, at www.media.anglican.com.au/news/2003/05/AnglicanReport.pdf.

professional development in the teaching profession.⁴ The Vinson Report recommended for NSW that an ‘*Institute of Teachers (by this or similar name) be established ... with responsibilities in relation to teacher registration and de-registration, teacher training programs; professional standards and accreditation for teachers throughout their careers; and community and professional relations.*’⁵

During 2004, NSW, Western Australia and the Northern Territory passed legislation establishing a mandatory regulatory system for teacher registration.⁶ Victoria did so in 2001.⁷

In 2004, the Commonwealth Government’s *Discussion Paper* ‘Taking Schools to the Next Level: the National Education Framework for Schools’, found that the public needed to be assured that professional standards for teachers are met through high quality training courses, registration, and continuing professional development.⁸ Further, in July 2003, a meeting of Australia’s Education Ministers at the Ministerial Council for Education, Employment, Training and Youth Affairs (MCEETYA) endorsed a *National Framework for Professional Standards for Teaching* aimed at achieving national consistency in recognition of quality and at facilitating a national cooperative approach to supporting teacher quality and mutual recognition.⁹

⁴ G Ramsey, *Quality Matters: Revitalising teaching – critical times, critical choices*, NSW Department of Education and Training, Sydney 2000, www.det.nsw.edu.au/teachrev/reports/index.htm; A Vinson, *Inquiry into the Provision of Public Education in NSW: first report*, NSW Teachers Federation and Federation of P&C Associations of NSW, May 2002, www.pub-ed-inquiry.org/reports/final_reports/02/10Chap1.html

⁵ *Inquiry into the Provision of Public Education in NSW: first report*, rec. 1.7.

⁶ *Institute of Teachers Act 2004* (NSW); *Western Australian College of Teaching Act 2004* (WA); and *Teacher Registration (Northern Territory) Act 2004* (NT).

⁷ *Victorian Institute of Teaching Act 2001* (Vic).

⁸ Commonwealth Department of Education, Science and Technology, ‘Taking Schools to the Next Level: the National Education Framework for Schools’, *Discussion Paper*, 2004, <http://nefs.dest.gov.au/>.

⁹ See also, MCEETYA, Teacher Quality and Educational Leadership Taskforce, *A National Framework for Professional Standards for Teaching*, November 2003, at www.mceetya.edu.au/pdf/national_framework.pdf.

3 REVIEW OF THE POWERS AND FUNCTIONS OF THE BOARD OF TEACHER REGISTRATION

In March 2004, the Queensland Government commissioned a review of the powers and functions of the BTR to ensure that high professional standards among teachers are developed and maintained. The Review was undertaken by Professor Marilyn McMeniman, Pro-Vice Chancellor (Arts and Education) Griffith University. Extensive consultation with the education community and relevant stakeholders was undertaken. The *Report of the Review of the Powers and Functions of the Board of Teacher Registration* (the *Review Report*) was published in November 2004, containing 84 recommendations.¹⁰ This followed the earlier release of the 'Review of the Powers and Functions of the Board to Teacher Registration' *Discussion Paper* in June 2004, which produced feedback and submissions, particularly from major stakeholders (e.g. unions, the BTR and its staff, employing authorities, parent bodies) and government agencies. Meetings were also held with representatives from Victoria, Western Australia, and Scotland.

The *Review Report* commented that the results of consultation supported a regulatory body to monitor the teaching profession. That body would, in addition to its role in facilitating an environment for effective teaching, have a range of other functions. Those could include protection of the public, particularly children and young people from foreseeable harm; advancing professional standards; and maintaining public confidence in the profession. Most stakeholders were generally supportive of the current work of the BTR but there was some preference for a strengthening of its functions.¹¹

The *Review Report* noted that a number of previous reviews and reports had found that teaching was regarded as a profession. As a profession, the public expects that it adhere to certain standards of professionalism. There should, it was found, be umbrella legislation which establishes a statutory body responsible for registration and regulation of the profession. The Review regarded the concept of registration to be fundamental to achieving the broad objectives of consumer protection; upholding of professional standards; and maintaining public confidence in the profession.¹²

¹⁰ M McMeniman, *Report of the Review of the Powers and Functions of the Board of Teacher Registration*, Pro-Vice Chancellor (Arts and Education), Griffith University, November 2004, www.btr.qld.edu.au/pdf/btrfinal.pdf.

¹¹ *Review Report*, pp 32-33.

¹² *Review Report*, pp 5-6.

The *Review Report* undertook a comprehensive study of regulatory requirements in other Australian and in overseas jurisdictions. It also considered the approach to regulating other professions in Queensland.

4 THE EDUCATION (QUEENSLAND COLLEGE OF TEACHERS) BILL 2005 (QLD)

The Education (Queensland College of Teachers) Bill 2005 (Qld) (the Bill) was introduced into the Queensland Parliament on 23 August 2005 by the Minister for Education, the Hon Rod Welford MP. The Bill implements all of the relevant 84 recommendations contained in the *Review Report* and it is anticipated that the new arrangements to facilitate its operation and the establishment of the new College of Teachers will begin in January 2006.

The Bill has, as its main objects, the upholding of standards of the teaching profession; the maintenance of public confidence in the profession; and the protection of the public by ensuring that education is provided in a professional and competent way by approved teachers.

The above purposes will be achieved by:

- establishing the Queensland College of Teachers (the College);
- conferring on the College functions and powers about –
 - granting registration or permission to teach;
 - taking disciplinary action against approved teachers; and
 - monitoring compliance with, and enforcing, the legislation; and
- establishing the Office of the Queensland College of Teachers to help the College to perform its functions: **cl 3**.

4.1 THE QUEENSLAND COLLEGE OF TEACHERS

The Board of Teacher Registration (BTR) was established by the *ETR Act* to perform a central professional oversight function and a regulatory function, which also includes power to discipline teachers for professional misconduct and incompetence.¹³

The BTR's role is, among other things, to register teachers and continuously review teacher registration; advise the Minister on standards of teacher education courses; appoint committees; and to undertake research and review projects. The *Review Report* pointed out that the *ETR Act* does, in fact, give the BTR a

¹³ *Review Report*, p 30.

regulatory role but this is not referred to when the *ETR Act* defines its functions and powers.¹⁴

The BTR will be replaced by the **Queensland College of Teachers** (the College) which is established under **Ch 10, Part 1** of the Bill. The College is provided with a number of functions concerning the registration of teachers and grants of ‘permission to teach’. Those will include (see **cl 230** for the full range of functions):

- deciding how initial and ongoing eligibility requirements are satisfied and ensuring they are met;
- deciding applications for registration and permission to teach;
- arranging criminal history checks of applicants and approved teachers;
- developing and applying professional standards for entry to, and ongoing membership of, the teaching profession;
- keeping a register of approved teachers; and other registration and professional oversight functions.

The College also has discipline and enforcement functions in relation to approved and former approved teachers and enforcing the legislation: **cl 231**. Such functions include monitoring compliance with the Bill; handling complaints; conducting investigations about professional conduct or competence of an approved or former approved teacher or a contravention of the Bill; referring disciplinary matters to a disciplinary committee; and other specified operations.

The College will also perform a range of other functions specified in **cl 232** including education, research and collection of data about teachers.

The abovementioned provisions tend to reflect the recommended statement of functions set out in the *Review Report* so that the Bill’s provisions cover the full range of roles that will actually be performed by the College. This seeks to address the current gap in the *ETR Act*, identified earlier, where the full range of roles that are performed by the BTR is not expressly covered in the functions provision.¹⁵

In all cases, the College must perform its functions having primary regard to the welfare and best interests of children: **cl 233**. This retains the present requirement set out in s 5A of the *ETR Act* and emphasises the public protection role of the BTR and, now, the College.

The College will be responsible to the **Minister** for Education in respect of its registration functions: **Ch 10, Part 3**. The Minister must ensure the College

¹⁴ *Review Report*, p 31.

¹⁵ *Review Report*, pp 34-35.

operates to best practice standards. This will be facilitated by the requirement that the College provide reports to the Minister about the efficiency, effectiveness, economy and timeliness of the College and its systems and processes. The Minister will have the power to require documents and give directions to the College about matters relating to its functions if it is necessary to do so in the public interest. However, the Minister cannot interfere with certain decisions (set out in **cl 272**) made by the College.

The College's **Board** is established under **Ch 10, Part 2** as the governing body to decide the College's policies and control its affairs, as well as carry out the College's functions and exercise its powers. Nine of the 17 members must be practising registered teachers. Apart from certain specified changes (such as more representatives of employing authorities and increased parental representation), the composition is much the same as the current Board. The Bill sets out the administrative and financial details for the Board to operate. The **Office of the Queensland College of Teachers** is set up under **Ch 10, Part 4** to replace the current Office of the BTR and the new provisions regarding the new Office are similar to those in the *ETR Act*. The Office will assist the College in performing its functions.

4.2 TEACHER REGISTRATION

The two criteria for initial registration under the current *ETR Act* are the possession of prescribed qualifications and experience; and good character.

The current registration requirements in Queensland enable teachers to renew their registration by mere payment of an annual renewal fee with no obligation that they engage in any continuing professional education or development to ensure the currency of their knowledge and skills. In some other jurisdictions, such as Victoria and Western Australia, each registration period is of five years duration with renewal based on the teacher meeting ongoing professional education requirements.¹⁶ South Australia and Tasmania have a three year registration period with a similar need to show some form of recency of practice and/or professional education for renewal purposes. In NSW, accreditation is maintained by demonstrating continuing professional development.

Before proceeding further, it should be noted that the *Review Report* suggested that greater clarity of scope of registration requirements was needed and that this could be achieved by including a definition of 'teacher' in the new Bill so as to clarify that a 'teacher' is a person who undertakes the delivery of an educational program or the assessment of student participation in such a program but that this definition

¹⁶ *Review Report*, p 21.

does not include a teacher's aide, assistant or a student teacher.¹⁷ The Bill's Dictionary has incorporated this specific definition, bringing Queensland into greater alignment with other states.

4.2.1 Professional Standards and Criteria for Registration – Present Requirements

Currently in Queensland, many teachers enter the profession having completed an approved teacher education course at a college or university.

Under the *ETR Act*, the BTR has the function of developing, in collaboration with employing authorities, education institutions, and other named bodies, standards of courses of education acceptable for teacher registration (see s 5). In pursuit of this, the BTR has developed a number of standards and guidelines and methods for assessing education courses in other jurisdictions.¹⁸

The existing BTR requirements for teacher registration in Queensland are that a person has a Bachelor of Education (a four year course), or a specialist bachelor degree (e.g. Bachelor of Arts) plus postgraduate qualifications in education (a two year course). The courses approved by the BTR must also involve professional experience of at least 100 days with a minimum of 80 days in schools or other equivalent educational settings.

Thus, at the present time, provisional registration can be obtained by possession of education, ability, experience and contribution to education that is deemed by the BTR to warrant provisional registration. These will be programs of the type described above which meet BTR standards. The applicant must meet good character criteria and have a 'clear' criminal history and be proficient in the English language. The provisionally registered teacher must then complete 12 months of practical teaching before attaining full registration.

The *Review Report* commented that there is a growing recognition that teacher education programs need to match the professional standards expected from graduate teachers with a focus on outcomes rather than on prescriptions of course details. There was also a need for collaborative partnerships between universities and schools to develop more 'seamlessness' between theoretical and practical teaching components. Internships were one example of this, where a student teacher could utilise and develop their skill base in an educational setting

¹⁷ *Review Report*, pp 35-36.

¹⁸ *Review Report*, p 41. See Education (*Teacher Registration*) By-Law 1999 (Qld) and BTR's *Professional Standards for Graduates and Guidelines for Pre-service Teacher Education Programs*, 2002.

supervised by a teacher mentor and universities could be encouraged to assess, and award formal credit for, such professional learning components.¹⁹

The Review's consultation data revealed tension between the need to ensure maintenance of high standards of entry to the profession and the desire for flexibility.

The *Review Report* noted that a recurring theme of recent major Australian studies of the teaching profession (e.g. the Ramsey Report, the Vinson Report) was the need for the development and adherence to an explicit and robust set of professional standards for entry to the profession and for ongoing registration. Accordingly, it recommended that sets of professional standards be developed for new graduates seeking provisional registration (to be used as a basis of approval of pre-service courses to determine entry to teaching) and for 'full' registration (to be used as a basis for the probationary report to determine eligibility for full registration). It was further recommended that these new standards articulate closely with the *National Framework for Professional Standards for Teaching* endorsed by MCEETYA in 2003.²⁰

4.2.2 Professional Standards – New Requirements

The former Education Minister, the Hon Anna Bligh MP, said that a major feature of the new entry standards for teachers was greater flexibility with professional standards that emphasise practice rather than qualifications.²¹

The College will, in consultation with representative entities (e.g. teachers' union) develop *Professional Standards for Graduate Teachers* and *Professional Standards for Registered Teachers* which will be used as the criteria for its decision about whether to approve a pre-service teacher education program; and assess whether a person is eligible to obtain provisional or full registration as a teacher; and to help the College decide whether a teacher has met professional practice requirements for renewal of registration: **cl 235**. The purpose of the Standards is to detail the abilities, experience, knowledge or skills expected of teachers seeking registration or renewal of full registration. The current categories of 'provisional' (graduate level entry) and 'full' (fully qualified level) registration are retained under the Bill. Thus, the Standards will outline the requirements for provisional and full

¹⁹ *Review Report*, p 41. See also Commonwealth Department of Education, Science and Technology, *Australia's Teacher: Advancing Innovation, Science, Technology and Mathematics*, 2003, p 123.

²⁰ *Review Report*, pp 49-51.

²¹ Hon A Bligh MP, Minister for Education and Minister for the Arts, Estimates Committee C – Education and The Arts, *Queensland Parliamentary Debates*, 7 July 2005, p 71.

registration and are considered the key to identifying acceptable programs of pre-service teacher education and possible equivalents. Until the Standards are developed, pre-service teacher education courses within the meaning of the soon to be repealed *Education (Teacher Registration) By-law 1999* will be those that have been recognised by the BTR.²²

4.2.3 Criteria for Registration – New Requirements

The criteria for teacher registration reflect many of the recommendations of the *Review Report*, including a Standards-based approach to the assessment of non-standard qualifications. The new Standards will provide the flexibility to enable assessment of non-standard qualifications, such as from overseas, and allow the College to make assessments based on the particular circumstances of the applicant. For example, an applicant might have a degree in Engineering and extensive tertiary education teaching experience.

For **provisional registration**, the applicant –

- must have either attained the prescribed qualifications for provisional registration prescribed under Regulation (expected to be a four year Bachelor of Education or another specialist bachelor degree plus a one year postgraduate education qualification rather than the current two year postgraduate qualification); or
- possess education, ability, experience and contribution to education (e.g. the applicant has a Bachelor of Science degree and considerable and meritorious experience in a university); and
- must be ‘suitable to teach’ (see **cls 11-12**, discussed later); and
- meet any other requirements for professional practice prescribed by Regulation: **cl 9**.

Once the provisional registrant has completed the requisite period of teacher service, and any necessary further study, they will be eligible for full registration.

Full registration as a teacher will require that the applicant–

- has either a teaching qualification and experience prescribed under Regulation; or
- education, ability, experience and contribution to education that meets the requirements under the professional standards for full registration (e.g. a

²² Draft Education (Queensland College of Teachers) Bill 2005 (Qld), *Explanatory Document*, p 9. The Bill’s transitional provisions ensure that the BTR’s current Professional Standards For Graduates will remain in force for 12 months or until superseded.

- long and commendable teaching experience in a school within Australia); and
- be ‘suitable to teach’ (see cls 11-12, discussed later); and
- meet any other requirements for professional practice prescribed by Regulation: **cl 8**.

4.2.4 Application and Determination Process

Pursuant to **Chapter 2, Part 2**, applications for full or provisional registration or permission to teach (discussed later) must be made in the approved form and be accompanied by documents/information establishing that they meet the eligibility requirements and any other required documentation or information. The form can require that the applicant disclose their criminal history. The applicant must also pay an application fee; registration fee; and a criminal history check fee.

In determining whether or not to grant registration, the College has power to obtain further information and documents from the applicant (with safeguards built in): see **cls 16-18**.

The College can grant registration with or without conditions but if a condition is attached, it must be one that is necessary to ensure the applicant meets the eligibility requirements. For instance, the condition might be that the applicant must complete a course or that the applicant can only teach certain subjects: **cl 20**. The idea of imposing conditions is so that an applicant who is not quite eligible or suitable to be registered can still teach to some extent but within the level of their competency, rather than being rejected outright.²³ This reflects a *Review Report* recommendation.²⁴

If registration is granted, the applicant receives an approval notice containing any conditions that apply to the registration and why they were imposed. The applicant can seek review of the imposition of a condition.²⁵ A certificate of registration or a certificate of permission to teach is issued, as appropriate. A registration card is also issued for the relevant year of registration.²⁶ If the approval is for permission to teach, it must state the period of the permission. On the other hand, if

²³ *Explanatory Document*, p 2.

²⁴ *Review Report*, pp 57-58, 65.

²⁵ See **Ch 2, Part 5, Div 1**.

²⁶ **Chapter 2, Part 8** provides for the form and content of certificates of registration or permission to teach and the annual registration card.

registration is refused or full registration is applied for and only provisional registration is granted, the applicant must be given an 'information notice' which informs them of their rights of review: **cl 21**.

4.2.5 Suitability to Teach

The 'suitability to teach' provisions are contained in **cls 11-12**. They will include the *ETR Act*'s existing 'good character' criteria (such as whether the applicant has behaved in a way that does not satisfy a standard of generally expected behaviour of a teacher or has behaved in a disgraceful or improper way) and criminal history check. The criteria continue the objectives of the current *ETR Act* regarding the suitability of teachers to work with children. The **criminal history** and other information able to be considered and relevant safeguards are set out in **cl 15** (criminal history information from the Police Commissioner), **cl 16** (applicant must be advised about any criminal history information received by the College and given a reasonable opportunity to explain the matter before using the information to determine the application), and **cl 17** (College can request further information or document from the applicant).

4.2.6 Criminal History Check

When determining the suitability of an applicant for registration, the College *must* ask the Police Commissioner for a written criminal history report and may ask for information about the circumstances of a conviction or charge or about any investigation relating to the possible commission of a serious offence by the applicant. The Police Commissioner must comply with those requests insofar as the information is available to the Commissioner. Note that there are certain situations in which the Commissioner must not give information about an investigation. This includes where doing so may prejudice or hinder an investigation; or identify an informant; or affect the safety of someone; or where the investigation has not, or is unlikely to, lead to the suspicion that the applicant is implicated in the serious offence: **cl 15**.

Some criminal history information that would otherwise be protected under the *Criminal Law (Rehabilitation of Officers) Act 1986* (Qld) (such as old convictions) will not apply to criminal history checks of applicants for teacher registration.

Note that the Bill, under **Ch 11, Part 1**, will impose stringent requirements about the confidentiality and use of criminal history information. The College will need to have guidelines for dealing with that information. Provision is also made enabling the College to enter into arrangements for sharing investigative and disciplinary information. For example, the College and the Police Commissioner

can arrange to exchange criminal history information and other information on a regular basis.

4.2.7 Other Suitability Issues

In addition to the applicant needing to have a ‘clear’ criminal history, the College *must* also have regard to other information in its possession or reasonably available to it in deciding if a person is suitable to teach: **cl 12**. Those relate to an applicant’s teacher registration and teaching in other jurisdictions. For example, the College must consider whether the applicant has been convicted of an offence under a corresponding law of another Australian state or territory or overseas country, or refused registration in another jurisdiction.²⁷

Note that a person is not suitable to teach if they behave in a way that does not satisfy a standard of behaviour generally expected of a teacher or they otherwise behave in a disgraceful or improper way that shows they are unfit to be granted registration or permission to teach.

4.3 PERMISSION TO TEACH

The College may grant ‘**permission to teach**’ to a person if it is reasonably satisfied that the person has been offered a teaching position at a school which has not been able to be filled by a registered teacher and the person has the knowledge, qualifications, skills and training reasonably considered to be necessary for the position. The ‘permission to teach’ is thus a temporary authorisation to fill a need. The person must also be suitable to teach and meet any other ‘permission to teach’ requirements for professional practice prescribed by Regulation: **cl 10**. The period of a permission to teach is up to a maximum of two years but it can be renewed for up to a further two years if it has been held continuously for two years: **cl 27**.

4.4 APPLICATION FOR FULL REGISTRATION BY HOLDER OF PROVISIONAL REGISTRATION

Pursuant to **cls 22-25**, a person holding provisional registration may apply for full registration, in accordance with the set requirements for application. The suitability requirements will not have to be met again. The College may grant full registration if the applicant has fulfilled the conditions of their provisional registration and can meet the professional practice requirements for full registration: see **cl 8**. If

²⁷ See **cl 12** for other considerations.

necessary, a condition can be imposed on the full registration. Thus, a holder of a provisional registration can upgrade to full registration by a simple process and will not incur a fee to make the application. Note that provisional registration can be extended for a further two year period to enable the teacher to fulfil necessary requirements for full registration.²⁸

4.5 THE REGISTER

Currently, the details of a registered teacher (such as name, date of birth, address, qualifications and experience, date of initial registration) are entered onto a public register which can be inspected by any person on payment of a fee. The existence of the register enhances accountability and helps the public to determine the competency and suitability of teachers.

The *Review Report's* consultation findings showed that there is a concern about privacy and safety of teachers because this type of information is accessible to the public. At the same time, the *Review Report* acknowledged the important information purpose the register serves. The option supported by the Review was for the register to contain all details necessary for the College to perform its functions effectively and efficiently in the form of an electronic internal database. Given that the main purpose of accessing the register was for the public to confirm if a teacher is currently registered, the details of the registered teacher that can be accessed should be restricted to name, registration number, category of registration and date to which current, and any cancellation or suspension of registration. However, it was considered that the College may need to allow specific persons or bodies (e.g. employing authorities) to have access to further details for particular reasons.

Chapter 11, Part 2 of the Bill implements the above recommendations regarding the register. The College will be required to keep a **Register of Approved Teachers: Ch 11, Part 2** but the publicly available information will be more restricted for privacy reasons. Cancellation of registration or permission to teach will be shown on the register only if it resulted from disciplinary action.

4.6 RENEWAL OF REGISTRATION

The *ETR Act* currently provides for renewal of registration on mere payment of an annual fee with no further conditions or obligations. Under the Bill, renewal of

²⁸ Education (Queensland College of Teachers) Bill 2005 (Qld), **cls 34-35**; *Explanatory Notes*, p 19.

registration will require that the College be satisfied that the teacher concerned has engaged in continuous professional learning (CPL), as discussed below.

The *Review Report* noted that it was implicit in the broader objectives of professional registration that registrants not only continue to be suitable to work with children but also remain competent teachers. A means of ensuring this is to require periodic renewal of registration based on demonstrated ability to continue to meet the registration criteria. The Review supported a five-year renewal timeframe when evidence of recency of practice and ongoing professional learning must be produced as well as ongoing suitability to work with children being ensured through the standard criminal history check.

The *Review Report* noted the importance of CPL in all professions given the rapid expansion of new information and knowledge. The maintenance of a vital and effective profession is dependent upon continued development and transformation of existing knowledge and skills. All professionals tend to engage in CPL to varying degrees to 'keep up' with developments in their profession and doing so is compulsory in some, such as in the legal profession in many jurisdictions. CPL need not embrace just professional practice but also cover involvement in professional associations, seminars, formal study and research.²⁹ In many cases, teachers are already involved in a range of professional development activities. For example, many experienced teachers act as mentors to provisional registrants.

The process for renewal of full registration and permission to teach is set out in **Chapter 2, Part 3**. The application for renewal procedure is similar to the initial application procedure.

The full registration period is five years (but will be reduced by any period of provisional registration).

Renewal of registration (for a further five years) will occur if the College is reasonably satisfied that the person remains suitable to teach and any conditions are being fulfilled or complied with. The process includes a criminal history check so **cls 15-19** apply as if it was an initial application. The College must also be satisfied that the person has been practising as a teacher for at least the prescribed period (which is likely to be one year even if not full-time) and within a prescribed period (likely to be the preceding five years). This prerequisite is to ensure that the applicant has sufficient recent teaching experience. If they fall down on this requirement alone (e.g. through illness or family responsibilities), they must have their registration renewed but on the condition that they undertake a 'Returning to Teach' professional learning program within the next 12 months of returning to teaching. The length and components of the professional learning program will be

²⁹ *Review Report*, p 59.

prescribed by Regulation.³⁰ The *Review Report* supported a ‘Returning to Teach’ provision for teachers who would not be able to satisfy a recency of practice requirement for renewal so that they can maintain registration and re-enter teaching provided that they undertake a ‘Returning to Teach’ program within the first year of returning to teach.³¹

A further prerequisite for renewal of registration is that the applicant must have undertaken CPL required for teachers within the five year registration period. However, if the recency of practice requirement is not fulfilled, the application does not need to demonstrate having undertaken CPL.

Clause 30 states that the College will develop or recognise a CPL framework having regard to the Professional Standards (see above) in doing so. The necessary framework for CPL will identify forms, and the minimum amount, of CPL that a teacher must undertake for their registration to be renewed.

The *Review Report* outlined a range of CPL activities that could be acceptable for renewal of registration. Those include things such as mentoring student teachers, attending moderation meetings, or development of school policies. Thus, teachers who can show recency of practice (as above) should be able to fulfil the CPL requirement also. The applicant will declare whether they have engaged in CPL and this can be monitored by the College through auditing.³²

Restoration of full registration is provided for under **Chapter 2, Part 4**.

4.7 NOTIFICATION OBLIGATIONS AND GENERAL OFFENCES

Under the *ETR Act*, teachers must disclose to the BTR any changes in their criminal history (which includes acquiring a criminal history), suspension or cancellation of their registration in another jurisdiction, or a termination of their employment in another jurisdiction due to incompetence or unfitness to teach. There is the ability to immediately suspend a teacher’s registration if their continued teaching could result in harm to children. **Chapter 3, Part 1** of the Bill retains these measures and penalty provisions and, also, the BTR’s ability (to be given to the College) to notify other appropriate entities, such as the Commission for Children and Young People, the Child Guardian, and interstate equivalent bodies, about such matters.

³⁰ Education (Queensland College of Teachers) Bill 2005 (Qld), *Explanatory Notes*, p 18.

³¹ *Review Report*, pp 58-59.

³² *Review Report*, pp 59ff.

Other persons will also have notification obligations under Chapter 3 of the Bill. The Police Commissioner or the Director of Public Prosecutions must notify the College if a registered teacher is charged with an indictable offence and, also, if they have stood trial.

The *Review Report* noted the current gap in the *ETR Act* which does not impose any obligation on employing authorities to report dismissals or resignations relating to competency to the BTR but makes this a ground for conducting a disciplinary inquiry. It therefore recommended that the new legislation require employers to advise the College of any dismissals of teachers on the grounds of serious incompetence and that employers also advise the College of any investigations being conducted and outcome of such into allegations of harm, as defined under the *Child Protection Act 1999 (Qld)*, caused or likely to be caused to a student because of the conduct of a teacher at the school.³³

Under the Bill, an employing authority for a school will have to notify the College about its investigations into allegations of harm to a child and, also, if the teacher is dismissed or the teacher resigns as a result. The employing authority will also have to notify the College where a teacher is dismissed in circumstances calling their competency into question, as this may require the College to determine if it is to impose some sort of sanction on the teacher. There is a maximum fine of \$3,000 if the employing authority does not comply with this requirement.

A number of general offences are set out in **Chapter 3, Part 2**. These include that it is an offence to employ an unapproved person as a teacher.

4.8 COMPLAINTS AND DISCIPLINARY ACTION

Under the *ETR Act*, there is presently no capacity for the BTR to undertake preliminary investigations of formal complaints about registered teachers before disciplinary action commences to see if an inquiry is warranted. The process begins with the formal inquiry. In addition, the BTR has only a limited ability to obtain relevant documents.

Under Part 5 of the *ETR Act*, the BTR can hold inquiries in two situations. It can inquire into denial of an application for registration, a process triggered by the disappointed applicant for registration. Secondly, it can hold a disciplinary inquiry on the basis of certain grounds such as having reasonable grounds for believing that a teacher has been convicted of an indictable offence or has been dismissed or resigned from teaching in circumstances relating to incompetence.

³³ *Review Report*, p 71.

The BTR can hold the inquiry itself or appoint a Committee to do so. If a Committee is established, it must comprise an experienced lawyer, two practising teachers, and a person who is not a teacher or lawyer. The Committee or BTR has significant powers regarding procedure and evidence. At the end of the inquiry, the Committee will report to the BTR with recommendations and the BTR makes the final decision, having regard to the report. The BTR may impose sanctions including cancellation or suspension of registration; substitute provisional for full registration; impose a fine of up to \$1,500; give a reprimand; and order the payment of costs. Appeals may be taken to the Appeals Committee and the District Court by the affected teacher/applicant.

The *ETR Act* also provides for the immediate suspension of registration if the BTR considers the teacher poses an imminent risk of harm to children and immediate action is necessary. An inquiry must then follow immediately. This is discussed below.

4.8.1 Proposed Changes

Chapters 4 and 5 of the Bill will provide a system for making complaints about teachers and for the College to handle them and, if a ‘disciplinary matter’ is revealed, to refer it to the independent Teachers Disciplinary Committee. If the matter is less serious, it may be one for the Professional Practice and Conduct Committee (PP&C Committee) to hear. The provisions will also apply to persons who were approved teachers at the time the relevant conduct occurred.

4.8.2 Teachers Disciplinary Committee and Professional Practice and Conduct Committee

The PP&C Committee and the Teachers Disciplinary Committee are established under **Chapter 6**. The **Teachers Disciplinary Committee** will consist of five members nominated by the Minister, independent of the Board of Management. One member must be an experienced lawyer familiar with school environments, two must be registered teachers and two must not be registered teachers (i.e. parent/community representatives). The ability to refer cases to another independent body means that the investigating body is not also the prosecuting and adjudicating body. At present, the BTR exercises all regulatory functions.³⁴

The **PP&C Committee** will consist of three Board of Management members. One member must be a non-teacher.

³⁴ *Review Report*, p 72.

4.8.3 Complaints

A person may make a complaint in writing about a teacher alleging that a ground for disciplinary action exists. Various reasons are set out in **cl 89** to allow the College to refuse to deal with a complaint. This means that for a complaint to be addressed it must –

- if proved, establish a ground for disciplinary action;
- not be trivial, unreasonable or without substance;
- not be about a frivolous matter or made vexatiously;
- not be based on an allegation that is better handled by another entity (e.g. the employing authority), nor based on an allegation that has already been adequately dealt with;
- relate to a matter that has occurred within such a timeframe that it is not practicable for the College to deal with it (although this is qualified by the College not being able to refuse to deal with a complaint involving alleged serious offences involving children): **cl 89**.³⁵

If the College does not refuse to deal with the complaint, it must start disciplinary proceedings or authorise an investigation of the matter.

The College can also authorise an investigation of a matter if it reasonably believes on the basis of disciplinary information (e.g. a complaint or other specified information received by the College), that a ground for disciplinary action may exist.

4.8.4 Grounds for Disciplinary Action

The following are grounds for taking disciplinary action against a teacher for a ‘disciplinary matter’ which is divided into a ‘show cause’ matter; a more minor ‘PP&C matter’, or a ‘general matter’ –

- conviction of a serious offence (apart from excluding offences dealt with under **cl 56**.³⁶ An ‘excluding offence’ is where the teacher has been imprisoned or a disqualification order has been made where the College must cancel the teacher’s registration);
- conviction of an indictable offence (other than a serious offence) or an offence against the Bill;

³⁵ However, the College will keep a record about the complaint for future reference in case the issue arises again.

³⁶ See discussion below.

- non-compliance with a condition of full registration, apart from a returning to teaching condition;
- incompetence in performing the work of a teacher and the teacher is dismissed or resigns in circumstances that call into question the teacher's competency;
- registration in another state is cancelled or suspended, or, the teacher's employment was terminated due to incompetence or unsuitability;
- the teacher no longer has, or did not have, the qualifications and experience relied on by them to obtain registration or permission to teach;
- unsuitability to teach;
- failure to comply with a lawful demand made by the College, an investigator, or a disciplinary committee;
- contravention of an order under the Bill: **cl 92**.

If the College reasonably believes that one or more grounds for disciplinary action exist, it must refer the matter to the Teachers Disciplinary Committee or the PP&C Committee. If the teacher has been suspended on the basis of a belief of imminent harm to children at the school (see **cl 49**), the matter must be referred to the Teachers Disciplinary Committee immediately.

4.8.5 Disciplinary Process and Sanctions

The **first ground** – conviction of a serious offence – is a **show cause matter** that must be referred to the Teachers Disciplinary Committee without prior consideration. The facts are on the record, as the matter has been tried in court, so that the only issue to be determined is whether disciplinary sanction is warranted.

Chapter 5, Part 2 will govern the way in which the Teachers Disciplinary Committee (the Committee) deals with a show cause matter referred to it by the College or by the PP&C Committee. The teacher, or former approved teacher, must be given a 'show cause' notice. After considering any written submissions made by the teacher, the Committee must decide whether the teacher's registration or permission should be cancelled or, if not, whether another disciplinary sanction or sanctions in **cl 102** should be imposed. It can also decide to take no further action. The Committee must decide to cancel the registration or permission to teach unless it is satisfied that it is an exceptional case in which the best interests of children would not be harmed by not cancelling the registration or permission. If registration or permission is cancelled, the Committee may also order that the

teacher cannot seek registration or permission for up to five years. A right of appeal lies to the District Court.³⁷

The **remaining grounds** are either more serious **general matters** (if they are not PP&C matters) which are referred to the Teachers Disciplinary Committee or matters requiring **minor disciplinary action** (e.g. a warning, reprimand or accepting an undertaking) handled by the PP&C Committee unless the matter involves an excluded offence or an imminent risk of harm to children is posed. If a teacher is under suspension, the proceedings should begin as soon as practicable.

Chapter 5, Part 3 applies when the Teachers Disciplinary Committee hears general matters and PP&C Committee matters which are referred to it. The Committee can ask for the matter to be investigated, if this has not occurred, in order to obtain further information. The matter is then dealt with through the hearing process set out in **Ch 6, Part 2, Div 2**. Hearings will generally be open to the public although the Committee has the discretion in regard to this. As is the case at present, the hearings will be as informal and non-technical as possible and conducted in accordance with the rules of procedural fairness. The teacher may be represented by a lawyer or another person and persons appearing are protected by the privilege against self-incrimination. The Committee will also now be able to order the teacher to submit to a health assessment to help in its deliberations.

The sanctions available if the Committee finds that a ground for disciplinary action has been established are set out in **cl 160** and include cancellation or suspension of registration; issuing a warning or reprimand; repayment of expenses of the College; imposing or removing conditions; imposing a fine of up to \$1,500; accepting an undertaking,³⁸ or taking no further action.

Chapter 5, Part 4 covers the other lower level disciplinary matters heard by the PP&C Committee. It can authorise investigations and it can take a range of less punitive actions against the relevant teacher. It must always have regard to the welfare and best interests of children, as a primary consideration in making its decision. The hearing occurs pursuant to the provisions of **Ch 6, Part 1, Div 2**. The hearing will not take place in public and must be as informal and non-technical as possible as is consistent with the rules of procedural fairness. The hearing can also occur by way of written correspondence if the teacher is agreeable to this procedure. The action the PP&C Committee can take includes: taking no further

³⁷ See **cl 103** regarding action against teachers who have previously held registration or permission to teach.

³⁸ The *Review Report* considered that the available sanctions should be expanded to include provision of undertakings from teachers such as undergoing an anger management course where it may be that a short term course of action is appropriate and the teacher can continue to teach. This accords with provisions in some other jurisdictions: p 75.

action; referring the matter to the Teachers Disciplinary Committee in certain circumstances; issuing a warning or a reprimand or accepting an undertaking from the teacher: **cl 123**.

The above provisions regarding disciplinary processes accord with recommendations of the *Review Report*.³⁹

4.9 SUSPENSION AND CANCELLATION OF REGISTRATION

If a person holds provisional registration, permission to teach, or full registration that is subject to a condition, including a returning to teaching condition, and the person **fails to comply with a condition**, their registration or permission can be suspended or cancelled. The person must first be given the opportunity to show cause: **Chapter 2, Part 5, Div 2**. This is also the position under the *ETR Act* and the Bill will now extend it to persons with ‘permission to teach’. As seen earlier, non-compliance with a condition on full registration can form a ground for disciplinary action.

While the *ETR Act* currently allows the BTR to decide to suspend a teacher’s registration if it believes that the teacher poses an imminent risk of harm to children and immediate action is necessary to protect children, there is no provision for automatic suspension or cancellation in particularly serious cases. The *Review Report* supported the need for automatic suspension of registration in such cases which would be followed by a hearing by the Teachers Disciplinary Committee to determine if the suspension should be lifted or maintained.⁴⁰

4.9.1 Immediate Suspension

Chapter 2, Part 6, Divs 1-2 deals with situations and the process where registration or permission to teach can be immediately suspended. Review provisions are built in. Suspension can occur where the College becomes aware that a teacher has been **charged** with an ‘**excluding offence**’. An ‘excluding offence’ includes certain serious offences involving children and certain offences in the *Classification of Computer Games and Images Act 1995* (Qld), *Classification of Films Act 1991* (Qld) and *Classification of Publications Act 1991* (Qld), and will now be comparable with excluding offences under the *Commission for Children and Young People Act and Child Guardian Act 2000* (Qld). Thus, the

³⁹ *Review Report*, pp 74ff.

⁴⁰ *Review Report*, pp 76-77.

laws will be consistent for all persons employed at schools, both teaching and non-teaching staff.

Suspension may also occur where the College reasonably believes that the teacher poses **an imminent risk of harm** to children. The effect is immediate. The matter is then referred to the Teachers Disciplinary Committee (see above) which must determine whether it is an exceptional case in which the best interests of children would not be harmed if the suspension was ended or whether the registration will be cancelled.

4.9.2 Immediate Cancellation

Chapter 2, Part 6, Divs 3-4 cover the College's power to immediately cancel registration or permission to teach. This will occur if a teacher is **convicted** of an **'excluding offence'** and a term of imprisonment or a disqualification order (stating that the teacher may never be an approved teacher)⁴¹ is imposed. The teacher cannot ever be registered or granted permission to teach again, unless the conviction or the sanction is not upheld on appeal. There is no appeal in relation to the College's cancellation decision. The *ETR Act* did not make provision for cancellation and the gap was revealed in May 2004 when a teacher was convicted of child sexual assault offences but it was found that to be struck off the Register of Teachers, the BTR had to first hold its own inquiry.⁴²

A number of jurisdictions provide for automatic cancellation of registration if a teacher is convicted of a serious sexual offence involving a child.

4.10 INVESTIGATIONS

Pursuant to **Chapter 7**, the College will be able to appoint appropriately experienced and qualified employees of the Office of the College and members of the Board as investigators to carry out and report on investigations into a disciplinary matter or into the monitoring and enforcement of the Bill. The College need not merely initiate an investigation when it receives a complaint but can do so in performing its monitoring and general compliance functions.

The College will also be able to enter into an agreement with a school for its employing authority to undertake an investigation into a disciplinary matter on the

⁴¹ See **Chapter 2, Part 6, Div 4**.

⁴² Jason Gregory, 'Loophole allows offenders to teach', *Courier Mail*, 24 May 2004, p 7.

College's behalf in order to avoid unnecessary duplication of investigations. This reflects a recommendation made by the *Review Report*.⁴³

Investigators will have the usual type of investigators' powers (e.g. require information, inspection of things, entry of places, entry under a warrant, seizure of evidence etc.) and limitations on powers (including safeguards), such as the obligation to carry an identity card.

Where the investigations concern a disciplinary matter (as discussed earlier), the investigator must provide a written report to the PP&C Committee as soon as practicable. Otherwise, it will be given to the Teachers Disciplinary Committee. The investigation report will be used by the PP&C Committee to decide if the matter is one that it should deal with itself (i.e. a low level disciplinary action is appropriate) or one that is sufficiently serious to warrant referral to the Teachers Disciplinary Committee.

4.10.1 Reviews and Appeals

Pursuant to **Chapter 8** of the Bill, a person who has been given an 'information notice' (usually regarding a refusal to grant registration but see **Schedule 1** for the full range of decisions for which such a notice is given) has a right to internal and external review of the decision to which the information notice relates. The internal review will be conducted by a Review Committee and the applicant has the right to make submissions to the Committee. The Committee then recommends to the College whether the decision should be confirmed, amended or another decision made. The College then makes a further decision (and need not follow the Committee's recommendation). If the person remains dissatisfied they can appeal to the District Court.

The Bill retains the ability for a teacher to appeal to the District Court regarding decisions made by the Teachers Disciplinary Committee. Note that the College can also appeal such decisions, which is not currently the case under the *ETR Act*. The appeal is by way of rehearing and is unaffected by the original decision and the Court is not bound by the rules of evidence. The Court can confirm, vary or set aside the decision and substitute another decision. The Court can prohibit the publication of particular information (e.g. the name of the appellant).

⁴³ *Review Report*, pp 70, 78.

4.11 TRANSITIONAL ARRANGEMENTS

Chapter 12 contains a number of transitional provisions. The main features are that all persons currently on the Register of Teachers will be deemed to be registered in the same category under the new Bill. Current authorisations will be transitioned so that the teacher will hold ‘permission to teach’. Existing conditions will continue.

Registration will be for five years, upon payment of an annual fee such that all existing teachers with full registration will not have to apply for renewal until 31 December 2010. Existing teachers with provisional registration will be transitioned over until 31 December 2007: **cl 314**.

5 SOME INTERSTATE COMPARISONS

5.1 VICTORIA

The oversight body for teacher registration in government and non-government schools in Victoria is the Victorian Institute of Teaching, established under the *Victorian Institute of Teaching Act 2001* (Vic).⁴⁴

A person may be granted provisional registration if they possess –

- four years of approved tertiary study (including in education); or
- an approved Certificate of Proficiency/Completion in a trade together with relevant industrial experience of not less than eight years and an approved trade technician course or approved equivalent, and an approved course of teacher education; or
- an approved Certificate of Technology plus at least six years of approved industrial experience and an approved course of secondary teacher education.

A teacher must also be a fit and proper person and undergo a criminal record check. There is a fee for registration.

To obtain full registration, the teacher must be able to demonstrate that they meet the Standards of Professional Practice. These Standards were approved by the Minister for Education in November 2003.

⁴⁴ See the Victorian Institute of Teaching’s website at www.vit.vic.edu.au.

Permission to teach may be granted in special circumstances where the applicant is not fully qualified to teach but may have the appropriate skills and experience to undertake some or all of the duties of a teacher for a temporary period.

The Victorian Institute of Teaching is also charged with the function of assessing and approving teacher education courses for registration purposes. While the Institute currently assesses and approves courses against guidelines developed by a former regulatory body in 1998-99, it is currently developing its own guidelines and processes to reflect skills, knowledge and approaches applicable for the next decade of teachers. This forms part of the Future Teachers Project being undertaken by the Institute at the present time.

While renewal of registration is required every five years, at which time teachers must demonstrate that an appropriate level of professional practice has been maintained and they have a 'clear' criminal history, there is currently no requirement for CPL. However, the Council of the Institute is presently developing a policy on CPL in consultation with teachers. The Council is also proposing that teachers will need to demonstrate that they have taught or engaged in equivalent practice in schools for at least 80 days in the previous five years and those unable to fulfil this requirement will be conditionally registered until their professional practice has been affirmed.

A teacher is automatically disqualified from teaching if convicted of a sexual offence against children and ceases to be registered.

The Institute also has power to undertake inquiries into allegations regarding serious incompetence, serious misconduct or unfitness to teach, and when informed about a teacher's conviction of an indictable offence. It must first undertake a preliminary investigation regarding whether a hearing is warranted, and whether it be formal or informal. If it is determined that an informal hearing should be held then it is referred to a Professional Practice and Conduct Committee which recommends whether a formal hearing should be conducted. Formal hearings are conducted by a panel of the Institute, the Chair of which is a member of the Council. The sanctions are imposition of a condition, limitation or restriction on registration or a suspension or cancellation of registration.

5.2 NEW SOUTH WALES

The current registration regime in New South Wales is derived from the Ramsay Report in 2000 and a *Report of the Taskforce on the Review of Teacher Education in NSW* in 2001. The *Institute of Teachers Act 2004* (NSW) commenced on 1 January 2005. The Institute of Teachers oversees a system of accreditation and

recognition of teachers' professional capacity against the Framework of Professional Teaching Standards it developed in partnership with NSW teachers.⁴⁵ The Standards provide teachers with a framework to guide their development throughout their career and form a basis for the process of accreditation of teachers. The Standards align with the National Framework for Teaching Standards.

The functions of the Institute include advising the Minister on the registration of courses and endorsement of courses of initial teacher education. It supports Teacher Accreditation Authorities in accrediting teachers in accordance with Professional Teaching Standards.⁴⁶ The Institute ensures that the Standards are applied consistently across all schools.

Teacher Accreditation Authorities are persons or bodies authorised to determine if a teacher meets the accreditation requirements at any level within the Institute's Framework of Professional Teaching Standards. In State schools it will be a person or body authorised by the Director General of Education and Training and in non-State schools it will be a person or body authorised by the Minister. The Institute is advised by the Quality Teaching Council in relation to its educational and professional functions.

There are four levels of accreditation – Graduate Teacher; Professional Competence; Professional Accomplishment; and Professional Leadership.

State and non-State school teachers employed from 1 October 2004, or teachers returning after a five year break, or a transition scheme teacher⁴⁷ will have to seek accreditation from the Teacher Accreditation Authority (either provisional or conditional). It is an offence to employ a person without accreditation. New teachers who have completed Institute approved pre-service education courses may seek provisional accreditation for a maximum of three years if they meet the requirements of the Professional Teaching Standards for provisional accreditation. Conditional accreditation applies to a new teacher who does not fully meet the requirements or has not completed an approved course, or to a teacher working under the onsite supervision of another teacher. Procedures for approval of courses of initial teacher education are being implemented by the Institute during 2005 and transition arrangements apply in the interim – generally requiring tertiary qualifications in teacher education.

⁴⁵ The Standards can be found at <http://nswteachers.nsw.edu.au/library/Endorsed/18pp%20PTSF%20book%20v6.pdf>.

⁴⁶ See the Institute of Teachers website at <http://nswteachers.nsw.edu.au/>.

⁴⁷ A person without recognised teaching qualifications or subject content degree employed prior to 1 October 2004. The rules are slightly different for such persons.

The next step for ‘provisional’ and ‘conditional’ teachers is gaining accreditation at the level of Professional Competence. All new teachers must attain this level within either the three years (if provisional accreditation is held) or four years (if conditional accreditation is held). In granting accreditation at this level, the Teacher Accreditation Authority bases its decision on whether the applicant meets the Standards across seven elements.

Teachers must undergo criminal history screening as it is an offence under the *Child Protection (Prohibited Employment) Act 1998* (NSW) for a person convicted of a serious sex offence to apply for, or remain in, child-related employment. Note also that the NSW Ombudsman has the responsibility for handling and responding to child abuse allegations or convictions involving Department of Education and Training employees. The Department must also notify the Ombudsman of any child abuse allegation or conviction against an employee and whether or not disciplinary action is planned.

To maintain accreditation, teachers have to continue to meet the requirements of the Professional Standard at which they are accredited through undertaking CPL.

Accreditation can be revoked by a teacher accreditation authority if the teacher fails to continue to meet the standards relevant to their level of accreditation; fails to complete the required CPL; fails to comply with conditions of the accreditation; commits a prescribed criminal offence; engages in proven misconduct in relation to students; or fails to pay the annual membership fees.

Accreditation of a State-school teacher can be revoked if the teacher has been dealt with for a breach of discipline under the *Teaching Services Act 1980* (NSW) and is sanctioned by way of dismissal or requiring resignation or annulment of probation (if on probation). Under s 84 the *Teaching Services Act 1980*, a teacher can be dealt with by the Director General of Education or a prescribed officer for a breach of discipline as set out in s 83. Those grounds are a breach of that Act or the regulations; misconduct; excessive use of drugs or alcohol; wilful disobedience/disregard of an order; negligent, careless, inefficient, or incompetent discharge of duties; or disgraceful or improper conduct. Similar consequences follow if the teacher is found guilty of a serious offence (where a term of 12 months or more imprisonment applies): s 86. A teacher can also be suspended under the *Teaching Services Act 1980* if they are charged with a breach of discipline or with a serious offence referred to in s 86.

5.3 WESTERN AUSTRALIA

Under the *Western Australian College of Teaching Act 2004* (WA), all state and non-State school teachers must be registered with the College or hold a limited authority to teach. Transitional provisions apply for teachers currently teaching as

at 15 September 2004 when the Act commenced, or at some earlier time. The College is responsible for oversight of the professional standards of its teacher members. It identifies the skills that are required of teachers and ensures that teachers are able to develop those skills, particularly on entry to the profession.⁴⁸

New graduates or new WA residents are subject to the registration provisions of the legislation. A new teacher must have a College-approved qualification and acceptable criminal record check.

The new teacher is firstly provisionally registered with the College if they hold a College-approved teacher qualification (at least four years of tertiary education, including at least one year of teacher education and a minimum of 45 days successful teaching practice), have a clear criminal history, and meet other requirements. The College is working on developing a process through which new teachers can move from provisional registration to full registration. It is expected that provisional registrants will enter into a collegiate support relationship with an experienced teacher and engage in provisional learning to gain competence as a teacher. Provisional registration may last for up to three years.⁴⁹

Full registration may be obtained if the College is satisfied that, in addition to the requirements for provisional registration, the teacher has achieved approved standards of professional practice. If a person is returning to teaching after a break of five years or more, they will also be provisionally registered to enable them to meet any requirements necessary to achieve full registration. There is an applicable registration fee.

Renewal of registration and College membership is required every five years and renewal depends upon continued clear criminal history checks and meeting CPL requirements prescribed by regulation.

Existing teachers teaching on or before 14 September 2004 will have until 15 March 2006 to seek registration with the College.

Membership of the College must be cancelled if a teacher is convicted of a sexual offence involving a child. It may also be cancelled if a person returning after five years absence has not complied with required professional involvement conditions. The effect is that a person's name is then removed from the register of teachers.

The Act also establishes a disciplinary process where the College first assesses the complaint to determine if an inquiry should be held into the teacher's conduct. The

⁴⁸ See the WA College of Teaching website at www.wacot.wa.edu.au/.

⁴⁹ See also WA College of Teaching, *Information for those New to Teaching in WA*, at www.wacot.wa.edu.au/files/pdf/Info%20New%20to%20Teaching.pdf.

grounds for holding the inquiry include conviction of an offence, the nature of which renders the teacher unfit to be a teacher; serious misconduct; serious incompetence; contravention of the Act; or contravention of a condition of membership. It may hold the inquiry itself or establish a Committee to do so. The inquiry is generally held in public.

The College is, following the inquiry, to determine whether disciplinary action will be taken. Such disciplinary action implies the imposing of a practising condition on the teacher's membership; suspension of membership for up to two years; a fine of up to \$5,000; or cancellation of membership.

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