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# Cancellation of teacher registration upon conviction of a serious offence under the Education and Training Legislation Amendment Bill 2011 (Qld)

This Research Brief looks at one of the key aspects of the Education and Training Legislation Amendment Bill 2011, specifically, the cancellation of a teacher's registration for life, where the teacher is convicted of a serious offence, irrespective of whether the person is sentenced to imprisonment. The current situation in Queensland, the details of the proposed changes and the current situation in other Australian jurisdictions are examined.

<b>Bill:</b>	Education and Training Legislation Amendment Bill 2011 (Qld)
<b>Date of introduction:</b>	2 August 2011
<b>Portfolio:</b>	Education
<b>Hansard Reference First Reading:</b>	Queensland Parliamentary Debates, 2 August 2011, pp 2235 - 2237
<b>Referred to:</b>	Industry, Education, Training and Industrial Relations Committee on 2 August 2011

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Readers may also wish to refer to the report on the Bill by the relevant portfolio committee (or other committee nominated when the Bill was presented) and the Parliament's Record of Proceedings (Hansard).

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## Key Points

- The [Education and Training Legislation Amendment Bill \(Qld\) 2011](#) (the “Bill”) was introduced on 2 August 2011 by the Hon [Cameron Dick](#) MP, the Minister for Education and Industrial Relations.
- The Bill mainly proposes to amend the [Education \(Queensland College of Teachers\) Act 2005 \(Qld\)](#) (“QCT Act”).
- The Bill has two main aims:
  - (1) to provide for the **automatic cancellation of a teacher’s registration for life** where that teacher is convicted of a serious offence, irrespective of whether the person is sentenced to imprisonment; and
  - (2) to extend the mandatory requirements regarding the **reporting by school staff of the sexual abuse** of a student to include reporting where a staff member becomes aware, or reasonably suspects a student has been or is likely to be sexually abused by any person.
- This Research Brief deals with the first of these aims relating to the cancellation of a teacher’s registration upon the conviction of the teacher for a serious offence irrespective of whether the person is sentenced to imprisonment.
- In broad terms, there are **three key changes** being proposed to the QCT Act:
  - (1) the **automatic cancellation** of a teacher’s registration where a person is convicted of a serious offence, regardless of whether the person is sentenced to imprisonment, and the permanent prevention of a person, including a former teacher, from applying for teacher registration if the person has been convicted of a serious offence;
  - (2) the introduction of an **eligibility declaration** for persons prohibited from applying for registration in limited circumstances (i.e., the “Romeo and Juliet” exemption); a similar exemption proposed in Victoria failed to make it into law (see section 3.3 of this Research Brief); and
  - (3) the **broadening of the powers of the [Queensland Civil and Administrative Tribunal](#) (“QCAT”)** to make orders to prohibit a person from applying for registration for a stated period of time or indefinitely, instead of the current limit of five years, in circumstances where QCAT may take disciplinary action (the impetus for this proposed change is the *MacNeil Case*) (see section 3.4 of the Research Brief).
- The current draft of the Bill provides that the changes are to apply prospectively. However, it has been foreshadowed that additional amendments are being proposed which will make the application of certain of the changes under the Bill retrospective. (see section 3.2.2 of the Research Brief, especially Case Study #2 which examines the situation in Victoria concerning the retrospective application of a similar law).
- A review of the current provisions in each of the various Australian jurisdictions relating to the cancellation of teacher registration reveals that the situation in each state and territory is relatively complex and differs from jurisdiction to jurisdiction (see section 5 of the Research Brief). The situation in each of the other Australian

jurisdictions, with a particular emphasis on the types of offences that are equivalent to serious offences in Queensland, is summarised in the Appendix.

*For further clarification and analysis of the relevant issues, the reader should consult the Research Brief and refer to the Explanatory Notes to the Bill as well as to the Bill itself.*

## Dictionary

- CCYPCG Act:** [Commission for Children and Young People and Child Guardian Act 2000 \(Qld\)](#) (“CCYPCG Act”)
- Disqualifying offence:** is an offence prescribed in Schedule 4 (current disqualifying offences) and Schedule 5 (repealed or expired disqualifying offences) of the CCYPCG Act. (See also 2.6 of the Research Brief.)
- Disqualification order:** is an order of the court in relation to a teacher convicted of:
- (a) a disqualifying offence and the court that convicts the teacher does not impose an imprisonment order for the offence; or
  - (b) another serious offence committed in relation to, or otherwise involving a child: see s 58 of the QCT Act. (See also 2.5 of the Research Brief.)
- Eligibility Applicant:** An “eligibility applicant” means a person who:
- (a) is, after the commencement of the relevant provisions, convicted of a serious offence (other than a person whose conviction has been overturned on appeal);
  - (b) is not subject to an imprisonment order for the offence; and
  - (c) is not a “relevant excluded person”: (See also 3.3.2 of the Research Brief.)
- Eligibility Declaration:** The Bill provides an exemption, available in limited situations, which is termed an “eligibility declaration” as it involves a person, who would otherwise be prohibited from applying for teacher registration due to being an “excluded person”, obtaining a declaration from the QCT that he or she is eligible to apply for teacher registration. (See also 3.3.1 of the Research Brief.)
- Excluded person:** An “excluded person” includes a person:
- whose registration or permission to teach has been cancelled;
  - who is prohibited from reapplying for registration or permission to teach by a disciplinary order of QCAT; or
  - who has been made subject to sexual offender obligations or orders: see Schedule 3 of the QCT Act. (see also 2.2 of the Research Brief.)

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<b>Imprisonment Order:</b>	An order of a court that includes imprisonment as a penalty for the offence, whether wholly or partially suspended, or an intensive correction order under the <a href="#">Penalties and Sentences Act 1992 (Qld)</a> . (See also 2.4 of the Research Brief.)
<b>QCT:</b>	<a href="#">Queensland College of Teachers</a>
<b>QCT Act:</b>	<a href="#">Education (Queensland College of Teachers) Act 2005 (Qld)</a>
<b>QCAT:</b>	<a href="#">Queensland Civil and Administrative Tribunal</a>
<b>Relevant excluded person:</b>	a teacher is a “relevant excluded person” if that teacher is subject to sexual offender reporting obligations, an offender prohibition order, a disqualification order, or a sexual offender order etc: see Schedule 3 (the Dictionary) of the QCT Act. (See also 2.3 of the Research Brief.)
<b>Serious offence:</b>	is an offence prescribed in Schedule 2 (current serious offences) and Schedule 3 (repealed or expired serious disqualifying offences) of the CCYPCG Act. Serious offences include sexual and other violent and drug-related offences. (See also 2.6 of the Research Brief.)



## 1 Background

The [Education and Training Legislation Amendment Bill \(Qld\) 2011](#) (the “Bill”), introduced on 2 August 2011 by the Hon [Cameron Dick](#) MP, the Minister for Education and Industrial Relations, has two main aims:

- (1) to provide for the **automatic cancellation of a teacher’s registration for life** where that teacher is convicted of a serious offence, irrespective of whether the person is sentenced to imprisonment (**Part 4 of the Bill**); and
- (2) to extend the mandatory requirements regarding the **reporting by school staff of the sexual abuse** of a student to include reporting where a staff member becomes aware, or reasonably suspects a student has been or is likely to be sexually abused by any person (**Part 3 of the Bill**).

This Research Brief will focus only on the first of these aims relating to the cancellation of a teacher’s registration where that teacher is convicted of a serious offence, irrespective of whether the person is sentenced to imprisonment. The topics covered by this paper include:

- a broad outline of the current situation in Queensland concerning the cancellation of a teacher’s registration;
- the details of the proposed changes;
- comments made in the media relating to the proposals; and
- the current situation in other jurisdictions (summarised in the Appendix).

## 2 Current law

### 2.1 Who can apply for teacher registration?

Under the [Education \(Queensland College of Teachers\) Act 2005 \(Qld\)](#) (“QCT Act”), a person can apply for teacher registration or permission to teach unless the person is an “excluded person”: see s 14 of the QCT Act.

### 2.2 Who is an “excluded person”?

An “excluded person” includes a person:

- whose registration or permission to teach has been cancelled;
- who is prohibited from reapplying for registration or permission to teach by a disciplinary order of the Queensland Civil and Administrative Tribunal (“QCAT”); or
- who has been made subject to sexual offender obligations or orders: see Schedule 3 (the Dictionary) of the QCT Act.

### 2.3 When is a registration cancelled for criminal conduct?

Chapter 2, Part 6 of the QCT Act deals with the suspension, cancellation and the imposition of a disqualification order in relation to a teacher’s registration or permission to teach by the Queensland College of Teachers (“QCT”).

In relation to criminal conduct by a teacher, the QCT **must cancel** a teacher’s registration or permission to teach where:

- (a) a teacher has been convicted of a disqualifying offence;<sup>1</sup> and
- (b) the court that convicts the teacher:
  - (i) imposes an **imprisonment order**; or
  - (ii) makes a **disqualification order**; or
- (c) a teacher becomes a “relevant excluded person”: see s 56 (1)-(3) of the QCT Act.

Depending on the circumstances, a teacher can either never again apply for registration or permission to teach, or is prohibited from applying for a stated period, unless the conviction or order is overturned on appeal: see ss 56 & 58 of the QCT Act.

## 2.4 What is an “imprisonment order”?

An “imprisonment order” means either:

- (a) an order of a court that convicts a person for an offence, if the order includes a penalty that includes imprisonment for the offence, whether wholly or partially suspended; or
- (b) an intensive correction order under the [Penalties and Sentences Act 1992 \(Qld\)](#) or a similar order from another jurisdiction: see Schedule 3 (the Dictionary) of the QCT Act.

It does not include an order of imprisonment that is imposed as a consequence of a breach of a community service order or probation order under the [Penalties and Sentences Act 1992 \(Qld\)](#).

## 2.5 What is a “disqualification order”?

The court that convicts a teacher, on the application by the prosecutor or on its own initiative, may make a “disqualification order” if it considers it would not be in the interests of children for the QCT to register a teacher or grant a teacher permission to teach in circumstances where a teacher is convicted of:

- (a) a disqualifying offence and the court does not impose an imprisonment order for the offence; or
- (b) another serious offence involving a child: s 58 of the QCT Act.

## 2.6 What is the difference between a “disqualifying offence” and a “serious offence”?

The Hon Cameron Dick MP explains the differences between “disqualifying offences” and “serious offences” in his [Introduction and Referral Speech](#) (p 2236) as follows:

Disqualifying offences are generally serious sexual offences committed against children. Serious offences include the same sexual offences, as well as other violent and drug related offences.

Both of these terms are defined in the dictionary of the QCT Act (Schedule 3) which refers to the more detailed definitions set out in the [Commission for Children and Young People and Child Guardian Act 2000 \(Qld\)](#) (“CCYPCG Act”). The table below sets out the location of the relevant definitions:

Offence	Definition section	List of offences
Serious offences	S167 of the CCYPCG Act (What is a serious offence?)	Schedule 2 (current)  (includes child pornography offences, sexual offences such as rape and sexual assault, murder, kidnapping, burglary, drug related offences)
Disqualifying offences	s168 of the CCYPCG Act (What is a disqualifying offence?)	Schedule 4 (current)  (includes child pornography offences, sexual and other offences committed against a child)

### 3 Proposed Changes

#### 3.1 Summary of Proposed Changes

In broad terms, under Part 4 of the Bill, there are **three key changes** being proposed to the QCT Act:

- (1) the **automatic cancellation** of a teacher's registration where a person is convicted of a serious offence, regardless of whether the person is sentenced to imprisonment, and the permanent prevention of a person, including a former teacher, from applying for teacher registration if the person has been convicted of a serious offence;
- (2) the introduction of an **eligibility declaration** for persons prohibited from applying for registration in limited circumstances (i.e., the "Romeo and Juliet" exemption); and
- (3) the **broadening of QCAT's powers** to make orders to prohibit a person from applying for registration for a stated period of time or indefinitely, instead of the current limit of five years in circumstances where QCAT may take disciplinary action in connection with a serious offence.

Each of these changes is discussed below. All references to "registration" include a reference to "permission to teach".

#### 3.2 Cancellation of Registration for Conviction for Serious Offence

##### 3.2.1 What are the proposed changes?

It is proposed under **Part 4 of the Bill** to amend the QCT Act so that it will be mandatory for a teacher's registration to be cancelled for life:

- (a) upon the teacher being convicted for a serious offence after the date of the commencement of the amendments; and
- (b) irrespective of whether a prison term has been imposed: see **Clause 21 of the Bill, inserting proposed new s 58A of the QCT Act.**

### ***Meaning of “Serious Offence”***

The term “serious offence” includes any of the sexual offences covered within the ambit of the term “disqualifying offence” together with additional violent and drug related offences (see 2.6 above).

Mr Stuart Busby, the Director of Legislative Services of the Department of Education and Training (“DET”) clarified, in response to a question raised during the public briefing on the Bill to the Industry, Education, Training and Industrial Relations Committee (“IETIRC”) held on 24 August 2011 (the “Briefing”), that currently references to “serious offences” under the QCT Act are qualified by the phrase “*involving a child*”: see, for example, s 58(1)(b) of the QCT Act. However, under the Bill, the term “serious offences” is not so qualified: see **Clause 21 of the Bill, inserting proposed new s 58A(1)(a) of the QCT Act**. Therefore, the term “serious offences” under the Bill applies to such offences committed in relation to a child or an adult.<sup>2</sup>

### ***Meaning of “Excluded Person”***

The Bill also amends the definition of “excluded person” to include a person who is convicted of a serious offence: see **Clause 30 of the Bill, inserting amendments to Schedule 3 (Dictionary) of the QCT Act**. This amendment is explained in the [Explanatory Notes](#) as follows:

This change to the definition is intended to permanently prevent people who are convicted of a serious offence from applying for teacher registration.

### ***Disciplinary Action Not Required***

If a person is convicted of a serious offence after commencement of Part 4 of the Bill, their registration will be cancelled under the new s58A of the QCT Act. No disciplinary action will be required in this instance: see also **Clause 22 of the Bill, amending s 92(1)(a) of the QCT Act** and the Explanatory Notes, p 28.

### ***Application for Re-registration***

A person who is convicted of a serious offence will not be able to apply for re-registration as a teacher, except in the situation where the conviction is overturned on appeal: see **Clause 21 of the Bill, inserting proposed new ss 58A(4) & (5) of the QCT Act**.

## **3.2.2 Will the changes apply prospectively or retrospectively?**

The current draft of the Bill provides that the changes are to apply prospectively as noted in the [Explanatory Notes](#):

This only applies to a person convicted after the commencement of part 4 of the Bill (p15).

However, during the Briefing, it was foreshadowed by the Director-General of DET, Ms. Julie Grantham, that the Hon Cameron Dick MP proposes to introduce additional amendments which would make the application of the changes retrospective:

The minister is concerned about a number of existing registered teachers who have convictions for serious offences who would not be caught by the proposed bill, particularly those who were sentenced to imprisonment

for their crimes. The minister, therefore, proposes to introduce during consideration in detail to cancel a teacher's registration if the person has a conviction for a serious offence irrespective of the date of the conviction. Any person convicted of a serious offence will be prohibited from applying for teacher registration irrespective of the date of conviction.<sup>3</sup>

It was noted by Mr Busby, in response to a direct question from Mr. Dickson, Member for Buderim, that "*there are approximately 10 teachers in the system who would be affected by the amendments*".<sup>4</sup>

**Case Study #1: The Victorian situation regarding retrospective application**

In September 2003, a similar bill, the [Education Legislation \(Miscellaneous Amendments\) Bill 2003 \(Vic\)](#) was introduced into the Victorian Parliament. This bill applied retrospectively in that it provided for the mandatory dismissal of teachers with convictions for past offences. When the Victorian Scrutiny of Acts and Regulations Committee reviewed the retrospective application of this bill, it noted as follows:

The Committee notes the Minister's comments in respect to the retrospective application of the amendments concerning the future employment or registration of persons as teachers or the continued employment of existing teachers who have prior convictions for sex offences against children.

The Committee notes that in respect to retrospective laws there is a distinction to be made between legislation having a prior effect on past events and legislation basing future action on past events. The former form of legislation may be regarded as objectionable and may constitute, in appropriate circumstances, a trespass to rights and freedoms, whereas in the latter case the legislation has future operation only, even if the conduct on which it depended had taken place in the past. On the point concerning this distinction, the Committee notes *Robertson v. City of Nunawading* [1973] VR 819 at 824 and *Re a Solicitor's Clerk* [1957] 1 WLR 1219.<sup>5</sup>

### 3.2.3 Is there any right of appeal available?

There is no appeal or review under the QCT or the QCAT Act against the cancellation of a teacher's registration: see **Clause 21 of the Bill, inserting proposed new ss 58A(7) & (8)**.

Although neither the Bill, Explanatory Notes nor the Introduction and Referral Speech refer to the availability of judicial review in this context, the [Judicial Review Act 1991 \(Qld\)](#) will apply to give a teacher the right to seek a judicial review of the decision to cancel the teacher's registration.<sup>6</sup> (Note that judicial review is expressly mentioned in the Minister's [Introduction and Referral Speech](#) as being available in relation to the eligibility declaration exemption (see 3.3.7 below).)<sup>7</sup>

## 3.3 Eligibility Declarations ("Romeo and Juliet" Exemption)

### 3.3.1 What is an "eligibility declaration"?

The Bill provides an exemption which is available in limited situations. The exemption is termed an "eligibility declaration" as it involves a person, who would otherwise be prohibited from applying for teacher registration due to being an "excluded person", obtaining a declaration from the QCT that he or she is eligible to apply for teacher registration.

The Hon Cameron Dick MP explains an “eligibility declaration” in his [Introduction and Referral Speech](#) (p 2237) as follows:

The bill will enable a person prohibited from applying for teacher registration to seek an eligibility declaration from the College of Teachers in limited circumstances. A person will only be able to seek a declaration if they have been convicted of a serious offence but were not imprisoned or subject to sexual offender reporting obligations. If a person is granted a declaration, the person may then make a separate application for registration. This process will give the college the capacity, in limited instances, to consider whether there are exceptional circumstances in which it would not harm the best interests of children or the profession to consider an application for registration from a person with a conviction for a serious offence.

### 3.3.2 What is an “eligibility applicant”?

The Bill proposes to enable a person who has been prohibited from applying for teacher registration to seek an eligibility declaration from the QCT provided that person meets the threshold test of being an “eligibility applicant”. An “eligibility applicant” means a person who:

- (d) is, after the commencement of the relevant provisions, convicted of a serious offence (other than a person whose conviction has been overturned on appeal);
- (e) is not subject to an imprisonment order for the offence; and
- (f) is not a “relevant excluded person”: see **Clause 15 of the Bill, inserting proposed new ss 12B, 12D and 12E.**

### 3.3.3 What is the purpose of an eligibility declaration?

The purpose of an eligibility declaration is to allow an “eligibility applicant” to apply to the QCT for a declaration that the person is not an excluded person and is, therefore, eligible to apply for registration: see **Clause 15 of the Bill, inserting proposed new ss 12B and 12D.**

### 3.3.4 When does the eligibility declaration apply?

This exemption only applies to an “eligibility applicant” if the QCT considers that there exists “*an exceptional case in which it would not harm the best interests of children to issue the eligibility declaration*”: see **Clause 15 of the Bill, inserting proposed new ss 12B, 12D and 12F(1).**

### 3.3.5 What factors must QCT consider?

The Bill includes the following list of factors that the QCT must consider when having regard to the criminal history of the eligibility applicant:

- (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
- (b) the nature of the offence and its relevant to the duties of a teacher; and
- (c) any penalty imposed by the court and the court’s reasons for the penalty: see **Clause 15 of the Bill, inserting proposed new s 12F(4).**<sup>8</sup>

A number of additional factors that must be considered by QCT to determine if there is an exceptional case include:

- (a) documents or information contained in the applicant's eligibility application;
- (b) if the eligibility applicant has been refused registration in another jurisdiction or has held registration in another jurisdiction that has been suspended or cancelled:
  - (i) the reason for the refusal, suspension or cancellation; and
  - (ii) the way in which the refusal, suspension or cancellation relates to the eligibility applicant's suitability to teach: see **Clause 15 of the Bill, inserting proposed new s 12F(5)(a) and (b)**.

### 3.3.6 Are reasons required?

The QCT must give written reasons for a decision to refuse to grant an application for an eligibility declaration: see **Clause 15 of the Bill, inserting proposed new s 12G(2)**.

### 3.3.7 Is there any right of appeal available?

There is no review or appeal under the QCT Act in relation to a decision of the QCT to refuse to grant an application for an eligibility declaration: see **Clause 15 of the Bill, inserting proposed new 12G(4)**.

During the Briefing, Mr Busby noted that the situation regarding there being no rights to an appeal or review of a decision on an eligibility declaration under the Bill is similar to the situations under the "blue card" and the "disability services legislation" schemes.<sup>9</sup>

In this regard, the Hon Cameron Dick MP notes in his [Introduction and Referral Speech](#) (p 2237) that:

While there is no right of appeal from a decision to refuse an eligibility declaration, judicial review processes remain available. This is consistent with the approach adopted by the children's commission for the blue card working with children check. ... A person who is concerned that the college has not taken relevant matters into account will have the right to seek a judicial review of the decision.<sup>10</sup>

Note, however, although there is no review or appeal under the legislation, a teacher may re-apply for an eligibility application after two years from the refusal of a previous eligibility application. The Bill does not prevent an applicant from making an application for an eligibility declaration every two years where a declaration is not issued. If the refusal was based on "wrong or incomplete information", a teacher will be able to re-apply sooner than two years: see **Clause 15 of the Bill, inserting proposed new 12E**.<sup>11</sup>

### 3.3.8 Why is it called a "Romeo and Juliet" exemption?

The Hon Cameron Dick MP notes in his Introduction and Referral Speech (p 2237) that this exemption:

...is intended to allow consideration of matters such as a so-called ‘Romeo and Juliet’ situation where, for example, a 17 year old male is convicted of unlawful carnal knowledge of his then 15 year old girlfriend and at the time of the application of the eligibility declaration there is no evidence of further ... offending.

This exception is specifically mentioned in the Bill as an “*Example of an exceptional case*”: see **Clause 15 of the Bill, inserting proposed new 12F (after 5(d))**.

**Case Study # 2: The Victorian situation - removing the “Romeo & Juliet” exemption**

When a similar bill, the [Education Legislation \(Miscellaneous Amendments\) Bill 2003 \(Vic\)](#) was first introduced into the Victorian Parliament in September 2003, it included a similar “Romeo and Juliet” exemption. The then Minister for Education and Training, Ms Lynne Kosky, noted in her [Second Reading](#) speech on 17 September 2003:

I would like to make it very clear that this power to grant an exemption is expected to be used very sparingly, and the only situation that the Government can presently envisage in which it might be used is in the case of a person who before they became a teacher, had at say the age of 18 or 19, a consensual relationship with a 15-year old. That technically would be an offence, but extenuating and subsequent circumstances (for example the subsequent marriage or cohabitation of the parties), might justify granting an exemption (pp 487 & 488).

After critical remarks were made by the then Opposition education spokesman, Mr. Victor Pertone, **this exemption was removed** from the legislation before it passed into law.<sup>12</sup>

Subsequently, in 2005, the Victorian Government was reported as being “under growing pressure over the mandatory dismissal of teachers with child-sex offences”. A teacher lost his job when it was revealed that he had been involved, prior to becoming a teacher, in a minor sex assault with a 15 year old when he was 20 years old. Although he was not convicted, he had pleaded guilty to the offence so he was caught by the Victorian provisions. Public commentary at the time indicated that the teacher may have been able to keep his job had the exemption in the case of “extenuating or subsequent circumstances”, which was in the original draft legislation, been retained.<sup>13</sup>

How would this situation be resolved in QLD under the Bill?: Under the proposed changes to the QCT Act, on the basis that the offence involved is a “serious offence” under Queensland law, if the same situation were to arise in Queensland, the teacher would still have had his registration cancelled in the first instance as he had pleaded guilty to a serious offence.\* However, the teacher would be able to apply for an “eligibility declaration” as he falls within the relevant criteria in proposed new sections 12B-D.

\* Note: In Queensland, the term “convicted” is defined in Schedule 3 of the QCT Act to include “a finding of guilty by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded”.

### 3.4 Broadening of QCAT’s Disciplinary Powers

#### 3.4.1 What is the current maximum ban on re-registration after disciplinary action?

QCAT may take disciplinary action for serious offences **except** where:

- the offence is a disqualifying offence and an imprisonment order is imposed or a disqualification order has been made; or



- the teacher becomes a relevant excluded person: see s 92 of the QCT.

At present, if disciplinary action may be taken by QCAT, it can only cancel the registration of a person and prohibit that person from applying again for registration for a maximum period of five years: see ss 101(2), 102(4), 160(2)(j) and 161(2)(c) of the QCT Act.

Note that s 92 of the QCT Act specifically refers to s 56 of the QCT Act for action to be taken if the teacher falls within the two exceptions noted above.

The Bill proposes to broaden these powers of QCAT.

### 3.4.2 What are the proposed changes?

Under the proposed changes, in circumstances where QCAT may take disciplinary action, QCAT may make disciplinary orders to prohibit a person from applying for registration for life, or for a stated period: see **Clauses 24 and 25 of the Bill, inserting proposed amendments to ss 101, 102, 160 and 161 of the QCT Act**. These proposed changes are to apply after the commencement of Part 4 of the Bill.

The Hon Cameron Dick MP noted in his Introduction and Referral Speech (p 2236) that:

These amendments have been necessitated by a recent matter considered by the tribunal where a former teacher had been convicted of offences relating to the disposal of a body and making false statements. As these offences are not disqualifying offences or serious offences under the children's commission legislation, a person convicted of these offences would not have their registration cancelled and would not be automatically prohibited from applying for registration under the current regime.<sup>14</sup>

During the Briefing, Ms Grantham noted that when drafting the Bill, the DET had investigated the thresholds across other jurisdictions to ensure that the proposal under consideration is "*no less of a standard in Queensland than there is in other states*".<sup>15</sup>

#### **Case Study # 3: The MacNeil Case**

The case which led to the proposed changes in QCAT's powers is [MacNeil v Queensland College of Teachers](#) [(2011) QCAT 260 (2 June 2011)].

**Facts:** In 2007, a student taught by the teacher in the proceedings, Mr Graeme MacNeil, murdered his older brother. The student contacted Mr MacNeil following the murder and Mr MacNeil assisted the student in disposing of the body and provided false statements to the police denying his involvement.

**Charges & Penalty:** Mr MacNeil pleaded guilty to the charges of (i) accessory after the fact to murder, (ii) misconduct regarding a corpse; and (iii) two offences of making a false statement. He was imprisoned for 8 years.

**Issue before QCT:** The QCT had to consider how long it could prohibit Mr MacNeil from being registered as a teacher. Under the current QCT Act, in the circumstances of Mr MacNeil's case, the maximum period for which the QCAT can prohibit a teacher from re-applying for registration to teach is five years. In its judgement, QCAT noted that:

The Tribunal regards the respondent's behaviour in this matter as so grave, that were a longer period of prohibition available to it, then such longer period would have been applied by the Tribunal (p 4, para [14]).

**Note:** The Explanatory Notes clarify that while QCAT in this case:

raised concerns about the limitations on its ability to prohibit a teacher or former teacher

from applying for registration for a maximum of five years, ... [e]ven after the amendments, convictions for such offences [as those that arose in the *MacNeil case*] will not result in automatic cancellation and a ban on applying for registration because the offences are not serious offences under the CCYPCG Act (p 5).

## 4 Commentary on Proposed Amendments

### **Comments by the Minister**

The Hon Cameron Dick MP, the Minister for Education and Industrial Relations, has made the following comments in relation to the Bill:

- *Our new laws will mean teachers face a lifetime ban if they are convicted of serious offences which range from the possession of child pornography to burglary, supplying dangerous drugs and sexual assault.*
- *The amendments will strengthen the disciplinary powers of QCAT, which will be able to prohibit a person from applying for registration for a stated period, or in appropriate instances, for life.*
- *Teachers who commit serious offences such as sexual, violent or drug crimes do not belong in our schools, and the amendments will ensure they are never allowed to return to teaching in Queensland: (see Bans for convicted teachers, *Courier Mail*, 15 July 2011).*

### **Comments by a Civil Libertarian**

The Queensland Council of Civil Liberties spokesman, Mr Terry O’Gorman has made the following comments:

- *... the proposed new laws are too extreme.*
- *If a teacher is found guilty of child-sex offences, particularly actual sex offences, that teacher should be struck off. But if a 25 year old teacher supplies a joint to a mate, it’d be absurd to strike that teacher off but that appears to be what the Minister intends.*
- *... no other profession faces such harsh punishment.*
- *Any mandatory scheme that fails to take account of individual facts is a system that’s bound to cause injustice.*
- *The concern is that if these mandatory provisions are included in a new participant regime in respect of teachers, it won’t be long before that new mandatory regime starts to bop up in relation to other professions – I daresay including the police: (see [Qld Government to extend life ban on convicted teachers](#), *ABC News Online*, 15 July 2011).*

### **Union Views**

At the Briefing, Ms Grantham noted that:

*The Teachers Union has subsequently written to us to reiterate its opposition to the automatic cancellation provisions. It does not support the amendments because a person falling subject to the provisions would not be afforded the opportunity to have their circumstances of their matter taken into account. The Teachers Union proposed that teacher registration should be cancelled unless the person seeks an order from QCAT that there are exceptional circumstances and that their registration ought not be cancelled.<sup>16</sup>*

## 5 Position in Other Jurisdictions concerning Cancellation

A review of the current provisions that operate in each of the various Australian jurisdictions reveals that the statutes “*that give teacher registration bodies their powers in relation to discipline are complex and vary in detail from state to state*”.<sup>17</sup>

An Issues Paper on [Professional Conduct](#) prepared in anticipation of changes to the teacher registration requirements in the ACT summarised the situation as follows:

All teacher registration bodies in the Australian jurisdictions have the explicit or implicit power in legislation, after due process, to deregister a teacher for misconduct. ... In most jurisdictions, however, a teacher may be disciplined for misconduct by the teacher registration body, and cautioned, fined, suspended or deregistered, in two basic ways.

Firstly, the registration body normally has the power to conduct an independent inquiry or investigation into the conduct of a member following a complaint. The grounds for a complaint vary from jurisdiction to jurisdiction but usually include misconduct.

Secondly, the registration body normally has the power, in one form or another, to discipline members who have been found guilty of offences under other legislation. ... In some cases and in some jurisdictions a member convicted of such an offence would still have the benefit of an independent inquiry by the registration body before any action was taken by it. Some offences, however, result in instant deregistration.<sup>18</sup>

A summary of the key relevant provisions in the legislation in each state and territory, other than Queensland, is set out in the Appendix.



## Appendix

### Summary of Current De-registration Provisions in Other Jurisdictions

(Note: The author gratefully acknowledges the information supplied by the parliamentary libraries and certain teacher registration bodies in the other jurisdictions which formed the basis of the material compiled in this Appendix.)

#### New South Wales

##### **For all teachers:**

In New South Wales, the relevant term is “accreditation” not “registration”. The New South Wales Institute of Teachers is the body which administers the accreditation of such teachers in NSW. Not all teachers are accredited in NSW. Only those persons who have become teachers since the [Institute of Teachers Act 2004 \(NSW\)](#) came into force in 2004 are accredited. However, unlike the situation in Queensland and most other jurisdictions in Australia, the teacher accreditation scheme in NSW is a school-based accreditation scheme: see ss 4 and 21 of the *Institute of Teachers Act 2004* (NSW).

In the case of government schools, the “teacher accreditation authority” will be the Director-General of the Department of Education or such other person or body as may be approved by the Director-General, which will typically be either the head, regional director or school education director of the relevant employment area, but generally not the school principal of the employing government school. In the case of non-government schools, the “teacher accreditation authority” will be the Minister of Education or such other person or body as may be approved by the Minister, which will typically be either the school principal or someone on the school board or corporation that manages the employing non-government school.<sup>19</sup>

Under the *Institute of Teachers Act 2004* (NSW), the teacher accreditation authority (i.e., the employer) **may revoke the accreditation** of a teacher, to whom the legislation applies, if one of the following **grounds** applies:

- (a) the person is a prohibited person under the [Commission for Children and Young People Act 1998 \(NSW\)](#);
- (b) the person is found guilty of a serious offence (as defined in the regulations);
- (c) the person is found guilty more than once in the 5 year period before revocation of a non-serious offence;
- (d) the person has been dismissed from employment because of serious misconduct or is included in the list of persons maintained under the [Teaching Service Act 1980 \(NSW\)](#) as a person who is not to be employed as a government teacher; or
- (e) the person has failed to comply with any condition of accreditation: see s 24 of the *Institute of Teachers Act 2004* (NSW).

The teacher accreditation authority may also suspend the accreditation of a person for three months if any of the above grounds applies or certain other conditions are fulfilled: see s 24A of the *Institute of Teachers Act 2004* (NSW).

The **criteria** to be taken into account for determining whether to revoke or suspend accreditation include the nature and seriousness of the conduct concerned, and the frequency and timing of the conduct: see s 24B of the *Institute of Teachers Act 2004* (NSW).

A decision to revoke or suspend accreditation may not be reviewed by any court or tribunal other than the Administrative Decisions Tribunal: see s 27 of the *Institute of Teachers Act 2004* (NSW).

There are no provisions for an inquiry or hearing by the Institute of Teachers.

##### **For all Government teachers:**

The [Teaching Service Act 1980 \(NSW\)](#) applies to NSW Government teachers. In 2006, it was

significantly amended by the [Education Legislation Amendment \(Staff\) Act 2006 \(NSW\)](#) to include provisions relating to:

- **Serious Offences:** **disciplinary action (including dismissal)** or remedial action can be taken if **any teacher is convicted of an offence that is punishable by imprisonment for 12 months or more** (including the situation where a teacher is found guilty by a court but where no conviction is recorded). The teacher must be advised in writing of the alleged misconduct and given an opportunity to make a submission in relation to the disciplinary action that the Director-General is considering taking. The Director-General can suspend the teacher until the allegation of misconduct has been dealt with: see Part 4A, Divisions 1 & 4 of the *Teaching Service Act 1980* (NSW).
- **Serious Sex Offences:** **Immediate and automatic dismissal** of teachers or other employees who are “prohibited persons”. A “prohibited person” is a person **convicted of a serious sex offence, the murder of a child or a child-related personal violence offence** (as defined in section 33B of the [Commission for Children and Young People Act 1998 \(NSW\)](#) or who is a registrable person under the [Child Protection \(Offenders Registration\) Act 2000 \(NSW\)](#)). It is an offence under the 1998 Act for a person who becomes a prohibited person to enter or remain in child-related employment (such as teaching) and it is also an offence for an employer to employ a prohibited person in child-related employment. The **provisions operate retrospectively** in the sense that if the person was a prohibited person immediately before the commencement of the amendment, that person would be automatically dismissed upon the commencement of the amendment. The dismissal takes effect immediately **without any right to a hearing** or any requirement to comply with the rules of procedural fairness: see Part 4B of the *Teaching Service Act 1980* (NSW).

## Victoria

The [Education and Training Reform Act 2006 \(Vic\)](#) requires that all teachers in Victoria obtain registration or permission to teach from the Victorian Institute of Teaching before they can be employed in any Victorian school.

A person who has, **at any time**, been **convicted or found guilty of a sexual offence** is **not eligible** to be employed as a teacher: s 2.4.7 of the *Education and Training Reform Act 2006* (Vic).

A teacher **must be dismissed** if the teacher, **at any time**, has been **convicted or found guilty of a sexual offence**: s 2.4.58 of the *Education and Training Reform Act 2006* (Vic).

Registration may be refused for a number of reasons, including **if the applicant has been convicted or found guilty of a sexual offence or an indictable offence**: s 2.6.9 (2)(b) of the *Education and Training Reform Act 2006* (Vic).

The term “sexual offence” refers to sexual offences committed against persons under the age of 18: s 1.1.3 of the *Education and Training Reform Act 2006* (Vic).

The Victorian Institute of Teaching:

- may **suspend** a teacher’s registration, without an inquiry, if that person is **charged with a sexual offence**: s 2.6.27 of the *Education and Training Reform Act 2006* (Vic).
- **must cancel a teacher’s registration, without a formal hearing, if a teacher is convicted or found guilty of a sexual offence**: s 2.6.29 of the *Education and Training Reform Act 2006* (Vic).
- must **conduct an inquiry** into the teacher’s fitness to teach if that teacher is convicted or found guilty of an indictable offence (other than a sexual offence): s 2.6.32 and s 2.6.33(c) of the *Education and Training Reform Act 2006* (Vic).
- may deregister a teacher for serious misconduct, serious incompetence or fitness to teach or if found guilty of an indictable offence and **may disqualify the teacher from re-applying for registration within a specified period**: s 2.6.46(2)(j) and (k) of the *Education and Training Reform Act 2006* (Vic).

**Re-registration** of a deregistered teacher is **at the discretion of the Institute**, although it is **possible to refuse to grant registration** on various grounds (e.g., that the applicant has been convicted of a sexual offence or an indictable offence): s 2.6.9(2) of the *Education and Training Reform Act 2006* (Vic).

There are a number of provisions which apply **retrospectively**. For example, as noted above, the provisions apply if the person is convicted or found guilty of an offence, **at any time**: see, for example, ss 2.4.7 & 2.4.58 of the *Education and Training Reform Act 2006* (Vic).

See also:

- **Case Study #1** (above) regarding the retrospective operation of the Victorian legislation; and
- **Case Study #2** (above) regarding the removal of the “Romeo and Juliet exemption” from the original amending bill in Victoria.

## South Australia

The Teachers Registration Board regulates the teaching profession in SA. A teacher’s registration can be taken away or changed as a result of disciplinary or incapacity proceedings. **There are no provisions specifying that a certain situation will result in automatic deregistration.**

Each matter is dealt with on a **case-by-case basis by way of a formal inquiry** by the Teachers Registration Board which may take a variety of disciplinary actions. Under these provisions, it is **possible for a teacher to be disqualified** from being registered as a teacher on a permanent basis.

The **grounds** for disciplinary proceedings include:

- where the teacher is found “**guilty of unprofessional conduct**”;
- where the teacher is “**not a fit and proper person to be a registered teacher**”; or
- the teacher’s registration has been suspended or **cancelled elsewhere**: s 33 of the [Teachers Registration and Standards Act 2004 \(SA\)](#).

As a result of the disciplinary proceedings, the Board may:

- reprimand a teacher;
- order the payment of a fine up to \$5000;
- impose conditions on a teacher’s registration;
- **suspend or cancel** the teacher’s registration; or
- **disqualify a teacher** from being registered as a teacher **permanently or for a specified period**: s 35 of the *Teachers Registration and Standards Act 2004* (SA).

Note that the South Australian legislation includes an option to “disqualify” a teacher from being registered, in addition to the option to “cancel” a teacher registration. This option is used in conjunction with the expanded definition of a teacher (i.e., “*a person who is or has been employed as a teacher whether or not the person is or has been registered as a teacher*”) to capture individuals who have let their teacher registration lapse deliberately so it can not be “cancelled”. Such teachers can now be “disqualified” from being registered either permanently or for a specified period: see ss 32 & 35 of the *Teachers Registration and Standards Act 2004* (SA).

There is a right of appeal against a decision of the Board to the **Administrative and Disciplinary Division** of the District Court: s 49 of the *Teachers Registration and Standards Act 2004* (SA).

A teacher has an obligation to report to the Board within 14 days of:

- **a criminal charge**: the teacher being charged with or convicted of an offence for which imprisonment may be a penalty or any offence involving illicit drugs, violence, sexual or indecent behaviour, dishonesty or cruelty to animals;
- **unprofessional conduct**: the teacher being dismissed or resigning in response to allegations of unprofessional conduct; and
- **improper conduct relating to a child**: the teacher is dismissed or resigns in response to allegations of improper conduct relating to a child: s 24(2)(a) of the *Teachers Registration and Standards Act 2004* (SA).

An employer has an obligation to report to the Board within 7 days if the employer dismisses or accepts the resignation of a teacher in response to allegations of unprofessional conduct: s 37 of the *Teachers Registration and Standards Act 2004* (SA).

The Commissioner of Police must make available to the Board information about criminal convictions that is relevant to the question of a person's fitness to be, or continue to be, a registered teacher: s 50 of the *Teachers Registration and Standards Act 2004* (SA).

Arrangements are in place between the Board, the Department of Public Prosecutions and the Commissioner of the South Australian Police for the sharing of information concerning offences which may have been committed by a registered teacher: s 51 of the *Teachers Registration and Standards Act 2004* (SA).

For more details, see the [Professional Conduct](#) section of the [Teacher Registration Board of South Australia](#) website.

## Western Australia

All teachers in Western Australia must be registered as members of the Western Australian College of Teaching ("College"): s 30 of the [Western Australian College of Teaching Act 2004](#) (WA).

The College is to **cancel the membership** of a teacher as soon as possible after the College becomes aware that the person has been **convicted or found guilty of a sexual offence involving a child**: s 55 of the *Western Australian College of Teaching Act 2004* (WA).

The cancellation of a teacher's membership is also one of the disciplinary actions that the College may take if the teacher has been found at an inquiry to have engaged in unprofessional conduct which includes circumstances where:

- (a) a person has been convicted of an offence the nature of which renders the person unfit to be a teacher; or
- (b) a person has engaged in serious misconduct the nature of which renders the person unfit to be a teacher: ss 62, 63 & 64 of the *Western Australian College of Teaching Act 2004* (WA).

If a teacher's membership has been cancelled because that person has been convicted of an offence, the nature of which renders the person unfit to be a teacher, then the person will not meet the necessary requirements for future re-registration as a teacher: s 35 of the *Western Australian College of Teaching Act 2004* (WA).

Written notice of the cancellation of a teacher's membership must be provided by the College to the teacher and the employer: s 59 of the *Western Australian College of Teaching Act 2004* (WA).

A person who is aggrieved by the cancellation of his or her membership may apply to the District Court for a review of the decision: s 81 of the *Western Australian College of Teaching Act 2004* (WA).

## Tasmania

The [Teachers Registration Board of Tasmania](#) ("TRB") is responsible for registering teachers for all Tasmanian schools under the [Teachers Registration Act 2000](#) (Tas).

In relation to prescribed offences, recent amendments to this law, effective 1 January 2010, required that:

- a teacher must notify the TRB within 28 days of being charged with a prescribed offence; and
- if a teacher is found guilty of a prescribed offence in Tasmania or elsewhere, the TRB may take a variety of disciplinary actions, **without an inquiry**, ranging from a caution to the **immediate cancellation** of the registration of the teacher where the person is no longer of good character or no longer fit to be a teacher: ss 17K, 17J, 18 and 18A of the *Teachers Registration Act 2000* (Tas).

A "prescribed offence" is an offence in respect of which a prison term may be imposed: s 3 of the *Teachers Registration Act 2000* (Tas).



In other cases, not involving a prescribed offence, the TRB may conduct a preliminary investigation into the matter to decide whether to hold an inquiry.

### Australian Capital Territory

The registration of teachers in the ACT only came into effect on 1 January 2011 with the establishment of the Teacher Quality Institute (“TQI”) under the [ACT Teacher Quality Institute Act 2010 \(ACT\)](#).

To suspend or **cancel** a teacher’s registration:

- (a) one of the grounds for suspension or cancellation must apply (see list below);
- (b) the TQI must then give written notice setting out the relevant ground to the teacher of an intention to suspend or cancel the teacher’s registration;
- (c) the written notice must state that the teacher may within 14 days give reasons why the teacher considers that the registration should not be suspended or cancelled; and
- (d) the TQI has considered any reasons given by the teacher referred to in (c) above: ss 64 and 65 of the *Teacher Quality Institute Act 2010 (ACT)*.

The **grounds** for suspension or cancellation of a person’s registration or permission to teach by the TQI are that:

- (a) the person contravenes a condition of the person’s registration or permit to teach;
- (b) the person has become mentally or physically incapacitated and the incapacity prevents the person from teaching; or
- (c) the institute believes on reasonable grounds that suspension or cancellation is necessary: s 63 of the *Teacher Quality Institute Act 2010 (ACT)*.

Until very recently, under the *Teacher Quality Institute Act 2010 (ACT)*, spent convictions were not required to be assessed in the teacher registration application process. On 25 August 2011, the *ACT Teacher Quality Institute Amendment Law 2011 (ACT)* was passed to remove this inconsistency and to bring the *ACT Teacher Quality Institute Act 2010* into line with the [Spent Convictions Act 2000 \(ACT\)](#). For key aspects of the debate, see [ACT Hansard \(30 June 2011\)](#) at pp 2943-2945 and [ACT Hansard \(25 August 2011\)](#) at pp 3945-3954.

Note, under the *ACT Teacher Quality Institute Act 2010 (ACT)*:

- There is no provision for automatic cancellation of a teacher’s registration;
- There are no special provisions for sexual offences; and
- There are no provisions for an inquiry or hearing by the TQI.

However, there is a bill currently before the ACT Parliament, being the [Working with Vulnerable People \(Background Checking\) Bill 2010](#), which is anticipated, when passed into law, to work together with the *ACT Teacher Quality Institute Act 2010 (ACT)* to deal with a number of the above points. For more information and to track the progress of the bill, click [here](#).

### Northern Territory

A Teacher Registration Board (“TRB”) is the relevant teacher regulatory body in the Northern Territory.

A teacher’s registration is **cancelled without inquiry** upon the teacher being found guilty of a sexual offence. The Board, on becoming aware that a teacher has been found guilty of a sexual offence, must note in the register that the teacher’s registration is cancelled and must notify the teacher, the employer (if known) and other teacher registration authorities in Australia and New Zealand accordingly: s 69(4) of the [Teacher Registration \(Northern Territory\) Act 2010 \(NT\)](#). However, **an inquiry may be held if the teacher so requests**: s 70 of the *Teacher Registration (Northern Territory) Act 2010 (NT)*.

The TRB **must hold an inquiry** in respect of teachers who are successfully prosecuted for an indictable offence (other than a sexual offence) or where a teacher’s registration has been

suspended or cancelled by a registration body due to misconduct etc: s 50(2) of the *Teacher Registration (Northern Territory) Act 2010* (NT). In broad terms, an “indictable offence” is an offence which is either specified to be a crime or may result in punishment of a term of imprisonment exceeding two years.<sup>20</sup>

There is an obligation on employers to notify the TRB within 28 days if the employer dismisses a teacher; the teacher resigns in circumstances that call into question the teacher’s competence or fitness to teach; or serious misconduct is involved: s 67A(1) of the *Teacher Registration (Northern Territory) Act 2010* (NT).

## Key Documents and Links

### Bill and Related Information

Amending Bill:

- [Education and Training Legislation Amendment Bill 2011 \(Qld\)](#);
- [Explanatory Notes](#)
- [Introduction and Referral Speech](#) (pp 2235- 2237)

Legislation Amended:

- [Education \(General Provisions\) Act 2006 \(Qld\)](#)

### Ministerial Media Statements

- The Hon Cameron Dick, Minister for Education and Industrial Relations, "[Life ban awaits teachers convicted of serious offences](#)" (15 July 2011)

### Other Useful Links

- M McMeniman, [Review of the Powers and Functions of the Board of Teacher Registration \(Discussion Paper\)](#), June 2004, Griffith University, Qld

### Related Queensland Parliamentary Library Research Briefs

- N Dixon, A single merits review tribunal: The Queensland Civil And Administrative Tribunal (QCAT), Research Brief No 2009/32
- N Dixon, New Registration Standards for Teachers under the Education (Queensland College of Teachers) Bill 2005 (Qld), Research Brief No 2005/17
- K Sampford, [Teacher Registration and The Education and Other Legislation Amendment Bill 1997](#), Legislation Bulletin No 14/97, November 1997

### Links to Relevant Legislation and Teacher Registration Bodies

Jurisdiction	Legislation	Name of Registration Body
Qld	<a href="#">Education (Queensland College of Teachers) Act 2005 (Qld)</a>	<a href="#">Queensland College of Teachers</a>
NSW	<a href="#">Institute of Teachers Act 2004 (NSW)</a> – for all teachers <a href="#">Teaching Service Act 1980 (NSW)</a> – for Government teachers	<a href="#">New South Wales Institute of Teachers</a>
VIC	<a href="#">Education and Training Reform Act 2006 (Vic)</a> <a href="#">Victorian Institute of Teaching Act 2001 (Vic)</a>	<a href="#">Victorian Institute of Teaching</a>
SA	<a href="#">Teachers Registration and Standards Act 2004 (SA)</a>	<a href="#">Teachers Registration Board of South Australia</a>

<b>WA</b>	<a href="#">Western Australian College of Teaching Act 2004 (WA)</a>	<a href="#">Western Australian College of Teaching</a>
<b>TAS</b>	<a href="#">Teachers Registration Act 2000 (Tas)</a>	<a href="#">Tasmania - Teachers Registration Board</a>
<b>ACT</b>	<a href="#">Teacher Quality Institute Act 2010 (ACT)</a>	<a href="#">ACT Teacher Quality Institute</a>
<b>NT</b>	<a href="#">Teacher Registration (Northern Territory) Act 2010 (NT)</a>	<a href="#">Teacher Registration Board of the Northern Territory</a>
<b>New Zealand</b>	<a href="#">Education Act 1989 (NZ)</a>	<a href="#">New Zealand Teachers Council</a>

See also:

- [Australian Institute for Teaching and School Leadership](#) (AITSL)

## Newspaper Articles

- Sinful seven remain in roles teaching children (*Courier Mail*, 8 September 2011)
- High school teacher Stephen Peter Morrow, 58, jailed for getting a Victorian student pregnant escapes disciplinary action by Queensland authorities (*Courier Mail*, 30 August 2011)
- Jailed teachers banned for life (*Courier Mail*, 6 August 2011)
- [Qld Government to extend life ban on convicted teachers](#) (*ABC News Online*, 15 July 2011)
- Teachers concerned about life ban laws (*Brisbane Times*, 15 July 2011)
- Bans for convicted teachers (*Courier Mail*, 15 July 2011)
- Maximum ban not enough for jailed teacher: tribunal (*Courier Mail*, 11 June 2011)
- Earsay: Loophole for jailed teacher (*Courier-Mail*, 27 May 2011)
- New laws ban guilty teacher (*Courier Mail*, 30 April 2011)
- Teachers breaking the rules (*Courier Mail*, 23 February 2011)
- Tight system for teachers (*Townsville Bulletin News*, 19 January 2010)
- MPs urge Government to ease teacher sex law (*Age*, 17 March 2005)
- Pervert teachers row (*Herald Sun*, 22 September 2003)

## Endnotes

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- <sup>1</sup> Where the conviction occurs after 1 January 2006: see s 56 and s 2 of the QCT Act.
- <sup>2</sup> Industry, Education, Training and Industrial Relations Committee, Briefing on the Education and Training Legislation Amendment Bill, Transcript of Proceedings (Proof Edition), p 9.
- <sup>3</sup> Industry, Education, Training and Industrial Relations Committee, Briefing on the Education and Training Legislation Amendment Bill, Transcript of Proceedings (Proof Edition), p 3.
- <sup>4</sup> Industry, Education, Training and Industrial Relations Committee, Briefing on the Education and Training Legislation Amendment Bill, Transcript of Proceedings (Proof Edition), p 6.
- <sup>5</sup> [Alert Digest, No. 7 of 2003](#), Victorian Scrutiny of Legislation Committee, 7 October 2003, p 4.
- <sup>6</sup> A judicial review differs from a merit review in that it is narrower and relates mainly to the legality of how the decision was made. In contrast, a merit review looks at the merits or substance of the decision and can involve a reconsideration of the facts and law surrounding the original decision: see [Reform of Civil and Administrative Justice Discussion Paper](#), Queensland Government, Department of Justice and Attorney-General, November 2007, p 7.
- For more information on judicial review in Queensland, see:
- A summary of “[judicial review](#)” on the Queensland Courts website;
  - Information provided on “judicial review” in section 7.5 of the Queensland Government handbook titled “[Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities](#)”; and
  - The [Judicial Review Act 1991 \(Qld\)](#).
- <sup>7</sup> This point (that the rights of review in Parts 3 and 5 of Qld’s Judicial Review Act would apply to a decision to cancel registration upon conviction for a serious offence) was clarified with the relevant Department.
- <sup>8</sup> It is possible for QCT to access information concerning the teacher’s criminal history and other relevant information available under ss 14 to 15D of QCT Act as if the application were an application for registration or permission to teach: **see Clause 15 of the Bill, inserting proposed new s 12F(2)**.
- <sup>9</sup> Industry, Education, Training and Industrial Relations Committee, Briefing on the Education and Training Legislation Amendment Bill, Transcript of Proceedings (Proof Edition), p 4.
- <sup>10</sup> See also the Explanatory Notes, pp 16-17. For information on judicial review in Queensland, see endnote 6 above.
- <sup>11</sup> That this provision operates in this way was clarified with the relevant Department.
- <sup>12</sup> These changes were amendments to the *Education Act 1958* (Vic), which was subsequently repealed by the [Education and Training Reform Act 2006](#) (Vic) (the current relevant legislation in Victoria). For details and a chronology of events, see Pervert teachers row (Herald Sun, 22 September 2003) and MPs urge Government to ease teacher sex law (Age,

17 March 2005). See also the [Hansard debate \(17 September 2003, p 488\)](#), where Mr Perton first brought up his reservations and asked that more time be given to allow consideration of the [Education Legislation \(Miscellaneous Amendments\) Bill 2003 \(Vic\)](#).

13 MPs urge Government to ease teacher sex law (Age, 17 March 2005).

14 The recent case which led to these changes is [MacNeil v Queensland College of Teachers](#) [(2011) QCAR 260 (2 June 2011)].

15 Industry, Education, Training and Industrial Relations Committee, Briefing on the Education and Training Legislation Amendment Bill, Transcript of Proceedings (Proof Edition), p 5.

16 Industry, Education, Training and Industrial Relations Committee, Briefing on the Education and Training Legislation Amendment Bill, Transcript of Proceedings (Proof Edition), p 3.

17 Teacher Registration in the ACT, Issues Paper, No 4, [Professional Conduct](#), p 3, (issued as part of the 2007 [Teacher Registration Project](#) consultation process).

18 Teacher Registration in the ACT, Issues Paper, No 4, [Professional Conduct](#), p 3, (issued as part of the 2007 [Teacher Registration Project](#) consultation process).

19 In accordance with the “practice” in NSW, as described in personal communications with the NSW Institute of Teachers.

20 See s 3 of the [Criminal Code Act \(NT\)](#) and s 38E of the [Interpretation Act \(NT\)](#). See also the “[Guide to Indictable Offences](#)” issued by the Teacher Registration Board of the Northern Territory dated 27 October 2009.

**History Note:**

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