

**ELECTRONIC VERSION**

**TEACHER REGISTRATION AND THE  
EDUCATION AND OTHER LEGISLATION  
AMENDMENT BILL 1997**

**LEGISLATION BULLETIN NO 14/97**

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## **1. PURPOSE**

The primary objectives of the Education and Other Legislation Amendment Bill 1997 (Qld) are:

- to devolve greater responsibility to local school communities by:
  - providing for the establishment of school councils in State schools, and
  - establishing a school management regime that is more school centred;
- to make improvements to the way in which parents and citizens associations operate;
- to regulate the allocation of semesters of State education available to students to remove any inequitable divisions between disabled and non-disabled students in their access to State education, and
- to extend the powers available to the Board of Teacher Registration to improve the protection of children, in particular, in connection with paedophilia.<sup>1</sup>

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<sup>1</sup> Education and Other Legislation Amendment Bill 1997 (Qld), Second Reading Speech, Hon RJ Quinn MLA, *Queensland Parliamentary Debates*, 29 October 1997, pp 3967-3971.

This *Legislation Bulletin* discusses the Bill's proposed amendments in connection with teacher registration. Under amendments to the *Education (Teacher Registration) Act 1988* (Qld), set out in **Part 9** of the Bill:

- the Board of Teacher Registration will be required to take into account the criminal history of an applicant for registration as a teacher, in deciding whether an applicant is of good character;
- the Commissioner of the Police Service will be obliged to comply with a request from the Board for details of an applicant's criminal history;
- the fine for a teacher who fails to notify the Board that he or she has been convicted of an indictable offence will be increased from two to 10 penalty units (ie from \$150 to \$750);
- employing authorities will be obliged to notify the Board of a teacher's dismissal or resignation where the teacher is dismissed or resigns within six months after the employing authority has given the teacher written notice that it is dissatisfied with the teacher after investigating a sexual allegation (ie an allegation that the teacher has committed a sexual offence, or has engaged in conduct of a sexual nature with a student or child and the conduct does not satisfy a standard of behaviour generally expected of a teacher); and
- the Commissioner of the Police Service and the Director of Public Prosecutions will have a duty to notify the Board that a person whom they reasonably believe is or was a registered teacher has been committed for trial for an indictable offence, together with the outcome of any superior court proceedings.<sup>2</sup>

Under amendments to the *Criminal Law (Sexual Offences) Act 1978* (Qld), set out in **Part 4** of the Bill, reports made to or on behalf of the Board of Teacher Registration will become exempt reports for the purpose of s 6 (Publication at large of complainant's identity prohibited) and s 7 (Publication prematurely of defendant's identity prohibited) of the *Criminal Law (Sexual Offences) Act*.

Section 2 of this *Legislation Bulletin* outlines the current legislation governing teacher registration in Queensland, while Section 3 discusses the proposed amendments. In Section 4, a comparative survey of the position in other states and territories, and overseas, is provided.

**Appendices A and B** to this *Legislation Bulletin* contain Ministerial Media Statements and news articles dealing with the issues of teacher registration and the manner in which allegations of sexual misconduct against teachers have been managed in education systems in Australia.

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<sup>2</sup> Education and Other Legislation Amendment Bill 1997 (Qld), Second Reading Speech, Hon RJ Quinn MLA, *Queensland Parliamentary Debates*, 29 October 1997, p 3970.

## **2. THE CURRENT LEGISLATION**

The current legislation governing the registration of teachers in Queensland is the *Education (Teacher Registration) Act 1988*. The *Criminal Law (Rehabilitation of Offenders) Act 1986* makes provision for applicants for positions as teachers to disclose particulars of their criminal history relating to convictions for drug offences, offences against morality and liberty, assaults on females and similar offences, wherever committed.<sup>3</sup> The remainder of this section discusses the relevant provisions of both Acts in greater detail.

### **2.1 HISTORY OF TEACHER REGISTRATION**

In Queensland, an official system of teacher registration dates back to the 1970s. Following the recommendations of a committee to review teacher education, a Board of Teacher Education was established, one of whose functions was to oversee a system of teacher registration for both government and non-government schools.<sup>4</sup>

In 1988, under revised legislation, the Board of Teacher Education was replaced by the Board of Teacher Registration, established by s 3 of the existing *Education (Teacher Registration) Act*.

### **2.2 THE BOARD OF TEACHER REGISTRATION**

The Board's current membership consists of:

- the Chair - appointed by the Minister of Education;
- three nominees of the Director-General of Education;
- two representatives of non-government entities employing teachers;
- a nominee of the Queensland Teachers' Union;
- a nominee of the Queensland Association of Teachers in Independent Schools;
- a nominee of the State Public Services Federation, Queensland (SPSFQ);
- two representatives of institutions of higher education, nominated by the Higher Education Forum;
- one representative of community groups involved in education;
- three elected representatives of registered teachers, and

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<sup>3</sup> *Criminal Law (Rehabilitation of Offenders) Act 1986* (Qld), s 9A(1), Table, No 5(1).

<sup>4</sup> Terry Burke, 'Teacher registration in Queensland', *Independent Education*, 27(2), August 1997, p 7.

- an additional nominee of the Minister if considered desirable: s 3(2).

### **2.3 REGISTER OF TEACHERS**

The Board maintains a register of teachers at the Office of the Board of Teacher Registration. The register is available for inspection during office hours upon payment of the prescribed fee: s 34.

### **2.4 OFFENCES**

By virtue of s 43(1) of the Act, it is an offence to employ an unregistered teacher (ie a teacher who is not registered under the Act) in any Queensland school (ie the registration requirements apply to both government and non-government schools). It is also an offence for an unregistered teacher to undertake work as a school teacher: s 43(3).

### **2.5 CONDITIONS FOR TEACHER REGISTRATION**

An applicant for registration as a teacher must satisfy the Board that:

- he or she is of good character: s 37, and
- has the qualifications and experience, prescribed by by-law,<sup>5</sup> for registration as a teacher: s 38.

In deciding whether an applicant is of good character, the Board is entitled to consider all matters it believes are relevant to the decision, including a matter that happened outside Queensland: s 37(2). An applicant will not be considered to be of good character if:

- he or she behaves in a way that does not satisfy a standard of behaviour generally expected of a teacher: s 37(3)(a), or
- otherwise behaves in a disgraceful or improper way that shows the applicant is unfit to be registered as a teacher: s 37(3)(b).

### **2.6 BOARD'S POWERS OF INQUIRY**

The Board is empowered to conduct an inquiry if it considers there are reasonable grounds to believe that a matter set out in s 50(2) applies eg that a registered teacher:

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<sup>5</sup> Education (Teacher Registration) By-law 1989 (Qld), ss 5 and 6.



- is incompetent in performing the work of a teacher: s 50(2)(b);
- is not of good character: s 50(2)(f), or
- has been convicted of an indictable offence: s 50(2)(a).

In conducting an inquiry, the Board must allow the teacher who is the subject of the inquiry an adequate opportunity to fully and fairly present the teacher's case: s 57(1). The teacher is entitled to legal representation: s 57(2).

After an inquiry, if the Board is satisfied about a matter referred to in s 50(2), it may do a number of things, including suspending or cancelling the teacher's registration: s 70.

An appeal against the Board's decision lies to the District Court: s 72.

Under 1996 amendments to the Education (Teacher Registration) Act,<sup>6</sup> the Board may also conduct an inquiry into a person who **was** a registered teacher, but only if:

- the Board is reasonably satisfied that, because of the nature of the events proposed to be inquired into, an inquiry is in the public interest;
- the events happened while the person was registered, and
- the inquiry is conducted no more than one year after the person's registration ended: s 50(2) and s 50(3).

Where the Board is satisfied, upon inquiry, about a matter referred to in s 50(2), it has the power to order that a notation or endorsement about a person who was a registered teacher is entered on the Register of Teachers: s 70(2).

## **2.7 DUTY OF REGISTERED TEACHER**

Under s 44(1) of the Education (Teacher Registration) Act, a registered teacher must give written notice to the Board:

- if the teacher is convicted of an indictable offence;
- if the teacher was registered in another state or territory, and the registration is suspended or cancelled;
- if the teacher was employed in another state which does not register teachers, and the teacher's employment there is terminated because the teacher's employer was reasonably satisfied that the teacher was not competent or fit to be employed as a teacher.

The teacher must give the required notice within seven days after any of these events happening: s 44(1).

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<sup>6</sup> inserted by the *Education (Teacher Registration) Amendment Act 1996* (Qld).

The maximum penalty that can be imposed for a failure to comply with the above provision is two penalty units (ie \$150): s 44(1).

Section 44(2) of the Education (Teacher Registration) Act provides that the notice must disclose the circumstances that led to the teacher being convicted, or having his or her registration suspended or cancelled, or his or her employment terminated.

## **2.8 THE CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT**

The *Criminal Law (Rehabilitation of Offenders) Act 1986* allows the notional sealing of criminal records in certain circumstances. Offenders who are ordered to serve any period not greater than 30 months in custody, or who have not been ordered to serve any period in custody, are eligible for rehabilitation under the Act: s 3(2). For adults, the rehabilitation period is 10 years and for juveniles, it is five years: s 3(1).

In summary, the legislation provides that:

- neither convictions which are set aside or quashed nor charges are part of someone's criminal history: s 5;
- subject to certain exceptions, convictions may not be disclosed once the rehabilitation period has expired: s 6, and rehabilitated offenders are entitled to deny that they have suffered a conviction: s 8, and
- persons or bodies responsible for assessing a person's fitness to be admitted to a profession or occupation are to disregard convictions in relation to which the rehabilitation period has expired unless the person being assessed is expressly required by law to disclose his or her criminal history, or the person or body making the assessment is expressly required by law to take into account the criminal history of the person to be assessed: s 9.

Under s 9A of the *Criminal Law (Rehabilitation of Offenders) Act*,<sup>7</sup> applicants for specified public offices are required to disclose specified particulars of their criminal history. Where requested or required in furtherance of their applications, registered teachers must disclose convictions, including spent convictions, against :

- offences in the *Criminal Code* Chapters 22 (Offences against morality), 32 (Assaults on females - Abduction), 33 (Offences against liberty) and 34 (Offences relating to marriage and parental rights and duties);
- offences defined in Part 2 of the *Drugs Misuse Act 1986* (eg trafficking in dangerous drugs or possessing, producing or supplying dangerous drugs) and

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<sup>7</sup> inserted by the *Criminal Law (Rehabilitation of Offenders) Act Amendment Act 1986* (Qld).

- contraventions committed in Queensland or elsewhere of any offence of a similar nature or involving an assault of a sexual nature.

### 3. MAIN PROVISIONS OF THE BILL

**Part 9** of the Education and Other Legislation Amendment Bill 1997 amends the Education (Teacher Registration) Act.

Introducing the proposed amendments to the Education (Teacher Registration) Act, the Minister for Education, Hon RJ Quinn MLA, stated:

*The Board is responsible for teacher registration in Queensland and for conducting inquiries into registered teachers whose behaviour calls the continuation of registration into question. While I have every confidence in both the operation of the Board and the ability and character of the vast majority of teachers in this State, the Bill amends the Education (Teacher Registration) Act 1988 to introduce more rigorous procedures for ensuring that those registered as teachers are people who present no danger to their students.*<sup>8</sup>

#### 3.1 GOOD CHARACTER OF APPLICANT FOR REGISTRATION

**Clause 53(1)** of the Education and Other Legislation Amendment Bill renumbers ss 37(3) and (4) of the existing Education (Teacher Registration) Act to become ss 37(5) and (6).

Under **Clause 53(2)**, s 37(2) is amended by adding the requirement that, in deciding whether an applicant for teacher registration is of good character, the Board of Teacher Registration must have regard to the applicant's criminal history.

**Clause 53(3)** inserts **proposed new sections 37(3) and (4)**. **Proposed new s 37(3)** empowers the Board of Teacher Registration to ask the Commissioner of Police for a written report about a person's criminal history (defined below). **Proposed new s 37(4)** places an obligation upon the Commissioner of Police to comply with the Board's request. If asked by the Board, the Commissioner must give the Board a written report about the person's criminal history, including the criminal history in the Commissioner's possession or to which the Commissioner has access.

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<sup>8</sup> Education and Other Legislation Amendment Bill 1997 (Qld), Second Reading Speech, Hon RJ Quinn MLA, *Queensland Parliamentary Debates*, 29 October 1997, p 3970.

### 3.1.1 Criminal History Defined

**Clause 53(5)** of the Education and Other Legislation Amendment Bill 1997 inserts into the Education (Teacher Registration) Act a definition of “**criminal history**” for the purpose of s 37 of that Act. Under **proposed new s 37(7)** of the Education (Teacher Registration) Act, “**criminal history**” means:

*... the person’s criminal history within the meaning of the Criminal Law (Rehabilitation of Offenders) Act 1986, and -*

- a) despite sections 6, 8 and 9 of that Act, includes a conviction of the person to which any of the sections applies; and*
- b) despite section 5 of that Act, includes a charge made against the person for an offence.*

The above provisions of the Criminal Law (Rehabilitation of Offenders) Act are discussed at Section 2.8 of this *Legislation Bulletin*.

### 3.2 DUTY OF REGISTERED TEACHERS

**Clause 54** amends s 44 of the Education (Teacher Registration) Act by increasing the penalty that may be imposed on a teacher who fails to notify the Board of his or her conviction for an indictable offence, cancellation or suspension of registration in another state, or termination of employment in another state. The penalty is increased from two penalty units (\$150) to 10 penalty units (\$750). In his Second Reading Speech, the Minister for Education stated:

*The increase indicates the seriousness with which those events is regarded by the board and the gravity of the duty upon teachers to notify the board of their occurrence.<sup>9</sup>*

### 3.3 OTHER NOTIFICATIONS

**Clause 55** of the Education and Other Legislation Amendment Bill inserts **proposed new sections 44A to 44C** into the Education (Teacher Registration) Act. These provisions place obligations on certain agencies to provide the Board of Teacher Registration with certain information about registered teachers. An obligation is also placed upon the Board itself to consider any such information put before it.

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<sup>9</sup> Education and Other Legislation Amendment Bill 1997 (Qld), Second Reading Speech, Hon RJ Quinn MLA, *Queensland Parliamentary Debates*, 29 October 1997, p 3970.

### 3.3.1 Employing Authorities

**Proposed new s 44A** will apply if the employing authority for a school gave written notice to a teacher that the authority was dissatisfied with the teacher after the employing authority had investigated a sexual allegation involving the teacher and within six months of the notice being given, the employing authority dismissed the teacher or the teacher resigned from the educational staff of the school.

In these circumstances, the employing authority must give the Board of Teacher Registration written notice of the dismissal or resignation within seven days of giving notice of dismissal to the teacher or receiving the teacher's notice of resignation: **proposed new s 44A(2)** and **44A(4)**.

The notice required to be given by the employing authority must include:

- the name of the employing authority (and the name of the school if they are different)
- the teacher's name
- the date the employing authority gave notice to the teacher of the teacher's dismissal or was given notice of the teacher's resignation
- the sexual allegation, particulars thereof, and any other relevant information
- the reasons given by the employing authority for the dismissal or by the relevant teacher for resigning.

#### *Sexual Allegation Defined*

In **proposed new s 44A(5)**, "sexual allegation" is defined to refer to an allegation that a teacher has:

- committed an offence of a sexual nature such as carnal knowledge of a girl under 16, or a sexual assault of a kind mentioned in s 337 of the *Criminal Code* (eg indecent assaults, procuring another person by threats or force to commit an act of gross indecency), or
- engaged in conduct of a sexual nature (other than an offence of a sexual nature) with a student or child, whether in the teacher's capacity as a teacher or otherwise, and the conduct does not satisfy a standard of behaviour generally expected of a teacher.

### 3.3.2 Prosecuting Authorities

**Proposed new s 44B** will apply if a prosecuting authority (ie the Commissioner of the Police Service or the Director of Public Prosecutions) believes on reasonable grounds that a person charged with an indictable offence is or was a registered teacher. If the person is committed for trial for an indictable offence, the

prosecuting authority must, within seven days after the committal, give the Board of Teacher Registration written notice of:

- the person's name;
- the court in which the person was committed;
- the offence in relation to which the person was committed for trial and particulars of the offence, and
- the date on which the person was committed for trial: **proposed new s 44B(2)**.

If the person is convicted of the indictable offence, the prosecuting authority must within seven days after the conviction, give the Board written notice of the person's name, the court in which the person was convicted, the offence of which he or she was convicted, the date on which he or she was convicted, and the penalty that the court imposed: **proposed new s 44B(3)**.

The prosecuting authority will also be obliged to notify the Board of Teacher Registration if there is an acquittal or mistrial, if a nolle prosequi is presented<sup>10</sup> or if the prosecuting authority decides not to present an indictment: **proposed new s 44B(4)**.

The fact that a prosecuting authority has given a notice under **proposed new s 44B(2)** does not relieve the authority of giving a notice under **proposed new ss 44B(3) or (4): proposed new 44B(5)**.

### 3.3.3 Board's Duty

**Proposed new s 44C** provides that as soon as practicable after the Board is given a notice under either **proposed new s 44A** or **s 44B**, it must consider the notice, together with any other information it considers relevant, and decide if there are grounds for the Board to conduct an inquiry under s 50 of the Education (Teacher Registration) Act<sup>11</sup>, and whether an inquiry is to be held.

In introducing these amendments to the Legislative Assembly, the Minister for Education explained that:

*The obvious advantage to be gained from the introduction of these measures is that the board will be in a far better position to monitor the appropriateness of a*

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<sup>10</sup> Where, after a bill of indictment has been presented, it is decided not to continue a case against a person, a nolle prosequi is entered.

<sup>11</sup> The Board's powers of inquiry are discussed in Section 2.6 of this *Bulletin*.

*person to be employed as a teacher in Queensland schools, both at the time of registration and beyond.*<sup>12</sup>

#### **4. A COMPARATIVE SURVEY**

Apart from Queensland, only South Australia and Victoria currently have teacher registration boards.

In Tasmania, under the *Education Act 1932*, registration requirements existed for teachers in non-government schools. The 1932 Act was repealed and replaced by the *Education Act 1994*. The 1994 Act makes provision for non-state schools to be registered.<sup>13</sup> However, there is no requirement for teachers in either government or non-government schools to be registered.

In October 1997, a Teacher Registration Bill was introduced into Tasmania's House of Assembly by the Labour Opposition. The Bill has been read a second time, but the Government has indicated that it will not support it. However, in response to concerns flowing from the Wood Royal Commission, good character checks on teachers in state schools, to be undertaken by officers of the Department of Education, Community and Cultural Development, were instituted in September 1997.<sup>14</sup>

In New South Wales, a Ministerial Discussion Paper endorsed by the Minister for Education and Training, Hon J Aquilina MP, has recommended the establishment of a Teacher Registration Authority, partly in response to evidence given at the Wood Royal Commission.

In Sections 4.1 to 4.4 below, the position in the other two states in which registration boards have been established is outlined. The New South Wales proposals and the rationale behind them are then discussed in Section 4.5 of the *Bulletin*. Proposals for a national scheme to facilitate the exchange of information about teacher misconduct between the states and territories are discussed in Section 4.6. Overseas vetting schemes such as the United Kingdom's List 99 are briefly outlined in Section 4.7, together with recent amendments to New Zealand's *Education Act 1989*.

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<sup>12</sup> Education and Other Legislation Amendment Bill 1997 (Qld), Second Reading Speech, Hon RJ Quinn MLA, *Queensland Parliamentary Debates*, 29 October 1997, p 3970.

<sup>13</sup> *Education Act 1994* (Tas), Part 5, Divisions 1 (Schools Registration Board) and 2 (Registration of Schools).

<sup>14</sup> Teacher Registration Bill 1997 (Tas), Second Reading Stage (House of Assembly), *Tasmanian Parliamentary Debates*, 21 October 1997, Part 2, pp 60-74.

#### **4.1 REGISTRATION REQUIREMENTS**

In South Australia, as in Queensland, teachers in both government and non-government schools are required to be registered.<sup>15</sup> An applicant for registration as a teacher in South Australia must satisfy the Teachers Registration Board that he or she is a fit and proper person and has appropriate qualifications and experience.<sup>16</sup>

In Victoria, the registration requirements only apply to teachers in non-government schools.<sup>17</sup> Under the Victorian *Education Act*, it is an offence for an unregistered teacher to teach in a non-government school. It is also an offence to employ an unregistered teacher.<sup>18</sup>

#### **4.2 REGISTRATION BOARDS**

Both the South Australian and Victorian boards of teacher registration keep registers of teachers.<sup>19</sup>

#### **4.3 CANCELLATION OF REGISTRATION**

In South Australia, the Teachers Registration Board may cancel a teacher's registration if it is satisfied, after inquiry, that the teacher is guilty of gross incompetence or disgraceful or improper conduct, or has a mental or physical incapacity that makes the teacher unable to properly discharge his or her duties.<sup>20</sup> In Victoria, the Board may remove a teacher's name from the register of teachers where the Board is satisfied that the teacher has been guilty of conduct unbecoming a teacher.<sup>21</sup> As in Queensland, a teacher's registration may also be cancelled where the teacher has been convicted of an indictable offence.<sup>22</sup> In Victoria, a teacher

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<sup>15</sup> *Education Act 1972* (SA), s 63.

<sup>16</sup> *Education Act 1972* (SA), s 61.

<sup>17</sup> *Education Act 1958* (Vic), Part 3.

<sup>18</sup> *Education Act 1958* (Vic), s 44.

<sup>19</sup> *Education Act 1972* (SA), s 71(1); *Education Act 1958* (Vic), s 37(1) (register of teachers in non-government schools).

<sup>20</sup> *Education Act 1972* (SA), s 65.

<sup>21</sup> *Education Act 1958* (Vic), s 41.

<sup>22</sup> *Education Act 1958* (Vic), s 41.



must be given an opportunity to be heard before his or her name is removed from the register.<sup>23</sup>

#### **4.4 APPEAL RIGHTS**

In South Australia, there is a right of appeal to a local court of full jurisdiction against a decision of the Teachers Registration Board.<sup>24</sup> There is no statutory right of appeal against a decision of the Victorian Registered Schools Board.

#### **4.5 THE POSITION IN NEW SOUTH WALES**

In New South Wales, the *Teaching Services Act 1980* governs the appointment of teachers in public schools, and the procedures to be followed in relation to alleged breaches of discipline, including improper conduct. No system of registration applies in either government or non-government schools.<sup>25</sup> Under s 19(3) of the Teaching Services (Education Teaching Service) Regulation 1994, a charge that a member of staff has engaged in conduct of a sexual nature involving children or students must be recorded separately from the staff member's personal record and kept under strictly limited access as approved by the Director-General of Education. Under s 19(4) of the regulation, if a charge of the kind referred to above is found not to be proved, that fact must also be noted on the separate record. These amendments, introduced in April 1997, can be contrasted with the requirement in s 19(2), under which other charges involving a breach of discipline which are found not to be proved are not to be recorded, or if already recorded, must be removed from the staff member's personal record.

In its August 1997 Report, the Wood Royal Commission stated:

*By reason of the vulnerability of children, and the repetitive and compulsive behaviour of child sex offenders, the Royal Commission endorses this initiative and supports a similar approach for all departments which have an involvement in the care or supervision of children.*<sup>26</sup>

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<sup>23</sup> *Education Act 1958* (Vic), s 41.

<sup>24</sup> *Education Act 1972* (SA), s 68.

<sup>25</sup> Royal Commission into the New South Wales Police Service (the Wood Royal Commission), *Final Report - Volume IV: The Paedophile Inquiry*, August 1997, Chapter 10 'The Education System', pp 955-956.

<sup>26</sup> Wood Royal Commission, Vol IV: The Paedophile Inquiry, p 957.

In August 1997, the NSW Government issued a Ministerial Discussion Paper in which it proposed that a system of teacher registration be established, with the objectives being to:

- *raise the status of the teaching profession by assuring the community about the qualifications, quality and standards of those who teach the young people of New South Wales*
- *establish effective and timely procedures for dealing with teachers whose proven incompetence is placing the education of students at risk*
- *ensure that teachers who are found to have sexually assaulted students are removed from contact with young people in schools and that schools and school systems are safeguarded from the risk of unknowingly offering employment to such people.*<sup>27</sup>

The structural elements of the NSW proposal involve the establishment of an independent statutory body, the New South Wales Teacher Registration Authority, which would be comprised of a Teacher Registration Board, a Teacher Registration Authority Hearings Tribunal, a Registration Branch and an Investigations Branch.

#### **4.5.1 The Teacher Registration Board**

The proposed Teacher Registration Board would be responsible for determining policy on all matters relating to the registration of teachers, including establishing standards of professional performance and conduct, deciding policy for the processing of applications for registration, including processing of criminal record checks, and deciding policy for the conduct of investigations and inquiries.<sup>28</sup>

#### **4.5.2 The Teacher Registration Authority Hearings Tribunal**

The role of the proposed Teacher Registration Authority Hearings Tribunal would be to hear and decide matters of teacher discipline. Under the NSW proposal, the Tribunal will be “.. *the final arbiter in matters brought before it*”.<sup>29</sup>

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<sup>27</sup> New South Wales. Ministerial Discussion Paper, *The Establishment of a Teacher Registration Authority in New South Wales*, August 1997, p 7.

<sup>28</sup> NSW Ministerial Discussion Paper, p 11.

<sup>29</sup> NSW Ministerial Discussion Paper, p 11.

#### **4.5.3 The Registration Branch**

The proposed Registration Branch would be responsible for registering and maintaining the registration of teachers in New South Wales, including processing criminal record checks, verifying qualifications, conducting interviews to determine suitability and monitoring professional development. The Ministerial Discussion Paper also noted that:

*Developments arising from the Police Royal Commission will also need to be taken into account. The proposal for a Teacher Registration Authority might also include responsibility for undertaking full probity checks for all teaching staff in all schools, government and non-government, without exception. Further it may be necessary for all non-teaching staff in all schools to be subject to full probity checks by the Teacher Registration Authority or some other appropriate body. Such a checking system should be fully integrated into a whole-of-government probity checking system, given that there is significant mobility between teaching and other related fields, such as community services and health care.<sup>30</sup>*

#### **4.5.4 The Investigations Branch**

While the proposed Investigations Branch would primarily deal with allegations of teacher incompetence, it was anticipated that a small number of referrals in any one year might relate to allegations of improper conduct by teachers. Under the proposed model, cases referred to the NSW Department of Community Services (DOCS) in accordance with the NSW Child Protection Guidelines, but subsequently not investigated by DOCS or the police, would come back for action by the employer as possible improper conduct of a sexual nature by a teacher. An investigation would be carried out by an officer of the investigation branch, who would report to the Registrar (the CEO of the Teacher Registration Authority), whose responsibility it would be to recommend to the Teacher Registration Authority Hearing Tribunal whether the teacher's registration should be withdrawn. A teacher would have 14 days within which to appeal to the Tribunal against the Registrar's decision.

Under the NSW proposals, the names of teachers who were refused registration or deregistered on the grounds of improper conduct of a sexual nature would be kept by the Authority on a not-to-be-employed list. Employers would be able to refer the names of persons applying for teaching positions to the Authority to be checked against the Authority's list.<sup>31</sup>

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<sup>30</sup> NSW Ministerial Discussion Paper, 12.

<sup>31</sup> NSW Ministerial Discussion Paper, pp 14-15.

#### **4.5.5 Advantages of a Registration System**

As explained in the NSW Ministerial Discussion Paper:

*Since occupational licensing schemes impose criteria upon those wishing to enter a particular occupation or profession, they may impose barriers to entry and may therefore be subject to the National Competition Policy principles. Any proposal for a system of teacher registration in New South Wales would need to demonstrate that the benefits to the community outweigh the costs and that the community's best interests are served by restricting competition.<sup>32</sup>*

In proposing that a system of teacher registration be introduced in New South Wales, the Ministerial Discussion Paper referred to the following advantages to be gained from such a scheme:

*The quality of education which young people receive is substantially predicated on the quality of the teaching they experience. Teacher registration would enable standards to be set for teacher performance across New South Wales. A focus on teaching standards would ensure that students in all schools are taught by teachers who have met agreed minimal standards in training and have appropriate teaching qualifications. Teacher registration in New South Wales would also provide a process for teachers to maintain their standards through participation in training and development as a necessary part of continuing registration.*

*The standing of the teaching profession and the safety of students will be enhanced through a common process for dealing with teachers who have engaged in unprofessional or improper conduct, including improper conduct of a sexual nature. Teacher registration would involve comprehensive checks to ensure that adults who sexually exploit young people cannot gain entry to schools in New South Wales. It would ensure that any allegations against teachers in employment are appropriately reported, investigated and decided upon. The proposed system of teacher registration will make our schools safer for all and restore community confidence following the disturbing revelations of the Police Royal Commission about improper conduct by teachers in government and non-government schools.*

*Teacher registration would assure employers about the qualifications and quality of the teachers they employ. Like many professions, the teaching profession is a highly mobile one with individual teachers moving, sometimes frequently over a career, between schools and school systems. While this professional mobility has many advantages, evidence given in the Police Royal Commission showed how teachers who had sexually assaulted students managed to move between schools and systems in ways which put other students at risk because there was no uniform monitoring process for the profession.*

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<sup>32</sup> NSW Ministerial Discussion Paper, p 2

*... The proposed system of teacher registration would enhance and not restrict teacher mobility. At the same time it would put an end to incompetent teachers and teachers guilty of serious forms of misconduct moving between schools and school systems and thereby being permitted by default to continue to put the education or well-being of students at risk.*<sup>33</sup>

#### **4.6 PROPOSALS FOR A NATIONAL REGISTER**

At a meeting of the Ministerial Council on Employment, Education, Training and Youth Affairs (MCEETYA) in March 1997, State and Territory Education Ministers agreed to a national policy to exchange information about teachers applying for jobs in another state or territory. Under the agreement, every teacher applying for a job in another state or territory would face background checks. Information would be exchanged between the states under different categories, including information about people with a criminal record of a sexual offence against a child, people subject to allegations who had been placed on a “not to be employed” list, and people listed as medically retired. Under another category, states would be warned about teachers who remain employed, but who have had a warning or penalty imposed following allegations of improper conduct of a sexual nature between the teacher and a student.<sup>34</sup>

In a Ministerial Media Statement issued on 14 March 1997, the Queensland Minister for Education stated that implementing a national approach to screening teachers was complicated by the differing state laws on privacy and paedophilia:

*‘What might be an offence in one part of Australia may not be considered an offence somewhere else,’ he said.*

*‘We also have the problem that existing privacy provisions may outlaw the sharing of vital material required or requested by another state’.*

*‘On a positive note, however, all states and territories have today agreed to work together to iron out any anomalies which may impede a national approach to stamping out paedophilia in our schools’.*<sup>35</sup>

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<sup>33</sup> NSW Ministerial Discussion Paper, pp 8-9.

<sup>34</sup> Carmel Egan, ‘Paedophile teachers on national register’, *Courier Mail*, 15 March 1997, p 3; Stephanie Raethel, ‘Interstate teachers face molesters’ ban’, *Sydney Morning Herald*, 16 June 1997.

<sup>35</sup> Hon RJ Quinn MLA, ‘States join forces to stamp out paedophilia’, *Ministerial Media Statement*, 14 March 1997.

According to advice received from the Queensland Department of Education, the matter is being further progressed, with a MCEETYA meeting scheduled for December 1997.

In its August 1997 report, the Wood Royal Commission endorsed the proposal for a national register of persons deemed unsuitable for teaching because of criminal convictions or dismissal for sexual misconduct. The Wood Royal Commission considered that it would be appropriate for a NSW Children's Commission, if established as recommended by the Royal Commission, to have access to this register.<sup>36</sup>

## **4.7 OVERSEAS DEVELOPMENTS**

### **4.7.1 United Kingdom**

In the United Kingdom, the Secretary of State for Education and Employment has the authority to bar a person from employment as a school teacher on the grounds of misconduct, or on medical grounds. Where a person has been convicted after 31 October 1995 of a sexual offence against a child under 16, he or she is automatically barred. A person who has been barred may apply to the Secretary of State to have the bar removed on the basis of new evidence, or evidence of a significant change in circumstance. The Department for Education and Employment maintains a list of barred persons, known as List 99. Employers within the education service must check this list to ensure that they do not appoint a person who is barred.<sup>37</sup>

### **4.7.2 New Zealand**

Under 1996 amendments to New Zealand's *Education Act 1989*, a requirement is now placed on court registrars to notify the NZ Teacher Registration Board when someone the court registrar believes to have been employed as a teacher before, at or after the time the offence was committed, is convicted of an offence punishable

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<sup>36</sup> Wood Royal Commission, Vol IV: The Paedophile Inquiry, p 963. The Royal Commission's recommendations for a Children's Commission to be established are contained in its *Final Report, Vol V: The Paedophile Inquiry*, at Chapter 20.

<sup>37</sup> United Kingdom. Home Office, *Sentencing and Supervision of Sex Offenders: A Consultation Document*, Command Paper No 3304, June 1996, paras 66-67.

by imprisonment for three months or more, or of an offence against the Education Act.<sup>38</sup>

The 1996 amendments to the New Zealand legislation also contain a provision similar to, though wider in scope, to **proposed new s 44A** of Queensland's Education (Teacher Registration) Act. Section 138B of New Zealand's Education Act now requires a school authority to notify the Teacher Registration Board within 28 days of the school authority dismissing an employee from a teaching position. A school authority must also notify the Teacher Registration Board when an employee resigns from a teaching position within 12 months of the school authority having given the employee written notice that it was dissatisfied with, or planned to investigate, any aspect of the employee's behaviour or performance.

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<sup>38</sup> *Education Act 1989* (NZ), s 138A, inserted by the *Education Amendment Act 1996* (NZ) (No 98 of 1996).





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## **APPENDIX A**

### **MINISTERIAL MEDIA STATEMENTS**

Minister for Education

14 March 1997

#### **STATES JOIN FORCES TO STAMP OUT PAEDOPHILIA**

Minister for Education Bob Quinn will investigate avenues of legislative change to ensure Queensland can participate fully in a national approach to ridding schools of paedophiles.

Ministers from all Australian states and territories have agreed to pursue a national approach to closing loopholes which have previously allowed known paedophiles to cross state borders and continue their teaching careers.

Mr Quinn said New South Wales had also agreed to cooperate with Queensland in identifying any former New South Wales teachers either convicted or accused of paedophilia, who were now teaching in Queensland schools.

“We will supply New South Wales with a list of its former teachers who are now working in our schools, for screening,” he said.

“I desperately hope that none of the highly suspect characters referred to during the Wood Royal Commission are teaching here in Queensland.

“But if they are, it’s something we will just have to confront and something we will have to deal with, in order to lift the cloud that’s hanging over thousands of innocent teachers.”

Mr Quinn said adopting a national approach to screening known paedophiles from teaching ranks was complicated by the differing state laws relating to privacy and paedophilia.

“What might be an offence in one part of Australia may not be considered an offence somewhere else,” he said.

“We also have the problem that existing privacy provisions may outlaw the sharing of vital material required or requested by another state.

“On a positive note however, all states and territories have today agreed to work together to iron out any anomalies which may impede a national approach to stamping out paedophilia in our schools.”

“In most, if not all states, that will probably require legislative change, but if that’s what it takes, then we’re all prepared to do it.”

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Minister for Education, HON. R. J. QUINN

29 October 1997

### **QUINN TO BOOST ANTI-PAEDOPHILE SAFEGUARDS**

Education Minister Bob Quinn has introduced tough new legislation into State Parliament to protect Queensland school children from paedophiles and other "undesirables".

Mr Quinn said last year's amendments to the Education (Teacher Registration) Act 1988 had already yielded results, but further provisions were needed to boost screening and reporting powers.

The proposed changes would require employing authorities to notify the Board of Teacher Registration (BTR) if a teacher was dismissed for serious misconduct.

Prosecuting authorities would automatically advise the BTR if a teacher was committed for trial or convicted of an indictable offence.

The BTR would be required to seek criminal history checks by police on all applicants for registration. Existing penalties for failing to notify the BTR of a conviction for an indictable offence or other key information would be increased five-fold, from \$150 to \$750.

The new provisions were recommended by the BTR following detailed consultation with the State's major employing authorities, both government and non-government.

"These changes are very much in line with the national strategy to protect students from paedophilia, agreed by all States and Territories in March," Mr Quinn said.

"Serious offences at school are extremely rare, but the physical and emotional trauma of such abuse can be so devastating that we have to do everything possible to prevent it happening at all. Even one case is one case too many."

Mr Quinn was optimistic that the amendments would be passed by State Parliament before the end of November, for implementation by the start of next year.

He said there would be no change to existing natural justice provisions for teachers, such as the right to legal representation, protection against self-incrimination or right of appeal to the District Court.

"I believe our amendments will receive the full backing of all decent, caring teachers because the last thing they want is a few bad eggs tarnishing their professional reputation," Mr Quinn said.

"There are ample safeguards to protect the innocent and the only losers will be those with something to hide. The focus is on protecting our students, but not at the expense of teachers' rights."

Mr Quinn said disturbing evidence this year before the Wood Royal Commission in New South Wales had highlighted the fact that no government could afford to be complacent.

"Interstate experience underlines what a remarkably good job the Board of Teacher Registration has already done in Queensland," he said.

"These amendments will build on that good work."

Further info Paul F Turner on (07) 3237 1068 b/h or 0417 757 248 a/h, or Julie Gatehouse on (07) 3237 1057 b/h or 0418 748 512 a/h.

## APPENDIX B

### NEWSPAPER ARTICLES

- Trudy Harris, 'Rights demand respect all round', *Australian*, 8 March 1997, p 5.
- Carmel Egan, 'Paedophile teachers on national register', *Courier Mail*, 15 March 1997, p 3.
- Tony Koch, 'New teachers to face police check', *Courier Mail*, 22 March 1997, p 5.
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- Michael Madigan, 'Police checks on teachers', *Courier Mail*, 6 October 1997, p 1.
- Sloane Loane, 'New checks catch child molesters', *Sydney Morning Herald*, 22 October 1997, p 6.
- Amanda O'Chee, 'State teachers urge national register', *Courier Mail*, 31 October 1997, p 10.



**Title** State teachers urge national register.

**Author** O'Chee, Amanda

**Source** Courier Mail ( 59 )

**Date Issue** 31/10/97

**Pages** 10

QUEENSLAND'S Board of Teacher Registration has urged teachers in other states to establish a registration system to protect students and their profession.

Board director Marie Jansen urged other states to adopt Queensland's model of compulsory registration, which guards against incompetence or misconduct.

Queensland and South Australia are the only states with a comprehensive system requiring everyone who teaches in public or private schools to be qualified and registered.

Dr Jansen met the New South Wales advisory body on establishing a teacher registration system after the Wood royal commission into paedophilia.

Registration would promote top-quality teaching and prevent unqualified people from teaching in schools, she said.

It also ensured teachers were qualified to cope with the complexities of modern-day teaching.

The call came on the eve of International Teachers' Day.

Queensland's registration system was established 25 years ago at the request of teachers protesting against the use of unqualified people to fill a teacher shortage.

Dr Jansen said teachers across the country should push for state registering bodies, which would feed into a national co-ordinating body.

"Our teachers have demonstrated that teachers need to be heard and maybe it does need to go to the teachers," she said.

"If they demanded it long and hard maybe it can get up.

"Teachers should reflect on the fact that one of the bases for having a profession is registration so that the unqualified are not permitted to call themselves teachers and do this very important role."

Australian Education Union vice-president Ian Mackie said the AEU had been campaigning for a national registration system for many years.

But he said other states and particularly private school employers were unwilling to introduce state-wide registration because it would prevent them from hiring unqualified people and paying them less.

"They want unregistered teachers to teach," Mr Mackie said.

"They want the ability to put people into the classroom without the appropriate qualifications because they're cheaper.

"Mr Mackie said the Australian Teaching Council had been established

with the long-term aim of national registration, but funding was cut by the Federal Government.

Dr Jansen also said other states should ensure all teachers were qualified to teach and were not just experts in other areas.

“It's simply saying that a person who has no knowledge of how to teach is not permitted to do that very complex and important work,” Dr Jansen said.

“It's not a matter of ‘I'm a scientist so I'm going to teach’.

You don't just want a scientist, you want a good teacher of science.”.

Teaching was a complex profession and teachers needed skills in guidance, special education and effective learning strategies, she said.



**NEWS 97 PL**

**Title** New checks catch child molesters.

**Author** Loane, Sloane

**Source** Sydney Morning Herald ( 239 )

**Date Issue** 22/10/97

**Pages** 6

A system to prevent paedophiles from infiltrating NSW schools appeared to be having success, with three dangerous people being refused teaching jobs in the past five months, a conference on the problem heard yesterday.

The Director-General of School Education in NSW, Dr Ken Boston, said

the applicants had a background of child sexual assault or improper sexual conduct.

"Paedophiles are popular and highly plausible individuals, and are very attractive to children," he said.

Dr Boston told the sixth Australasian Conference on Child Abuse and Neglect that since May this year, under the system put in place after the Wood Royal Commission, NSW had made 246 checks with other States and other

States had made 57 checks with NSW to try to weed out unsuitable teachers and others wanting to work in schools.

The Governor-General, Sir William Deane, told the conference that the "ugly facts" of child abuse must be confronted and addressed, particularly because the problem contributed to the increasing human misery of homeless children.

Sir William said that he and Lady Deane had met many homeless children who had been abused.

Most often, they had suffered at the hands of their parents or another adult from whom they had sought protection, he said.

"Most have been involved with drugs, they've lost confidence and self-esteem, and found regular employment almost unattainable," he said.

The apparent increase in the incidence of child abuse and neglect was caused by various social issues, including high unemployment, family breakdown, domestic violence and growing pressures of addictions to gambling,

alcohol and other drugs, Sir William said.

The Human Rights Commissioner, Mr Chris Sidoti, told the conference that children who had suffered abuse were often further hurt by the legal system, including being treated as unreliable witnesses, being subjected to aggressive and inappropriate cross-examination by lawyers, and being left in abusive situations because of court delays.

Mr Sidoti said that children were frequently silenced as witnesses in child abuse cases.

"A child may become so intimidated and distressed by the legal process

that he or she is unable to give evidence either satisfactorily or at all," he said.

Mr Sidoti said the report of the national inquiry into children and the legal process, undertaken by the Human Rights and Equal Opportunity

Commission and the Australian Law Reform Commission, was handed to the Attorney-General, Mr Williams, on Monday.

He said the inquiry had built the most comprehensive picture available of Australian children and their involvement in the legal processes, and had found that the system, as well as silencing children, had failed them by marginalising and discriminating against them.

The report has recommended the establishment of a Federal Office for Children; national standards for interviewing child witnesses; guidelines for judges to prevent harassment of child witnesses, and measures to encourage children to participate in primary dispute resolution processes.

**Title** Police checks on teachers.

**Author** Madigan, Michael

**Source** Courier Mail ( 59 )

**Date Issue** 06/10/97

**Pages** 1

TEACHERS moving to Queensland will face police checks and those failing to disclose past misconduct could be fined up to \$750 under new legislation to go before State Cabinet today.

The legislation also will require employers to notify the Board of Teacher Registration if a teacher is sacked or resigns during a misconduct probe.

The Queensland Teachers Union fears the legislation may destroy careers unfairly.

Cabinet is expected to pass a range of amendments to the Education Act this morning ensuring that schools are aware of any past criminal offences - including paedophilia - committed by teachers.

The new laws will force employers to inform the Board of Teacher Registration that a teacher has been dismissed for misconduct or resigned in the course of a misconduct investigation.

Prosecutors will be forced to notify the board if a teacher has been committed for trial for an indictable offence.

The board also will be required to request police undertake a full criminal history check of each teacher upon registration.

Fines for teachers who fail to notify the board of past offences or misconduct will be increased from \$150 to \$750.

The new legislation will take effect on January 1..Education Minister Bob Quinn has made no comment on the legislation other to say it was before Cabinet.

But Mr Quinn has described paedophilia in teachers as a "sick betrayal of their position of trust and just totally reprehensible".

He said there were ample safeguards in the proposed laws to protect the innocent.

"The only losers will be those with something to hide," he said.

The Queensland Catholic Education Commission, the Association of Independent Schools Queensland and Education Queensland have all supported the new laws.

Queensland Teachers Union president Ian Mackie said that while the QTU supported the spirit of the legislation, there was deep concern it could unfairly destroy teaching careers.

He said a teacher unfairly accused of a crime but committed to trial by a magistrate would have his name listed with the board and his or her reputation destroyed.

Teachers found not guilty in such cases still underwent great trauma and had their character unfairly questioned, he said.

"To destroy a person's career on the basis of an allegation is just not acceptable," Mr Mackie said.

He said the Government also intended to force teachers to reveal offences where no conviction was recorded.

Mr Mackie said teachers, like any other member of society, sometimes behaved foolishly.

A young teacher having too many beers at a football match and urinating

publicly could be fined for indecent exposure, he said.

"He might front up Monday morning and be fined \$300 and be admonished and have no conviction recorded which is fair enough," he said.

"But I don't think it is fair that an incident like that destroys his career."

A spokesman from Mr Quinn's office said there would be provision for each case to be examined on its merits.

**Title** National register to monitor offenders.

**Author** Killick, David

**MERYMENT, ELIZABETH**

**Source** Courier Mail ( 59 )

**Date Issue** 27/08/97

**Pages** 6

A NATIONAL register of people considered unsuitable for jobs in schools because of sexual offences should be established, according to the Wood report.

The report also urged the New South Wales government to consider a registration scheme for all teachers.

It said the scheme, to be introduced after consultation with schools and unions, would apply to teachers in government and non-government schools.

Non-government schools which refused to take part in the scheme should have their registrations removed.

Teachers would be subject to pre-employment inquiries, with those found guilty of sexual misconduct being barred from employment.

The report also recommended an urgent review of the record-keeping practices of the School Education Department so information on teachers suspected of sexual misconduct was centralised and readily available.

Under other recommendations, convicted and suspected child sex offenders would face a range of other strict controls.

The report suggested a raft of tough measures to prevent paedophiles from working with, caring for or even loitering near children.

Among Justice Wood's recommendations is the consideration of the compulsory registration of all convicted child sex offenders with the police.

Under another recommendation, police would be given the power to warn government departments and community groups to the presence of convicted or suspected offenders in cases where there were fears that person might attack children.

The report also recommends making it an offence for a convicted child sex offender to loiter near children without reasonable excuse.

A spokesman for Queensland Education Minister Bob Quinn said the Government would support a national register of convicted sex offenders.

But he said the issue was complex, particularly if the names of people with repeat accusations against their names were included on the register.

``Unfortunately, (a register) would only get the people who have been

convicted and so we need a much broader approach," the spokesman said.

State and federal education ministers met earlier this year to discuss strategies to rid Australian schools of paedophiles, he said.

A task force formed as a result of this meeting would be meeting shortly to discuss

the recommendations of the Wood royal commission.

Queensland Teachers' Union president Ian Mackie welcomed the initiative, saying it would make it harder for paedophiles to ``slip through

the system".

Mr Mackie said Queensland already had a Board of Teacher Registration which aimed to make it more difficult for paedophiles to infiltrate schools.

``As a union we're saying there needs to be a national register so there aren't weak links in the chain," he said.

``We believe a register is extremely successful because it ensures that people are fit and proper persons to be teachers.".

But he said the union would not support any move which removed people who had only been accused of indecent behaviour because this could affect innocent teachers.

Under Queensland rules to be implemented next year, all teachers seeking registration will be screened for sexual offence convictions.

**Title** National action pledge on paedophile register.

**Author** Meade, Amanda

**NASON, DAVID**

**KERIN, JOHN**

**Source** Australian ( 80 )

**Date Issue** 28/08/97

**Pages** 3

A NEW federal council for the prevention of child abuse will investigate setting up a national paedophile index in the wake of the Wood royal commission's report, which has "shocked the nation".

The council would consider a national paedophile register and means of monitoring paedophile movements across State borders in line with Justice James Wood's recommendations, Family Services Minister Judi Moylan told Parliament yesterday.

But Federal Court judge Marcus Einfeld went further, calling for a National Commission for Children, a cross-departmental, federal-State government committee which would establish and co-ordinate policy affecting children.

Reaction from State and Territory leaders was mixed, with most

preferring to consider the report before endorsing its contents and conservative leaders rejecting lowering the age of homosexual consent.

Only South Australian Premier John Olsen accepted in-principle the establishment of a national register of paedophiles.

"I think a national register is justifiable but I can understand the difficulties in dealing with people's civil liberties," he said.

Queensland Attorney-General Denver Beanland said the State Government would examine all the recommendations, but any lowering of the homosexual age

of consent -18 in the State would be a "kneejerk reaction".

"I can understand people's concerns.

I don't think there can be any justification for it," Mr Beanland told ABC radio.

West Australian Premier Richard Court said he had not planned to change the age of consent for homosexual sex which, at 21, was the nation's highest.

Tasmanian Attorney-General Ray Groom said he would examine the report and implement any recommendations which were relevant to Tasmania.

But a spokesman for Mr Groom said Parliament would have to consider any changes to the age of consent of 17 for heterosexuals and homosexuals in the State.

Homosexuality was legalised only recently.

In the Northern Territory, there was little interest in the report due to the focus on Saturday's election.

A spokesman for Chief Minister Shane Stone said there were "more important things to worry about than what a judge has found out about paedophiles in Sydney".

In NSW, the age of consent recommendation received little support from politicians but continued to be welcomed by the gay community and civil libertarians.

Speaking at Thredbo, Premier Bob Carr made clear that a lowering of the

homosexual age of consent to 16 would fail when it went to a conscience vote in parliament, and the Opposition had already ruled it out.

"I wouldn't get too excited about its prospects of passage in the parliament," he said.

The most scathing attack came from Christian Democrat Fred Nile who said any lowering of the age of consent would mean a "mouth-watering bonus for the homosexual-paedophile axis in Sydney".

"Instead of exposing and cracking down on child abuse, the Wood report wants to change the NSW law so that adult males can sodomise little boys to their lustful hearts' content," Reverend Nile said.

"The report is a whitewash, a disgrace and a monumental waste of \$70 million in taxpayers' funds."

The NSW Opposition made Community Services Minister Ron Dyer its target, claiming he was unfit to be minister responsible for the proposed Children's Commission.

The Australian Federal Police international division has warned Pacific nations to watch out for Australian paedophiles on the run as the net closes on child molesters.

Justice Wood said in his report that index of convicted paedophiles would be counterproductive unless all States and Territories participated.

He also recommended giving police power to warn communities of suspected or convicted paedophiles in their neighbourhoods.

The Australian Bureau of Criminal Intelligence is developing a national

database of convicted and suspected paedophiles, but the proposal has yet to be endorsed by the Police Ministers Council.

The nation's education ministers agreed in-principle in March to a national register of

teachers convicted or dismissed for child sexual assault.



**Title** Fourteen school officers face discipline on child sex reports.

**Author** ELLICOTT, JOHN

**Source** Australian ( 80 )

**Date Issue** 09/05/97

**Pages** 5

DISCIPLINARY charges have been laid against 14 NSW school officers - some of whom are teachers - for failure to notify or investigate child sexual abuse cases.

The NSW Minister for Education, Mr Aquilina, said the charges were laid after an inquiry by retired Supreme Court judge John Slattery which recommended action against 14 of 16 school employees he investigated.

Most of the officers have already been involved in the paedophile hearings before the Wood police royal commission.

The identities and positions of the officers have not been revealed but some of the people who gave evidence to the royal commission included regional inspectors and school principals.

Mr Aquilina told State Parliament that none of the charges related to allegations of sexual abuse by the officers.

"The departmental charges relate to failure to properly report or investigate such allegations," he said.

"My message to departmental personnel is this: if you protect paedophiles or fail to report suspected child abuse, your job is on the line." The NSW Teachers Federation said the minister's statement put an unfair slur on teachers, who were the main reporters of sexual abuse of children to authorities.

The federation's deputy president, Ms Sue Simpson, said the Government and the department should take some of the blame for cases of sexual abuse not being reported.

"We are extremely concerned that the minister in his statements in Parliament is continually emphasising the negative and punitive against teachers and ignoring the fact that teachers are the major notifiers of child abuse and sexual assault," Ms Simpson said.

"He continues to ignore the anxiety the whole profession is under at the moment because of the Wood royal commission.

"The department of school education has to accept responsibility for things that have happened, as does the Government," she said.

The Government removed 36 teachers from classrooms earlier this year because they were considered "high risk" following the paedophile investigation.

Mr Slattery then investigated another 106 files on teachers, many of whom were allowed to return to work under strict reporting procedures.

Another 30 files had been reopened for investigation.

Mr Slattery is yet to report on these cases to the Government.

The Government has not revealed Mr Slattery's terms of reference nor an earlier report by the chief of school education, Mr Ken Boston, which was handed to the Premier, Mr Carr.

Opposition education spokesman Mr Stephen O'Doherty said Mr Aquilina had the duty to account for the actions of his department and also be accountable to

Parliament on how the child sex claims were being investigated.

Mr O'Doherty also said the allegations had badly affected the whole teaching system in NSW and teachers were now unsure how they should conduct themselves in the playground as the new guidelines for teachers lacked detail.

He said the compulsory new training scheme for teachers to help them report child sex abuse had been a failure and, for most teachers, it had merely meant just a half-day seminar.

**Title** Cleared teachers' case a lesson to all.

**Author** Green, Glenis

**Source** Courier Mail ( 59 )

**Date Issue** 26/04/97

**Pages** 5

IT is hard not to feel sorry for Bevan Mahoney - but that's the last thing he wants, or needs.

His is the tragic, human face on the other side of the paedophilia- in-schools coin - tossed back into the spotlight this week.

Mr Mahoney, 55, was an accused teacher, wrongly as it turned out, but that did not stop his world being turned upside down.

Five years ago, he was a teacher and acting deputy principal at Pomona High School in the Sunshine Coast hinterland.

He had taught there for 18 of his 22 Education Department years - raising a son and daughter with his teacher wife Laraine.

But on November 12, 1993, two male students made false sexual abuse allegations against him and charges were laid two weeks later.

Mr Mahoney was cleared the next year in a District Court trial in Gympie but the legal and emotional rollercoaster took its toll.

Just like the hire vehicles he now washes part-time at Noosa's Sunshine

4WD Centre, some of the mud also stuck on Mr Mahoney.

He knows no matter what the court result or proof to the contrary, there will always be an element of doubt.

"Can you tell me you know for sure that I didn't do it?" he says.

"I'm the only one who really knows for sure."

Last year, Mr Mahoney turned the tables on his accusers - obtaining a civil damages judgment for malicious prosecution against one of the students who accused him.

Action is still pending against the other pupil, as well as legal action against the Queensland Police over the investigation into his case and the State of Queensland for malicious prosecution.

His family, friends, ex-students and many teachers have stuck by him.

"There but for the grace of God go I," read just one of the faxes Mr Mahoney received from a teaching friend.

He is angry about the incident but philosophical enough to realise it was a case of being "in the wrong place at the wrong time".

"It was the nature of the child who instigated it (the sexual abuse allegations).

He was a disaster waiting to happen to someone."

Mr Mahoney said children these days were socially smart, with an amazing awareness of their rights and possessing considerable legal nous.

His wife recently asked her primary class to write an essay on why they would like to remain eight years old.

"Her biggest problem kid wrote - 'because I can't be arrested'," Mr Mahoney said.

"Kids know what they're doing, but they don't realise the full implications.

The adults involved are more culpable."

Mr Mahoney feels his ordeal has partly helped those who will follow him - accused stood-down teachers are now paid until their cases are heard.

He was stood down without pay until his trial, and while he later received workers' compensation of \$36,000, he estimates his lost wages and superannuation would amount to more than \$300,000.

``It was a landmark case for several reasons.

First I was identified before I was even charged as a subject of allegations because it was such a small community.

Then I was identified with my name, address - even the colour of my socks - once I was charged."

Mr Mahoney said protecting children was still the most important issue but greater care and skill was needed in handling abuse allegations.

He said 3400 suspect teachers had been identified by the NSW Education Department - that meant at least two teachers were possible paedophiles in every reasonable-size school.

``I just don't believe it," he said.

**Title** 300 school staff banned in sex blitz.

**Author** HARRIS, TRUDY

**Source** Australian ( 80 )

**Date Issue** 12/04/97

**Pages** 7

MORE than 300 staff have been black-banned from NSW schools as the State Government cracks down on sex abuse in the education system in the wake of revelations in the police royal commission.

The NSW Teachers Federation attacked the Government after it introduced the crackdown this week.

It includes dossiers on teachers containing unsubstantiated allegations.

The federation deputy president, Ms Sue Simpson, said she was concerned the Education Minister, Mr Aquilina, was adopting "get-tough" and "knee-jerk" policies that could harm innocent teachers.

"There are varying degrees of misconduct which should have varying responses," Ms Simpson said.

"This is such a controversial and difficult issue.

We are not trying to increase community concern by making outrageous statements and neither should the minister."..

A computer database was also being developed on teachers with convictions, departmental charges and unproven allegations -accessed only by the Department of School Education's case management unit, which investigates teachers.

Civil liberties and teacher groups have expressed concern about the security of the database, given its potential for breaches of privacy.

But the unit's chief investigator, Ms Glenys Blackadder, said yesterday the database had

strict security with only the unit's nine investigators permitted access.

Extra investigators are expected to be employed as the number of teachers under investigation increases.

Ms Blackadder said teachers under investigation would not automatically be suspended from duty, given the varying degrees of misconduct.

Principals would be alerted to teachers on the database and the nature of the allegations would be explained, she said.

"This will be a discreet system obviously.

a student's concern about abuse will be treated with more concern than gossip at a PA (parents' association) meeting," Ms Blackadder said.

The crackdown follows an investigation by former Supreme Court judge Mr John Slattery into 106 cases of alleged teacher abuse of children.

Mr Slattery also investigated 16 departmental officers who may have failed to notify authorities about abuse allegations.

The Department of School Education has assembled a "not to be employed" list of 314 former education staff, about half of whom have been convicted of paedophile crimes.

The others have serious criminal convictions.

The list will be available to interstate education departments, alerting them to sex offenders who attempt to work across the border.

A spokesman for Mr Aquilina said teachers who moved frequently between schools would be monitored and principals alerted.

The royal commission heard evidence that teachers often transferred to other schools when allegations of sexual misconduct were raised.

Others were given glowing references or allowed to resign.

The federation has written to Mr Aquilina asking him to reveal some of Mr Slattery's recommendations and what he has discovered from his investigation.

"Is the minister wanting to appear tough on this issue with knee-jerk reactions or is he basing this on Slattery's recommendations?" Ms Simpson said

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**Title** New teachers to face police check.

**Author** KOCH, TONY ( 5542 )

**Source** Courier Mail ( 59 )

**Date Issue** 22/03/97

**Pages** 5

NEW Queensland teachers, including graduates who apply for registration to work, will have to agree to a police check for criminal records under Education Department proposals.

Board of Teacher Registration chairman John Dwyer said yesterday the initiative had been introduced to help protect Queensland's school children.

"The Wood royal commission has highlighted the fact that the education

community cannot afford to be complacent," he said.

"No teacher can get work in this state unless our board approves his or her registration.

To have that registration cancelled - as happens in cases where offences are proved - means there are no job openings in education."

Mr Dwyer said the board had rejected the proposal that all 69,000 teachers currently registered be subjected to police checks.

A check costs \$25.

"It would be impractical, an administrative and financial nightmare, and would impinge on the rights of innocent teachers," he said.

"We are also investigating the system of compulsory court checks adopted by the New Zealand Board of Teacher Registration as a model.

"In New Zealand, the courts must advise the Board of Teacher Registration of any offences which would render teachers unfit to teach."

A problem in dealing with teachers who are suspected or convicted of sexual assaults of students in Queensland has been the ability of a teacher previously to deregister voluntarily.

This has precluded the board from conducting further investigations and no adverse notation goes against the name of the teacher.

For instance, if that teacher moved interstate and applied for registration, no record would exist in Queensland that he had been dealt with for his criminal behaviour.

That loophole was closed through amendments introduced in Parliament last December.

The board now has the power to investigate a person up to 12 months after he or she leaves.

Last week's meeting of Australian education ministers resolved to share information on teachers suspected of paedophile activities - a move welcomed by Mr Dwyer.

"Information on teachers who have been disciplined by our board is available to employing authorities in other states and territories," he said.

A public register of all teachers in Queensland is maintained at the board's premises in Toowong.

Any prospective employer can, on the payment of \$1, inspect the register which will contain any notation of punitive action taken against a teacher.

Teachers are obliged to advise the board of any indictable convictions they incur and the board then meets, with appropriate legal assistance, and decides on the evidence if the conviction inhibits the fitness of the person to teach.

Any teacher called to a hearing can be accompanied by a legal representative, and December's amendments also allow the inquiries in some cases to be open to the public.

Mr Dwyer produced statistics which showed that since 1989 the registration of 17 teachers had been cancelled and one was suspended indefinitely after inquiries into cases of indecent dealing.

In that period, a further 10 cases were not proceeded with as teachers had allowed registration to lapse or had requested their names be removed from the register.

Five teachers also were cautioned after inquiries during which they were found guilty of misconduct.

The board's finding was that "their behaviour did not satisfy a standard of behaviour generally expected of a teacher".

At least another three teachers in the past 18 months were refused registration because the board was not satisfied they were "of good character".

All teachers are now required to disclose convictions, regardless of how long ago they occurred, in six categories. They are: offences of a sexual nature; offences against morality; offences against liberty; offences related to drugs misuse; assaults on females (abduction); offences relating to marriage and parental rights and duties.

The advice to teachers is that they are "not required to disclose any other criminal convictions".



**Title Paedophile teachers on national register.**

**Author EGAN, CARMEL**

**Source Courier Mail ( 59 )**

**Date Issue 15/03/97**

**Pages 3**

PAEDOPHILE teachers who prey on children in government schools will be listed on a national register, following a landmark agreement among education ministers yesterday.

Unprecedented co-operation between state and territory ministers also led to an historic agreement on national literacy standards and in-principle consensus on an Australia-wide immunisation programme.

State and territory education ministers unanimously supported the move to establish a sex offenders' file on teachers after evidence from the New

South Wales police royal commission last week.

Queensland Education Minister Bob Quinn had pressed the NSW Department of Education to identify the 136 teachers investigated by the commission, to prevent them obtaining teaching positions interstate.

All education ministers have now agreed to share information on paedophiles in schools and legislative changes will follow to ensure uniform legal definitions.

A taskforce has been established to identify urgently the required legislative changes in each state and to address issues of privacy.

"It will require legislative changes in each state because of issues of privacy and different laws covering these offences," Mr Quinn said.

"That is why we were unable to have a definitive game plan at this moment."

Mr Quinn said that the Department of Education dealt with a number of sexual abuse cases involving teachers and students every year.

"But it is important to remember the incidence is less in the school system than it is in the general public," Mr Quinn said.

"School is the safest place for children to be."

The information will be fed to the State Board of Teacher Registration, which will also liaise with the "sexual abuse in schools" taskforce.

But the agreement applies only to government schools and states will

have to reach their own agreements with non-government schools.

In addition to consensus on sexual abuse suspects, the ministers also decided that all Australian children would now be tested for literacy and numeracy skills in their first year of school.

The test will be applied in all schools - government-funded, Catholic and independent - and a national benchmark on literacy and numeracy is being developed.

But the agreement will have less impact in Queensland than in other states because of the pre-existing Year 2 net which monitors the progress of children from Year 1 to 2..

But Federal Education Minister David Kemp saw the move towards uniform national literacy as a breakthrough in Australian education.

"This is an historic agreement for the children of Australia," Dr Kemp said after the meeting in Melbourne.

"We simply cannot continue with the low level of literacy that so many children are bringing out of primary school into secondary school.

"For the first time since Federation we have a national agreement to address the issue of literacy in the early years of schooling where it must be addressed.

"That will have a very big effect on the quality of lives of thousands and thousands of young Australians and it will be an important step towards addressing some of the key social problems arising from unemployment among young people."

The states also have agreed that they will make the resources available for the professional development of teachers to ensure they are in a position to help students achieve the literacy goal.

Although all state and territory ministers agreed on the need for a national immunisation programme, details will not be addressed until their next meeting in July.

Australian Education Union federal president Sharan Burrow said it was disappointing that the ministers chose to invest scarce resources in increased literacy testing rather than providing support for the children most at risk.

"Both the parents and the profession have been bypassed and now, without any consultation, we see what has to be one of the most disappointing decisions ever for quality education," Ms Burrow said.

**Title** Rights demand respect all round.

**Author** HARRIS, TRUDY

**Source** Australian ( 80 )

**Date Issue** 08/03/97

**Pages** 5

CHILD abuse experts split yesterday over how to maintain the balance between protecting teachers from false accusations of sexual assault and harassment and minimising the risks to students.

A child abuse expert at Queensland University, Dr Janet Porter, warned against assuming allegations levelled at teachers were truthful, given the "current climate" of accusations and counter accusations of sexual abuse and harassment as well as misinterpretation of teachers' behaviour.

"There are occasions where students who may be unsure of themselves or wanting to get even with a teacher have made false allegations," she said.

But the president of the National Children's and Youth Law Centre, Mr Michael Antrum, said encouraging students to report sexual abuse against their more powerful teachers remained the primary concern.

The NSW Government this week called an inquiry into the files of more than 100 teachers still in the NSW school system who had been accused of sexual abuse, following sensational revelations at the royal commission into paedophilia.

The Premier, Mr Carr, has said cases under investigation range from placing a hand on a girl's arm while demonstrating a skill, to inappropriate sexual comments and intercourse.

Dr Porter said a national code of conduct would clarify the distinction between appropriate and inappropriate behaviour among teachers towards students.

Mr Antrum urged the introduction of a Children's Commissioner, allowing students to report abuse with the confidence that a thorough investigation would be carried out.

"If there was some form of effective children's advocacy, then there wouldn't be this crisis of cover-ups and children ignored in the first place," he said.

"It's no wonder we are seeing an avalanche of problems at the moment.

The spotlight has been focused and the old sores are coming into view."

He said students would be less fearful of approaching a Children's Commissioner, with a "street level" campaign educating students of the commissioner's role in protecting children's rights.

The call for a commissioner came as the Federation of Parents and Citizens Associations branded the Government's response to the crisis ad hoc, warning it could spark a "ludicrous witch hunt" against teachers.

The federation president, Ms Roslin Brennan, said the Government was creating hysteria in schools and warned the "sexual scale" could be "tipped the other way" with innocent teachers accused of heinous crimes.

The chairman of the NSW Privacy Committee, Mr Chris Puplick, said he was concerned about State and territory authorities exchanging information about teachers.

Teachers should be permitted to challenge the accuracy of any information alleging sexual misconduct, he said.