



Australian Capital Territory

ACT Teacher Quality Institute Act 2010

A2010-55

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *ACT Teacher Quality Institute Act 2010* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 4 October 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 4 October 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



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Australian Capital Territory

ACT Teacher Quality Institute Act 2010

An Act to establish the ACT Teacher Quality Institute, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *ACT Teacher Quality Institute Act 2010*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*non-government school*—see the *Education Act 2004*, dictionary.' means that the term 'non-government school' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 Purpose

The purpose of this Act is to—

- (a) uphold the standards of the teaching profession; and
- (b) protect students and the community by ensuring education in schools is provided in a professional and competent way by approved teachers; and
- (c) enhance the status of the teaching profession by recognising the professional learning and development of teachers throughout their careers; and
- (d) maintain community confidence in the teaching profession.

Part 2 Key concepts

7 Meaning of *teacher*

For this Act, *teacher* means a person who undertakes teaching.

8 Meaning of *teaching*

For this Act, *teaching* means carrying out duties that—

- (a) include—
 - (i) the delivery of education services in a school; or
 - (ii) the assessment of student participation in education services; or
 - (iii) the administration of education services; but
- (b) do not include duties of a kind carried out by a teacher's aide, a teacher's assistant or a pre-service teacher.

9 Meaning of *approved teacher*

For this Act, *approved teacher*—

- (a) means a person who is—
 - (i) a registered teacher; or
 - (ii) a permit-holder; but
- (b) does not include a person whose registration or permit to teach is suspended under this Act or a corresponding law.

Part 3 **ACT Teacher Quality Institute**

Division 3.1 **Establishment and functions of the institute**

Note The governance of territory authorities, including the ACT Teacher Quality Institute, is regulated by the *Financial Management Act 1996* (the *FMA*), pt 9 as well as the Act that establishes them.

The FMA, pt 9 deals, for example, with the corporate status of territory authorities and their powers, the make-up of governing boards, the responsibilities of the governing board and board members, how governing board positions can be ended, meetings of governing boards and conflicts of interest.

10 **Establishment of institute**

The ACT Teacher Quality Institute (the *institute*) is established.

11 **Functions of institute**

- (1) The institute has the following functions:
 - (a) to register, or grant permits to teach to, eligible people;
 - (b) to keep a register of, and records relating to, teachers working or intending to work in the ACT;
 - (c) to promote and encourage—
 - (i) the continuous professional learning and development of teachers; and
 - (ii) increased levels of skill, knowledge, expertise and professionalism of teachers;
 - (d) to determine standards for, and to facilitate, the professional learning and development of teachers;
 - (e) to develop and apply codes of practice about the professional conduct or practice of teachers;

- (f) to determine standards, including assessment and certification standards, for the teaching profession within a framework of nationally recognised professional standards;
 - (g) to accredit education programs for pre-service teachers and teachers;
 - (h) to monitor compliance with and enforce this Act.
- (2) The institute may exercise any other function given to it under this Act or another territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

12 Exercise of institute functions

The institute must comply with directions given to the institute under this Act or another territory law.

Note The Minister may give the institute directions under s 25.

13 Delegation by institute

The institute may delegate the institute's functions to—

- (a) the director-general; or
- (b) the chief executive officer; or
- (c) an institute board member; or
- (d) a committee of the institute board; or
- (e) an institute staff member; or
- (f) an entity prescribed by regulation.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

Division 3.2 Institute board

14 Establishment of institute board

The institute has a governing board (the *institute board*).

Note An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (7) (b)).

15 Institute board members

- (1) The institute board has at least 12, but not more than 14, members.
- (2) The institute board must include the following members:
 - (a) a chair;

Note The chair of the governing board must be appointed under the *Financial Management Act 1996*, s 79.
 - (b) the chief executive officer;

Note The chief executive officer is a member of the governing board (see *Financial Management Act 1996*, s 80 (4)).
 - (c) 1 member nominated by the director-general;
 - (d) 1 member nominated by the Association of Independent Schools of the ACT;
 - (e) 1 member nominated by the Archdiocese of Canberra and Goulburn Catholic Education Office;
 - (f) 1 member nominated by the Australian Education Union;
 - (g) 1 member nominated by the NSW/ACT Independent Education Union;
 - (h) 1 member nominated by the University of Canberra;
 - (i) 1 member nominated by the Australian Catholic University, ACT Campus;

- (j) 1 member to represent teachers and principals of government schools;
 - (k) 1 member to represent teachers and principals of non-government schools;
 - (l) 1 member to represent the community.
- (3) The chair of the institute board must not be a member mentioned in subsection (2) (b) to (l).
- (4) The Minister must appoint the members of the institute board other than the chief executive officer.
- Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.
- Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).
- Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).
- (5) However, the Minister may appoint a member mentioned in subsection (2) (l), only if satisfied that the person has qualifications and expertise relevant to the functions of the institute board.
- (6) The appointment of a member, other than the chief executive officer, must be for a term of not longer than 3 years.
- Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).
- (7) However, a member, other than the chief executive officer, must not be reappointed to the institute board within 3 years after the day the member's second term of appointment ends.
- (8) The conditions of appointment of the chair are the conditions agreed between the Minister and the chair, subject to any determination under the *Remuneration Tribunal Act 1995*.

- (9) The *Financial Management Act 1996*, section 78 (5) does not apply to the appointment of a member.
- (10) The chief executive officer is a non-voting member of the institute board.

Note The *Financial Management Act 1996*, s 95 (2) and s 96 (1) deal with non-voting members of governing boards.

16 No deputy chair

The Minister must not appoint a deputy chair for the institute board.

Note 1 This section ensures that a deputy chair cannot be appointed for the governing board under the *Financial Management Act 1996*, s 79 (1).

Note 2 The Minister may appoint an acting chair (see Legislation Act, s 209).

17 Chief executive officer of institute

The chief executive officer of the institute must be a public servant.

Note The chief executive officer must be appointed under the *Financial Management Act 1996*, s 80 (3).

18 Reimbursement for board members

- (1) A board member, other than the chair or chief executive officer, is not entitled to be paid for the exercise of the member's board functions.
- (2) However, the Territory must reimburse a board member for expenses reasonably incurred in the exercise of the member's board functions.

Division 3.3 Institute board committees

19 Establishment of committees

- (1) The institute board may establish committees to help the board to exercise its functions.
- (2) Without limiting subsection (1), the following committees may be established:
 - (a) corporate governance;
 - (b) accreditation;
 - (c) registration;
 - (d) standards and professional development;
 - (e) consultation and communications;
 - (f) professional practice.

20 Exercise of committee functions

- (1) The institute board may decide—
 - (a) how a committee is to exercise its functions; and
 - (b) the procedure to be followed for meetings of a committee, including—
 - (i) calling meetings; and
 - (ii) the number of committee members to be present at meetings (including requirements that particular members be present); and
 - (iii) the committee member who is to preside at meetings; and
 - (iv) how questions arising at a meeting are to be decided; and
 - (v) keeping minutes of meetings.

- (2) Subject to any decision of the institute board under subsection (1), a committee may decide its own procedures.

21 Membership of committees

- (1) A committee consists of the people appointed by the institute board.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) A committee may consist entirely or partly of institute board members.

22 Reimbursement for committee members

- (1) A committee member is not entitled to be paid for the exercise of the member's committee functions.
- (2) However, the Territory must reimburse a committee member for expenses reasonably incurred in the exercise of the member's committee functions.
- (3) In this section:

committee member includes a committee member who is also an institute board member.

Division 3.4 Institute staff and consultants

23 Institute staff

The institute's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, s 24 provides that the chief executive officer of a territory instrumentality has all the powers of a director-general under the Act in relation to the instrumentality staff to be employed under that Act (including, for example, in relation to the appointment of people to, or the employment of people for, that staff). Under that Act, dict, def *chief executive officer*, the chief executive officer of an instrumentality is the person who has responsibility for managing its affairs.

24 Institute consultants

- (1) The institute may engage consultants.
- (2) However, the institute must not enter into a contract of employment under this section.

Division 3.5 Miscellaneous

25 Ministerial directions

- (1) The Minister may give a direction to the institute about the exercise of its functions.
- (2) The Minister must not give a direction that relates to a particular teacher or a particular assessment about a teacher.
- (3) The institute must give effect to the direction.
- (4) A direction is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

26 Institute's annual report

A report prepared by the institute under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include—

- (a) a copy of any direction given under section 25 during the year; and
- (b) a statement by the institute about action taken during the year to give effect to any direction given (whether before or during the year) under this section; and

Note **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

- (c) the number of new approved teachers; and
- (d) the education programs available for the professional learning and development of teachers; and
- (e) the current assessment and certification standards that are required to be met by teachers; and
- (f) anything else prescribed by regulation.

Part 4 Registration and permits to teach

Division 4.1 Application—pt 4

27 Application—pt 4

- (1) This part does not apply to the following:
 - (a) a pre-service teacher;
 - (b) a parent providing home education for the parent's child;
 - (c) an unpaid volunteer, including a parent, assisting at a school;
 - (d) a teacher's aide;
 - (e) education assistants and support staff working at a school.
- (2) In this section:

home education—see the *Education Act 2004*, section 129.

Division 4.2 Offences—unapproved teachers

28 Offence—teaching in school without being an approved teacher

- (1) A person commits an offence if the person—
 - (a) teaches in a school; and
 - (b) is not an approved teacher.Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.

29 Offence—employing, engaging or allowing person who is not an approved teacher to teach in school

- (1) A person commits an offence if—
- (a) the person employs, engages or allows another person to teach in a school; and
 - (b) the other person is not an approved teacher.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

Division 4.3 Applications for registration and permits to teach

*Note about application of the Mutual Recognition Act 1992 (Cwlth) and the Trans-Tasman Mutual Recognition Act 1997 (Cwlth) (the **Commonwealth Acts**)*

The Commonwealth Acts allow people registered in certain occupations in the ACT, a State, the Northern Territory or New Zealand (a *corresponding jurisdiction*) to carry on the occupations in another corresponding jurisdiction and provide for registration in the other corresponding jurisdiction. Because of the Self-Government Act, s 28, the requirements for registration under this Act cannot validly require anything of people being registered in accordance with the Commonwealth Acts that would be inconsistent with those Acts. Accordingly, provisions of this part, such as the requirements for applications, do not apply to the registration of people in accordance with the Commonwealth Acts. Also, the Commonwealth Acts set out when conditions may be placed on people registered in accordance with those Acts.

30 Application for registration or permit to teach

- (1) A person may apply to the institute for any of the following:
- (a) full registration as a teacher;
 - (b) provisional registration as a teacher;

(c) a permit to teach.

Note 1 If a form is approved under s 96 for the application, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

(2) The application must include—

(a) the details prescribed by regulation; and

(b) the documents or information needed to satisfy the eligibility requirements for the application under section 32, section 33, section 34 or section 35.

Note Giving false or misleading information and producing false or misleading documents are offences against the Criminal Code, s 338 and s 339.

(3) The institute may, in writing, require the applicant to give the institute additional information that the institute reasonably needs to decide the application.

(4) If the applicant does not comply with a requirement under subsection (3) within 28 days after the day the request is made, the institute may, subject to section 31, refuse to consider the application further and the application will lapse.

31 Extension of time for meeting registration or permit to teach requirements

(1) An applicant for registration or a permit to teach, who is required to provide additional information to the institute under section 30 (3) may apply to the institute for an extension of time to give the information.

(2) The application must—

(a) be in writing; and

(b) state the reasons for the extension of time; and

- (c) state the additional time the applicant considers necessary to meet the registration or permit to teach requirements.
- (3) The institute may—
 - (a) grant an extension of time; or
 - (b) refuse to grant an extension of time.
- (4) If the institute refuses to grant an extension of time, the institute must notify the applicant in writing and inform the applicant that the institute may refuse to consider the application further if the information is not given within 28 days after the day the notice is given.
- (5) The application lapses—
 - (a) if the information is not given within the time granted under the extension; or
 - (b) if the extension is refused—28 days after the day the notice is given under subsection (4).

32 Eligibility for full registration

- (1) A person is eligible for full registration as a teacher if the institute is satisfied on reasonable grounds that—
 - (a) either—
 - (i) the person holds a teaching qualification prescribed by regulation for registration; or
 - (ii) the person's education, demonstrated abilities, experience, knowledge and skills establish that the person meets the requirements for professional practice prescribed by regulation for full registration; and
 - (b) in the 5-year period before the day the application is made the person taught for the period prescribed by regulation; and

- (c) the person has the oral and written English language communication requirements prescribed by regulation; and
- (d) if the person has lived in Australia—the person has supplied a police certificate; and
- (e) if the person has lived in another country as an adult for a continuous period of more than 1 year—the person has supplied a certified copy of the person’s criminal history record from that country; and
- (f) in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (d) or (e)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and
- (g) the person is an Australian or New Zealand citizen, has permanent resident status, or has a valid work visa allowing the person to work in Australia; and
- (h) if the person has provisional registration or a permit to teach that is subject to 1 or more conditions—the person has fulfilled each condition; and
- (i) the person meets any requirements prescribed by regulation for full registration; and

Examples

- 1 compliance with an approved code of practice
- 2 compliance with any nationally recognised standard of professional practice

Note An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (j) the person's registration or permit to teach has not been cancelled in the ACT or by a corresponding registering authority other than in accordance with a request by the person.

Note Under the *Mutual Recognition Act 1992* (Cwlth) and the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth) the institute may also fully register as teachers people who are fully registered, or otherwise authorised to teach in a State, the Northern Territory or New Zealand, if the teaching practices authorised are substantially the same.

- (2) The institute may waive the requirement under subsection (1) (e) if the institute is satisfied on reasonable grounds that the person—
- (a) has taken all reasonable steps to obtain a copy of the record; and
- (b) is unable to obtain the record.
- (3) However, a person who would be eligible under subsection (1) but for the cancellation of the person's registration or permit to teach, is eligible to be fully registered as a teacher if the institute is satisfied on reasonable grounds, after considering the reason for the cancellation and anything relevant that the person has done since the cancellation, that the person should be fully registered.
- (4) The institute may make guidelines about the registration of people under subsection (3).
- (5) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

33 Eligibility for provisional registration

- (1) A person is eligible for provisional registration as a teacher if the institute is satisfied on reasonable grounds that—
- (a) the person either—
 - (i) holds a teaching qualification prescribed by regulation for section 32 (1) (a) (i), but in the 5-year period before the day the application is made has not taught for the period prescribed by regulation for section 32 (1) (b); or
 - (ii) is progressing towards the qualification and the person's education, demonstrated abilities, experience, knowledge and skills establish that the person meets the requirements for professional practice prescribed by regulation for provisional registration; and
 - (b) the person has the oral and written English language communication requirements prescribed by regulation; and
 - (c) if the person has lived in Australia—the person has supplied a police certificate; and
 - (d) if the person has lived in another country as an adult for a continuous period of more than 1 year—the person has supplied a certified copy of the person's criminal history record from that country; and
 - (e) in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (c) or (d)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and

- (f) the person is an Australian or New Zealand citizen, has permanent resident status, or has a valid work visa allowing the person to work in Australia; and
- (g) if the person has a permit to teach that is subject to 1 or more conditions—the person has fulfilled each condition; and
- (h) the person meets any requirements prescribed by regulation for provisional registration; and
- (i) the person's registration or permit to teach has not been cancelled in the ACT or by a corresponding registering authority other than in accordance with a request by the person.

Note Under the *Mutual Recognition Act 1992* (Cwlth) and the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth) the institute may also provisionally register as teachers people who are provisionally registered, or otherwise authorised to teach in a State, the Northern Territory or New Zealand, if the teaching practices authorised are substantially the same.

- (2) The institute may waive the requirement under subsection (1) (d) if the institute is satisfied on reasonable grounds that the person—
 - (a) has taken all reasonable steps to obtain a copy of the record; and
 - (b) is unable to obtain the record.
- (3) However, a person who would be eligible under subsection (1) but for the cancellation of the person's registration or permit to teach, is eligible to be provisionally registered as a teacher if the institute is satisfied on reasonable grounds, after considering the reason for the cancellation and anything relevant that the person has done since the cancellation, that the person should be provisionally registered.
- (4) The institute may make guidelines about the registration of people under subsection (3).
- (5) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

34 Eligibility for permit to teach

A person is eligible for a permit to teach if the institute is satisfied on reasonable grounds that—

- (a) the person—
 - (i) has specialist knowledge, training, skills or qualifications, or has completed a teaching qualification that does not meet the eligibility requirements for full or provisional registration; and
 - (ii) has been offered a teaching position in a school where a suitable registered teacher is not available to fill the position and subject to the person obtaining a permit to teach; and
 - (iii) meets the additional requirements in section 35; or
- (b) the person—
 - (i) is progressing towards a qualification prescribed by regulation to become a teacher; and
 - (ii) is required to gain practical teaching experience in a school to achieve the qualification; and
 - (iii) has been offered a teaching position in a school subject to the person obtaining a permit to teach; and
 - (iv) meets the additional requirements in section 35.

35 Additional eligibility requirements for permits to teach

- (1) The institute must also be satisfied on reasonable grounds about the following in relation to a person applying for a permit to teach:
 - (a) that the person has the oral and written English language communication requirements prescribed by regulation;
 - (b) if the person has lived in Australia—the person has supplied a police certificate;

- (c) if the person has lived in another country as an adult for a continuous period of more than 1 year—the person has supplied a certified copy of the person’s criminal history record from that country;
- (d) that in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (b) or (c)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and
- (e) for a person to whom section 34 (1) (a) applies—that the person is an Australian or New Zealand citizen, has permanent resident status, or has a valid work visa allowing the person to work in Australia;
- (f) that the person meets any requirements prescribed by regulation for a permit to teach;
- (g) that the person’s permit to teach or registration has not been cancelled in the ACT or by a corresponding registering authority other than in accordance with a request by the person.

Note Under the *Mutual Recognition Act 1992* (Cwlth) and the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth) the institute may also grant permits to teach to people who hold permits to teach, or are otherwise authorised to teach in a State, the Northern Territory or New Zealand, if the teaching practices authorised are substantially the same.

- (2) The institute may waive the requirement under subsection (1) (c) if the institute is satisfied on reasonable grounds that the person—
 - (a) has taken all reasonable steps to obtain a copy of the record; and
 - (b) is unable to obtain the record.

- (3) However, a person who would be eligible under subsection (1) but for the cancellation of the person's permit to teach or registration, is eligible for a permit to teach if the institute is satisfied on reasonable grounds, after considering the reason for the cancellation and anything relevant that the person has done since the cancellation, that the person should be granted a permit to teach.
- (4) The institute may make guidelines about the granting of permits to teach under subsection (3).
- (5) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

35A Criminal history guidelines

- (1) The institute must make guidelines (*criminal history guidelines*) about how a person's police certificate and criminal history record is to be assessed in relation to an application for, or the renewal of, a registration or permit to teach under this Act.
- (2) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

35B Criminal history guidelines—assessment criteria

- (1) The criminal history guidelines must provide for the following to be taken into account in relation to any offence included in a person's police certificate or criminal history record:
 - (a) the nature, gravity and circumstances of the offence;
 - (b) the relevance of the offence in relation to the teaching profession and whether or not there is a high degree of direct connection between the offence and the inherent requirements of the profession;
 - (c) how long ago the offence was committed;
 - (d) the age of the person and the victim at the time of the offence;

- (e) whether the person's circumstances have changed since the offence was committed;
 - (f) the person's attitude to the offence;
 - (g) if the person has undergone a program of treatment or intervention for the offence—any assessment of the person following the program;
 - (h) if the offence was committed outside Australia—whether the offence is an offence in Australia;
 - (i) the number of offences committed;
 - (j) any submission made by the person to the institute under subsection (2) (a).
- (2) The criminal history guidelines must provide that—
- (a) a person may make submissions to the institute in relation to any matter under subsection (1) (a) to (i) that the institute must take into account in assessing the person's police certificate or criminal history record; and
 - (b) the institute must not take into account any information about a person unless satisfied on reasonable grounds that the information is accurate.

36 Decision on registration or permit to teach application

- (1) On application by a person for full registration, provisional registration or a permit to teach, the institute must—
- (a) if the person is eligible for full registration—fully register the person; or
 - (b) if the person is eligible for provisional registration—provisionally register the person; or
 - (c) if the person is eligible for a permit to teach—grant the person a permit to teach; or

- (d) if the person is not eligible for full registration, provisional registration or a permit to teach—refuse to register the person or grant a permit to teach.
- (2) The institute may provisionally register a person who applies for full registration if the person—
 - (a) is not eligible for full registration; but
 - (b) is eligible for provisional registration.
- (3) The institute may grant a permit to teach to a person who applies for registration if the person—
 - (a) is not eligible for registration; but
 - (b) is eligible for a permit to teach.
- (4) However, the institute may refuse an application, or decide an application under subsection (2) or (3), only if—
 - (a) the institute has given the person written notice of the proposed refusal or decision; and
 - (b) the notice states—
 - (i) the reasons for the proposed refusal or decision; and
 - (ii) that written comments on the proposed refusal or decision, may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the person; and
 - (c) the institute has considered any comments made by the person before the end of the stated period.
- (5) The institute must, as soon as practicable—
 - (a) if the institute decides not to register a person or grant a permit to teach—refund the fee, if any, paid by the person; or

- (b) if the institute provisionally registers a person who applied for full registration—refund the amount of the fee paid by the person that exceeds the fee for provisional registration; or
- (c) if the institute grants a permit to teach to a person who applied for registration—refund the amount of the fee paid by the person that exceeds the fee for registration.

37 Extension of period for decision on registration or permit to teach application

- (1) On written application by a person, the institute may extend the period mentioned in section 36 (4) (b) (ii).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (2) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the person's circumstances.

Examples—when period may be extended

- 1 a person did not receive a notice under s 36 (4) (a) because the person was unexpectedly hospitalised
- 2 a person needs more than 14 days to obtain information or documents to support the person's written comments because the information or documents are from interstate or a foreign country

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The institute must tell the person in writing of the decision under subsection (1) and—

- (a) if the institute extends the period—the extended period; or

- (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the person a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
(b) refuse to extend the period (see s 89).

38 Conditions of registration and permit to teach

- (1) It is a condition of an approved teacher's registration or permit to teach that the teacher—
- (a) undertakes continuing professional development in accordance with any directions given under subsection (2); and
- (b) complies with an approved code of practice under section 59, relating to professional conduct, as stated on the registration or permit to teach.
- (2) The institute may give directions about continuing professional development for approved teachers.
- (3) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (4) The institute may impose additional conditions on the registration or permit to teach if the institute is satisfied the conditions are necessary to ensure the approved teacher meets the eligibility requirements under section 32 (Eligibility for full registration), section 33 (Eligibility for provisional registration), section 34 (Eligibility for permit to teach) or section 35 (Additional eligibility requirements for permits to teach).

Examples—additional conditions the institute might impose

- requiring the teacher to complete a course or an additional qualification
- requiring the supervision of the teacher
- requiring an applicant for provisional registration to attain the eligibility requirements necessary to apply for full registration within a stated period

- restricting the subjects the teacher can teach

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) However, the institute may impose an additional condition, only if—
- (a) the institute has given the teacher written notice of the proposed additional condition; and
 - (b) the notice states—
 - (i) the reasons for the proposed additional condition; and
 - (ii) that written comments on the proposed additional condition may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the teacher; and
 - (c) the institute has considered any comments made by the teacher before the end of the stated period.
- (6) The institute may make guidelines for imposing additional conditions on a registration or permit to teach.
- (7) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

39 Extension of period for decision on additional condition

- (1) On written application by an approved teacher, the institute may extend the period mentioned in section 38 (5) (b) (ii).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (2) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the teacher's circumstances.

Examples—when period may be extended

- 1 a teacher did not receive a notice under s 38 (5) (a) because the teacher was unexpectedly hospitalised
- 2 a teacher needs more than 14 days to obtain information or documents to support the teacher's written comments because the information or documents are from interstate or a foreign country

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The institute must tell the teacher in writing of the decision under subsection (1) and—
- (a) if the institute extends the period—the extended period; or
 - (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the teacher a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
- (b) refuse to extend the period (see s 89).

40 Registration and permit to teach certificates and cards

- (1) If the institute registers a person, or renews a person's registration, the institute must give the person—
- (a) a certificate of registration (a **registration certificate**); and
 - (b) a card (a **registration card**), signed by the institute, that states—
 - (i) the person's name; and
 - (ii) the date the registration starts; and
 - (iii) the date the registration expires; and

- (iv) the person's unique registration number (a *registration number*); and
 - (v) the type of registration; and
 - (vi) any conditions of registration.
- (2) If the institute grants a permit to teach to a person, or renews a person's permit to teach, the institute must give the person—
- (a) a permit to teach certificate (a *permit certificate*); and
 - (b) a card (a *permit card*), signed by the institute, that states—
 - (i) the person's name; and
 - (ii) the date the permit to teach starts; and
 - (iii) the date the permit to teach expires; and
 - (iv) the school, or schools, at which the person is permitted to teach; and
 - (v) any conditions of the permit to teach.

41 Lost, stolen or damaged certificates and cards

- (1) This section applies if a registration certificate, registration card, permit certificate or permit card given to a person is lost, stolen or damaged.
- (2) The person may apply to the institute for a replacement certificate or card.

Note 1 If a form is approved under s 96 for this provision, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

- (3) The application must be accompanied by a statutory declaration made by the applicant setting out the circumstances in which the certificate or card was lost, stolen or damaged.

(4) If a person applies for a replacement certificate or card, the institute must—

- (a) replace the certificate or card; or
- (b) refuse to replace the certificate or card.

Note The institute must give the person a reviewable decision notice in relation to the decision to refuse to replace the certificate or card (see s 89).

(5) The institute must replace the certificate or card if satisfied that—

- (a) the person held a registration certificate, registration card, permit certificate or permit card; and
- (b) the certificate or card is lost, stolen or damaged.

Division 4.4 Register of teachers

42 Keeping teachers register

- (1) The institute must keep a register (a *teachers register*) of teachers.
- (2) The teachers register may be kept in any form, including electronically.

Example

1 or more computer databases

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The institute must not disclose any information in the teachers register to anyone else except in accordance with this Act or another law in force in the ACT.

Note The Information Privacy Principles apply to the institute (see *Privacy Act 1988* (Cwlth), s 14 to s 16). The Principles deal with the collection, storage and exchange of personal information.

- (4) The following information in the teachers register must be made available to a teacher's employer or prospective employer on request:
- (a) whether a teacher holds full registration, provisional registration or a permit to teach;
 - (b) any conditions that apply to the teacher's registration or permit to teach;
 - (c) whether the teacher's registration or permit to teach is suspended or cancelled.
- (5) The institute may make information in the teachers register, about whether a teacher holds full registration, provisional registration or a permit to teach, available to someone else on request.
- (6) The institute must not make available the grounds for suspension or cancellation of a teacher's registration or permit to teach under subsection (4) (c).
- (7) Any mistake, error or omission in the teachers register must be corrected.

Note It is an offence to divulge protected information such as the information on the teachers register unless authorised by law (see s 92).

43 Details to be entered in teachers register

- (1) The following details must be entered in the teachers register in relation to a teacher:
- (a) the teacher's name and any former names;
 - (b) the address of each place (a *registered school address*) where the teacher teaches;
 - (c) the teacher's home address, preferred contact address and email address;
 - (d) the teacher's date of birth;

- (e) the teacher's gender;
 - (f) whether the teacher identifies as an indigenous person;
 - (g) whether the teacher holds full registration, provisional registration or a permit to teach;
 - (h) the teacher's registration number;
 - (i) the date of registration or a permit to teach;
 - (j) the period of registration or a permit to teach;
 - (k) details of any qualifications and experience relied on by the teacher to obtain registration or a permit to teach;
 - (l) any conditions of registration or a permit to teach;
 - (m) if the teacher's registration or permit to teach has been suspended—
 - (i) the day the suspension took effect; and
 - (ii) the grounds for suspension; and
 - (iii) the period of suspension;
 - (n) if the teacher's registration or permit to teach has been cancelled—
 - (i) the day the cancellation took effect; and
 - (ii) the grounds for cancellation;
 - (o) any other details prescribed by regulation.
- (2) In this section:

indigenous person means a descendant of the Aboriginal race of Australia or people who are descendants of indigenous inhabitants of the Torres Strait Islands.

44 Register information may be shared

Information in the register, including information that is not available to the public, may be given to a corresponding registering authority to assist in the regulation of teachers in the authority's corresponding jurisdiction.

Note Section 66 deals with information that the institute must give to a corresponding registering authority about suspension or cancellation action.

45 Changes to teachers register

- (1) A teacher must tell the institute about a change of the teacher's name or address as soon as practicable but not later than 21 days after the change happens.
- (2) If a teacher tells the institute about a change of name or address under this section, the change must be entered in the teacher's register.
- (3) If a person's registration or permit to teach ends, details of the person's registration or permit to teach must be removed from the teachers register.

Note For when a person's registration or permit to teach ends, see s 58.

- (4) However, nothing in this section prevents the institute keeping a record of—
 - (a) a previous name or address under subsection (2); or
 - (b) details about registration or permits to teach removed from the register under subsection (3).
- (5) In this section:

address means home address, registered school address, preferred contact address and email address.

46 Teacher may correct teachers register

- (1) The institute must, if asked by a teacher, give the teacher a copy of all the information held in the teachers register in relation to the teacher.
- (2) The institute must comply with subsection (1) as soon as practicable, but not later than 14 days after the day the institute was asked.
- (3) A teacher may ask the institute to amend any incorrect information held in the teachers register in relation to the teacher.
- (4) The institute must comply with the request if satisfied that the information is incorrect.

Division 4.5 Term of registration or permits to teach

47 Term of full registration

- (1) A full registration—
 - (a) is issued for 1 year; and
 - (b) starts on the day the registration is granted.
- (2) A full registration may be renewed annually.

48 Term of provisional registration

- (1) A provisional registration—
 - (a) is issued for a period prescribed by regulation; and
 - (b) starts on the day when the registration is granted.

- (2) A provisional registration may, in exceptional circumstances, be renewed for a further period prescribed by regulation.

Examples—exceptional circumstances

due to maternity leave, severe illness or other personal reasons a teacher is not able to gain the requisite teaching experience to achieve full registration within the prescribed period

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

49 Term of permit to teach

- (1) A permit to teach—
- (a) is granted for a period prescribed by regulation; and
 - (b) starts on the day stated in the permit to teach.
- (2) A permit to teach may be renewed for a further period prescribed by regulation.

Division 4.6 Renewal of registration and permits to teach

50 Notice of renewal for registration or permit to teach

- (1) If the institute fails to send a notice of renewal for a registration or permit to teach, or an approved teacher does not receive the notice, the failure or nonreceipt does not affect—
- (a) the expiry of the registration or permit to teach; or
 - (b) the requirements for renewal of the registration or permit to teach.

- (2) In this section:

notice of renewal, for a registration or permit to teach, means a notice addressed to an approved teacher stating that the registration or permit to teach will expire if the teacher does not renew the registration or permit to teach on or before the date stated in the notice.

51 Renewal of registration

- (1) A registered teacher may apply, in writing, to the institute not later than the day the teacher's registration expires to renew the registration.

Note 1 If a form is approved under s 96 for this provision, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

- (2) The institute may, in writing, require the teacher to give the institute additional information or documents that the institute reasonably needs to decide the application.

Note Giving false or misleading information and producing false or misleading documents are offences against the Criminal Code, s 338 and s 339.

- (3) If the teacher does not comply with a requirement under subsection (2), the institute may refuse to consider the application further.

- (4) On application to renew a registration, the institute must—

- (a) renew the registration; or
- (b) refuse to renew the registration.

- (5) The institute must renew the registration if satisfied—

- (a) for the renewal of—
 - (i) a full registration—that the teacher is eligible for full registration; or

- (ii) a provisional registration—that the teacher is eligible for provisional registration; and
- (b) that the teacher is complying with any condition of the registration; and
- (c) that the teacher has undertaken any further professional education or development requirements prescribed by regulation; and
- (d) that—
 - (i) in the 5-year period before the renewal, the teacher has supplied a police certificate or, if applicable, a certified copy of the teacher’s criminal history record; and
 - (ii) in relation to any conviction mentioned in the certificate or criminal history record—
 - (A) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (B) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.
- (6) However, the institute may refuse to renew the registration, only if—
 - (a) the institute has given the teacher written notice of the proposed refusal; and
 - (b) the notice states—
 - (i) the reasons for the proposed refusal; and

- (ii) that written comments on the proposed refusal may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the teacher; and

Note The teacher may apply for an extension of the period (see s 55).

- (c) the institute has considered any comments made by the teacher before the end of the stated period.
- (7) If a teacher applies to renew a registration under this section, the registration remains in force until the application is decided.
- (8) A renewed registration is effective from the expiry day of the registration held immediately before renewal.
- (9) A teacher who does not apply for renewal of the teacher's registration under subsection (1) is not entitled to apply for the renewal of the registration but may apply for registration under section 30.
- (10) If the institute decides not to renew a teacher's registration, the institute must as soon as practicable refund the fee, if any, paid by the teacher.

52 Renewal of registration with conditions

- (1) The institute may renew a registration with conditions if the institute is satisfied the conditions are necessary to ensure the teacher meets the eligibility requirements under section 32 (Eligibility for full registration) or section 33 (Eligibility for provisional registration).

Examples—additional conditions the institute might impose

- requiring the teacher to complete a course or an additional qualification

- requiring a teacher renewing provisional registration to attain the eligibility requirements necessary to apply for full registration within a stated period

Note 1 The institute may also impose, amend or remove a condition under s 56 (Amendment of registration or permit to teach on institute's initiative) and s 57 (Amendment of registration or permit to teach on application).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, the institute may impose a condition, only if—
- (a) the institute has given the teacher written notice of the proposed condition; and
 - (b) the notice states—
 - (i) the reasons for the proposed condition; and
 - (ii) that written comments on the proposed condition may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the teacher; and
 - (c) the institute has considered any comments made by the teacher before the end of the stated period.
- (3) The institute may make guidelines for imposing conditions on a renewal of registration.
- (4) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

53 Renewal of permits to teach

- (1) A permit-holder may apply, in writing, to the institute not later than the day the permit-holder's permit to teach expires to renew the permit to teach.

Note 1 If a form is approved under s 96 for this provision, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

- (2) The institute may, in writing, require the permit-holder to give the institute additional information or documents that the institute reasonably needs to decide the application.

Note Giving false or misleading information and producing false or misleading documents are offences against the Criminal Code, s 338 and s 339.

- (3) If the permit-holder does not comply with a requirement under subsection (2), the institute may refuse to consider the application further.

- (4) On application to renew a permit to teach, the institute must—

- (a) renew the permit to teach; or
- (b) refuse to renew the permit to teach.

- (5) The institute must renew the permit to teach if satisfied—

- (a) that the permit-holder is eligible for a permit to teach; and
- (b) that the permit-holder is complying with any condition of the permit to teach; and
- (c) that the permit-holder has undertaken any further professional education or development requirements prescribed by regulation; and

- (d) that—
- (i) in the 5-year period before the renewal, the permit-holder has supplied a police certificate or, if applicable, a certified copy of the permit-holder's criminal history record; and
 - (ii) in relation to any conviction mentioned in the certificate or criminal history record—
 - (A) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (B) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.
- (6) However, the institute may refuse to renew the permit to teach, only if—
- (a) the institute has given the permit-holder written notice of the proposed refusal; and
 - (b) the notice states—
 - (i) the reasons for the proposed refusal; and
 - (ii) that written comments on the proposed refusal may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the permit-holder; and
- Note* The permit-holder may apply for an extension of the period (see s 55).
- (c) the institute has considered any comments made by the permit-holder before the end of the stated period.
- (7) If an applicant applies to renew a permit to teach under this section, the permit to teach remains in force until the application is decided.

- (8) A permit to teach that is renewed is effective from the expiry day of the permit to teach held immediately before renewal.
- (9) A permit-holder who does not apply for renewal of a permit to teach under subsection (1) is not entitled to apply for the renewal of the permit but may apply for a permit to teach under section 30.
- (10) If the institute decides not to renew a person's permit to teach, the institute must as soon as practicable refund the fee, if any, paid by the applicant.

54 Renewal of permits to teach with conditions

- (1) The institute may renew a permit to teach with conditions if the institute is satisfied the conditions are necessary to ensure the permit-holder meets the eligibility requirements under section 32 (Eligibility for full registration) or section 33 (Eligibility for provisional registration) or section 34 (Eligibility for permit to teach) or section 35 (Additional eligibility requirements for permits to teach).

Example—conditions the institute might impose

- requiring the permit-holder to complete a course or an additional qualification
- requiring the permit-holder to attain the eligibility requirements necessary to apply for provisional or full registration within a stated period
- restricting the subjects the permit-holder can teach

Note 1 The institute may also impose, amend or remove a condition under s 56 (Amendment of registration or permit to teach on institute's initiative) and s 57 (Amendment of registration or permit to teach on application).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, the institute may impose a condition, only if—
 - (a) the institute has given the permit-holder written notice of the proposed condition; and

- (b) the notice states—
- (i) the reasons for the proposed condition; and
 - (ii) that written comments on the proposed condition may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the teacher; and

Note The permit-holder may apply for an extension of the period (see s 55).

- (c) the institute has considered any comments made by the permit-holder before the end of the stated period.

- (3) The institute may make guidelines for imposing conditions on a renewal of a permit to teach.

- (4) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

55 Extension of period for decision on renewal of registration or permit to teach or imposition of condition

- (1) This section applies if a person seeks an extension of a period mentioned in the following sections to provide written comments:
- (a) section 51 (6) (b) (ii) (Renewal of registration);
 - (b) section 52 (2) (b) (ii) (Renewal of registration with conditions);
 - (c) section 53 (6) (b) (ii) (Renewal of permits to teach);
 - (d) section 54 (2) (b) (ii) (Renewal of permits to teach with conditions).

- (2) On written application by a person, the institute may extend the period mentioned in the section.

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (3) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the person's circumstances.

Examples—when period may be extended

- 1 a person did not receive the written notice under the relevant section because the person was unexpectedly hospitalised
- 2 a person needs more than 14 days to obtain information or documents to support the person's written comments because the information or documents are from interstate or a foreign country

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) The institute must tell the person in writing of the decision under subsection (2) and—
- (a) if the institute extends the period—the extended period; or
 - (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the person a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
- (b) refuse to extend the period (see s 89).

Division 4.7 Amendment and end of registration and permits to teach

56 Amendment of registration or permit to teach on institute's initiative

- (1) The institute may, at any time on the institute's own initiative, amend an approved teacher's registration or permit to teach, including by imposing, amending or removing a condition, other than a condition mentioned in section 38 (1) (Conditions of registration and permits to teach).

- (2) However, the institute may amend a registration or permit to teach only if—
- (a) the institute has given the teacher written notice of the proposed amendment; and
 - (b) the notice states—
 - (i) the reasons for the proposed amendment; and
 - (ii) that written comments on the proposal may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the teacher; and
 - (c) the institute has considered any comments made before the end of the stated period.
- (3) On written application by the teacher, the institute may extend the period mentioned in subsection (2) (b) (ii).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (4) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the teacher's circumstances.

Examples—when period may be extended

- 1 a teacher did not receive the written notice under the relevant section because the teacher was unexpectedly hospitalised
- 2 a teacher needs more than 14 days to obtain information or documents to support the teacher's written comments because the information or documents are from interstate or a foreign country

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) The institute must tell the teacher in writing of a decision under subsection (3) and—
- (a) if the institute extends the period—the extended period; or
 - (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the teacher a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
 - (b) refuse to extend the period (see s 89).
- (6) The institute may make guidelines for amending a registration or permit to teach.
- (7) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

57 Amendment of registration or permit to teach on application

- (1) An approved teacher may apply to the institute to amend the teacher's registration or permit to teach, including by amending or removing a condition, other than a condition mentioned in section 38 (1).

Note 1 If a form is approved under s 96 for an application, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

- (2) The institute may, in writing, require the applicant to give the institute additional information or documents that the institute reasonably needs to decide the application.

Note Giving false or misleading information and producing false or misleading documents are offences against the Criminal Code, s 338 and s 339.

- (3) If the applicant does not comply with a requirement under subsection (2), the institute may refuse to consider the application further.
- (4) On application by an approved teacher to amend a registration or permit to teach the institute must—
- (a) amend the registration or permit to teach in the way applied for; or
 - (b) refuse to amend the registration or permit to teach.
- (5) In deciding whether to amend the registration or permit to teach, the institute may consider anything the institute may consider in relation to an application for a registration or permit to teach.

58 End of registration or permit to teach

A person's registration or permit to teach ends—

- (a) if the registration or permit to teach is not renewed—on the day the registration or permit to teach expires; or
- (b) if the registration or permit to teach is cancelled—on the day the cancellation takes effect; or

Note A registration or permit to teach may be cancelled under the following sections:

- s 65 (1) (Suspending or cancelling registration or permit to teach)
- s 68 (Voluntary cancellation of registration or permit to teach)
- s 69 (Inquiries about registered addresses).

(c) if the person dies.

Note If a person's registration or permit to teach is suspended or cancelled in another State, the person's registration or permit to teach in the ACT may be affected in the same way (see *Mutual Recognition Act 1992* (Cwlth), s 33).

Part 5 Codes of practice

59 Codes of practice

- (1) The Minister may approve a code of practice (an *approved code of practice*) to provide guidance about appropriate professional conduct or practice for the teaching profession.

Note Power given under an Act to make a statutory instrument (including a code of practice) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

- (2) Before approving a proposed code of practice, the Minister must consult the institute.
- (3) An approved code of practice may consist of a code, standard, rule, specification or provision relating to the practice of teaching and may apply, adopt or incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.

Note A statutory instrument may also apply, adopt or incorporate (with or without change) a law or instrument (or a provision of a law or instrument) as in force at a particular time (see Legislation Act, s 47 (1)).

- (4) An approved code of practice is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Note 2 An amendment or repeal of an approved code of practice is also a disallowable instrument (see Legislation Act, s 46 (2)).

60 Notice of code approvals

- (1) The institute must publish in a newspaper circulating in the ACT a notice of each approval of a code under section 59 (1) that—
 - (a) states the date when the approval takes effect; and
 - (b) states the place where copies of the code to which the approval relates may be purchased; and

- (c) contains a statement to the effect that an up-to-date copy of each approved code, and any document the provisions of which are applied, adopted or incorporated in an approved code, may be inspected by members of the public during normal business hours at the office of an administrative unit administered by the director-general.
- (2) The director-general must, at all times, ensure that an up-to-date copy of each approved code of practice, and any document the provisions of which are applied, adopted or incorporated in an approved code are available for inspection by members of the public during normal business hours at the office of an administrative unit administered by the director-general.

61 Approved code of practice may be considered

In deciding whether a person has met an appropriate standard of professional conduct or practice under this Act, the institute may consider whether a person has complied with any approved code of practice in relation to the conduct or practice.

62 Relationship of Act with approved codes of practice

- (1) An approved code of practice has no effect to the extent that it is inconsistent with the Act.
- (2) However, an approved code of practice is taken to be consistent with the Act to the extent that it can operate concurrently with the Act.

Note 1 For the approval of codes of practice, see s 59.

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

Part 6 **Regulatory action**

Division 6.1 **Suspension or cancellation of registration or permits to teach**

63 **Grounds for suspending or cancelling registration or permits to teach**

The institute may suspend or cancel a person's registration or permit to teach if—

- (a) the person—
 - (i) contravenes a condition of the person's registration or permit to teach; or
 - (ii) has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher; and
- (b) the institute believes on reasonable grounds that suspension or cancellation is necessary for this Act.

Note The institute's decision to suspend or cancel a person's registration or permit to teach is reviewable (see s 88).

64 **Notice of proposed suspension or cancellation of registration or permits to teach**

- (1) The institute must give written notice to a person of an intention to suspend or cancel the person's registration or permit to teach.
- (2) The notice must—
 - (a) set out the ground for suspension or cancellation; and

- (b) state that the person may, within 14 days after the day the institute gives the person the notice, give reasons why the person considers that the registration or permit to teach should not be suspended or cancelled.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (3) On written application by the person, the institute may extend the period mentioned in subsection (2) (b).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (4) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the person's circumstances.

- (5) The institute must tell the person in writing of a decision under subsection (3) and—

- (a) if the institute extends the period—the extended period; or
(b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the person a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
(b) refuse to extend the period (see s 89).

65 Suspending or cancelling registration or permit to teach

- (1) The institute must suspend or cancel a person's registration or permit to teach if the institute—
- (a) has given written notice to the person of an intention to suspend or cancel the registration or permit to teach; and
- (b) has considered any reasons given by the person in accordance with the notice; and

- (c) is satisfied that the ground for suspension or cancellation under section 63 exists.

Note The institute's decision to suspend or cancel a person's registration or permit to teach is reviewable (see s 88).

- (2) The institute must—

- (a) tell the person in writing—

- (i) that the person's registration or permit to teach is suspended or cancelled; and
- (ii) the ground for suspension or cancellation; and
- (iii) if the registration or permit to teach is suspended—the period of suspension; and

Note The institute must also give the person a reviewable decision notice in relation to the decision to suspend or cancel the person's registration or permit to teach (see s 89).

- (b) tell the person's employer (if any) in writing that the person's registration or permit to teach is suspended or cancelled.

- (3) For subsection (2) (b), the institute must not tell the person's employer the ground for suspension or cancellation.

- (4) The suspension or cancellation takes effect—

- (a) on the day after the day the institute tells the person in writing that the person's registration or permit to teach is suspended or cancelled; or
- (b) if a later date is stated in the notice of suspension or cancellation—the later date.

66 Giving corresponding registering authorities information about suspension or cancellation action

- (1) This section applies if the institute suspends or cancels a person's registration or permit to teach.
- (2) The institute must give each corresponding registering authority the following information in relation to the person:
 - (a) the name and any other identifying details of the person;
 - (b) a short description of the ground for suspension or cancellation;
 - (c) if the registration or permit to teach is suspended—the period of suspension;
 - (d) when the suspension or cancellation takes effect.
- (3) This section does not limit any other requirement or power, under this Act or another law in force in the ACT, to give information to a corresponding registering authority.

67 Employer's obligation to notify institute about teacher

The employer of an approved teacher must notify the institute if—

- (a) the employer has reasonable grounds for believing the teacher has—
 - (i) contravened a condition of the teacher's registration or permit to teach; or
 - (ii) become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher; or
- (b) disciplinary action is being taken against the teacher under the terms of the teacher's employment.

Division 6.2 Other regulatory action

68 Voluntary cancellation of registration or permit to teach

The institute must cancel an approved teacher's registration or permit to teach if the teacher asks, in writing, for the cancellation and—

- (a) either—
 - (i) returns to the institute—
 - (A) the teacher's registration certificate and registration card; or
 - (B) the teacher's permit certificate and permit card; or
 - (ii) satisfies the institute that the certificate or card, has been lost, stolen or destroyed; and

Example—subpar (ii)

by a statutory declaration setting out the circumstances

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) the institute has no ground for believing that the teacher has contravened, or is contravening, this Act.

69 Inquiries about registered addresses

- (1) The institute may, by written notice, ask a person—
 - (a) if the person's address in the teachers register is correct; and
 - (b) for a person without a registered school address—if the person has a school address.
- (2) A notice under subsection (1) must state the consequences under subsection (3) of failing to respond to the notice.

- (3) If the institute does not receive an answer to a notice sent to a person under subsection (1) within 2 months after the day the notice is sent to the person, the institute may cancel the person's registration or permit to teach.

70 Return of registration or permit certificates and cards on amendment, suspension or cancellation

- (1) This section applies to a person whose registration or permit to teach is amended, suspended or cancelled.
- (2) The institute may give the person a written notice requiring the person to return to the institute, within a stated period of not less than 14 days after the day the person is given the notice—
- (a) the person's registration certificate and registration card, or
 - (b) the person's permit certificate and permit card.

- (3) The person must comply with the notice.

Maximum penalty: 5 penalty units.

- (4) Subsection (3) does not apply to a person if the person's certificate or card has been—
- (a) lost or stolen; or
 - (b) destroyed by someone else.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

- (5) An offence against this section is a strict liability offence.
- (6) The institute must return the registration certificate, registration card, permit certificate or permit card to the person—
- (a) if the registration or permit certificate is amended—after amending it; or

- (b) if the registration or permit certificate is suspended and is still current at the end of the suspension period—at the end of the suspension period.

Part 7 Accreditation—education programs

Division 7.1 Register of accredited education programs

71 Education programs register

- (1) The institute must keep a register of education programs (an *education programs register*).
- (2) The institute must enter in the education programs register details of the following:
 - (a) programs that the institute accredits;
 - (b) programs that the institute suspends or cancels;
 - (c) anything else decided by the institute in relation to education programs.
- (3) The education programs register—
 - (a) may be kept in any form, including electronically; and
 - (b) must be made available to the public.

Example—par (a)

1 or more computer databases

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) However, subsection (3) (b) does not apply to details in the education programs register about anything prescribed by regulation.
- (5) Any mistake, error or omission in the education programs register must be corrected.

Division 7.2 Accreditation of education programs

72 Institute may initiate accreditation of education program

- (1) The institute may, on its own initiative, accredit an education program.
- (2) In deciding whether to accredit an education program, the institute must comply with section 76 (Criteria for accreditation of education programs).
- (3) The institute may accredit a program on conditions.

73 Applying for accreditation

- (1) An education provider may apply to the institute for accreditation of an education program.

Note 1 If a form is approved under s 96 for an application, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

- (2) The applicant must give the institute any information required by it to decide the application.

Note Giving false or misleading information and producing false or misleading documents are offences against the Criminal Code, s 338 and s 339.

74 Decision about accreditation

- (1) On application for accreditation of an education program under this part, the institute must—
 - (a) accredit the program; or
 - (b) refuse to accredit the program.
- (2) In deciding the application, the institute must comply with section 76 (Criteria for accreditation of education programs).

- (3) Subsection (2) does not limit the grounds on which the institute may refuse to accredit the program.
- (4) The institute may accredit a program on conditions.

Example—condition

requiring education provider to notify institute of significant changes to program structure

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) The institute may refuse to accredit the program under subsection (1) or impose a condition on the accreditation under subsection (4), only if—
 - (a) the institute has given the education provider written notice of the proposed refusal or condition; and
 - (b) the notice states—
 - (i) the reasons for the proposed refusal or condition; and
 - (ii) that written comments on the proposed refusal or condition may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the education provider; and
 - (c) the institute has considered any comments made by the education provider before the end of the stated period.
- (6) If the institute decides to accredit the program, it must enter the program in the education programs register.
- (7) On written application by an education provider, the institute may extend the period mentioned in subsection (5) (b) (ii).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (8) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the education provider's circumstances.

Example—when period may be extended

an education provider needs more than 14 days to obtain information or documents to support the provider's written comments because the information or documents are from interstate

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (9) The institute must tell the education provider in writing of a decision under subsection (7) and—
- (a) if the institute extends the period—the extended period; or
 - (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the education provider a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
- (b) refuse to extend the period (see s 89).

75 Accreditation guidelines

- (1) The institute may make guidelines for the accreditation of education programs (the *accreditation guidelines*).
- (2) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

76 Criteria for accreditation of education programs

In making a decision under this part, the institute must—

- (a) be satisfied about the following:
 - (i) the suitability of the education program to prepare pre-service teachers for employment as pre-school, primary school or secondary school teachers;
 - (ii) the suitability of the education program in supporting the professional development of teachers;
 - (iii) the assessment processes to be used to establish whether a person has achieved the learning outcomes of the education program;
 - (iv) that any nationally recognised standards for the accreditation of education programs are met; and
- (b) apply any accreditation guidelines.

77 Expert committee

- (1) The institute must establish a committee under division 3.3 (Institute board committees) to help the institute decide an application to accredit an education program under this part.
- (2) The committee must include as members people who are, in the institute's opinion—
 - (a) qualified in the program's area of study; and
 - (b) qualified to assess the educational and management capacity of the proposed education provider; and
 - (c) qualified to assess the suitability of the program and of the proposed delivery methods of the program.

78 Period of accreditation

- (1) An education program may be accredited for up to 5 years.
- (2) However, if an education provider applies to renew an accreditation under section 79, the accreditation remains in force until the application is decided.

79 Renewal of accreditation

- (1) An education provider may apply, in writing, to the institute for renewal of accreditation of an education program not later than 6 months before the day the accreditation ends.

Note 1 If a form is approved under s 96 for this provision, the form must be used.

Note 2 A fee may be determined under s 95 for this provision.

- (2) The institute may, in writing, require the education provider to give the institute additional information or documents that the institute reasonably needs to decide the application.

Note Giving false or misleading information and producing false or misleading documents are offences against the Criminal Code, s 338 and s 339.

- (3) If the education provider does not comply with a requirement under subsection (2), the institute may refuse to consider the application further.
- (4) On application to renew an accreditation, the institute must—
 - (a) renew the accreditation; or
 - (b) refuse to renew the accreditation.
- (5) In deciding whether to renew the accreditation, the institute may consider anything the institute may consider in relation to an application for an accreditation.
- (6) The institute may renew the accreditation on conditions.

- (7) A renewed accreditation is effective from the expiry day of the accreditation held immediately before renewal.
- (8) An education provider who does not apply for renewal of the accreditation under subsection (1) is not entitled to apply for the renewal of the accreditation but may apply for accreditation under section 73.
- (9) If the institute decides not to renew an accreditation, the institute must as soon as practicable refund the fee, if any, paid by the education provider.

80 Review of accredited education program

- (1) The institute may review an education program not later than 12 months after the day the program was accredited.
- (2) If the institute is satisfied that the education program fails to meet the criteria under section 76, the institute may—
 - (a) impose a condition on the accreditation; or
Example—condition
a nationally recognised standard be met in the delivery of the education program
Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
 - (b) suspend or cancel the accreditation under section 83 (1).
- (3) However, the institute may impose a condition on accreditation, only if—
 - (a) the institute has given the education provider written notice of the proposed condition; and
 - (b) the notice states—
 - (i) the reasons for the proposed condition; and

- (ii) that written comments on the proposed condition may be made to the institute before the end of a stated period of at least 14 days after the day the notice is given to the education provider; and
 - (c) the institute has considered any comments made by the education provider before the end of the stated period.
- (4) On written application by an education provider, the institute may extend the period mentioned in subsection (3) (b) (ii).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (5) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the education provider's circumstances.

Example—when period may be extended

an education provider needs more than 14 days to obtain information or documents to support the provider's written comments because the information or documents are from interstate

- (6) The institute must tell the education provider in writing of a decision under subsection (4) and—
- (a) if the institute extends the period—the extended period; or
 - (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the education provider a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
- (b) refuse to extend the period (see s 89).

81 Grounds for suspending or cancelling accreditation

The institute may suspend or cancel the accreditation of an education program—

- (a) if the institute is satisfied that the program no longer meets the criteria under section 76; or
- (b) in the circumstances prescribed by regulation.

Note The institute's decision to suspend or cancel an accreditation of an education program is reviewable (see s 88).

82 Notice of proposed suspension or cancellation of accreditation

- (1) The institute must give written notice of an intention to suspend or cancel the accreditation of an education program to an education provider.
- (2) The notice must—
 - (a) set out the ground for suspension or cancellation; and
 - (b) state that the provider may, within 14 days after the day the institute gives the provider the notice, give reasons why the provider considers that the accreditation should not be suspended or cancelled.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (3) On written application by the provider, the institute may extend the period mentioned in subsection (2) (b).

Note The institute may extend the period even if it has ended (see Legislation Act, s 151C).

- (4) The institute may extend the period only if the institute is satisfied on reasonable grounds that it is appropriate to extend the period given the provider's circumstances.

- (5) The institute must tell the provider in writing of a decision under subsection (3) and—
- (a) if the institute extends the period—the extended period; or
 - (b) if the institute refuses to extend the period—the reasons for the refusal.

Note The institute must also give the provider a reviewable decision notice in relation to a decision to—

- (a) extend the period for less than period applied for; or
- (b) refuse to extend the period (see s 89).

83 Suspending or cancelling accreditation

- (1) The institute must suspend or cancel the accreditation of an education program if the institute—
- (a) has given written notice to the education provider of an intention to suspend or cancel the accreditation; and
 - (b) has considered any reasons given by the provider in accordance with the notice; and
 - (c) is satisfied that the ground for suspension or cancellation under section 81 exists.

Note The institute's decision to suspend or cancel an accreditation of an education program is reviewable (see s 88).

- (2) The institute must tell the provider in writing—
- (a) that the accreditation is suspended or cancelled; and
 - (b) the ground for suspension or cancellation; and
 - (c) if the accreditation is suspended—the period of suspension.

Note The institute must also give the education provider a reviewable decision notice in relation to the decision to suspend or cancel the accreditation (see s 89).

- (3) The suspension or cancellation takes effect—
 - (a) on the day after the day the institute tells the provider in writing that the accreditation is suspended or cancelled; or
 - (b) if a later date is stated in the notice of suspension or cancellation—the later date.

84 Voluntary cancellation of accreditation

The institute must cancel the accreditation of an education program on application by the education provider.

85 Suspension or cancellation of accreditation—education program previously agreed

- (1) This section applies to an education program provided by an education provider if—
 - (a) the institute suspends or cancels the accreditation of the program; and
 - (b) before the suspension or cancellation takes effect, the provider enters into an agreement to provide the program to someone else.
- (2) On application by the provider, the institute may approve the provision of the education program under the agreement for not longer than 2 years after the suspension or cancellation, if the institute considers it is justified in the circumstances.
- (3) In making a decision under subsection (2), the institute must take into account—
 - (a) the welfare of people to whom the program is to be provided; and
 - (b) the nature and quality of the program.

- (4) The accreditation of the education program is taken to continue during the period stated in the approval only to enable the provider to—
- (a) provide the program; or
 - (b) issue any qualification or statement of attainment in relation to the program.
- (5) The institute may, in exceptional circumstances, direct the provider to immediately stop providing the education program.

Example—exceptional circumstance

serious incompetence in the delivery of the education program

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (6) If the institute gives a direction to a provider under subsection (5), the accreditation of the education program is taken to be cancelled from the day the direction is given.

86 Registering end of accreditation

If the accreditation of an education program ends (whether by expiry or cancellation), the institute must remove the details of the program from the education programs register.

87 Offence to falsely claim education program accredited

- (1) A person commits an offence if the person—
- (a) claims to provide an accredited education program; and
 - (b) the program is not an accredited education program.

Maximum penalty: 50 penalty units.

- (2) For subsection (1), a person claims to provide an accredited education program if the person—
 - (a) makes the claim; or
 - (b) says or does anything likely to induce someone else to believe the program the person provides is an accredited education program.
- (3) An offence against this section is a strict liability offence.

Part 8 Notification and review of decisions

88 **Meaning of *reviewable decision*—pt 8**

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

89 **Reviewable decision notices**

If the institute makes a reviewable decision, the institute must give a reviewable decision notice only to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note The requirements for a reviewable decision notice are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

90 **Applications for review**

An entity mentioned in schedule 1, column 4 in relation to a reviewable decision may apply to the ACAT for review of the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Part 9 Miscellaneous

91 Protection from civil liability

- (1) A person exercising a function under this Act does not incur civil liability for an act or omission done honestly and without negligence for this Act.
- (2) Civil liability that would, apart from this section, attach to a person attaches instead to the Territory.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

92 Offences—use or divulge protected information

- (1) A person to whom this section applies commits an offence if—
 - (a) the person uses information; and
 - (b) the information is protected information about someone else; and
 - (c) the person is reckless about whether the information is protected information about someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person to whom this section applies commits an offence if—
 - (a) the person does something that divulges information; and
 - (b) the information is protected information about someone else; and
 - (c) the person is reckless about whether—
 - (i) the information is protected information about someone else; and

- (ii) doing the thing would result in the information being divulged to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsections (1) and (2) do not apply if the information is used or divulged—
 - (a) under this Act or another territory law; or
 - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law; or
 - (c) in a court proceeding; or
 - (d) to a person administering or enforcing a corresponding law of a corresponding jurisdiction.

Note **Corresponding law**—see the dictionary.

- (4) Subsections (1) and (2) do not apply to the using or divulging of protected information about a person with the person's consent.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see Criminal Code, s 58).

- (5) A person to whom this section applies need not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another law applying in the territory.

- (6) In this section:

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

divulge includes—

- (a) communicate; or
- (b) publish.

person to whom this section applies means—

- (a) a person who is or has been a member of the institute board; or
- (b) anyone else who has exercised a function under this Act.

produce includes allow access to.

protected information means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

Examples—protected information

- 1 information obtained by the institute about an applicant for registration or a permit to teach
- 2 information disclosed by the institute in seeking information or advice from an entity about an approved teacher

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

use information includes make a record of the information.

Note The *Crimes Act 1900*, s 153 also deals with disclosure of information by public employees or people performing services for the Territory or a territory authority. Section 92 applies to members of the institute board and anyone else who has exercised a function under the Act.

93 Evidentiary certificates

- (1) The institute may give a signed certificate—
 - (a) stating that on a stated date or during a stated period a named person was or was not registered or a permit-holder; and
 - (b) if the person was registered or a permit-holder—including details of the person’s registration or permit to teach.

- (2) The institute may give a signed certificate—
 - (a) stating that on a stated date or during a stated period an education program was or was not accredited; and
 - (b) if the program was accredited—including details of the accreditation.
- (3) A certificate under this section is evidence of the matters stated in it.
- (4) Unless the contrary is proved, a document that purports to be a certificate under this section is taken to be a certificate.

94 Disqualification orders

- (1) If a court finds a person guilty of an offence against this Act, the court may make an order disqualifying the person from applying for registration or a permit to teach for a stated period or until a stated thing happens.
- (2) In this section:
offence against this Act includes an offence against the Criminal Code in relation to anything done, or not done, under or in relation to this Act.

95 Determination of fees

- (1) The Minister may determine fees for this Act.
Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).
- (2) A determination is a disallowable instrument.
Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

96 Approved forms

- (1) The institute may approve forms for this Act.
- (2) If the institute approves a form for a particular purpose, the approved form must be used for the purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

97 Determination of standards

- (1) The institute may determine standards for this Act.

Note Power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see Legislation Act, s 46).

- (2) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

98 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) Without limiting subsection (1), a regulation may make provision in relation to—

- (a) the eligibility requirements for registration and permits to teach; and
- (b) the professional learning and development of teachers; and
- (c) the assessment and certification of teachers; and
- (d) the accreditation of education programs for pre-service teachers and teachers.

- (3) A regulation may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 20 penalty units for offences against a regulation.

Part 15 Transitional

150 Definitions—pt 15

In this part:

commencement day means the day this Act, section 10 (Establishment of institute) commences.

151 Teachers currently teaching

- (1) A teacher currently teaching—
 - (a) is taken to be an approved teacher; and
 - (b) is entitled to registration under this Act.
- (2) The teacher must apply to the institute for registration—
 - (a) not later than a date prescribed by regulation; or
 - (b) if the institute is satisfied there are special circumstances for allowing a later date—not later than the later date.
- (3) A fee is not payable by the teacher for registration under this section.
- (4) Nothing in this section operates to disadvantage a person by adversely affecting the person's rights or imposing liabilities on the person.
- (5) In this section:

teacher currently teaching—

- (a) means a person who is, immediately before the commencement day—
 - (i) qualified to teach; and
 - (ii) employed or engaged to teach in the ACT, whether or not the person is teaching; but

- (b) does not include a person who has qualified as a teacher immediately before the commencement day but has not taught since qualifying.

Example—par (a)

a person with teaching qualifications who carries out duties in the administration of education services

Example—par (b)

a person who graduated as a teacher at the end of 2010 and is employed to teach in a school in 2011

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

151A Teachers permitted to teach

- (1) A teacher permitted to teach—
 - (a) is taken to be an approved teacher; and
 - (b) is entitled to a permit to teach under this Act.
- (2) The teacher must apply to the institute for a permit to teach—
 - (a) not later than a date prescribed by regulation; or
 - (b) if the institute is satisfied there are special circumstances for allowing a later date—not later than the later date.
- (3) A fee is not payable by the teacher for a permit to teach under this section.
- (4) Nothing in this section operates to disadvantage a person by adversely affecting the person's rights or imposing liabilities on the person.

(5) In this section:

teacher permitted to teach means a person who, immediately before the commencement day—

- (a) is employed or engaged to teach in a school, whether or not the person is teaching; and
- (b) is not qualified to teach; but
- (c) has specialist knowledge, training, skills or qualifications in the subject the person teaches.

M 151B **Teachers beginning teaching**

152 **Education providers currently providing education programs**

- (1) A current education program is taken to be an accredited education program under this Act.
- (2) However, a person providing the education program must apply to the institute to have the education program accredited—
 - (a) not later than a date prescribed by regulation; or
 - (b) if the institute is satisfied there are special circumstances for allowing a later date—not later than the later date.
- (3) In this section:

current education program means a program of learning, that immediately before the commencement day—

- (a) prepared pre-service teachers for employment as pre-school, primary school or secondary school teachers; or
- (b) was suitable for the professional learning and development of teachers.

153 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

154 Expiry—pt 15

This part expires 3 years after the day it commences.

Note Transitional provisions are kept with the original provisions for a limited time to ensure people are aware of them. However, the expiry of a transitional provision does not end their effect (see Legislation Act, s 88).

Schedule 1 Reviewable decisions

(see pt 8)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	31 (3)	refuse to grant extension of time	person applying for registration or permit to teach
2	36 (1) (d)	refuse to register person or grant permit to teach	person applying for registration or permit to teach
3	36 (2)	provisionally register applicant who applied for full registration	person applying for full registration
4	36 (3)	grant permit to teach to applicant who applied for registration	person applying for registration
5	37 (1)	extend period for less than period applied for	person applying for extension
6	37 (1)	refuse to extend period	person applying for extension
7	38 (4)	register or grant permit to teach with additional condition	approved teacher
8	39 (1)	extend period for less than period applied for	approved teacher
9	39 (1)	refuse to extend period	approved teacher
10	41 (4) (b)	refuse to replace registration certificate, registration card, permit certificate or permit card	person applying for replacement certificate or card
11	46 (4)	refusing to amend teachers register	teacher
12	51 (4)	refuse to renew full registration	person applying for renewal of full registration

column 1 item	column 2 section	column 3 decision	column 4 entity
13	51 (4)	refuse to renew provisional registration for further period prescribed in accordance with s 48	person applying for renewal of provisional registration
14	52 (1)	renew registration with condition	person applying for renewal of registration
15	53 (4)	refuse to renew permit to teach for further period prescribed in accordance with s 49	person applying for renewal of permit to teach
16	54 (1)	renew permit to teach with condition	person applying for renewal of permit to teach
17	55 (2)	extend period for less than period applied for	person applying for extension
18	55 (2)	refuse to extend period	person applying for extension
19	56 (1)	amend registration or permit to teach on institute's own initiative	approved teacher
20	56 (3)	extend period for less than period applied for	approved teacher
21	56 (3)	refuse to extend period	approved teacher
22	57 (4) (b)	refuse to amend registration or permit to teach on application	approved teacher
23	64 (3)	extend period for less than period applied for	person whose registration or permit to teach is intended to be suspended or cancelled
24	64 (3)	refuse to extend period	person whose registration or permit to teach is intended to be suspended or cancelled

Schedule 1

Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity
25	65 (1)	suspend or cancel registration or permit to teach	person whose registration or permit to teach is suspended or cancelled
26	68	refuse to cancel teacher's registration or permit to teach	approved teacher
27	69 (3)	cancel person's registration or permit to teach	person whose registration or permit to teach is cancelled
28	74 (1) (b)	refuse to accredit education program	education provider
29	74 (4)	accredit education program on condition	education provider
30	74 (7)	extend period for less than period applied for	education provider
31	74 (7)	refuse to extend period	education provider
32	78	accredit program for less than 5 years	education provider
33	79 (4) (b)	refuse to renew accreditation	education provider
34	79 (6)	renew accreditation on condition	education provider
35	80 (2) (a)	impose a condition in relation to accreditation after review	education provider
36	80 (4)	extend period for less than period applied for	education provider
37	80 (4)	refuse to extend period	education provider
38	82 (3)	extend period for less than period applied for	education provider
39	82 (3)	refuse to extend period	education provider

column 1 item	column 2 section	column 3 decision	column 4 entity
40	83 (1)	suspend or cancel accreditation	education provider
41	85 (2)	refuse to approve provision of education program under agreement	education provider
42	85 (2)	approve provision of education program under agreement for period less than 2 years	education provider

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- adult
- Australia
- change
- contravene
- Criminal Code
- director-general (see s 163)
- disallowable instrument (see s 9)
- document
- entity
- function
- home address
- Legislation Act
- Minister (see s 162)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- person (see s 160)
- police officer
- reviewable decision notice
- territory law
- the Territory
- writing.

accreditation includes renewed accreditation.

accreditation guidelines—see section 75.

accredited education program means an education program accredited under division 7.2.

approved code of practice—see section 59.

approved teacher—see section 9.

chief executive officer means the chief executive officer of the institute.

committee means a committee established by the institute board under section 19.

corresponding jurisdiction means the Commonwealth, a State or New Zealand.

Note **State** includes the Northern Territory (see Legislation Act, dict, pt 1, def *State*).

corresponding law means any law of a corresponding jurisdiction that regulates teachers in the jurisdiction.

corresponding registering authority means the entity responsible for regulating the teaching profession under a corresponding law.

criminal history guidelines—see section 35A.

criminal history record, of a person, means a written report about the person's criminal history from an entity in another country that has access to records about the criminal history of people in that country.

CrimTrac means the CrimTrac agency established under the *Public Service Act 1999* (Cwlth), section 65 (Establishment etc of Executive Agencies).

education program means a program of learning—

- (a) that prepares pre-service teachers for employment as pre-school, primary school or secondary school teachers; or
- (b) is suitable for the professional learning and development of teachers.

education programs register—see section 71.

education provider means a person who provides, or offers to provide, an education program.

full registration means full registration under part 4.

government school means a school, pre-school or school-related institution established under the *Education Act 2004*, section 20.

institute—see section 10.

institute board—see section 14.

non-government school—see the *Education Act 2004*, dictionary.

permit card—see section 40 (2).

permit certificate—see section 40 (2).

permit-holder means a person who holds a permit to teach.

permit to teach means a permit to teach under part 4.

police certificate, for a person, means a written statement by CrimTrac, or a police service or force in the ACT, State or another territory indicating—

- (a) whether, according to the records held by CrimTrac or the police service or force, the person has been charged with, or convicted of, an offence against a law of—
 - (i) the Territory; or
 - (ii) the Commonwealth; or
 - (iii) a State; or
 - (iv) another country; and
- (b) if so—particulars of each offence.

Note A conviction includes a spent conviction (see *Spent Convictions Act 2000*, s 19 (9)).

pre-service teacher means a person, other than an approved teacher, who is studying for a teaching qualification.

provisional registration means provisional registration under part 4.

registered means registered under this Act.

registered school address—see section 43.

registered teacher means a person who holds full registration or provisional registration.

registration means full registration or provisional registration.

registration card—see section 40 (1).

registration certificate—see section 40 (1).

registration number means the registration number under section 40 (1).

reviewable decision, for part 8 (Notification and review of decisions)—see section 88.

school means a government school or non-government school.

school-related institution—see the *Education Act 2004*, section 20 (Establishing government schools etc).

teacher—see section 7.

teachers register—see section 42.

teaching—see section 8.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

ACT Teacher Quality Institute Act 2010 A2010-55

notified LR 20 December 2010

s 1, s 2 commenced 20 December 2010 (LA s 75 (1))

remainder commenced 1 January 2011 (s 2 and CN2010-18)

as amended by

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.3

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.3 commenced 1 July 2011 (s 2 (1))

as modified by

ACT Teacher Quality Institute Regulation 2010 SL2010-53 (as am by SL2011-24)

notified LR 23 December 2010

s 1, s 2 commenced 23 December 2010 (LA s 75 (1))

remainder commenced 1 January 2011 (s 2 and see ACT Teacher Quality Institute Act 2010 A2010-55, s 2 and CN2010-18)

ACT Teacher Quality Institute Amendment Regulation 2011 (No 1) SL2011-24

notified LR 5 August 2011

s 1, s 2 commenced 5 August 2011 (LA s 75 (1))

remainder commenced 6 August 2011 (s 2)

Note This regulation only amends the ACT Teacher Quality Institute Regulation 2010 SL2010-53.

as amended by

ACT Teacher Quality Institute Amendment Act 2011 A2011-34

notified LR 5 September 2011

s 1, s 2 commenced 5 September 2011 (LA s 75 (1))

remainder commenced 4 October 2011 (s 2 and CN2011-10)

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Delegation by institute

s 13 am A2011-22 amdt 1.12

Institute board members

s 15 am A2011-22 amdt 1.13

Institute staff

s 23 am A2011-22 amdt 1.14

Eligibility for full registration

s 32 am A2011-34 s 4, s 5

Eligibility for provisional registration

s 33 am A2011-34 s 6, s 7

Eligibility for permit to teach

s 34 am A2011-34 s 8

Additional eligibility requirements for permits to teach

s 35 am A2011-34 ss 9-12

Criminal history guidelines

s 35A ins A2011-34 s 13

Criminal history guidelines—assessment criteria

s 35B ins A2011-34 s 13

Renewal of registration

s 51 am A2011-34 s 14

Renewal of permits to teach

s 53 am A2011-34 s 15

Notice of code approvals

s 60 am A2011-22 amdt 1.15

Legislation amended—sch 2

s 99 om LA s 89 (3)

Transitional

pt 15 hdg exp 1 January 2014 (s 154)

Definitions—pt 15

s 150 exp 1 January 2014 (s 154)
def **commencement day** exp 1 January 2014 (s 154)

Teachers currently teaching

s 151 am A2011-34 s 16
exp 1 January 2014 (s 154)

Teachers permitted to teach

s 151A ins SL2011-34 s 17
exp 1 January 2014 (s 154)

Teachers beginning teaching

s 151B ins as mod SL2010-53 s 23 (as ins by SL2011-24 s 4)
exp 1 January 2014 (s 151B (4))

Education providers currently providing education programs

s 152 exp 1 January 2014 (s 154)

Transitional regulations

s 153 exp 1 January 2014 (s 154)

Expiry—pt 15

s 154 exp 1 January 2014 (s 154)

Consequential amendments

sch 2 om LA s 89 (3)

Dictionary

dict am A2011-22 amdt 1.16, amdt 1.17
def ***criminal history guidelines*** ins A2011-34 s 18
def ***police certificate*** am A2011-34 s 19

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Jan 2011	1 Jan 2011– 30 June 2011	not amended	new Act
R2 1 July 2011	1 July 2011– 5 Aug 2011	A2011-22	amendments by A2011-22
R3 6 Aug 2011	6 Aug 2011– 3 Oct 2011	SL2011-24	modifications by SL2010-53 as amended by SL2011-24

6 Modifications of republished law with temporary effect

The following modifications have not been included in this republication:

ACT Teacher Quality Institute Regulation 2010 SL2010-53 (as am by SL2011-24)

23 Modification of Act, pt 15—Act, s 153 (2)

The Act, part 15 applies as if the following section were inserted:

‘151B Teachers beginning teaching

- (1) This section applies to a person who is employed or engaged to teach in a school on or after the commencement day.
- (2) The person is taken to be an approved teacher from the beginning of the day the person is employed or engaged until the earlier of the following:
 - (a) the day the person is registered or granted a permit under this Act;
 - (b) either—
 - (i) 31 October 2011; or
 - (ii) if the institute is satisfied there are special circumstances for allowing a later date—the later date.
- (3) This section does not apply to a person who is a teacher currently teaching within the meaning of section 151 (5).
- (4) This section expires on the day the *ACT Teacher Quality Institute Act 2010*, part 15 expires.’

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