

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Education and Training)

# ACT Teacher Quality Institute Amendment Bill 2011

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## **ACT Teacher Quality Institute Amendment Bill 2011**

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### **A Bill for**

An Act to amend the *ACT Teacher Quality Institute Act 2010*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *ACT Teacher Quality Institute Amendment Act 2011*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

5 *Note* The naming and commencement provisions automatically commence on  
6 the notification day (see Legislation Act, s 75 (1)).

7 **3 Legislation amended**

8 This Act amends the *ACT Teacher Quality Institute Act 2010*.

9 *Note* This Act also amends the following legislation:

- 10 • *ACT Teacher Quality Institute Regulation 2010* (see s 16)
- 11 • *Spent Convictions Act 2000* (see s 17).

12 **4 Eligibility for full registration**  
13 **Section 32 (1) (f)**

14 *substitute*

15 (f) in relation to any conviction mentioned in the certificate or  
16 criminal history record supplied under paragraph (d) or (e), the  
17 certificate or criminal history record has been assessed in  
18 accordance with the criminal history guidelines and—

19 (i) the conviction does not have a high degree of direct  
20 connection with the inherent requirements of the teaching  
21 profession; and

22 (ii) the person should be fully registered; and

1 **5 Eligibility for provisional registration**  
2 **Section 33 (1) (e)**

3 *substitute*

4 (e) in relation to any conviction mentioned in the certificate or  
5 criminal history record supplied under paragraph (c) or (d), the  
6 certificate or criminal history record has been assessed in  
7 accordance with the criminal history guidelines and—

8 (i) the conviction does not have a high degree of direct  
9 connection with the inherent requirements of the teaching  
10 profession; and

11 (ii) the person should be provisionally registered; and

12 **6 Additional eligibility requirements for permits to teach**  
13 **Section 35 (1)**

14 *omit everything before paragraph (a), substitute*

15 (1) The institute must also be satisfied about the following in relation to  
16 a person applying for a permit to teach:

17 **7 Section 35 (1) (d)**

18 *substitute*

19 (d) that in relation to any conviction mentioned in the certificate or  
20 criminal history record supplied under paragraph (b) or (c), the  
21 certificate or criminal history record has been assessed in  
22 accordance with the criminal history guidelines and—

23 (i) the conviction does not have a high degree of direct  
24 connection with the inherent requirements of the teaching  
25 profession; and

26 (ii) the person should be granted a permit to teach;

1 **8 Section 35 (4)**

2 *omit*

3 registration of people

4 *substitute*

5 granting of permits to teach

6 **9 New sections 35A and 35B**

7 *insert*

8 **35A Criminal history guidelines**

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

13 (2) A guideline may apply, adopt or incorporate an instrument, as in  
14 force from time to time.

15 *Note* The text of an applied, adopted or incorporated instrument, whether  
16 applied as in force from time to time or as at a particular time, is taken  
17 to be a notifiable instrument if the operation of the Legislation Act,  
18 s 47 (5) or (6) is not disapplied (see s 47 (7)).

19 (3) A guideline is a notifiable instrument.

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

- 1     **35B     Criminal history guidelines—assessment criteria**
- 2           (1) The criminal history guidelines must provide for the following to be
- 3           taken into account in relation to any offence included in a person’s
- 4           police certificate or criminal history record:
- 5           (a) the nature, gravity and circumstances of the offence;
- 6           (b) the relevance of the offence in relation to the teaching
- 7           profession and whether or not there is a high degree of direct
- 8           connection between the offence and the inherent requirements
- 9           of the profession;
- 10          (c) how long ago the offence was committed;
- 11          (d) the age of the person and the victim at the time of the offence;
- 12          (e) whether the person’s circumstances have changed since the
- 13          offence was committed;
- 14          (f) the person’s attitude to the offence;
- 15          (g) if the person has undergone a program of treatment or
- 16          intervention for the offence—any assessment of the person
- 17          following the program;
- 18          (h) if the offence was committed outside Australia—whether the
- 19          offence is an offence in Australia;
- 20          (i) whether the person has committed any other offence;
- 21          (j) any submission made by the person to the institute under
- 22          subsection (2) (a).
- 23          (2) The criminal history guidelines must provide that—
- 24               (a) a person may make submissions to the institute in relation to
- 25               any matter under subsection (1) (a) to (i) that the institute must
- 26               take into account in assessing the person’s police certificate or
- 27               criminal history record; and

- 1 (b) the institute must not take into account any information about a  
2 person unless satisfied on reasonable grounds that the  
3 information is accurate.

4 **10 Renewal of registration**  
5 **Section 51 (5) (d)**

6 *substitute*

- 7 (d) that—
- 8 (i) in the 5-year period before the renewal, the teacher has  
9 supplied a police certificate or, if applicable, a certified  
10 copy of the teacher's criminal history record; and
- 11 (ii) in relation to any conviction mentioned in the certificate  
12 or criminal history record, the certificate or criminal  
13 history record has been assessed in accordance with the  
14 criminal history guidelines and—
- 15 (A) the conviction does not have a high degree of direct  
16 connection with the inherent requirements of the  
17 teaching profession; and
- 18 (B) the teacher's registration should be renewed.

11 **Renewal of permits to teach**  
Section 53 (5) (d)

*substitute*

(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, the certificate or criminal history record has been assessed in accordance with the criminal history guidelines and—
  - (A) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and
  - (B) the permit-holder's permit to teach should be renewed.

12 **Teachers currently teaching**  
Section 151 (5)

*substitute*

(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

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

4 **Example—par (a)**  
5 a person with teaching qualifications who carries out duties in the administration  
6 of education services

7 **Example—par (b)**  
8 a person who graduated as a teacher at the end of 2010 and is employed to teach  
9 in a school in 2011

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

### 13 **13 New section 151A**

14 *insert*

#### 15 **151A Teachers permitted to teach**

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

- 1 (5) In this section:
- 2 *teacher permitted to teach* means a person who, immediately before
- 3 the commencement day—
- 4 (a) is employed or engaged to teach in a school, whether or not the
- 5 person is teaching; and
- 6 (b) is not qualified to teach; but
- 7 (c) has specialist knowledge, training, skills or qualifications in the
- 8 subject the person teaches.

9 **14 Dictionary, new definition of *criminal history guidelines***

10 *insert*

11 *criminal history guidelines*—see section 35A.

12 **15 Dictionary, definition of *police certificate*, note**

13 *substitute*

14 *Note* A conviction includes a spent conviction (see *Spent Convictions*

15 *Act 2000*, s 19 (8A)).

16 **16 ACT Teacher Quality Institute Regulation 2010, new**

17 **section 21A**

18 *insert*

19 **21A Teachers permitted to teach—Act, s 151A**

20 30 June 2012 is prescribed.

21 **17 Spent Convictions Act 2000, new section 19 (8A)**

22 *insert*

23 (8A) Section 16 does not apply in relation to an application for, or the

24 renewal of, a registration or permit to teach under the *ACT Teacher*

25 *Quality Institute Act 2010*.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2011.

**2 Notification**

Notified under the Legislation Act on 2011.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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