

Child Care and Another Act Amendment Bill 2010

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the Child Care and Another Act Amendment Bill 2010.

Policy Objectives of the Legislation

The policy objectives of the Bill are to:

- (i) amend the *Child Care Act 2002* to require licensees of child care services (other than school age care services) to keep log books of their compliance history; and
- (ii) amend the *Education (Queensland College of Teachers) Act 2005* to:
 - implement a system for testing of persons in literacy, numeracy or science prior to registration as teachers; and
 - recognise certain teaching experience for the purposes of teacher registration.

Reasons for the Bill

Child care services to keep log books under the *Child Care Act 2002*

The *Child Care Act 2002* (the CCA) provides for the licensing of child care services, including centre based services (e.g. long day care, kindergarten and limited hours care) and home based services (i.e. family day care). It also regulates stand alone services where child care is provided to no more than six children (four of whom are not yet school children). Stand alone services, while regulated under the CCA are not required to be licensed.

The CCA includes a rigorous monitoring and enforcement regime to ensure that child care services comply with the terms of their licences and with the

guiding principles of the CCA. Where a service fails to meet these requirements, a range of measures may be taken against it. These measures range from issuing compliance notices requesting the service to remedy any contravention of the Act, to taking action to amend, urgently amend, suspend, urgent suspend, refuse to renew, or revoke the service provider's licence.

Wherever possible, the Government uses a collaborative approach to achieve compliance with the CCA by service providers without the need to issue compliance notices or take more serious enforcement action. As a result, the majority of service providers comply with the legislation. However, there are limited exceptions where some service providers contravene the CCA or expose children in their care to serious risks to the child's safety and well-being.

The Government is committed to providing parents with more information about licensed child care services that demonstrate non-compliance with the CCA. A staged approach is being taken to implementing this commitment. The first stage of amendments, which commenced on 1 February 2010, enables the Department of Education and Training (the Department) to publish on its website information about child care services (other than school age care services) that demonstrate serious and repeated non-compliance that is more than minor in nature. The second stage of amendments, which are the subject of this Bill, will require all licensed child care services (except school age care services) to record in a log book, information about any notices given to them under the CCA relating to minor, moderate or serious non-compliance. The log book will be accessible to current and prospective parents of children attending the service.

The requirement for licensees to keep a log book for their service will apply to all licensed centre-based child care services (e.g. long day care, kindergarten and limited hours care), except for school age care services. These are excluded from the scheme. The provisions will also apply to all licensed home based-services (i.e. family day care).

These amendments are aimed at providing parents at the local level with access to information about the quality of a child care service, and to enable them to make informed decisions about a child care service that is providing, or will potentially provide, a service to their child. The amendments also align with the policy intent of the Council of Australian Governments (COAG) early childhood education and care (ECEC) reform

agenda, which is strongly focused on transparency and improving the quality of ECEC services.

Pre-registration testing of teachers

In December 2008, the Premier requested an independent review of literacy, numeracy and science in Queensland primary schools. The final review, *A Shared Challenge: Improving Literacy, Numeracy and Science Learning in Queensland Primary Schools* (the Masters Review), concluded that improved outcomes in literacy, numeracy and science are likely to be facilitated by a number of factors, including access to a well prepared teaching workforce. The Masters Review commented that “*it is important that every generalist primary teacher begins their career with at least threshold levels of knowledge about the teaching of literacy, numeracy and science*” (page ix). The Masters Review went on to note that concerns had been expressed about some beginning teachers’ levels of competence in mathematics, science and literacy.

Recommendation 1 of the Masters Review, which was endorsed by the Queensland Government’s Response to the Masters Review, recommended that all aspiring primary teachers be required to demonstrate, through test performances, as a condition of registration, that they meet threshold knowledge levels about the teaching of literacy, numeracy and science, and have sound levels of content knowledge in these areas. The Masters Review suggested that the Queensland College of Teachers (the College) should be tasked with developing and administering this pre-registration testing. The Bill amends the *Education (Queensland College of Teachers) Act 2005* (QCT Act) to provide the College with the necessary functions and to establish a legislative framework for administering the tests.

Recognition of certain teaching experiences for teacher registration

Kindergarten teachers

In November 2008, COAG endorsed a National Partnership Agreement on Early Childhood Education that committed to providing universal access for all Australian children to a quality early childhood learning program for 15 hours per week, 40 weeks of the year, by 2013. The program is to be delivered by a four year university trained early childhood teacher in the year before a child’s full-time formal schooling commences. In Queensland, this is the year before children begin the Preparatory year of schooling.

Queensland has entered into a bilateral agreement with the Australian Government, which provides that this universal access commitment is to be met through the delivery of a kindergarten program by a four year qualified early childhood teacher or a registered teacher with an early childhood qualification. To support this universal access commitment, it is necessary to amend the QCT Act to ensure that a person's teaching experience in ECEC settings delivering an early childhood learning program (based on a Queensland Studies Authority approved or accredited kindergarten guideline), is recognised for the purposes of teacher registration.

Teachers in certain other non-school settings

Section 82 of the QCT Act provides that the employing authority for a "prescribed school" must not employ a person as a teacher in the prescribed school unless the person is a registered teacher. Section 83 of the QCT Act provides that a person who is not a registered teacher must not teach in a prescribed school. Section 74 of the QCT Act provides that a prescribed school includes (in addition to a State school or a non-State school) another institution or place at which an educational program is offered that is based on a syllabus approved or accredited by the Queensland Studies Authority (QSA) under the *Education (Queensland Studies Authority) Act 2002* (the QSA Act).

Given that a prescribed school includes such institutions or places in addition to State schools and non-State schools, it is therefore mandatory for teachers in non-school settings delivering an educational program based on a QSA approved or accredited syllabus (such as those teaching at TAFE Senior Colleges) to be registered teachers under the QCT Act. However, the QCT Act does not currently recognise the teaching experience of teachers in these non-school settings for the purpose of fulfilling the recency of practice requirement for renewal of their teacher registration. The Bill addresses this anomaly.

Teachers undertaking educational leadership duties

There is currently a range of people working consistently with, or in, Queensland schools in substantive educational leadership roles (such as educational advisors) who are not involved in the direct delivery of an educational program to students in the classroom. For instance, people working as educational advisors help classroom teachers by providing them with curriculum leadership, guidance and support, and facilitating their professional development.

However, there is a degree of uncertainty about whether the definition of “teacher” in the QCT Act includes the teaching experiences of these educational leaders. This is particularly significant when it comes to renewal of registration and whether a person’s prior experiences can be recognised as teaching experiences for the purpose of meeting the recency of practice requirement.

The recency of practice requirement is that a person must have practised as a teacher for one year in the previous five. If a teacher does not satisfy this requirement, their registration is renewed subject to a “returning to teaching” condition. This condition requires them to complete a “returning to teaching” program within one year of their returning to classroom teaching. The “returning to teaching” program focuses on effective teaching practices, curriculum and assessment initiatives, syllabus implementation and current educational policies.

If the experience of educational leaders is not recognised, and as a consequence their teacher registration can only be renewed with a “returning to teaching” condition, this is at odds with the fact that the person performing the role must hold and maintain a high level of current knowledge in the very areas addressed by the “returning to teaching” program.

A similar situation arises for the specialist literacy and numeracy coaches who will be engaged from 2010 under the COAG *Smarter Schools National Partnership Agreement on Literacy and Numeracy*, to work directly with classroom teachers and school teams to improve student performance in literacy and numeracy, and to assist teachers to build their teaching and leadership skills through support and professional development.

For the ECEC sector, a key element of the COAG quality reform agenda is the National Quality Standard to promote high quality care and outcomes for children in ECEC settings. A key commitment under this standard is that educational leadership (such as mentoring) be delivered within an ECEC setting. It is possible that the person providing this educational leadership may not be the teacher who actually delivers the kindergarten program. Therefore, a teacher who is employed to provide educational leadership in one or more ECEC settings would be in a similar situation to an educational advisor, with the person’s educational leadership experiences unlikely to be recognised at the time of renewing their registration.

The lack of explicit recognition of educational leadership roles acts as a disincentive to attracting highly skilled teachers into advisory roles. To address this issue, the Bill amends the QCT Act to recognise the experience of teachers providing *consistent* and *substantial* educational leadership to an educational program in schools and, as appropriate, ECEC settings.

It should be noted that the Bill does not recognise, for the purposes of teacher registration, the experience of a person who is in a role that involves leadership aspects, but does not have a direct link to classroom practice. For example, a teacher who has undertaken a largely administrative or policy role (e.g. if the teacher was on secondment to the Department's central office) rather than one directly related to classroom practice, would not be able to demonstrate that they have provided consistent and substantial educational leadership to an educational program. Therefore, the teacher's experience in the administrative or policy role would not be recognised for the purposes of renewal of their teacher registration. The Bill also does not recognise the experience of a person who undertakes or engages in occasional or incidental educational leadership roles or tasks. For example, a teacher who delivers a one-off or occasional seminar about professional development could not have that experience recognised for the purposes of renewal of teacher registration.

In ECEC settings, consistent and substantial educational leadership will be demonstrated by those persons who are providing expert curriculum and learning advice on a regular basis to other staff and teachers. For this leadership experience to be recognised, the person will need to demonstrate that they have been engaged on a regular basis in providing expert advice to, and mentoring for, those delivering an educational program (e.g. a kindergarten program based on an approved guideline) in an ECEC setting.

Minor amendment for renewal of registration

The QCT Act does not currently enable the College to recognise experience that it considers is equivalent to teaching at a school, when considering whether a person has met the recency of practice requirement at the time they apply for renewal of their teacher registration. This is inconsistent with the provisions of the *Education (Queensland College of Teachers) Regulation 2005* (QCT Regulation), which specify the experience a person must have in order to progress from provisional to full registration. In that case, the College is able to recognise other experience if it is satisfied the experience is the equivalent of teaching at a school.

The Bill therefore makes a minor, technical amendment to the QCT Act to include an equivalence provision for renewal of registration. This is in line with the existing equivalence provision for the experience necessary to progress from provisional to full registration.

Achieving the Objectives

Child care services to keep log books under the *Child Care Act 2002*

The Bill achieves the policy objective by amending the CCA to require licensees of all licensed child care services, except for school age care services, to keep a compliance history log book for their service. The requirements will apply to licensed centre based services (e.g. long day care, kindergarten and limited hours care), and to licensed home based services (i.e. family day care).

Licensees will be required to keep the log book at the child care centre (for a centre based service) or at the address of a home based service (i.e. family day care). The log book must be made available for inspection by any person, for instance a parent or carer, another member of the public, or an officer of the Department. Licensees must also give to any person who asks for it, a copy of part of their log book.

To ensure that parents are informed about the existence of the log book and their rights to examine the licensee's compliance history contained in it, the Bill requires licensees to tell a parent about the log book, within seven days from the time when their child first starts to receive child care at the service. This information must be provided to the parent in writing.

Licensees must ensure that they enter in their log book the address of the child care centre or the address of the home based service (for home based services, this will generally be the address of the family day scheme), whichever the case may be, and the name by which the centre or service is known. However, the address of a home based service must not be entered in the log book if this is also the home address of a carer in the service. This is to ensure that the privacy of carers is protected.

The log book must also contain information about the licensee's compliance history, as follows:

- details about an enforcement action that was taken, if it was the issuing of a compliance notice, or the amendment, urgent amendment, suspension or urgent suspension of a licence;

- for a compliance notice – the reason why the notice was given, any steps the licensee must take to remedy the contravention, or to avoid further contravention, and the day by which the steps must be taken;
- for an amendment, or urgent amendment, of a licence – the reason for the amendment, the day on which the amendment had effect and, if it was an urgent amendment, the day on which it ceases to have effect;
- for a suspension, or urgent suspension, of a licence – the reason for the suspension, the day on which the suspension had effect and the day on which it ends.

Licensees must ensure that this information is entered in their log book:

- within 14 days after the end of the period for applying for a review or appeal; or
- if they applied for a review or appeal but ended it before it was decided, within 14 days after it was ended; or
- if they applied for a review or appeal and it has been decided, within 14 days after the decision.

Licensees will also be required to update the information in their log books to indicate when a suspension has been lifted or when the licensee took steps to rectify a contravention.

The information must remain in the log book for as long as the licensee holds a licence for the child care service. When a new licensee begins to operate a new child care service, or when an existing licensee transfers a service's licence to another party, that new licensee will be required to set up their own log book for the service. This log book will contain only the compliance history of the new licensee in relation to the child care service – that is, the new licensee does not inherit the compliance history of the previous licensee.

However, the exceptions to this will be:

- if the licence is transferred to a new licensee, and that new licensee includes a person who was one of the previous licensees – for instance, where an executive officer of a corporation which held the licence previously, is also an executive officer of a corporation which holds the licence after it has been transferred; or
- if the new licensee (or a person who holds an interest in the new licence) had previously held a licence (or held an interest in the previous licence) to operate a child care service on the same premises,

but the previous licence had ended within the three years before the new licence was issued – for instance, because the licensee voluntarily relinquished the previous licence, or because the previous licence was revoked or the chief executive had refused to renew it.

For the first exception, the Bill requires the new licensee to ensure that the compliance history of the previous licensee is also entered in the new log book. This is to ensure that the compliance history of someone who was a previous licence for the service, and is now the new licensee, is made known to any one who inspects the log book.

For the second exception, the Bill requires the person who was the previous licensee to ensure their previous compliance history is entered in the new licensee's log book. In addition, if the reason the previous licence had ended was because it had been revoked or the chief executive had refused to renew it, the previous licensee must also enter information about the revocation, or refusal to renew, in the new log book. The obligation to include all of this previous information is to ensure that the compliance history of a person who was a previous licensee (or held an interest in the previous licence), and who is now the new licensee (or holds an interest in the new licence), is made known to any one who inspects the log book for the service.

A right of review does not currently exist in relation to compliance notices that are given to licensees for contraventions that present a minor risk to the safety and wellbeing of children. However, given that the inclusion of information about these notices in a licensee's log book may impact on the licensee's business, the Bill provides natural justice by introducing a process to enable a person to seek a review of an authorised officer's decision to give a licensee a compliance notice for a minor risk matter. The person will be able to seek a review by applying to the chief executive within 28 days of receiving the compliance notice. The chief executive will be obliged to review the authorised officer's decision and either confirm the decision to give the notice, or revoke the notice.

Pre-registration testing of teachers

The Bill achieves the policy objective by expanding the QCT Act's requirements about eligibility for registration as a teacher. The amendments specify that if a person is prescribed under a regulation as being required to take a test for literacy, numeracy or science, the person must take the test and achieve a result that the College considers satisfactory in order to be eligible for registration.

This new eligibility requirement will only apply to those who apply for full or provisional registration as a teacher under the QCT Act. Persons who apply for permission to teach, rather than for registration, will not be required to take a prescribed test.

In addition, persons who are already registered (either provisionally or fully) will not be required to take a prescribed test when they apply to renew their registration. Similarly, a person whose registration has lapsed will not be required to take a prescribed test, provided that the person applies for restoration of their registration in accordance with section 36 of the QCT Act.

In accordance with the requirements of the *Mutual Recognition (Queensland) Act 1992* and the *Trans-Tasman Mutual Recognition (Queensland) Act 2003* any person who holds registration as a teacher in another Australian jurisdiction or New Zealand will also not be required to take a prescribed test in order to satisfy the conditions for registration as a teacher in Queensland.

The Bill provides that a regulation may be made to prescribe a test for literacy, numeracy or science for registration. The regulation may provide for a range of matters such as details of what is to be tested, who must take a prescribed test, when and how often the test can be taken, any fees payable, and that the College may decide the matters to be tested and publish the matters.

The Bill also specifically functions the College to test applicants for registration in relation to literacy, numeracy or science. The College's testing function includes developing or purchasing the tests, revising the tests as necessary, developing supporting documentation and procedures for the administration of the tests, conducting and marking the tests, assessing the results and providing persons with their results, analysing systemic information about the performance of those who take the tests and reporting the results of such analysis to the Minister, the chief executive and higher education institutions.

Recognition of certain teaching experiences for teacher registration

Kindergarten teachers and teachers in certain other non-school settings

The Bill achieves the policy objective of recognising the experience of kindergarten teachers and other persons who undertake teaching duties in places other than schools, by broadening the definition of the term "teacher". The amended definition includes a person who undertakes

duties, other than in a school, for an educational program prescribed under a regulation. Therefore, this amended definition provides a head of power for a regulation to be made to prescribe the relevant educational programs.

With regards to kindergarten teachers, it is proposed that the prescribed educational program will be a program that is based on a kindergarten guideline approved or accredited by the QSA, under the QSA Act, for delivery to children in the year before the Preparatory year of schooling.

In the future, it may be necessary or appropriate for the delivery of an educational program based on a kindergarten guideline for younger children to be recognised for the purposes of teacher registration. If so, a regulation would accordingly be made to prescribe kindergarten guidelines relevant to the years prior to the Preparatory year of schooling. The delivery of educational programs based upon such guidelines would be in keeping with the expanded definition of “teacher”.

With regards to other teachers in non-school settings (such as those teaching at TAFE Senior Colleges), it is envisaged that the prescribed educational program will be a program that is based on a syllabus approved or accredited by the QSA under the QSA Act.

Teachers undertaking educational leadership duties

The Bill achieves the policy objective of recognising the work of teachers undertaking educational leadership roles in schools and other settings, by amending the definition of the term “teacher” to include a person who is administering or providing consistent and substantial educational leadership to an educational program.

This will apply in the case of a person who provides educational leadership in a school, as well as a person providing educational leadership in a place other than in a school (e.g. a kindergarten setting or a TAFE Senior College). However, for places other than a school, the educational leadership duties must be undertaken with respect to an educational program prescribed under a regulation.

Minor amendment for renewal of registration

The Bill achieves the policy objective by expanding section 29 of the QCT Act to provide that the College may renew a person’s registration without attaching a “returning to teaching” condition, if it is reasonably satisfied that the person has either practised as a teacher, or the person has attained experience that the College recognises as the equivalent of teaching at a

school, for at least the duration, and within the period, prescribed under the QCT Regulation.

Administrative costs

Implementation of the Bill is not expected to result in any additional administrative costs to the Government.

Fundamental Legislative Principles

The following aspects of the Bill raise fundamental legislative principle issues.

The requirement for licensees of child care services to keep and maintain a compliance history log book, which is available for inspection by any person upon request, may have a detrimental effect on the licensees' business. It could therefore be argued that the proposal has a detrimental effect on the rights and liberties of individuals.

However, it is considered that making the information available at the local level is justified because of parents' legitimate interest and expectation in being able to find out whether or not a child care service that is providing, or will potentially provide, a service to their child is, or has been, compliant with the CCA. The parents' right to secure the wellbeing and safety of their child at a service is considered to be greater than the right of a provider of such a service to secure their business interests.

It should also be noted that providing the public with access to information that may have a detrimental impact on a business is not limited to the child care sector. For example, information about businesses that breach certain food regulations and workplace health and safety laws is also made publicly available despite this information having the potential to negatively impact on a business. On balance, the need to make such information available to the public is considered to outweigh any negative impacts that may arise for individual businesses.

The Bill enables a licensee to apply to the chief executive for a review of an authorised officer's decision to issue the licensee with a compliance notice for a contravention of the CCA that presented a minor risk to the wellbeing and safety of children being provided with care at the service. This is different from the review process for decisions to give compliance notices for matters that pose a more than minor risk, which are externally reviewable by the Queensland Civil and Administrative Tribunal. The requirement for a licensee to enter information in their log book about a compliance notice may potentially have a detrimental effect on the

licensee's business. Therefore, it may be argued that providing only for an internal right of review for decisions to issue compliance notices for minor matters is inappropriate and a breach of fundamental legislative principles.

However, it is considered that an internal review is sufficient in relation to a decision to give a compliance notice for a minor risk, for the following reasons:

- Firstly, the Department's compliance management policies provide that when a contravention is detected, the licensee is initially given a compliance letter. This letter advises the licensee of the contravention and informs them of the consequences of failing to address it (i.e. that they will be given a compliance notice about the matter) and the review processes available to the licensee in the event of a compliance notice being issued. The letter also advises licensees that if a compliance notice is given, details may need to be recorded in the licensee's log book. The intent of this letter is to provide a licensee with the opportunity to rectify the contravention and to work collaboratively with the Department to achieve compliance, and so reduce the likelihood that the Department will need to issue the licensee with a compliance notice.
- Secondly, while information about compliance notices may be included in the log book, it is considered that minor compliance issues would be of a lesser interest to parents than more serious matters. Consultation feedback supports this argument with stakeholders placing less value on having access to information about minor compliance notices. Therefore, it is considered that a compliance notice for a minor risk is unlikely to significantly affect the business interests of a licensee. Given this distinction between serious and minor issues, it is considered that an internal review offers the appropriate right of review for compliance notices for minor matters.
- Thirdly, an internal review provides a more cost effective mechanism for reviewing these decisions for both the Department and licensees. For example, a licensee who seeks an external review will be required to pay an application fee and incur costs associated with attending a hearing. A licensee would incur fewer costs should an internal review be sought.
- Fourthly, an internal review of these decisions is proposed to be conducted by a more senior officer than the officer who makes the decision to issue a compliance notice. Having the review conducted

by a senior officer who was not involved in the initial inspection visit or the initial decision to issue the compliance notice will deliver a level of impartiality to the review and ensure an officer with appropriate decision making authority reviews the case.

- Lastly, the matter does not fall within the examples of the types of matters identified in the Government's Administrative Review Policy (October 2008) which would merit consideration of an external review process.

The Bill provides that a regulation will prescribe the persons who will be subject to testing prior to being registered as a teacher, as well as the types of tests and the period within which they must be undertaken. This may be regarded as a breach of the fundamental legislative principle that a Bill must have regard to the institution of Parliament, so that a Bill authorises an amendment of an Act only by another Act.

However, the introduction of the proposed testing process is to be staged and the category (or categories) of people who will be required to undertake the tests will be determined by reference to their tertiary qualifications. Therefore, it will be necessary to enable detailed information to be updated from time to time. For instance, information about tertiary qualifications (e.g. the name of the qualification) is subject to change at any time and it will be important to be able to update this information promptly. It is not appropriate for this type of information to be included in primary legislation.

Consultation

The Department of the Premier and Cabinet, the Department of Justice and Attorney-General, the Department of Communities, and Queensland Treasury were consulted with respect to the proposed amendments outlined in the Bill.

The ECEC industry, union and parent groups, training bodies, the Queensland Studies Authority, the Queensland College of Teachers, state and non-state schooling sector peak bodies and parent groups were invited to provide feedback on the draft Bill via the Department's website.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 establishes the short title of the Act as the *Child Care and Another Act Amendment Act 2010*.

Commencement

Clause 2 provides that part 2 of the Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Child Care Act 2002

Act amended

Clause 3 provides that part 2 amends the *Child Care Act 2002*.

Insertion of new pt 4, div 2A

Clause 4 inserts a new part 4, division 2A into the Act as follows.

Division 2A Compliance history log books

- Section 88A (Definitions)

Section 88A defines the terms *compliance history*, *compliance history log book*, and *log book* for the purposes of Division 2A.

- Section 88B (Application of div 2A)

Section 88B provides that division 2A applies to the licensee of a licensed service other than a school age care service.

- Section 88C (Where licensee must keep log book)

Section 88C states that the licensee must keep a log book for the licensee's service. If the service is a centre based service, the licensee must keep the log book at the child care centre. If it is a home based service, the licensee must keep the log book at the licensee's address stated on the licence.

Maximum penalty – 10 penalty units.

- Section 88D (What log book must contain)

Section 88D stipulates that the licensee must enter certain information in the log book. This information is the details that are mentioned in section 88E to identify the licensee, and the details of the licensee's compliance history under section 88F.

Maximum penalty – 10 penalty units.

- Section 88E (Licensee's identifying details that must be entered in log book)

Section 88E specifies that the identifying details the licensee must enter in the log book are –

(a) if the licence is for a centre based service –

- (i) the address of the child care centre; and
- (ii) the name by which the centre is known;

(b) if the licence is for a home based service –

- (i) the address of the home based service; and
- (ii) the name by which the service is known.

However, subsection 88E(2) further provides that if the address of a home based service is also the home address of a carer in the service, then the address is not included in the details that the licensee must enter in the log book. This is to ensure that an individual carer's privacy is not compromised, where the carer resides at the same address as the home based service (in other words, the home based service is conducted from their private residence).

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- Section 88F (Licensee's compliance history that must be entered in log book)

Section 88F specifies that the details of the licensee's compliance history that the licensee must enter in the log book are –

- (a) details of an amendment of the licensee's licence under section 42, other than under section 42(5), including the chief executive's reasons for the amendment and the day on which the amendment had effect;
 - (b) details of an urgent amendment of the licensee's licence under section 43 including the chief executive's reasons for the urgent amendment, the day on which the amendment had effect and the day on which it ceases to have effect;
 - (c) details of a suspension of the licensee's licence under section 45, other than section 45(7), including the chief executive's reasons for the suspension, the day on which the suspension had effect and the day on which it ends;
 - (d) details of an urgent suspension of the licensee's licence under section 46 including the chief executive's reasons for the urgent suspension, the day on which the suspension had effect and the day on which it ends;
 - (e) details of each compliance notice issued under section 142 including –
 - (i) the authorised officer's reasons for giving the compliance notice; and
 - (ii) the steps stated in the compliance notice to remedy the contravention, or to avoid further contravention, of the relevant provision; and
 - (iii) the day by which the person given the notice must take the steps stated in the notice.
- Section 88G (When licensee must enter information in log book)

Section 88G sets out the times within which the licensee must enter the information in the log book as follows –

Subsection (1) states that subsection (2) applies if action mentioned in section 88F is taken in relation to a licensee and either –

- (a) the licensee does not apply for a review of, or appeal against, the action taken; or

- (b) the licensee starts a review or appeal but ends the review or appeal before it is decided.

Subsection (2) states that the licensee must enter the relevant details under section 88F in the log book within 14 days after –

- (a) if the licensee does not apply for a review of, or appeal against, the action taken– the end of the period for applying for a review or appeal; or
- (b) if the licensee starts a review or appeal but ends the review or appeal before it is decided – the licensee ends the review or appeal.

Maximum penalty – 10 penalty units.

Subsection (3) states that subsection (4) applies if –

- (a) action mentioned in section 88F is taken in relation to a licensee; and
- (b) the licensee applies for a review of, or appeals against, the action taken; and
- (c) a decision is made on the review or appeal.

Subsection (4) states that the licensee must enter details in the log book consistent with the decision on review or appeal within 14 days after the decision.

Maximum penalty – 10 penalty units.

However, subsection (4) does not apply if the review or appeal decides –

- (a) for an action mentioned in section 88F(a) to (d) – that the action mentioned should not have been taken; or
- (b) for a compliance notice – that the compliance notice should not have been issued.
- Section 88H (Licensee must not enter personal information in log book)

Section 88H creates an offence if a licensee enters information in their log book that identifies a child or an adult other than the licensee.

Maximum penalty – 10 penalty units.

- Section 88I (When licensee must update information in log book)

Section 88I provides that if a suspension recorded in the log book has been lifted, or if steps required to be taken under a compliance notice have been

taken, the licensee must update their log book to indicate this, within 14 days of the event happening.

Maximum penalty – 10 penalty units.

- Section 88J (When new licensee must include information from previous licensee's log book after transfer of licence)

Section 88J applies if the licence for a child care service is transferred from the previous licensee to another person – that is, the new licensee. The new licensee is required to start and keep a new log book and ensure that the compliance history entered in the previous licensee's log book is entered in the log book kept by the new licensee in the following circumstances –

- (a) if –
 - (i) before the transfer, the licence was held by a corporation; and
 - (ii) after the transfer, a person who is or was an executive officer of the corporation is –
 - (A) the person, or one of the persons, to whom the licence was transferred; or
 - (B) an executive officer of a corporation to whom the licence was transferred; or
- (b) if –
 - (i) before the transfer, the licence was held by an individual; and
 - (ii) after the transfer, the individual is –
 - (A) one of the persons to whom the licence was transferred; or
 - (B) an executive officer of a corporation to whom the licence was transferred; or
- (c) if –
 - (i) before the transfer, the licence was held by a group of persons; and
 - (ii) after the transfer, one of the persons is –
 - (A) the person, or one of the persons, to whom the licence was transferred; or
 - (B) an executive officer of a corporation to whom the licence was transferred.

Maximum penalty – 10 penalty units.

- Section 88K (When previous licensee must ensure information about licence that has ended is included in new licensee’s log book)

Section 88K applies if–

- (a) a person (the *previous licensee*) holds a licence or an interest in a licence (the *previous licence*) for premises; and
- (b) the previous licence ends; and
- (c) a new licence is issued for the premises; and
- (d) the previous licensee is the new licensee or has an interest in the new licence.

Subsection 88K(2) states that the previous licensee must ensure the following information is included in the new licensee’s log book if it happened during the stated period (see subsection 88K(6) for the meaning of the term *stated period*) –

- (a) the compliance history relating to the previous licence; and
- (b) if the previous licence ended because it was revoked under section 45(3) or renewal was refused under section 21(8) – the details of the reasons for the revocation or refusal to renew.

Maximum penalty – 10 penalty units.

However, as subsection 88K(3) explains, the previous licensee does not have to ensure the details mentioned in subsection (2)(b) are included if –

- (a) the previous licensee applied for a review of, or appealed against, the action taken; and
- (b) the review or appeal decided the action mentioned should not have been taken.

Subsection 88K(4) specifies that, for subsection (1)(a), a person is taken to have an interest in the previous licence if the person –

- (a) held the previous licence jointly with another person; or
- (b) was an executive officer of the corporation that held the previous licence.

Subsection 88K(5) specifies that, for subsection (1)(d), a person is taken to have an interest in the new licence if the person –

- (a) holds the new licence jointly with another person; or
- (b) is an executive officer of the corporation that holds the new licence.

Subsection 88K(6) defines the terms *commencement* and *stated period* for the section, as follows –

commencement means the commencement of the section.

stated period means the period of 3 years before the issue of the new licence but does not include any period before the commencement.

- Section 88L (Licensee must not enter false or misleading information in log book)

Section 88L states that a licensee must not enter information in the log book that the licensee knows is false or misleading in a material particular.

Maximum penalty – 10 penalty units.

- Section 88M (When licensee must advise parent or guardian about log book and parent’s or guardian’s right to inspect it)

Section 88M applies if a child starts to receive care at a licensed service. The licensee of the service must, within 7 days of the child starting to receive care at the service, advise a parent or guardian of the child, in writing, about the existence of the log book containing the licensee’s compliance history, and the parent’s or guardian’s right to inspect it under section 88N.

Maximum penalty – 10 penalty units.

- Section 88N (When licensee must provide access to or copy log book)

Section 88N places an obligation on a licensee if a person asks to inspect the log book, or to copy part of it and give them the copy. The licensee must comply with the person’s request as soon as practicable.

Maximum penalty – 10 penalty units.

Insertion of new pt 9, div 1A

Clause 5 inserts a new part 9, division 1A into the Act as follows.

Division 1A Review of certain compliance notices by chief executive

- Section 164B (Licensee may apply for review by chief executive of certain decisions to give compliance notices)

Section 164B applies if a licensee is given a compliance notice and the decision to give the compliance notice is not reviewable under division 1. Decisions to give compliance notices that are reviewable under division 1 are those that are given because the authorised officer is reasonably satisfied that, because of the non-compliance to which the notice relates, there is more than a minor risk to the wellbeing and safety of children being provided with child care. Therefore, section 164B applies to a decision to give a compliance notice because the authorised officer is reasonably satisfied that the contravention involves only a minor risk.

Subsection 164B(2) provides that the licensee may apply in writing within 28 days of receiving the compliance notice, to have the decision to give the notice reviewed by the chief executive. The application must include enough information to enable the chief executive to decide the application.

Subsection 164B(4) requires the chief executive to review the decision to give the compliance notice as soon as practicable and do one of the following –

- (a) confirm the decision; or
- (b) revoke the compliance notice.

Subsection 164B(5) states that the chief executive must notify the licensee in writing of the decision on the review as soon as practicable after the chief executive makes the decision.

Subsection 164B(6) provides that if the chief executive decides to confirm the decision to give the compliance notice, then the notification given to the licensee in accordance with subsection (5) must state the reasonable time within which the licensee must remedy the contravention stated in the compliance notice. This will provide the licensee with clarity about when they must comply with the compliance notice after the outcome of the review. For example, if the time to remedy the contravention, as stated in the compliance notice, expires before the chief executive decides the application for review, then the chief executive will be able to specify a new

time within which the licensee must remedy the contravention in order to comply with the compliance notice.

As required by subsection 164B(6), the chief executive must ensure that the application for review of the decision to give the compliance notice is not dealt with by the authorised officer who issued the notice, or by a person in a less senior position than that authorised officer.

Part 3 Amendment of Education (Queensland College of Teachers) Act 2005

Act amended

Clause 6 provides that part 3 amends the *Education (Queensland College of Teachers) Act 2005*.

Amendment of s 8 (Eligibility for full registration)

Clause 7 amends section 8 of the Act to insert a new subsection 8(1)(c), which provides a further criterion for eligibility for full registration. This is that the College must be reasonably satisfied that, if the person is a person prescribed by regulation as being required to take a test for literacy, numeracy or science prescribed by regulation, the person –

- (i) has taken the test; and
- (ii) achieved a test result the College considers is satisfactory for full registration.

Clause 7 also makes consequential amendments to renumber the subsections in subsection 8(1).

Amendment of s 9 (Eligibility for provisional registration)

Clause 8 amends section 9 of the Act to insert a new subsection 9(1)(c), which provides a further criterion for eligibility for provisional registration. This is that the College must be reasonably satisfied that, if the person is a person prescribed by regulation as being required to take a test for literacy, numeracy or science prescribed by regulation, the person –

- (i) has taken the test; and
- (ii) achieved a test result the College considers is satisfactory for full registration.

Clause 8 also makes consequential amendments to renumber the subsections in subsection 9(1).

Amendment of s 14 (Application for registration or permission to teach)

Clause 9 amends section 14(2)(b)(i) of the Act to clarify that an application made under this section is not required to be accompanied by documents or information about the eligibility requirements in section 8(1)(c) or section 9(1)(c).

At the time of making an application, a person will not know whether or not they satisfy the relevant eligibility requirement in section 8(1)(c) or section 9(1)(c), because the person will not yet have taken the prescribed test. Therefore, it will not be possible for their application to be accompanied by any documentation about whether the person meets the relevant eligibility requirement.

Insertion of new ch 2, pt 2, div 3

Clause 10 inserts a new chapter 2, part 2, division 3 into the Act as follows.

Division 3 Literacy, numeracy or science tests required for certain registrations

- Section 25A (Literacy, numeracy or science test may be prescribed)

The amendments to sections 8 and 9 of the Act referred to above provide that a regulation may be made to prescribe a test for literacy, numeracy or science to be taken by a person prescribed under a regulation (see clauses 7 and 8). Section 25A specifies that a regulation prescribing a test for literacy, numeracy or science for full or provisional registration may provide for the following matters –

- (a) details of the matters to be tested;
- (b) who must take the test;

- (c) the times at which the test is available to be taken;
 - (d) how often a person may take the test;
 - (e) the fees payable for taking or retaking the test or applying for a reassessment of the test result;
 - (f) that the College may decide the matters to be tested and publish these matters;
 - (g) any other matter that is necessary or convenient for literacy, numeracy or science testing.
- Section 25B (Person may apply for reassessment of test result)

Section 25B entitles a person to ask the College to reassess their result for a test. The person must make their request to the College in the approved form, within 20 days after they were issued with the result for the test, and the request must be accompanied by the reassessment fee.

The College must reassess the person's test result as soon as practicable.

If, after reassessing the person's result, the College decides the test result is satisfactory for registration, the College must issue the person with a replacement result and refund the reassessment fee.

However, if the College reassesses the person's result and decides it is not satisfactory for registration, the College must give the person notice of that decision.

Subsection 25B(6) states that the term *reassess*, a person's result, means to check the accuracy of the test result in the way decided by the College.

- Section 25C (Application for registration may lapse after unsatisfactory test result)

If a person who applies for registration is required to take a literacy, numeracy or science test, but does not take the test or does not achieve a satisfactory result, section 25C specifies that a regulation may prescribe the circumstances in which the person's application for registration lapses.

Amendment of s 29 (Requirements for renewal – full registration)

Clause 11 amends section 29 of the Act by replacing subsection 29(2)(c) with a new subsection 29(2)(c). The amendment broadens the previous subsection 29(2)(c) and provides that the College may renew a person's

registration without attaching a “returning to teaching” condition if, in addition to the other matters prescribed in subsection 29(2), it is reasonably satisfied that the person –

- (i) has practised as a teacher, whether or not on a full-time basis, for a period that is –
 - (A) of at least the duration prescribed under a regulation; and
 - (B) within the period prescribed under a regulation; or
- (ii) has attained experience the college recognises is the equivalent of teaching at a school for a period that is –
 - (A) of at least the duration prescribed under a regulation; and
 - (B) within the period prescribed under a regulation.

The inclusion of subsection 29(2)(c)(ii) corrects an anomaly in the Act so that the College can recognise experience that it considers is equivalent to teaching at a school, when considering whether a person has met the recency of practice requirement at the time they apply for renewal of their teacher registration. This will be consistent with the provisions of the *Education (Queensland College of Teachers) Regulation 2005*, specifying the experience a person must have in order to progress from provisional to full registration, which enables the College to recognise other experience if it is satisfied the experience is the equivalent of teaching at a school.

Insertion of new s 230A

Clause 12 inserts a new section 230A (College’s functions for testing applicants for registration) into the Act. The new subsection 230A(1) provides that the College has the function of testing of applicants for registration in relation to literacy, numeracy or science.

Subsection 230A(2) states that, without limiting subsection (1), the College may do the following –

- (a) develop and revise the tests;
- (b) purchase and revise tests developed by entities other than the college;
- (c) develop and revise documents and procedures for the administration of the tests;
- (d) conduct and mark the tests;

- (e) assess or reassess the results of a person who took the test and give the results to the person;
- (f) analyse systemic information about the performance of persons who took the test and report the results of the analysis to the Minister, the chief executive and higher education institutions.

Subsection 230A(3) clarifies that the College may engage another entity to undertake a function mentioned in subsection (1) or (2).

Subsection 230A(4) defines the term *higher education institution* for the section, to mean a higher education that provides a course of education for a qualification required for registration as a teacher.

Amendment of sch 3 (Dictionary)

Clause 13 replaces the definition of *teacher* in schedule 3 of the Act with a new definition, as follows –

teacher –

- (a) means –
 - (i) a person who undertakes duties in a school including any of the following –
 - (A) delivering an educational program;
 - (B) assessing student participation in an educational program;
 - (C) otherwise administering or providing consistent and substantial educational leadership to an educational program; or
 - (ii) a person who undertakes duties, other than in a school, for an educational program prescribed under a regulation, including any of the following –
 - (A) delivering the program;
 - (B) assessing student participation in the program;
 - (C) otherwise administering or providing consistent and substantial educational leadership to the program; and
- (b) does not include a teacher's aide, a teacher's assistant or a student teacher.

The amendment broadens the previous definition of the term *teacher* in two key ways. Firstly, it recognises a person who undertakes duties, other than in a school, for an educational program prescribed under a regulation. Secondly, it recognises duties undertaken to provide consistent and substantial educational leadership to an educational program – whether this is in relation to duties undertaken in a school, or in a non-school setting for an educational program prescribed under a regulation.

The amended definition retains the previous stipulation that it does not include a teacher's aide, a teacher's assistant or a student teacher.

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