



Queensland

# **Education and Training Legislation Amendment Bill 2009**





Queensland

# Education and Training Legislation Amendment Bill 2009

## Contents

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|               |   | Page |
|---------------|---|------|
| <b>Part 1</b> | <b>Preliminary</b>  |      |
| 1             | Short title . . . . .   | 6    |
| 2             | Commencement . . . . .  | 6    |
| <b>Part 2</b> | <b>Amendment of Education (Capital Assistance) Act 1993</b>   |      |
| 3             | Act amended . . . . .   | 6    |
| 4             | Amendment of s 3 (Definitions) . . . . .  | 6    |
| 5             | Omission of s 6 (Declaration of approved authority) . . . . .   | 7    |
| <b>Part 3</b> | <b>Amendment of Education (General Provisions) Act 2006</b>   |      |
| 6             | Act amended . . . . .   | 7    |
| 7             | Amendment of s 50 (State education to be free) . . . . .  | 7    |
| 8             | Amendment of s 51 (Power to charge particular persons or for particular educational services) . . . . .               | 7    |
| 9             | Amendment of s 335 (Definitions for pt 6) . . . . .   | 8    |
| 10            | Amendment of s 365 (Obligation to report sexual abuse of student under 18 years attending State school) . . . . .     | 8    |
| 11            | Amendment of s 366 (Obligation to report sexual abuse of student under 18 years attending non-State school) . . . . . | 9    |
| 12            | Insertion of new ch 19, pt 1 and pt 2 hdg . . . . .   | 10   |
|               | Part 1                    Pre-preparatory learning program  |      |
|               | 419A            Pre-preparatory learning program . . . . .  | 10   |
|               | 419B            Application for registration . . . . .  | 11   |
|               | 419C            Decision whether to register child . . . . .  | 12   |
|               | 419D            Cancellation of registration for transfer to preparatory year . . . . .                               | 12   |
| 13            | Amendment of s 420 (Special education) . . . . .  | 13   |
| 14            | Amendment of s 426 (Confidentiality) . . . . .  | 13   |
| 15            | Amendment of s 428 (Collection of demographic information) . . . . .  | 14   |

Contents

---

|               |   |    |
|---------------|---|----|
| 16            | Amendment of s 429A (Prohibition on use of certain terms) . . . .   | 15 |
| 17            | Amendment of ch 20, pt 3, hdg . . . . .   | 15 |
| 18            | Insertion of new ch 20, pt 4 . . . . .  | 16 |
|               | Part 4 Transitional provision for Education and<br>Training Legislation Amendment Act 2009                                |    |
|               | 511 Programs taken to be pre-preparatory learning<br>programs . . . . .   | 16 |
| 19            | Amendment of sch 4 (Dictionary) . . . . .   | 16 |
| <b>Part 4</b> | <b>Amendment of Education (Queensland College of<br/>Teachers) Act 2005</b>   |    |
| 20            | Act amended . . . . .   | 17 |
| 21            | Amendment of s 8 (Eligibility for full registration) . . . . .  | 17 |
| 22            | Amendment of s 9 (Eligibility for provisional registration) . . . . .   | 17 |
| 23            | Amendment of s 62 (Replacing certificates of registration or<br>permission to teach) . . . . .                            | 18 |
| 24            | Renumbering of ss 62 and 63 . . . . .   | 18 |
| 25            | Amendment of s 80 (Requirement for prosecuting authority to<br>notify college about committal, conviction etc.) . . . . . | 18 |
| 26            | Amendment of s 110 (Notice to be given to college if PP&C<br>committee authorise investigation) . . . . .                 | 18 |
| 27            | Insertion of new s 111A . . . . .   | 19 |
|               | 111A PP&C committee may refer matter to QCAT . . . . .  | 19 |
| 28            | Amendment of s 115 (Functions of PP&C committee) . . . . .  | 19 |
| 29            | Amendment of s 130 (Application of div 2) . . . . .   | 20 |
| 30            | Amendment of s 175 (Appointment) . . . . .  | 20 |
| 31            | Amendment of s 211 (Review committee) . . . . .   | 20 |
| 32            | Amendment of s 213 (Notice of review decision) . . . . .  | 20 |
| 33            | Amendment of s 264 (Delegation) . . . . .   | 21 |
| 34            | Amendment of sch 3 (Dictionary) . . . . .   | 21 |
| <b>Part 5</b> | <b>Amendment of Education (Queensland Studies Authority)<br/>Act 2002</b>   |    |
| 35            | Act amended . . . . .   | 22 |
| 36            | Amendment of sch 2 (Dictionary) . . . . .   | 22 |
| <b>Part 6</b> | <b>Amendment of Grammar Schools Act 1975</b>  |    |
| 37            | Act amended . . . . .   | 22 |
| 38            | Omission of s 3 (Notes) . . . . .   | 23 |
| 39            | Amendment of s 44 (Register of donors and subscribers) . . . . .  | 23 |

|                |   |    |
|----------------|---|----|
| <b>Part 7</b>  | <b>Amendment of James Cook University Act 1997</b>  |    |
| 40             | Act amended . . . . .   | 23 |
| 41             | Amendment of s 15 (Elected members) . . . . .   | 24 |
| 42             | Amendment of s 31 (Deputy chancellor) . . . . .   | 24 |
| 43             | Amendment of s 40A (Chairperson of academic board) . . . . .                                      | 24 |
| 44             | Amendment of s 57 (Making of university statutes) . . . . .                                       | 24 |
| 45             | Amendment of sch 1 (Control of traffic and conduct on university land) . . . . .                  | 24 |
| 46             | Amendment of sch 2 (Dictionary) . . . . .   | 25 |
| <b>Part 8</b>  | <b>Amendment of Vocational Education, Training And Employment Act 2000</b>                        |    |
| 47             | Act amended . . . . .   | 25 |
| 48             | Amendment of s 45 (Cancellation of qualification or statement of attainment) . . . . .            | 25 |
| 49             | Insertion of new ss 45A–45C . . . . .   | 26 |
|                | 45A Cancellation of qualification or statement of attainment by council . . . . .                 | 26 |
|                | 45B Public notice of cancellation of qualification or statement of attainment . . . . .           | 28 |
|                | 45C Offence to falsely claim to hold qualification or statement of attainment . . . . .           | 28 |
| 50             | Amendment of s 83 (Prohibited employers) . . . . .  | 29 |
| 51             | Amendment of s 84 (Revocation of declaration as prohibited employer) . . . . .                    | 29 |
| 52             | Amendment of s 230 (Appeal to industrial commission against council or other decisions) . . . . . | 29 |
| 53             | Amendment of s 244 (Appeal to Industrial Court on question of law) . . . . .                      | 30 |
| <b>Part 9</b>  | <b>Amendment of Vocational Education, Training and Employment Regulation 2000</b>                 |    |
| 54             | Regulation amended . . . . .  | 30 |
| 55             | Amendment of sch 5 (Dictionary) . . . . .   | 30 |
| <b>Part 10</b> | <b>Amendment of Child Care Act 2002</b>   |    |
| 56             | Act amended . . . . .   | 31 |
| 57             | Amendment of s 5 (Meaning of child care service) . . . . .  | 31 |



# 2009

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## A Bill

for

**An Act to amend the *Education (Capital Assistance) Act 1993*, the *Education (General Provisions) Act 2006*, the *Education (Queensland College of Teachers) Act 2005*, the *Education (Queensland Studies Authority) Act 2002*, the *Grammar Schools Act 1975*, the *James Cook University Act 1997*, the *Vocational Education, Training and Employment Act 2000*, the *Vocational Education, Training and Employment Regulation 2000* and the *Child Care Act 2002* for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Education and Training  
Legislation Amendment Act 2009*. 4  
5

**Clause 2 Commencement** 6

This Act commences on a day to be fixed by proclamation. 7

**Part 2 Amendment of Education  
(Capital Assistance) Act 1993** 8  
9

**Clause 3 Act amended** 10

This part amends the *Education (Capital Assistance) Act  
1993*. 11  
12

**Clause 4 Amendment of s 3 (Definitions)** 13

Section 3, definition *approved authority*— 14  
*omit, insert—* 15

*‘approved authority*, of an eligible non-State school, means 16  
the governing body of the school.’ 17

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|                 |  |   |
|-----------------|--|---|
| <b>Clause 5</b> | <b>Omission of s 6 (Declaration of approved authority)</b> | 1 |
|                 | Section 6—   | 2 |
|                 | <i>omit.</i>   | 3 |

|               |                                      |   |
|---------------|--------------------------------------|---|
| <b>Part 3</b> | <b>Amendment of Education</b>        | 4 |
|               | <b>(General Provisions) Act 2006</b> | 5 |

|                 |   |        |
|-----------------|---|--------|
| <b>Clause 6</b> | <b>Act amended</b>  | 6      |
|                 | This part amends the <i>Education (General Provisions) Act 2006</i> . | 7<br>8 |

|                 |  |                |
|-----------------|--|----------------|
| <b>Clause 7</b> | <b>Amendment of s 50 (State education to be free)</b>  | 9              |
|                 | Section 50(1)—   | 10             |
|                 | <i>omit, insert—</i>   | 11             |
|                 | ‘(1) Subsection (2) applies to—  | 12             |
|                 | (a) a person enrolled at a State school; or  | 13             |
|                 | (b) a person who is a pre-preparatory age child registered in a pre-preparatory learning program at a prescribed State school; | 14<br>15<br>16 |
|                 | who is—  | 17             |
|                 | (c) an Australian citizen or permanent resident; or  | 18             |
|                 | (d) a child of an Australian citizen or permanent resident.’.  | 19             |

|                 |  |          |
|-----------------|--|----------|
| <b>Clause 8</b> | <b>Amendment of s 51 (Power to charge particular persons or for particular educational services)</b> | 20<br>21 |
|                 | (1) Section 51(1), after ‘school’—   | 22       |
|                 | <i>insert—</i>   | 23       |

[s 9]

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‘, or a pre-preparatory age child registered in a  
pre-preparatory learning program at a prescribed State  
school.’.

(2) Section 51(3)—  
*omit, insert—*

‘(3) The chief executive may charge a fee for—  
(a) the education of the person at the State school; or  
(b) registration of the pre-preparatory age child in the  
pre-preparatory learning program at the State school.’.

**Clause 9      Amendment of s 335 (Definitions for pt 6)**

(1) Section 335, definition *exempt person*, paragraph (b)—  
*renumber* as paragraph (d).

(2) Section 335, definition *exempt person*—  
*insert—*

‘(b) a pre-preparatory age child registered in a  
pre-preparatory learning program at the institution; or

(c) a person with a disability who—

(i) under section 420(2), is being provided with  
special education at the institution; and

(ii) is not enrolled in the preparatory year at the  
institution; or’.

**Clause 10      Amendment of s 365 (Obligation to report sexual abuse  
of student under 18 years attending State school)**

(1) Section 365, heading—  
*omit, insert—*

**‘365      Obligation to report sexual abuse of person under 18  
years at State school’.**

(2) Section 365(1)—

*omit, insert—*

- (1) Subsection (2) applies if a staff member of a State school (the *first person*) becomes aware, or reasonably suspects, that any of the following have been sexually abused by another person who is an employee of the school—
- (a) a student under 18 years attending the school;
  - (b) a pre-preparatory age child registered in a pre-preparatory learning program at the school;
  - (c) a person with a disability who—
    - (i) under section 420(2), is being provided with special education at the school; and
    - (ii) is not enrolled in the preparatory year at the school.’.

**Clause 11      Amendment of s 366 (Obligation to report sexual abuse of student under 18 years attending non-State school)**

- (1) Section 366, heading—

*omit, insert—*

**‘366      Obligation to report sexual abuse of person under 18 years at non-State school’.**

- (2) Section 366(1)—

*omit, insert—*

- (1) Subsection (2) applies if a staff member of a non-State school (the *first person*) becomes aware, or reasonably suspects, that any of the following have been sexually abused by another person who is an employee of the school—
- (a) a student under 18 years attending the school;
  - (b) a pre-preparatory age child registered in a pre-preparatory learning program at the school;
  - (c) a person with a disability who—
    - (i) under section 420(2), is being provided with special education at the school; and

[s 12]

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(ii) is not enrolled in the preparatory year at the school.’. 1  
2

**Clause 12 Insertion of new ch 19, pt 1 and pt 2 hdg 3**

Chapter 19— 4

*insert—* 5

**‘Part 1 Pre-preparatory learning 6  
program 7**

**‘419A Pre-preparatory learning program 8**

‘(1) The Minister may approve a program focused on literacy and 9  
numeracy, for preparing a child for education in the 10  
preparatory year, to be a pre-preparatory learning program for 11  
a prescribed State school or a prescribed non-State school. 12

*Note—* 13

See chapter 20, part 4 for programs being provided before 14  
commencement. 15

‘(2) The Minister may provide, or assist in providing the program, 16  
at a prescribed State school or a prescribed non-State school, 17  
to a pre-preparatory age child. 18

‘(3) A pre-preparatory age child being provided with a 19  
pre-preparatory learning program at a prescribed State school 20  
or a prescribed non-State school is not, for this Act— 21

(a) a student of the school; or 22

(b) enrolled at the school. 23

‘(4) The Minister must review the operation of this section within 24  
5 years after its commencement to decide whether the section 25  
remains relevant and necessary. 26

‘(5) In this section— 27

***pre-preparatory age child*** means a child who will be at least 4 28  
years and 6 months on 31 December in the year proposed for 29

---

the child's participation in a pre-preparatory learning program. 1  
2

*prescribed non-State school* means a non-State school that, 3  
immediately before the commencement of this section, was 4  
providing a program— 5

(a) focused on literacy and numeracy for preparing a child 6  
for education in the preparatory year; and 7

(b) approved by the Minister for the school. 8

*prescribed State school* means— 9

(a) a State school that, immediately before the 10  
commencement of this section, was providing a 11  
program— 12

(i) focused on literacy and numeracy for preparing a 13  
child for education in the preparatory year; and 14

(ii) approved by the Minister for the school; or 15

(b) a State school prescribed under a regulation. 16

**419B Application for registration 17**

‘An application for registration of a pre-preparatory age child 18  
in a pre-preparatory learning program, at a prescribed State 19  
school or a prescribed non-State school must be— 20

(a) made— 21

(i) to the principal of the school; and 22

(ii) in the approved form; and 23

(b) accompanied by— 24

(i) evidence, satisfactory to the principal, that the 25  
child is a pre-preparatory age child; and 26

(ii) any other documents, identified in the approved 27  
form, the principal reasonably requires to decide 28  
the application. 29

[s 12]

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|   |                      |
|---|----------------------|
| <b>‘419C Decision whether to register child</b>   | 1                    |
| ‘(1) The principal must consider an application under section 419B and decide whether to grant or refuse to grant the application.  | 2<br>3<br>4          |
| ‘(2) If the principal is satisfied it is in the child’s best interests to be registered in a pre-preparatory learning program at the school, the principal may register the child.                | 5<br>6<br>7          |
| ‘(3) Subsection (2) applies even if an application for registration of a child does not comply, or fully comply, with section 419B.   | 8<br>9               |
| ‘(4) The principal may refuse to register a child if, under section 419D, the child’s registration has been cancelled at another prescribed State school or prescribed non-State school.          | 10<br>11<br>12       |
| <br>  |                      |
| <b>‘419D Cancellation of registration for transfer to preparatory year</b>  | 13<br>14             |
| ‘(1) This section applies if—   | 15                   |
| (a) a preparatory age child is registered in a pre-preparatory learning program at a prescribed State school or a prescribed non-State school; and  | 16<br>17<br>18       |
| (b) the principal of the school is satisfied the child is too mature for the pre-preparatory learning program and would be better served educationally by being enrolled in the preparatory year. | 19<br>20<br>21<br>22 |
| ‘(2) The principal may—   | 23                   |
| (a) cancel the child’s registration in the pre-preparatory learning program; and  | 24<br>25             |
| (b) enrol the child in the preparatory year at the school.  | 26                   |
| ‘(3) In this section—   | 27                   |

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*‘preparatory age child* means a child who has reached the age prescribed under a regulation for enrolment in the preparatory year at a State school or non-State school.

## **‘Part 2                      General’.**

- Clause 13      Amendment of s 420 (Special education)**
- Section 420—  
*insert—*  
(3) Subsection (4) applies to a person with a disability who—  
    (a) under subsection (2), is being provided with special education; and  
    (b) is not enrolled in the preparatory year at the school at which the special education is being provided.  
(4) The person is not, for this Act—  
    (a) a student of the school; or  
    (b) enrolled at the school.’.
- Clause 14      Amendment of s 426 (Confidentiality)**
- (1) Section 426(1)(b)—  
*omit, insert—*  
(b) who, in that capacity, has gained or has access to personal information about—  
    (i) a student, prospective student or former student of a State school; or  
    (ii) a pre-preparatory age child—  
        (A) who is or has been registered in a pre-preparatory learning program at a State school; or

[s 15]

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- (B) for whom an application for registration has been made under section 419B; or 1  
2
- (iii) a person with a disability who— 3
  - (A) under section 420(2), is being provided with special education at a State school; and 4  
5
  - (B) is not enrolled in the preparatory year at the school.’. 6  
7
- (2) Section 426(2)(b)— 8
  - omit, insert—* 9
  - ‘(b) who, in that capacity, has gained or has access to personal information, contained in a transfer note, about— 10  
11  
12
    - (i) a former student or continuing student of the school; or 13  
14
    - (ii) a pre-preparatory age child— 15
      - (A) who is or has been registered in a pre-preparatory learning program at the school; or 16  
17  
18
      - (B) for whom an application for registration has been made under section 419B; or 19  
20
    - (iii) a person with a disability who— 21
      - (A) under section 420(2), is being provided with special education at the school; and 22  
23
      - (B) is not enrolled in the preparatory year at the school.’. 24  
25

- Clause 15 Amendment of s 428 (Collection of demographic information)** 26  
27
- (1) Section 428(1)— 28
    - omit, insert—* 29
    - ‘(1) The chief executive may collect demographic information about any of the following and their parents if the only 30  
31

- 
- purpose of the collection is to give effect to, or manage, an education funding arrangement— 1  
2
- (a) State school students; 3
- (b) pre-preparatory age children registered in a pre-preparatory learning program at a State school; 4  
5
- (c) persons with a disability who— 6
- (i) under section 420(2), are being provided with special education at a State school; and 7  
8
- (ii) are not enrolled in the preparatory year at the school.’. 9  
10
- (2) Section 428(2), ‘State school students and their parents’— 11  
*omit, insert—* 12  
‘the persons mentioned in subsection (1)’ 13

- Clause 16 Amendment of s 429A (Prohibition on use of certain terms)** 14  
15
- Section 429A(1)— 16  
*insert—* 17
- ‘(d) ‘P.R.E.P.’; 18
- (e) any other name, initial, word or description that, having regard to the circumstances in which it is used, may suggest that the licensee is offering education in the preparatory year.’. 19  
20  
21  
22

- Clause 17 Amendment of ch 20, pt 3, hdg** 23
- Chapter 20, part 3, heading, after ‘provisions’— 24  
*insert—* 25  
‘for Education (General Provisions) Act 2006’. 26

[s 18]

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|                  |   |                      |
|------------------|---|----------------------|
| <b>Clause 18</b> | <b>Insertion of new ch 20, pt 4</b>   | 1                    |
|                  | After section 510A—   | 2                    |
|                  | <i>insert—</i>  | 3                    |
| <b>‘Part 4</b>   | <b>Transitional provision for<br/>Education and Training<br/>Legislation Amendment Act<br/>2009</b>   | 4<br>5<br>6<br>7     |
| <b>‘511</b>      | <b>Programs taken to be pre-preparatory learning<br/>programs</b>   | 8<br>9               |
|                  | ‘(1) This section applies to a program focused on literacy and numeracy for preparing a child for education in the preparatory year that, immediately before the commencement of this section, was— | 10<br>11<br>12<br>13 |
|                  | (a) being provided by a prescribed State school or a prescribed non-State school; and   | 14<br>15             |
|                  | (b) approved by the Minister for the school.  | 16                   |
|                  | ‘(2) The program is taken to be a pre-preparatory learning program for this Act.’.  | 17<br>18             |
| <b>Clause 19</b> | <b>Amendment of sch 4 (Dictionary)</b>  | 19                   |
|                  | (1) Schedule 4—   | 20                   |
|                  | <i>insert—</i>  | 21                   |
|                  | <i>‘pre-preparatory age child</i> see section 419A(5).  | 22                   |
|                  | <i>pre-preparatory learning program</i> means a program approved under section 419A(1).   | 23<br>24             |
|                  | <i>prescribed non-State school</i> see section 419A(5).   | 25                   |
|                  | <i>prescribed State school</i> see section 419A(5).’.   | 26                   |
|                  | (2) Schedule 4, definition <i>educational program</i> , paragraph (a)—  | 27                   |
|                  | <i>omit, insert—</i>  | 28                   |

- 
- ‘(a) for a reference to an educational program provided under this Act—
- (i) a program under arrangements approved under section 183; and
- (ii) a pre-preparatory learning program; or’.

**Part 4** **Amendment of Education (Queensland College of Teachers) Act 2005**

- Clause 20** **Act amended** 9
- This part amends the *Education (Queensland College of Teachers) Act 2005*. 10  
11
- Clause 21** **Amendment of s 8 (Eligibility for full registration)** 12
- Section 8(1)(a)(ii), ‘abilities, experience and contribution to education establish’— 13  
14
- omit, insert—* 15
- ‘demonstrated abilities, experience, knowledge and skills establish that’. 16  
17
- Clause 22** **Amendment of s 9 (Eligibility for provisional registration)** 18
- Section 9(1)(a)(ii), ‘abilities, experience and contribution to education establish’— 19  
20
- omit, insert—* 21
- ‘demonstrated abilities, experience, knowledge and skills establish that’. 22  
23

[s 23]

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|                  |   |                |
|------------------|---|----------------|
| <b>Clause 23</b> | <b>Amendment of s 62 (Replacing certificates of registration or permission to teach)</b>                            | 1<br>2         |
|                  | (1) Section 62, heading—  | 3              |
|                  | <i>omit, insert—</i>  | 4              |
| <b>'62</b>       | <b>Replacing certificate of registration, registration card or certificate of permission to teach'.</b>             | 5<br>6         |
|                  | (2) Section 62(1), after 'certificate,'—  | 7              |
|                  | <i>insert—</i>  | 8              |
|                  | 'registration card,'.   | 9              |
|                  | (3) Section 62(3), after 'certificate'—   | 10             |
|                  | <i>insert—</i>  | 11             |
|                  | 'or card'.  | 12             |
| <b>Clause 24</b> | <b>Renumbering of ss 62 and 63</b>  | 13             |
|                  | Sections 62 and 63—   | 14             |
|                  | <i>renumber</i> as sections 63 and 62.  | 15             |
| <b>Clause 25</b> | <b>Amendment of s 80 (Requirement for prosecuting authority to notify college about committal, conviction etc.)</b> | 16<br>17<br>18 |
|                  | Section 80—   | 19             |
|                  | <i>insert—</i>  | 20             |
|                  | '(7) In this section—   | 21             |
|                  | <i>penalty</i> includes a disqualification order.'  | 22             |
| <b>Clause 26</b> | <b>Amendment of s 110 (Notice to be given to college if PP&amp;C committee authorise investigation)</b>             | 23<br>24       |
|                  | Section 110, heading—   | 25             |
|                  | <i>omit, insert—</i>  | 26             |

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|                  |   |                |
|------------------|---|----------------|
| <b>‘110</b>      | <b>Notice to be given to college if PP&amp;C committee authorises investigation’.</b>   | 1<br>2         |
| <b>Clause 27</b> | <b>Insertion of new s 111A</b>  | 3              |
|                  | Chapter 5, part 4—  | 4              |
|                  | <i>insert—</i>  | 5              |
| <b>‘111A</b>     | <b>PP&amp;C committee may refer matter to QCAT</b>  | 6              |
| ‘(1)             | This section applies if the PP&C committee reasonably believes that, in relation to a matter mentioned in section 108—              | 7<br>8<br>9    |
| (a)              | a ground for disciplinary action against a teacher may exist; and   | 10<br>11       |
| (b)              | if the ground is established, disciplinary action mentioned in section 160(2)(d) to (h) or (j) should be taken against the teacher. | 12<br>13<br>14 |
| ‘(2)             | The PP&C committee may refer the matter to QCAT without—  | 15<br>16       |
| (a)              | authorising an investigation into the matter; or  | 17             |
| (b)              | hearing the matter.’.   | 18             |
| <b>Clause 28</b> | <b>Amendment of s 115 (Functions of PP&amp;C committee)</b>   | 19             |
|                  | Section 115(1)—   | 20             |
|                  | <i>omit, insert—</i>  | 21             |
| ‘(1)             | The functions of the PP&C committee, in relation to a relevant disciplinary matter, are as follows—                                 | 22<br>23       |
| (a)              | to authorise an investigation into the matter;  | 24             |
| (b)              | to refer the matter to QCAT with or without—  | 25             |
| (i)              | authorising an investigation into the matter; or  | 26             |
| (ii)             | hearing the matter;   | 27             |
| (c)              | to hear and decide the matter with or without authorising an investigation into the matter.’.                                       | 28<br>29       |

[s 29]

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|                  |   |    |
|------------------|---|----|
| <b>Clause 29</b> | <b>Amendment of s 130 (Application of div 2)</b>  | 1  |
|                  | Section 130(b)—   | 2  |
|                  | <i>omit, insert—</i>  | 3  |
|                  | ‘(b) a PP&C matter referred to QCAT by the PP&C committee under section 111A(2) or 123(2)(b).’.   | 4  |
|                  |   | 5  |
| <b>Clause 30</b> | <b>Amendment of s 175 (Appointment)</b>   | 6  |
|                  | Section 175(1)—   | 7  |
|                  | <i>insert—</i>  | 8  |
|                  | ‘(c) another person the college considers appropriate to be appointed as an investigator.’.   | 9  |
|                  |   | 10 |
| <b>Clause 31</b> | <b>Amendment of s 211 (Review committee)</b>  | 11 |
|                  | (1) Section 211(4)(c), after ‘allows’—  | 12 |
|                  | <i>insert—</i>  | 13 |
|                  | ‘including material in any submissions made before the end of the submission period’.   | 14 |
|                  |   | 15 |
|                  | (2) Section 211(5)—   | 16 |
|                  | <i>omit.</i>  | 17 |
|                  | (3) Section 211(4)—   | 18 |
|                  | <i>renumber</i> as section 211(5).  | 19 |
|                  | (4) Section 211—  | 20 |
|                  | <i>insert—</i>  | 21 |
|                  | ‘(4) The review committee must give the applicant a notice stating that the applicant may make oral or written submissions about the original decision to the committee within 21 days after the notice is given (the <i>submission period</i> ).’. | 22 |
|                  |   | 23 |
|                  |   | 24 |
|                  |   | 25 |
| <b>Clause 32</b> | <b>Amendment of s 213 (Notice of review decision)</b>   | 26 |
|                  | Section 213(3), ‘45’—   | 27 |

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*omit, insert—* 1  
'60'. 2

|                  |  |          |
|------------------|--|----------|
| <b>Clause 33</b> | <b>Amendment of s 264 (Delegation)</b>   | 3        |
| (1)              | Section 264(1)—  | 4        |
|                  | <i>insert—</i>   | 5        |
|                  | '(d) an appropriately qualified member of the office's staff.'   | 6        |
| (2)              | Section 264—   | 7        |
|                  | <i>insert—</i>   | 8        |
| '(4)             | In this section—   | 9        |
|                  | <b><i>appropriately qualified</i></b> includes having the qualifications,<br>experience or standing appropriate to exercise the power. | 10<br>11 |
|                  | <i>Example of standing—</i>  | 12       |
|                  | the staff member's classification level in the office'.  | 13       |

|                  |  |          |
|------------------|--|----------|
| <b>Clause 34</b> | <b>Amendment of sch 3 (Dictionary)</b>   | 14       |
| (1)              | Schedule 3, definition <i>former holder of a permission to teach</i> ,<br>paragraph (b)— | 15<br>16 |
|                  | <i>omit, insert—</i>   | 17       |
|                  | '(b) no longer holds a permission to teach.'   | 18       |
| (2)              | Schedule 3, definition <i>former registered teacher</i> , paragraph<br>(b)—              | 19<br>20 |
|                  | <i>omit, insert—</i>   | 21       |
|                  | '(b) is no longer a registered teacher.'   | 22       |

[s 35]

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|                  |   |                |
|------------------|---|----------------|
| <b>Part 5</b>    | <b>Amendment of Education<br/>(Queensland Studies Authority)<br/>Act 2002</b>   | 1<br>2<br>3    |
| <b>Clause 35</b> | <b>Act amended</b>  | 4              |
|                  | This part amends the <i>Education (Queensland Studies Authority) Act 2002</i> .   | 5<br>6         |
| <b>Clause 36</b> | <b>Amendment of sch 2 (Dictionary)</b>  | 7              |
|                  | Schedule 2, definition <i>school studies</i> —  | 8              |
|                  | <i>omit, insert</i> —   | 9              |
|                  | <i>'school studies</i> means—   | 10             |
|                  | (a) the 8 key learning areas provided for under the Melbourne Declaration on Educational Goals for Young Australians; or  | 11<br>12<br>13 |
|                  | (b) school subjects.  | 14             |
|                  | <i>Note</i> —   | 15             |
|                  | The declaration was made at the 26th Ministerial Council on Education, Employment, Training and Youth Affairs held on 5 December 2008.  | 16<br>17<br>18 |
|                  | <i>Editor's note</i> —  | 19             |
|                  | The declaration may be viewed on the website of the Ministerial Council on Education, Employment, Training and Youth Affairs at < <a href="http://www.mceetya.edu.au">www.mceetya.edu.au</a> >. | 20<br>21<br>22 |
| <b>Part 6</b>    | <b>Amendment of Grammar<br/>Schools Act 1975</b>  | 23<br>24       |
| <b>Clause 37</b> | <b>Act amended</b>  | 25             |
|                  | This part amends the <i>Grammar Schools Act 1975</i> .  | 26             |

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|                  |  |                   |
|------------------|--|-------------------|
| <b>Clause 38</b> | <b>Omission of s 3 (Notes)</b>   | 1                 |
|                  | Section 3—   | 2                 |
|                  | <i>omit.</i>   | 3                 |
| <b>Clause 39</b> | <b>Amendment of s 44 (Register of donors and subscribers)</b>  | 4                 |
|                  | Section 44(2)—   | 5                 |
|                  | <i>omit, insert—</i>   | 6                 |
|                  | ‘(1A) However, a person who no longer wishes to be a donor or subscriber may ask the board in writing to remove the person’s name and other particulars of the person from the register. | 7<br>8<br>9<br>10 |
|                  | ‘(2) The secretary to the board must, at the direction of the board—   | 11<br>12          |
|                  | (a) amend details of a person’s name or other particulars on the register; or  | 13<br>14          |
|                  | (b) remove from the register the name and other particulars of—  | 15<br>16          |
|                  | (i) a person mentioned in subsection (1A); or  | 17                |
|                  | (ii) a person who has died; or   | 18                |
|                  | (c) make any other alterations or amendments to the register required by the board.’.  | 19<br>20          |

|               |  |          |
|---------------|--|----------|
| <b>Part 7</b> | <b>Amendment of James Cook University Act 1997</b> | 21<br>22 |
|---------------|--|----------|

|                  |  |    |
|------------------|--|----|
| <b>Clause 40</b> | <b>Act amended</b>   | 23 |
|                  | This part amends the <i>James Cook University Act 1997</i> . | 24 |

[s 41]

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|                  |   |    |
|------------------|---|----|
| <b>Clause 41</b> | <b>Amendment of s 15 (Elected members)</b>                                    | 1  |
|                  | Section 15(3)(d), after ‘convocation’—  | 2  |
|                  | <i>insert—</i>  | 3  |
|                  | ‘eligible under a university statute’.  | 4  |
| <b>Clause 42</b> | <b>Amendment of s 31 (Deputy chancellor)</b>                                  | 5  |
|                  | Section 31(4)—  | 6  |
|                  | <i>omit, insert—</i>  | 7  |
|                  | ‘(4) The deputy chancellor is to act as chancellor when—                      | 8  |
|                  | (a) there is a vacancy in the office of chancellor; or                        | 9  |
|                  | (b) the chancellor can not perform the functions of the                       | 10 |
|                  | office.’.   | 11 |
| <b>Clause 43</b> | <b>Amendment of s 40A (Chairperson of academic board)</b>                     | 12 |
|                  | Section 40A(3), ‘2’—  | 13 |
|                  | <i>omit, insert—</i>  | 14 |
|                  | ‘3’.  | 15 |
| <b>Clause 44</b> | <b>Amendment of s 57 (Making of university statutes)</b>                      | 16 |
|                  | Section 57(2)(e), after ‘convocation’—  | 17 |
|                  | <i>insert—</i>  | 18 |
|                  | ‘and the voting rights of its members’.                                       | 19 |
| <b>Clause 45</b> | <b>Amendment of sch 1 (Control of traffic and conduct on university land)</b> | 20 |
|                  | Schedule 1—   | 21 |
|                  | <i>insert—</i>  | 22 |
|                  |   | 23 |

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|                  |  |                |
|------------------|--|----------------|
| <b>‘1A</b>       | <b>Limitation of authorised person’s or security officer’s powers</b>  | 1<br>2         |
|                  | ‘The powers of an authorised person or a security officer may be limited—  | 3<br>4         |
|                  | (a) under a condition of appointment; or   | 5              |
|                  | (b) by notice of the vice-chancellor given to the authorised person or security officer.’.   | 6<br>7         |
| <b>Clause 46</b> | <b>Amendment of sch 2 (Dictionary)</b>   | 8              |
|                  | Schedule 2, definition <i>general staff</i> —  | 9              |
|                  | <i>omit, insert</i> —  | 10             |
|                  | ‘ <i>general staff</i> means staff of the university including professional and technical staff but does not include academic staff.’. | 11<br>12<br>13 |
| <b>Part 8</b>    | <b>Amendment of Vocational Education, Training And Employment Act 2000</b>   | 14<br>15<br>16 |
| <b>Clause 47</b> | <b>Act amended</b>   | 17             |
|                  | This part amends the <i>Vocational Education, Training And Employment Act 2000</i> .   | 18<br>19       |
| <b>Clause 48</b> | <b>Amendment of s 45 (Cancellation of qualification or statement of attainment)</b>  | 20<br>21       |
|                  | (1) Section 45, heading, after ‘attainment’—   | 22             |
|                  | <i>insert</i> —  | 23             |
|                  | ‘ <b>by registered training organisation</b> ’.  | 24             |
|                  | (2) Section 45(2) and (3)—   | 25             |

[s 49]

---

*omit, insert—*

- 1
- ‘(2) If, after considering all representations made under the fair 2  
procedures, the registered training organisation decides not to 3  
cancel the qualification or statement of attainment, the 4  
organisation must give written notice to the person to whom 5  
the qualification or statement of attainment was issued (the 6  
*holder*) that no further action will be taken. 7
- ‘(3) If the registered training organisation decides to cancel the 8  
qualification or statement of attainment, the organisation 9  
must, as soon as practicable after deciding, give an 10  
information notice to the holder. 11
- ‘(4) A decision under subsection (3)— 12
- (a) has no effect if an appeal against the decision is upheld; 13  
and 14
- (b) otherwise, takes effect on the earlier of the following— 15
- (i) the last day to appeal against the decision; 16
- (ii) the day an appeal against the decision is decided or 17  
otherwise ends. 18
- ‘(5) If the qualification or statement of attainment is cancelled, the 19  
holder must, unless the holder has a reasonable excuse, return 20  
the cancelled qualification or statement of attainment to the 21  
registered training organisation within 21 days after the 22  
decision has effect. 23
- Maximum penalty for subsection (5)—40 penalty units.’. 24

**Clause 49 Insertion of new ss 45A–45C** 25

Part 3, division 5— 26

*insert—* 27

**‘45A Cancellation of qualification or statement of 28  
attainment by council 29**

- ‘(1) The council may cancel a qualification or statement of 30  
attainment, by fair procedures prescribed under a regulation, 31  
if— 32

- 
- (a) the qualification or statement of attainment was issued by—
- (i) an entity that is not a registered training organisation; or
  - (ii) a registered training organisation acting outside the scope of its registration; or
- (b) the registered training organisation that issued the qualification or statement of attainment—
- (i) did not provide, or fully provide, the training or assessments for the issue of the qualification or statement of attainment; or
  - (ii) did not, in issuing the qualification or statement of attainment, comply with the condition mentioned in section 26(2)(a).
- ‘(2) The council may make whatever inquiries the council considers necessary to help the council decide whether to cancel the qualification or statement of attainment.
- ‘(3) If, after considering all representations made under the fair procedures, the council decides not to cancel the qualification or statement of attainment, the council must give written notice to the following that no further action will be taken—
- (a) the person to whom the qualification or statement of attainment was issued (the *holder*);
  - (b) the registered training organisation or other entity that issued the qualification or statement of attainment.
- ‘(4) If the council decides to cancel the qualification or statement of attainment, the council must, as soon as practicable after deciding, give an information notice to the entities mentioned in subsection (3)(a) and (b).
- ‘(5) A decision under subsection (4)—
- (a) has no effect if an appeal against the decision is upheld; and
  - (b) otherwise, takes effect on the earlier of the following—
-

[s 49]

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|             |  |                  |
|-------------|--|------------------|
| (i)         | the last day to appeal against the decision;   | 1                |
| (ii)        | the day an appeal against the decision is decided or otherwise ends.   | 2<br>3           |
| ‘(6)        | If the qualification or statement of attainment is cancelled, the holder must, unless the holder has a reasonable excuse, return the cancelled qualification or statement of attainment to the council within 21 days after the decision has effect. | 4<br>5<br>6<br>7 |
|             | Maximum penalty for subsection (6)—40 penalty units.   | 8                |
| <b>‘45B</b> | <b>Public notice of cancellation of qualification or statement of attainment</b>   | 9<br>10          |
| ‘(1)        | The council must establish and make publicly available, a list of qualifications and statements of attainment cancelled by the council under section 45A.  | 11<br>12<br>13   |
|             | <i>Example of making a list publicly available—</i>  | 14               |
|             | publishing the list on the council’s website   | 15               |
| ‘(2)        | The council may also give notice of the cancellation of a qualification or statement of attainment by—   | 16<br>17         |
| (a)         | publishing a notice about the cancellation in a newspaper circulating in the State; or   | 18<br>19         |
| (b)         | giving written notice of the cancellation to other registering bodies or industry bodies for whom the information is relevant.   | 20<br>21<br>22   |
| <b>‘45C</b> | <b>Offence to falsely claim to hold qualification or statement of attainment</b>   | 23<br>24         |
| ‘(1)        | A person whose qualification or statement of attainment is cancelled under section 45A must not claim to hold the qualification or statement of attainment.  | 25<br>26<br>27   |
|             | Maximum penalty—40 penalty units.  | 28               |
| ‘(2)        | For subsection (1), a person claims to hold a qualification or statement of attainment if the person—  | 29<br>30         |
| (a)         | makes the claim; or  | 31               |

(b) does any act likely to induce someone else to believe the person holds the qualification or statement of attainment.’. 1  
2  
3

|                  |   |                |
|------------------|---|----------------|
| <b>Clause 50</b> | <b>Amendment of s 83 (Prohibited employers)</b>   | 4              |
| (1)              | Section 83(6)—<br><i>renumber</i> as section 83(7).   | 5<br>6         |
| (2)              | Section 83(5)—<br><i>omit, insert</i> —   | 7<br>8         |
| ‘(5)             | If the council decides not to declare an employer to be a prohibited employer, the council must immediately give the employer written notice of its decision.                         | 9<br>10<br>11  |
| ‘(6)             | If the council decides to declare an employer to be a prohibited employer, the council must immediately give the employer an information notice about its decision.’.                 | 12<br>13<br>14 |
| <b>Clause 51</b> | <b>Amendment of s 84 (Revocation of declaration as prohibited employer)</b>   | 15<br>16       |
| (1)              | Section 84(6) and (7)—<br><i>renumber</i> as section 84(7) and (8).   | 17<br>18       |
| (2)              | Section 84(5)—<br><i>omit, insert</i> —   | 19<br>20       |
| ‘(5)             | If the council decides to completely revoke the declaration, the council must immediately give the employer written notice of its decision.   | 21<br>22<br>23 |
| ‘(6)             | If the council decides to partly revoke the declaration or to leave the declaration stand, the council must immediately give the employer an information notice about its decision.’. | 24<br>25<br>26 |
| <b>Clause 52</b> | <b>Amendment of s 230 (Appeal to industrial commission against council or other decisions)</b>  | 27<br>28       |
| (1)              | Section 230(1)(b) to (l)—   | 29             |

[s 53]

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*renumber* as section 230(1)(c) to (m). 1

(2) Section 230(1)— 2

*insert*— 3

‘(b) the council’s cancellation of a qualification or statement  
of attainment under section 45A(1);’. 4  
5

**Clause 53 Amendment of s 244 (Appeal to Industrial Court on  
question of law) 6  
7**

Section 244— 8

*insert*— 9

‘(2) The *Industrial Relations Act 1999* applies, with any necessary  
changes, to a proceeding on appeal before the Industrial Court  
brought under subsection (1).’. 10  
11  
12

**Part 9 Amendment of Vocational 13  
Education, Training and 14  
Employment Regulation 2000 15**

**Clause 54 Regulation amended 16**

(1) This part amends the *Vocational Education, Training and  
Employment Regulation 2000*. 17  
18

(2) The amendment of the regulation in this part does not affect  
the power of the Governor in Council to further amend the  
regulation or to repeal it. 19  
20  
21

**Clause 55 Amendment of sch 5 (Dictionary) 22**

(1) Schedule 5, definition *affected person*, paragraphs (b) to (j)— 23  
*renumber* as paragraphs (c) to (k). 24

(2) Schedule 5, definition *affected person*— 25

- 
- insert*— 1
- ‘(b) for section 45A(1), the following— 2
- (i) the person to whom the qualification or statement 3  
of attainment was issued; 4
- (ii) the registered training organisation or other entity 5  
that issued the qualification or statement of 6  
attainment;’. 7
- (3) Schedule 5, definition *relevant section*, paragraphs (b) to 8  
(o)— 9  
*renumber* as paragraphs (c) to (p). 10
- (4) Schedule 5, definition *relevant section*— 11  
*insert*— 12  
‘(b) section 45A(1);’. 13

**Part 10** **Amendment of Child Care Act** 14  
**2002** 15

**Clause 56** **Act amended** 16  
This part amends the *Child Care Act 2002*. 17

**Clause 57** **Amendment of s 5 (Meaning of *child care service*)** 18

(1) Section 5(1)(b)— 19  
*renumber* as section 5(1)(a). 20

(2) Section 5(1)— 21  
*insert*— 22  
‘(b) a service for providing a pre-preparatory learning 23  
program, at a prescribed State school or a prescribed 24  
non-State school, to a pre-preparatory age child;’. 25

[s 57]

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|  |          |
|--|----------|
| (3) Section 5—   | 1        |
| <i>insert—</i>   | 2        |
| ‘(3) In this section—  | 3        |
| <i>pre-preparatory age child</i> see the <i>Education (General Provisions) Act 2006</i> , schedule 4.        | 4<br>5   |
| <i>pre-preparatory learning program</i> see the <i>Education (General Provisions) Act 2006</i> , schedule 4. | 6<br>7   |
| <i>prescribed non-State school</i> see the <i>Education (General Provisions) Act 2006</i> , schedule 4.      | 8<br>9   |
| <i>prescribed State school</i> see the <i>Education (General Provisions) Act 2006</i> , schedule 4.’         | 10<br>11 |

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