

Education and Training Legislation Amendment Bill 2011

Explanatory Notes for amendments to be moved during consideration in detail by the Honourable Cameron Dick MP

Title of the Bill

Education and Training Legislation Amendment Bill 2011

Objectives of the Amendments

The primary objectives of the amendments are to:

- (i) provide guidance about the circumstances in which sexual behaviour should be reported under the mandatory reporting provisions;
- (ii) provide for the cancellation of a teacher's registration or permission to teach under the *Education (Queensland College of Teachers) Act 2005* (the QCT Act) if the person has a conviction of a serious offence, irrespective of the date of conviction;
- (iii) provide that a person who has been convicted of a serious offence is an excluded person under the QCT Act;
- (iv) insert a process for teachers known by the Queensland College of Teachers (the QCT) to have existing convictions for serious offences from prior to commencement who were not sentenced to imprisonment, to show cause why their registration should not be cancelled;
- (v) prohibit a director or directors of a non-state school's governing body from delegating their function to receive and make reports about sexual abuse to a non-state school principal or other staff member; and
- (vi) limit the application of section 12M regarding the expiry of eligibility declarations, to ensure that the existing scheme in the QCT Act will apply to approved teachers charged with serious offences.

The amendments also make minor technical corrections to the Bill and the QCT Act that were identified following introduction of the Bill.

Achievement of the Objectives

The objectives are achieved by way of amendments to parts 3 and 4 of the Education and Training Legislation Amendment Bill 2011 (the Bill).

Alternative Ways of Achieving Policy Objectives

There is no alternative way of achieving the policy objectives other than to amend the Bill.

Estimated Cost for Government Implementation

There is no cost associated with these amendments.

Consistency with Fundamental Legislative Principles

During preparation of the amendments, regard has been had to the fundamental legislative principles prescribed in the *Legislative Standards Act 1992*.

The Bill introduced into Parliament on 2 August 2011 proposed to amend the QCT Act to provide for the automatic cancellation of teacher registration where a teacher is convicted of a serious offence, after the date of commencement, irrespective of whether the person was sentenced to imprisonment. The Bill also proposed to prohibit a person from applying for teacher registration if, after the date of commencement, the person has been convicted of a serious offence. Serious offences are serious sexual, violent and drug related offences, prescribed in the *Commission for Children and Young People and Child Guardian Act 2000*.

A person who is convicted of a serious offence is prohibited under the Bill from applying for teacher registration. However, the Bill introduces a new eligibility declaration process enabling an excluded person to seek registration or permission to teach in limited circumstances. A person who is convicted of a serious offence who was not sentenced to imprisonment and is not subject to sexual offender reporting obligations may apply for an eligibility declaration. If granted, the person may subsequently apply for teacher registration or permission to teach. At both the eligibility

declaration and registration stage the applicant must demonstrate exceptional circumstances.

Under the Bill as introduced, existing teachers who have been convicted of serious offences would be able to retain their registration or permission to teach.

The amendments proposed to be moved during consideration in detail will provide for the cancellation of an existing approved teacher's registration or permission to teach in the following circumstances:

- where the teacher has been convicted of a serious offence prior to commencement, which has not been overturned on appeal, and the QCT becomes aware of the conviction after commencement; and
- where the teacher is convicted of a serious offence prior to commencement, which has not been overturned on appeal, the person was sentenced to imprisonment and the QCT was aware of the conviction prior to commencement.

Consistent with current QCT provisions and the amendments contained in the Bill as introduced, there is no right of appeal from the cancellation of a teacher's registration or permission to teach in these circumstances. The QCT will not have discretion about whether to cancel the person's registration or permission to teach. Cancellation will be an automatic consequence of the person's conviction.

It is acknowledged that the amendments will have a significant impact on the ability of a very small number of existing teachers to maintain their registration or permission to teach. The QCT is aware of 10 existing teachers who have been convicted of serious offences of a sexual and violent nature prior to commencement. Three of these teachers were sentenced to imprisonment. Their registration will be automatically cancelled under the amendments. These teachers will never again be able to apply for registration or permission to teach. They will have no right of appeal from the cancellation of their registration.

The amendments will provide that in relation to those teachers who were convicted of a serious offence prior to commencement that has not been overturned on appeal, the person has not been sentenced to imprisonment and the QCT was aware of the conviction prior to commencement - the QCT must issue a notice inviting the person to show cause why their registration or permission to teach ought not be cancelled. These provisions are targeted towards those existing teachers that have been

considered by the QCT as suitable to teach during previous registration or renewal processes. After considering representations made, the QCT must decide to cancel their registration or permission to teach unless there are exceptional circumstances in which it would not harm the best interests of children for the person's registration or permission to teach to continue.

The QCT is aware of seven existing teachers who will be subject to the proposed show cause process. A person aggrieved by a show cause decision of the QCT will have a right of appeal, internally to the QCT review committee and then to Queensland Civil and Administrative Tribunal (QCAT). Their registration or permission to teach continues while the show cause process is on foot. The Bill ensures that these people are not excluded persons during the show cause process.

The amendments will also impact on those persons who have been convicted of a serious offence and are an excluded person on the basis that QCAT has made a disciplinary order prohibiting the person from reapplying for registration for a period of five years. Despite the QCAT order, these people will, from commencement, be excluded persons on the basis of their conviction for the serious offence. They will therefore be permanently prohibited from applying for registration unless they are issued an eligibility declaration. They will have no right of appeal from the cancellation.

The amendments will also impact on new applicants for registration or permission to teach, and aspiring applicants (such as people undertaking a teaching degree), who may have a previous conviction for a serious offence. From commencement, these people will need to seek an eligibility declaration in order to apply for registration or permission to teach, provided they are eligible to do so.

Where an application for registration or permission to teach, renewal of registration or permission to teach, or restoration of full registration is on foot and the applicant becomes an excluded person as a result of the Bill, their application will be withdrawn. The person will be notified of the withdrawal and advised about the eligibility declaration process.

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation have sufficient regard to the rights and liberties of individuals. Under section 4(3)(a) of the *Legislative Standards Act 1992*, rights and liberties should only be dependent on the exercise of administrative power where the power is sufficiently defined and subject to appropriate review.

It is arguable that to the extent that the amendments exclude a right of appeal the amendments may breach this fundamental legislative principle.

This breach of fundamental legislative principles is considered justified on the grounds that the best interests of children are of paramount importance and that the need to protect children from the risk posed by people who have committed serious sexual and violent offences outweighs the negative impacts on individuals whose registration is cancelled.

The proposal upholds the standard of the teaching profession in Queensland and aims to maintain public confidence in the profession. The Bill and these proposed additional amendments send a clear message about the standard of conduct which is expected of Queensland teachers by the Queensland Government.

Under section 4(3)(g) of the *Legislative Standards Act 1992*, legislation is also considered to adversely affect the rights and liberties of an individual if it adversely affects rights and liberties, or imposes obligations, retrospectively. Legislation is only considered retrospective where it affects a person's rights prior to commencement. The cancellation provisions apply to the existing teachers referred to above because of events that occurred prior to commencement (their convictions for serious offences). The amendments do not operate retrospectively because they provide for the future operation of the cancellation provisions, based on those past events. This position is supported in the Federal Court decision of *La Macchia v Minister for Primary Industry* (1986) 72 ALR 23.

Clauses 30C and 30D ensure that the disciplinary matters relating to a former approved teacher may be referred to QCAT under sections 111A and 123 of the QCT Act. While this was always the intention, it was not given effect to because of a minor drafting error. Clause 30H inserts a provision into the QCT Act (section 351) to ensure that QCAT disciplinary orders relating to former teachers that were referred to QCAT under sections 111A(2) and 123(2)(b) prior to commencement of the Bill are valid. This retrospective validating provision is considered appropriate. It will ensure previous decisions of QCAT about former teachers are not called into question and will provide certainty to those people who are the subject of the order about its validity. It ensures the original intention of the legislation is not undermined because of a minor drafting error.

Consultation

The Queensland Catholic Education Commission and Independent Schools Queensland were consulted about the provision providing guidance on the scope of the term sexual abuse.

The Queensland College of Teachers has been consulted about the teacher registration amendments.

Notes on Provisions

Where reference is made to commencement of part 4 of the Bill in the following notes, the reference is to be read as part 4, as amended by the amendments proposed to be moved during consideration in detail.

Amendments 1 and 2 provide for the insertion of an inclusive list of the circumstances in which sexual behaviour would constitute sexual abuse for part 10 of the *Education (General Provisions) Act 2006*.

Amendment 1 is a technical amendment to support amendment 2, which inserts the inclusive list of circumstances.

Amendment 2 inserts the inclusive list of the circumstances in which sexual behaviour would constitute sexual abuse. The provision provides guidance about the circumstances in which sexual behaviour ought to be reported under the mandatory reporting provisions.

The circumstances include, where the student is the subject of bribery, coercion, threat, exploitation or violence, where there is an imbalance of power between the student and the other person involved in the behaviour or where there is a significant disparity in the intellectual capacity or maturity of the student and the other person involved in the behaviour.

The use of a non-exhaustive statement ensures the provision does not inadvertently restrict the matters that should be reported.

Amendment 2 also inserts a definition of the term 'relevant person'. This is a tag-term used in Amendment 2 to refer to the student who is the subject of the alleged sexual abuse, or likely sexual abuse.

Amendment 3 ensures that the director, or directors, of a non-state school's governing body, cannot delegate their function to receive and make reports

about sexual abuse to a principal or other staff member of a non-state school.

Amendment 4 ensures that a person who is issued an eligibility declaration may apply for teacher registration or permission to teach as well as renewal of registration or permission to teach or restoration of full registration under the QCT Act.

Amendment 5 changes the definition of ‘eligibility applicant’ to enable a person who is convicted of a serious offence prior to commencement of part 4 of the Bill to also apply for an eligibility declaration. The definition in the Bill was limited to a person who was convicted after commencement.

Amendment 6 omits the definition of ‘criminal history check fee’ from new section 12E. A new definition for the term is included in the dictionary in schedule 3 by clause 30J.

Amendment 7 omits the proposed new section 12M and replaces it with a new provision regarding the expiry of an eligibility declaration. The new provision provides that an eligibility declaration expires when:

- the holder of the eligibility declaration is not an approved teacher and has been charged with a serious offence or become an excluded person; and
- the holder of the eligibility declaration is an approved teacher and has become an excluded person.

The proposed amendments will ensure that a person’s eligibility declaration does not expire upon a charge for a serious offence in the situation where the person to whom an eligibility declaration has been issued also holds registration or permission to teach. The existing provisions of the QCT Act would operate adequately to protect the safety of children in this situation.

However, where a person to whom an eligibility declaration has been issued does not also hold teacher registration or permission to teach, the Bill will continue to provide for the expiry of the declaration upon the charge for a serious offence. The person would need to re-apply for an eligibility declaration if the person wished to seek teacher registration in the future. This gives the QCT the opportunity to consider the facts of the matter leading to the charge together with the person’s previous criminal history to decide whether it is appropriate for the person to hold an eligibility declaration.

Amendment 8 omits clauses 16 to 30 of the Bill.

Amendment 9 inserts the following clauses after clause 15 of the Bill.

Clause 16 Amendment of s 14 (Application for registration or permission to teach)

Clause 16 omits the definition of ‘criminal history check fee’ from section 14 of the QCT Act. A new definition for the term is included in the dictionary in schedule 3 by clause 30J.

Clause 17 Amendment of s 15 (Obtaining police information about applicant)

Clause 17 amends section 15(6A)(c) and (6B) of the QCT Act to omit the reference to the term ‘disqualification order’. From commencement of part 4 of the Bill, the courts will no longer have capacity to make a disqualification order against a person. Accordingly, the QCT will not require police information obtained under section 15 of the QCT Act to include information about disqualification orders.

A disqualification order can be made when a person has been convicted of a disqualifying offence and not subject to an imprisonment order, or the person is convicted of a serious offence that relates to or involves a child. In both situations, the person will, from commencement, be an ‘excluded person’ because they will have been convicted of a serious offence.

Clause 18 Amendment of s 44 (Amending or replacing certificate of registration or certificate of permission to teach)

Clause 18 amends the definition of ‘relevant notice’ in section 44 of the QCT Act to omit the reference to a notice under section 104. Section 104 will be omitted by clause 30B.

Section 104 requires the QCT to give a complainant a notice relating to a decision of the QCAT regarding a show cause matter that originated from their complaint. Show cause matters are currently triggered when an approved teacher is convicted of a serious or disqualifying offence and the person’s registration or permission to teach has not been cancelled under section 56.

From commencement of part 4 of the Bill, it will no longer be necessary to refer show cause matters to QCAT as a person convicted of a disqualifying or serious offence will be an ‘excluded person’.

Clause 19 Amendment of s 48 (Effect of charge for disqualifying offence, temporary offender prohibition order or interim sexual offender order)

Clause 19 amends section 48 of the QCT Act to provide for the suspension of an approved teacher's registration or permission to teach if the person is charged with a serious offence after the relevant commencement. A definition of 'relevant commencement' is inserted into the dictionary in schedule 3 by clause 30J. It means commencement of part 4 of the Bill.

A note is added after subsection (2) to refer to the proposed transitional provision at section 343, which provides for the suspension of a person convicted of a serious offence prior to the relevant commencement.

Clause 20 Amendment of s 50 (Requirement to give notice of suspension)

Clause 20 makes a minor technical amendment to section 50. It removes the reference to the QCT making a 'decision' to suspend under section 48. This aligns with the language used in section 48.

Clause 21 Amendment of s 52 (When suspension ends)

Clause 21 removes the reference to QCAT's decisions under section 102 of the QCT Act. Section 102 prescribes the decisions QCAT may make after considering submissions on a show cause matter. As outlined in the explanation for clause 18, from commencement of part 4 of the Bill, it will no longer be necessary to refer show cause matters to QCAT.

Clause 22 Replacement of ss 56 and 57

Clause 22 replaces the existing sections 56 and 57 of the QCT Act with new provisions relating to cancellation of teacher registration.

New section 56 provides that the QCT must cancel an approved teacher's registration or permission to teach if the person is, after the relevant commencement, convicted of a serious offence or becomes a 'relevant excluded person'. A new definition for the term 'relevant excluded person' is introduced into the dictionary in schedule 3 to the QCT Act under clause 30J.

Clause 30H inserts a new section 344 into the QCT Act to provide for transitional arrangements for persons convicted of a serious offence prior to the relevant commencement. A note is inserted into section 56 to refer to the new transitional arrangement.

The new section 56 provides for the QCT to give the person a notice advising of the cancellation and specifies the matters the notice must state, including that the person has no right of appeal in relation to the cancellation of the teacher's registration or permission to teach under this section. The QCT is also required to provide a copy of the notice to the

employing authority for the teacher and the principal of each school at which the person is employed.

The new section 56 provides that there is no right of appeal from the cancellation of the person's registration or permission to teach.

New section 57 provides that the cancellation of a teacher's registration or permission to teach under the new section 56 remains in effect during an appeal in relation to the conviction or the making of an order resulting in the person becoming a relevant excluded person (that is, a sexual offender order). The section also provides that the person is no longer an excluded person if the conviction is overturned on appeal or if the sexual offender order was not made for a conviction for a serious offence and is overturned on appeal.

Clause 23 Omission of ch 2, pt 6, div 4

Clause 23 omits section 58 of the QCT Act. Section 58 currently prescribes the power for the courts to make disqualification orders. As outlined in the notes for clause 17, the courts will no longer need the capacity to make a disqualification order. Those people who could have been subject to a disqualification order will, from the relevant commencement, be an 'excluded person'.

Clause 24 Amendment of s 69 (Requirements for disclosure of changes in police information)

Clause 24 amends section 69(3)(c) and (4) of the QCT Act to remove references to 'disqualification orders', which will be obsolete after the relevant commencement. It will no longer be necessary for an approved teacher to notify the QCT about a change in police information that relates to the making of a disqualification order. As outlined in the notes for clause 17, the courts will no longer have the capacity to make a disqualification order.

Clause 25 Amendment of s 75 (Commissioner of police must notify changes in police information)

Clause 25 amends section 75(1)(a)(iv), (3)(c)(iii) and (d) to remove references to 'disqualification orders', which will be obsolete after the relevant commencement. It will no longer be necessary for the Commissioner of Police to notify the QCT about a change of a person's police information that relates to the making of a disqualification order. As outlined in the notes for clause 17, the courts will no longer have the capacity to make a disqualification order.

Clause 26 Amendment of s 80 (Requirement for prosecuting authority to notify college about committal, conviction etc.)

Clause 26 omits section 80(7), which currently defines ‘penalty’ to include a disqualification order. Section 80 requires a person to notify the QCT about certain matters, including, the penalty imposed by the court upon a conviction for an indictable offence. It will no longer be necessary for a person to notify the QCT if the court makes a disqualification order. As outlined in the notes for clause 17, the courts will no longer have the capacity to make a disqualification order.

Clause 27 Amendment of s 92 (Grounds for disciplinary action)

Clause 27 amends section 92 of the QCT Act to omit section 92(1)(a). A person’s conviction for a serious offence will no longer be a ground for a disciplinary action. Under the amendments proposed to be moved during consideration in detail, a person who is convicted of a serious offence will be an ‘excluded person’.

The definition of ‘relevant excluded person’ will be amended under clause 30J to remove the reference to disqualification orders, for the reasons outlined under clause 17 above. Because of the amendment proposed to the definition of ‘relevant excluded person’ there is no longer a need to qualify the term in section 92(1)(b). Clause 27(2) makes the necessary amendment to section 92(1)(b).

The clause also amends sections 92(2) and 92(5) to refer to serious offences rather than disqualifying offences. This is required because sections 92(2) and 92(5) refer to a person whose registration or permission to teach is suspended under section 48. After commencement of part 4 of the Bill, a teacher’s registration or permission to teach will be suspended if they are charged with a serious rather than disqualifying offence.

Clause 28 Amendment of s 93 (Disciplinary matters)

Clause 28 omits section 93(a) of the QCT Act and renumbers the remaining paragraphs. Section 93 defines ‘disciplinary actions’ to include (a) show cause matters; (b) general matters; and (c) PP&C matters. Following commencement of part 4 of the Bill, it will no longer be necessary to provide for show cause matters for the reasons outlined in the explanation for clause 18.

Clause 29 Omission of s 94 (Show cause matters)

Clause 29 omits section 94 of the QCT Act, which defines a show cause matter. The definition will no longer be necessary for the reasons outlined in the explanation for clause 18.

Clause 30 Amendment of s 95 (PP&C matters)

Clause 30 makes a minor technical amendment to section 95 of the QCT Act to omit an incorrect reference to section 92(2)(c), which does not exist.

Clause 30A Amendment of s 97 (Requirement for college to start disciplinary proceedings)

Clause 30A amends section 97(2)(a) of the QCT Act to omit the reference to a show cause matter. As outlined in the explanation for clause 18, from commencement of part 4 of the Bill, show cause matters will become obsolete.

Clause 30B Omission of ch 5, pt 2

Clause 30B omits chapter 5, part 2 of the QCT Act, which provides how QCAT deals with show cause matters. As outlined in the explanation for clause 18, from commencement of part 4 of the Bill, show cause matters will become obsolete.

Clause 30C Amendment of s 111A (PP&C committee may refer matter to QCAT)

Clause 30C ensures that the Professional Conduct and Practice, or PP&C Committee has the capacity to refer a PP&C matter relating to a former approved teacher to QCAT under section 111A(1)(b). While this was always the intention it was not given effect to because of a minor drafting error.

Clause 30D Amendment of s 123 (Disciplinary action by PP&C committee)

Clause 30D ensures that the PP&C Committee has the capacity to refer a PP&C matter relating to a former approved teacher to QCAT under section 123(2)(b). While this was always the intention it was not given effect to because of a minor drafting error.

Clause 30E Amendment of s 160 (Decision about disciplinary action against approved teacher)

Clause 30E amends section 160(2)(j) to enable QCAT to make a disciplinary order prohibiting a teacher whose registration or permission to

teach is cancelled by an order of QCAT from reapplying for registration or permission to teach for a stated period or indefinitely.

A note is added after section 160(2)(j) to refer to the proposed transitional provision at section 350. This transitional provision ensures that section 160 as in force immediately before the relevant commencement will apply to matters that have been referred to QCAT about an approved teacher before the relevant commencement.

Clause 30F Amendment of s 161 (Decision about disciplinary action against former approved teacher)

Clause 30F amends section 161(2)(c) to enable QCAT to make a disciplinary order prohibiting a former teacher from reapplying for registration or permission to teach for a stated period or indefinitely.

A note is added after section 161(2)(c) to refer to the proposed transitional provision at section 352. This transitional provision ensures that section 161 as in force immediately before the relevant commencement will apply to matters that have been referred to QCAT about a former approved teacher before the relevant commencement.

Clause 30G Amendment of s 288 (Register of approved teachers to be kept)

Clause 30G amends section 288 of the QCT Act to remove the requirement for the register maintained by the QCT to include information that a disqualification order has been made against a person. For the reasons outlined in the explanation for clause 17, this requirement will no longer be necessary.

Clause 30H Insertion of new ch 12, pt 13

Clause 30H inserts a new chapter 12 part 13 (Transitional provisions for Education and Training Legislation Amendment Act 2011) into the QCT Act. The new transitional provisions are outlined below.

- Section 342 – Existing applications by new excluded persons

New section 342 provides for the withdrawal of an application where:

- a person has, before the relevant commencement, applied for registration or permission to teach, renewal of registration or permission to teach, or restoration of full registration;
- the application has not been decided or withdrawn as at the relevant commencement; and

- the person is a ‘new excluded person’.

The new section defines ‘new excluded person’ to mean a person who was not an excluded person immediately before the relevant commencement but is an excluded person immediately after the relevant commencement.

The section does not apply to a person mentioned in section 344(5).

The QCT is to give a notice to the person about the withdrawal of their application and refund their application fee.

The new section prescribes what must be included in the notice, including that the application is withdrawn and that if the person is an eligibility applicant, the person may apply for an eligibility declaration under chapter 2, part 1A.

If the application relates to renewal or restoration, the QCT must also give a copy of the notice to the employing authority and each school at which the teacher is employed.

- Section 343 – Effect of serious offence charge before relevant commencement

New section 343 provides that section 48, as amended by the Bill, is to apply when:

- before relevant commencement, an approved teacher is charged with a serious offence;
- the charge has not been dealt with at the relevant commencement; and
- the teacher’s registration or permission to teach has not been cancelled under section 48.

A definition of the term ‘dealt with’, in relation to a charge for a serious offence is provided.

- Section 344 – Effect of serious offence conviction before relevant commencement

New section 344 provides for the cancellation of an approved teacher’s registration or permission to teach in the following circumstances.

Where the teacher is convicted of a serious offence prior to commencement, the conviction has not been overturned on appeal and the QCT becomes aware of the conviction after commencement - the QCT must cancel registration as soon as practicable after it becomes aware of the conviction.

Where the teacher is convicted of a serious offence prior to commencement, the conviction has not been overturned on appeal, the person was sentenced to imprisonment and the QCT was aware of the conviction prior to commencement - the QCT must cancel registration as soon as practicable after commencement.

The QCT is required to notify the person about the cancellation in accordance with section 56(3) to (5).

The section also provides that in relation to a teacher who was convicted of a serious offence prior to commencement, where the person was not sentenced to imprisonment and the QCT was aware of the conviction prior to commencement - the QCT must issue the person a notice giving them the opportunity to show cause why their registration ought not be cancelled. The notice must be issued as soon as practicable after commencement. The show cause process is prescribed in section 345.

- Section 345 – Show cause notice

New section 345 prescribes a show cause process for teachers who were convicted of a serious offence prior to commencement, where the person was not sentenced to imprisonment and the QCT was aware of the conviction prior to commencement.

The show cause process enables these teachers to make submissions as to why their registration or permission to teach ought not be cancelled.

The section ensures that a teacher's employment will not be affected during the show cause process. The section provides that a teacher's registration or permission continues during the show cause process. The section also provides that the teachers are not excluded persons during this process. There is no capacity for the QCT to suspend the registration of these people through the show cause process, on the basis of their previous known conviction.

- New section 346 – Representations about show cause notice

New section 346 outlines how the teacher may make their representations under the new show cause process and requires the QCT to consider those representations. The QCT must consider all written representations.

- New section 347 – Decision after considering accepted representations

New section 347 provides that the QCT must cancel the registration or permission to teach unless it is satisfied it is an exceptional case in which it

would not harm the best interests of children for the teacher's registration or permission to teach to not be cancelled. The section enables the QCT to consider the matters relevant to eligibility declaration considerations, including criminal history information and blue card information.

If the QCT does not cancel the person's registration or permission to teach, the QCT must issue the person an eligibility declaration. This will ensure the person does not become an excluded person, despite their conviction for a serious offence.

If the QCT decides to cancel registration, it must issue an information notice. This gives the aggrieved person a right of internal review and appeal to QCAT.

- Section 348 – Grounds for disciplinary action

New section 348 provides that section 92 as in force immediately before the relevant commencement is to apply where, before the relevant commencement:

- a relevant teacher's registration or permission to teach has been suspended under section 48; and
- the teacher was charged with a disqualifying offence and the charge was dealt with; or
- the teacher was charged with a disqualifying offence and the teacher is or was convicted of an offence other than an indictable offence.

The section ensures disciplinary action can be taken against the teacher on the ground that the person is not suitable to teach.

- Section 349 – QCAT show cause notice given but not dealt with

New section 349 provides for the withdrawal of a show cause notice given to a teacher under section 101 prior to the relevant commencement, if, at commencement, QCAT has not made a decision under sections 102 or 103 in relation to the matter. A person, to whom a show cause notice has been issued will, from commencement of part 4 of the Bill, be an 'excluded person'.

- Section 350 – Decision about disciplinary action against approved teacher

New section 350 ensures that the amendment to section 160 by clause 30E only applies to matters relating to an approved teacher that is referred to QCAT after the relevant commencement. Section 160 as in force

immediately before the relevant commencement will apply to matters that have been referred to QCAT before the relevant commencement.

- Section 351 – Referral to QCAT under ss 111A and 123

New section 351 ensures that the referral of a matter to QCAT under sections 111A(2) or 123(2)(b) in relation to a former teacher is valid despite the fact the sections did not refer to disciplinary action that can be taken against a former teacher under section 161(2)(b) or (c). Clauses 30C and 30D amend sections 111A(2) or 123(2)(b) to enable matters about former teachers to be referred to QCAT for disciplinary action under section 161(2)(b) or (c) in the future.

- Section 352 – Decision about disciplinary action against former approved teacher

New section 352 ensures that the amendment to section 161 by clause 30F only applies to matters relating to a former approved teacher that is referred to QCAT after the relevant commencement. Section 161 as in force immediately before the relevant commencement will apply to matters that have been referred to QCAT before the relevant commencement.

Clause 30I

Schedule 1 of the QCT Act lists the decisions for which the QCT must issue an information notice. Clause 30I inserts the information notice issued through the new transitional show cause process into the schedule.

Clause 30J Amendment of sch 3 (Dictionary)

Clause 30J amends the dictionary in schedule 3 of the QCT Act.

The clause removes definitions of the terms ‘disqualification order’, ‘disqualifying offence’ and ‘show cause matter’ that will, from the relevant commencement, be obsolete.

New definitions are inserted for the terms: ‘criminal history check fee’, ‘eligibility applicant’, ‘eligibility application’, ‘eligibility declaration’, ‘excluded person’, ‘relevant commencement’ and ‘relevant excluded person’.

Of note, ‘excluded person’ will now be defined to mean a person who:

- (a) is a relevant excluded person, other than a person mentioned in section 57(3);

- (b) is or has been convicted of a serious offence other than: (i) a person to whom an eligibility declaration is issued, and not revoked; or (ii) a person mentioned in section 57(3)(a); or
- (c) is prohibited from reapplying for registration or permission to teach by a disciplinary order.

For the purpose of paragraph (b) above, a person may be issued an eligibility declaration under section 12G or under the new transitional section at section 347.

The term 'relevant excluded person' is amended to remove the reference to a person against who a disqualification order has been made.

The clause amends the terms 'disciplinary action' and 'disciplinary orders' to remove the reference to actions or orders under chapter 5, part 2, relating to show cause matters.

The clause amends the definition of the term 'police information' to remove the reference to disqualification orders.

The clause makes a minor technical amendment to the definition of the term 'serious offence'.