

South Australia

Teachers Registration and Standards (Miscellaneous) Act 2019

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An Act to regulate the teaching profession.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation

Part 2—Object of Act

- 4 Object of Act

Part 3—Teachers Registration Board

- 5 Establishment of Teachers Registration Board
- 6 Functions of Teachers Registration Board
- 7 Primary consideration in performance of functions
- 8 Directions by Minister
- 9 Membership of Teachers Registration Board
- 10 Terms and conditions of membership
- 11 Remuneration
- 12 Conflict of interest under Public Sector (Honesty and Accountability) Act
- 13 Validity of acts of Teachers Registration Board
- 14 Procedures of Teachers Registration Board
- 15 Registrar of Teachers Registration Board
- 15A Appointment of acting Registrar
- 16 Committees
- 17 Delegation
- 18 Accounts and audit
- 19 Annual report

Part 4—Requirement to be registered

- 20 Requirement to be registered

Part 5—Registration

- 21 Eligibility for registration
- 22 Application for registration
- 23 Grant of registration
- 24 Conditions of registration
- 24A Automatic cancellation of registration of prohibited persons
- 25 Offence to contravene certain conditions of registration

- 26 Term of registration
- 27 Requirement for provision of information
- 28 Register
- 29 Certificates of registration

Part 6—Special authority for unregistered person to teach

- 30 Special authority for unregistered person to teach
- 31 Register

Part 7—Action to deal with unprofessional conduct or incapacity of teachers

- 32 Application and interpretation
- 33 Cause for disciplinary action
- 33A Suspension of teacher's registration if working with children check not current etc
- 34 Registrar may conduct investigation
- 34A Suspension of teacher's registration where charged with certain offences
- 35 Inquiries and disciplinary action
- 36 Punishment of conduct that constitutes offence
- 37 Employer to report dismissal
- 38 Action by Teachers Registration Board to deal with impairment of teacher's capacity
- 39 Employer to report impairment of teacher's capacity
- 40 Notification by Registrar of inquiry and outcome

Part 8—Provisions relating to proceedings of Teachers Registration Board

- 41 Application
- 42 Natural justice and right to be heard and to call evidence etc
- 43 Evidence and findings in other proceedings
- 44 Power to issue summons etc
- 45 Principles governing proceedings
- 46 Protection of children etc
- 47 Representation at proceedings
- 48 Counsel to assist Teachers Registration Board

Part 9—Appeals

- 49 Right of appeal

Part 10—Miscellaneous

- 50 Information from Commissioner of Police relevant to registration
- 51 Arrangements between Teachers Registration Board, DPP, and Commissioner of Police for reporting of offences
- 52 Notification of offences to employer etc
- 52A Notification to employer that teacher is a prohibited person etc
- 53 Confidentiality
- 54 False or misleading information
- 55 Procurement of registration by fraud
- 56 Self-incrimination
- 57 Service of documents
- 58 Continuing offence
- 59 Liability of members of governing bodies of bodies corporate
- 60 General defence
- 61 Regulations

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Teachers Registration and Standards (Miscellaneous) Act 2019*.

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3—Interpretation

In this Act—

condition includes a limitation;

Department means the administrative unit of the Public Service responsible for assisting the Minister in the administration of this Act;

director, of a prescribed service, means the person responsible for providing educational leadership in, and managing the day-to-day operations of, the prescribed service;

highly accomplished or lead teacher level or HALT level means a level of accomplishment, or certification, of a kind prescribed by the regulations;

practising teacher means a person in employment for which registration is required under this Act;

prescribed service means—

- (a) a kindergarten registered as a Children's Services Centre under Part 3 Division 4 of the *Children's Services Act 1985*; or
- (b) a pre-school education centre established by the Minister under the *Education Act 1972*; or
- (c) an education and care service under the *Education and Care Services National Law (South Australia)* consisting of or including pre-school education; or
- (d) any other service of a kind prescribed by the regulations for the purposes of this definition;

pre-school education means the provision of courses of education, training and instruction to children **5 years of age and under**;

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principal of a school means the person responsible for providing educational leadership in the school and managing the day-to-day operations of the school;

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professional standards for teachers means professional standards for teachers required for the purposes of registration of teachers, as developed from time to time by the Teachers Registration Board;

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prohibited person means a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*;

registered teacher means a person registered as a teacher under Part 5;

Registrar means the Registrar of the Teachers Registration Board appointed under Part 3, or a person acting in the position of the Registrar;

registration includes, unless the context otherwise requires, provisional registration and renewal of registration;

repealed provisions means Part 4 of the *Education Act 1972*, as in force from time to time before the commencement of this Act;

school means a school established for the purpose of providing education at primary or secondary level, whether or not also for the purpose of providing a pre-school education;

Teachers Registration Board means the Teachers Registration Board of South Australia established under Part 3;

teacher regulatory authority means an authority with functions under the law of a place outside this State similar to those of the Teachers Registration Board;

unique identifier, of a person, means a unique identifier issued to the person under the *Child Safety (Prohibited Persons) Act 2016*;

unprofessional conduct means—

- (a) a contravention of this Act or the repealed provisions; or
- (b) a contravention of a condition of registration as a teacher under this Act or the repealed provisions; or
- (ba) a contravention of a code of [conduct](#), or professional standard published or adopted under section 31A; or
- (c) incompetence; or
- (d) disgraceful or improper conduct;

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working with children check means a working with children check under the *Child Safety (Prohibited Persons) Act 2016*.

Part 2—Object of Act

4—Object of Act

The object of this Act is to establish and maintain a teacher registration system and professional standards for teachers to safeguard the public interest in there being a teaching profession whose members are competent educators and fit and proper persons to have the care of children.

Part 3—Teachers Registration Board

5—Establishment of Teachers Registration Board

- (1) The *Teachers Registration Board of South Australia* is established.
- (2) The Teachers Registration Board—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and

- (c) has the powers of a natural person and the functions and powers assigned or conferred under this or any other Act.
- (3) If a document appears to bear the common seal of the Teachers Registration Board, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Teachers Registration Board.

6—Functions of Teachers Registration Board

The Teachers Registration Board has the following functions:

- (a) to administer the provisions of this Act for the regulation of the teaching profession;
- (ab) to accredit initial teacher education programs;
- (ac) to develop, and maintain, codes of conduct for registered teachers and persons granted a special authority to teach under this Act;
- (b) to promote the teaching profession, and to promote and implement professional standards for teachers;
- (c) (d) to confer and collaborate with teacher employers, the teaching profession, teacher unions or other organisations and other bodies and persons with respect to requirements for teacher registration and professional and other standards for teachers;
- (e) to confer and collaborate with other teacher regulatory authorities to ensure effective national exchange of information and promote uniformity and consistency in the regulation of the teaching profession within Australia and New Zealand;
- (ea) to undertake or support reviews of research and data collection relating to the teaching profession;
- (eb) to recognise quality teaching and leadership in the teaching profession;
- (f) to keep the teaching profession, professional standards for teachers and other measures for the regulation of the profession under review and to introduce change or provide advice to the Minister as appropriate;
- (g) such other functions as may be assigned to the Teachers Registration Board under this Act or by the Minister.

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7—Primary consideration in performance of functions

~~The Teachers Registration Board must have the welfare and best interests of children as its primary consideration in the performance of its functions.~~

7—Welfare and best interests of children paramount consideration

The welfare and best interests of children is the paramount consideration in relation to the operation, administration and enforcement of this Act.

8—Directions by Minister

- (1) Subject to this section, the Minister may give directions to the Teachers Registration Board when it appears to the Minister to be necessary in the public interest.

- (2) The Minister—
- (a) may not give a direction that relates to—
 - (i) a particular person; or
 - (ii) a particular application or inquiry; or
 - (iii) the performance by the Teachers Registration Board of its function of determining qualifications or experience for registration; and
 - (b) must consult with the Teachers Registration Board before giving it a direction; and
 - (c) must, within 3 sitting days after giving a direction, cause a copy of the direction to be laid before each House of Parliament.

9—Membership of Teachers Registration Board

- ~~—(1) The Teachers Registration Board consists of 16 members appointed by the Governor of whom—~~
- ~~—(a) 1 must be a person nominated by the Minister, who will be the presiding member of the Board; and~~
 - ~~—(b) 2 must be persons nominated by the person holding or acting in the office of Chief Executive of the Department; and~~
 - ~~—(c) 5 must be registered teachers (including at least 4 practising teachers) nominated by the Australian Education Union (S.A. Branch) after the holding of an election in accordance with the regulations; and~~
 - ~~—(d) 1 must be a person nominated by the Association of Independent Schools of South Australia Incorporated; and~~
 - ~~—(e) 1 must be a person nominated by the Catholic Education Office; and~~
 - ~~—(f) 2 must be registered teachers (including at least 1 practising teacher) nominated by the Independent Education Union (S.A. Branch) after the holding of an election in accordance with the regulations; and~~
 - ~~—(g) 1 must be a person employed in the field of teacher education nominated jointly by the universities in the State; and~~
 - ~~—(h) 1 must be a person nominated by the person holding or acting in the office of Director of Children's Services; and~~
 - ~~—(i) 1 must be a parent of a school student nominated by the Minister to represent the community interest; and~~
 - ~~—(j) 1 must be a legal practitioner nominated by the Minister; and~~
 - ~~—(k) not less than half must be registered teachers.~~
- ~~—(1a) A person is not eligible to be appointed to the Teachers Registration Board unless a working with children check has been conducted in relation to the member within the preceding 5 years.~~
- ~~—(2) The Minister must ensure, as far as practicable, that the persons appointed under subsection (1) consist of equal numbers of women and men.~~

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9—Membership of Teachers Registration Board

- (1) The Teachers Registration Board consists of not less than 8 and not more than 12 members appointed by the Governor on the nomination of the Minister, being persons who, in the opinion of the Minister, collectively have the knowledge, skills and experience necessary to enable the Teachers Registration Board to carry out its functions effectively.
- (2) In nominating members for appointment, the Minister must, as far as is reasonably practicable, ensure that the Teachers Registration Board consists of members who, collectively, have knowledge, skills and experience in each of the following areas:
 - (a) pre-school education;
 - (b) primary education;
 - (c) secondary education;
 - (d) teacher education;
 - (e) matters affecting the parents or guardians of students
 - (f) the interaction between education and communities.
- (3) At least 1 of the members of the Teachers Registration Board must be a legal practitioner.
- (4) The Minister must, before nominating a member for appointment to the Teachers Registration Board, call for expressions of interest under a scheme determined by the Minister for the purposes of this subsection.
- (5) The Minister must, before nominating a member for appointment to the Teachers Registration Board, in accordance with any requirements set out in the regulations, have regard to any submissions made by a designated entity in respect of a proposed nomination.
- (6) A person is not eligible to be appointed to the Teachers Registration Board unless a working with children check has been conducted in relation to the person within the preceding 5 years.
- (7) In this section—

designated entity means a person or body referred to in Schedule 1.

9A—Presiding member

The Governor may, on the recommendation of the Minister, appoint 1 of the members of the Teachers Registration Board to be the presiding member of the Teachers Registration Board and 1 to be the deputy presiding member.

10—Terms and conditions of membership

- (1) A member of the Teachers Registration Board will be appointed on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment (however a member cannot hold office for consecutive terms that exceed 9 years in total).

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- (2) The Governor may appoint a person to be a temporary member of the Teachers Registration Board for a period not exceeding 6 months.
- (3) A temporary member of the Teachers Registration Board may act as a member of the Board—
 - (a) if a vacancy arises in the membership of the Board; or
 - (b) during any period of absence of a member of the Board.
- (4) The Governor may appoint a person to be the deputy of a member of the Teachers Registration Board and the deputy may act as a member of the Board during any period of absence of the member.
- (5) The Governor may remove a member of the Teachers Registration Board from office—
 - (a) for breach of, or non-compliance with, a condition of appointment; or
 - (ab) if a working with children check has not been conducted in relation to the member within the preceding 5 years; or
 - (b) for misconduct; or
 - (c) for failure or incapacity to carry out official duties satisfactorily.
- (6) The office of a member of the Teachers Registration Board becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (ca) becomes a prohibited person (including where the member becomes a prohibited person by force of section 15 of the *Child Safety (Prohibited Persons) Act 2016* on the day that section comes into operation); or
 - (d) is removed from office under subsection (5).
- (7) A member of the Teachers Registration Board may continue to act as a member of the Board despite the expiry of his or her term of office for the purpose of continuing and completing the hearing of an application under Part 5 or an inquiry under Part 7.

11—Remuneration

A member of the Teachers Registration Board is entitled to remuneration, allowances and expenses determined by the Governor.

12—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Teachers Registration Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with teachers generally or a substantial section of teachers in this State, or schools or kindergartens generally or substantial section of schools or kindergartens.

13—Validity of acts of Teachers Registration Board

An act or proceeding of the Teachers Registration Board or a committee of the Teachers Registration Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

14—Procedures of Teachers Registration Board

- (1) A quorum of the Teachers Registration Board consists of ~~9 members~~ **one half the total number of its members (ignoring any fraction resulting from the division) plus 1**.
- (2) If the presiding member **and deputy presiding member** of the Teachers Registration Board ~~are~~ absent from a meeting of the Board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by the members present at a meeting of the Teachers Registration Board is a decision of the Board.
- (4) Each member present at a meeting of the Teachers Registration Board has 1 vote on any question arising for decision.
- (5) A conference by telephone or other electronic means between the members of the Teachers Registration Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Teachers Registration Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - (a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and
 - (b) a majority of the members express concurrence in the proposed resolution by letter, facsimile transmission, e-mail or other written communication setting out the terms of the resolution.
- (7) The Teachers Registration Board must have accurate minutes kept of its meetings.
- (8) Subject to this Act, the Teachers Registration Board may determine its own procedures.

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15—Registrar of Teachers Registration Board

- (1) There will be a Registrar of the Teachers Registration Board.
- (2) The Registrar will be appointed by the Governor.
- (3) The Registrar must be a Public Service employee.
- (4) The Registrar is responsible for—
 - (a) managing the staff and resources of the Teachers Registration Board; and
 - (b) giving effect to the policies and decisions of the Board; and
 - (c) carrying out such other functions as may be conferred on the Registrar under this or any other Act.

15A—Appointment of acting Registrar

- (1) The Teachers Registration Board may appoint a person to act as the Registrar during any period for which—
 - (a) no person is for the time being appointed as the Registrar; or
 - (b) the Registrar is absent from, or unable to discharge, official duties.
- (2) The acting Registrar must be a Public Service **employee**.
- (3) The terms and conditions of appointment of the person appointed to act as the Registrar will be determined by the Teachers Registration Board.

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16—Committees

- (1) The Teachers Registration Board may establish committees—
 - (a) to advise the Board on any matter; or
 - (b) to carry out functions on behalf of the Board.
- (2) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Teachers Registration Board;
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the relevant committee.
- (3) The regulations may make further provision in relation to committees (including, without limiting the generality of this subsection, provisions allowing persons other than Board members to be appointed to a committee established for the purposes of Part 7).

17—Delegation

- (1) The Teachers Registration Board may delegate a function or power of the Board under this Act to—
 - (a) a member of the Board; or
 - (b) the Registrar; or
 - (c) a committee of the Board.
- (2) The Teachers Registration Board may only delegate the holding of an inquiry under Part 7 to a committee ~~of the Board that is comprised of not less than 3 members of the Board and includes a member who is a legal practitioner and a member who is a practising teacher~~ that is comprised of not less than 3 persons, of whom 2 must be members of the Board and one a legal practitioner (whether or not a member of the Board)

(2a) The Registrar may delegate a function or power of the Registrar under this Act to a specified person or body.

- (3) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and

- (c) does not derogate from the power of the ~~Teachers Registration Board~~ delegator to act in any matter; and
- (d) is revocable at will.

18—Accounts and audit

- (1) The Teachers Registration Board must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.
- (2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Teachers Registration Board.

19—Annual report

- (1) The Teachers Registration Board must, on or before 30 September in each year, deliver to the Minister a report on the administration of this Act and the work of the Board during the 12 months ending on the preceding 30 June.
- (2) The report must—
 - (a) incorporate the audited accounts of the Teachers Registration Board for the relevant financial year; and
 - (b) include details of any delegation of a function or power of the Teachers Registration Board that was in operation during the relevant financial year.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Part 3A—Initial teacher education programs

19A—Accreditation of initial teacher education programs

- (1) The Teachers Registration Board may, on the application of a person or body, accredit a program of initial teacher education, or any other program relating to the education of teachers in accordance with this section.
- (2) An application under this section—
 - (a) must be made in a manner and form determined by the Teachers Registration Board; and
 - (b) must be accompanied by such documents and information as may be reasonably required by the Teachers Registration Board; and
 - (c) must be accompanied by the prescribed fee.
- (3) In determining an application under this section, the Teachers Registration Board—
 - (a) must apply the prescribed accreditation standards (and may apply such other standards or requirements as the Teachers Registration Board thinks appropriate)
 - (b) must comply with any other requirements set out in the regulations.
- (4) In this section—

Prescribed accreditation standards means the accreditation standards prescribed by the regulations, as in force from time to time

Part 4—Requirement to be registered

20—Requirement to be registered

- (1) A person must not, for payment or other consideration, personally provide, or offer to provide, pre-school education, or primary or secondary education, unless the person is a registered teacher.
Maximum penalty: \$5 000.
- (2) A person must not perform the duties of a principal at a school, or of a director of a prescribed service, unless the person is a registered teacher.
Maximum penalty: \$5 000.
- (3) A person (the *employer*) must not—
 - (a) employ a person (the *employee*)—
 - (i) to personally provide, or offer to provide, pre-school education, or primary or secondary education; or
 - (ii) as a principal of a school; or
 - (iii) as a director of a prescribed service; or
 - (b) require or allow a person employed by the employer (the *employee*) to—
 - (i) personally provide, or offer to provide, pre-school education, or primary or secondary education; or
 - (ii) perform the duties of a principal of a school; or
 - (iii) perform the duties of a director of a prescribed service,unless the employee is a registered teacher.
Maximum penalty: \$10 000.
- (4) However, subsections (1) to (3) (inclusive) do not apply in relation to—
 - (a) a person acting in accordance with a special authority to teach granted by the Teachers Registration Board under Part 6; or
 - (b) a person, or person of a class, prescribed by the regulations.
- (5) For the purposes of subsection (3)(a), a reference to employing a person will, in the case where an employee's registration as a teacher is suspended or cancelled, or the person is disqualified from being registered as a teacher, after their initial employment, be taken not to include a reference to the continued employment of the person.
- (6) A person must not claim to be a registered teacher unless the person is, in fact, a registered teacher.
Maximum penalty: \$5 000.

Part 5—Registration

21—Eligibility for registration

- (1) Subject to this Act, a person is eligible for registration as a teacher if—
 - (a) the person has qualifications and experience—
 - (i) prescribed by regulation; or
 - (ii) determined by the Teachers Registration Board to be appropriate for registration; and
 - (b) the person has met any other requirements for registration—
 - (i) prescribed by regulation or contained in professional standards for teachers; or
 - (ii) determined by the Teachers Registration Board to be necessary for registration; and
 - (c) a working with children check has been conducted in relation to the person within the preceding 5 years; and
 - (d) the person is not a prohibited person; and
 - (e) the person is otherwise a fit and proper person to be a registered teacher.
- (2) Subject to this Act, a person is eligible for provisional registration as a teacher if the person does not have the necessary experience but is otherwise eligible for registration under subsection (1).

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22—Application for registration

22—Application for registration

- (1) An application for registration as a teacher must—
 - (a) be made to the Teachers Registration Board in the manner and form prescribed by regulation or approved by the Board; and
 - (b) be accompanied by the prescribed fee; and
 - (c) the fee referred to in subsection (1)(b) is not refundable.
- (2) An applicant for registration must—
 - (a) consent to the conduct by the Teachers Registration Board of a criminal record check relating to the applicant; and

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- (ab) provide evidence of a kind determined by the Board that a working with children check has been conducted in relation to the applicant within the preceding 5 years; and
 - (b) if the Board so requires for the purpose of determining whether the applicant's capacity to teach is seriously impaired by an illness or disability affecting the applicant's behaviour or competence as a teacher—
 - (i) submit to a medical examination by a medical practitioner selected by the applicant from a panel of medical practitioners nominated by the Board; and
 - (ii) provide, or authorise the medical practitioner to provide, a report on the results of the medical examination to the Board; and
 - (c) provide the Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.
- (3) An applicant for registration must pay, in addition to the prescribed fee, an amount specified by the Teachers Registration Board, being an amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant.
- (4) An application for renewal of registration must be made not less than 1 month before the expiry of the registration.

23—Grant of registration

- (1) The Teachers Registration Board may, on application under this Part, grant registration to the applicant if satisfied that the applicant is eligible for registration as a teacher.
- (2) The Teachers Registration Board may, on application under this Part, grant provisional registration to the applicant if satisfied that the applicant is eligible for provisional registration as a teacher.
- (3) The Teachers Registration Board may, on application under this Part, grant provisional registration to the applicant if—
 - (a) the applicant has the necessary qualifications and experience but has not met requirements under section 21(1)(b); and
 - (b) the Board is satisfied that the applicant should be granted provisional registration.
- (4) The Teachers Registration Board is not required, if it has assessed a person's qualifications or experience to be appropriate for registration, to assess the person's qualifications or experience again on a subsequent application by the person.

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23A—Annual fee

- (1) A registered teacher (including a teacher whose registration has been suspended) must in each year, pay to the Teachers Registration 25 Board an annual fee in accordance with the regulations.
- (2) Without limiting the matters that may be dealt with in the regulations, the regulations may—
- (a) fix the day of the month on or before which the fee is to be paid in each year; and
 - (b) fix the period of 12 months (the *annual fee period*) in respect of which the fee is to be paid; and
 - (c) make provisions of a saving or transitional nature in respect of annual fees.
- (3) If a registered teacher fails to pay the annual fee in accordance with the regulations, the Teachers Registration Board may, by written notice, require the registered teacher to make good the default as specified in the notice and, in addition, pay to the Teachers Registration Board the amount prescribed as a penalty for default.
- (4) If a registered teacher fails to comply with a notice under subsection (3), the Teachers Registration Board may, by further written notice, suspend the teacher's registration until the notice has been complied with.

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24—Conditions of registration

- (a1) It is a condition of every registration that a working with children check be conducted in relation to the person at least once in each 5 year period.
- (1) The Teachers Registration Board may impose conditions of registration which may include (but are not limited to) the following:
- (a) conditions requiring the person to complete a course or acquire experience as a teacher;
 - (b) conditions requiring the supervision of the person;
 - (c) conditions restricting the subjects that the person may teach;
 - (d) conditions restricting the education that the person may provide;
 - (e) conditions limiting the period for which the registration remains in force;
 - (f) conditions requiring the provision of further evidence as to competence.
- (2) Without limiting the effect of subsection (1), the Teachers Registration Board must—
- (a) make it a condition of every registration that—
 - (i) if the person is charged with or convicted of an offence of a kind specified in the condition (which may include offences under the law of South Australia or elsewhere), the person must, within 14 days, give written notice of the charge or conviction to the Board containing the details specified in the condition; and
 - (ii) if the person is dismissed from employment as a practising teacher in response to allegations of unprofessional conduct, or resigns from employment as a practising teacher following allegations of unprofessional conduct, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition; and

- (iia) if the person is dismissed from employment as a practising teacher in response to allegations of incompetence, or resigns from employment as a practising teacher following allegations of poor performance (however described), the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition; and
 - (iii) if the person is dismissed from any employment in response to allegations of improper conduct relating to a child, or resigns from employment following allegations of improper conduct relating to a child, the person must, within 14 days, give written notice of the person's dismissal or resignation to the Board containing the details specified in the condition; and
- (b) make it a condition of every provisional registration that the person acquire the experience or meet the requirements (as the case may be) necessary for the person to be eligible for registration under section 21(1); and
- (c) make it a condition of every registration that if—
 - (i) the person becomes a prohibited person; or
 - (ii) more than 5 years have elapsed since a working with children check has been conducted in relation to the person,the person must, **within 14 days**, give written notice of that fact to the Board containing the details specified in the condition.
- (3) The Teachers Registration Board may, on application or by written notice, vary or revoke a condition (other than the condition imposed by subsection (a1)), or impose a condition, of a person's registration as a teacher.

24A—Automatic cancellation of registration of prohibited persons

- (1) Subject to this section, the registration of a teacher is, by force of this section, cancelled if the teacher becomes a prohibited person.
- (2) The cancellation of a teacher's registration under this section has effect from the time a prohibition notice is issued to the teacher under section 32 of the *Child Safety (Prohibited Persons) Act 2016*.
- (3) If the issue of the prohibition notice to the teacher is set aside by the South Australian Civil and Administrative Tribunal or any other court, the cancellation of the teacher's registration under this section will be taken to be void and of no effect (and the Teachers Registration Board must take steps as may be necessary to give effect to this subsection).

25—Offence to contravene certain conditions of registration

If a registered teacher contravenes a condition of the person's registration that requires the Teachers Registration Board to be notified of a matter or imposes a restriction on the practice of teaching by the person, the person is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

26—Term of registration

- (1) Subject to this Act, registration as a teacher remains in force—
 - (a) until 31 January in the ~~third~~ **fifth** year following the year in which the registration was granted or last renewed; or
 - (b) if the registration is subject to a condition limiting the period for which it remains in force to a lesser period—for that period.
- (2) The Teachers Registration Board may, if it thinks fit, on granting registration, determine that the term of the registration commences from the end of a preceding term of registration.

27—Requirement for provision of information

- (1) The Teachers Registration Board or the Registrar may, at any time, require a registered teacher, or the employer, or a former employer of a registered teacher, or formerly registered teacher to provide information relating to the teacher or the teacher's employment.
- (2) A person who fails to comply with a requirement under this section is guilty of an offence.
Maximum penalty: \$5 000.
Expiation fee: \$315.

28—Register

- (1) The Teachers Registration Board must keep a register of persons registered under this Part.
- (2) The register must include, in relation to each registered person—
 - (a) the person's full name, personal address and business address (if any); and
 - (b) the qualifications for registration held by the person; and
 - (ba) the person's unique identifier; and
 - (bb) details of the most recent working with children check conducted in relation to the person (if known); and
 - (bc) **details of any highly accomplished or lead teacher level held by the person from time to time;**
 - (c) details of any specialist qualifications held by the person and determined by the Teachers Registration Board to be appropriate for inclusion on the register; and
 - (d) details of any condition of the person's registration; and
 - (e) the expiry date of the person's registration; and
 - (f) the person's registration number; and
 - (g) details concerning the outcome of any action taken against the person by the Board under Part 7,and may include other information as the Board thinks fit.

- (3) The Registrar will be responsible to the Teachers Registration Board for the form and maintenance of the register.
- (4) A registered person must, within 28 days after changing name or address, inform the Registrar in writing of the change.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (4a) A registered person must, as soon as is reasonably practicable after a working with children check is conducted in relation to the person (but in any event within 7 days), inform the Registrar in writing of that fact, and provide such details relating to the working with children check as the Registrar may require.
- (5) The Registrar may remove or correct an entry in the register as required without giving notice to any person.
- (6) The Registrar must—
 - (a) make a record of the full name of each registered teacher and the information entered in the register under subsection (2)(b), (c), (d), (e) and (f) in relation to the teacher available for inspection on application to the Registrar; and
 - (b) make a record of the full name of each registered teacher and the information entered in the register under subsection (2)(e) and (f) in relation to the teacher available for inspection on a website established by the Board.
- (7) An apparently genuine document purporting to be signed by the Registrar stating that, at a specified date, or during a specified period—
 - (a) a specified person was registered under this Part unconditionally or subject to specified conditions; or
 - (b) a specified person was not registered under this Part,will, in any legal proceedings, constitute proof of the matters stated in the document in the absence of proof to the contrary.

29—Certificates of registration

- (1) The Registrar must, on the registration of a person as a teacher, issue to the person a certificate of registration in a form approved by the Teachers Registration Board that includes the following information:
 - (a) the person's full name and registration number; and
 - (b) the conditions (if any) of the registration; and
 - (c) the expiry date of the registration; and
 - (d) any other information the Board thinks fit.
- (2) A registered teacher must, within 28 days after—
 - (a) a condition of the person's registration has been varied or revoked; or
 - (b) any other change in the information recorded in the certificate of registration has occurred; or
 - (c) the registration has been suspended or cancelled,

return the certificate of registration to the Registrar.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) On receipt of a certificate of registration under subsection (2), the Registrar must—
- (a) if the person's registration has been cancelled, destroy the certificate; or
 - (b) if the person's registration has been suspended, retain the certificate until the end of the period of suspension, and then return the certificate to the person; or
 - (c) in any other case, unless the Registrar determines otherwise, alter the certificate or issue a new certificate.

Part 6—Special authority for unregistered person to teach

30—Special authority for unregistered person to teach

- (1) The Teachers Registration Board may, on application by a person who is not a registered teacher, in its discretion, grant the applicant a special authority to teach for a period and subject to conditions specified by the Board (which must include conditions limiting the places or circumstances in which the person may teach under the special authority).
- (1a) It is a condition of every special authority that a working with children check be conducted in relation to the person at least once in each 5 year period.
- (2) Without otherwise limiting the discretion of the Board under subsection (1), the Teachers Registration Board may only grant a person a special authority if—
- (a) the person is not a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*; and
 - (b) a working with children check has been conducted in relation to the person within the preceding 5 years; and
 - (c) the person consents to the conduct by the Board of a criminal record check relating to the person; and
 - (ca) the person is otherwise a fit and proper person to be granted a special authority to teach; and
 - (d) the person has met any other requirements prescribed by regulation for the purposes of this subsection.
- (3) An application for a special authority must—
- (a) be made to the Teachers Registration Board in the manner and form approved by the Board; and
 - (ab) be accompanied by evidence of a kind determined by the Board that a working with children check has been conducted in relation to the person within the preceding 5 years; and
 - (b) be accompanied by the prescribed fee.

- (3a) An applicant for a special authority must pay, in addition to the prescribed fee, an amount specified by the Teachers Registration Board, being an amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant.
- (4) An applicant for a special authority must provide the Teachers Registration Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.
- (5) The Teachers Registration Board may, in its discretion and without any requirement for a hearing or other process, by written notice to the holder of a special authority, vary or revoke the special authority.

31—Register

- ~~— (1) The Teachers Registration Board must keep a register of persons granted special authorities under this Part.~~
- ~~— (2) The register must include, in relation to each person granted a special authority—
 - ~~— (a) the person's full name, personal address and business address (if any); and~~
 - ~~— (b) the qualifications (if any) held by the person determined by the Teachers Registration Board to be relevant to the person's activities under the special authority; and~~
 - ~~— (ba) the person's unique identifier; and~~
 - ~~— (bb) details of the most recent working with children check conducted in relation to the person (if known); and~~
 - ~~— (c) details of the conditions of the special authority; and~~
 - ~~— (d) the expiry date of the special authority;~~and may include other information as the Board thinks fit.~~
- ~~— (3) The Registrar will be responsible to the Teachers Registration Board for the form and maintenance of the register.~~
- ~~— (4) The holder of a special authority must, within 28 days after changing name or address, inform the Registrar in writing of the change.
Maximum penalty: \$1 250.
Expiation fee: \$160.~~
- ~~— (4a) The holder of a special authority must, within 7 days after a working with children check is conducted in relation to the person, inform the Registrar in writing of that fact, and provide such details relating to the working with children check as the Registrar may require.~~
- ~~— (5) The Registrar may remove or correct an entry in the register as required without giving notice to any person.~~
- ~~— (6) The Registrar must make the information recorded on the register (other than addresses of any person) available for inspection on application to the Registrar and on a website established by the Board.~~

- ~~(7) An apparently genuine document purporting to be signed by the Registrar stating that, at a specified date, or during a specified period—~~
- ~~(a) a specified person was the holder of a special authority under this Part subject to specified conditions; or~~
- ~~(b) a specified person was not the holder of a special authority under this Part,~~
- ~~will, in any legal proceedings, constitute proof of the matters stated in the document in the absence of proof to the contrary.~~

31—Register

- (1) The Teachers Registration Board must keep a register of persons granted a special authority to teach under this Part.
- (2) The register must include, in relation to each such person—
 - (a) the person's full name, personal address and business address (if any); and
 - (b) the qualifications (if any) held by the person determined by the Teachers Registration Board to be relevant to the person's activities under the special authority to teach; and
 - (c) the person's unique identifier; and
 - (d) details of the most recent working with children check conducted in relation to the person (if known); and
 - (e) details of any condition of the person's special authority to teach; and
 - (f) the expiry date of the person's special authority to teach; and
 - (g) details concerning the outcome of any action taken against the person by the Board under this Act,and may include other information as the Teachers Registration Board thinks fit.
- (3) The Registrar will be responsible to the Teachers Registration Board for the form and maintenance of the register.
- (4) The holder of a special authority to teach must, within 28 days after changing name or address, inform the Registrar in writing of the change.

Maximum penalty: \$1 250.

Expiation fee: \$160.
- (5) The holder of a special authority to teach must, as soon as is reasonably practicable after a working with children check is conducted in relation to the person (but in any event within 7 days), inform the Registrar in writing of that fact, and provide such details relating to the working with children check as the Registrar may require.
- (6) The Registrar may remove or correct an entry in the register as required without giving notice to any person.
- (7) The Registrar must—
 - (a) make a record of the full name of each person granted a special authority to teach and the information entered in the register under subsection (2)(b), (e) and (f) in relation to the teacher available for inspection on application to the Registrar; and

- (b) make a record of the full name of each person granted a special authority to teach and the information entered in the register under subsection (2)(e) and (f) in relation to the person available for inspection on a website established by the Teachers Registration Board.
- (8) An apparently genuine document purporting to be signed by the Registrar stating that, at a specified date, or during a specified period—
 - (a) a specified person was the holder of a special authority to teach granted under this Part that was unconditional or subject to specified conditions; or
 - (b) a specified person was not holder of a special authority to teach granted under this Part,will, in any legal proceedings, constitute proof of the matters stated in the document in the absence of proof to the contrary.

31A—Requirement for provision of information

- (1) The Teachers Registration Board or the Registrar may, at any time, require a holder of a special authority to teach, or the employer or a former employer of such a person, to provide information relating to the person or person's employment.
- (2) A person who fails to comply with a requirement under this section is guilty of an offence.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (3) For the purposes of this section, a reference to a *holder of a special authority to teach* will be taken to include a reference to a person who was, but is no longer, the holder of a special authority to teach.

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Part 6A—Codes of conduct and professional standards

31B—Codes of conduct and professional standards

- (1) The Teachers Registration Board may, by notice in the Gazette, publish or adopt codes of conduct and professional standards (or both) for the purposes of this Act.
- (2) The Teachers Registration Board may, from time to time, by notice in the Gazette, vary, substitute or revoke a code of conduct published or adopted under this section.
- (3) A copy of any code of conduct published or adopted under this section, as varied or substituted from time to time—
 - (a) must be published on a website determined by the Teachers Registration Board; and
 - (b) must be made available for inspection without charge at the place or places determined by the Teachers Registration Board.

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31C—Recognition of quality teaching and educational leadership

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- (1) The Teachers Registration Board may, in accordance with any requirements set out in the regulations—
 - (a) accredit, certify or otherwise recognise attainment by teachers and other persons of levels of proficiency and accomplishment in the teaching profession and educational leadership; and
 - (b) vary or revoke an accreditation, certificate or other recognition; and
 - (c) publish information about an accreditation, certificate or other recognition, or a variation or revocation of an accreditation, certificate or other recognition.
- (2) Without limiting the generality of the regulations that may be made under subsection (1), the regulations may apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Teachers Registration Board or another specified person or body.
- (3) If a code, standard or other document is referred to or incorporated in the regulations—
 - (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
 - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Registrar to be a true copy of the code, standard or other document.

Part 7—Action to deal with unprofessional conduct or incapacity of teachers

32—Application and interpretation

- (1) This Part applies to conduct engaged in by a teacher whether before or after the commencement of this Act and whether within or outside South Australia.
- (2) In this Part—

teacher means a person who is or has been employed as a teacher whether or not the person is or has been registered as a teacher under this Act or the repealed provisions.

32A—Constitution of Teachers Registration Board for purposes of Part

Except where the contrary intention appears, the Teachers Registration Board may, in exercising a function or power under this Part, be constituted of not less than 3 members, 1 of whom must be a legal practitioner.

33—Cause for disciplinary action

- (1) There is proper cause for disciplinary action against a teacher if—
 - (a) the teacher has improperly obtained registration as a teacher; or
 - (b) the teacher has been guilty of unprofessional conduct; or
 - (ba) a working with children check has not been conducted in relation to the teacher within the preceding 5 years; or

- (c) the teacher is not a fit and proper person to be a registered teacher; or
 - (d) the teacher's registration or other authority to teach has been suspended, cancelled or otherwise withdrawn by another teacher regulatory authority.
- (2) In determining whether there is proper cause for disciplinary action against a teacher, regard may be had to any evidence of the teacher's conduct that the Teachers Registration Board considers relevant (no matter when the conduct is alleged to have occurred), including information that existed at the time of registration, or extension of registration, of the teacher under this Act or the repealed provisions, regardless of whether that information was before or could have been before the registering body at that time.

33A—Suspension of teacher's registration if working with children check not current etc

- (1) The **Registrar** may, if satisfied that a working with children check has not been conducted in relation to a registered teacher within the preceding 5 years suspend (without any requirement for a hearing or other process) the registration of the teacher.
- (2) A suspension under this section has effect—
 - (a) until the fulfilment of specified conditions or until further order of the Teachers Registration Board; or
 - (b) if the teacher's registration is cancelled under section 35(2)—until that cancellation has effect,whichever occurs first.
- (3) To avoid doubt, a suspension of a teacher's registration under this section has effect whether or not an appeal has, or is to be, instituted against the decision to suspend the registration of the teacher.

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34—Registrar may conduct investigation

- (1) The Registrar, or a person authorised by the Registrar, may, for the purpose of determining whether there is a basis for the Registrar to make a complaint to the Teachers Registration Board under this Part, require a person—
 - (a) to answer questions and to be present or attend a specified place and time for that purpose;
 - (b) to provide information or to produce material for inspection.
- (1a) Without limiting subsection (1) or any other provision of this Act, the Registrar, or a person authorised by the Registrar, may, if the Registrar has reasonable grounds to suspect that a teacher's capacity to teach is seriously impaired by an illness or disability affecting the applicant's behaviour or competence as a teacher, require the teacher person to—
 - (a) submit to a medical examination by a medical practitioner selected by the teacher from a panel of medical practitioners nominated by the Teachers Registration Board; and
 - (b) provide, or authorise the medical practitioner to provide, a report on the results of the medical examination to the Registrar.

- (2) The Registrar or other person acting under this section may retain any material produced under this section for such reasonable period as he or she thinks fit, and make copies of the material, or any of its contents.
- (3) A person who fails, without reasonable excuse, to comply with a requirement under this section is guilty of an offence.
Maximum penalty: \$10 000 or imprisonment for 1 year.
- (3a) The Teachers Registration Board may, if a teacher refuses or fails to comply with a requirement under this section, suspend (without any requirement for a hearing or ___ other process) the registration of the teacher.
- (3b) A suspension under this section has effect—
 - (a) until the fulfilment of specified conditions or until further order of the Teachers Registration Board; or
 - (b) if the teacher's registration is cancelled under section 35(2)—until that cancellation has effect,whichever occurs first.
- (3c) To avoid doubt, a suspension of a teacher's registration under this section has effect whether or not an appeal has, or is to be, instituted against the decision to suspend the registration of the teacher.
- (4) This section does not limit or affect a power of investigation or inquiry that exists apart from this section.

34A—Suspension of teacher's registration where charged with certain offences or unacceptable risk to children

- (1) The Registrar may, by notice in writing served personally on a teacher—
 - (a) suspend the registration of the teacher; or
 - (b) vary the conditions of the teacher's registration (including by imposing conditions),if the Registrar becomes aware that the teacher has been charged with a prescribed offence.
if—
 - (a) the Registrar becomes aware that the teacher has been charged with a prescribed offence; or
 - (b) the Registrar ~~reasonably suspects~~ that the teacher poses an unacceptable risk to children.
- (2) The Teachers Registration Board must, not later than 60 days after a notice is served on a teacher under subsection (1), review the suspension or variation (as the case requires) and may, on completion of the review—
 - (a) confirm the suspension or variation; or
 - (b) cancel the suspension or variation.
- (3) If the Teachers Registration Board refuses or fails to conduct a review within the period required under subsection (2), the suspension or variation (as the case requires) will, by force of this subsection, be taken to be cancelled at the end of that period.

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- (4) Subject to this section, a suspension or variation under this section has effect until—
- (a) if an inquiry is commenced under section 35 in respect of the matter to which the suspension or variation relates—
 - (i) if the Teachers Registration Board determines that there is proper cause for disciplinary action against the teacher in relation to the matter—the Teachers Registration Board takes action under section 35(2);
 - (ii) if the Teachers Registration Board determines that there is no proper cause for disciplinary action against the teacher in relation to the matter—that determination; or
 - (b) 120 days after the day on which the last charge to which the suspension or variation relates has been withdrawn or finally determined by a court; or
 - (c) it is cancelled under subsection (2), (3) or (6),
- whichever occurs first.
- (5) This section applies—
- (a) in relation to conduct occurring before or after the commencement of this section; or
 - (b) whether the teacher was charged with the relevant prescribed offence before or after the commencement of this section.
- (6) The Teachers Registration Board may, on application, or by written notice at any time (including on a review by the Board under subsection (2)), cancel a suspension, or vary or cancel a condition varied or imposed on the registration of a teacher, under this section.
- ~~—(7) For the purposes of this section, the Teachers Registration Board may be constituted of not less than 3 members, 1 of whom must be a legal practitioner.~~
- (8) For the purposes of this section, the Registrar and the Teachers Registration Board—
- (a) are not (except in a review under subsection (2)) required to provide procedural fairness; and
 - (b) are not bound by the rules of evidence and may inform themselves on any matter as they think fit; and
 - (c) may, subject to this Act, determine their own procedures.

35—Inquiries and disciplinary action

- (1) The Teachers Registration Board may, on complaint by the Registrar or of its own motion, hold an inquiry to determine whether conduct of a teacher constitutes proper cause for disciplinary action.
- (2) If, after conducting an inquiry under this section, the Teachers Registration Board is satisfied on the balance of probabilities that there is proper cause for disciplinary action against the teacher, the Board may do one or more of the following:
 - (a) reprimand the teacher;
 - (b) order the teacher to pay a fine not exceeding \$5 000;

- (c) in the case of a registered teacher—
 - (i) impose conditions of the teacher's registration;
 - (ii) suspend the teacher's registration for a specified period or until the fulfilment of specified conditions or until further order;
 - (iii) cancel the teacher's registration with immediate effect or effect at a future specified date;
 - (d) disqualify the teacher from being registered as a teacher permanently or for a specified period or until the fulfilment of specified conditions or until further order.
- (3) A fine imposed under subsection (2) is recoverable by the Teachers Registration Board as a debt.

36—Punishment of conduct that constitutes offence

- (1) If conduct constitutes an offence and also proper cause for disciplinary action, the taking of disciplinary action under this Part is not a bar to conviction and punishment for the offence, nor is conviction and punishment for the offence a bar to disciplinary action under this Part.
- (2) However, if—
- (a) a person has been found guilty of an offence; and
 - (b) circumstances of the offence are the subject matter of an inquiry under this Part,

the person is not liable to a fine under this Part in respect of conduct giving rise to the offence.

37—Employer to report dismissal

- ~~—(1) If the employer of a practising teacher dismisses the teacher in response to allegations of unprofessional conduct, or accepts the resignation of the teacher following allegations of unprofessional conduct, the employer must, within 7 days, submit a written report to the Teachers Registration Board—~~
- ~~—(a) describing the circumstances of the dismissal or resignation; and~~
 - ~~—(b) containing all other prescribed information.~~
- ~~Maximum penalty: \$10 000.~~
- ~~—(1a) If the employer of a practising teacher—~~
- ~~—(a) dismisses the teacher on the grounds that—~~
 - ~~—(i) the teacher is a prohibited person; or~~
 - ~~—(ii) a working with children check has not been conducted in relation to the teacher within the preceding 5 years; or~~
 - ~~—(b) accepts the resignation of the teacher for a reason referred to in paragraph (a), the employer must, within 7 days, submit a written report to the Teachers Registration Board—~~
 - ~~—(c) describing the circumstances of the dismissal or resignation; and~~

~~—(d) containing all other prescribed information.~~

~~Maximum penalty: \$10 000.~~

~~—(2) A person incurs no liability by making a report purportedly in compliance with this section in good faith.~~

37—Employer to notify Teachers Registration Board of certain matters relating to practising teachers

- (1) An employer of a practising teacher must notify the Teachers Registration Board if—
 - (a) the employer dismisses the teacher for 1 or more of the following reasons:
 - (i) the teacher is a prohibited person;
 - (ii) a working with children check has not been conducted in relation to the teacher within the preceding 5 years;
 - (iii) in response to an allegation of unprofessional conduct made against the teacher;
 - (iv) incompetence; or
 - (b) the employer accepts the resignation of the teacher arising out of 1 or more of the reasons referred to in paragraph (a).
- (2) An employer of a teacher must notify the Teachers Registration Board if the employer becomes aware of any of the following in relation to the teacher:
 - (a) that the teacher's capacity to teach is, or may be, seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher;
 - (b) that an allegation of unprofessional conduct is made against the teacher;
 - (c) the teacher is not, in the opinion of the employer, a fit and proper person to be a registered teacher;
 - (d) any other matter of a kind prescribed by the regulations.
- (3) A person who was the employer of a practising teacher must, if the person becomes aware of any of the following in relation to the teacher within the 12 months immediately after the person ceases to be the employer of the teacher:
 - (a) that an allegation of unprofessional conduct is made against the teacher;
 - (b) that an allegation of incompetence is made against the teacher;
 - (c) any other matter of a kind prescribed by the regulations.
- (4) A notification under this section—
 - (a) must be made in a manner and form determined by the Teachers Registration Board; and
 - (b) must be made as soon as is reasonably practicable (and in any case within 7 days) after the employer becomes aware of the relevant matter; and
 - (c) must include such information as may be reasonably required by the Teachers Registration Board in respect of notifications of the relevant kind; and
 - (d) must comply with any other requirements in the regulations.

- (5) A person who, without reasonable excuse, refuses or fails to comply with a requirement under this section is guilty of an offence.
Maximum penalty: \$10 000.
- (6) No liability attaches to an employer or other person in respect of a notification made, or purportedly made, under this section.
- (7) For the purposes of this section, a reference to a registered teacher or teacher will be taken to include a reference to a person granted a special authority to teach under Part 6 (whether or not the special authority has expired).

38—Action by Teachers Registration Board to deal with impairment of teacher's capacity

- (1) The Teachers Registration Board may, on complaint by the Registrar or of its own motion, hold an inquiry to determine whether a teacher's capacity to teach is seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher.
- (2) The Teachers Registration Board may, during the course of an inquiry under this section, require the teacher—
 - (a) to undergo a medical examination by a medical practitioner selected by the teacher from a panel of medical practitioners nominated by the Board; and
 - (b) to provide, or authorise the medical practitioner to provide, a report on the results of the medical examination to the Board.
- (3) If the teacher refuses or fails, without reasonable excuse, to comply with a requirement under subsection (2), the Teachers Registration Board may suspend the teacher's registration until the teacher complies with the requirement.
- (4) The Teachers Registration Board must furnish the teacher with a copy of any report on the results of a medical examination required under this section.
- (5) If, after conducting an inquiry under this section, the Teachers Registration Board is satisfied on the balance of probabilities that the teacher's capacity to teach is seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher, the Board may do one or more of the following:
 - (a) impose conditions of the teacher's registration;
 - (b) suspend the teacher's registration for a specified period or until the fulfilment of specified conditions or until further order;
 - (c) cancel the teacher's registration with immediate effect or effect at a future specified date.

39—Employer to report impairment of teacher's capacity

- ~~—(1) If the employer of a practising teacher has reason to believe that the teacher's capacity to teach is seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher, the employer must, as soon as practicable, submit a written report to the Teachers Registration Board—~~
 - ~~—(a) describing the grounds on which the belief is based; and~~

~~—(b) containing all other prescribed information.~~

~~Maximum penalty: \$10 000.~~

~~—(2) A person incurs no liability by making a report purportedly in compliance with subsection (1) in good faith.~~

40—Notification by Registrar of inquiry and outcome

- (1) The Registrar must, as soon as practicable, give notice of the commencement of an inquiry under this Part, and then of the outcome of the inquiry, to—
- (a) the person's employer if the person to whom the inquiry relates is a practising teacher; and
 - (b) the chief executives of the Department, the Catholic Education Office and the Association of Independent Schools of South Australia Incorporated; and
 - (c) ~~and~~
 - (d) the other teacher regulatory authorities in Australia and New Zealand; and
 - (e) the central assessment unit under the *Child Safety (Prohibited Persons) Act 2016*; and
 - (f) any other person or body prescribed by the regulations for the purposes of this paragraph.

- (2) Without limiting subsection (1), the Registrar must, as soon as practicable after suspending the registration of a teacher, or varying the conditions of a teacher's registration, under Part 7, section 33A or section 34A, give notice of that fact to each of the persons and bodies referred to in subsection (1).

- (3) Without limiting a preceding subsection, the Registrar may, after suspending the registration of a teacher under section 33A, give 35 notice of that fact to each of the persons and bodies referred to in subsection (1).

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Part 8—Provisions relating to proceedings of Teachers Registration Board

41—Application

- (1) This Part applies to proceedings of the Teachers Registration Board—
- (a) on an application under Part 5; or
 - (b) on an inquiry under Part 7.
- (1a) This Part does not apply to proceedings of the Teachers Registration Board under section 34A.
- (2) This Part does not apply to an application that the Teachers Registration Board decides to grant without a hearing.

42—Natural justice and right to be heard and to call evidence etc

- (1) The Teachers Registration Board must observe the rules of natural justice in proceedings.

- (2) Without limiting the effect of subsection (1), the Teachers Registration Board must—
 - (a) give the person to whom the proceedings relate at least 21 days' written notice of the time and place at which it intends to conduct the proceedings; and
 - (b) if the proceedings are on an inquiry, include in the notice particulars of the allegations that are the subject of the inquiry; and
 - (c) afford the person a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.
- (3) The requirement to give written notice does not extend to adjournments.
- (4) If the person to whom the proceedings relate does not attend at the time and place fixed by the Teachers Registration Board for the commencement or resumption of the proceedings, the Board may proceed to hear and determine the matter in the absence of the person.

43—Evidence and findings in other proceedings

The Teachers Registration Board may, in the course of proceedings—

- (a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or any other place and draw conclusions of fact from the evidence that it considers proper;
- (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

44—Power to issue summons etc

- (1) The Teachers Registration Board may, for the purpose of proceedings—
 - (a) by summons signed on behalf of the Board by a member, or by the Registrar, require a person to appear before the Board or require material to be produced to the Board;
 - (b) inspect material produced to it, and retain the material for such reasonable period as it thinks fit, and make copies of the material, or any of its contents;
 - (c) require a person appearing before the Board to make an oath or affirmation to answer truthfully all questions put to him or her relating to any matter in issue before the Board (which oath or affirmation may be administered by a member of the Board or the Registrar);
 - (d) require a person appearing before the Board to answer any relevant question.
- (2) On the receipt of an application for the issue of a summons under this section, a member of the Teachers Registration Board or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.
- (3) If a person—
 - (a) who has been served with a summons to appear before the Teachers Registration Board fails, without reasonable excuse, to attend in accordance with the summons; or

- (b) who has been served with a summons to produce material fails, without reasonable excuse, to comply with the summons; or
- (c) misbehaves during any proceedings, or interrupts any proceedings; or
- (d) refuses to answer a relevant question when required to do so under this section; or
- (e) refuses to be sworn or to affirm when required to do so under this section,

the person is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 1 year.

- (4) If a person summoned under this section fails to produce material or to appear as required by the summons, or having appeared before the Teachers Registration Board refuses to be sworn or to affirm, or to answer a relevant question when required to do so, the Registrar may sign a certificate of the failure or refusal and such a certificate may be filed in the District Court.
- (5) If a certificate is filed under subsection (4), an application may be made to the District Court for an order directing that the material be produced or that the person appear, or be sworn or affirm, or answer questions (as the case may require), and, on that application, the District Court may make such orders as it thinks fit (including orders for costs).

45—Principles governing proceedings

In proceedings, the Teachers Registration Board—

- (a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and
- (b) may, of its own motion or on the application of a party, direct that the proceedings or a part of the proceedings be held in private; and
- (c) may, subject to this Act, determine its own procedures.

46—Protection of children etc

If evidence is to be given in proceedings by a student or a vulnerable witness within the meaning of section 13 of the *Evidence Act 1929*, the Teachers Registration Board should, before evidence is taken in the proceedings from the witness, determine whether an order should be made under that section.

47—Representation at proceedings

A party to proceedings is entitled to be represented at the hearing of those proceedings by a legal counsel or other person.

48—Counsel to assist Teachers Registration Board

The Teachers Registration Board may be assisted by a legal counsel at the hearing of proceedings.

Part 9—Appeals

49—Right of appeal

- (1) A right of appeal to the Administrative and Disciplinary Division of the District Court lies against a decision of the Teachers Registration Board made in the exercise or purported exercise of a power under Part 5 or Part 7.
- (2) Subject to this section, an appeal must be instituted within one month of the making of the decision appealed against.
- (3) The Teachers Registration Board must, on application by a person affected by a decision that may be the subject of an appeal, give the person a written statement of the reasons for its decision.
- (4) If a written statement of the reasons for a decision are not given by the Teachers Registration Board at the time of making the decision and the person affected by the decision, within one month of the making of the decision, applies to the Board for a written statement of reasons for the decision, the time for instituting an appeal runs from the time when the person receives the written statement of reasons.

Part 9A—Information sharing

49A—Disclosure of information to prevent harm

Despite a provision of this or any other Act or law, the Teachers Registration Board may disclose information obtained in the course of the administration or operation of this Act to an appropriate person or body if the Teachers Registration Board is of the opinion that to do so is reasonably necessary to prevent harm being caused to a child.

49B—Sharing of information between Teachers Registration Board and certain persons and bodies

- (1) This section applies to the following persons and bodies:
 - (a) the Teachers Registration Board;
 - (b) the Education and Early Childhood Services Registration and Standards Board of South Australia;
 - (c) the Registrar; (d) a teacher regulatory authority in Australia and New Zealand;
 - (e) a person or body who is an employer of a teacher;
 - (f) the central assessment unit under the Child Safety 20 (Prohibited Persons) Act 2016;
 - (g) a State authority;
 - (h) any other person or body declared by the regulations to be included in the ambit of this subsection.

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- (2) Despite any other Act or law, a person or body to whom this section applies (the *provider*) may, in accordance with any requirement set out in the regulations, provide prescribed information and documents to another person or body to whom this section applies (the *recipient*) if the provider reasonably believes that the provision of the information or documents would assist the recipient—
 - (a) to perform official functions relating to the health, safety, welfare or wellbeing of a child or class of children; or
 - (b) to manage any risk to a child or class of children that might arise in the recipient's capacity as an employer or provider of services.
- (3) Despite any other Act or law, information or documents that do not directly or indirectly disclose the identity of any person may be provided by one person or body to whom this section applies to another without restriction.
- (4) Subsection (3) applies—
 - (a) whether or not the information or documents consist of or include prescribed information and documents; and
 - (b) whether the information or document ever disclosed the identity of a person, or has been redacted so as to de-identify it.
- (5) Information may be provided under this section regardless of whether the provider has been requested to provide the information.
- (6) For the purposes of this section, a reference to a teacher will be taken to include a reference to a person granted a special authority to teach under Part 6 (whether or not the special authority has expired).
- (7) In this section—
 - prescribed information and documents* means—
 - (a) information or documents relating to the health, safety, welfare or wellbeing of a particular child or class of children; or
 - (b) any other information or document of a kind prescribed by the regulations for the purposes of this definition;
 - State authority* means—
 - (a) a person who holds an office established by an Act; or
 - (b) a public sector agency; or
 - (c) South Australia Police; or
 - (d) a local council constituted under the Local Government Act 1999; or
 - (e) any other person or body declared by the regulations to be a State authority, but does not include a person or body declared by the regulations to be excluded from the ambit of this definition.

Part 10—Miscellaneous

50—Information from Commissioner of Police relevant to registration

- (1) The Commissioner of Police—
 - (a) must, at the request of the Teachers Registration Board; and
 - (b) may, at the Commissioner's own initiative,
make available to the Teachers Registration Board information about criminal convictions and other information to which the Commissioner has access relevant to the question of a person's fitness to be, or continue to be, registered as a teacher or to hold a special authority to teach under Part 6.
- (2) The Commissioner of Police is not required to provide information under subsection (1) that the Commissioner considers—
 - (a) may prejudice or otherwise hinder an investigation to which the information may be relevant; or
 - (b) may lead to the identification of an informant; or
 - (c) may affect the safety of a police officer, complainant or other person.
- (3) Subsection (1) applies whether or not the person to whom the information relates has consented to the provision of the information.

51—Arrangements between Teachers Registration Board, DPP, and Commissioner of Police for reporting of offences

- (1) This section applies to an offence that—
 - (a) has been committed, or is alleged to have been committed, by a person who is a registered teacher, or the holder of a special authority to teach under Part 6 or is believed to be or to have been a registered teacher or the holder of a special authority to teach under Part 6; and
 - (b) raises serious concerns about the person's fitness to be, or continue to be, registered as a teacher or the holder of a special authority to teach under Part 6.
- (2) The Teachers Registration Board, the Director of Public Prosecutions and the Commissioner of Police must establish arrangements for reports to be made to the Board of the laying of charges for offences to which this section applies and the outcomes of the proceedings on the charges.
- (3) The arrangements must define the offences to which they are to apply and specify the contents of the reports and the times within which the reports must be made.
- (4) The Teachers Registration Board, the Director of Public Prosecutions and the Commissioner of Police must conduct reviews, at least annually, to ensure the continuing effectiveness of the arrangements and their implementation.

52—Notification of offences to employer etc

- (1) If the Registrar becomes aware that a person who is or has been registered as a teacher has been charged with or convicted of an offence (whether an offence under the law of South Australia or elsewhere) that, in the opinion of the Registrar, raises serious concerns about the person's fitness to be, or continue to be, registered as a teacher, the Registrar must, as soon as practicable, give details of the matter to—
- (a) the person's employer if the person is a practising teacher; and
 - (b) the chief executives of the Department, the Catholic Education Office and the Association of Independent Schools of South Australia Incorporated; and
 - ~~(c) the Director of Children's Services.~~
- (1a) If the Registrar becomes aware that a person who is or has been the holder of a special authority to teach granted under Part 6 has been charged with or convicted of an offence (whether an offence under the law of South Australia or elsewhere) that, in the opinion of the Registrar, raises serious concerns about the person's fitness to hold, or continue to hold, a special authority to teach, the Registrar must, as soon as practicable, give details of the matter to—
- (a) the person's employer if the person is the holder of a current special authority to teach; and
 - (b) the chief executives of the Department, the Catholic Education Office and the Association of Independent Schools of South Australia Incorporated.
- (2) If the Registrar gives details under subsection (1), the Registrar must—
- (a) if the details concern a person's being charged with an offence—at the same time give notice to the person concerned that the Registrar is taking that action; and
 - (b) if the details concern a person's being charged with an offence and the charge is subsequently withdrawn or the person is subsequently acquitted—as soon as practicable give notice of the withdrawal or acquittal to—
 - (i) the person's employer if the person is a practising teacher; and
 - (ii) the chief executives of the Department, the Catholic Education Office and the Association of Independent Schools of South Australia Incorporated; and
 - ~~(iii) the Director of Children's Services.~~

52A—Notification to employer that teacher is a prohibited person etc

If the Registrar becomes aware that a person who is or has been registered as a teacher is a prohibited person under *Child Safety (Prohibited Persons) Act 2016* the Registrar must, as soon as practicable, give details of that fact to—

- (a) the person's employer if the person is a practising teacher; and
- (b) the chief executives of the Department, the Catholic Education Office and the Association of Independent Schools of South Australia Incorporated.

53—Confidentiality

- (1) A person engaged or formerly engaged in the administration of this Act or the repealed provisions must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—
- (a) as required or authorised under this Act or the regulations or any other Act or law; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) in connection with the administration of this Act or the repealed provisions; or
 - (d) to another teacher regulatory authority; or
 - (e) to another statutory authority of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

Maximum penalty: \$10 000.

- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—
- (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

54—False or misleading information

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this Act.

Maximum penalty: \$10 000.

55—Procurement of registration by fraud

A person who by fraud or any other dishonest means procures registration for himself or herself, or for another person, is guilty of an offence.

Maximum penalty: \$10 000.

56—Self-incrimination

If a person is required to provide information or produce material under this Act and the information or material would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide information or material, but the information or material so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this or any other Act relating to the provision of false or misleading information.

57—Service of documents

- (1) A notice or document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may—
 - (a) be given to the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) at the person's address for service.
- (2) The address for service of a person registered under this Act is the address for the person that appears on the register under this Act.

58—Continuing offence

- (1) A person convicted of an offence against a provision of this Act in respect of a continuing act or omission—
 - (a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and
 - (b) is, if the act or omission continues after the conviction, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than one-tenth of the maximum penalty prescribed for the offence.
- (2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

59—Liability of members of governing bodies of bodies corporate

- (1) If a body corporate is guilty of an offence against this Act (other than an offence against the regulations), each member of the governing body, and the manager, of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person if the prosecution proves that—
 - (a) the manager or member (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
 - (b) the manager or member (as the case may be) was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
 - (c) the member failed to exercise due diligence to prevent the commission of the offence.
- (1a) The regulations may make provision in relation to the criminal liability of a member of the governing body, and the manager, of a body corporate that is guilty of an offence against the regulations.

- (2) A person may be prosecuted and convicted of an offence under this section whether or not the body corporate has been prosecuted or convicted of the offence committed by the body corporate.

60—General defence

- (1) It is a defence to a charge of an offence against this Act if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (2) This section does not apply in relation to a person who is charged with an offence under section 59.

61—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), those regulations may make provision for or relating to—
- (a) exemptions (conditional or unconditional) from specified provisions of this Act; and
 - (b) assessment by the Teachers Registration Board, on application, of qualifications for registration; and
 - (c) fees in respect of any matter under this Act and their payment, recovery or waiver; and
 - (d) fines, not exceeding \$5 000, for offences against the regulations; and
 - (e) facilitation of proof of the commission of offences against the regulations.
- (2a) The regulations may make provisions of a saving or transitional nature consequent upon the enactment of the *Child Safety (Prohibited Persons) Act 2016* or the *Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017*, an amendment of those Acts or an amendment of this Act.
- (3) The regulations may—
- (a) be of general application or vary in their application according to prescribed factors;
 - (b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the Teachers Registration Board;
 - (c) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Teachers Registration Board or another specified person or body.

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Schedule 1—Designated entities

1—Designated entities

The following persons and bodies are designated entities:

- (a) the Chief Executive of the Department for Education South Australia;
- (b) the Chief Executive of Catholic Education South Australia;
- (c) the Chief Executive of the Association of Independent Schools of South Australia;
- (d) the Australian Education Union (SA Branch);
- (e) the Independent Education Union (SA Branch); the Law Society of South Australia;
- (f) the Education and Early Childhood Services Registration and Standards Board of South Australia;
- (g) the Vice Chancellors Committee of South Australia;
- (h) the South Australian Association of School Parents' Clubs Incorporated;
- (i) the Federation of Catholic School Parent Communities;
- (j) Australian Childcare Alliance (SA Branch);
- (k) Early Childhood Australia (SA Branch);
- (l) the Preschool Directors Association of South Australia;
- (m) the South Australian Primary Principals Association;
- (n) the Independent Primary School Heads of South Australia;
- (o) the South Australian Secondary Principals Association;
- (p) the Association of Principals of Catholic Secondary Schools.

2—Amendment of Schedule

The Governor may, by regulation, amend clause 1 by adding or deleting specified persons or bodies.

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Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation amended by principal Act

The *Teachers Registration and Standards Act 2004* amended the following:

Education Act 1972

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2004	57	<i>Teachers Registration and Standards Act 2004</i>	16.12.2004	20.1.2005 (<i>Gazette</i> 20.1.2005 p260) except Pts 2, 4—9, ss 50—60 and Schs 1 & 2—31.3.2005 (<i>Gazette</i> 17.3.2005 p655)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 156 (s 354)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2011	46	<i>Education and Early Childhood Services (Registration and Standards) Act 2011</i>	8.12.2011	Sch 3 (cll 25 & 26)—1.1.2012 (<i>Gazette</i> 15.12.2011 p4986)
2013	16	<i>Statutes Amendment (Directors' Liability) Act 2013</i>	23.5.2013	Pt 48 (ss 99 & 100)—17.6.2013 (<i>Gazette</i> 6.6.2013 p2498)
2017	64	<i>Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017</i>	12.12.2017	Pt 21 (ss 132 to 146)—1.7.2019 (<i>Gazette</i> 17.1.2019 p93)
2018	25	<i>Teachers Registration and Standards (Miscellaneous) Amendment Act 2018</i>	15.11.2018	20.12.2018 (<i>Gazette</i> 20.12.2018 p4355)
2019	19	<i>Education and Children's Services Act 2019</i>	8.8.2019	Sch 1 (cll 16, 17 & 38)—uncommenced

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.2.2010</i>
s 3		
director	substituted by 46/2011 Sch 3 cl 25(1)	1.1.2012

Teachers Registration and Standards Act 2004—1.7.2019
Legislative history

prescribed service	inserted by 46/2011 Sch 3 cl 25(2)	1.1.2012
prohibited person	inserted by 64/2017 s 132(1)	1.7.2019
<i>recognised kindergarten</i>	<i>deleted by 46/2011 Sch 3 cl 25(3)</i>	<i>1.1.2012</i>
unique identifier	inserted by 64/2017 s 132(2)	1.7.2019
working with children check	inserted by 64/2017 s 132(3)	1.7.2019
Pt 3		
s 9		
s 9(1a)	inserted by 64/2017 s 133	1.7.2019
s 10		
s 10(5)	amended by 64/2017 s 134(1)	1.7.2019
s 10(6)	amended by 64/2017 s 134(2)	1.7.2019
s 12	amended by 84/2009 s 354	1.2.2010
s 15		
s 15(4)	amended by 25/2018 s 4	20.12.2018
s 15A	inserted by 25/2018 s 5	20.12.2018
Pt 4		
<i>s 20 before substitution by 25/2018</i>		
<i>s 20(1) and (2)</i>	<i>amended by 46/2011 Sch 3 cl 26</i>	<i>1.1.2012</i>
s 20	substituted by 25/2018 s 6	20.12.2018
Pt 5		
s 21		
s 21(1)	amended by 64/2017 s 135(1)—(4)	1.7.2019
s 22		
s 22(2)	amended by 64/2017 s 136	1.7.2019
s 24		
s 24(a1)	inserted by 64/2017 s 137(1)	1.7.2019
s 24(2)	amended by 64/2017 s 137(2)	1.7.2019
s 24(3)	amended by 64/2017 s 137(3)	1.7.2019
s 24A	inserted by 64/2017 s 138	1.7.2019
s 28		
s 28(2)	amended by 64/2017 s 139(1)	1.7.2019
s 28(4a)	inserted by 64/2017 s 139(2)	1.7.2019
Pt 6		
s 30		
s 30(1a)	inserted by 64/2017 s 140(1)	1.7.2019
s 30(2)	substituted by 64/2017 s 140(2)	1.7.2019
s 30(3)	amended by 64/2017 s 140(3), (4)	1.7.2019
s 30(3a)	inserted by 64/2017 s 140(5)	1.7.2019
s 31		

1.7.2019—Teachers Registration and Standards Act 2004

Legislative history

s 31(2)	amended by 64/2017 s 141(1)	1.7.2019
s 31(4a)	inserted by 64/2017 s 141(2)	1.7.2019
Pt 7		
s 33		
s 33(1)	amended by 64/2017 s 142	1.7.2019
s 33A	inserted by 64/2017 s 143	1.7.2019
s 34A	inserted by 25/2018 s 7	20.12.2018
s 37		
s 37(1a)	inserted by 64/2017 s 144	1.7.2019
Pt 8		
s 41		
s 41(1a)	inserted by 25/2018 s 8	20.12.2018
Pt 10		
s 52A	inserted by 64/2017 s 145	1.7.2019
s 59		
s 59(1)	substituted by 16/2013 s 99	17.6.2013
s 59(1a)	inserted by 16/2013 s 99	17.6.2013
s 60		
s 60(1)	s 60 redesignated as s 60(1) by 16/2013 s 100	17.6.2013
s 60(2)	inserted by 16/2013 s 100	17.6.2013
s 61		
s 61(2a)	inserted by 64/2017 s 146	1.7.2019
Sch 1	omitted under Legislation Revision and Publication Act 2002	1.2.2010
Sch 2	omitted under Legislation Revision and Publication Act 2002	1.2.2010
cl 1	expired: cl 1(11)—omitted under Legislation Revision and Publication Act 2002	(30.7.2005)
cl 2	expired: cl 2(3)—omitted under Legislation Revision and Publication Act 2002	(30.7.2005)
cl 3	expired: cl 3(2)—omitted under Legislation Revision and Publication Act 2002	(30.4.2005)

Historical versions

1.2.2010
1.1.2012
17.6.2013
20.12.2018