

## TEACHERS REGISTRATION AMENDMENT BILL 2009

### CLAUSE NOTES

<b>PART 1</b>	<b>PRELIMINARY</b>
<b>Clause 1</b>	<b>Short title</b> <i>Teachers Registration Amendment Bill 2009</i> The Act may be cited as the <i>Teachers Registration Amendment Act 2009</i>
<b>Clause 2</b>	<b>Commencement</b> 1 January 2010
<b>Clause 3</b>	<b>Principal Act</b> The <i>Teachers Registration Act 2000</i> is referred to as the Principal Act
<b>Clause 4</b>	<b>Interpretation</b> Provides meanings for terms used in the Bill.
<b>PART 2</b>	<b>TEACHERS REGISTRATION BOARD OF TASMANIA (Heading amended from TEACHERS REGISTRATION BOARD)</b>
<b>Clause 5</b>	<b>Continuation of the Board</b> Provides for the continuation of the Teachers Registration Board which was established under the Principal Act. Provides for the Board to be a body corporate.
<b>Clause 6</b>	<b>Membership of the Board</b> Establishes the membership of the Board and the process by which Board members are nominated and appointed. The substance of this section has not changed.

<p><b>Clause 6A</b></p>	<p><b>Functions of Board</b></p> <p>Establishes the functions of the Board.</p> <p>This section has been re-written to bring all major functions together for completeness and to ensure clarity.</p> <p>Two new functions are included. The first allows the Board to confer and collaborate with corresponding registration authorities. The Principal Act was silent on this matter.</p> <p>The second clarifies the Board’s power to investigate and recommend the prosecution of offences against the Act. The Principal Act allowed for this power to reside only with the Secretary of the Department of Education.</p>
<p><b>Clause 7A</b></p>	<p><b>Board to consider best interests of students</b></p> <p>Establishes that the Board is to consider the welfare and best interests of students to be of paramount importance in exercising its functions and powers.</p> <p>This clause was requested by the Board. All stakeholders supported this request.</p> <p>The clause provides a context in which the Board must operate.</p>
<p><b>Clause 7B</b></p>	<p><b>Delegation</b></p> <p>Provides the Board with the power to delegate its powers and responsibilities.</p> <p>The Principal Act did not provide the Board with the power to delegate. The Board requested this change. Stakeholders were supportive of this request.</p>
<p><b>Clause 7C</b></p>	<p><b>Executive Officer</b></p> <p>Provides for the role of executive officer to the Board.</p> <p>The Principal Act did not recognise this role.</p>
<p><b>Clause 7D</b></p>	<p><b>Roles, functions and powers of executive officer</b></p> <p>Provides for the role, functions and powers of the executive officer.</p>
<p><b>PART 3</b></p>	<p><b>REGISTRATION OF TEACHERS AND LIMITED AUTHORITIES TO TEACH</b></p>
<p><b>Clause 11</b></p>	<p><b>Offences relating to teaching</b></p> <p>Defines the requirement for all persons employed to teach to be registered, to be the holders of Limited Authorities to Teach, or to be employed under the direct supervision of a registered teacher.</p> <p>This section does not apply to a person employed as a member of the teaching staff of the Tasmanian Polytechnic until 1 January 2011.</p>

<p><b>Clause 12</b></p>	<p><b>Application for full registration</b></p> <p>Provides for the process of applying for full registration and makes clear the Board’s power to seek any further information it considers necessary to progress an application.</p> <p>This provision will bring the legislation inline with current Board practice.</p>
<p><b>Clause 13</b></p>	<p><b>Determination of application for full registration</b></p> <p>Establishes the requirements for full registration and provisional registration.</p> <p>Provides for the Board to place reasonable conditions on registration if appropriate.</p>
<p><b>Clause 14</b></p>	<p><b>Grant of full registration following period of provisional registration</b></p> <p>Provides a process for those with provisional registration to seek full registration. More detail has been provided in this section however the process is not changing.</p>
<p><b>Clause 15</b></p>	<p><b>Certificate of full registration or provisional registration</b></p> <p>Provides for the issuing of registration certificates.</p>
<p><b>Clause 16</b></p>	<p><b>Period of full registration or provisional registration</b></p> <p>Provides for the period of registration to be up to 5 years, rather than 3 years.</p>
<p><b>Clause 17</b></p>	<p><b>Amendment of conditions of full registration or provisional registration</b></p> <p>Provides for conditions to be placed on registration and for these to be amended if and as required.</p>
<p><b>Clause 17A</b></p>	<p><b>Renewal of full registration</b></p> <p>Establishes the process of renewal of registration and includes the provision for the granting of conditions and/or provisional registration if a registrant does not meet the requirements of full registration when renewing.</p>
<p><b>Clause 17B</b></p>	<p><b>Annual Registration Fee</b></p> <p>Establishes the fee structure for registration and Limited Authorities to Teach. The fee structure is changing as the Principal Act did not distinguish between application costs and the annual registration fee.</p> <p>This clause makes the fee structure transparent and more easily understood. The actual cost of current fees is not changing.</p>

<b>DIVISION 3</b>	<b>LIMITED AUTHORITIES TO TEACH</b>
<p><b>Clause 17C</b></p>	<p><b>Application for limited authority</b></p> <p>Provides for the Limited Authority to Teach application process.</p> <p>This provision remains basically unchanged. Some aspects have been reworded to ensure consistency with the registration process.</p>
<p><b>Clause 17D</b></p>	<p><b>Determination of application</b></p> <p>Establishes the requirements for a Limited Authority and the process by which the Board will grant a Limited Authority.</p> <p>This provision remains basically unchanged. Some aspects have been reworded to ensure consistency with the registration process.</p>
<p><b>Clause 17E</b></p>	<p><b>Notice of limited authority</b></p> <p>Provides for the issuing of a notice of limited authority</p>
<p><b>Clause 17F</b></p>	<p><b>Period of limited authority</b></p> <p>The period of a limited authority is up to two years.</p> <p>This provision remains basically unchanged. Some aspects have been reworded to ensure consistency with the registration process.</p>
<p><b>Clause 17G</b></p>	<p><b>Amendment of conditions of limited authority</b></p> <p>Provides for the granting and amending of conditions on a limited authority.</p>
<p><b>Clause 17H</b></p>	<p><b>Extension of limited authority</b></p> <p>Provides for the granting of an extension to a limited authority.</p> <p>This provision remains basically unchanged. Some aspects have been reworded to ensure consistency with the registration process.</p>
<p><b>Clause 17I</b></p>	<p><b>Suspension or cancellation of limited authority</b></p> <p>Provides for the suspension or cancellation of a limited authority.</p> <p>This might occur when the reason for the limited authority changes or ceases to be e.g. the school's program or staffing need changes.</p>
<p><b>Clause 17J</b></p>	<p><b>Determining whether person of good character</b></p> <p>Establishes the evidence the Board will use to determine whether a person is of good character for the purposes of teacher registration.</p>

<p><b>Clause 17K</b></p>	<p><b>Determining whether person fit to be teacher</b></p> <p>Establishes the evidence the Board will use to determine whether a person is fit to be a teacher for the purposes of teacher registration.</p> <p>This is a new provision which overcomes confusion between terms and the definition of good character and fit to teach which exists in the Principal Act.</p>
<p><b>Clause 17L</b></p>	<p><b>Police Report</b></p> <p>Establishes how and when the Board can require the Commissioner of Police to provide information on registrants and holders of limited authorities.</p> <p>This is a new provision which ensures current practice, established under a MoU between the TRB and Tasmania Police, is reflected in the legislation.</p>
<p><b>Section 18</b></p>	<p><b>Notifying Board if person found guilty of or charged with prescribed offence</b></p> <p>Requires registrants to notify the Board if they are charged with or found guilty of a prescribed offence.</p>
<p><b>Section 18A</b></p>	<p><b>Disciplinary action if person found guilty of prescribed offence</b></p> <p>Establishes the actions the Board can take if a registrant or holder of a Limited Authority to Teach is found guilty of an offence.</p> <p>The provision remains basically unchanged however the Board can now add conditions to a person's registration, or amend those already in place, as part of the disciplinary action/outcome.</p>
<p><b>Clause 19</b></p>	<p><b>Complaints</b></p> <p>Establishes the processes involved in receiving and managing a complaint including the responsibilities of the complainant, the rights of the person who is the subject of the complaint, the actions the Board must take and the possible outcomes.</p>
<p><b>Clause 19A</b></p>	<p><b>Preliminary assessment of complaint</b></p> <p>Provides the Board with the capacity to undertake a preliminary assessment of a complaint before proceeding to formally accept and progress the matter.</p>

<b>PART 4</b>	<b>DISCIPLINE AND INQUIRIES</b>
<b>Clause 20</b>	<p><b>Inquiries</b></p> <p>Establishes the processes involved in determining whether or not to take a matter to inquiry.</p> <p>This section has only minor wording changes which ensure the section is worded consistently with the remainder of the Act.</p>
<b>Clause 21</b>	<p><b>Committee of Inquiry</b></p> <p>Establishes the requirements for setting up an inquiry and provides for the possibility of establishing a Committee of Inquiry.</p> <p>This section has been rewritten to ensure consistency and to add clarity to the processes involved.</p>
<b>Clause 22</b>	<p><b>Notifying person in respect of whom an inquiry is to be held</b></p> <p>Establishes the processes the Board must use to make notification of its intention to hold an inquiry.</p> <p>This section has been rewritten to ensure consistency and to add clarity to the processes involved.</p>
<b>Clause 22A</b>	<p><b>Notifying other persons of inquiry</b></p> <p>Details of who the Board must or may notify of its intention to hold an inquiry (in addition to the person who is the subject of the inquiry).</p> <p>This is a new section which provides detail not covered in the Principal Act.</p>
<b>Clause 22B</b>	<p><b>Conduct of an inquiry generally</b></p> <p>Establishes how the Board is to conduct an inquiry</p> <p>This section has been included to add clarity to the provisions contained in the Principal Act.</p>
<b>Clause 22C</b>	<p><b>Hearing</b></p> <p>Provides for the Board to hold a hearing as part of an inquiry</p> <p>This is a new section that provides clarity on how the Board will conduct an inquiry and inform itself on matters of relevance via a hearing. This section details the roles and responsibilities of the Board, the rights of the person who is the subject of the inquiry and the management of vulnerable witnesses. The Principal Act was silent on many of these matters.</p>

<p><b>Clause 22D</b></p>	<p><b>Confidentiality</b></p> <p>Sets out the confidentiality requirements for inquiries.</p> <p>This is a new section which provides important details not covered in the Principal Act.</p>
<p><b>Clause 24</b></p>	<p><b>Decisions</b></p> <p>Establishes the decisions the Board may make at the completion of an inquiry.</p> <p>This section has been rewritten to ensure consistency and now includes the option to impose conditions on registration as part of the outcome.</p>
<p><b>Clause 24A</b></p>	<p><b>Notifying of decision</b></p> <p>Establishes who the Board can notify of the outcome of an inquiry. This now includes the provision for the Board to notify other registration authorities – the Board already receives notification of the outcome of disciplinary matters from other regulatory bodies. The Principal Act was silent on this issue.</p>
<p><b>Clause 24B</b></p>	<p><b>Emergency suspension of registration or limited authority</b></p> <p>Provides for the emergency suspension of registration if the Board believes a registrant poses a risk of harm to a student</p> <p>This is a new provision that allows the Board to respond in very serious situations where the Tasmanian community would expect registration to be suspended. An inquiry is to follow as quickly as possible.</p>
<p><b>Clause 25</b></p>	<p><b>Registers</b></p> <p>Sets the requirement for the Register of Teachers and the Register of holders of limited authorities.</p> <p>This section has been rewritten to ensure consistency in the wording used throughout the new legislation.</p>
<p><b>Clause 26</b></p>	<p><b>Registers to be kept up to date</b></p> <p>Requires the Board to keep the registers up to date.</p>
<p><b>Clause 27</b></p>	<p><b>Employing unregistered teachers</b></p> <p>Provides for a penalty for employers who employ unregistered teachers. This section does not apply to the Polytechnic for 2010.</p> <p>This section has been rewritten to ensure consistency in the wording used throughout the new legislation.</p>

<p><b>Clause 27A</b></p>	<p><b>Notification of finding of guilt, &amp;c.</b></p> <p>Registrants and LAT holders must notify the Board if they are found guilty of an offence. The Board must notify employers and other registration bodies if a registrant or holder of a LAT makes notification to the Board that they have been found guilty of an offence.</p>
<p><b>Clause 29</b></p>	<p><b>Applications for review</b></p> <p>Establishes how Board decisions can be reviewed.</p> <p>This section has been rewritten to ensure consistency in the wording used throughout the new legislation.</p>
<p><b>Clause 31</b></p>	<p><b>Employers to notify of disciplinary action taken and certain resignations and retirements</b></p> <p>Requires employers to notify the Board if disciplinary action is taken by a registrant or if the person retires or resigns as a result of an issue of misconduct or incompetence.</p> <p>This provision has been extended from the one contained in the Principal Act to allow for notification of conduct that resulted in disciplinary action.</p>
<p><b>Clause 32</b></p>	<p><b>Annual Returns</b></p> <p>Provides for schools, the Tasmanian Academy and the Tasmanian Polytechnic to provide names of all persons employed as teachers as part of the Board's annual census.</p> <p>This section has been rewritten to ensure consistency in the wording used throughout the new legislation.</p>
<p><b>Clause 32A</b></p>	<p><b>Providing information to corresponding bodies, &amp;c.</b></p> <p>Establishes that the Board can correspond with and provide certain information to other regulatory bodies.</p> <p>This is a new provision required as a result of the Principal Act being silent on this issue.</p>
<p><b>Clause 33</b></p>	<p><b>Annual Report</b></p> <p>Establishes the requirement for an Annual Report. The timing of this report has changed from being a report on activities within a financial year to a report on Board activities within a calendar year. This allows for more appropriate reporting given that the school year is also based on a calendar year structure.</p>

<p><b>Clause 34A</b></p>	<p><b>Prosecutions under the Act</b></p> <p>Establishes that the Chair of the Board can authorise prosecutions under the Act.</p> <p>This is a new provision which replaces the requirement for the Secretary of the Department of Education to hold this authority.</p>
<p><b>Clause 37</b></p>	<p><b>Replacement Certificates</b></p> <p>Provides for provision of replacement registration certificates.</p> <p>This section has been rewritten to ensure consistency.</p>
<p><b>Clause 39</b></p>	<p><b>Regulations</b></p> <p>Standard clause to provide for the making of regulations as required to govern the operation of the Act</p> <p>This section has been rewritten to ensure consistency with the wording used in the new legislation.</p>
<p><b>Clause 41</b></p>	<p><b>Transitional provisions consequent on <i>Teachers Registration Amendment Act 2009</i></b></p> <p>Provides for the transition from the Principal Act to the new legislation ensuring that actions and decisions made under the Principal Act are regarded as being legitimate under the new legislation.</p>
<p><b>Schedule I</b></p>	<p><b>Membership and meetings of Board</b></p>
<p><b>Clause 4A</b></p>	<p><b>Notifying of matter that may affect Minister's opinion of character</b></p> <p>A new clause that requires Board members to notify the Minister should they believe that they are involved in something or have done something that may result in the Minister determining they are not fit to be on the Board.</p> <p>The Minister now has the power to remove a person from the Board if, in the Minister's opinion, the member is no longer fit to be a member of the Board or has failed to notify of any issue as noted above.</p> <p>This is a new provision.</p>