

## Explanatory Statement

TEACHER REGISTRATION (NORTHERN TERRITORY)  
LEGISLATION AMENDMENT BILL 2019  
SERIAL NO. ....

LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

MINISTER FOR EDUCATION

### EXPLANATORY STATEMENT

#### GENERAL OUTLINE

This Bill amends the *Teacher Registration (Northern Territory) Act 2004* and *Teacher Registration (Northern Territory) Regulations 2004*.

The purpose of this Bill is to strengthen and contemporise regulation of the teaching profession in the Northern Territory. This includes by:

- streamlining administrative processes or operations of the Board
- strengthening the Board's powers for disciplinary proceedings and decision making
- increasing openness and transparency, and availability of information, regarding the Board's operations and decision making
- clarifying the information that the Board must be notified of by individuals, employers and other government agencies, and when information can be shared by the Board
- confirming the Board's responsibility to support and recognise quality teaching and educational leadership
- providing efficient and cost effective recourse for decisions made by the Board, and
- contemporising the legislation to align with community needs and expectations, and enable flexibility in dealing with evolving issues affecting teacher registration.

#### NOTES ON CLAUSES

##### **Part 1 Preliminary matters**

##### **Clause 1. Short Title**

This is a formal clause which provides for the citation of the Bill once passed.

##### **Clause 2. Commencement**

This is a formal clause which provides that the Act commences on a date specified by the Administrator by notice in the Northern Territory Government *Gazette*.

## Part 2 Amendment of Teacher Registration (Northern Territory) Act 2004

### Clause 3. Act amended

This clause identifies that this part of the Bill will amend the *Teacher Registration (Northern Territory) Act 2004*.

### Clause 4. Section 3 replaced

Section 3 establishes the object of the Act.

This clause makes minor changes to the wording in section 3(1), in providing that the object of the Act is to ensure that only persons who are fit and proper, appropriately qualified and competent to teach, are employed as teachers in the Territory.

Section 3(2) has been amended to provide that the object is to be achieved by establishing a Teacher Registration Board. This clause provides that in addition to registering persons as teachers, a Teacher Registration Board is to facilitate the continuing competence of teachers, and quality teaching and educational leadership, in the Territory.

### Clause 5. Section 4 amended (Definitions)

This clause amends section 4 to provide for terms used throughout the Bill.

Subclause (1) omits the definitions 'approved', 'authorisation', 'authorised person', 'education courses', 'educator', 'employer', 'information notice', 'personal details' and 'sexual offence'.

New or amended definitions are then inserted in subclause (2) as follows:

- 'accredited education course' means a teacher education course provided in the Territory that has been accredited by the Board under section 74. This definition provides that education courses must now be accredited by the Board.
- 'approved form' means a form approved by the Board.
- 'authorisation' means an authorisation under Part 5 to employ or otherwise engage an unregistered person to work as a teacher. This definition has been broadened to also capture the circumstance where a person is not employed, but is a contractor.
- 'authorised person' means a person in relation to whom an authorisation is in effect, except for Part 6 (Disciplinary proceedings and related matters) where the definition regards a person in relation to whom an authorisation is, or has been, in effect.
- 'clearance notice' means a clearance notice issued under section 189(3)(a) of the *Care and Protection of Children Act 2007*.
- employer, of a person, means a person who employs or otherwise engages the person to work as a teacher. This definition now also captures the circumstance where a person is a contractor.
- 'higher education institution' means a higher education institution, or overseas higher education institution, as defined in section 4 of the *Higher Education Act 2004*. This definition has been moved from the current *Teacher Registration (Northern Territory) Regulations 2004*.
- 'notifiable offence' means:
  - (a) an offence against a law in force in the Territory if the penalty that may be imposed on an individual for the offence includes imprisonment for a period of 12 months or more, or
  - (b) an offence committed outside the Territory if the penalty that may be imposed on an individual for the offence includes imprisonment for a period of 12 months or more.

## CABINET-IN-CONFIDENCE

- 'personal details', of a person, means:
  - (a) the person's name, residential address, private telephone numbers and email address, and
  - (b) details of any physical or mental impairment, disability, condition or disorder, including substance abuse or dependence, that the person has and that may affect the person's eligibility for registration or authorisation. This paragraph has therefore been amended to remove reference to 'details of a health related condition' from the existing provision in clarifying the details that are considered personal.
- 'professional development condition' means the condition that the teacher to whom the registration has been granted, or the authorised person in relation to whom the authorisation has been granted, comply with the requirements of the professional development framework.
- 'professional development framework' means the framework approved by the Board under section 75, and is a new feature in the Act.
- 'reasonably believes' means believes on reasonable grounds.
- 'relevant entity' means the Board, an investigator or an inquiry committee.
- 'Screening Authority' means the Authority established by section 196 of the *Care and Protection of Children Act 2007*.
- 'sexual offence' means an offence prescribed by regulation. Regulation 2A of the *Teacher Registration (Northern Territory) Regulations 2004* prescribes the sexual offences, and
- 'teacher education course' means an initial (pre-service) teacher education course that is administered by a higher education institution, and includes a minimum of 45 days of supervised practice teaching in a school. This definition has been moved from the *Teacher Registration (Northern Territory) Regulations 2004*.

Minor changes are also made in subclauses (3) and (4) to ensure consistency in the Bill.

### **Clause 6. Section 5A inserted**

This clause is a standard provision providing that the principles of criminal responsibility in Part IIAA of the Criminal Code apply with respect to the interpretation of offences under this Act.

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences and deals with the burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of criminal offences.

### **Clause 7. Section 7 amended (Composition of the Board)**

Section 7 regards the composition of the Board and its members.

Subclauses (1) and (2) amend a number of paragraphs in section 7(1) to provide that the Board consists of 12 members appointed by the Administrator of the Northern Territory, of whom one is to be:

- a teacher nominated by the Northern Territory Principals' Association Incorporated
- an educator nominated by the Association of Independent Schools of the Northern Territory Incorporated
- a teacher nominated by the Independent Education Union – Queensland and Northern Territory Branch
- a person nominated by the Northern Territory Council of Government School Organisations Incorporated, and
- a teacher nominated by the Professional Teachers' Association of the Northern Territory Incorporated.

## CABINET-IN-CONFIDENCE

This represents a change in terminology (of the names of the organisations with nominated members on the Board), not policy. The current composition and voting rights of the membership have not changed.

The registration numbers have also been included next to the names of the incorporated associations.

Subclause (4) provides that the definition of 'educator' means a person who is a specialist in the administration of education or the theory and practice of education, or who delivers, outside of a school, a course of academic instruction to adults. This definition has been moved from section 4 as it only has discreet application in relation to the composition of the Board.

### **Clause 8. Section 11 amended (Functions of the Board)**

This clause amends section 11 related to the functions of the Board. In addition to the matters mentioned in section 11(1), the Board also performs the function of:

- accrediting teacher education courses and liaising with institutions providing accredited education courses. This function aligns with amended section 74 (Accreditation of teacher education courses)
- promoting the professional development of teachers in the Territory and approving a framework for the professional development of teachers. This function aligns with amended section 75 (Approval of professional development framework)
- developing and approving professional teaching standards and other professional standards. Reference to the Board approving professional teaching and other professional standards remedies a typographic error in the existing provision which incorrectly refers to improving such standards. The Board's power to also approve other professional standards is provided in section 81(2)(a) as amended, and
- supporting, recognising and certifying quality teaching and educational leadership in the Territory. This function aligns with the amended object of the Act in section 3.

### **Clause 9. Section 12 amended (Powers of the Board)**

Under section 12(1) of the current Act, the Board has power to do all things necessary or convenient in connection with the performance of its functions.

This clause provides that, in addition to the matters mentioned in section 12(2), the Board also has the express power to charge a fee for the provision of a service, whether or not the fee is prescribed. The provision enables the Board to charge for services where a fee is not otherwise set out in the regulations.

Minor changes are also made in subclause (2) to ensure consistency in the Board being able to seek information, a document or other thing.

### **Clause 10. Section 19 replaced**

This clause repeals section 19 and replaces it with new section 18A (Resolution without meeting) and amended section 19 (Minutes).

New section 18A provides that the Board may pass a resolution if the chairperson has taken reasonable steps to notify the Board members of the terms of the proposed resolution, and specified a time in which a response must be made. A majority of Board members would have to respond, assenting to the resolution within the given time for response, for the resolution to pass.

A Board member may assent to a resolution by signing a document containing a statement that the member is in favour of the resolution, sending the chairperson an email from the member's nominated email account which contains a statement that the member is in favour of the resolution, or using other technology approved by the Board in the approved manner. A 'nominated email account' of a Board members means an email account nominated by the member to the Board for the purposes of communications between the member and the Board.

Reference to other technology approved by the Board may include an 'app' downloaded by a member to a mobile device.

## CABINET-IN-CONFIDENCE

A Board member who has an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to the proposed resolution, must not be included in the majority assenting to the resolution. Amended section 22 deals with disclosure of an interest by a Board member.

If a resolution is taken to have been passed, the chairperson must ensure that each Board member is advised and given a copy of the resolution as soon as practicable.

Section 19 is amended to further provide the Board must keep full and accurate minutes of its meetings and the passing of resolutions without meetings.

### **Clause 11. Section 21 repealed**

This clause repeals section 21 (Confidentiality). The offence of disclosing certain information in amended section 77 deals with matters regarding confidentiality.

### **Clause 12. Section 22 amended (Disclosure of interest)**

Section 22 regards disclosure of an interest by a Board member or alternative member.

Subclause (1) amends section 22(1) to confirm that this provision applies to a Board member or an alternate member who has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the Board member's or alternate member's functions in relation to a matter being considered or about to be considered by the Board.

Sections 22(1A) and (1B) have been inserted to provide that it is an offence of strict liability for the Board member or alternate member not to disclose the nature of the interest to the Board as soon as practicable after the relevant facts come to the member's knowledge. This means that there is no need for the prosecution to prove that the Board member or alternate member knew they had to disclose the interest; the offence applies simply as a result of the member failing to disclose. However, new section 22(1C) confirms a member charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not disclosing an interest to the Board.

The penalty of 50 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

Minor changes are also made in subclause (2) to ensure consistency in this provision with respect to recording a disclosure in the minutes.

Subclause (3) builds upon the existing offence in section 22(3) which provides that unless the Board (exclusive of the Board member or alternate member) determines otherwise, the Board member or alternate member in relation to whom the interest applies, must not be present during any deliberations of the Board in relation to the matter, and must not take part in any decision of the Board in relation to the matter. This clause confirms that the offence is of strict liability, with a reasonable excuse defence applying.

Again, the penalty of 50 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

### **Clause 13. Section 23 amended (Vacation of office)**

Section 23 deals with the ways in which a Board member or alternative member may vacate office.

Subclause (1) replaces section 23(3) to provide that a Board member or an alternative member is taken to have vacated office if the member resigns, is removed from office, or ceases to be eligible to be appointed under section 7 (Composition of the Board).

In practice, if a person was appointed under section 7(1)(b) as a teacher based at a remote school nominated by the Northern Territory Branch of the Australia Education Union, but has since resigned from a teaching position at a remote school, the person would no longer be eligible to be appointed as a Board member, as the person does not meet the criteria for appointment.

## CABINET-IN-CONFIDENCE

Minor changes are also made in subclause (2) to ensure consistency in this provision regarding vacation of office.

### **Clause 14. Section 25A inserted**

The purpose of this clause is to insert new section 25A (Board may publish policies and guidelines) to provide that the Board may publish, and make publicly available, policies or guidelines in relation to the Board's performance of its functions under this Act. The functions of the Board that may be of relevance include administering the scheme of registration, and dealing with complaints, holding preliminary investigations and inquiries or taking disciplinary action in relation to teachers and authorised persons.

Published material may be made available to the public in any manner the Board considers appropriate, including on the Board's website.

### **Clause 15. Section 26 amended (Register)**

Section 26 regards the register, called the Register of Teachers, which must be maintained by the Board.

Subclause (1) provides that, in addition to the matters mentioned in section 26(2), the Board must also record on the Register of Teachers, the criminal history of each person to whom it has granted registration.

Minor changes are also made in subclause (2) to ensure consistency in this provision.

### **Clause 16. Section 28 amended (Notice of change of name or address)**

This clause amends section 28(1) to provide that within 90 days of a change in the teacher's address, personal details or business address, a registered teacher must give the Board notice of the change and provide the new details.

As amended, the definition of 'personal details' in section 4 regards details of any physical or mental impairment, disability, condition or disorder, including substance abuse or dependence, that the person has and that may affect the person's eligibility for registration or authorisation.

The penalty of 20 penalty units represents an increase from the penalty for the equivalent offence in the current Act (that being, 2 penalty units).

New section 28(2) provides that it is an offence of strictly liability for the registered teacher not to notify the Board of a change in the teacher's personal details or address. This means that there is no need for the prosecution to prove that the teacher knew they had to notify the Board; the offence applies simply as a result of the registered teacher failing to notify. However, section 28(2A) has been inserted to confirm that a registered teacher charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not notifying the Board.

### **Clause 17. Section 29 amended (Public access to register)**

Public access to the Register of Teachers is dealt with in section 29.

Subclause (1) provides that a person may access and inspect the Register of Teachers (established under section 26) on the Board's website or by using other technology approved by the Board. Accessing or electronically downloading the publicly available details on the register does not incur payment of a fee.

However, subclause (2) amends section 29(2) to provide that the Board must ensure that the only details about a teacher on the register that are made available to the public are the teacher's name, the teacher's registration number, whether the registration is full registration or provisional registration, the date to which the teacher's registration fees have been paid, and any other detail prescribed by the regulation.

There are currently no other details prescribed by the regulations.

### **Clause 18. Section 32 amended (Fit and proper person)**

Section 32 provides the criteria for fitness and propriety to teach.

## CABINET-IN-CONFIDENCE

Subclause (1) provides that, in addition to the other matters mentioned in section 32(1), in deciding whether a person is fit and proper to teach, the Board must also take into account whether the person holds a clearance notice that is in force.

As amended, 'clearance notice' is defined in section 4 to mean a clearance notice issued under section 189(3)(a) of the *Care and Protection of Children Act 2007*.

Further to this, subclause (2) amends section 32(2) to provide that if, after considering all of the matters mentioned in section 32(1), the Board is not satisfied a person is a fit and proper person to teach, the Board must give the person written notice of its reasons, and invite the person to make an oral or written submission within a specified period to respond to those reasons. This differs from the existing provision in the current Act which only provides for the person to be invited to appear before the Board.

Minor changes are also made in subclause (3) to ensure consistency in this provision regarding the person being invited to make a submission whether written or oral. As such, if the person chooses to appear before the Board to make an oral submission, the person may be accompanied by another person but is not entitled to be represented by the other person, and the Board must not decide whether the person is a fit and proper person to teach until the person has made a submission, or the specified period for a submission to be made has ended.

### **Clause 19. Section 33 amended (Application)**

This clause confirms that an application for registration under section 33(2) must be in a form approved by the Board and include the personal details and criminal history of the applicant.

The definition of 'personal details' in section 4 has been amended to mean details of any physical or mental impairment, disability, condition or disorder, including substance abuse or dependence, that the person has and that may affect the person's eligibility for registration or authorisation.

Further to this, as well as the prescribed fee, the application must be accompanied by the documents required by the approved form. In practice, a form approved by the Board for the purposes of applying for registration will list any documentation that must accompany the application.

### **Clause 20. Section 34 amended (Interim certification of registration pending Board decision)**

This clause inserts new section 34(2A) to provide that if the Director issues an interim certificate of registration, the interim certificate must be in a form approved by the Board, but may be issued in a way decided by the Director (including, for example, electronically).

### **Clause 21. Section 36 replaced**

Section 36 sets out the decision of the Board in relation to an application for registration.

This clause replaces section 36 to provide that within 90 days of accepting an application for registration, the Board must:

- (a) if the applicant is eligible for full registration – grant full registration
- (b) if the applicant is not eligible for full registration but is eligible for provisional registration – grant provisional registration, or
- (c) if the applicant is not eligible for full registration or provisional registration – refuse the application.

This clarifies the existing provision in the current Act, by providing that if the applicant is not eligible for full or provisional registration, the Board must refuse the applicant.

The new requirement for the board to decide an application within a specified period, that being 90 days, relates to section 42 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, which provides that if the Board has not made a decision within the specified period, a decision refusing the application is deemed to have been made, thereby enlivening the applicant's right of review under new section 73C.

## CABINET-IN-CONFIDENCE

Section 36(2) provides that if registration is granted, it must be granted for a term that ends at the end of a specified calendar year, and does not exceed 5 years (or, if another period is prescribed, the prescribed period) – for full registration, or 3 years (or, if another period is prescribed, the prescribed period) – for provisional registration.

Further to this, section 36(3) now provides that if registration is granted, it is subject to a condition that the teacher comply with the requirements of the professional development framework in amended section 75, and any other conditions that the Board considers appropriate. The inclusion of the professional development condition on a teacher's registration is a new feature in the legislation.

### **Clause 22. Section 37 amended (Applicant for renewal)**

A teacher may apply for a renewal of registration under section 37.

This clause amends section 37(2)(c) to provide that an application for renewal of registration must be accompanied by the documents required in the approved form. In practice, a form approved by the Board for the purposes of applying for a renewal of registration will list any documentation that must accompany the application.

### **Clause 23. Section 38 amended (Board may seek further information)**

This clause makes minor changes to the terminology used in section 38(1), to clarify that, to decide whether renewal of registration should be granted, the Board may request information about the applicant from a referee where the applicant has provided permission, and consider any information given by the referee.

### **Clause 24. Section 39 replaced**

Section 39 sets out the decision of the Board in relation to an application for renewal of registration.

This clause replaces section 39 to provide that within 90 days of accepting an application for renewal of registration, the Board must either grant a renewal of the applicant's registration, or refuse the application.

This clarifies the existing provision in the current Act, by providing that if the Board does not grant a renewal of registration, the application must be refused.

The new requirement for the Board to decide an application within a specified period, that being 90 days, relates to section 42 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, and the applicant's right of review under new section 73C.

Section 39(2) provides that the Board must grant a renewal of registration if satisfied of the following matters:

- (a) the applicant continues to be eligible for full registration or provisional registration (as the case may be)
- (b) the applicant has complied with the conditions imposed on the applicant's registration, and
- (c) for an application to renew provisional registration – the registration has not previously been renewed.

If renewal of registration is granted, it must be granted for a term that ends at the end of a specified calendar year, and does not exceed 5 years (or, if another period is prescribed, the prescribed period) – for full registration, or 2 years (or, if another period is prescribed, the prescribed period) – for provisional registration.

Further to this, section 39(4) provides that if renewal of registration is granted, the Board must consider a request for the variation or revocation of a condition imposed on the registration, other than the professional development condition. The Board may also vary or revoke a condition imposed on the registration, other than the professional development condition (whether or not there is a request), or impose a condition on the registration, as it considers appropriate.

This confirms that the Board cannot vary or revoke the condition imposed on a person's registration to comply with professional development framework.

Additionally, this clause inserts new section 39A (Board may defer consideration of application) to provide that if, at the time that the Board receives an application for a renewal of registration and an inquiry is being



## CABINET-IN-CONFIDENCE

conducted in relation to the applicant, or the Board has decided to hold an inquiry that has not yet started, the Board may defer consideration of the application until the Board receives a report from the inquiry committee under section 63.

New section 39A applies at the time an application for renewal is received. The Board's power to defer consideration of an application aligns with section 39 in relation to the applicant's continued eligibility for registration given that disciplinary proceedings are on-foot.

### **Clause 25. Section 40 amended (Certificate of registration)**

The Director must issue a person with a certificate of registration in certain circumstances pursuant to section 40(1).

Subclause (1) provides that, in addition to the matters mentioned in section 40(2), a certificate of registration issued by the Director in a form approved by the Board, must also specify each condition imposed on the registration.

Currently, the Act provides that the certificate of registration must specify whether there are any conditions imposed. When read in conjunction with the new or amended provisions regarding professional development, it serves little purpose for the certificate to provide whether conditions are imposed, as every certificate of registration would indicate that the teacher is subject to a condition, leaving persons (such as a prospective employer) unable to distinguish between the professional development condition and any other condition imposed. This clause therefore confirms that the certificate must specify each condition imposed on the person's registration.

Subclause (2) inserts new section 40(3) to provide that a certificate of registration may be issued in a way decided by the Director (including, for example, electronically).

### **Clause 26. Section 40B amended (Changes to conditions of registration)**

Changes to conditions of registration are dealt with under section 40B.

Subclause (1) amends section 40B(1) to provide that the Board may vary or revoke a condition imposed on a person's registration, or impose a condition on the registration, whether or not it is requested by the person.

However, the purpose of this amendment is to confirm that the Board cannot vary or revoke the condition imposed on a person's registration to comply with professional development framework.

Subclause (2) also inserts section 40B(2) to provide that the Board must decide a request from a person to vary or revoke a condition imposed on the person's registration, within 90 days of receiving it.

The new requirement for the Board to decide an application within a specified period, that being 90 days, relates to section 42 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, and the teacher's right of review under new section 73C.

Section 40B(3) is inserted to further provide that the Board may give a person's employer written notice of the variation or revocation of a condition imposed on, or the imposition of a condition on, the teacher's registration.

### **Clause 27. Section 40C amended (Refusal of application)**

This clause removes 40C(1)(b), in recognising that the Board is no longer required to give an applicant an information notice when the Board has refused an application for registration or a renewal of registration.

The current Act provides that a person who is given an information notice for a decision may appeal to the Local Court against the decision. However, new section 73C (Review by NTCAT) deals with an affected person's right to apply to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) for review of a reviewable decision.

## CABINET-IN-CONFIDENCE

### **Clause 28. Section 41 amended (Employer may apply for authorisation)**

Section 41 provides that an employer may apply to the Board for authorisation to employ an unregistered person as a teacher.

This clause confirms that an application for authorisation made by an employer must be in a form approved by the Board and, in addition to the matters mentioned in section 41(3)(a), must also include the personal details and criminal history of the applicant.

The definition of 'personal details' in section 4 has been amended to mean details of any physical or mental impairment, disability, condition or disorder, including substance abuse or dependence, that the person has and that may affect the person's eligibility for registration or authorisation.

Further to this, section 41(3)(b) has been amended to provide that the application must be accompanied by the documents required by the approved form. In practice, a form approved by the Board for the purposes of applying for authorisation will list any documentation that must accompany the application.

Section 41(4) has been omitted, with the Board's power to require the applicant to provide further information otherwise dealt with by new section 41A.

### **Clause 29. Sections 42 to 44 replaced**

This clause repeals sections 42 to 44 and inserts the following:

- New section 41A (Board may seek further information) provides that, to decide whether to grant an application for an authorisation, the Board may, with the permission of the unregistered person in relation to whom the authorisation is sought, request information about the unregistered person from a referee, and consider any information given by the referee.

In addition, the Board may require the applicant or the unregistered person to give the Board any further information it considers necessary to decide the application. This expands upon the equivalent provision in the current Act, as it provides that the unregistered person may also be required to give further information.

- Section 42 (Decision of the Board) provides that after considering an application for an authorisation, the Board must either grant the authorisation, or refuse to grant it.

However, the Board must not grant the authorisation unless it is satisfied the unregistered person:

- (a) is a fit and proper person to teach as decided under amended section 32
- (b) is competent to teach each subject specified in the application at the level specified in the application as decided in accordance with amended regulation 5, and
- (c) will be appropriately supervised to ensure necessary learning outcomes for students.

Further to this, if authorisation is granted, it is subject to a condition that the authorised person comply with the requirements of the professional development framework in amended section 75, and any other conditions that the Board considers appropriate.

- Section 43 (Notice of decision) provides that if the Board grants the authorisation, the Board must give the applicant and the unregistered person written notice of the decision, which specifies:
  - (a) the period of the authorisation, which must not end later than the end of the calendar year in relation to which the authorisation is granted
  - (b) each school at which the unregistered person is authorised to teach
  - (c) each subject, and the level, at which the unregistered person is authorised to teach, and
  - (d) any conditions imposed on the authorisation.

This mirrors the wording in section 42(3) of the current Act.

**CABINET-IN-CONFIDENCE**

## CABINET-IN-CONFIDENCE

If the Board refuses to grant the authorisation, the Board must give the applicant written notice of the Board's decision, and return to the applicant all documents given in the application.

This replicates section 43 of the current Act.

- Section 44 (Reconsideration of refusal to grant) provides that if the Board refuses to grant the authorisation, the applicant may request that the Board reconsider the matter.

If the Board agrees to reconsider the matter, the Board may request additional information from the applicant, or the unregistered person in relation to whom the authorisation is sought, as it sees fit. This widens the equivalent provision in the current Act, as it provides that the Board may also request additional information from the unregistered person.

However, neither the applicant nor the unregistered person may apply to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) for a review of a refusal by the Board to grant the authorisation.

These amendments represent minor changes to section 44 of the current Act, noting that new section 44 retains the policy position that the applicant (that being, the employer) and the unregistered person are not afforded an external avenue of recourse under this Act.

### **Clause 30. Section 45A inserted**

This clause inserts new section 45A (Changes to conditions of authorisation) to provide that the Board may vary or revoke a condition imposed on a person's authorisation, or impose a condition on the authorisation, whether or not it is requested by the employer. However, the Board cannot vary or revoke the professional development condition.

New section 45A was modelled on amended section 40B in allowing for changes to conditions. As in amended section 40B, the Board cannot vary or revoke the condition in relation to compliance with professional development framework.

Additionally, this clause provides that Board may give a copy of the written notice regarding any changes to conditions to the authorised person.

### **Clause 31. Section 46 amended (Notification of change of details)**

This clause amends section 46(1) to provide that an employer who has been granted an authorisation that is in effect must, without undue delay, notify the Board if:

- (a) the authorised person resigns or otherwise ceases working for the employer, in circumstances other than those that call into question the person's competence or fitness to teacher as mentioned in section 67A(1)(b), or
- (b) there is any change to the employment details or teaching arrangements from what was provided in the application for authorisation.

This differs from the equivalent provision in the current Act, as the employer must now also notify the Board if the employment relationship ends prior to the term of the authorisation ending (noting that if the authorised person resigns or otherwise ceases working for the employer in circumstances that call into question the person's competence or fitness to teach, the employer is required to give the Board notice under section 67A).

The penalty of 50 penalty units is unchanged from the penalty for the existing offence in the current Act.

Section 46(2) further provides that an authorised person must, without undue delay, notify the Board of any change to the person's personal details that were provided in relation to the authorisation.

The amended definition of 'personal details' in section 4 regards details of any physical or mental impairment, disability, condition or disorder, including substance abuse or dependence, that the person has and that may affect the person's eligibility for registration or authorisation. A minor change has also been made to the definition of 'employment details' to ensure consistency in the terminology used when defining terms.

## CABINET-IN-CONFIDENCE

## CABINET-IN-CONFIDENCE

The penalty of 20 penalty units has been amended, and represents an increase from the penalty for the equivalent offence in the current Act (that being, 2 penalty units).

This clause provides that sections 46(1) and (2) are offences of strictly liability, meaning there is no need for the prosecution to prove that the employer or authorised person knew they had to notify the Board; the offence applies simply as a result of a failure to notify. However, an employer or authorised person charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not notifying the Board.

### **Clause 32. Section 46A inserted**

This clause inserts new section 46A (Surrender of authorisation) to provide that an employer who has been granted an authorisation, or the person in relation to whom it has been granted may surrender the authorisation by providing written notice to the Board.

This provision enables an employer or authorised person to surrender an authorisation prior to the term of the authorisation ending, and was modelled on the ability for a registered teacher to request in writing that the teacher's name be removed from the register in section 26A(1)(b).

### **Clause 33. Section 47 amended (Board to maintain records of authorisations granted etc.)**

The requirement for the Board to keep records of authorisations in contained in section 47.

This clause complements new section 46A, by amending sections 47(1) and (2) to provide that, in addition to all authorisations granted, suspended or cancelled, the Board must keep records of authorisations that have been surrendered. Upon request, the Board may also provide information to other registration authorities, or to a prospective employer, in relation authorisations surrendered (as well as, those granted, suspended, or cancelled).

### **Clause 34. Section 49 amended (Complaint about teacher or authorised person)**

Complaints made about teachers or authorised persons are handled under section 49. As such, a person may, in writing, complain to the Board about the professional conduct of a teacher or authorised person.

Subclause (1) amends section 49(2) to provide that the Board may dismiss a complaint, without taking further action if the Board considers that:

- (a) the complaint is frivolous or vexatious
- (b) the complaint does not relate to the professional conduct of the teacher or authorised person, or
- (c) it would be more appropriate for the complaint to be dealt with by another person.

The purpose of this subclause is to insert paragraph (c) in enabling the Board to dismiss a complaint that would more appropriate for another person to deal with, for example, independent statutory bodies like the Anti-Discrimination Commissioner, Ombudsman, Independent Commissioner for Anti-Corruption or Information Commissioner, or the employer of the teacher or authorised person complained about.

Subclause (2) amends section 49(3) to confirm that the Board may do anything to inform itself in order to decide whether or not the complaint is frivolous or vexatious or relates to the professional conduct of the teacher or authorised person, or whether it would be more appropriate for the complaint to be dealt with by another person.

In addition, subclause (3) inserts a new requirement which provides that if the complainant's identity is known, the Board must give the complainant notice that the Board has dismissed the complaint.

### **Clause 35. Section 50 amended (Basis for holding preliminary investigation or inquiry)**

Section 50 regards the basis for the Board holding a preliminary investigation or inquiry.

## CABINET-IN-CONFIDENCE

Subclause (1) amends section 50(2)(a) to replace 'an indictable offence', with 'a notifiable offence'. As such, the Board must hold an inquiry in relation to a teacher or authorised person if the Board becomes aware that the teacher or authorised person has been found guilty of a notifiable offence other than a sexual offence.

As amended, 'notifiable offence' means:

- (a) an offence against a law in force in the Territory if the penalty that may be imposed on an individual for the offence includes imprisonment for a period of 12 months or more, or
- (b) an offence committed outside the Territory if the penalty that may be imposed on an individual for the offence includes imprisonment for a period of 12 months or more.

Regulation 2A prescribes the offences which are 'sexual offences'.

Subclause (2) inserts new section 50(3)(aa) to provide that the Board must hold a preliminary investigation or inquiry in relation to a teacher or authorised person if the Board becomes aware that the teacher or authorised person has been charged with a sexual offence. The obligation for the Board to hold disciplinary proceedings at the point of charge for a sexual offence is a new feature in the legislation.

Subclause (3) amends section 50(4)(b) to provide that the Board may hold a preliminary investigation or inquiry in relation to a teacher or authorised person if the Board becomes aware that the teacher or authorised person has been charged with a notifiable offence that is not a sexual offence. The ability for the Board to hold disciplinary proceedings at the point of charge for a notifiable offence is also a new feature in the legislation. Reference to the teacher or authorised person being committed to trial for an indictable offence has therefore been removed from the existing provision.

Subclause (4) amends section 50(4)(c) to provide that the Board may hold a preliminary investigation or inquiry in relation to a teacher or authorised person if the Board is notified in accordance with section 66A or under section 66D(2) or 66E(2) of a matter in relation to the teacher or authorised person (other than a matter which requires that the Board must hold an inquiry or preliminary investigation).

New section 66A (Board may request information from Screening Authority) regards the Board's power to request information from the Screening Authority (and in practice, the Board could hold disciplinary proceedings once notified of information by the Authority). New section 66D (Police to share information with Board) amends the power requiring the Commissioner of Police to share information with the Board, which is provided for in section 75 of the current Act. Section 66E (Prosecuting authority to share information with Board) is a new provision which requires a prosecuting authority to share information with the Board.

Subclause (6) also inserts new section 50(4)(f) to provide that the Board may hold a preliminary investigation or inquiry in relation to a teacher or authorised person if the Board reasonably believes the teacher or authorised person has failed to comply with a requirement under Division 4B. Division 4B contains a number of new or amended provisions regarding notification by teachers and authorised persons, and enables the Board to commence disciplinary proceedings due to a failure to notify.

Minor changes are also made in subclause (5) to ensure consistency in this provision.

### **Clause 36. Section 53 amended (Board may suspend or impose or vary conditions)**

An inquiry differs from a preliminary investigation, in that, after deciding to hold an inquiry, the Board may move to suspend, or impose or vary conditions on, a teacher's registration or authorisation in relation to an authorised person: section 53(1).

This clause amends section 53(2)(a) to provide that the decision of the Board to suspend, or impose or vary condition on, the teacher's registration or authorisation relation to an authorised person, has effect until the earlier of the following:

- (a) the Board revokes the decision either on the request of the teacher or authorised person or on the Board's own initiative, or
- (b) the Board makes a decision after receiving the report of the inquiry committee under section 64 in relation to the teacher or authorised person.

## CABINET-IN-CONFIDENCE

## CABINET-IN-CONFIDENCE

The purpose of this amendment is to clarify that a teacher or authorised person can request that the Board revoke the suspension, or the imposition or variation of a condition on, the registration or authorisation.

This clause also removes section 53(3), in recognising that, after having decided to hold an inquiry in relation to a teacher, the Board is no longer required to give the teacher an information notice when suspending, or imposing or varying condition on, the teacher's registration. New section 73C (Review by NTCAT) deals with an affected person's right to apply to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) for review of a reviewable decision.

### **Clause 37. Section 55 amended (Investigation panel)**

The Board must appoint an investigator to conduct a preliminary investigation. Section 55(1) of the Act provides that an investigator may comprise of: the Director; or an investigation panel, made up of Board members alone or, in conjunction with, the Director.

This clause amends section 55(1) to provide that, in addition to the Director or an investigation panel, if the Board decides to hold a preliminary investigation, it may appoint another person whom it is satisfied is qualified for appointment because the person has the necessary expertise or experience, and is otherwise appropriate to be appointed, to conduct the investigation.

A person may have the necessary expertise or experience, for example, as a result of the person's engagement with information gathering and investigative duties and processes, or interaction and understanding of people from diverse cultures.

### **Clause 38. Section 56 amended (Notice of preliminary investigation)**

Section 56(1) provides that following the appointment of an investigator, the Board must give written notice of the preliminary investigation to the teacher or authorised person to whom the investigation relates.

This clause complements the amendments to section 55 by providing that, in addition to the other matters mentioned in section 56(2), the notice must include the name of the investigator or the names of the members of the investigation panel, as the case requires.

### **Clause 39. Section 57 amended (Procedure of preliminary investigation)**

The procedure for conducting a preliminary investigation is set out in section 57.

Subclause (2) inserts new section 57(1A) to provide that if criminal proceedings have been or are likely to be started in relation to the same matter, the investigator may suspend the preliminary investigation until the outcome of the criminal proceedings is known. This mirrors the power in section 62(4) of the current Act, whereby an inquiry committee may suspend the inquiry awaiting the outcome of criminal proceedings.

This section also aligns with amended sections 50(3)(aa) and 50(4)(b), in the Board being required or permitted to hold an inquiry or preliminary investigation when a teacher or authorised person is charged with a sexual offence or notifiable offence. Charge of sexual offence or notifiable offence is taken to infer that criminal proceedings are likely to be started.

Subclause (3) amends sections 57(4) and (5) as outlined below.

Section 57(4) is amended to provide that the investigator may, by written notice, require a person (including the teacher or authorised person to whom the preliminary investigation relates) to appear before the investigator. A teacher or authorised person may also be required to give the investigator:

- particular information or a particular document or other thing that is in the possession, or under the control, of the person and relevant to the investigation, or
- all information, documents and other things that are in the possession, or under the control, of the person and relevant to the investigation.

The amendments to section 57(5) provide that a notice under subsection (4) must include details of the basis of the preliminary investigation as mentioned in amended section 50, and the name of the investigator or the names of the members of the investigation panel, as the case requires.

## CABINET-IN-CONFIDENCE

Additionally, a notice must include a direction that the person must appear before the investigator at a specified date and time, either in person or by another specified means, or give the specified information, document or other thing to the investigator within a specified time.

The primary differences from the existing provision regard the investigator being able to require a person to give a document or other thing, not just information, and appear before the investigator.

Section 57(6) provides that it is an offence for person not to comply with a direction in a notice. The penalty of 20 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

This offence is an offence of strict liability pursuant to section 58(7), meaning that there is no need for the prosecution to prove that the person knew they had to comply with the direction in the notice. However, new section 57(8) confirms a person charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not complying with the direction.

Minor changes are also made in subclauses (1) and (6) to ensure consistency in this provision.

### **Clause 40. Section 58 amended (Result of preliminary investigation)**

Section 58 pertains to the result of a preliminary investigation and the decision of the Board in relation to the teacher or authorised person.

Section 58(2) provides that after receiving a recommendation from an investigator, the Board is required to choose one of 3 courses of action: take no further action, take specific further action authorised by the Act without first holding an inquiry, or hold an inquiry.

The amendment to section 58(2)(a) confirms that the course of taking no further action is only available to the Board if one of the following preconditions is met:

- the person's registration has lapsed
- the person has requested that their name be removed from the register under section 26A(1)(b)
- the person has surrendered their authorisation under section 46A, or
- the Board is satisfied the person continues to be eligible for registration or authorisation.

However, the Board's decision making is not constrained by this, and the course of taking specific further action or proceeding to an inquiry remains open to the Board.

Subclause (2) removes section 58(7) as the Board is no longer required to give an information notice to a teacher, or if the basis of the preliminary investigation was a complaint made under section 49, the person who made the complaint. New section 73C (Review by NTCAT) deals with an affected person's right to apply to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) for review of a reviewable decision.

### **Clause 41. Section 60 amended (Inquiry committee)**

Section 60(1) asserts that if the Board decides to hold an inquiry, the Board must appoint an inquiry committee to conduct the inquiry.

As per sections 60(2)(a) and (b), the inquiry committee must be comprised of: a chairperson who is a legal practitioner who has practised as a legal practitioner in Australia for at least 5 years; and two Board members.

The effect of this clause is to insert new paragraph (c) to provide that if the Board considers it necessary to appoint a person with particular expertise or experience relevant to the subject matter of the inquiry, the Board may appoint another person whom the Board is satisfied is qualified because the person has that expertise or experience, and is otherwise appropriate to be appointed.

For example, the subject of the inquiry may render that the committee include an additional member who is a registered health practitioner in a relevant field. A person may also have the necessary expertise or experience as a result of the person's interaction and understanding of people from diverse cultures.

## CABINET-IN-CONFIDENCE

## CABINET-IN-CONFIDENCE

### **Clause 42. Section 61 amended (Notice of inquiry)**

Following the appointment of an inquiry committee, the Board must give written notice of the inquiry to the teacher or authorised person to whom the inquiry relates: section 61(1).

This clause amends section 61(2) to provide that the notice must only include the date, time and place of the inquiry, if it is known at the time of issuing the notice.

Amendment has also been made to the heading of this provision to ensure consistency in the terminology used.

### **Clause 43. Section 61A inserted**

This clause inserts new section 61A (Notice of inquiry to others) to provide that after the Board has notified the teacher or authorised person to whom the inquiry relates under section 61, the Board must give written notice of the inquiry to each registration authority in Australia and New Zealand. This amendment supports the existing power of the board to share information with teacher registration authorities pursuant to section 12(2)(c).

Further to this, if it appears to the Board from the subject matter of the inquiry that the teacher or authorised person may not be suitable to work with children or other vulnerable people, the Board must give written notice of the inquiry to the Screening Authority (established by section 196 of the *Care and Protection of Children Act 2007*), and any other prescribed person or body.

Reference to any other prescribed person or body has been included in anticipation of information sharing relative to worker screening for people working with vulnerable persons, including but not limited to, under the National Disability Insurance Scheme.

This clause also provides that a notice given by the Board must include the name of the teacher or authorised person, details of the basis of the inquiry as mentioned in section 50, and the date, time and place of the inquiry (if known).

As such, the notice requirements replicate those in section 61(2).

### **Clause 44. Section 62 amended (Inquiry proceedings)**

Matters relating to inquiry proceedings are set out in section 62.

Subclause (1) amends section 62(8)(b) to provide that the inquiry committee may, by written notice, require a person (including the teacher or authorised person to whom the preliminary investigation relates) to appear before the inquiry committee, or give the inquiry committee:

- particular information or a particular document or other thing that is in the possession, or under the control, of the person and relevant to the inquiry, or
- all information, documents and other things that are in the possession, or under the control, of the person and relevant to the inquiry.

Section 62(9) then provides that a notice under subsection (8) must include details of the basis of the inquiry as mentioned in amended section 50, the date, time and place of the inquiry, and the names of the members of the inquiry committee.

Additionally, section 62(9)(d)(i) provides that the notice must include a direction that the person must appear before the inquiry committee, either in person or by another specified means. Subclause (2) amends section 62(9)(d)(ii) to provide that the notice may otherwise include a direction that the person must give the inquiry committee the specified information, document or other thing within a specified time.

The key change in this provision pertains to the inquiry committee being able to require a person to give a document or other thing, not just information.

Section 62(10) provides that it is an offence for person not to comply with a direction in a notice. The penalty of 20 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

## CABINET-IN-CONFIDENCE



## CABINET-IN-CONFIDENCE

Under new section 62(11), the offence is an offence of strict liability, meaning that there is no need for the prosecution to prove that the person knew they had to comply with the direction in the notice. However, new section 62(12) confirms a person charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not complying with the direction.

Minor changes are also made in subclause (3) to ensure consistency in this provision.

### **Clause 45. Section 64 amended (Decision of Board)**

Section 64(1)(a) provides that after receiving the report of the inquiry committee, the Board must make a decision in relation to the teacher or authorised person. One of the available options to the Board is, imposing a condition on, or varying a condition imposed on, the registration of the teacher or authorisation relating to the authorised person.

This clause amends section 64(1)(a) to confirm that the Board cannot vary the professional development condition on a person's registration or authorisation.

### **Clause 46. Section 65 replaced**

This clause repeals section 65 in relation to the giving of an information notice by the Board. The current Act provides that a person who is given an information notice for a decision may appeal to the Local Court against the decision.

New section 73C (Review by NTCAT) deals with an affected person's right to apply to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) for review of a reviewable decision.

New section 65 (Board may give notice of decision to certain persons if appropriate) and Part 6, Division 4AA, along with new section 65A (Cancellation if clearance notice not in force), are then inserted as follows:

- Section 65 provides that after making a decision following an inquiry, if satisfied on reasonable grounds that it is appropriate to do so, the Board may notify a person or body with a legitimate interest in the decision about the decision and the reasons for the decision.

A person with a legitimate interest in the decision may be, but is not limited to, a witness or participant in the inquiry hearing.

It is noted that the Board may also be required under section 67 to give notice of a decision made under section 64.

- Part 6, Division 4AA applies in relation to the cancellation of registration or authorisation without inquiry.
- Section 65A, in new Part 6, Division 4AA, provides that if a teacher or authorised person ceases to hold a clearance notice that is in force, the Board may cancel the registration of the teacher, or the authorisation relating to the authorised person, without holding an inquiry. A person may cease to have a clearance notice if, for example, the person's clearance notice is revoked or if it expires and a new clearance notice has not been issued to the person.

However, the Board may only cancel the registration or authorisation after giving the teacher or authorised person notice that the Board considers reasonable in the circumstances, and considering any response the teacher or authorised person makes in the notice period.

If, after the cancellation, a clearance notice comes into force in relation to the teacher or authorised person, the Board may reinstate the teacher's registration or the authorisation relating to the person.

This section aligns with amended section 32 which provides that in deciding whether a person is fit and proper to teach, the Board must also take into account whether the person holds a clearance notice that is in force.

## CABINET-IN-CONFIDENCE

### Clause 47. Sections 66A to 66E inserted

This clause provides that after section 66, in Part 6, Division 4A the following provisions are inserted:

- Section 66A (Board may request information from Screening Authority) provides that the Board may request the Screening Authority to advise the Board if the Authority revokes a person's clearance notice under section 192(1)(b) of the *Care and Protection of Children Act 2007*, and the Authority has reason to believe that the person is, or was, a teacher or an authorised person.

The ability for the Board to request information from the Screening Authority is a new feature of the legislation.

- Section 66B (Board may request information from employer or authorised person) provides that the Board may, by written notice, require an employer who has been granted an authorisation that is in effect, or the authorised person to whom it relates, to give the Board specified information that is required by the Board to assess whether the authorised person continues to be a fit and proper person to teach, and competent to teach, or a condition imposed on the authorisation is being complied with.

The Board may request such information from the employer or authorised person, whether or not the authorisation is suspended. If the employer or authorised person fails to comply with the request within 28 days after receiving the notice, the Board may cancel the authorisation.

This provision mirrors the Board's power to request information from a teacher in existing section 66.

- Section 66C (Board to share information with police) applies if the Board receives information about a teacher or authorised person, and it appears to the Board that the information should be investigated by police.

In this instance, the Board must, without delay share the information with the Commissioner of Police, and if the person is still employed in a teaching role – inform the person's employer of the person's name and the fact that information about the person has been shared with the Commissioner under this section.

The requirement for the Board to share information with police is captured in section 75 of the current Act.

With respect to advising the employer, where the information pertains to a person who is still employed in a teaching role the Board only need notify the employer of the name of the employee and that the Board has provided information (that appears to the Board should be investigated by police) to the Commissioner of Police. This clause makes clear that there is not requirement for the Board to notify the employer of the subject of the information that was provided to the Commissioner.

- Section 66D (Police to share information with Board) applies if the Commissioner of Police receives information about a person, reasonably believes that the person is a teacher or authorised person, considers that the Board would be required or permitted under section 50 to hold a preliminary investigation or inquiry if it received the information, and is not required to give notice to the Board under section 66E (relative to the sharing of information by a prosecuting authority).

In this instance, the Commissioner must share the information with the Board and inform the Board of the person's name and, if known, the person's place of employment.

However, the Commissioner is not required to share information that the Commissioner considers may prejudice or otherwise hinder an investigation to which the information may be relevant, lead to the identification of an informant, or affect the safety of a police officer or another person.

The requirement for the Commissioner to share information with the Board builds upon section 75 of the current Act.

- Section 66E (Prosecuting authority to share information with Board) applies if a prosecuting authority becomes aware that a person is subject to criminal proceedings in relation to a sexual offence or another notifiable offence, and reasonably believes that the person is a teacher or authorised person. The

## CABINET-IN-CONFIDENCE

requirement for a prosecuting authority to share information with the Board is a new feature in the legislation.

'Prosecuting authority' is defined to mean the Director, as defined in section 3 of the *Director of Public Prosecutions Act 1990*, and the Commissioner of Police.

In relation to a person and an offence, 'subject to criminal proceedings' means that the person is charged with the offence, and either: an indictment is presented for the charge in the Supreme Court; a date and time has been set for a preliminary examination to determine whether there is sufficient evidence to commit the person for a hearing of the charge; the person pleads guilty to the offence before the hearing of the charge; or a date and time has been set for the hearing of the charge.

It is not intended that notification would occur regarding preliminary proceedings, such as a mention or a directions hearing.

Section 66E(2) provides that the prosecuting authority must, as soon as practicable after becoming aware of the matter, share that information with the Board, by giving notice of:

- (a) the name of the person
- (b) the offence and particulars of the offence, and
- (c) the court that the matter will be heard in and the date that the matter will be heard.

In addition, section 66E(3) provides that the prosecuting authority must, as soon as practicable after the prosecution for the offence ends, give the Board notice of:

- (a) the name of the person;
- (b) the offence and particulars of the offence;
- (c) the date the prosecution ended;
- (d) the way in which the prosecution ended;
- (e) if the matter was heard in court:
- (f) the court in which it was heard; and
- (g) details of any finding the court made; and
- (h) details of any penalty the person received.

A prosecution may end, for example, because the prosecution was discontinued, there was a mistrial or the person was acquitted.

New sections 66A, 66D and 66E relate to amended section 50(4) in the Board being permitted to hold disciplinary proceedings in relation to a teacher or authorised person.

### **Clause 48. Section 67 amended (Board notification to authorised person, employer and registration authorities)**

Section 67 regards the Board's power, whether discretionary or mandatory, to notify authorised persons, employers and registration authorities.

This clause amends section 67(5) to provide that the Board may also notify:

- a registration authority outside Australia and New Zealand as to whether or not the Board has taken action in relation to a particular person to suspend or cancel the person's registration or authorisation, or disqualify the person from registration, or from teaching under an authorisation, for a specified period, and

## CABINET-IN-CONFIDENCE

- a registration authority as to whether or not the Board has imposed a condition on the registration of, or the authorisation relating to, a particular person.

Currently, the Act provides that the Board can only provide such notifications upon the request of another teacher registration authority. The effect of this amendment is to confirm that the Board can now notify without request. These amendments support the existing power of the board to share information with teacher registration authorities pursuant to section 12(2)(c).

### **Clause 49. Sections 67A and 67B replaced**

This clause adds a requirement to notify in additional circumstances, as follows:

- The Act currently provides in section 67(1)(c) that notification occur when the employer takes any action against the person in relation to the serious misconduct, or lack of competence or fitness to teach, of the person. This clause clarifies that, in addition to dismissal or resignation in certain circumstances, an employer is obligated to notify relative to an assessment.

Amended section 67A(1) provides that a person who is, or has been, an employer of a registered teacher or authorised person, including if the person's registration or authorisation is suspended, must give the Board written notice if any of the following events occur:

- (a) the employer dismisses the relevant person
- (b) the relevant person resigns, or otherwise ceases working for the employer, in circumstances that call into question the relevant person's competence or fitness to teach
- (c) the employer starts assessing, or requests another person to start assessing, the relevant person in relation to serious misconduct or fitness to teach, of the relevant person
- (d) an assessment under paragraph (c) ends, or
- (e) an assessment of the relevant person's competence to teach ends with that competence called into question.

In this section, 'assessing' means assessing, examining, investigating, inquiring into or otherwise dealing with the conduct of the registered teacher or authorised person, including if the person's registration or authorisation is suspended.

Section 67A(2) confirms that the notice must be given within 28 days, and specify full details of the event and the circumstances involved.

The penalty of 50 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

Section 67A(3) has been inserted to provide that an offence against subsection (2) is an offence of strict liability. This means that there is no need for the prosecution to prove that a person who is, or has been, an employer knew they had to notify the Board; the offence applies simply as a result of the person failing to notify. However, new section 67A(4) confirms a person charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not notifying.

- Amended section 67B(1) provides that a registered teacher or authorised person, including if the person's registration or authorisation is suspended, must give the Board written notice if any of the following events occur:
  - (a) the person is charged with a sexual offence or another notifiable offence
  - (b) the person is found guilty of a sexual offence or another notifiable offence, or
  - (c) the person, or a person who is or was an employer of the person, is ordered to pay damages or compensation as a result of civil proceedings arising out of the person's teaching practice, or arising from events that occurred while the person was engaged in teaching.

## CABINET-IN-CONFIDENCE

The obligation to notify at the point of charge for a sexual offence or another notifiable offence is a new feature in the Act.

As amended, 'notifiable offence' means:

- (a) an offence against a law in force in the Territory if the penalty that may be imposed on an individual for the offence includes imprisonment for a period of 12 months or more, or
- (b) an offence committed outside the Territory if the penalty that may be imposed on an individual for the offence includes imprisonment for a period of 12 months or more.

Regulation 2A prescribes the offences which are 'sexual offences'.

The requirement on the teacher or authorised person to notify of an order for damages or compensation from civil proceedings is also a new feature.

Section 67B(2) confirms that the notice must be given within 28 days. Further to this, if the person has been charged with an offence, the notice must include a statement that the person has been charged and the offence with which the person has been charged. If the person has been found guilty of an offence, or the event relates to civil proceedings, the notice must specify full details of the event and the circumstances involved.

'Full details' includes the offence of which the person was found guilty, the agreed facts taken into account in sentencing for an offence, and facts found (or agreed) that led to the order for damages or compensation.

The penalty of 50 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

Section 67B(3) has been inserted to provide that an offence against subsection (2) is an offence of strict liability. This means that there is no need for the prosecution to prove that a teacher or authorised person knew they had to notify the Board; the offence applies simply as a result of the person failing to notify. However, new section 67B(4) confirms a person charged with this offence can argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not notifying.

- Section 67C is a new feature in the legislation and regards notification to the Board of a decision of a registration authority.

Section 67C(1) provides that a registered teacher or authorised person, including if the person's registration or authorisation is suspended, must give the Board written notice if a registration authority decides to:

- (a) impose a condition on a teaching approval granted to, or in relation to, the person
- (b) suspend or cancel a teaching approval granted to, or in relation to, the person
- (c) disqualify the person from holding, or teaching under, a teaching approval, or
- (d) refuse to grant a teaching approval to, or in relation to, the person.

The existing definition of 'registration authority' in section 4 applies, and means a statutory body in a State or another Territory of the Commonwealth, or in New Zealand, established to register teachers and includes a similar body in other jurisdictions.

The definition of 'teaching approval' has been inserted to mean registration as a teacher, or an authorisation to employ a person as a teacher, however described.

Section 67C(2) provides that the notice must be given within 14 days after teacher or authorised person is notified of the registration authority's decision.

The penalty of 50 penalty unit aligns with the equivalent offence for failure to notify of legal action in amended section 67B, and failure to notify of other events in new section 67D.

## CABINET-IN-CONFIDENCE

## CABINET-IN-CONFIDENCE

This clause confirms that the offence is of strict liability, with a reasonable excuse defence applying.

- Section 67D is also a new feature of the Act and regards notification to the Board of other events.

Section 67D(1) provides that a registered teacher or authorised person, including if the person's registration or authorisation is suspended, must give the Board written notice if any of the following events occur:

- (a) the person's teaching qualifications are withdrawn
- (b) the person ceases to hold a clearance notice that is in force, or
- (c) an event prescribed by regulation.

As amended, 'clearance notice' is defined in section 4 to mean a clearance notice issued under section 189(3)(a) of the *Care and Protection of Children Act 2007*.

Section 67D(2) provides that the notice must be given within 14 days after the occurrence of the event, and specify full details of the event and the circumstances involved.

The penalty of 50 penalty unit aligns with the equivalent offence for failure to notify of legal action in amended section 67B, and failure to notify of a decision of a registration authority in new section 67C.

This clause confirms that the offence is of strict liability, with a reasonable excuse defence applying.

New sections 67B to 67D relate to amended section 50(4), in the Board being permitted to hold disciplinary proceeding in relation to a teacher or authorised person.

### **Clause 50. Section 68 repealed**

This clause repeals section 68, which under the current Act provides the offences that are 'sexual offences'.

New regulation 2A now prescribes both Commonwealth and Territory child sex and sex related offences.

### **Clause 51. Section 72 replaced**

This clause repeals and replaces section 72 regarding the offence to employ certain persons.

Section 72(1) has been amended to provide that an employer commits an offence if the employer employs, or continues to employ, a person to teach in a school in the Territory and:

- (a) the person is not a registered teacher or does not hold an interim certificate of registration that is in force under section 34
- (b) the employer has knowledge of the circumstance mentioned in paragraph (a), or
- (c) the employer has not been granted authorisation in relation to the person.

The penalty of 50 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

This provision has primarily been changed to ensure compliance with Part IIAA of the Criminal Code.

Section 72(2) has been inserted to further confirm that strict liability applies in relation to subsection (1)(c), with a reasonable excuse defence available. This means the prosecution does not need to prove that the employer knew or was reckless as to whether authorisation had been granted.

### **Clause 52. Section 73 amended (Penalty for teaching unregistered or without authorisation)**

Currently, section 73 provides that a person must not teach in a school in the Territory unless the person is a registered teacher, the person holds an interim certificate of registration that is in force under section 34, or the person's employer has been granted authorisation for the person to teach.

The penalty of 50 penalty units is unchanged from the penalty for the equivalent offence in the current Act.

## CABINET-IN-CONFIDENCE

## CABINET-IN-CONFIDENCE

However, sections 73(2) and (3) have been amended to confirm that strict liability applies, with a reasonable excuse defence available.

### **Clause 53. Sections 74 and 74A, Part 7, Division 2, Part 8 heading and sections 75 to 77 replaced**

This clause repeals sections 74 and 74A, Part 7, Division 2, Part 8 heading and sections 75 to 77.

Sections 74A (Return of certificate of registration on cancellation) and 77 (Replacement certificate) of the current Act regard the replacement and return of a certificate of registration. These provisions have become obsolete, as the Board no longer issues a tangible certificate of registration. The Register of Teachers provided for in section 26 is now managed through electronic means, with amended section 29 confirming that registration details are accessible to the public online.

Sections 73A to 77 are then inserted as follows:

- Section 73A(1) provides that a person commits an offence if:
  - (a) the person intentionally gives information to another person
  - (b) the other person is a relevant entity
  - (c) the information is misleading and the person has knowledge of that circumstance
  - (d) the relevant entity is acting in an official capacity and the person has knowledge of that circumstance.

The penalty of 100 penalty units represents an increase from the penalty for the equivalent offence in the current Act (that being, 50 penalty units).

Furthermore, section 73A(2) provides that a person commits an offence if:

- (a) the person intentionally gives a document to another person
- (b) the other person is a relevant entity
- (c) the document contains misleading information and the person has knowledge of that circumstance, and
- (d) the relevant entity is acting in an official capacity and the person has knowledge of that circumstance.

Again, the penalty of 100 penalty units applies.

In this section, definitions are provided, whereby:

- 'acting in an official capacity', in relation to a relevant entity, means the entity is exercising powers or performing functions under, or otherwise related to the administration of, this Act, and
- 'misleading information' means information that is misleading in a material particular or because of the omission of a material particular.

Further to this, 'relevant entity' is defined in section 4 to mean the Board, an investigator or an inquiry committee.

Section 73A(3) confirms that strict liability applies to subsections (1)(b) and (2)(b). This means that the prosecution does not have to prove that the person knew the other person was a relevant entity, that being, the Board, an investigator or an inquiry committee.

However, section 73A(4) provides that it is a defence to a prosecution for an offence against section 73A(2) if the person, when giving the document, draws the misleading aspect of the document to the relevant entity's attention, and to the extent to which the person can reasonably do so, gives the relevant entity the information necessary to remedy the misleading aspect of the document.

## CABINET-IN-CONFIDENCE

The offence of providing false and misleading statements is currently found in section 74 of the Act. Amendment of this provision has primarily occurred to ensure compliance with Part IIAA of the Criminal Code, with amendments also made to reflect contemporary drafting styles in penalty provisions.

- Section 73B (Falsely representing to provide accredited education course) provides that a person commits an offence if the person intentionally makes a representation, by words or conduct, that is likely to induce someone else to believe that the person provides an accredited education course, and knows the representation is false.

The penalty of 50 penalty units applies.

This offence is a new feature in the legislation, and aligns with new section 74 regarding the Board's power to accredit teacher education courses.

- Part 7, Division 2 and new section 73C have been inserted to allow for review by the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) of reviewable decisions.

Section 73C(3) confers jurisdiction on the NTCAT, in that, an 'affected person' for a 'reviewable decision' may apply to the NTCAT for review of the decision.

The Schedule inserted in the Act for the purposes of section 73C sets out the reviewable decisions and affected persons for those decisions.

Of note, the *Northern Territory Civil and Administrative Tribunal Act 2014* sets out the procedure for applying for review and other relevant matters in relation to reviews.

The amendment confirms that Part 7, Division 2 and section 74B of the current Act no longer have application, relative to appeals to the Local Court against a decision of the Board.

- A heading has been inserted to confirm that Part 8 has application to 'General provisions'.
- Section 74 is a new provision which regards a higher education institution applying to the Board in writing for the accreditation of a course that it provides, or proposes to provide, in the Territory.

The higher education institution's application must be made in a form approved by the Board. Further to this, as well as the prescribed fee, the application must be accompanied by the documents required by the approved form. In practice, a form approved by the Board for the purposes of applying for accreditation of a teacher education course will list any documentation that must accompany the application. An application fee has not been prescribed.

Within 8 months of accepting the application, the Board must either accredit the course by giving the applicant written notice confirming the accreditation, or refuse to accredit the course.

The new requirement for the board to decide an application within a specified period, that being 8 months, relates to section 42 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, which provides that if the Board has not made a decision within the specified period, a decision refusing the application is deemed to have been made, thereby enlivening the applicant's right of review under new section 73C.

However, the Board must not accredit the course unless satisfied on reasonable grounds that the course is a teacher education course as defined in amended section 4, a person who completes the course will attain the abilities, knowledge and skills required under the professional teaching standards approved by the Board, and the course accords with all other relevant professional standards approved by the Board.

This clause aligns with newly inserted section 73B and the offence of falsely representing to provide an accredited education course.

- Section 75 provides that the Board must approve a framework for the professional development of teachers by *Gazette* notice. The framework must state the type of professional development required, and the minimum professional development a teacher must undertake.

Approval of a professional development framework is a new feature in the legislation and aligns with the condition that a teacher or authorised person comply with the professional development framework.

## CABINET-IN-CONFIDENCE



## CABINET-IN-CONFIDENCE

- New section 75A applies in relation to the Board's power, under Part 4 or 5 or section 66 or 66A to request or require a person to give the Board information, and consider that information.

Section 75A(2) provides that the Board's power includes the power to request or require the person to:

- give the Board particular information or a particular document or other thing that is in the possession, or under the control, of the person and relevant to the matter being considered by the Board
- give the Board all information, documents and other things that are in the possession, or under the control of, the person and are relevant to the matter being considered by the Board, and
- appear before the Board at a specified date and time, either in person or by another specified means, to answer questions about any information, document or other thing given to the Board.

The power further includes the power for the Board to consider any information, document or other thing that it receives.

The purpose of this clause is to confirm that the Board can request or require a person to give a document or other thing, not just information, and appear before the Board to answer questions about the information, document or other thing.

- New section 75B further qualifies new section 75A by providing for the retention and use of information, documents and other things given by a person to a relevant entity.

Section 75B(2) confirms that the relevant entity may:

- (a) inspect the document or thing and retain it for the period that it considers reasonable
- (b) make copies of, and take extracts from, the document or any of its contents
- (c) take photographs of the thing, or
- (d) use the information, document or thing, a copy or extract of the document or a photograph of the thing, when exercising any power or performing any function under this Act.

'Relevant entity' is defined in section 4 to mean the Board, an investigator or an inquiry committee.

- Section 76 provides that a person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as the Director, a Board member, a member of a committee, investigation panel or inquiry committee or an investigator, or a member of the staff of the Board or a person otherwise engaged by the Board.

In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Board or a committee, investigation panel or inquiry committee in the exercise of a power or performance of a function under this Act.

In this section, 'exercise', of a power, includes the purported exercise of the power, and 'performance', of a function, includes the purported performance of the function.

The provision regarding protection from liability for the Director, Board members and other members is in section 76 of the current Act, noting that the primary purpose of this amendment is to extend the protection from liability to a member of staff or person otherwise engaged by the Board.

- Section 76A provides that a person, acting in good faith, who gives information or a document or other thing under this Act to a relevant entity is not civilly or criminally liable for giving the information.

This differs from section 76A of the current Act, in that, protection of liability is extended to person giving information, a document or other thing.

'Relevant entity' is defined in section 4 to mean the Board, an investigator or an inquiry committee.

## CABINET-IN-CONFIDENCE

- Section 77(1) provides that a person commits an offence if:
  - (a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act
  - (b) the information is confidential and the person is reckless in relation to that circumstance
  - (c) the person intentionally engages in conduct
  - (d) the conduct results in the disclosure of the information and the disclosure is not for a purpose connected with the administration of this Act, or to a person who is otherwise entitled to the information, and
  - (e) the person is reckless in relation to the result and circumstance mentioned in paragraph (d).

The penalty of 200 penalty units has been amended, and represents an increase from the penalty for the equivalent offence in section 21 of the current Act (that being, 50 penalty units).

Section 77(2) confirms that strict liability applies to section 77(1)(a).

Further to this, section 77(3) provides that if the information mentioned in section 77(1) relates to a person, it is a defence to a charge for an offence against that subsection if the person has consented to the disclosure of the information.

In relation to the information being confidential, section 77(4) provides that information is confidential if it may identify, relative to an inquiry, the teacher or authorised person, persons allegedly involved in or affected by the conduct, a witness, a complainant, the employer of the teacher or authorised, the school where the teacher or authorised person was employed, or the location where the events occurred.

This aligns with amended section 79 and information that cannot be included in the Annual Report.

Amendment of this provision has primarily occurred to ensure compliance with Part IIAA of the Criminal Code, with amendments also made to reflect contemporary drafting styles in penalty provisions.

### **Clause 54. Section 78 amended (Monitoring of compliance)**

Section 78(1) provides that, by the end of the first term in each school year, an employer must give the Board a return in the approved form specifying the name of each person who taught at the employer's school at any time during the period 1 January to 1 March of that year. An employer commits an offence if the employer fails to do so.

Subclause (1) amends section 78(1) to confirm that the penalty of 50 penalty units represents an increase from the penalty for the equivalent offence in the current Act (that being, 20 penalty units).

Section 78(2) provides that the Board may, by written notice, require an employer to give the Board specified information about the employment of a person as a teacher (including, for example, the dates the person was employed, the subjects the person taught and the duties of the person), with section 78(3) confirming that the employer must comply with the notice within 14 days of receiving it.

Subclause (2) provides that an offence against sections 78(1) or (3) is an offence of strict liability; however, the defence of reasonable excuse is available, should an employer charged with an offence be able to argue the defence of reasonable excuse, if they genuinely and reasonably have an excuse for not indicating the names of persons who was employed at the school, or complying with the notice for further information about a teacher who taught at the school.

### **Clause 55. Section 79 amended (Annual report)**

Section 79(1) outlines that the Board must give the Minister a report on its operations for the preceding financial year, by no later than 30 September of each year. This is known as the Annual Report.

This clause amends section 79(2) to provide that in the report, the Board may include information, by way of case studies or case histories, of the subject of an inquiry and the Board's decision in relation to the inquiry.

## CABINET-IN-CONFIDENCE

However, section 79(3) confirms that the information must not include information that may identify any of the following:

- a teacher or authorised person the subject of the inquiry
- persons allegedly involved in or affected by conduct giving rise to the inquiry
- a witness who participated in the inquiry
- a complainant
- the employer of the teacher or authorised person the subject of the inquiry
- the school where the teacher or authorised person the subject of the inquiry was employed, or
- the location where the events the subject of the inquiry occurred.

The above information is also taken to be confidential information for the purposes of amended section 77, relative to the offence of disclosing certain information.

Further to this, the information must not include any other information prescribed by regulation, noting that no other information has been prescribed in the regulations to date.

### **Clause 56. Section 81 amended (Regulations)**

Section 81(1) provides that the Administrator of the Northern Territory may make regulations under the Act.

This clause amends section 81(2)(a) to confirm that the regulations may provide for the Board to approve professional teaching standards and other professional standards. This broadens the application of the legislation, as the profession has evolved to see the development and recognition of a range of standards, which do not strictly regard teaching.

### **Clause 57. Part 10 and Schedule inserted**

This clause deals with transitional matters under the new Part 10.

This clause clarifies that:

- a teacher or authorised person (including a teacher or authorised person who is suspended) will be subject to a condition that the teacher or authorised person comply with the requirements of the professional development framework as per the provisions of this Bill
- applications for registration, renewal of registration or authorisation in relation to which the Board has not yet taken action will be dealt with under the provisions of this Bill
- applications for registration, renewal of registration or authorisation in relation to which the Board has taken partial action will be dealt with under the current Act, noting that the Board's decision in relation to the application will be dealt with under the provisions of this Bill. This means that the registration or authorisation will be subject to the professional development condition, and that it may be a reviewable decision
- complaints, matters notified to the Board (whether or not a preliminary investigation or inquiry has been held in relation to the matter) and any other matters that were:
  - the subject of a preliminary investigation or inquiry,
  - the Board had determined to hold a preliminary investigation or inquiry in relation to, or
  - a preliminary investigation or inquiry has been held but the Board had not yet taken any action

will be dealt with under the current Act

- the right of review to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal) only applies in relation to decisions made after the commencement of the amending Act

## CABINET-IN-CONFIDENCE

## CABINET-IN-CONFIDENCE

- a person who has received an information notice for a decision of the Board but has not yet started an appeal within the period for doing so, may start an appeal under the current Act
- a person who has started an appeal against a decision of the Board, but the matter has not been decided by the Local Court, must continue to have the appeal dealt with under the current Act
- a course that was accredited by the Board is taken to be an accredited education course under the provisions in this Bill
- the provisions in this Bill regarding an employer, teacher and authorised person having to notify the Board in section 67A and 67B as amended, only apply in relation to events that occur after commencement of the amending Act, and
- the offence provisions in this Bill apply only in relation to offences committed after the commencement of the amending Act. This means that if conduct constituting an offence occurred before the commencement of the amending Act, the offence provisions in the current Act apply.

This clause also inserts a Schedule (Schedule Reviewable decisions) for the purposes of new section 73C.

The Schedule sets out the decisions of the Board that are reviewable to the NTCAT (that being, the Northern Territory Civil and Administrative Tribunal), and the persons affected by those decisions who are afforded the right of review.

### **Clause 58. Act further amended**

This clause identifies that the Bill makes further amendments to the *Teacher Registration (Northern Territory) Act 2004*, by way of the Schedule, to achieve consistency in the terminology used in, and application of, the legislation.

## **Part 3 Amendment of Teacher Registration (Northern Territory) Regulations 2004**

### **Clause 59. Regulations amended**

This clause confirms that this part of the Bill will amend the *Teacher Registration (Northern Territory) Regulations 2004*.

### **Clause 60. Regulation 2A inserted**

This clause prescribes the offences that are considered 'sexual offences' pursuant to section 4 as amended, and includes both Commonwealth and Northern Territory child sex and sex related offences.

### **Clause 61. Regulation 4 amended (Qualifications for registration)**

Regulation 4 prescribes the qualifications for registration under section 33(1)(a).

This clause makes a minor amendment to regulation 4(1)(b) to provide that the qualifications for registration may include:

- a qualification that is awarded by a higher education institution on completion of a 1 year full-time (or the equivalent part-time duration) or longer teacher education course and satisfies the requirements of regulation 4(2), and
- one or more degrees awarded by a higher education institution on completion of other courses,

if the courses mentioned above together have a total full-time duration of at least 4 years (or the equivalent part-time duration).

The amendments recognise that higher educational institutions now deliver bespoke study options, and flexible pathways in and out of courses, and that a person may obtain multiple degrees awarded by a higher education institution on completion of other courses, which may contribute to the overall qualifications necessary for registration.

## CABINET-IN-CONFIDENCE

The definitions of 'higher education institution' and 'teacher education course' have also been moved into the substantive definition provision in section 4, as amended.

### **Clause 62. Regulation 5 amended (Competence to teach)**

Regulation 5 provides the matters that must be taken into account by the Board when deciding whether a person is competent to teach under section 30(c). For both a teacher and authorised person, this includes that the person is proficient in the English language.

This clause amends regulation 5(4)(a) to provide that in deciding a person's proficiency in the English language, the Board must take into account:

- whether the person's qualifications for registration were awarded by an institution in Australia, English-speaking Canada, Ireland, New Zealand, the United Kingdom or the United States of America, or another country approved by the Board by *Gazette* notice, and
- whether the person undertook their studies in that country.

The primary purpose of the amendment is to enable the Board to approve additional countries, if it sees fit.

In addition, this clause amends regulation 5(4)(b) to provide that in deciding whether a person is proficient in the English language, the Board must take into account the person's results in an English language test approved by the Board by *Gazette* notice.

Currently, proficiency in the English language is decided in light of the person's results in one of the three internationally recognised tests, noting that at least one of these tests has since been discontinued from administration. The amendment means that the Board can instead approve English language tests, with the Board undertaking to only approve those tests nationally agreed or recognised.

### **Clause 63. Regulation 6 amended (Professional experience and currency of practice for full registration)**

The prescribed professional experience and currency of practice for a person applying for full registration or a renewal of full registration under section 30(d) is set out in regulation 6.

This clause amends the definition of 'approved curriculum' in regulation 6(3) to mean any of the following:

- (a) the Australian Curriculum
- (b) the Early Years Learning Framework
- (c) the Northern Territory Certificate of Education and Training
- (d) a curriculum that is implemented at a place outside the Territory and is equivalent to the Northern Territory Certificate of Education and Training
- (e) the International Baccalaureate
- (f) the Australian Steiner Curriculum Framework
- (g) the Cambridge IGCSE, or
- (h) another curriculum approved by the Minister by *Gazette* notice.

Approved curriculum relates to the completion of a person's days of service at a place in Australia or New Zealand, other than a school.

### **Clause 64. Regulation 8 amended (Renewal of registration)**

This clause provides that for section 37(2)(a), an application for renewal of registration must be made within the 3 month period ending on the date the applicant's registration ends.

## CABINET-IN-CONFIDENCE

The Act currently provides that an application for renewal must be made within 6 months of the person's registration ending, noting that the term of registration is until the end of a specified calendar year. However, to accord with the new requirement for the Board to decide an application for renewal within 90 days (otherwise under the *Northern Territory Civil and Administrative Tribunal Act 2014* a decision adverse to the person is deemed to have been made), the amendments provide that applications must be made within 3 months of the person's registration ending.

### **Clause 65. Regulation 9 amended (Professional teaching standards)**

Regulation 9 deals with the making of professional teaching standards and other professional standards.

This clause provides that the Board may, by *Gazette* notice, approve professional teaching standards and other professional standards for the purposes of section 81(2)(a).

This broadens the application of the legislation, as the profession has evolved to see the development and recognition of a range of standards, which arguably do not strictly regard teaching.

Amendment has also been made to the heading of this provision to ensure consistency in the terminology used regarding professional teaching standards and other professional standards.

### **Clause 66. Regulation 10 amended (Registration fees)**

Currently, regulation 10 provides that for each year, after the person's first registration year, the annual fee must be paid no later than 31 January of that year. If the teacher fails to pay the annual registration fee by the day it is due, the registration is taken to expire on the following day: section 40A(2). It is an offence to teach in a school without registration, and penalties may apply, noting that the Board retains the discretion to reinstate a teacher's registration if it considers it appropriate to do so under section 40A(3).

This clause amends regulation 10(2)(b) to provide that, for each subsequent calendar year for which the person has been granted registration after the first year of registration, a person must pay the Board the registration fee no later than 31 December of the previous year.

The amendment ensures better alignment with the date registration is taken to have ceased, and that the annual registration fee is paid, and the teacher is registered under the Act, before the school term commences at the start of each year.

## **Part 4 Repeal of Act**

### **Clause 67. Repeal of Act**

This is a standard clause which provides that the *Teacher Registration (Northern Territory) Legislation Amendment Act 2019* is repealed the day after it commences.