



Australian Capital Territory

ACT Teacher Quality Institute Amendment Act 2011

A2011-34

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

ACT Teacher Quality Institute Amendment Act 2011

A2011-34

An Act to amend the *ACT Teacher Quality Institute Act 2010*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *ACT Teacher Quality Institute Amendment Act 2011*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *ACT Teacher Quality Institute Act 2010*.

Note This Act also amends the following legislation:

- *ACT Teacher Quality Institute Regulation 2010* (see s 20)
- *Spent Convictions Act 2000* (see s 21).

4 Eligibility for full registration Section 32

after

satisfied

insert

on reasonable grounds

5 Section 32 (1) (f)

substitute

- (f) in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (d) or (e)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and

**6 Eligibility for provisional registration
Section 33**

after

satisfied

insert

on reasonable grounds

7 Section 33 (1) (e)

substitute

- (e) in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (c) or (d)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and

**8 Eligibility for permit to teach
Section 34**

after

satisfied

insert

on reasonable grounds

**9 Additional eligibility requirements for permits to teach
Section 35 (1)**

omit everything before paragraph (a), substitute

- (1) The institute must also be satisfied on reasonable grounds about the following in relation to a person applying for a permit to teach:

10 Section 35 (1) (d)

substitute

- (d) that in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (b) or (c)—
- (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession; and

11 Section 35 (2) and (3)

after

satisfied

insert

on reasonable grounds

12 Section 35 (4)

omit

registration of people

substitute

granting of permits to teach

13 New sections 35A and 35B

insert

35A Criminal history guidelines

- (1) The institute must make guidelines (*criminal history guidelines*) about how a person's police certificate and criminal history record is to be assessed in relation to an application for, or the renewal of, a registration or permit to teach under this Act.
- (2) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

35B Criminal history guidelines—assessment criteria

- (1) The criminal history guidelines must provide for the following to be taken into account in relation to any offence included in a person's police certificate or criminal history record:
 - (a) the nature, gravity and circumstances of the offence;
 - (b) the relevance of the offence in relation to the teaching profession and whether or not there is a high degree of direct connection between the offence and the inherent requirements of the profession;
 - (c) how long ago the offence was committed;
 - (d) the age of the person and the victim at the time of the offence;

- (e) whether the person's circumstances have changed since the offence was committed;
 - (f) the person's attitude to the offence;
 - (g) if the person has undergone a program of treatment or intervention for the offence—any assessment of the person following the program;
 - (h) if the offence was committed outside Australia—whether the offence is an offence in Australia;
 - (i) the number of offences committed;
 - (j) any submission made by the person to the institute under subsection (2) (a).
- (2) The criminal history guidelines must provide that—
- (a) a person may make submissions to the institute in relation to any matter under subsection (1) (a) to (i) that the institute must take into account in assessing the person's police certificate or criminal history record; and
 - (b) the institute must not take into account any information about a person unless satisfied on reasonable grounds that the information is accurate.

14 **Renewal of registration**
Section 51 (5) (d)

substitute

- (d) that—
 - (i) in the 5-year period before the renewal, the teacher has supplied a police certificate or, if applicable, a certified copy of the teacher's criminal history record; and

- (ii) in relation to any conviction mentioned in the certificate or criminal history record—
 - (A) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (B) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.

15 **Renewal of permits to teach**
Section 53 (5) (d)

substitute

- (d) that—
 - (i) in the 5-year period before the renewal, the permit-holder has supplied a police certificate or, if applicable, a certified copy of the permit-holder's criminal history record; and
 - (ii) in relation to any conviction mentioned in the certificate or criminal history record—
 - (A) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (B) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.

**16 Teachers currently teaching
Section 151 (5)**

substitute

(5) In this section:

teacher currently teaching—

- (a) means a person who is, immediately before the commencement day—
 - (i) qualified to teach; and
 - (ii) employed or engaged to teach in the ACT, whether or not the person is teaching; but
- (b) does not include a person who has qualified as a teacher immediately before the commencement day but has not taught since qualifying.

Example—par (a)

a person with teaching qualifications who carries out duties in the administration of education services

Example—par (b)

a person who graduated as a teacher at the end of 2010 and is employed to teach in a school in 2011

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

17 New section 151A

insert

151A Teachers permitted to teach

- (1) A teacher permitted to teach—
 - (a) is taken to be an approved teacher; and
 - (b) is entitled to a permit to teach under this Act.

-
- (2) The teacher must apply to the institute for a permit to teach—
- (a) not later than a date prescribed by regulation; or
 - (b) if the institute is satisfied there are special circumstances for allowing a later date—not later than the later date.
- (3) A fee is not payable by the teacher for a permit to teach under this section.
- (4) Nothing in this section operates to disadvantage a person by adversely affecting the person's rights or imposing liabilities on the person.
- (5) In this section:
- teacher permitted to teach* means a person who, immediately before the commencement day—
- (a) is employed or engaged to teach in a school, whether or not the person is teaching; and
 - (b) is not qualified to teach; but
 - (c) has specialist knowledge, training, skills or qualifications in the subject the person teaches.

18 Dictionary, new definition of *criminal history guidelines*

insert

criminal history guidelines—see section 35A.

19 Dictionary, definition of *police certificate*, note

substitute

Note A conviction includes a spent conviction (see *Spent Convictions Act 2000*, s 19 (8A)).

20 ACT Teacher Quality Institute Regulation 2010, new section 21A

insert

21A Teachers permitted to teach—Act, s 151A

30 June 2012 is prescribed.

21 Spent Convictions Act 2000, new section 19 (8A)

insert

(8A) Section 16 does not apply in relation to an application for, or the renewal of, a registration or permit to teach under the *ACT Teacher Quality Institute Act 2010*.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 June 2011.

2 Notification

Notified under the Legislation Act on 5 September 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the ACT Teacher Quality Institute Amendment Bill 2011, which was passed by the Legislative Assembly on 25 August 2011.

Clerk of the Legislative Assembly

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