

**2023**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**ACT TEACHER QUALITY INSTITUTE AMENDMENT REGULATION 2023 (No 1)  
SL2023-32**

**EXPLANATORY STATEMENT**

**Presented by  
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Minister for Education and Youth Affairs**

## ACT Teacher Quality Institute Amendment Regulation 2023 (No 1)

The Regulation Amendment **is not** a Significant Regulation Amendment. It is unlikely to have significant engagement of human rights and therefore does not require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

### OVERVIEW OF THE REGULATION AMENDMENT

The *ACT Teacher Quality Institute (TQI) Amendment Regulation 2023* will amend the *TQI Regulation 2010*.

The TQI Amendment Regulation 2023 proposes amendments to TQI Regulation as follow:

#### Inclusion of a definition of ‘teaching in Australia and New Zealand’

On 21 September 2023, the *ACT TQI Amendment Bill 2023* was passed in the Legislative Assembly. The Bill, which commenced on 1 October 2023, included a regulation (Section 9 (1)) which prescribes the period of teaching required to be eligible for Full registration, as 180 days of teaching in Australia and New Zealand.

The Parliamentary Counsel’s Office (PCO) has recommended that a definition is required in the *TQI Regulation 2010*. The definition of *teaching in Australia and New Zealand* was not included in the TQI Regulation in the *TQI Amendment Bill 2023*. This omission could impact the implementation of the TQI Act. The *TQI Amendment Regulation 2023* at Attachment A amends section 9 (3) to insert a definition of *teaching in Australia or New Zealand* which means teaching at a government or non-government school under the *Education Act 2004* or teaching at a school recognised under a law of a corresponding jurisdiction in Australia and New Zealand.

#### Qualifications for provisional registration

The amendments to the *TQI Act* effective from 1 October 2023, refer, in the Act, not in the Regulation, to the teacher qualifications for eligibility for provisional registration as prescribed by regulation.

However, the current Regulation does not prescribe the qualifications for eligibility for provisional registration. PCO has drafted an amendment to Regulation which will specifically prescribe the qualifications required for eligibility for provisional registration – these qualifications are the same as for Full registration. The new Regulation will apply to all applications for provisional registration made on or after 1 October 2023. The Regulation commencing on 1 October 2023 is non-prejudicial.

TQI has issued 21 applications for provisional registration since 1 October 2023. Of the 21 teachers issued with provisional registration since 1 October 2023, TQI records show that only two have recorded that they are currently teaching in an ACT school.

There is no risk that any of the 21 teachers issued with provisional registration since 1 October 2023 do not hold the required qualifications. TQI has issued the registrations, applying the accepted qualifications standards which are the same for

full registration. TQI can attest that applicants issued with provisional registration since 1 October 2023 have provided evidence they hold the required qualifications.

#### Eligibility for Permit to Teach

TQI is authorised to issue a Permit to Teach to address a workforce shortage in a particular specialist area, in a particular school. People holding a permit to teach are offered employment in a school to teach a specific class, or in a specific area, where a registered teacher is not available. For example, schools often apply for a person to be issued a permit to teach, when a registered teacher is unavailable to be employed to teach a specialist class such as music, or woodwork, or Spanish. The Act states the person is eligible for a Permit to Teach if the person has specialist knowledge, skills, training **or** qualifications. Specialist knowledge, skills or training are sufficient – without a qualification. However, the Regulation states that the person must hold qualifications from an accredited provider. This contradicts the wording and intent of the Act.

In the *TQI Amendment Regulation 2023*, the regulation requiring Permit to Teach holders to have a qualification in the subject area the person is to teach, is removed.

#### English Language Proficiency

The *TQI Regulation 2010* requires teachers seeking renewal of provisional registration and permit to teach holders seeking renewal of permit to teach to have completed an English language proficiency test no more than two years before their renewal application. Teachers seeking renewal of Full registration do not have to meet this requirement.

Putting a two-year limit on the validity of the English language proficiency test for teachers renewing their provisional registration or renewing their permit to teach is not the intent of the legislation or of the *National Framework for Teacher Registration in Australia*.

If a teacher or a permit to teach holder has undertaken a period of teaching that TQI is satisfied is equivalent to satisfactory completion of 100 days of teaching in Australia or New Zealand in the five-year period or in a period TQI deems appropriate, before application is made, it is unnecessary for the person to take another English Language Proficiency test. The TQI Regulation Amendment 2023 removes the requirement for permit holders or people renewing provisional registration who have taken an English language test over two years ago from the TQI Regulation 2010.

### **CONSULTATION ON THE PROPOSED APPROACH**

In developing the *ACT Teacher Quality Institute Amendment Bill 2023*, TQI consulted with the Government Solicitor's Office (GSO), the Parliamentary Counsel's Office (PCO), the Education Directorate, and via the TQI Board, teacher employers, education unions, teacher and principal representatives and a community representative. TQI has consulted with GSO and PCO in the development of the *TQI Amendment Regulation 2023*. As the Regulation amendments are consequential

to amendments in the *Teacher Quality Institute Amendment Bill 2023*, no further consultation is required with stakeholders.

### **CONSISTENCY WITH HUMAN RIGHTS**

The Amendment to the TQI Regulation does not engage human rights.

## CLAUSE NOTES

### Clause 1      Name of Regulation

This regulation is the *ACT Teacher Quality Institute Amendment Regulation 2023* (No 1).

### Clause 2      Commencement

This clause enables the Regulation (other than sections 8 and 11) to be taken to have commenced on 1 October 2023. Commencing on this date ensures that TQI's decisions made between 1 October 2023 and the date this Regulation is notified, are valid. The Regulation commencing on 1 October 2023 is non-prejudicial.

Section 8 commences the day after this regulation's notification day.

Section 13 commences on 1 April 2024 – the same day as the commencement of the related sections of the *Education (Early Childhood) Legislation Amendment Bill 2023*.

### Clause 3      Legislation amended

This clause identifies that the Regulation amends the *ACT Teacher Quality Institute Regulation 2010*.

### Clause 4      Section 9 (3)

This clause inserts a definition for 'teaching in Australia and New Zealand'. This definition substitutes for the existing definitions in Section 9 (3) in *TQI Regulation 2010*. The new definition defines teaching in Australia and New Zealand as teaching in a government or non-government school under the *ACT Education Act 2004* – that is an ACT school, and a school recognised under a law of a corresponding jurisdiction that regulates schools – that is registered schools in Australia and New Zealand.

### Clause 5      Section 10 (a)

This clause removes a typographical error in the TQI Regulation.

### Clause 6      New section 11

This clause adds a new section which prescribes the teaching qualifications for eligibility for provisional registration. These qualifications are those referenced in the TQI Act section 33 (1) (a) 'A person is eligible for provisional registration ... if the person holds a teaching qualification prescribed by regulation'.

### Clause 7      Section 12 (a)

This clause removes a typographical error in the TQI Regulation.

#### **Clause 8      New section 12 (c)**

This clause authorises TQI to renew a person's provisional without the requirement to undertake English language testing after two years of taking the test, if they have taught in Australia or New Zealand for 100 days in the five-year period before the renewal application is made – or they have taught for a period TQI is satisfied is equivalent to satisfactory completion of 100 days of teaching in Australia or New Zealand in the five-year period before the day the application is made.

#### **Clause 9      New section 13 (1) (ba)**

This clause authorises TQI to renew a person's permit to teach without the requirement to undertake English language testing after two years of taking the test, if they have taught in Australia or New Zealand for 100 days in the five-year period before the renewal application is made – or they have taught for a period TQI is satisfied is equivalent to satisfactory completion of 100 days of teaching in Australia or New Zealand in the five-year period before the day the application is made.

#### **Clause 10    New section 13 (3)**

This clause references the definition of 'teaching in Australia and New Zealand which is at section 9 (3).

#### **Clause 11    Section 14**

This clause omits Section 14 from the Regulations. This section is being omitted because it contradicts the intent and wording of the TQI Act. Schools often apply for a person to be issued a permit to teach, when a registered teacher is unavailable to be employed to teach a specialist class such as music, or woodwork, or Spanish. The Act states the person is eligible for a Permit to Teach if the person has specialist knowledge, skills, training **or** qualifications. Specialist knowledge, skills or training are sufficient – without a qualification. However, the Regulation states that the person must hold qualifications from an accredited provider. This contradicts the wording and intent of the Act.

#### **Clause 12    New section 17 (2)**

This clause references the definition of 'teaching in Australia and New Zealand which is at section 9 (3).

#### **Clause 13    Section 17 (2), new definition of permit to teach**

This clause refers to the new definition of 'permit to teach' which will commence on 1 April 2024 – when Regulation 9 (3) in the *Education (Early Childhood) Legislation Amendment Bill 2023* commences.

**End**