

Teacher Accreditation Act 2004 No 65

[2004-65]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Previously named**
Institute of Teachers Act 2004
- **Does not include amendments by**
[Education and Teaching Legislation Amendment Act 2016 No 50](#) (not commenced — to commence on 1.1.2017)

Authorisation

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New South Wales

Contents

Long title	5
Part 1 Preliminary	5
1 Name of Act	5
2 Commencement	5
3 Definitions	5
3A Meaning of “teach”	8
4 Meaning of “teacher accreditation authority”	9
5 Mutual recognition laws	11
Part 2 Board’s functions and Quality Teaching Council	11
Division 1 Board’s functions	11
6 (Repealed)	11
7 Functions of Board under this Act	11
8 (Repealed)	12
Divisions 2, 3 (Repealed)	12
Division 4 Quality Teaching Council	12
12 Establishment and function of Quality Teaching Council	12
13 Membership of Council	12
Division 5 (Repealed)	13
Part 3 Roll of teachers	13

16 Board to maintain roll of teachers	13
17 Electoral list.....	14
18 Accreditation list.....	14
Part 4 Accreditation of teachers	15
Division 1 Professional teaching standards	15
19 Minister may approve professional teaching standards.....	15
20 Matters to be dealt with by professional teaching standards	15
Division 2 Accreditation scheme—general provisions	16
21 Accreditation of teachers at schools and early childhood education centres	16
22 Accreditation decisions to be provided to Board	17
23 Procedural matters	17
23A Conditions of accreditation.....	17
24 Revocation of accreditation	17
24A Suspension of accreditation	18
24B Criteria for determining revocation or suspension of accreditation on general grounds	19
24C Notice to be given of intention to suspend or revoke accreditation	19
24D Placing accreditation on hold during leave of absence from teaching	20
25 Annual fee	20
25A Working with children check clearances.....	20
26 False information and representation	21
27 Administrative review of certain decisions	21
Division 3 Mandatory accreditation	21
28 Requirement for teachers to be accredited	21
29 Provisions relating to employment	22
30 Provisional accreditation.....	22
31 Conditional accreditation.....	23
32 Accreditation of teachers at proficient teacher level	25
33 Provisional re-accreditation	25
Division 4 (Repealed).....	26
Division 5 Voluntary accreditation.....	26

39 Voluntary accreditation of teachers at various levels	26
40 Voluntary accreditation of teachers at higher levels	27
40A Voluntary accreditation of certain qualified persons	27
41 Application fee.....	28
Part 5 Miscellaneous	28
42 (Repealed)	28
42A Payment of suspended teachers	28
42B Board to be notified of certain decisions	28
43, 44 (Repealed)	29
45 Delegations	29
46 Act to bind Crown	29
47 Relationship of Act with other instruments.....	29
48 Protection from personal liability for members of Council	29
49 Nature of proceedings for offences.....	30
50 Recovery of money	30
51, 51A (Repealed).....	30
52 Regulations.....	30
53 Savings and transitional provisions	30
54 (Repealed)	30
55 Review of Act.....	30
Schedule 1 (Repealed)	31
Schedule 2 Provisions relating to members and procedure of the Council	31
Schedule 3 Savings and transitional provisions	35
Schedule 4 (Repealed)	37

Teacher Accreditation Act 2004 No 65



New South Wales

An Act to make provision for professional teaching standards and the accreditation of teachers in relation to those standards; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Teacher Accreditation Act 2004*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

(1) In this Act:

accreditation means accreditation under Part 4, and includes provisional accreditation or conditional accreditation under that Part.

accredited means accredited for the time being under Part 4, and includes provisionally accredited or conditionally accredited under that Part.

approved course means an initial teacher education course or program approved by the Minister in accordance with the professional teaching standards.

Board means the Board of Studies, Teaching and Educational Standards constituted under the *Board of Studies, Teaching and Educational Standards Act 2013*.

Council means the Quality Teaching Council established under section 12.

degree means a degree that meets the specifications under the *Australian Qualifications Framework*.

dismiss includes:

- (a) in the case of a teacher who is appointed on probation—the annulment of that appointment, or

- (b) in the case of a teacher employed on a casual basis—dispensing with the services of the teacher.

early childhood education centre or **centre** means an approved education and care service within the meaning of the *Children (Education and Care Services) National Law (NSW)* or the *Children (Education and Care Services) Supplementary Provisions Act 2011* and includes a service or facility of a class declared by the regulations to be an early childhood education centre for the purposes of this Act.

ECEC executive means a person:

- (a) who is employed as the person in charge of an early childhood education centre or as a member of the executive staff of a centre, and
- (b) who holds a degree or teaching qualification recognised by the Board.

employ includes engage or appoint.

exercise a function includes perform a duty.

function includes a power, authority or duty.

government school and **non-government school** have the same meanings as in the *Education Act 1990*.

non-centre based teacher means a person:

- (a) who holds a degree or teaching qualification recognised by the Board, and
- (b) who is not teaching in an early childhood education centre but has taught in an early childhood education centre for a period of not less than the period prescribed for the purposes of this definition by the regulations or the rules of the Board, and
- (c) who is employed to undertake any of the following:
- (i) duties relating to the development or implementation of the curriculum for early childhood education,
 - (ii) duties relating to the learning and wellbeing of children who attend early childhood education centres,
 - (iii) duties relating to curriculum teaching and learning in early childhood education centres,
 - (iv) duties as an early childhood education lecturer or tutor in a university or other higher education institution in New South Wales,
 - (v) duties as an educational consultant for early childhood education centres.

non-school based teacher means a person:

- (a) who holds a degree or teaching qualification recognised by the Board, and
- (b) who is not teaching in a school but has taught in a school for a period of not less than the period prescribed for the purposes of this definition by the regulations or the rules of the Board, and
- (c) who is employed to undertake any of the following:
 - (i) duties relating to the development or implementation of the curriculum (including assessment and reporting) for primary and secondary education,
 - (ii) duties relating to the learning and wellbeing of school students,
 - (iii) duties relating to curriculum teaching and learning in schools,
 - (iv) duties as a K-Year 12 education lecturer or tutor in a university or other higher education institution in New South Wales,
 - (v) duties as an educational consultant for schools.

non-teaching ECEC executive means an ECEC executive who is not teaching in a centre but who has taught in a centre for a period of not less than the period prescribed for the purposes of this definition by the regulations or the rules of the Board.

non-teaching school counsellor means a school counsellor who is not teaching in a school.

non-teaching school executive means a school executive who is not teaching in a school but who has taught in a school for a period of not less than the period prescribed for the purposes of this definition by the regulations or the rules of the Board.

President means the President of the Board appointed under the [Board of Studies, Teaching and Educational Standards Act 2013](#).

professional development includes formal and informal learning activities designed to maintain and enhance the knowledge and skills of teachers.

professional teaching standards means the professional teaching standards approved by the Minister from time to time under section 19.

roll of teachers means the roll maintained by the Board under Part 3.

rules of the Board means rules made by the Board under section 25 of the [Board of Studies, Teaching and Educational Standards Act 2013](#).

Note—

The rules of the Board only have effect if approved by the Minister.

school means a government school or a non-government school.

school counsellor means a person:

- (a) who is employed in a school to undertake duties relating to the learning and wellbeing of school students, and
- (b) who holds a degree or teaching qualification recognised by the Board.

school executive means a person:

- (a) who is employed as the principal of a school or as a member of the executive staff of a school, and
- (b) who holds a degree or teaching qualification recognised by the Board.

Secretary means the Secretary of the Department of Education and Communities.

teach—see section 3A.

teacher accreditation authority—see section 4.

- (2) Notes included in this Act do not form part of this Act.

3A Meaning of “teach”

- (1) In this Act, **teach** means:

- (a) in relation to a school—to undertake duties that include:

- (i) delivering courses of study that are designed to implement the school curriculum under the *Education Act 1990*, and
- (ii) assessing the participation, performance and progress of students in those courses, and

- (b) in relation to an early childhood education centre—to undertake duties that include:

- (i) delivering an educational program based on an approved learning framework under the *Children (Education and Care Services) National Law (NSW)*, and
- (ii) assessing the participation, performance and progress of children in that educational program,

whether or not the person who is undertaking any such duties undertakes other duties in the school or centre (such as those of a school executive, school counsellor or ECEC executive).

- (2) A reference in this section to undertaking duties in relation to a school or early childhood education centre is a reference to undertaking duties on the premises of a

school or centre in the course of providing services conducted by the school or centre.

4 Meaning of “teacher accreditation authority”

(1) In this Act, **teacher accreditation authority** means:

(a) in relation to a government school:

- (i) the Secretary, or
- (ii) such other person or body as may be approved for the time being by the Secretary under subsection (2), or

(b) in relation to a non-government school:

- (i) the Minister, or
- (ii) such person or body as may be approved for the time being by the Minister under subsection (4), or

(c) in relation to an early childhood education centre:

- (i) the Board, or
- (ii) such other person or body as may be approved for the time being by the Board under subsection (5A).

(1A) The Board is also the teacher accreditation authority under this Act in relation to:

(a) the provisional or conditional accreditation of persons under Part 4, and

(b) the accreditation of any of the following persons under section 40A:

- (i) non-teaching school executives,
- (ii) non-teaching ECEC executives,
- (iii) non-teaching school counsellors,
- (iv) non-school based teachers,
- (v) non-centre based teachers.

(2) The Secretary may approve a person or body to be the teacher accreditation authority in relation to a government school or a particular class of government schools for the purposes of this Act.

(3) The approval of any such person or body by the Secretary:

(a) authorises the person or body to accredit, in accordance with Part 4, persons at such levels of accreditation as may be determined by the Secretary, and

- (b) is subject to the requirement that the person or body complies with:
 - (i) the accreditation procedures and guidelines set out in the professional teaching standards, and
 - (ii) the conditions imposed by or under this Act, and
 - (iii) such other conditions as the Secretary thinks fit to impose, and
 - (c) may be suspended or revoked at any time by the Secretary for such reasons as the Secretary thinks fit.
- (4) The Minister may approve a person or body to be the teacher accreditation authority in relation to a non-government school for the purposes of this Act. In the case of a non-government school that is a member of a system of non-government schools approved by the Minister under Part 7 of the *Education Act 1990*, the person or body approved by the Minister under this subsection may be the approved authority for that system.
- (5) The approval of any such person or body by the Minister:
- (a) authorises the person or body to accredit, in accordance with Part 4, persons at such levels of accreditation as may be determined by the Minister, and
 - (b) is subject to the requirement that the person or body complies with:
 - (i) the accreditation procedures and guidelines set out in the professional teaching standards, and
 - (ii) the conditions imposed by or under this Act, and
 - (iii) such other conditions as the Minister thinks fit to impose, and
 - (c) may be suspended or revoked at any time by the Minister if the Minister is of the opinion that the person or body has failed to comply with any such requirement.
- (5A) The Board may approve a person or body to be the teacher accreditation authority in relation to an early childhood education centre or a particular class of centres for the purposes of this Act.
- (5B) The approval of any such person or body by the Board:
- (a) authorises the person or body to accredit, in accordance with Part 4, persons at such levels of accreditation as may be determined by the Board, and
 - (b) is subject to the requirement that the person or body complies with:
 - (i) the accreditation procedures and guidelines set out in the professional teaching standards, and

- (ii) the conditions imposed by or under this Act, and
 - (iii) such other conditions as the Board thinks fit to impose, and
- (c) may be suspended or revoked at any time by the Board for such reasons as the Board thinks fit.
- (6) The suspension or revocation of the approval of a person or body as a teacher accreditation authority does not affect the accreditation by that authority of a person under Part 4.

5 Mutual recognition laws

This Act does not limit or otherwise affect the operation of:

- (a) the *Mutual Recognition Act 1992* of the Commonwealth, or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

Part 2 Board's functions and Quality Teaching Council

Division 1 Board's functions

6 (Repealed)

7 Functions of Board under this Act

- (1) (Repealed)
- (2) The functions of the Board under this Act include the following:
 - (a) to provide advice to the Minister on the development, content and application of the professional teaching standards,
 - (b) to provide advice to the Minister on any of the Minister's other functions under this Act (including the function of approving persons or bodies as teacher accreditation authorities in relation to non-government schools or the suspension or revocation of any such approval),
 - (c) to advise and assist other teacher accreditation authorities in accrediting persons under this Act,
 - (d) to monitor the accreditation process across all schools,
 - (e) to ensure that the professional teaching standards are applied fairly and consistently,
 - (f) to monitor, evaluate and report on the quality of initial and continuing teacher education courses and programs approved by the Minister under the professional teaching standards.

- (3) The functions of the Board under this Act also include making recommendations to the Minister as to whether or not the Minister approve:
 - (a) a teacher education course or program for the purposes of this Act, or
 - (b) a person or body to provide professional development in accordance with the requirements of the professional teaching standards.
- (4) (Repealed)
- (5) The functions of the Board under this Act do not extend to industrial matters concerning teachers (such as the salaries of teachers or their conditions of employment).
- (6) (Repealed)

8 (Repealed)

Divisions 2, 3

9-11 (Repealed)

Division 4 Quality Teaching Council

12 Establishment and function of Quality Teaching Council

- (1) The Quality Teaching Council is established by this Act.
- (2) The function of the Council is to provide advice to the Board in relation to the exercise of the Board's functions under this Act.

13 Membership of Council

- (1) The Council is to consist of the following members:
 - (a) 11 persons (the ***elected members***) who are teachers and who are elected, in accordance with the regulations, by those persons whose are enrolled on the electoral list referred to in section 17,
 - (b) 11 persons appointed by the Minister (the ***appointed members***),
 - (c) the President.
- (2) The appointed members are as follows:
 - (a) a nominee of the NSW Teachers Federation,
 - (b) a nominee of the NSW Independent Education Union,
 - (c) a nominee of the Secretary,

- (d) a nominee of the Catholic Education Commission, NSW,
 - (e) a nominee of the Association of Independent Schools of NSW,
 - (f) a nominee of the NSW Council of Deans of Education,
 - (g) a person who, in the opinion of the Minister, has knowledge and expertise in early childhood education,
 - (h) a person who, in the opinion of the Minister, represents the interests of parents of school-age children,
 - (i) 2 persons who, in the opinion of the Minister, represent the interests of teachers, with at least one such person being a member of the Professional Teachers' Council NSW,
 - (j) a person who, in the opinion of the Minister, has such qualifications or experience as to enable the person to make a valuable contribution to maintaining and improving teacher quality.
- (3) After the sixth anniversary of the first election of the elected members of the Council, each person who is an elected member must be a teacher who is accredited under Part 4.
- (4) A person may hold office as a member of the Council for terms totalling not more than 6 years.
- (4A) If a term of office of an elected member of the Council is extended in accordance with the regulations so that the term exceeds 3 years, the part of the term that exceeds 3 years is to be disregarded for the purposes of subsection (4).
- (5) Schedule 2 has effect with respect to the members and procedure of the Council.

Division 5

14-15 (Repealed)

Part 3 Roll of teachers

16 Board to maintain roll of teachers

- (1) The Board is required to maintain, in printed or electronic form (or both), a roll of teachers for the purposes of this Act.
- (2) The roll of teachers is to consist of 2 parts, namely:
 - (a) the electoral list, and
 - (b) the accreditation list.

17 Electoral list

- (1) A person is eligible to be enrolled on the electoral list if the person:
 - (a) is employed as a teacher in New South Wales, or
 - (b) was employed as a teacher in New South Wales at any time during the period of 3 years immediately before the date on which the next election of the elected members of the Council is due to be held, or
 - (c) is qualified (but not employed) as a teacher and is employed:
 - (i) in the Department of Education and Communities or as a member of staff of the Board, or
 - (ii) by any other person or body prescribed by the regulations.
- (2) However, a person is not to be enrolled on the electoral list:
 - (a) if, in the case of a person who is required to be accredited, the person's accreditation ceases or has been revoked, or
 - (b) during any period that the person's accreditation is suspended, or
 - (c) if, in the case of a person who is not required to be accredited, the person has been dismissed or suspended from employment as a teacher for any reason for which the accreditation of a person may be revoked or suspended.
- (3) If a person is enrolled on the electoral list, the list is to include the contact details (if any) provided by the person or otherwise made available to the Board.

18 Accreditation list

- (1) The accreditation list is to contain the following particulars in relation to each person who is accredited:
 - (a) the name and date of birth of the person,
 - (b) the level at which the person is accredited,
 - (c) the teacher accreditation authority that accredited the person and the date on which the person was accredited,
 - (d) such other particulars as are required by or under this Act or the regulations to be included on the accreditation list.
- (2) The accreditation list is also to contain the details of any decision by a teacher accreditation authority:
 - (a) to refuse an application to accredit any person, or

(b) to revoke the accreditation of any person, or

(c) to suspend the accreditation of any person.

(3) The Board is authorised:

(a) to request and receive any such information from a teacher accreditation authority, and

(b) to provide any information contained in the accreditation list to any of the following:

(i) any teacher accreditation authority,

(ii) the person or body responsible for registering or accrediting teachers under the law of another jurisdiction,

(iii) any other person or body prescribed by the regulations.

Part 4 Accreditation of teachers

Division 1 Professional teaching standards

19 Minister may approve professional teaching standards

(1) The Minister may, from time to time and having regard to the advice of the Board, approve of professional teaching standards in relation to each of the following levels of accreditation:

(a) provisional accreditation under Division 3,

(b) conditional accreditation under Division 3,

(c) accreditation at proficient teacher level under Division 3 or 5,

(d) accreditation at highly accomplished teacher level under Division 5,

(e) accreditation at lead teacher level under Division 5.

(2) The Board is to ensure that the professional teaching standards are made available to teacher accreditation authorities and to all teachers.

20 Matters to be dealt with by professional teaching standards

The professional teaching standards may deal with, and make provision for or with respect to, the following matters:

(a) the skills, qualifications, experience and knowledge required for teaching at each level of accreditation,

(b) the conditions and criteria for continuing accreditation, including requirements in

relation to professional development,

- (c) the procedures and guidelines to be followed by teacher accreditation authorities in relation to the accreditation of persons under this Part (including the revocation or suspension of accreditation),
- (d) the approval by the Minister of initial and continuing teacher education courses or programs that are relevant to the accreditation of persons under this Part,
- (e) the approval by the Minister of those persons or bodies who may provide professional development,
- (f) ethical conduct of teachers,
- (g) any other matter relating to teaching standards.

Division 2 Accreditation scheme—general provisions

21 Accreditation of teachers at schools and early childhood education centres

- (1) The teacher accreditation authority for a school or early childhood education centre may, in accordance with this Part:
 - (a) accredit any person who is employed to teach in the school or centre (including any person who has applied for a position as a teacher in the school or centre), and
 - (b) revoke the accreditation (including the accreditation by another teacher accreditation authority) of any person:
 - (i) who is employed to teach in the school or centre, or
 - (ii) who was previously employed to teach in the school or centre (but who is no longer employed to teach in that or any other school or centre).
- (1A) Subsection (1) does not apply in relation to the provisional or conditional accreditation of a person by the Board under this Part.
- (2) If a person is accredited under this Part, the person's accreditation has effect in relation to any school or early childhood education centre, but is subject to revocation by a teacher accreditation authority.
- (3) The accreditation of a person under this Part is not restricted to accreditation in relation to a specific area of study, learning or expertise. Accordingly, a person's accreditation does not, in itself, limit the areas of study or learning in which the person teaches.

22 Accreditation decisions to be provided to Board

- (1) Any decision by a teacher accreditation authority under this Part in relation to a person must be notified in writing to the Board within 21 days after the making of the decision.
- (2) In the case of a teacher accreditation authority that is approved by the Secretary, the Minister or the Board under section 4, it is a condition of the approval that the authority complies with subsection (1).

23 Procedural matters

- (1) An application by a person for accreditation under this Part is to be in the form, and contain the particulars, approved by the Board.
- (2) If a teacher accreditation authority accredits a person under this Part, the authority is to issue a certificate of accreditation to the person in the form approved by the Board.
- (3) (Repealed)

23A Conditions of accreditation

- (1) The accreditation of a person under this Part is subject to such conditions as are imposed by this Act or prescribed by the regulations.
- (2) The accreditation of a person under this Part is also subject to such conditions as may be specified in the rules of the Board.

24 Revocation of accreditation

- (1) A teacher accreditation authority may revoke the accreditation of a person on any of the following grounds:
 - (a) the authority is satisfied that the person is a disqualified person within the meaning of the *Child Protection (Working with Children) Act 2012*,
 - (b) the person is found guilty of an offence punishable by imprisonment for 12 months or more,
 - (c) the person is found guilty of an offence under this Act,
 - (d) the person is found guilty more than once during the period of 5 years immediately before the revocation of any other type of offence that, in the opinion of the authority, involves an act or conduct that is of a nature that would reflect adversely on a teacher's professional standing or integrity or suitability or competence to teach,
 - (e) the person has:

- (i) been dismissed from employment as a teacher (whether on a permanent, temporary, part-time or casual basis) or has resigned from such employment before being dismissed, or
- (ii) been included in the list of persons maintained by the Secretary under section 7 (1) (e) of the *Teaching Service Act 1980* as a person who is not to be employed in the Teaching Service,

because of any misconduct that, in the opinion of the authority, is of a nature that would reflect adversely on a teacher's professional standing or integrity or suitability or competence to teach,

- (f) the authority is satisfied that the person has failed to comply with any condition to which the person's accreditation is subject,
 - (g) the authority is satisfied that the person has failed to comply with any of the requirements of the professional teaching standards that apply to the person.
- (2) The Board may exercise the function of a teacher accreditation authority under this section in relation to a person even though the person was accredited by a teacher accreditation authority other than the Board.

24A Suspension of accreditation

- (1) A teacher accreditation authority may suspend the accreditation of a person:
- (a) on any ground on which the authority may revoke the person's accreditation, or
 - (b) if disciplinary proceedings against the person are pending in relation to alleged misconduct, or
 - (c) if proceedings against the person for an offence are pending and, were the person to be found guilty of the offence, the authority would have grounds to revoke the accreditation.
- (2) A teacher accreditation authority must review the authority's suspension of a person's accreditation at least every 3 months and must remove the suspension in the following circumstances:
- (a) if the suspension was imposed because of pending disciplinary proceedings and those proceedings have been finalised with no finding that the person has engaged in misconduct,
 - (b) if the suspension was imposed because of pending proceedings for an offence and the person has been found not guilty of the offence or the proceedings have been withdrawn or dismissed,
 - (c) if the suspension was imposed on a ground referred to in subsection (1) (b) or (c)

and a finding that the person has engaged in misconduct has been made against the person in the relevant disciplinary proceedings, or a finding of guilt has been made against the person in the relevant proceedings for an offence, but the authority has not taken action to revoke the person's accreditation within a reasonable period having regard to the circumstances of the case.

- (3) This section does not authorise the suspension of a person's accreditation for failure to pay the annual fee required under section 25.

Note—

Section 25 (4) authorises the Board to suspend a person's accreditation for failure to pay the annual fee.

- (4) A person's accreditation is not in force during any period for which it is suspended whether under this or any other section of this Act.
- (5) The Board may exercise the function of a teacher accreditation authority under this section in relation to a person even though the person was accredited by a teacher accreditation authority other than the Board.

24B Criteria for determining revocation or suspension of accreditation on general grounds

A teacher accreditation authority is to take account of the following matters (where appropriate) when determining whether to revoke a person's accreditation under section 24 or suspend a person's accreditation under section 24A or 25 (4):

- (a) the nature and seriousness of the conduct concerned,
- (b) the frequency of the conduct concerned,
- (c) the recency of the conduct concerned,
- (d) any other matter that is required to be taken into account by the procedures and guidelines in the professional teaching standards (as referred to in section 20 (c)).

24C Notice to be given of intention to suspend or revoke accreditation

- (1) A teacher accreditation authority may suspend or revoke a person's accreditation only after having served on the person written notice of its intention to suspend or revoke the accreditation setting out its reasons.
- (2) The notice must include a statement that the person concerned may make submissions to the teacher accreditation authority in relation to the proposed suspension or revocation within 14 days after the date of the notice.
- (3) This section also applies in relation to the suspension by the Board of a person's accreditation for failure to pay the annual fee under section 25.

24D Placing accreditation on hold during leave of absence from teaching

- (1) The Board may, on application by a person who is accredited, place the person's accreditation on hold during any period that the person takes leave of absence from teaching in New South Wales.
- (2) Any such period may not, except in any particular case approved by the Board, be less than 6 months or more than 5 years.
- (3) A person is taken not to be accredited under this Act during any period that the person's accreditation is placed on hold under this section. However, the person may, during that period, undertake courses or carry out duties for the purposes of enabling the person to satisfy the requirements of the professional teaching standards relating to professional development and continuing teacher education once the accreditation is no longer on hold.
- (4) The placing of a person's accreditation on hold under this section also has the effect of suspending the period in which the person is required to satisfy conditions for continuing accreditation under the professional teaching standards.

Note—

See also sections 30 (7) and 31 (6) which provide that any period that a person's accreditation is placed on hold under this section is to be disregarded when determining the period of a person's provisional or conditional accreditation.

25 Annual fee

- (1) A person who is accredited under this Part must, in accordance with the regulations, pay an annual fee to the Board.
- (2) The amount of the annual fee is to be prescribed by the regulations.
- (3) It is a condition of the person's accreditation under this Part that the annual fee is paid.
- (4) The Board may suspend the accreditation of a person for failure to pay the annual fee.
- (5) The Board must, before suspending a person's accreditation for failure to pay the annual fee, give at least 14 days' notice of its intention to do so to the person's employer.

25A Working with children check clearances

- (1) A person cannot be accredited under this Part by a teacher accreditation authority unless the person holds a working with children check clearance under the *Child Protection (Working with Children) Act 2012*.
- (2) It is a condition of the accreditation of a person under this Part that the person holds a working with children check clearance under the *Child Protection (Working with*

Children) Act 2012.

26 False information and representation

- (1) A person must not, in an application for accreditation under this Part, provide any information that the person knows is false or misleading in a material particular.
- (2) A person must not make any representation to the effect that the person is accredited at any level of accreditation unless the person is for the time being accredited at that level.

Maximum penalty: 50 penalty units.

27 Administrative review of certain decisions

- (1) A person may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the following decisions:
 - (a) the refusal or failure by a teacher accreditation authority to accredit the person under this Part,
 - (b) the revocation or suspension of the person's accreditation by a teacher accreditation authority under this Part,
 - (c) a recommendation of the Board under section 7 (3) that the Minister not approve:
 - (i) a teacher education course or program, or
 - (ii) a person or body to provide professional development.
- (2) Any such decision by a teacher accreditation authority is not reviewable by any other court or tribunal (including in any proceedings in the nature of disciplinary proceedings or in any proceedings for unfair dismissal).

Division 3 Mandatory accreditation

28 Requirement for teachers to be accredited

- (1) A person must not teach in a school or early childhood education centre unless the person is accredited.

Maximum penalty: 100 penalty units.

- (2) A person must not employ another person to teach in a school or early childhood education centre unless the other person:
 - (a) is accredited, and
 - (b) if conditionally accredited under section 31—is working under the on-site supervision of a teacher who is not provisionally or conditionally accredited.

Maximum penalty: 100 penalty units.

- (3) Subsections (1) and (2) do not apply in relation to a person who:
- (a) was employed as a school teacher before 1 October 2004, and
 - (b) has remained employed as a school teacher,
- until the date appointed by proclamation for the purposes of this subsection.
- (4) Subsections (1) and (2) do not apply in relation to a person who is employed as a teacher in an early childhood education centre until the date appointed by proclamation for the purposes of this subsection.

Editorial note—

Date appointed for the purposes of this subsection: 18.7.2016. See proclamation 2016 (268) LW 27.5.2016.

29 Provisions relating to employment

- (1) The employment of a person as a teacher may be terminated by the person's employer if the person's accreditation is revoked under this Act.
- (2) A person who is required to be accredited may be suspended from employment as a teacher by the person's employer during any period in which the person's accreditation is suspended.
- (3) A person who is suspended from employment as a teacher under this section for any period is, for the purposes of section 28 (2), taken not to be employed as a teacher during that period.
- (4) Nothing in this Act requires an employer who terminates or suspends the employment of a person as a teacher in accordance with this Act to provide alternative employment to the person.

Note—

In the case of government school teachers, the employer's power under this section to terminate or suspend a person's employment as a teacher is separate from any power under the [Teaching Service Act 1980](#).

30 Provisional accreditation

- (1) The Board may, on application by a person who is required to be accredited:
 - (a) provisionally accredit the person, or
 - (b) refuse to provisionally accredit the person.
- (2) The Board may provisionally accredit a person if the Board is satisfied that:
 - (a) the person meets the requirements specified in the professional teaching standards for provisional accreditation, and

- (b) the person has completed an approved course and will receive a qualification in relation to that course.
- (3) In the case of a person referred to in subsection (2) (b), it is a condition of a person's provisional accreditation that the person provides the Board with evidence of the person's qualification as soon as practicable after receiving his or her qualification in relation to the approved course.
- (4) The Board may also provisionally accredit a person who is conditionally accredited if the person:
 - (a) has, within the first 12 months of the person's conditional accreditation, completed an approved course, and
 - (b) has provided the Board with evidence of that completion.
- (5) The provisional accreditation of a person ceases (unless sooner revoked under this Act):
 - (a) at the end of the relevant period, or
 - (b) if the person is accredited at proficient teacher level by a teacher accreditation authority before the end of the relevant period.
- (6) In this section:

relevant period, in relation to a person who is provisionally accredited under this section, means:

 - (a) if the person is employed on a full-time basis—the period of 3 years (or such longer period as may be determined by the Board in any particular case) following the date on which the person was provisionally accredited, or
 - (b) if the person is employed on a casual or part-time basis:
 - (i) the period determined in accordance with the regulations to be commensurate with the 3-year period for persons employed on a full-time basis, or
 - (ii) such longer period as may be determined by the Board in any particular case, following the date on which the person was provisionally accredited.
- (7) However, any period during which a person's accreditation is placed on hold under section 24D is to be disregarded for the purposes of determining the relevant period for a person.

31 Conditional accreditation

- (1) This section applies to a person who is required to be accredited and who meets the requirements specified in the professional teaching standards for provisional

accreditation but who has not completed an approved course.

- (2) The Board may, on application by a person to whom this section applies:
- (a) conditionally accredit the person, or
 - (b) refuse to conditionally accredit the person.
- (3) The Board may conditionally accredit a person only if:
- (a) the person:
 - (i) holds a degree in an area that, in the opinion of the Board, is relevant to the area in which the person is or is to be employed to teach, and
 - (ii) produces evidence of an offer of employment as a teacher, or
 - (b) the Board is satisfied that the person has completed a substantial part of an approved course.
- (4) The conditional accreditation of a person under this section ceases (unless sooner revoked under this Act):
- (a) at the end of the relevant period, or
 - (b) if the person is provisionally accredited by the Board before the end of the relevant period, or
 - (c) if the person is accredited at proficient teacher level by a teacher accreditation authority before the end of the relevant period.
- (5) In this section:
- relevant period**, in relation to a person who is conditionally accredited under this section, means:
- (a) if the person is employed on a full-time basis—the period of 4 years (or such longer period as may be determined by the Board in any particular case) following the date on which the person was conditionally accredited, or
 - (b) if the person is employed on a casual or part-time basis:
 - (i) the period determined in accordance with the regulations to be commensurate with the 4-year period for persons employed on a full-time basis, or
 - (ii) such longer period as may be determined by the Board in any particular case, following the date on which the person was conditionally accredited.
- (6) However, any period during which a person's accreditation is placed on hold under section 24D is to be disregarded for the purposes of determining the relevant period

for a person.

32 Accreditation of teachers at proficient teacher level

- (1) A teacher accreditation authority may, on application by a person who is required to be accredited, accredit the person at proficient teacher level if the person:
 - (a) is provisionally accredited under section 30, or
 - (b) is conditionally accredited under section 31 and has completed an approved course, or
 - (c) satisfies any requirements for accreditation that are prescribed by the regulations or specified in the rules of the Board,and the authority is satisfied that the person meets the requirements for accreditation at proficient teacher level.
- (2) A teacher accreditation authority may refuse an application to accredit a person at proficient teacher level.
- (3) The decision by a teacher accreditation authority to accredit a person at proficient teacher level has no effect unless the person has completed an approved course.
- (4) A person who is accredited at proficient teacher level may for any purpose be referred to as a person who is fully accredited.

Note—

Under transitional arrangements referred to in Schedule 3, persons formerly referred to in this Act as “transition scheme teachers” may also be accredited by a teacher accreditation authority at proficient teacher level.

33 Provisional re-accreditation

- (1) This section applies to a person:
 - (a) whose accreditation by a teacher accreditation authority at proficient teacher level has been revoked on the grounds that the person has failed to comply with the continuing accreditation requirements under the professional teaching standards, or
 - (b) whose provisional accreditation under section 30 has ceased because the person has failed to be accredited at proficient teacher level by a teacher accreditation authority within the relevant period under that section, or
 - (c) whose accreditation at any level has been revoked on any of the grounds referred to in section 24 (1) (b)–(g).
- (2) The Board may, on application by a person to whom this section applies:

- (a) provisionally re-accredit the person, or
 - (b) refuse to provisionally re-accredit the person.
- (3) The Board may determine the criteria for provisional re-accreditation and the conditions to which a person's provisional re-accreditation is subject.
- (4) The provisional re-accreditation of a person ceases (unless sooner revoked):
- (a) at the end of the period determined by the Board as the person's provisional re-accreditation period, or
 - (b) if the person is accredited at proficient teacher level by a teacher accreditation authority before the end of that period.
- (5) A reference in any other provision of this Act to provisional accreditation includes a reference to provisional re-accreditation under this section.

Division 4

34-38

Division 5 Voluntary accreditation

39 Voluntary accreditation of teachers at various levels

- (1) This section applies to any person who is a teacher but who is not required to be accredited under this Act.

Note—

The accreditation of a person under this section may be revoked under section 24.

- (2) A teacher accreditation authority may, on application by a person to whom this section applies:
- (a) accredit the person at any one or more of the following levels:
 - (i) proficient teacher level,
 - (ii) highly accomplished teacher level,
 - (iii) lead teacher level, or
 - (b) refuse to accredit the person at any such level.
- (3) A person may be accredited at more than one such level at any one time.
- (4) A teacher accreditation authority may not accredit a person to whom this section applies at the level of accreditation in respect of which the application is made unless the authority is satisfied that the person meets the requirements for accreditation at that particular level.

(5) (Repealed)

(6) The revocation of a person's accreditation at proficient teacher level under this section operates to revoke the person's accreditation (if any) at highly accomplished teacher level or lead teacher level, or both, under this section.

40 Voluntary accreditation of teachers at higher levels

(1) This section applies to any person who is accredited by a teacher accreditation authority at proficient teacher level.

Note—

The accreditation of a person under this section may be revoked under section 24.

(2) A teacher accreditation authority may, on application by a person to whom this section applies:

(a) accredit the person at either or both of the following levels:

(i) highly accomplished teacher level,

(ii) lead teacher level, or

(b) refuse to accredit the person at any such level.

(3) A teacher accreditation authority may not accredit a person under this section at the level of accreditation in respect of which the application is made unless the authority is satisfied that the person meets the requirements for accreditation at that particular level.

(4) (Repealed)

(5) The revocation of a person's accreditation at proficient teacher level under Division 3 operates to revoke the person's accreditation (if any) at highly accomplished teacher level or lead teacher level, or both, under this section.

40A Voluntary accreditation of certain qualified persons

(1) This section applies to the following persons:

(a) non-teaching school executives,

(b) non-teaching ECEC executives,

(c) non-teaching school counsellors,

(d) non-school based teachers,

(e) non-centre based teachers.

Note—

The accreditation of a person under this section may be revoked under section 24.

- (2) The Board may, on application by a person to whom this section applies:
 - (a) accredit the person at a particular level if the Board is satisfied that the person meets the requirements for accreditation at that level, or
 - (b) refuse to accredit the person.
- (3) The Board may vary the accreditation of a person under this section at a particular level if satisfied that the person has failed to comply with any of the requirements of the professional teaching standards for accreditation at that level.

41 Application fee

- (1) A person who applies for accreditation under this Division must pay an application fee to the Board.
- (2) The amount of the application fee is to be prescribed by the regulations.
- (3) If a person applies for accreditation under this Division, the teacher accreditation authority concerned may refuse to accredit the person unless the authority is satisfied that the person has paid the application fee.

Part 5 Miscellaneous

42 (Repealed)

42A Payment of suspended teachers

- (1) A person may be suspended without pay in relation to his or her employment as a teacher for any period or part of a period during which that employment is required to be suspended under section 29 as a result of the suspension of the person's accreditation for a failure to comply with any condition to which the person's accreditation is subject.
- (2) Any amount payable to a person in relation to his or her employment as a teacher in a government school:
 - (a) may only be withheld under this section if the Secretary so directs, and
 - (b) if so withheld, is forfeited to the State unless the Secretary otherwise directs.

42B Board to be notified of certain decisions

- (1) The employer who makes a relevant decision in relation to a person must notify the Board of the decision in accordance with the rules of the Board.

Maximum penalty: 50 penalty units.

(2) A **relevant decision** in relation to a person is a decision:

- (a) to dismiss the person from employment as a teacher for any reason for which the accreditation of a person may be revoked under this Act, or
- (b) to include the person in the list of persons maintained by the Secretary under section 7 (1) (e) of the [Teaching Service Act 1980](#) as a person who is not to be employed in the Teaching Service.

43, 44 (Repealed)

45 Delegations

(1) An office holder may delegate to any person any function conferred or imposed on the office holder by or under this Act, other than this power of delegation.

Note—

The power of the Board to delegate its functions under this Act is contained in the [Board of Studies, Teaching and Educational Standards Act 2013](#).

(2) In this section:

office holder means the Minister or the Secretary.

46 Act to bind Crown

(1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

(2) However, nothing in this Act renders the Crown liable to prosecution for an offence.

47 Relationship of Act with other instruments

(1) The provisions of this Act and the regulations have effect despite any stipulation to the contrary.

(2) No contract, agreement or industrial instrument operates to annul, vary or exclude any of the provisions of this Act or the regulations.

48 Protection from personal liability for members of Council

Anything done or omitted to be done by a person who is:

- (a) a member of the Council, or
- (b) acting under the direction of the Council,

in exercising functions conferred or imposed on the person under this Act or in the course of the administration of this Act does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

49 Nature of proceedings for offences

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

50 Recovery of money

Any fee or charge due and payable under this Act may be recovered as a debt in a court of competent jurisdiction.

51, 51A (Repealed)

52 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(1A) In particular, the regulations may make provision for or with respect to the following:

- (a) fees and charges for services provided under this Act, including prescribing the basis on which any such fee or charge is to be determined and the waiver of any such fee or charge,
- (b) without limiting paragraph (a), fees and charges in relation to the assessment by the Board, on application, of a course, program, person or body for the purpose of providing advice to the Minister under section 7 (3),
- (c) the requirements for accreditation of teachers of a specified class or in specified circumstances.

(2) The regulations may exempt any specified class of persons from any provision of this Act or the regulations. The exemption of any such class of person is subject to such conditions as may be prescribed by the regulations.

(3) The regulations may create an offence punishable by a penalty not exceeding 50 penalty units.

53 Savings and transitional provisions

Schedule 3 has effect.

54 (Repealed)

55 Review of Act

(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) A review is to be undertaken as soon as possible after the period of 3 years from the date of commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years.
- (4) A further review is to be undertaken as soon as possible after the period of 5 years from the date of assent to the *Institute of Teachers Amendment Act 2008*.
- (5) A report on the outcome of the further review is to be tabled within 12 months after the end of that period of 5 years.

Schedule 1 (Repealed)

Schedule 2 Provisions relating to members and procedure of the Council

(Section 13 (5))

1 Definitions

In this Schedule:

appointed member means an appointed member as referred to in section 13 (1) (b).

elected member means an elected member as referred to in section 13 (1) (a).

member means any member of the Council (including the President).

2 Terms of office of appointed and elected members

- (1) Subject to this Schedule, an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) Subject to this Schedule and the regulations, an elected member holds office for a period of 3 years.

3 Acting appointed and elected members

- (1) The Minister may, from time to time, appoint a person to act in the office of an appointed member during the illness or absence of the appointed member, and the person, while so acting, has and may exercise all the functions of the member and is taken to be a member. The Minister may remove any person from the office to which the person was appointed under this subclause.
- (2) The regulations may provide for the appointment of a person to act in the office of an elected member during the illness or absence of the elected member, and the person, while so acting, has and may exercise all the functions of the member and is taken to

be a member.

4 Remuneration of appointed and elected members

An appointed member or an elected member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Filling of vacancy in office of appointed or elected members

- (1) If the office of any appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.
- (2) If the office of any elected member becomes vacant, the vacancy is to be filled in accordance with the regulations.

6 Vacancy in office of appointed or elected member

- (1) The office of an appointed member or an elected member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and, in the case of an appointed member, is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (1A) Without limiting subclause (1), the office of an appointed member or an elected member becomes vacant if the member's accreditation is revoked under this Act.
- (2) The Minister may remove an appointed member from office at any time.

- (3) The Minister may remove an elected member from office at any time for misbehaviour or incompetence.

6A Suspension from office while accreditation is suspended

- (1) If the accreditation of a member is suspended under this Act, the Minister may suspend the member from office while the person's accreditation is suspended.
- (2) A member, while suspended from office under this clause:
 - (a) is not entitled to exercise any functions of the office, and
 - (b) is not entitled to any fee or other remuneration to which he or she would otherwise be entitled as the holder of the office.

7 Disclosure of pecuniary and other conflicts of interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest, or any other interest, in a matter being considered or about to be considered at a meeting of the Council, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.
- (2) A disclosure by a member at a meeting of the Council that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Council otherwise determines:
 - (a) be present during any deliberation of the Council with respect to the matter, or

(b) take part in any decision of the Council with respect to the matter.

(5) For the purposes of the making of a determination by the Council under subclause (4), a member who has a direct or indirect pecuniary interest, or any other interest, in a matter to which the disclosure relates must not:

(a) be present during any deliberation of the Council for the purpose of making the determination, or

(b) take part in the making by the Council of the determination.

(6) A contravention of this clause does not invalidate any decision of the Council.

8 General procedure

The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.

9 Quorum

The quorum for a meeting of the Council is 13 members.

10 Presiding member

(1) The President or, in the absence of the President, another member elected to chair the meeting by the members present is to preside at a meeting of the Council.

(2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 Voting

A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present is the decision of the Council.

12 Transaction of business outside meetings or by telephone

(1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Council.

(2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

the President and each member have the same voting rights as they have at an ordinary meeting of the Council.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

13 First meeting

The Minister may call the first meeting of the Council in such manner as the Minister thinks fit.

Schedule 3 Savings and transitional provisions

(Section 53)

Part 1 General

1 Regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

 this Act

Institute of Teachers Amendment Act 2008

 any other Act that amends this Act

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Interim Council

- (1) Until such time as the elected members of the Council are elected in accordance with section 13 (1) (a), the Council is to consist of such members as may be appointed by the Minister.
- (2) Schedule 2 to this Act applies, with such modifications as are necessary, to and in respect of any such interim Council.

Part 3 Provisions consequent on enactment of **Institute of Teachers Amendment Act 2008**

3 Definition

In this Part, **amending Act** means the *Institute of Teachers Amendment Act 2008*.

4 Application of amendments to existing teachers

Paragraph (d) of the definition of **new scheme teacher** (as inserted by the amending Act) in section 28 does not apply to a person's absence from actual classroom teaching during any period occurring before the relevant date (within the meaning of section 28 as amended by that Act) if the person was still employed as a teacher during that period.

5 Suspension and revocation of accreditation

A provision of section 24 or 24A (as inserted by the amending Act) extends to offences committed before the commencement of the provision and conduct occurring before that commencement.

6 Contracts, agreements and industrial instruments

Section 47 (2) (as substituted by the amending Act) applies to a contract, agreement or industrial instrument whether made or entered into before, on or after the substitution of that subsection.

Part 4 Provisions consequent on enactment of **Teacher Accreditation Amendment Act 2014**

7 Definition

In this Part, **amending Act** means the *Teacher Accreditation Amendment Act 2014*.

8 Existing provisional and conditional accreditation by teacher accreditation authorities

Any provisional or conditional accreditation by a teacher accreditation authority in force under this Act immediately before the substitution of sections 30 and 31 by the amending Act is, on that substitution, taken to be a provisional or conditional accreditation (as the

case requires) by the Board under section 30 or 31 as so substituted.

9 Existing accreditation of transition scheme teachers

- (1) Any accreditation by a teacher accreditation authority under section 37 that was in force immediately before the repeal of that section by the amending Act is, on that repeal, taken to be an accreditation by the authority at proficient teacher level under section 32 (as inserted by the amending Act).
- (2) Division 4 of Part 4 of this Act continues, despite its repeal by the amending Act, to apply in relation to those persons whose conditional accreditation by a teacher accreditation authority under that Division was still in force immediately before that repeal.

10 Change in terminology relating to levels of accreditation

- (1) A person who, immediately before the commencement of this clause, was accredited under this Act at professional competence level is, on that commencement, taken to have been accredited at proficient teacher level.
- (2) A person who, immediately before the commencement of this clause, was accredited under this Act at professional accomplishment level is, on that commencement, taken to have been accredited at highly accomplished teacher level.
- (3) A person who, immediately before the commencement of this clause, was accredited under this Act at professional leadership level is, on that commencement, taken to have been accredited at lead teacher level.

11 Existing early childhood education centre teachers

A person who was employed as a teacher in an early childhood education centre immediately before the date appointed by proclamation for the purposes of section 28 (4) (as inserted by the amending Act) is taken to have been accredited at proficient teacher level.

Schedule 4 (Repealed)