

House of Assembly—No 47

As laid on the table and read a first time, 19 September 2018

South Australia

**Teachers Registration and Standards
(Miscellaneous) Amendment Bill 2018**

A BILL FOR

An Act to amend the *Teachers Registration and Standards Act 2004*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Teachers Registration and Standards (Miscellaneous) Amendment Act 2018*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Teachers Registration and Standards Act 2004*

4—Amendment of section 15—Registrar of Teachers Registration Board

Section 15(4)—after paragraph (b) insert:

- 15 and
 - (c) carrying out such other functions as may be conferred on the Registrar under this or any other Act.

5—Insertion of section 15A

After section 15 insert:

15A—Appointment of acting Registrar

- 5
- (1) The Teachers Registration Board may appoint a person to act as the Registrar during any period for which—
- (a) no person is for the time being appointed as the Registrar; or
- (b) the Registrar is absent from, or unable to discharge, official duties.
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- (2) The acting Registrar must be a Public Service employee.
- (3) The terms and conditions of appointment of the person appointed to act as the Registrar will be determined by the Teachers Registration Board.

6—Substitution of section 20

Section 20—delete the section and substitute:

20—Requirement to be registered

- 15
- (1) A person must not, for payment or other consideration, personally provide, or offer to provide, pre-school education, or primary or secondary education, unless the person is a registered teacher.
- Maximum penalty: \$5 000.
- 20
- (2) A person must not perform the duties of a principal at a school, or of a director of a prescribed service, unless the person is a registered teacher.
- Maximum penalty: \$5 000.
- 25
- (3) A person (the *employer*) must not—
- (a) employ a person (the *employee*)—
- (i) to personally provide, or offer to provide, pre-school education, or primary or secondary education; or
- (ii) as a principal of a school; or
- 30
- (iii) as a director of a prescribed service; or
- (b) require or allow a person employed by the employer (the *employee*) to—
- (i) personally provide, or offer to provide, pre-school education, or primary or secondary education; or
- 35
- (ii) perform the duties of a principal of a school; or
- (iii) perform the duties of a director of a prescribed service,

unless the employee is a registered teacher.

Maximum penalty: \$10 000.

- (4) However, subsections (1) to (3) (inclusive) do not apply in relation to—

(a) a person acting in accordance with a special authority to teach granted by the Teachers Registration Board under Part 6; or

(b) a person, or person of a class, prescribed by the regulations.

- (5) For the purposes of subsection (3)(a), a reference to employing a person will, in the case where an employee's registration as a teacher is suspended or cancelled, or the person is disqualified from being registered as a teacher, after their initial employment, be taken not to include a reference to the continued employment of the person.

- (6) A person must not claim to be a registered teacher unless the person is, in fact, a registered teacher.

Maximum penalty: \$5 000.

7—Insertion of section 34A

After section 34 insert:

34A—Suspension of teacher's registration where charged with certain offences

- (1) The Registrar may, by notice in writing served personally on a teacher—

(a) suspend the registration of the teacher; or

(b) vary the conditions of the teacher's registration (including by imposing conditions),

if the Registrar becomes aware that the teacher has been charged with a prescribed offence.

- (2) The Teachers Registration Board must, not later than 60 days after a notice is served on a teacher under subsection (1), review the suspension or variation (as the case requires) and may, on completion of the review—

(a) confirm the suspension or variation; or

(b) cancel the suspension or variation.

- (3) If the Teachers Registration Board refuses or fails to conduct a review within the period required under subsection (2), the suspension or variation (as the case requires) will, by force of this subsection, be taken to be cancelled at the end of that period.

- (4) Subject to this section, a suspension or variation under this section has effect until—

(a) if an inquiry is commenced under section 35 in respect of the matter to which the suspension or variation relates—

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- (i) if the Teachers Registration Board determines that there is proper cause for disciplinary action against the teacher in relation to the matter—the Teachers Registration Board takes action under section 35(2);
- (ii) if the Teachers Registration Board determines that there is no proper cause for disciplinary action against the teacher in relation to the matter—that determination; or
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- (b) 120 days after the day on which the last charge to which the suspension or variation relates has been withdrawn or finally determined by a court; or
- (c) it is cancelled under subsection (2), (3) or (6), whichever occurs first.
- (5) This section applies—
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- (a) in relation to conduct occurring before or after the commencement of this section; or
- (b) whether the teacher was charged with the relevant prescribed offence before or after the commencement of this section.
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- (6) The Teachers Registration Board may, on application, or by written notice at any time (including on a review by the Board under subsection (2)), cancel a suspension, or vary or cancel a condition varied or imposed on the registration of a teacher, under this section.
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- (7) For the purposes of this section, the Teachers Registration Board may be constituted of not less than 3 members, 1 of whom must be a legal practitioner.
- (8) For the purposes of this section, the Registrar and the Teachers Registration Board—
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- (a) are not (except in a review under subsection (2)) required to provide procedural fairness; and
- (b) are not bound by the rules of evidence and may inform themselves on any matter as they think fit; and
- (c) may, subject to this Act, determine their own procedures.

8—Amendment of section 41—Application

35 Section 41—after subsection (1) insert:

- (1a) This Part does not apply to proceedings of the Teachers Registration Board under section 34A.