

LEGISLATIVE COUNCIL

EDUCATION AND TRAINING REFORM AMENDMENT BILL 2009

(Amendments and New Clauses to be proposed in Committee by Ms PENNICUIK)

1. Clause 11, lines 25 to 32 and page 8, lines 1 to 7, omit all words and expressions on these lines.
2. Clause 16, after line 24 insert—
 - () After section 2.6.9(2) of the Principal Act **insert**—
 - "(2A) In deciding whether to refuse to grant registration to an applicant on the ground that the applicant has been convicted or found guilty of a sexual offence, the Institute must have regard to the following factors—
 - (a) the age of the applicant and of the victim at the time the offence was committed;
 - (b) the gravity and circumstances of the offence;
 - (c) the impact of the offence on the victim;
 - (d) the decision of the Court in relation to the offence;
 - (e) the period of time that has elapsed since the commission of the offence;
 - (f) the conduct and behaviour of the applicant since the commission of the offence;
 - (g) the risk of the applicant committing any further offence;
 - (h) the likelihood of parents of students, students and the community ceasing to have confidence in the applicant being able to have or to maintain professional student-teacher relationships."'
3. Clause 20, after line 1 insert—
 - () After section 2.6.14(1) of the Principal Act **insert**—
 - "(1A) If there are any grounds under section 2.6.9(2) that apply to the applicant, the Institute must have regard to any matters that the Institute is required to have regard to under section 2.6.9."'
4. Clause 25, after line 23 insert—
 - () In section 2.6.19(b) of the Principal Act, after "registration" **insert** "having regard to any matters that the Institute must have regard to under Division 3"'
5. Clause 26, line 13, omit "misconduct or".

6. Clause 27, lines 33 to 35, omit subclause (1).
7. Clause 29, lines 32 to 34, omit subclause (1).
8. Clause 30, lines 19 and 20, omit "misconduct or".
9. Clause 37, after line 12 insert—
 - '() In section 2.6.38(d) of the Principal Act—
 - (a) for "no right" **substitute** "a right";
 - (b) for "but that" **substitute** "and that".'.
10. Clause 38, after line 17 insert—
 - '() In section 2.6.39(b) of the Principal Act, for "but is not" **substitute** "and is".'.
11. Clause 41, page 30, line 26, omit "no" and insert "a".
12. Clause 41, page 30, lines 27 to 30, omit ", but that the teacher may seek leave of the panel before the hearing to have legal representation".
13. Clause 41, page 31, line 15, omit "no" and insert "a".
14. Clause 41, page 31, lines 16 to 19, omit ", but the teacher may seek leave of the panel before the hearing to have legal representation".
15. Clause 41, page 33, line 18, omit "misconduct or".
16. Clause 46, lines 19 to 21, omit subclause (2).
17. Clause 46, lines 23 to 25, omit subclause (3)(a).
18. Clause 52, page 37, after line 5 insert—
 - "() Section 2.6.55(3) of the Principal Act is **repealed.**".

NEW CLAUSES

19. Insert the following New Clause to follow clause 25—
 - 'AA Cancellation of registration or permission to teach without enquiry**
 - (1) At the foot of section 2.6.29 of the Principal Act **insert**—
 - "Note**
 - Division 14A provides that, in certain cases, a person whose registration as a teacher or permission to teach has ceased under section 2.6.29, may apply to VCAT for re-instatement of that registration or permission to teach.".'.
20. Insert the following New Clause to follow clause 52—
 - 'BB New Division 14A in Part 2.6 inserted**
 - After section 2.6.55 of the Principal Act **insert**—

**"Division 14A—Re-instatement of registration or permission to teach by
VCAT**

2.6.55A Application to VCAT for re-instatement of registration or permission to teach

- (1) This section applies to a person who, before the commencement of Part 2.6—
 - (a) was a registered teacher or granted permission to teach under the **Victorian Institute of Teaching Act 2001** or the **Education Act 1958**; and
 - (b) had been convicted or found guilty of a sexual offence in Victoria or elsewhere before the person became a registered teacher or was granted permission to teach.
- (2) A person to whom this section applies may apply to VCAT for an order re-instating their registration as a teacher or permission to teach.
- (3) VCAT may, after hearing an application under this section—
 - (a) direct the Institute to re-instate the person's registration as a teacher or the person's permission to teach; or
 - (b) refuse to direct the Institute to re-instate the person's registration as a teacher or the person's permission to teach.
- (4) In making an order on an application under subsection (2), the VCAT must have regard to the following factors—
 - (a) the age of the applicant and of the victim at the time the offence was committed;
 - (b) the gravity and circumstances of the offence;
 - (c) the impact of the offence on the victim;
 - (d) the decision of the Court in relation to the offence;
 - (e) the period of time that has elapsed since the commission of the offence;
 - (f) the conduct and behaviour of the applicant since the commission of the offence;
 - (g) the risk of the applicant committing any further offence;
 - (h) the likelihood of parents of students, students and the community ceasing to have confidence in the applicant being able to have or to maintain professional student-teacher relationships.
- (5) The Institute must comply with an order made by VCAT under subsection (3)(a) despite anything to the contrary in section 2.6.29.
- (6) Nothing in this section limits the powers of the Institute under this Part."