



# Employers obligations under the TQI Act

## ACT Teacher Quality Institute Act 2010 (the Act)



### Section 29

*This is not applicable in an Early Childhood Education and Care Service*

**It is an offence to employ, engage or allow a person who is not an approved teacher to teach in a school.**

1. A person commits an offence if:
  - a. the person employs, engages or allows another person to teach in a school; and
  - b. the other person is not an approved teacher. *Maximum penalty: 50 penalty units.*
2. An offence against this section is a strict liability offence.

### Section 63 (2)

The Institute may, at any time, consider whether there is a ground for suspending or cancelling a person's registration or permit to teach.

### Section 67

**The employer of an approved teacher must tell TQI, in writing, if the employer has reasonable grounds for believing any of the following has happened:**

- The teacher has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher;
- The teacher is given a negative notice under the *Working with Vulnerable People (Background Checking) Act 2011 (WWVP)*, section 40;
- The teacher's WWVP registration: is made subject to a condition or interim condition; or, is suspended; or, has ended.

#### Section 67

Employer has reasonable grounds for believing a s67 circumstance has occurred.

#### Notify

Notify TQI if a teacher:

- becomes mentally or physically incapacitated
- receives a WWVP negative notice
- their WWVP registration status changes.

#### Respond

Respond to TQI's s70C request for:

- further information relevant to a teacher's registration status.

#### Monitor

Monitor and update TQI if:

- additional information emerges relating to the s67 circumstance
- the employer takes (additional) action.



**TQI makes an independent determination and notifies the employer.**

### Section 70A

TQI may ask the employer of an approved teacher for any information that the Institute believes on reasonable grounds is relevant to whether there is a ground for suspending or cancelling an approved teacher's registration or permit to teach; or imposing a condition on their registration.

## Section 70B

**The employer must notify TQI within five working days of a notification event.**

The employer commits an offence (*with a maximum penalty of 50 points*) if they fail to notify a 'notification event' within the five working days timeframe.

### Section 70B

Employer establishes a notification event has occurred under s70B.

### Notify

Notify TQI if:

- a formal investigation begins
- disciplinary action is taken
- casual teacher status is removed or cancelled
- a teacher subject to an investigation resigns.

### Respond

Respond to TQI's s70C request for:

- further information relating to a notification event.

### Monitor

Monitor and update TQI if:

- additional information emerges relating to the s70B notification event;
- a new notification event occurs.



**TQI makes an independent determination**

## Section 70C

If the employer notifies a notification event, TQI will ask the employer to give further information within a stated timeframe in relation to the notification event.

## Teachers' responsibilities under *the Act*

### Section 38 (1) (c) and (d)

**It is a condition of an approved teacher's registration or permit to teach that the teacher:**

- (c) maintains current registration under the *WWVP Act*; and
- (d) tells TQI, in writing, if any of the following happen:

- The teacher is given a negative notice under the *WWVP Act*, section 40;
- The teacher's *WWVP* registration: is made subject to a condition or interim condition; or, is suspended; or, has ended.

## Obligations under Sections 28

### Section 28

*This is not applicable in an Early Childhood Education and Care Service*

Only TQI approved teachers are authorised to teach in an ACT school. Under s28, it is a strict liability offence for a teacher to teach in an ACT school while not approved under the *TQI Act*. *Maximum penalty: 50 penalty units.*

## Definitions (Sections 70B, 70C and Strict Liability Offence)

### Notification Event

A notification event means any of the following:

- the employer of an approved teacher tells the teacher that the employer has decided to begin a formal investigation
- the employer takes disciplinary action against the teacher under the terms of the teacher's employment
- the employer removes, cancels or ends the access of the teacher to casual employment
- an approved teacher, who is the subject of a formal investigation or preliminary factual inquiry by the employer, resigns.

### Formal Investigation

A formal investigation by an employer includes an investigation of a matter:

- under an internal or external procedure of the employer
- by an independent or external body engaged by the employer for the investigation
- but does not include a preliminary factual inquiry by the employer about a matter.

### Strict Liability Offence

An offence against a law that does not require a fault element (intention, knowledge or recklessness).

A penalty may be imposed (as per Criminal Code).

### Disciplinary Action

Disciplinary action means any of the following actions by the employer of an approved teacher:

- terminating their employment
- if there is a formal investigation of, or a full admission by the approved teacher;
  - giving a written warning to the approved teacher; or
  - imposing a financial penalty on the approved teacher; or
  - lowering the classification level of the approved teacher; or
  - transferring the approved teacher to another position at their current classification level or a lower level (either permanently or temporarily); or
- removing an employment-related monetary benefit from the approved teacher.

### Preliminary Factual Inquiry

Preliminary factual inquiry means an investigation of a matter by the employer to assess whether to conduct a formal investigation of the matter.

**Further information includes:**

- identifying details of the approved teacher
- a description of the notification event
- the date the notification event occurred
- details about any planned, ongoing or completed investigation of the notification event
- other information in relation to the notification event.