



Speech by


Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Tuesday, 2 August 2011

EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL

Introduction and Referral to the Industry, Education, Training and Industrial Relations Committee

 **Hon. CR DICK** (Greenslopes—ALP) (Minister for Education and Industrial Relations) (12.17 pm): I present a bill for an act to amend the Central Queensland University Act 1998, the Education (General Provisions) Act 2006, the Education (Queensland College of Teachers) Act 2005, the Griffith University Act 1998, the James Cook University Act 1997, the Queensland University of Technology Act 1998, the University of Queensland Act 1998, the University of Southern Queensland Act 1998 and the Vocational Education, Training and Employment Act 2000 for particular purposes. I table the bill and explanatory notes. I nominate the Industry, Education, Training and Industrial Relations Committee to consider the bill.

Tabled paper: Education and Training Legislation Amendment Bill 2011 [\[4970\]](#).

Tabled paper: Education and Training Legislation Amendment Bill 2011, explanatory notes [\[4971\]](#).

The Bligh government is committed to creating safe and supportive learning environments in which the welfare and best interests of students are paramount. The Education and Training Legislation Amendment Bill 2011 aims to protect Queensland children by strengthening reporting of sexual abuse requirements. There are already strong legislative and policy requirements that ensure the appropriate reporting of suspected child sexual abuse occurring within Queensland schools. The Education (General Provisions) Act 2006 mandates that state and non-state school staff members report suspicions that a student has been sexually abused by an employee of the school. Education Queensland policy expands on this by requiring state school staff to also report where they reasonably suspect a student has been harmed or is at risk of harm by any person. This includes harm caused by sexual abuse.

Non-state schools are required to have policies regarding student welfare to meet their accreditation criteria, including policies for reporting of harm. Also, at common law, all schools owe a duty to take reasonable steps to minimise the risk of foreseeable harm to students, including risk of harm caused by sexual abuse.

A 2010 Queensland University of Technology report, titled *Teachers reporting child sexual abuse: Towards evidence-based reform of law, policy and practice*, recommended that the statutory reporting obligations be expanded to require all school staff to report suspected child sexual abuse and risk of sexual abuse, regardless of who the perpetrator may be. QUT recommended that legislative requirements be aligned with existing state school policy. The QUT report recommendations acknowledged the profound damage that is caused to children and young people by sexual abuse. The report indicated that in New South Wales enhancements to the statutory reporting requirements resulted in a significant increase in substantiated cases of sexual abuse.

The bill will enhance protection for Queensland school students by requiring school staff members to report suspicions that a student has been, or is likely to be, sexually abused, irrespective of who is alleged

to have committed the abuse. The bill will promote the timely reporting of allegations of sexual abuse by placing obligations on principals to report directly to the police.

The bill will also amend the Education (General Provisions) Act 2000 to allow a director of a non-state school's governing body to delegate their function to receive reports about alleged sexual abuse and report the allegation to the police. A director will remain liable for a breach of the reporting obligation despite any delegation. Student protection will also be enhanced and confidence in the teaching profession promoted by strengthening the law relating to the cancellation of teacher registration and prohibitions on applying for registration where a person has a criminal history.

The Education (Queensland College of Teachers) Act 2005, or QCT act, provides for the cancellation of teacher registration or permission to teach where a teacher has been convicted of a disqualifying offence and the person is sentenced to imprisonment. However, if the person is not sentenced to imprisonment, a teacher's registration may only be cancelled if the Queensland College of Teachers takes disciplinary action through the Queensland Civil and Administrative Tribunal and the tribunal makes such an order. The tribunal currently has discretion to cancel registration and to prevent a teacher or former teacher from applying for registration for a period of up to five years.

The bill will amend the Education (Queensland College of Teachers) Act 2005 to provide for the automatic cancellation of teacher registration when a teacher is convicted of a serious offence, irrespective of whether the person was sentenced to imprisonment. Further, the bill will prohibit any person who, from commencement, has been convicted of a serious offence from applying for teacher registration in Queensland.

Disqualifying offences are generally serious sexual offences committed against children. Serious offences include the same sexual offences, as well as other violent and drug related offences. A list of the disqualifying and serious offences is prescribed in the Commission for Children and Young People and Child Guardian Act 2000. The Queensland government believes people convicted of such offences should not be permitted to enter or remain in the teaching profession in Queensland.

The bill strengthens the Queensland Civil and Administrative Tribunal's ability to deal with teachers convicted of criminal offences that will not result in automatic cancellation of their registration. The tribunal will be able to make disciplinary orders to prohibit a person from applying for registration or permission to teach for life, or for a stated period. These amendments have been necessitated by a recent matter considered by the tribunal where a former teacher had been convicted of offences relating to disposal of a body and making false statements. As these offences are not disqualifying offences or serious offences under the children's commission legislation, a person convicted of these offences would not have their registration cancelled and would not be automatically prohibited from applying for registration under the current regime. The tribunal was limited to imposing the maximum five-year ban on applying for registration. The amendments will ensure the tribunal has the power to make orders, including prohibiting applications for life, or for a stated period.

The bill will enable a person prohibited from applying for teacher registration to seek an eligibility declaration from the College of Teachers in limited circumstances. A person will only be able to seek a declaration if they have been convicted of a serious offence but were not imprisoned or subject to sexual offender reporting obligations. If a person is granted a declaration, the person may then make a separate application for registration. This process will give the college the capacity, in limited instances, to consider whether there are exceptional circumstances in which it would not harm the best interests of children or the profession to consider an application for registration from a person with a conviction for a serious offence.

The process is intended to allow consideration of matters such as a so-called 'Romeo and Juliet' situation where, for example, a 17-year-old male is convicted of unlawful carnal knowledge of his then 15-year-old girlfriend and at the time of the application for the eligibility declaration there is no evidence of further concerning offending. While there is no right of appeal from a decision to refuse an eligibility declaration, judicial review processes remain available. This is consistent with the approach adopted by the children's commission for the blue card working with children check.

The bill clearly states the College of Teachers must consider the best interests of children when deciding an eligibility declaration application. The bill will require the college to give written reasons for their decisions. A person who is concerned that the college has not taken relevant matters into account will have the right to seek a judicial review of the decision. These amendments aim to uphold the high standard of, and maintain public confidence in, Queensland's teaching profession.

The best interests of children are of paramount importance. The protection of children from the risk posed by teachers who have committed serious offences outweighs the negative impacts on individuals whose registration is cancelled or who are prevented from entering the profession.


The bill also makes minor amendments to other education and training legislation. It amends the legislation regulating Queensland's public universities to permit the lease of trust or reserve land for a period of up to 100 years and to clarify the purpose for which trust land may be used. These amendments

aim to assist universities to utilise trust land to provide facilities for ancillary student services and take advantage of commercial joint venture opportunities for the benefit of their students.

Under the Education (General Provisions) Act 2006, an overseas school may be approved as a 'recognised school'. This enables the school to access the Queensland Studies Authority's approved syllabuses and for its students to receive Queensland senior school qualifications. The bill will amend the act to clarify that the minister may consider matters such as a school's financial position, legal structure and capacity to deliver an educational program when deciding the eligibility of an overseas school to become a recognised school.

The bill will also amend the Vocational Education, Training and Employment Act 2000 to replace terminology that may indicate that statutory TAFE institutes are intended to operate as for-profit entities. Statutory TAFE institutes conduct their business on a not-for-profit basis. In order to reflect their not-for-profit intent, the bill seeks to replace terms such as 'dividend', 'profit' and 'insolvency' that may be interpreted as denoting a for-profit character with terms which are not commonly associated with for-profit enterprise.

First Reading

 **Hon. CR DICK** (Greenslopes—ALP) (Minister for Education and Industrial Relations) (12.26 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Mr DEPUTY SPEAKER (Mr O'Brien): Order! In accordance with standing order 131, the bill is now referred to the Industry, Education, Training and Industrial Relations Committee.