

# Regulatory enforcement strategy

*Education (Queensland College of Teachers) Act 2005*

**May 2024**



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In the spirit of reconciliation, the Queensland College of Teachers acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respects to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.



# Introduction

Teacher registration and Permission to Teach protect the public and the profession from unqualified and, in some cases, unsuitable persons seeking to teach in a Queensland school. Professional teacher registration serves as a means of identifying those professionals who have satisfied the required standards for entry to and ongoing practice in the profession.

## Overview

The Queensland College of Teachers (QCT) is the regulator for the teaching profession in Queensland and is responsible for approving persons to teach in Queensland schools. The *Education (Queensland College of Teachers) Act 2005* (the Act) is the principal legislation for regulating the teaching profession in Queensland.

## Regulatory objectives

The main objectives of the Act are to:

- Uphold the standards of the teaching profession
- Maintain public confidence in the teaching profession, and
- Protect the public by ensuring education in schools is provided in a professional and competent way by approved teachers.

## Strategic objectives

The QCT's strategic objectives underpin the legislative objectives. They include to:

- Regulate the profession in the public interest
- Promote the profession
- Collaborate with our partners
- Thrive as an organisation into the future.

## Regulatory values

The QCT is committed to upholding the Queensland Government model practices for regulators. These are to:

1. Ensure regulatory activity is proportionate to risk and minimise unnecessary burden.
2. Consult and engage meaningfully with stakeholders.
3. Provide appropriate information and support to assist compliance.
4. Commit to continuous improvement.
5. Be transparent and accountable in actions.



# Regulatory model

The QCT regulatory model is an outcomes-based model. The aim of the model is to minimise reliance on legal and punitive actions to enforce compliance with the Act. It promotes voluntary compliance by individuals and agencies which is results-orientated and designed to maximise the potential for all stakeholders to achieve compliance with the Act and QCT policies.

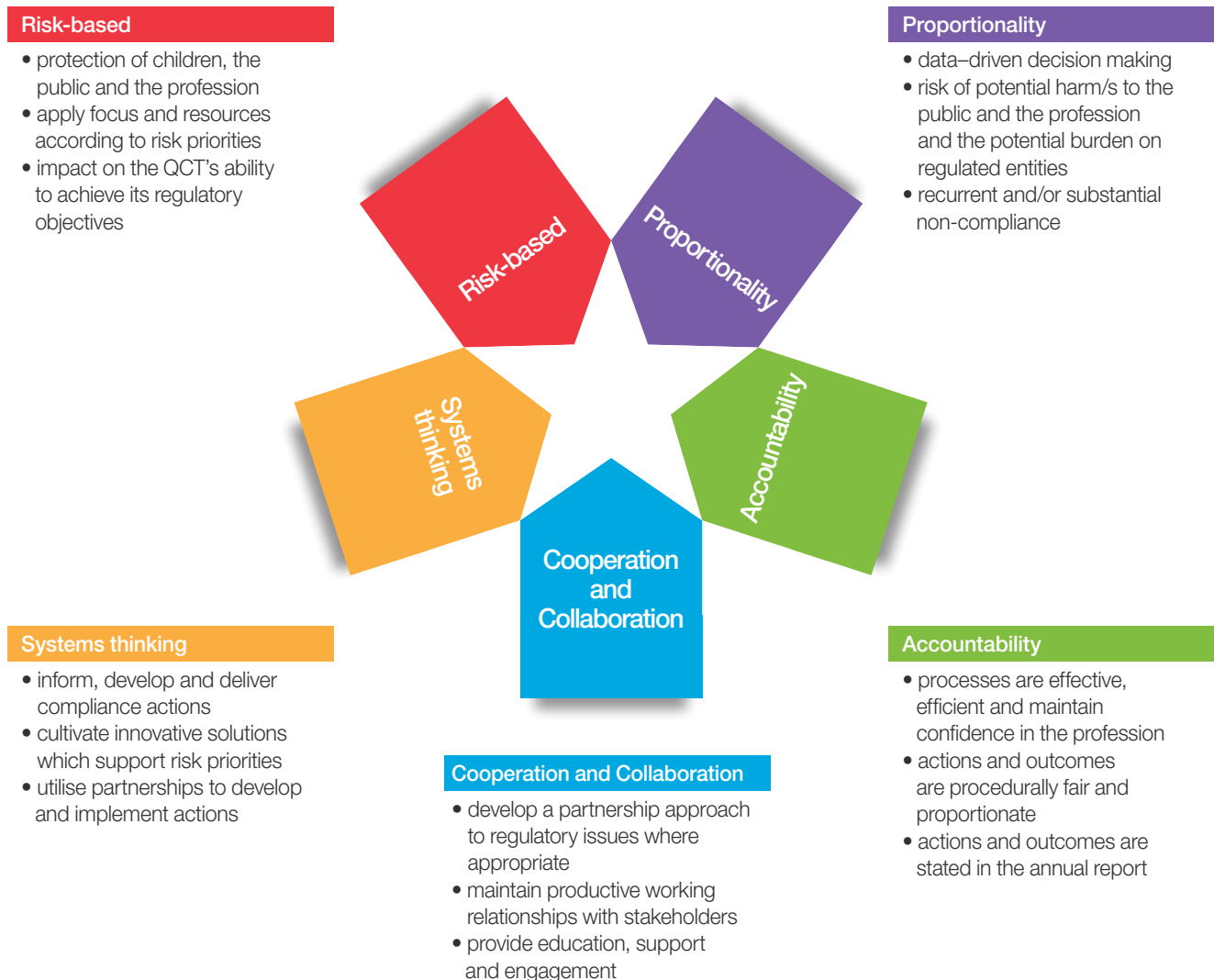
The QCT regulatory model and its implementation are based on values and behaviours that are critical to achieving optimal regulatory compliance.

## These values and behaviours include:

1. responsively monitoring legislative requirements to ensure children are not placed in situations of unacceptable risk of harm
2. pursuing cooperation across jurisdictions to form effective alliances
3. maintaining productive working relationships with stakeholders and developing a partnership approach to regulatory issues
4. effecting practical compliance strategies to support QCT regulatory obligations, policies, procedures, and accountable decision-making to achieve fair, reasonable, and cost-effective administration and enforcement of the Act
5. encouraging voluntary compliance of stakeholders, including good record-keeping and processes, to support effective reporting and self-regulation
6. ensuring that enforcement action taken is commensurate with the potential for significant adverse impacts on the regulatory functioning of the QCT, the profession, teaching standards, or the safety of children and the public.

# Regulatory approach

The QCT utilises the following approach and considerations to develop its compliance strategies and activities:



# Pathways

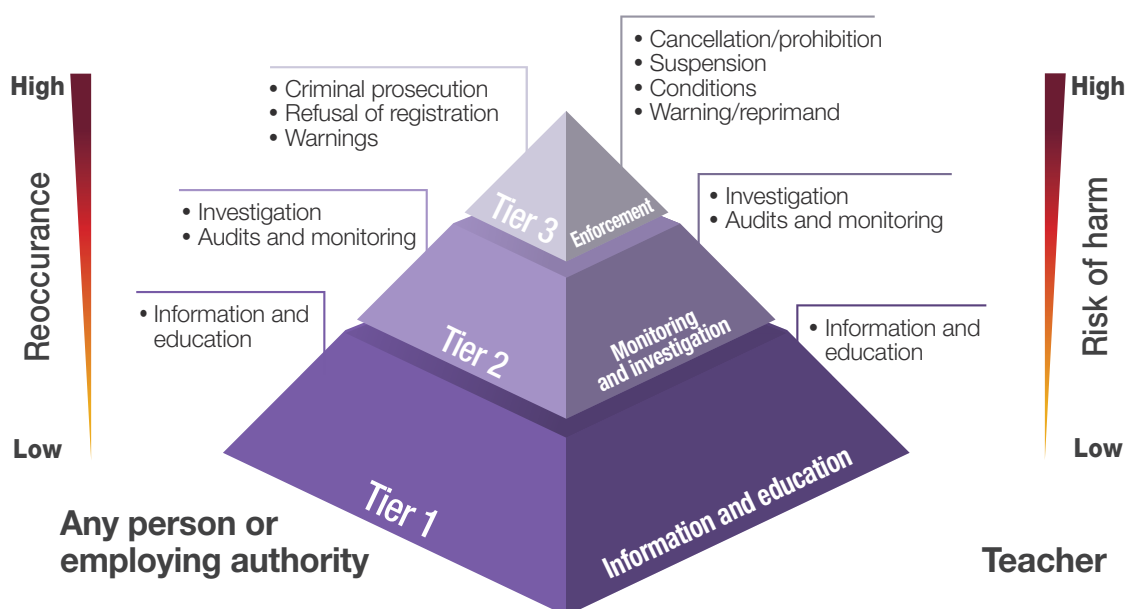
The below model illustrates the two enforcement pathways available to the QCT when managing compliance.

## General compliance pathway

This pathway is appropriate for use with any entity or any person, including a relevant teacher<sup>1</sup>, that is subject to legislative requirements and/or obligations placed upon them by the Act. These obligations can be isolated or ongoing in nature, dependent on the particular requirement or obligation.

## Teacher disciplinary pathway

This avenue is only applicable to relevant teachers. It can be utilised for conduct, competence and/or matters concerning a breach of legislative requirements and/or obligations placed upon them by the Act.



**The pyramid** symbolises the relative weight and importance that the QCT places on preventative and proactive strategies to support voluntary compliance proportionate to other responses. It also demonstrates the range of escalating responses and sanctions available to the QCT when dealing with and enforcing compliance. In considering the appropriate and proportionate response and/or sanction, the QCT will evaluate the risk of harm to children, the impact on the public confidence in the profession, the standards of the profession, and any reoccurrence or similar conduct.

<sup>1</sup> A relevant teacher means an approved teacher or former approved teacher.



# Compliance management

The regulatory compliance framework sets out the QCT's main objectives and purpose together with its compliance model, values and behaviours. The QCT is committed to taking an informed and proportionate approach to compliance enforcement, with consideration to the potential burden on regulated entities against the risk of potential harm/s to the public and the profession.

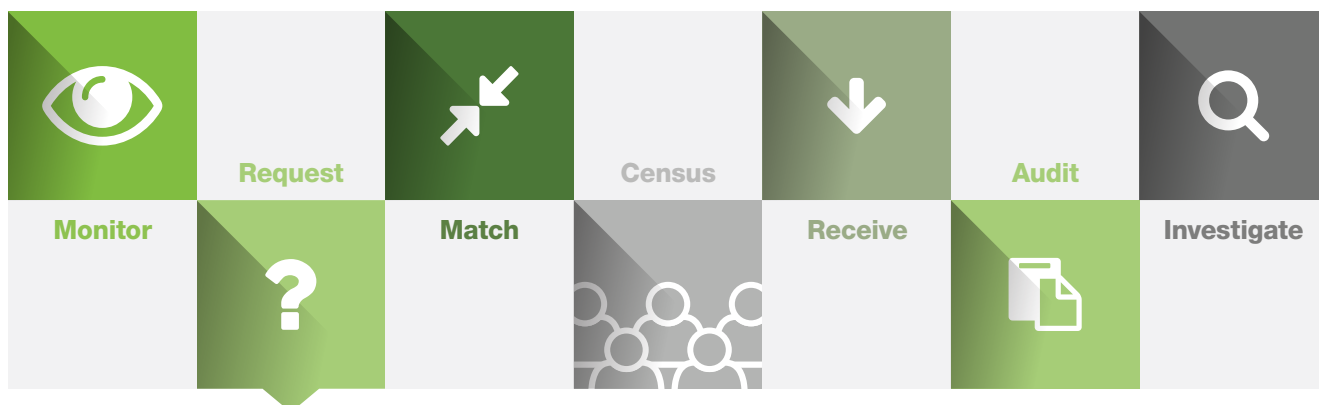
Individual QCT policies also outline how provisions of the Act apply, the requirements which must be met, and the potential consequences of non-compliance with requirements.

The QCT uses a complementary approach of proactive and reactive strategies and activities to effectively manage compliance to achieve its main objectives, with primary consideration to the welfare and best interests of children.

The QCT values maintaining productive working relationships with stakeholders and developing a partnership approach to regulatory issues where appropriate.

The compliance of individuals and agencies is managed through activities such as:

- **monitoring** the application of conditions on a teacher's registration
- **monitoring** mandatory notifications from various entities
- **requesting** information from individuals and entities which demonstrate compliance
- data **matching** information
- undertaking an **annual census** of teachers in Queensland schools
- **receiving** complaints or other information
- conducting **reviews/audits** on information provided to the QCT by applicants, teachers, principals, other authorised persons, employing authorities and higher education institutions
- conducting **audits** of schools and/or employing authorities
- undertaking **investigations**.
- **commencing** proceedings as appropriate.



# Enforcement

The QCT's enforcement powers are embedded in its legislation and are guided by policy. The Act also prescribes the maximum penalty to be applied by a magistrate for an offence breach. Generally, the QCT only takes a legal enforcement action on a compliance concern if there is a potential for significant adverse impact on its regulatory functions, including the safety of children, teaching standards or public confidence in the profession.

With the exception of a criminal prosecution, the QCT applies the civil standard of proof to its enforcement actions.

The tables below set out the relevant compliance requirements for registration and management of conditions (Table 1) and the QCT legislative offences and sanctions if pursued to prosecution and offence provisions (Table 2).

For further information about the QCT and its Act, visit our website.

## QCT enforcement of registration requirement (Table 1)

| COMPLIANCE REQUIREMENT  | COMPLIANCE MANAGEMENT  |
|---|--|
| Conditions placed at point of initial registration – study condition, overseas criminal history   | Identified and managed through:<br>• Case management • Monitoring  |
| Conditions placed on renewal – Returning to Teaching condition  | Identified and managed through:<br>• Annual Census • Five-yearly renewal • Advice of change in circumstances<br>• In response to a complaint • Advice from an employing authority • Monitoring |
| Conditions as a result of disciplinary action   | Identified and managed through:<br>• Case management • Monitoring  |
| QCT to give show cause notice for failing to comply with condition – If the college reasonably believes a person is not complying with a relevant condition, or has failed to comply with a relevant condition the college must give the person a notice that their registration may be suspended or cancelled. | Action to be pursued on a case by case basis   |
| Recency of practice is correctly declared on renewal or restoration   | Identified and managed through:<br>• Sampling of renewing teachers • In response to a complaint  |
| Fully registered teachers with recency of practice meet the QCT continuing professional development requirements to renew/restore their registration  | Identified and managed through:<br>• Sampling of renewing teachers • In response to a complaint  |
| Reviewer recommendation for moving from provisional to full registration  | Identified and managed through:<br>• Quality assurance checking • In response to a complaint   |



## QCT legislative offence provisions and sanctions – the *Education (Queensland College of Teachers) Act 2005* (Table 2)

| SECTION OF ACT | DESCRIPTION  | PENALTY UNITS* |
|----------------|--|----------------|
| 44 (1)         | <b>Amending or replacing certificate of registration or certificate of permission to teach</b><br>An approved teacher who receives a relevant notice must, unless the teacher has a reasonable excuse, return the teacher's certificate of registration or certificate of permission to teach to the college within 21 days after receiving the notice.  | 10             |
| 64 (2)         | <b>Requirement to return certificate of registration or permission to teach etc. on suspension or cancellation</b><br>The teacher must, unless the teacher has a reasonable excuse, return the teacher's certificate of registration or permission to teach to the college within 14 days after receiving notice of the suspension or cancellation.  | 20             |
| 67 (2)         | <b>Effect of suspension on registration or permission to teach</b><br>During the suspension, the person must not start or continue to teach in a prescribed school.  | 100            |
| 70             | <b>Failure to disclose changes in police information</b><br>An approved teacher must not fail to give the college a disclosure required under section 68(1), unless the teacher has a reasonable excuse.   | 100            |
| 71 (1)         | <b>Disclosure of other change in circumstances</b><br>An approved teacher must, within 20 business days after a prescribed change in circumstances, give notice to the college stating details of the change in circumstances.   | 10             |
| 72 (2)         | <b>Disclosure about particular changes in teaching status in another State</b><br>The person must give notice of the event to the college within 7 days after the event happens.   | 40             |
| 76 (2)         | <b>Requirement for employing authority to notify college about particular allegations</b><br>If the employing authority for a prescribed school deals with an allegation of harm caused, or likely to be caused, to a child because of the conduct of a relevant teacher of the prescribed school the employing authority must, as soon as practicable after starting to deal with the allegation, give notice to the college of the fact.   | 40             |
| 77 (2)         | <b>Requirement for employing authority to notify college about the outcome of the particular allegations</b><br>If the employing authority for a prescribed school starts dealing with an allegation mentioned under section 76(1) the employing authority must as soon as practicable after the employing authority stops dealing with the allegation for any reason give notice to the college of the outcome of the employing authority's dealing with the allegation.  | 40             |
| 78 (2)         | <b>Requirement for employing authority to notify college about certain dismissals</b><br>If an employing authority for a prescribed school dismisses a relevant teacher of the prescribed school in circumstances that, in the opinion of the employing authority, call into question the teacher's competency to be employed as a teacher; and a notice is not required to be given under sections 76 and 77, the employing authority must, within 14 days after the day notice of the dismissal was given to the teacher, give notice of the dismissal to the college. | 40             |
| 79 (2)         | <b>College may request information from principal</b><br>The college may, by notice, require the principal of a prescribed school to give the college reports and returns, in the approved form, about approved teachers teaching at the prescribed school. The principal must comply with the notice.   | 20             |
| 82 (1)         | <b>Only approved teachers may be employed as teachers</b><br>The employing authority for a prescribed school must not employ a person as a teacher in the prescribed school unless the person is an approved teacher.  | 200            |
| 82 (2)         | <b>Only approved teachers may be employed as teachers</b><br>The employing authority for a prescribed school must not allow an approved teacher to teach in the prescribed school if the person's registration or permission to teach is suspended by the college or QCAT.   | 200            |
| 83 (1)         | <b>Requirement to hold registration, or permission to teach, in schools</b><br>A person who is not an approved teacher must not teach in a prescribed school.  | 100            |

\*<https://www.qld.gov.au/law/fines-and-penalties/types-of-fines/sentencing-fines-and-penalties-for-offences>

| SECTION OF ACT | DESCRIPTION   | PENALTY UNITS* |
|----------------|---|----------------|
| 83 (2)         | A person who is not a registered teacher must not supervise, or assess the work of, a teacher or student teacher in a prescribed school.  | 100            |
| 84 (1)         | <b>Offence to misrepresent nature of registration or permission to teach</b><br>A person who holds provisional registration must not claim, or hold himself or herself out, to hold full registration.  | 100            |
| 84 (2)         | A person who holds permission to teach must not claim, or hold himself or herself out, to hold registration.  | 100            |
| 84 (3)         | An approved teacher whose registration or permission to teach is subject to a condition must not claim, or hold himself or herself out, to hold registration or permission to teach that is not subject to conditions.  | 100            |
| 85 (1)         | <b>False or misleading information</b><br>A person must not give relevant information to the college that the person knows is false or misleading in a material particular.   | 50             |
| 86 (1)         | <b>False, incomplete or misleading documents</b><br>A person must not give to the college a document containing information the person knows is false, incomplete or misleading in a material particular.   | 50             |
| 122 (1)        | <b>Offence for failing to give information and protection against self-incrimination</b><br>A person given a notice under section 120 must not fail, without a reasonable excuse, to give the Professional Capacity and Teacher Conduct Committee (PC&TC committees) the information the person is required to give by the notice.  | 60             |
| 136 (5)        | <b>QCAT may require health assessment</b><br>If, before or during the hearing, QCAT reasonably believes the relevant teacher may have an impairment and the impairment may have caused or contributed to behaviour of the relevant teacher that is the basis for the practice and conduct proceedings, the relevant teacher must not fail, without reasonable excuse, to attend as required by the notice; and to continue to attend as required by the person conducting the health assessment until excused for further attendance; and to cooperate with the person in the conduct of the health assessment.   | 50             |
| 160 (2)        | <b>Decision about disciplinary action against approved teacher</b><br>If QCAT decides a ground for disciplinary action against the relevant teacher has been established, QCAT may do one or more of the following – decide to take no further action in relation to the matter; if the teacher's registration or permission to teach is suspended under section 48 or 49—end the suspension; issue a warning or reprimand to the teacher; cancel the teacher's registration or permission to teach; suspend the teacher's registration or permission to teach for a stated time; make an order requiring the teacher to pay to the college, by way of costs, an amount QCAT considers appropriate having regard to - (i) any expenses incurred by the college in investigating the matter; and (ii) the expenses incurred by the college in the proceedings before QCAT; make an order requiring the teacher to pay to the college, by way of penalty, an amount fixed by QCAT but not more than the equivalent of 20 penalty units; impose conditions on, or amend or remove conditions on, the teacher's registration or permission to teach; make an order that a particular notation or endorsement about the teacher be entered in the register; if QCAT cancels the teachers' registration or permission to teach—make an order prohibiting the teacher from reapplying for registration or permission to teach for a stated period from the day the order is made or indefinitely; make another order QCAT considers appropriate; accept an undertaking from the teacher. | 20             |
| 180            | <b>Return of identity card</b><br>A person who ceases to be an investigator must return the person's identity card to the college within 15 business days after ceasing to be an investigator, unless the person has a reasonable excuse.   | 10             |
| 182 (1)        | <b>Offences</b><br>A person required to give information to an investigator under section 181 must give the information as required by the notice, unless the person has a reasonable excuse.   | 50             |
| 182 (2)        | <b>Failure to attend as required</b><br>A person given a notice to attend before an investigator under section 181 must, unless the person has a reasonable excuse, attend as required by the notice; and continue to attend as required by the investigator until excused from further attendance; and answer a question the person is required to answer by the investigator; and produce a thing the person is required to produce by the notice.  | 50             |

| SECTION OF ACT | DESCRIPTION   | PENALTY UNITS* |
|----------------|---|----------------|
| 190 (1)        | <b>Failure to help investigator</b><br>A person required to give reasonable help under section 189(3)(e) must comply with the requirement, unless the person has a reasonable excuse.   | 50             |
| 191 (1)        | <b>Failure to give information</b><br>A person of whom a requirement is made under section 189(3)(f) must comply with the requirement, unless the person has a reasonable excuse.   | 50             |
| 195            | <b>Tampering with seized things</b><br>If an investigator restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without the investigator's approval.  | 50             |
| 205            | <b>False or misleading information given to investigator</b><br>A person must not state anything to an investigator the person knows is false or misleading in a material particular.   | 50             |
| 206 (1)        | <b>False or misleading documents given to investigator</b><br>A person must not give an investigator a document containing information the person knows is false or misleading in a material particular.  | 50             |
| 207 (1)        | <b>Obstruction of investigator</b><br>A person must not obstruct an investigator in the exercise of a power, unless the person has a reasonable excuse.   | 100            |
| 208            | <b>Impersonation of investigator</b><br>A person must not pretend to be an investigator.  | 50             |
| 228            | <b>Executive officers must ensure corporation complies with Act</b><br>If a corporation commits an offence against a stated provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.  |                |
| 249 (1)        | <b>Requirements for Board members to disclose changes in criminal history</b><br>If there is a change in the criminal history of a member of the board, the member must, unless the member has a reasonable excuse, immediately disclose the change to the Minister.  | 100            |
| 283 (2)        | <b>Confidentiality of particular information</b><br>A person who, in performing functions under this Act, has acquired information about another person, including relevant personal information must not disclose the information to anyone else, unless the disclosure is permitted under subsections 283(2).   | 40             |
| 293            | <b>Registered higher education providers must not misrepresent approval of preservice teacher education programs</b><br>A registered higher education provider offering a preservice teacher education program that has not been approved by the college under this Act must not claim or represent to another person that the program has been approved by the college under this Act.   | 20             |
| 298            | <b>Regulation-making power</b><br>(1) The Governor in Council may make regulations under this Act.<br>(2) A regulation may provide for fees for this Act and waiving and refunding fees.<br>(3) Without limiting subsection (2) or the <i>Statutory Instruments Act 1992</i> , sections 25 and 30B, a regulation may prescribe different fees in relation to certification applications and renewal applications made by teachers employed by different employing authorities.<br>(4) A regulation may prescribe a penalty of not more than 20 penalty units for a contravention of the regulation. | 20             |

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