



Western Australia

# **Teacher Registration Act 2012**

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# Teacher Registration Act 2012

## Contents

<b>Part 1 — Preliminary</b>		
1.	Short title	1
2.	Commencement	1
3.	Terms used	1
4.	Crown bound	4
5.	Best interests of children paramount	4
<b>Part 2 — Teaching by unregistered persons and related offences</b>		
6.	Requirement to be registered	5
7.	Requirement to employ etc. teachers who are registered	5
8.	Registered teachers must comply with conditions of registration	5
9.	Pretending to be registered or entitled to teach	5
<b>Part 3 — Registration of teachers</b>		
<b>Division 1 — Registration of teachers</b>		
<b>Subdivision 1 — Applications</b>		
10.	Application for registration	7
11.	Application for renewal of registration	8
12.	Applicant for limited registration is employer	8
13.	Information in support of application	8
14.	Board may refuse to consider some applications	9
<b>Subdivision 2 — Requirements for registration</b>		
15.	Full registration — requirements	9
16.	Provisional registration — requirements	10

Contents

---

17.	Limited registration — requirements	10
18.	Non-practising registration — requirements	11
19.	Only natural persons may be registered as teachers	11
20.	Professional standards	11
	<b>Subdivision 3 — Registration</b>	
21.	Grant of registration	12
22.	Renewal of registration	13
23.	Duration of registration	13
24.	Who is a fit and proper person	14
	<b>Subdivision 4 — Conditions and cancellation</b>	
25.	Conditions generally	15
26.	Conditions imposed by the Board	15
27.	Cancellation of registration by Board	16
28.	Cancellation of registration at teacher’s request	17
	<b>Subdivision 5 — Notice of decisions and opportunity to show cause why some decisions should not be made</b>	
29.	Notice of decisions on registration to be given	18
30.	Notice of decision to impose, modify or cancel a condition made during the currency of the registration	18
31.	Notice of cancellation or reinstatement of registration to be given	19
32.	Board to give reasonable opportunity to show cause why some decisions should not be made	20
	<b>Subdivision 6 — General provisions</b>	
33.	Effect of cancellation of registration	20
34.	Effect of suspension of registration	20
35.	Annual fees	20
	<b>Division 2 — The register</b>	
36.	Register of teachers to be kept	21
37.	Inspection of register	21

<b>Part 4 — Board to be given notice, and may obtain criminal record checks, in some circumstances</b>		
<b>Division 1 — Notices to be given</b>		
<b>Subdivision 1 — Notices to be given by registered teachers</b>		
38.	Notice about legal actions	23
39.	Notice about loss of qualifications	23
40.	Notice about working with children notices and assessments	23
<b>Subdivision 2 — Notices to be given by other persons</b>		
41.	Notice to be given by DPP or Commissioner of Police about committal, conviction etc. of registered teacher	24
42.	Notice to be given by employer about suspension, dismissal or resignation of registered teacher	25
<b>Division 2 — Criminal record checks</b>		
43.	Board may request consent to obtain a criminal record check	25
44.	Criminal record check	26
<b>Division 3 — Board to consider notices and criminal record checks received</b>		
45.	Action to be taken by Board on receiving a notification or criminal record check	26
<b>Part 5 — Disciplinary and impairment matters</b>		
<b>Division 1 — Preliminary</b>		
46.	Terms used	27
47.	Disciplinary matters	28
48.	Impairment matters	28
<b>Division 2 — Disciplinary committee and impairment review committee</b>		
49.	Disciplinary committee	29
50.	Impairment review committee	30
<b>Division 3 — Complaints about teachers</b>		
51.	Making a complaint	31

52.	Teacher to be notified of complaint	31
	<b>Division 4 — Assessment, investigation and referral of complaints</b>	
53.	Assessment, investigation and referral by Board	32
54.	Board to provide report to committee	33
55.	Committee may request Board to undertake further investigations or recommend that the complaint be referred elsewhere	33
56.	Board's powers of investigation	34
57.	Inappropriate and trivial complaints	34
	<b>Division 5 — Interim disciplinary orders</b>	
58.	Interim disciplinary orders generally	35
59.	Interim disciplinary orders may be made where risk of injury or harm	35
60.	Interim disciplinary order may be made if teacher charged with sexual offence involving a child	36
61.	Interim disciplinary orders to be referred to the State Administrative Tribunal	36
	<b>Division 6 — Role of disciplinary committee</b>	
	<b>Subdivision 1 — Initial assessment of complaints</b>	
62.	Initial assessment and decision of disciplinary committee on complaint	37
	<b>Subdivision 2 — Inquiries</b>	
63.	Disciplinary committee to deal with certain complaints	37
64.	Inquiry — procedure and evidence	38
65.	Rights of teacher as to evidence and witnesses	38
66.	Evidence and findings in other proceedings	38
67.	Representation at inquiry	39
68.	Powers of inquiry	39
69.	Record of inquiry	40
70.	Decision of disciplinary committee after inquiry	41
	<b>Subdivision 3 — Offences relating to inquiries</b>	
71.	Failure to comply with notice under section 68	42
72.	Disruption of inquiry	42

	<b>Division 7 — Role of impairment review committee</b>	
	<b>Subdivision 1 — Complaints relating to impairment matters</b>	
73.	Impairment review committee to deal with certain complaints	43
74.	Registered teacher to be notified about impairment matter	43
75.	Impairment matter — procedure and evidence	43
76.	Examination	44
77.	Report of examination to impairment review committee	44
78.	Decision of impairment review committee after consideration of matter	45
79.	Recommendation	46
80.	Decision of Board after consideration of recommendation of impairment review committee	46
	<b>Subdivision 2 — Requests to impairment review committee by teachers</b>	
81.	Request by teacher for imposition of condition	47
82.	Cancellation of condition	47
	<b>Division 8 — State Administrative Tribunal</b>	
	<b>Subdivision 1 — Role of the Board</b>	
83.	Certain complaints to be referred to State Administrative Tribunal	48
	<b>Subdivision 2 — State Administrative Tribunal</b>	
84.	Jurisdiction of State Administrative Tribunal	48
	<b>Division 9 — Notice of orders and decisions made under this Part</b>	
85.	Notice of orders and decisions made under this Part	50
	<b>Part 6 — Teacher Registration Board</b>	
	<b>Division 1 — Establishment</b>	
86.	Board established	51
87.	Membership of Board	51
88.	Remuneration and allowances	51

	<b>Division 2 — Functions and powers</b>	
89.	Functions	52
90.	Powers	52
91.	Delegation by Board	52
	<b>Division 3 — Staff and services</b>	
92.	Staff and services	53
	<b>Division 4 — Relationship of Board with Minister</b>	
93.	Directions by Minister	53
94.	Minister to have access to information	54
	<b>Division 5 — Constitution and proceedings of the Board</b>	
	<b>Subdivision 1 — General provisions</b>	
95.	Term of office	55
96.	Casual vacancies	55
97.	Deputy chairperson acting as chairperson	56
98.	Alternate members	56
99.	Holding meetings	57
100.	Quorum	57
101.	Presiding at meetings	57
102.	Procedure at meetings	57
103.	Voting	57
104.	Holding meetings remotely	58
105.	Resolution without meeting	58
106.	Minutes	58
107.	Committees	58
	<b>Subdivision 2 — Disclosure of interest</b>	
108.	Disclosure of interest	59
109.	Voting by interested Board member	60
110.	Section 109 may be declared inapplicable	60
111.	Quorum where section 109 applies	60
112.	Minister may declare sections 109 and 111 inapplicable	61
	<b>Division 6 — General</b>	
113.	Execution of documents by the Board	61
114.	Annual report of Board	61
115.	Teacher Registration Board Account	62



**Part 7 — Miscellaneous**

**Division 1 — Publishing and using information**

116.	Term used: publish	63
117.	Confidentiality of information	63
118.	Publication of information	64

**Division 2 — Legal proceedings**

119.	Legal proceedings	65
120.	<i>Evidence Act 1906</i> not affected	66
121.	Evidentiary matters	66
122.	Evidentiary certificate	66
123.	Recovery of amounts due	67

**Division 3 — Review by State Administrative Tribunal**

124.	Review by State Administrative Tribunal of certain decisions	67
------	--	----

**Division 4 — Other matters**

125.	Laying before House of Parliament that is not sitting	68
126.	Protection from liability	69
127.	False or misleading information	69
128.	Regulations	70
129.	Forms	72
130.	Review of Act	72

**Part 8 — Repeals and transitional matters**

**Division 1 — *Interpretation Act 1984* not affected**

131.	<i>Interpretation Act 1984</i> not affected	73
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**Division 2 — Repeals**

132.	<i>Western Australian College of Teaching Act 2004</i> repealed	73
133.	<i>Western Australian College of Teaching Regulations 2004</i> repealed	73
134.	<i>Western Australian College of Teaching (Elections) Regulations 2007</i> repealed	73

	<b>Division 3 — Transitional provisions arising from the enactment of the <i>Teacher Registration Act 2012</i></b>	
	<b>Subdivision 1 — Terms used</b>	
135.	Terms used	74
	<b>Subdivision 2 — Registration</b>	
136.	Current registration continues	75
137.	Registration of persons not currently registered at commencement day	75
	<b>Subdivision 3 — Former Board abolished</b>	
138.	Former Board abolished	77
139.	Unfinished proceedings	77
	<b>Subdivision 4 — Assets and liabilities of the College, other than those relating to real property, transferred</b>	
140.	This Subdivision does not apply in respect of real property	77
141.	Transfer of assets, liabilities, etc.	77
142.	Winding-up	78
143.	Final report	78
144.	Records etc. to be delivered to CEO	79
	<b>Subdivision 5 — Staff under WACOT Act</b>	
145.	Staff under WACOT Act — transition of employment	79
	<b>Subdivision 6 — Other matters</b>	
146.	Disciplinary proceedings	80
147.	Orders made under WACOT Act	80
148.	References to College or former Board	80
149.	Transitional regulations	81
	<b>Part 9 — Amendments to other Acts</b>	
	<b>Division 1 — <i>Western Australian College of Teaching Act 2004</i> amended</b>	
150.	<i>Western Australian College of Teaching Act 2004</i> amended	82
151.	Long title amended	82
152.	Section 3 replaced	82
	3. Terms used	82
153.	Section 7 amended	83

154.	Sections 9 to 13 deleted	83
155.	Section 15 amended	83
156.	Sections 16 to 18 replaced	83
	16. Term used: residual affairs	83
	17. Function of College	84
	18. Powers of College	84
157.	Sections 19 to 21 deleted	84
158.	Section 25 amended	84
159.	Section 26 replaced	85
	26. Funds available to the College	85
160.	Sections 27 to 29 deleted	85
161.	Parts 4 to 9 deleted	85
162.	Schedules 1 to 4 deleted	85
	<b>Division 2 — Other Acts amended</b>	
163.	<i>Children and Community Services Act 2004</i> amended	85
164.	<i>Constitution Acts Amendment Act 1899</i> amended	86
165.	<i>Oaths, Affidavits and Statutory Declarations Act 2005</i> amended	86
167.	<i>Prostitution Amendment Act 2008</i> amended	86
168.	<i>Sentencing Act 1995</i> amended	87
169.	<i>Spent Convictions Act 1988</i> amended	87
170.	<i>State Administrative Tribunal Act 2004</i> amended	88
	<b>Notes</b>	
	Compilation table	89
	Other notes	89
	<b>Defined terms</b>	



## **Teacher Registration Act 2012**

**An Act to —**

- **provide for the establishment of the Teacher Registration Board of Western Australia; and**
- **provide for the regulation of the teaching profession in Western Australia; and**
- **facilitate the establishment, implementation and administration of an inter-jurisdictional accreditation scheme for teacher education programmes; and**
- **repeal the *Western Australian College of Teaching Act 2004* and the regulations made under that Act; and**
- **make consequential amendments to various Acts, and for related purposes.**



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## Part 1 — Preliminary

### 1. Short title

This is the *Teacher Registration Act 2012*.

### 2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

### 3. Terms used

In this Act —

***accredited initial teacher education programme*** means a teacher education programme accredited under, or in a manner described in, the regulations;

***application*** means an application under Part 3 Division 1 Subdivision 1;

***approved*** means approved in writing;

***Board*** means the Teacher Registration Board of Western Australia established by section 86;

***CEO*** means the chief executive officer of the Department;

***child care centre*** means a place where a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

***committee*** means a committee established by the Board under this Act;

***complainant***, in relation to a complaint, means the person who made the complaint, but does not include the Board;

***complaint*** means a complaint made under Part 5;

***condition*** includes a restriction;

***criminal record check*** means information provided by the Australian Federal Police, the Police Force of a State or Territory or another country, or another body or agency prescribed, regarding the criminal convictions of a person for offences under the law of the Commonwealth, or of a State or Territory, or of another country;

***Department*** means the department of the Public Service principally assisting the Minister in the administration of this Act;

***detention centre*** has the meaning given in the *Young Offenders Act 1994* section 3;

***disciplinary committee*** means a committee established under section 49;

***educational programme*** means an organised set of learning activities designed to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student's individual needs;

***educational venue*** means any of the following —

- (a) a school as defined in the *School Education Act 1999* section 4;
- (b) a kindergarten registered under the *School Education Act 1999* Part 5;
- (c) a child care centre;
- (d) a detention centre;
- (e) any other place prescribed as an educational venue;

***employer***, in relation to a registered teacher, means the person or entity who engaged, employed or appointed the teacher, or gave the teacher permission to teach, in an educational venue;

***impairment review committee*** means the committee established under section 50;

***inquiry*** means an inquiry under Part 5 Division 6 Subdivision 2;

***interim disciplinary order*** means an order made under Part 5 Division 5;



**lawyer** means an Australian lawyer as defined in the *Legal Profession Act 2008* section 3;

**medical practitioner** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

**nominee**, in relation to limited registration, has the meaning given in section 17;

**prescribed** means prescribed by regulation;

**principal** has the meaning given in the *School Education Act 1999* section 4;

**professional standards** means the professional standards developed by the Board and approved by the Minister under section 20;

**register** means the register kept under Part 3 Division 2;

**registered teacher** means a person who is registered under Part 3;

**registration** means registration under Part 3 in one of the following categories —

- (a) full registration;
- (b) provisional registration;
- (c) limited registration;
- (d) non-practising registration;

**sexual offence involving a child** has the meaning given in section 46;

**student** means a person to whom an educational programme is being delivered;

**teach** means to undertake duties in an educational venue that include —

- (a) the delivery of an educational programme designed to implement a prescribed curriculum and the assessment of student participation in such an educational programme; or

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- (b) the administration of any such educational programme, but does not include duties of the kind undertaken —
- (c) by a teacher's aide or a teacher's assistant, or by a student teacher on practicum placement; or
- (d) by a person employed or engaged to provide care at a child care centre but who is not employed or engaged to teach at that centre; or
- (e) by an unpaid volunteer, unless the volunteer is undertaking duties of a kind, or to an extent, prescribed for the purposes of this paragraph; or
- (f) by such persons, or in such circumstances, if any, as are prescribed.

**4. Crown bound**

- (1) This Act binds the State and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act makes the State, or the Crown in any of its other capacities, liable to be prosecuted for an offence.

**5. Best interests of children paramount**

A person or body with functions under this Act must, in the performance of those functions, regard the best interests of children as the paramount consideration.

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## Part 2 — Teaching by unregistered persons and related offences

### 6. Requirement to be registered

A person must not teach in an educational venue unless the person is a registered teacher.

Penalty:

- (a) for a first offence, a fine of \$5 000;
- (b) for a second or subsequent offence, a fine of \$10 000.

### 7. Requirement to employ etc. teachers who are registered

- (1) A person must not appoint, employ, engage or give permission to another person to teach in an educational venue unless the other person is a registered teacher.
- (2) A person must not appoint, employ, engage or give permission to a teacher to teach in an educational venue in contravention of a condition to which the teacher's registration is subject.

Penalty:

- (a) for a first offence, a fine of \$5 000;
- (b) for a second or subsequent offence, a fine of \$10 000.

### 8. Registered teachers must comply with conditions of registration

A registered teacher must not contravene a condition to which the teacher's registration is subject.

Penalty:

- (a) for a first offence, a fine of \$5 000;
- (b) for a second or subsequent offence, a fine of \$10 000.

### 9. Pretending to be registered or entitled to teach

- (1) A person who is not a registered teacher must not —
  - (a) claim to be a registered teacher; or

- (b) claim to be qualified or entitled to teach in an educational venue.
- (2) Without limiting subsection (1), a person who is not a registered teacher must not —
  - (a) take or use the title of registered teacher or any other title calculated to induce a belief that the person is registered under this Act; or
  - (b) claim to be registered, or hold himself or herself out as being registered, under this Act; or
  - (c) claim to be entitled to practise as a teacher; or
  - (d) use a title that indicates, or could reasonably be understood as indicating, that he or she is a registered teacher or qualified or entitled to teach in an educational venue.
- (3) A registered teacher must not —
  - (a) claim to be registered as a teacher in a category other than the category that the person is registered in; or
  - (b) claim to be qualified or entitled to teach in an educational venue in contravention of a condition to which the teacher's registration is subject.

**Penalty:**

- (a) for a first offence, a fine of \$5 000;
- (b) for a second or subsequent offence, a fine of \$10 000.

## **Part 3 — Registration of teachers**

### **Division 1 — Registration of teachers**

#### **Subdivision 1 — Applications**

#### **10. Application for registration**

- (1) An application may be made to the Board for registration as a teacher in one of the following categories —
  - (a) full registration;
  - (b) provisional registration;
  - (c) limited registration;
  - (d) non-practising registration.
  
- (2) An application is to —
  - (a) be in writing in the form approved by the Board; and
  - (b) specify the category of registration applied for; and
  - (c) be accompanied by evidence that —
    - (i) the applicant; or
    - (ii) if the application is for the grant of limited registration, the nominee,  
meets the requirements for the category of registration applied for in accordance with Subdivision 2; and
  - (d) be accompanied by the written consent —
    - (i) of the applicant; or
    - (ii) if the application is for the grant of limited registration, the nominee,  
for the Board to obtain a criminal record check in respect of him or her; and
  - (e) be accompanied by the registration fee, if any, prescribed.
  
- (3) The fee referred to in subsection (2)(e) is not refundable.

**11. Application for renewal of registration**

- (1) An application may be made to the Board for the renewal of registration as a teacher.
- (2) An application is to —
  - (a) be in writing in the form approved by the Board; and
  - (b) specify the category of registration that the application is in respect of; and
  - (c) be accompanied by the written consent —
    - (i) of the applicant; or
    - (ii) if the application is for the renewal of limited registration, the nominee,  
for the Board to obtain a criminal record check in respect of him or her; and
  - (d) be accompanied by the renewal fee, if any, prescribed.
- (3) The fee referred to in subsection (2)(d) is not refundable.

**12. Applicant for limited registration is employer**

An application for the grant or renewal of limited registration for a nominee is to be made by the person or entity, referred to in section 17(a), who made the offer of a teaching position to the nominee.

**13. Information in support of application**

- (1) The Board may, in writing, request —
  - (a) the applicant; or
  - (b) if the application is for the grant or renewal of limited registration, the nominee,to do any or all of the following —
  - (c) provide the Board with such further information relevant to the application as the Board requires;
  - (d) verify any further information by statutory declaration;

- (e) provide the Board with the applicant's or nominee's written consent to seek, from another person or body specified by the Board, information about the applicant or nominee relevant to the application.
- (2) The Board may, in writing, request —
  - (a) the applicant; or
  - (b) if the application is for the grant or renewal of limited registration, the nominee,to attend before the Board for the purpose of satisfying the Board as to any matter relevant to the application.
- (3) The Board may refuse an application if the applicant or nominee does not comply with a request made under this section.

**14. Board may refuse to consider some applications**

The Board may refuse to consider, or consider further, an application if —

- (a) it is not made in accordance with this Act; or
- (b) a complaint has been made, and has not been finally determined at the time the application is made, against —
  - (i) the applicant; or
  - (ii) if the application is for the grant or renewal of limited registration, the nominee.

**Subdivision 2 — Requirements for registration**

**15. Full registration — requirements**

A person is eligible for full registration as a teacher if the person —

- (a) has a teaching qualification —
  - (i) from an accredited initial teacher education programme; or

(ii) that the Board recognises as equivalent to such a qualification;

and

(b) meets the professional standards approved by the Board for full registration, or has done so within the previous 5 years; and

(c) is a fit and proper person to be a registered teacher; and

(d) has the English language skills, both written and oral, prescribed as suitable for registration as a teacher.

### **16. Provisional registration — requirements**

A person is eligible for provisional registration as a teacher if the person —

(a) has a teaching qualification —

(i) from an accredited initial teacher education programme; or

(ii) that the Board recognises as equivalent to such a qualification;

and

(b) meets the professional standards approved by the Board for provisional registration, or has done so within the previous 5 years; and

(c) is a fit and proper person to be a registered teacher; and

(d) has the English language skills, both written and oral, prescribed as suitable for registration as a teacher.

### **17. Limited registration — requirements**

A person (the *nominee*) is eligible for limited registration as a teacher if the nominee —

(a) has been offered a teaching position in an educational venue by a person or entity; and

(b) is a fit and proper person to be a registered teacher; and



- (c) has the English language skills, both written and oral, prescribed as suitable for limited registration as a teacher; and
- (d) meets any other requirements for limited registration as are prescribed.

**18. Non-practising registration — requirements**

A person is eligible for non-practising registration as a teacher if —

- (a) the person —
  - (i) does not intend to teach in an educational venue for a period of time; and
  - (ii) holds full registration or provisional registration;or
- (b) the person intends to teach in an educational venue and meets the requirements for —
  - (i) full registration as set out in section 15, other than the requirement regarding professional standards set out in paragraph (b) of that section; or
  - (ii) provisional registration as set out in section 16, other than the requirement regarding professional standards set out in paragraph (b) of that section.

**19. Only natural persons may be registered as teachers**

Registration as a teacher under this Act may be granted only to a natural person.

**20. Professional standards**

- (1) Professional standards are to be developed by the Board and approved by the Minister.

- (2) The purpose of the professional standards is to detail the abilities, experience, knowledge or skills expected of registered teachers.
- (3) The professional standards may adopt the text of any code, rules, specifications, standard or other document issued, published or approved by another person or body.
- (4) The text referred to in subsection (3) may be adopted —
  - (a) wholly or in part or as modified by the professional standards; and
  - (b) as it exists at a particular date or as amended from time to time.
- (5) The Board is to make the professional standards available for inspection on a website maintained by the Board.

### **Subdivision 3 — Registration**

#### **21. Grant of registration**

- (1) The Board may, on application under this Part, grant to —
  - (a) the applicant; or
  - (b) if the application is for the grant or renewal of limited registration, the nominee,registration in a particular category if the Board is satisfied that the applicant or nominee meets the requirements for registration in that category.
- (2) The Board cannot grant registration to a person whose registration has been cancelled or suspended by —
  - (a) an interim disciplinary order; or
  - (b) an order by the State Administrative Tribunal under Part 5,unless the Board has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

- (3) Subsection (2) does not apply if the order specified that the person was disqualified from applying for registration as a teacher for a period of time and that period of time has expired.

**22. Renewal of registration**

- (1) An application for the renewal of registration is to be made to the Board at least 28 days before the expiry of the registration.
- (2) The Board may renew the registration of a teacher if, on application to the Board, the Board is satisfied of the following —
- (a) that the teacher continues to meet the requirements for registration set out in section 15, 16 or 17 as is relevant;
  - (b) that the teacher is complying with the conditions, if any, imposed on the person's registration;
  - (c) that the teacher has met such other requirements for the renewal of registration, if any, as are prescribed in respect of the relevant category of registration.
- (3) The Board may renew provisional registration only if, in the opinion of the Board, there are exceptional circumstances for doing so.

**23. Duration of registration**

- (1) The period of full registration is 5 years from the day that registration is granted or renewed.
- (2) The period of provisional registration or limited registration is 3 years, or such shorter period as is approved by the Board, from the day that registration is granted or renewed.
- (3) However, if a person who intends to make an application for a grant of limited registration —
- (a) gives notice to the Board in the form prescribed of that intention; and
  - (b) makes an application for limited registration within 5 days after giving that notice to the Board,

then the limited registration is to be taken to have been granted on the day on which that notice was given to the Board.

- (4) Registration expires —
- (a) at the end of the period of the registration; or
  - (b) if an application for the grant of limited registration is refused, and subsection (3) applies, on the day on which notice of that decision is given to the applicant and the nominee under section 29.
- (5) However, if an application for renewal of registration is made in accordance with section 22(1), the registration is taken to continue until the application is decided.

**24. Who is a fit and proper person**

In determining whether a person is a fit and proper person to be registered, the Board is to have regard to the following —

- (a) the person's history of compliance with —
  - (i) this Act; or
  - (ii) a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described);
- (b) any decision under this Act or a law referred to in paragraph (a)(ii) to refuse, refuse to renew, suspend or cancel a licence, approval, registration, certification or other authorisation (however described) granted to the person under such an Act or law;
- (c) the criminal history of the person;
- (d) any behaviour of the person that —
  - (i) does not satisfy a standard of behaviour generally expected of a teacher; or
  - (ii) shows that the person is not of good character;

- (e) whether the person has contravened —
  - (i) an order of the Board, a disciplinary committee or the State Administrative Tribunal under Part 5; or
  - (ii) an order of a disciplinary body or of a court or tribunal of another jurisdiction exercising jurisdiction or powers by way of appeal or review of an order of a disciplinary body that deals with the registration of teachers (however described);
- (f) without limiting any other paragraph, whether the person has failed to pay any costs, expenses or fines for which the person is liable under this Act;
- (g) any other matters relating to the person that the Board considers are appropriate.

#### **Subdivision 4 — Conditions and cancellation**

### **25. Conditions generally**

- (1) Registration of a teacher is subject to any condition —
  - (a) imposed by the Board under section 26; or
  - (b) to which the registration is subject under this Act; or
  - (c) imposed by order made under Part 5.
- (2) The regulations may provide for conditions of registration.

### **26. Conditions imposed by the Board**

- (1) The Board may impose conditions on the registration of a teacher —
  - (a) when granting or renewing the registration; or
  - (b) during the currency of the registration.
- (2) The Board may at any time, on the application of a registered teacher or on its own initiative, on reasonable grounds, modify or cancel a condition on a teacher's registration.

- (3) Conditions imposed or modified by the Board under this section must be reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher.
- (4) The Board must not exercise its power under this section to modify or cancel a condition imposed or modified by the State Administrative Tribunal without the consent of the Tribunal.
- (5) A condition imposed by the Board may apply indefinitely or for a specified period of time.
- (6) A decision to impose, modify or cancel a condition on a teacher's registration made during the currency of the registration takes effect —
  - (a) on the day on which notice of the decision is given to the teacher under section 30; or
  - (b) on a later day specified in the notice.

**27. Cancellation of registration by Board**

- (1) The Board is to cancel the registration of a teacher as soon as possible after the Board becomes aware that the teacher is not entitled to be registered.
- (2) A teacher is not entitled to be registered if —
  - (a) the teacher has been convicted or found guilty of a sexual offence involving a child; or
  - (b) a negative notice or an interim negative notice has been issued to the teacher under the *Working with Children (Criminal Record Checking) Act 2004*; or
  - (c) the teacher has failed to give to the Board the teacher's written consent for the Board to obtain a criminal record check in accordance with a notice under section 43; or
  - (d) a qualification that enabled the teacher to gain registration has been withdrawn or cancelled by the body that conferred the qualification; or

- (e) a qualification that enabled the teacher to gain registration was forged or fraudulently obtained; or
  - (f) the teacher is in arrears in respect of fees due and payable under this Act.
- (3) However, the registration of a teacher must not be cancelled under this section, or if the registration has been cancelled must be reinstated by the Board, if —
- (a) where subsection (2)(a) applies, the Board becomes aware that a relevant conviction or finding in respect of that teacher has been quashed or overturned on appeal; or
  - (b) where subsection (2)(b) applies, the Board becomes aware that an interim negative notice or a negative notice has been cancelled under the *Working with Children (Criminal Record Checking) Act 2004* in respect of that teacher; or
  - (c) where subsection (2)(c) or (f) applies, the Board is of the opinion that there are extenuating circumstances.
- (4) Subsection (2) continues to apply in respect of a person during —
- (a) an appeal from a conviction or finding relevant to subsection (2)(a); or
  - (b) a review of a decision to issue, or to refuse to cancel, a negative notice referred to in subsection (2)(b).
- (5) The cancellation or reinstatement of a teacher's registration under this section takes effect —
- (a) on the day on which notice of the cancellation or reinstatement is given to the teacher; or
  - (b) on a later day specified in the notice.

**28. Cancellation of registration at teacher's request**

The Board is to cancel the registration of a teacher at the written request of the teacher.

**Subdivision 5 — Notice of decisions and opportunity to show cause why some decisions should not be made**

**29. Notice of decisions on registration to be given**

- (1) The Board is to give written notice of the outcome of an application no later than 14 days after deciding on the outcome of the application to —
  - (a) the applicant; and
  - (b) if the application was in respect of limited registration, the nominee.
- (2) If an application for registration, or the renewal of registration, is granted the notice is to contain the following —
  - (a) the category of registration;
  - (b) the period of the registration;
  - (c) the person's registration number;
  - (d) any conditions imposed on the registration;
  - (e) if a condition has been imposed —
    - (i) the reasons for the imposition of the condition; and
    - (ii) a statement that the applicant may have a right to a review under section 124.
- (3) If an application for registration, or renewal of registration, is refused the notice is to contain —
  - (a) the reasons why it has been refused; and
  - (b) a statement that the applicant may have a right to a review under section 124.

**30. Notice of decision to impose, modify or cancel a condition made during the currency of the registration**

- (1) The Board is to give written notice of a decision under section 26 to impose, modify or cancel a condition on a



teacher's registration during the currency of the registration no later than 14 days after making the decision to —

- (a) the teacher; and
- (b) if the teacher holds limited registration, the employer of the teacher.

(2) The notice is to contain —

- (a) the reasons for the decision; and
- (b) a statement that the teacher and the employer may have a right to a review under section 124.

**31. Notice of cancellation or reinstatement of registration to be given**

(1) The Board is to give written notice of the cancellation or reinstatement of the person's registration under section 27 no later than 14 days after making the decision to cancel or reinstate the registration to —

- (a) the person whose registration is cancelled or reinstated; and
- (b) if the person holds, or held, limited registration, the employer of that person.

(2) The notice is to contain —

- (a) a reference to the provision of this Act under which the registration was cancelled or reinstated; and
- (b) the reasons for the cancellation or reinstatement of the registration; and
- (c) if the notice is about the cancellation of registration, a statement that the person whose registration is cancelled may have a right to a review under section 124.

**32. Board to give reasonable opportunity to show cause why some decisions should not be made**

- (1) Before making any of the following decisions the Board is to give the applicant a reasonable opportunity to show cause why the decision should not be made —
  - (a) the refusal of an application;
  - (b) the granting of an application subject to a condition.
- (2) Before making a decision under section 26 to impose, modify or cancel a condition on a teacher's registration during the currency of the registration, the Board is to give a reasonable opportunity to show cause why the decision should not be made to —
  - (a) the teacher whose registration will be affected; and
  - (b) if the teacher holds limited registration, to the employer of the teacher.

**Subdivision 6 — General provisions**

**33. Effect of cancellation of registration**

If a person's registration is cancelled under this Act the person's name is to be removed from the register.

**34. Effect of suspension of registration**

A teacher whose registration is suspended is to be taken not to be registered as a teacher for the period of the suspension, other than for the purposes of Part 4.

**35. Annual fees**

Each registered teacher is to pay to the Board the annual fee, if any, prescribed.

## Division 2 — The register

### 36. Register of teachers to be kept

- (1) The Board is required to keep an accurate and up to date register that records the following information in respect of each registered teacher —
  - (a) the person's name;
  - (b) the category of registration that the person holds;
  - (c) the person's registration number;
  - (d) the date of commencement of the person's registration;
  - (e) any other information prescribed.
- (2) The register may be kept in any way the Board thinks appropriate, including by electronic means.

### 37. Inspection of register

- (1) In this section —

*register information (professional)* means all of the information on the register;

*register information (public)* means the information on the register other than the information prescribed under section 36(1)(e).
- (2) Information on the register is to be made available for inspection in accordance with this section in any way the Board thinks appropriate, including on a website maintained by the Board.
- (3) Register information (professional) is to be made available for inspection, in accordance with subsection (2), by any of the following persons, as the Board thinks appropriate —
  - (a) registered teachers, employers of registered teachers and principals;
  - (b) such other persons, if any, as are prescribed.

**Teacher Registration Act 2012**

**Part 3** Registration of teachers

**Division 2** The register

**s. 37**

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- (4) Register information (public) is to be made available for inspection, in accordance with subsection (2), by members of the public during normal office hours.
- (5) A person to whom register information may be made available for inspection under this section may, on application to the Board and payment of the fee prescribed, if any, obtain a certified copy of all or some of that information.

**Part 4 — Board to be given notice, and may obtain  
criminal record checks, in some circumstances**

**Division 1 — Notices to be given**

**Subdivision 1 — Notices to be given by registered teachers**

**38. Notice about legal actions**

- (1) A registered teacher must give written notice to the Board if —
  - (a) the teacher, or a person who is or was an employer of the teacher, is ordered to pay damages or compensation as a result of civil proceedings arising out of the practice of teaching by the teacher, or arising from events which occurred while the teacher was engaged in teaching; or
  - (b) the teacher is convicted of an offence the statutory penalty for which is, or includes, imprisonment.
- (2) The notice is to be given no later than 30 days after the order is made or judgment of conviction entered and is to set out the details of the order or conviction.

Penalty: a fine of \$5 000.

**39. Notice about loss of qualifications**

- (1) A registered teacher must give written notice to the Board if a qualification that enabled the teacher to gain registration is withdrawn or cancelled by the body that conferred the qualification.
- (2) The notice is to be given no later than 30 days after the withdrawal or cancellation.

Penalty: a fine of \$5 000.

**40. Notice about working with children notices and assessments**

- (1) A registered teacher must give written notice to the Board if an interim negative notice or a negative notice is issued to the

**Teacher Registration Act 2012**

**Part 4** Board to be given notice, and may obtain criminal record checks, in some circumstances

**Division 1** Notices to be given

**s. 41**

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person, under the *Working with Children (Criminal Record Checking) Act 2004*.

- (2) The notice is to be given no later than 14 days after the interim negative notice or the negative notice is issued.

Penalty: a fine of \$5 000.

**Subdivision 2 — Notices to be given by other persons**

**41. Notice to be given by DPP or Commissioner of Police about committal, conviction etc. of registered teacher**

- (1) The Director of Public Prosecutions, or where the matter is conducted by a police prosecutor, the Commissioner of Police, is, where practicable, to give written notice to the Board if he or she becomes aware that any of the following situations exist or believes, on reasonable grounds, that any of the following situations exist —
- (a) a registered teacher is charged with, or committed for trial or sentence before any court for, a sexual offence involving a child;
  - (b) a registered teacher is convicted or found guilty of an indictable offence in this State;
  - (c) in the case of a charge referred to in paragraph (a), the prosecution of the charge is discontinued or does not result in a committal for trial or sentence, or there is an acquittal or mistrial;
  - (d) in the case of a committal referred to in paragraph (a), there is an acquittal or mistrial or the prosecution of the charge is discontinued.
- (2) The notice is to be given as soon as is practicable after the person under a duty to give the notice becomes aware, or forms the belief, that the relevant situation exists.

**42. Notice to be given by employer about suspension, dismissal or resignation of registered teacher**

- (1) An employer of a registered teacher at an educational venue is to give written notice to the Board of any investigation —
- (a) into the conduct of a registered teacher who teaches, or taught, at the educational venue; and
  - (b) that was held because, in the opinion of the employer, there was reason to believe that the teacher —
    - (i) has been seriously incompetent as a teacher; or
    - (ii) had engaged in serious misconduct,
- if, as a result of that investigation —
- (c) the teacher has been suspended or dismissed from teaching at the educational venue; or
  - (d) the teacher has resigned or no longer teaches at the educational venue.
- (2) The notice is to be given within 30 days after the teacher was suspended, dismissed or ceased teaching at the educational venue.

Penalty: a fine of \$5 000.

**Division 2 — Criminal record checks**

**43. Board may request consent to obtain a criminal record check**

- (1) The Board may give written notice to a registered teacher requesting that the teacher provide written consent for the Board to obtain a criminal record check in respect of the teacher.
- (2) Notice to a teacher under subsection (1) is to state that the consent is to be given to the Board within 14 days of the notice being given, or such later time as is specified in the notice.

**Teacher Registration Act 2012**

**Part 4** Board to be given notice, and may obtain criminal record checks, in some circumstances

**Division 3** Board to consider notices and criminal record checks received  
**s. 44**

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**44. Criminal record check**

The Board may obtain a criminal record check for a person who has given written consent for the Board to do so.

**Division 3 — Board to consider notices and criminal record checks received**

**45. Action to be taken by Board on receiving a notification or criminal record check**

As soon as is possible after receiving —

- (a) a notification about a person under Division 1; or
- (b) a criminal record check in respect of a person,

the Board is to consider the information in that notice or criminal record check, and any other information it considers relevant, and decide if it is necessary to do any of the following —

- (c) cancel the person's registration under section 27;
- (d) make an interim disciplinary order;
- (e) formulate a complaint;
- (f) if the person is teaching in an educational venue, advise the person's employer of the information contained in the notice or criminal record check.



## Part 5 — Disciplinary and impairment matters

### Division 1 — Preliminary

#### 46. Terms used

In this Part —

**child** means a person who has not attained the age of 18 years;

**child sex offender** has the meaning given in *The Criminal Code* section 557K;

**disciplinary matter** means a matter referred to in section 47;

**impairment** means —

- (a) mental disability; or
- (b) injury; or
- (c) physical illness;

**impairment matter** means a matter referred to in section 48;

**sexual offence** means any of the following offences —

- (a) an offence under *The Criminal Code* Part V Chapter XXXI;
- (b) any other offence prescribed for the purposes of this definition;
- (c) an offence of attempting to commit an offence referred to in paragraph (a) or (b);
- (d) an offence against a law of a jurisdiction other than Western Australia that is substantially similar to an offence referred to in paragraph (a), (b) or (c);

**sexual offence involving a child**, means —

- (a) an offence that, on conviction, would result in the person charged being a child sex offender; or
- (b) a sexual offence committed against or in respect of a child; or
- (c) a sexual offence committed when a child was present, or within sight of a child; or

- (d) an offence the commission of which used or involved material the production of which involved a sexual offence against or in respect of a child;

*teacher* means a person the subject of a complaint.

**47. Disciplinary matters**

The following are disciplinary matters —

- (a) that a teacher has been charged with a sexual offence involving a child;
- (b) that a teacher has contravened this Act;
- (c) that a teacher has contravened a condition imposed on his or her registration;
- (d) that a teacher has contravened an order made under this Part;
- (e) that a teacher has been convicted of an offence the nature of which renders him or her unfit to be registered;
- (f) that a teacher has —
  - (i) been seriously incompetent as a teacher; or
  - (ii) engaged in serious misconduct the nature of which renders the person unfit to be registered; or
  - (iii) failed to comply with an undertaking given to the Board under this Act.

**48. Impairment matters**

The following are impairment matters —

- (a) that a registered teacher is affected by his or her use of or dependence on alcohol or a drug to such an extent that his or her ability to practise as a teacher is or is likely to be affected;
- (b) that a registered teacher suffers from an impairment to such an extent that the ability of the person to practise as a teacher is or is likely to be affected.

**Division 2 — Disciplinary committee and impairment review committee**

**49. Disciplinary committee**

- (1) The Board is to establish one or more committees to be known as disciplinary committees.
- (2) The Board may discharge or alter any disciplinary committee it has established.
- (3) A disciplinary committee is to consist of the following 3 persons appointed in writing by the Board, from time to time —
  - (a) a registered teacher;
  - (b) a lawyer;
  - (c) such other person as the Board considers appropriate.
- (4) Each member of a disciplinary committee is to be a natural person.
- (5) A disciplinary committee may include people who are not members of the Board but must include at least one member of the Board.
- (6) The Board is to appoint a member of a disciplinary committee to be the committee's chairperson.
- (7) A disciplinary committee is to submit an annual report to the Board as soon as is practicable after 30 June in each year in respect of the functions performed by the committee during the year that ended on that day.
- (8) A notice or order authorised by this Act to be given or made by a disciplinary committee is taken to have been given or made by the committee if it is signed on behalf of the committee —
  - (a) by the chairperson of the committee; or
  - (b) by some other person authorised by the committee to sign the notice or order.

- (9) A disciplinary committee may determine its own procedures, but they must be consistent with the terms of any delegation under which the committee is acting.

**50. Impairment review committee**

- (1) The Board is to establish a committee to be known as the impairment review committee.
- (2) The Board may discharge or alter any impairment review committee it has established.
- (3) The impairment review committee is to consist of the following 3 persons appointed in writing by the Board, from time to time —
- (a) a registered teacher;
  - (b) a medical practitioner;
  - (c) such other person as the Board considers appropriate.
- (4) Each member of the impairment review committee is to be a natural person.
- (5) The impairment review committee may include people who are not members of the Board but must include at least one member of the Board.
- (6) The Board is to appoint a member of the impairment review committee to be the committee's chairperson.
- (7) The impairment review committee is to submit an annual report to the Board as soon as is practicable after 30 June in each year in respect of the functions performed by the committee during the year that ended on that day.
- (8) A notice, order or appointment authorised by this Act to be given or made by the impairment review committee is taken to have been given or made by the committee if it is signed on behalf of the committee —
- (a) by the chairperson of the committee; or

- (b) by some other person authorised by the committee to sign the notice, order or appointment.
- (9) The impairment review committee may determine its own procedures but they must be consistent with the terms of any delegation under which the committee is acting.

### **Division 3 — Complaints about teachers**

#### **51. Making a complaint**

- (1) A complaint may be made to the Board about the conduct of —
  - (a) a registered teacher; or
  - (b) a person who was a registered teacher at the time that the matter the subject of the complaint occurred or allegedly occurred.
- (2) A complaint should be made in writing, but the Board may formulate in writing any oral complaint received.
- (3) A complaint may be made by the Board formulating a complaint based on —
  - (a) a notification about a person under Part 4 Division 1; or
  - (b) a criminal record check in respect of a person; or
  - (c) any other information received by the Board.

#### **52. Teacher to be notified of complaint**

- (1) The Board is to give written notice to the teacher that a complaint has been made about the teacher as soon as is possible after the complaint is made.
- (2) The notice is to set out the following —
  - (a) the nature of the complaint;
  - (b) the identity of the complainant;
  - (c) a brief summary of the effect of this Part.

- (3) Subsection (1) does not apply if the Board is of the opinion that giving the notice will or is likely to —
- (a) prejudice the investigation of the complaint; or
  - (b) prejudice an investigation by the police or other investigatory or law enforcement body of any matter with which the complaint is concerned; or
  - (c) place the complainant or another person at risk of intimidation or harassment; or
  - (d) prejudice pending court proceedings.
- (4) In a case to which subsection (3) applies, the Board —
- (a) may postpone giving the teacher notice of the complaint until it is of the opinion that it is appropriate to do so; or
  - (b) may in its discretion give the teacher a notice setting out —
    - (i) the general nature of the complaint; and
    - (ii) a brief summary of the effect of this Part.
- (5) Nothing in this section requires the Board to give notice under this section to the teacher until the Board has had time to assess the complaint, seek further information about the complaint from the complainant or another person or otherwise undertake preliminary inquiries into the complaint, and properly prepare the notice.

#### **Division 4 — Assessment, investigation and referral of complaints**

##### **53. Assessment, investigation and referral by Board**

- (1) The Board is to deal with a complaint in one of the following ways —
- (a) reject the complaint under section 57;
  - (b) make an interim disciplinary order;

- (c) refer the complaint, together with a report under section 54, to a disciplinary committee to deal with under Division 6;
  - (d) if the complaint is in respect of a registered teacher, refer the complaint, together with a report under section 54, to the impairment review committee to deal with under Division 7;
  - (e) refer the complaint to the State Administrative Tribunal.
- (2) Before dealing with a complaint under subsection (1) the Board may make such assessments and investigations as it considers appropriate.
- (3) Notice of a decision under this section is to be given in accordance with section 85.

**54. Board to provide report to committee**

When referring a complaint to a committee under section 53(1)(c) or (d), the Board is to provide a report outlining its assessment and investigation of the complaint.

**55. Committee may request Board to undertake further investigations or recommend that the complaint be referred elsewhere**

A committee to which the Board has referred a complaint under section 53(1)(c) or (d) may, at any time while dealing with the complaint, do any of the following —

- (a) request the Board to undertake further investigation of the complaint;
- (b) recommend to the Board that the complaint be referred to another committee established under this Part;
- (c) recommend to the Board that the complaint be referred to the State Administrative Tribunal.

**56. Board's powers of investigation**

- (1) For the purposes of conducting an investigation the Board may —
  - (a) by written notice given to a person require the attendance of the person as a witness at a time and place specified in the notice to give evidence; or
  - (b) by written notice given to a person require the person to produce any document or other thing that is in the possession or under the control of the person and is relevant to the matter before the Board; or
  - (c) inspect a document or other thing produced before it.
- (2) The Board may —
  - (a) inspect a document or other thing produced and retain it for such reasonable period as it thinks fit; and
  - (b) make copies of, photograph and take extracts from, the document or any of its contents.

**57. Inappropriate and trivial complaints**

- (1) The Board may reject a complaint if the Board is of the opinion that the complaint —
  - (a) is in respect of a matter that could more appropriately be dealt with by another person or authority; or
  - (b) is in respect of a matter that is not within the power of the Board, a disciplinary committee or the impairment review committee to deal with under this Act; or
  - (c) is vexatious, trivial, unreasonable or without substance.
- (2) Notice of a decision under this section is to be given in accordance with section 85.



### **Division 5 — Interim disciplinary orders**

**58. Interim disciplinary orders generally**

- (1) The Board or a disciplinary committee may make an interim disciplinary order in respect of a matter under this Division even if a disciplinary committee or the impairment review committee is already dealing with a complaint —
  - (a) that deals with the same matter; or
  - (b) that includes elements of the same matter.
- (2) Unless section 83(2) applies, an interim disciplinary order cannot have effect for more than 30 days.
- (3) The Board or a disciplinary committee may vary or revoke an interim disciplinary order unless the matter in respect of which the order was made has been referred to the State Administrative Tribunal.
- (4) Notice of an interim disciplinary order is to be given in accordance with section 85.
- (5) An interim disciplinary order takes effect —
  - (a) on the day —
    - (i) on which notice of the order is given to the person who is bound by the order; or
    - (ii) on a later day specified in the order;
  - and
  - (b) whether or not the person to whom it is given has had an opportunity to make representations to the Board.

**59. Interim disciplinary orders may be made where risk of injury or harm**

If the Board or a disciplinary committee is of the opinion that an activity of a registered teacher involves, or will involve, a risk of imminent injury or harm to the physical or mental health of any

person the Board or the committee may make one of the following orders —

- (a) an order imposing a condition, or conditions, on the registration of the teacher;
- (b) an order suspending the person's registration.

**60. Interim disciplinary order may be made if teacher charged with sexual offence involving a child**

If the Board or a disciplinary committee becomes aware that a registered teacher has been charged with a sexual offence involving a child the Board or the committee may make one of the following orders —

- (a) an order imposing a condition, or conditions, on the registration of the teacher;
- (b) an order suspending the person's registration.

**61. Interim disciplinary orders to be referred to the State Administrative Tribunal**

- (1) Within 14 days of the making of an interim disciplinary order the Board is to —
  - (a) refer the matter in respect of which the order was made to the State Administrative Tribunal; and
  - (b) order that any other proceedings under this Part in respect of the matter commenced before the making of the order be discontinued.
- (2) Subsection (1) does not apply if the order is revoked under section 58(3).
- (3) On a referral made under subsection (1) the State Administrative Tribunal may, in addition to any other order it may make, affirm or revoke an interim disciplinary order or vary the order by extending the period for which it applies or in any other respect.

## **Division 6 — Role of disciplinary committee**

### **Subdivision 1 — Initial assessment of complaints**

#### **62. Initial assessment and decision of disciplinary committee on complaint**

- (1) A disciplinary committee is to make a preliminary assessment of a complaint referred to it by the Board and is to deal with the complaint in one of the following ways —
  - (a) dismiss the complaint;
  - (b) make an interim disciplinary order;
  - (c) with the consent of the teacher, deal with the complaint under Subdivision 2;
  - (d) make a request or recommendation to the Board under section 55;
  - (e) if the matter the subject of the complaint is before another person or body or the subject of proceedings, postpone consideration of the complaint pending the outcome of any investigation, hearing or proceedings;
  - (f) with the consent of another person, organisation or agency that, in the opinion of the committee, could deal more appropriately with the subject matter of the complaint, refer the complaint to that person, organisation or agency.
- (2) Notice of a decision under this section is to be given in accordance with section 85.

### **Subdivision 2 — Inquiries**

#### **63. Disciplinary committee to deal with certain complaints**

This Subdivision applies if —

- (a) a disciplinary committee considers that a disciplinary matter may exist in relation to a teacher; and

- (b) the teacher consents in writing to a disciplinary committee conducting an inquiry under this Subdivision.

**64. Inquiry — procedure and evidence**

In carrying out an inquiry, a disciplinary committee —

- (a) must proceed with as little formality and technicality and as speedily as the requirements of this Act and a proper hearing of the matter permit; and
- (b) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and
- (c) may, subject to this Act and the rules of procedural fairness, determine its own procedures.

**65. Rights of teacher as to evidence and witnesses**

- (1) In conducting an inquiry, a disciplinary committee is to give the teacher an opportunity to —
  - (a) call and give evidence; and
  - (b) examine and cross-examine witnesses; and
  - (c) make submissions.
- (2) Subsection (1) does not apply if —
  - (a) the disciplinary committee has adopted any findings, decision, judgment or reasons for judgment under section 66; and
  - (b) the teacher has been given the opportunities referred to in subsection (1) by a court, tribunal or other body referred to in that section.

**66. Evidence and findings in other proceedings**

For the purposes of an inquiry a disciplinary committee may, as it considers proper —

- (a) receive in evidence any transcript of evidence taken in any proceedings; or

- (b) adopt any findings, decision, judgment or reasons for judgment,

of a court, tribunal or other body constituted under the law of Western Australia or any other place and draw such conclusions of fact from those as it considers proper.

**67. Representation at inquiry**

- (1) A party to an inquiry may —
  - (a) appear before the inquiry in person; or
  - (b) with the leave of a disciplinary committee, be represented by another person.
- (2) A person who is not an Australian legal practitioner, within the meaning of that term in the *Legal Profession Act 2008* section 3, does not breach that Act, or any other Act merely by —
  - (a) representing a party before an inquiry; or
  - (b) providing advice and other services for the purpose of acting for a party in connection with an inquiry.

**68. Powers of inquiry**

- (1) For the purposes of conducting an inquiry a disciplinary committee may do one or more of the following —
  - (a) by written notice given to a registered teacher require —
    - (i) the attendance of the teacher as a witness at a time and place specified in the notice to give evidence;
    - (ii) the teacher to produce any document or other thing that is in the possession or under the control of the teacher and is relevant to the matter before the disciplinary committee;

- (b) by written notice given to a person who is not a registered teacher request —
    - (i) the attendance of the person as a witness at a time and place specified in the notice to give evidence;
    - (ii) the person to produce any document or other thing that is in the possession or under the control of the person and is relevant to the matter before the disciplinary committee;
  - (c) examine witnesses on oath or affirmation;
  - (d) inspect a document or other thing produced before it.
- (2) A disciplinary committee may —
- (a) require a person who appears before the inquiry to take an oath or make an affirmation; and
  - (b) authorise a member of the committee to administer an oath or affirmation to the person.
- (3) A disciplinary committee may —
- (a) inspect a document or other thing produced and retain it for such reasonable period as it thinks fit; and
  - (b) make copies of, photograph and take extracts from, the document or any of its contents.

**69. Record of inquiry**

- (1) A disciplinary committee is to ensure that a record is kept of an inquiry conducted by the committee.
- (2) The teacher is entitled to a copy of the record of the inquiry if he or she so requests and on payment of any costs incurred by the Board in making a copy of the record.

**70. Decision of disciplinary committee after inquiry**

- (1) After an inquiry on a complaint is completed, a disciplinary committee is to deal with the complaint in one or more of the following ways —
  - (a) dismiss the complaint;
  - (b) order that the teacher be cautioned or reprimanded;
  - (c) order that the teacher pay to the Board a fine of a specified amount not exceeding \$5 000;
  - (d) order that the registration of the teacher be suspended for a period, not exceeding 2 years, as is specified in the order;
  - (e) order that a condition, or conditions, be imposed on the registration of the teacher, or order that an existing condition, or conditions, be modified;
  - (f) if the committee has found that a teacher who holds full registration has been seriously incompetent as a teacher, order the cancellation of that registration and the substitution of provisional registration;
  - (g) recommend to the Board that the complaint be referred to the impairment review committee or the State Administrative Tribunal.
- (2) A disciplinary committee may, in dealing with a complaint under subsection (1), order that the teacher pay to the Board such costs and expenses of, arising from, or incidental to —
  - (a) the Board's investigation of the complaint; or
  - (b) the inquiry,as the disciplinary committee thinks fit.
- (3) If action is taken under subsection (1) in relation to a complaint, no further action is to be taken by the Board or a committee under this Part with respect to the complaint.
- (4) Notice of a decision or an order made under this section is to be given in accordance with section 85.

- (5) An order made under this section takes effect —
- (a) on the day on which notice of the order is given to the teacher; or
  - (b) on a later day specified in the order.

**Subdivision 3 — Offences relating to inquiries**

**71. Failure to comply with notice under section 68**

- (1) A registered teacher must not, without lawful excuse, refuse or fail —
- (a) to attend; or
  - (b) to produce a document or other thing,
- as required by a notice under section 68(1)(a).
- (2) A registered teacher must not, without lawful excuse, refuse or fail to be sworn or make an affirmation as required under section 68(2).

Penalty: a fine of \$5 000.

**72. Disruption of inquiry**

During an inquiry a person must not do any of the following —

- (a) attempt to improperly influence the inquiry;
- (b) wilfully insult the Board or a disciplinary committee or a member of the Board or a disciplinary committee;
- (c) wilfully interrupt or obstruct the proceedings of the inquiry;
- (d) otherwise wilfully disrupt the inquiry.

Penalty: a fine of \$5 000.



## **Division 7 — Role of impairment review committee**

### **Subdivision 1 — Complaints relating to impairment matters**

**73. Impairment review committee to deal with certain complaints**

The impairment review committee is to deal under this Subdivision with a complaint referred to it by the Board.

**74. Registered teacher to be notified about impairment matter**

- (1) The impairment review committee may give written notice to a registered teacher of its intention to deal with an impairment matter in respect of that teacher.
- (2) The notice must —
  - (a) advise the teacher of the nature of the impairment matter; and
  - (b) contain a brief summary of the effect of this Subdivision; and
  - (c) seek the teacher's consent to the matter being dealt with under this Subdivision; and
  - (d) if the impairment review committee considers that an examination of the teacher is necessary, seek the teacher's consent to undergo an examination relating to the impairment matter within a period specified in the notice.

**75. Impairment matter — procedure and evidence**

In dealing with an impairment matter the impairment review committee —

- (a) must proceed with as little formality and technicality and as speedily as the requirements of this Act and a proper hearing of the matter permit; and
- (b) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and

- (c) may, subject to this Act and the rules of procedural fairness, determine its own procedures.

**76. Examination**

- (1) If the teacher agrees to undergo an examination within the period specified in the notice under section 74(2)(d), the teacher is to be examined by a medical practitioner agreed upon by the impairment review committee and the teacher.
- (2) If the impairment review committee and the teacher are unable to agree upon the person to conduct the examination, the committee is to appoint a medical practitioner to perform the examination.
- (3) The Board is to pay for an examination conducted under this section and a report provided under section 77.
- (4) If the teacher does not agree to undergo an examination within the period specified in the notice under section 74(2)(d), or does not abide by an agreement to undergo such an examination, the impairment review committee is to recommend to the Board that the complaint be referred to the State Administrative Tribunal.

**77. Report of examination to impairment review committee**

- (1) A medical practitioner who conducts an examination under section 76 is to give a report of the examination to the impairment review committee and, not more than 7 days later, the committee is to give a copy of the report to the teacher.
- (2) Despite subsection (1), if it appears to the impairment review committee that the disclosure to the teacher of information in the report might be prejudicial to the physical or mental health or wellbeing of the teacher, the committee may decide not to give that report to the teacher but to give it instead to a medical practitioner, or another teacher, nominated by the teacher.
- (3) If the teacher does not nominate a medical practitioner or another teacher to the impairment review committee within

14 days of being requested to do so by the committee, the committee may give the report to a medical practitioner or teacher selected by the committee.

- (4) The teacher may make written representations to the impairment review committee with respect to the report within 30 days after the report is given to him or her or the medical practitioner or teacher nominated by him or her or selected by the committee.

**78. Decision of impairment review committee after consideration of matter**

- (1) On completion of its consideration of an impairment matter and after taking into account —
- (a) the report of the Board referred to in section 54; and
  - (b) any report given to the impairment review committee under section 77(1); and
  - (c) any representations made by the teacher under section 77(4),

the committee is to deal with the matter in one of the following ways —

- (d) dismiss the complaint;
- (e) recommend to the Board that the complaint be referred to a disciplinary committee or the State Administrative Tribunal;
- (f) request that the teacher consent —
  - (i) to the imposition of conditions on his or her registration; or
  - (ii) to having his or her registration suspended for a period, not exceeding 2 years, specified by the impairment review committee; or
  - (iii) to undergo counselling specified by the impairment review committee.

- (2) Notice of a decision under this section is to be given in accordance with section 85.

**79. Recommendation**

- (1) If the teacher does not consent to a request made under section 78(1)(f) within 30 days of the request being made, the impairment review committee is to recommend to the Board that the complaint be referred to the State Administrative Tribunal.
- (2) If the teacher does consent to a request made under section 78(1)(f) within 30 days of the request being made, the impairment review committee is to recommend that the Board take any action to which the teacher has consented.
- (3) A recommendation made under subsection (1) or (2) must be made in writing and contain details of the impairment review committee's consideration of the impairment matter.

**80. Decision of Board after consideration of recommendation of impairment review committee**

- (1) The Board is to consider a recommendation of the impairment review committee and may —
- (a) decide not to take any action; or
  - (b) take any action under section 78(1)(f) to which the teacher has consented; or
  - (c) refer the complaint to the State Administrative Tribunal.
- (2) For the purpose of taking action to which the teacher has consented the Board may —
- (a) order that a condition be imposed on the registration of the teacher, or order that an existing condition be modified; or
  - (b) order that the registration of the teacher is suspended for the period specified in the order; or

- (c) obtain an undertaking from the teacher to undergo the counselling specified by the impairment review committee.
- (3) Notice of a decision or an order made under this section is to be given in accordance with section 85.

**Subdivision 2 — Requests to impairment review committee  
by teachers**

**81. Request by teacher for imposition of condition**

- (1) A registered teacher who believes that his or her ability to practise as a teacher is affected because of an impairment matter may ask the impairment review committee to recommend to the Board that a condition on his or her registration be imposed, or that an existing condition be modified.
- (2) If the impairment review committee and the teacher agree upon the condition to be imposed, or the modification of an existing condition, the Board is to impose that condition, or to modify the existing condition, with respect to the registration of the teacher.
- (3) Notice of a decision under this section is to be given in accordance with section 85.

**82. Cancellation of condition**

The Board may cancel a condition imposed under section 81 if the registered teacher satisfies the impairment review committee that his or her ability to practise as a teacher is no longer affected because of the impairment matter that gave rise to the imposition of the condition.

## **Division 8 — State Administrative Tribunal**

### **Subdivision 1 — Role of the Board**

#### **83. Certain complaints to be referred to State Administrative Tribunal**

- (1) The Board may refer a complaint to the State Administrative Tribunal on its own initiative or on the recommendation of a disciplinary committee or the impairment review committee.
- (2) If a referral is made to the State Administrative Tribunal about a complaint in relation to which an interim disciplinary order has been made, the order remains in force until it is revoked by the Tribunal or a referral about the complaint is finally determined by the Tribunal.

### **Subdivision 2 — State Administrative Tribunal**

#### **84. Jurisdiction of State Administrative Tribunal**

- (1) If, in a proceeding commenced by a referral under this Act, the State Administrative Tribunal finds that a disciplinary matter exists in relation to a teacher the Tribunal may do one or more of the following —
  - (a) if the finding is in respect of someone who is no longer registered as a teacher —
    - (i) take any action, or make any order, that a disciplinary committee may take or make under section 70(1)(a), (b) or (c) in respect of a teacher;
    - (ii) order that the person is disqualified from applying for registration as a teacher for a period of time specified in the order;
  - (b) if the finding is in respect of a person who is registered as a teacher —
    - (i) take any action, or make any order, that a disciplinary committee may take or make under section 70(1)(a) to (f);

- (ii) order the cancellation of the person's registration as a teacher;
  - (iii) if an order is made under subparagraph (ii), order that the person is disqualified from applying for registration as a teacher for a period of time specified in the order.
- (2) If, in a proceeding commenced by a referral under this Act, the State Administrative Tribunal finds that an impairment matter exists in relation to a teacher the Tribunal may do one or more of the following —
  - (a) dismiss the complaint;
  - (b) order that the registration of the teacher be suspended for a period, not exceeding 2 years, as is specified in the order;
  - (c) order that a condition, or conditions, be imposed on the registration of the teacher, or order that an existing condition, or conditions, be modified;
  - (d) order that the teacher undergoes counselling or medical treatment or acts in accordance with medical advice given to the teacher;
  - (e) order the cancellation of the person's registration as a teacher;
  - (f) if an order is made under paragraph (e), order that the person is disqualified from applying for registration as a teacher for a period of time specified in the order.
- (3) If a referral to the State Administrative Tribunal is made about a complaint in relation to which an interim disciplinary order is in force, the Tribunal may affirm, revoke or vary the order pending final determination of the referral.
- (4) Nothing in subsection (3) limits or restricts the functions of the State Administrative Tribunal in respect of a complaint under this Act about a matter in respect of which an interim disciplinary order is in force.

**Division 9 — Notice of orders and decisions made under this Part**

**85. Notice of orders and decisions made under this Part**

- (1) Within 14 days of making —
- (a) an interim disciplinary order; or
  - (b) an order or a decision under section 53(1), 57(1), 62(1), 70(1) or (2), 78(1), 80(1) or (2), or 81(2),

the Board, a disciplinary committee or the impairment review committee, as is relevant, is to give written notice of the order or the decision to —

- (c) the teacher; and
  - (d) any complainant.
- (2) A notice is to contain short particulars of the reasons for the order or decision.
- (3) Notice given to a teacher about an interim disciplinary order is to contain a statement that the Board is to refer the matter in respect of which the order is made to the State Administrative Tribunal under section 61.
- (4) Notice given to a teacher about an order made under section 70 or 80 is to contain a statement that the teacher may have a right to a review under section 124.



## **Part 6 — Teacher Registration Board**

### **Division 1 — Establishment**

**86. Board established**

A body called the Teacher Registration Board of Western Australia is established.

**87. Membership of Board**

- (1) The Board consists of 7 members appointed by the Minister.
- (2) Each member is to be a natural person.
- (3) At least —
  - (a) one member is to be a lawyer; and
  - (b) 3 members are to be registered teachers.
- (4) The Minister is to appoint to the Board people that between them have such experience, skills or qualifications as the Minister considers appropriate to enable them to effectively carry out the functions of the Board under this Act.
- (5) The Minister is to designate one member to be the chairperson, and one member to be the deputy chairperson, of the Board.

**88. Remuneration and allowances**

A member of the Board or of a committee is entitled to the remuneration and allowances, if any, that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

## **Division 2 — Functions and powers**

### **89. Functions**

The functions of the Board are as follows —

- (a) to perform the functions that are conferred on the Board under this Act or any other Act;
- (b) to facilitate and assist in the establishment of an accreditation scheme for initial teacher education programmes that may apply throughout Australia;
- (c) to work with, and join associations of, teacher regulatory authorities (however described) of other States or Territories or New Zealand —
  - (i) to establish such an accreditation scheme; and
  - (ii) generally, to participate in, and contribute to, debate and activities relating to teaching and teachers;
- (d) to implement and administer for Western Australia an accreditation scheme for initial teacher education programmes so established;
- (e) to advise the Minister on matters to which this Act applies.

### **90. Powers**

The Board has all the powers it needs to perform its functions.

### **91. Delegation by Board**

- (1) The Board may delegate any power or duty of the Board under another provision of this Act —
  - (a) to a member of the Board; or
  - (b) to a committee; or
  - (c) with the consent of the CEO, to an officer or employee employed in the Department.
- (2) The delegation must be in writing executed by the Board.

- (3) A person or committee to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person or committee exercising or performing a power or duty that has been delegated to the person or committee under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Board to perform a function through a member of staff provided to the Board by the CEO under this Act or a person representing the Board.

### **Division 3 — Staff and services**

#### **92. Staff and services**

The CEO is to ensure that the Board is provided with such —

- (a) staff, services and facilities; and
- (b) other resources and support,

as are reasonably necessary to enable it to perform its functions.

### **Division 4 — Relationship of Board with Minister**

#### **93. Directions by Minister**

- (1) Subject to subsection (2), the Minister may give written directions to the Board with respect to the performance of its functions, either generally or in relation to a particular matter, and the Board is to give effect to any such direction.
- (2) The Minister must not under subsection (1) direct the Board with respect to the performance of its functions in respect of —
  - (a) a particular person; or
  - (b) a particular application, complaint or proceeding.

- (3) A copy of a direction given under subsection (1) is to be —
- (a) laid before each House of Parliament within 14 days after the direction is given or dealt with in accordance with section 125; and
  - (b) included in the report of the Board made under section 114.

**94. Minister to have access to information**

- (1) In this section —
- document* includes any tape, disk or other device or medium on which information is recorded or stored;
- information* means information specified, or of a description specified, by the Minister that relates to the functions of the Board.
- (2) The Minister is entitled —
- (a) to have information in the possession of the Board; and
  - (b) if the information is in or on a document, to have, and make and retain copies of, that document.
- (3) For the purposes of subsection (2), the Minister may —
- (a) request the Board to furnish information to the Minister; and
  - (b) request the Board to give the Minister access to information; and
  - (c) for the purposes of paragraph (b) make use of the services of any officer or employee employed in the Department to obtain the information and furnish it to the Minister.
- (4) The Board is to comply with a request under subsection (3) and the CEO is to arrange for his or her staff and facilities to be available to the Minister for the purposes of subsection (3)(c).

- (5) The Minister is not entitled to have information under this section in a form that —
- (a) discloses the identity of a person involved in a particular application, complaint, investigation, inquiry or other proceeding; or
  - (b) might enable the identity of any such person to be ascertained,

unless that person has consented to the disclosure.

## **Division 5 — Constitution and proceedings of the Board**

### **Subdivision 1 — General provisions**

#### **95. Term of office**

- (1) Subject to section 96, a member of the Board holds office for the term, not exceeding 5 years, that is specified in the member's instrument of appointment.
- (2) A member of the Board is eligible for reappointment.
- (3) A member of the Board whose term of office expires without a person having been appointed to fill the vacancy continues in office (unless under section 96, the person resigns or is removed from office) until whichever of the following occurs first —
  - (a) a person is appointed to fill the vacancy;
  - (b) a period of 3 months elapses after the expiry of the term of office.

#### **96. Casual vacancies**

- (1) A member of the Board may at any time resign from office by written notice given to the Minister.
- (2) The Minister may remove a member of the Board from office on one of the following grounds —
  - (a) mental or physical incapacity to carry out the person's duties in a satisfactory manner;

- (b) the person being an insolvent;
  - (c) the person being convicted of a serious offence;
  - (d) absence, without leave, from 3 consecutive meetings of the Board of which the member has had notice;
  - (e) neglect of duty;
  - (f) misconduct.
- (3) In subsection (2)(b) —  
*insolvent* means a person who is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.
- (4) The office of a member becomes vacant if, before the term for which the person holding the office was appointed expires, the person dies or resigns or is removed from office.

**97. Deputy chairperson acting as chairperson**

- (1) The deputy chairperson is to perform the functions of the chairperson —
- (a) when the chairperson is unable to act because of illness, absence or other cause; or
  - (b) during any vacancy in the office of chairperson.
- (2) An act or omission of the deputy chairperson acting in the place of the chairperson is not to be questioned on the ground that the occasion for acting had not arisen or had ceased.

**98. Alternate members**

- (1) If a member of the Board other than the chairperson is unable to act because of illness, absence or other cause, the Minister may appoint another person as an alternate member to act temporarily in the member's place.
- (2) If the deputy chairperson is acting in place of the chairperson at a meeting, the Minister may appoint another person to act in his or her place as an alternate member.

- (3) While acting in accordance with the appointment the alternate member is to be taken to be, and to have any entitlement of, a member.
- (4) An act or omission of an alternate member is not to be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

**99. Holding meetings**

- (1) The first meeting of the Board is to be convened by the chairperson and subsequent meetings, unless convened under subsection (2), are to be held at times and places determined by the Board.
- (2) A special meeting of the Board may at any time be convened by the chairperson.

**100. Quorum**

Five members constitute a quorum of the Board.

**101. Presiding at meetings**

- (1) The chairperson if present is to preside at a meeting of the Board.
- (2) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (1) the members present at the meeting are to appoint one of their number to preside.

**102. Procedure at meetings**

The Board is to determine its own meeting procedures to the extent that they are not fixed by this Act.

**103. Voting**

- (1) At a meeting of the Board, each member present has a deliberative vote unless section 109 prevents the member from voting.

- (2) A question is resolved according to how a majority of the votes are cast but if there is not a majority the question is resolved according to the casting vote of the person presiding.

**104. Holding meetings remotely**

The presence of a person at a meeting of the Board need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

**105. Resolution without meeting**

A resolution in writing signed or assented to by letter, facsimile, email or other similar means by at least 5 members of the Board has the same effect as if it had been passed at a meeting of the Board.

**106. Minutes**

The Board is to cause accurate minutes to be kept of the proceedings at each of its meetings and each meeting of its committees.

**107. Committees**

- (1) The Board may establish committees to assist it to perform its functions, and may discharge or alter any committee it has established.
- (2) A committee may include people who are not members of the Board but must include at least one member of the Board.
- (3) Each member of a committee is to be a natural person.
- (4) The Board may give directions to a committee on the following matters —
- (a) the functions to be performed by the committee;
  - (b) the procedures of the committee;



- (c) reporting by the committee on the performance of its functions.
- (5) A committee must comply with a direction of the Board.
- (6) A committee may determine its own procedures but they must be consistent with any directions of the Board and the terms of any delegation under which the committee is acting.
- (7) This section does not apply to a disciplinary committee and the impairment review committee.

### **Subdivision 2 — Disclosure of interest**

#### **108. Disclosure of interest**

- (1) A member of the Board who has a material personal interest in a matter being considered or about to be considered by the Board must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.  
Penalty: a fine of \$25 000.
- (2) A member of a committee who has a material personal interest in a matter being considered or about to be considered by the committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.  
Penalty: a fine of \$25 000.
- (3) Subsection (2) applies to a person who is a member of the committee and also a member of the Board even though the person has already disclosed the nature of the interest at a meeting of the Board.
- (4) A disclosure under subsection (1) or (2) is to be recorded in the minutes of the meeting.

**109. Voting by interested Board member**

- (1) A member who has a material personal interest in a matter that is being considered by the Board —
  - (a) must not vote, whether at a meeting or otherwise, on the matter; and
  - (b) must not be present while the matter is being considered at a meeting.
- (2) A reference in subsection (1)(a) or (b) to a matter includes a reference to a proposed resolution under section 110 in respect of the matter, whether relating to that member or a different member.

**110. Section 109 may be declared inapplicable**

Section 109 does not apply if the Board has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

**111. Quorum where section 109 applies**

- (1) Despite section 100, if the Board is dealing with a matter in relation to which a member is disqualified under section 109, a quorum is present during the consideration of the matter if at least half the number of members who are entitled to vote on any motion that may be moved at the meeting in relation to the matter are present.
- (2) The Minister may deal with a matter insofar as the Board cannot deal with it because of subsection (1).

**112. Minister may declare sections 109 and 111 inapplicable**

- (1) The Minister may by writing declare that section 109 or 111 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must, within 14 days after a declaration under subsection (1) is made, cause a copy of the declaration to be laid before each House of Parliament or dealt with in accordance with section 125.

**Division 6 — General**

**113. Execution of documents by the Board**

- (1) A document is duly executed by the Board if it is signed on behalf of the Board by a person or persons authorised to do so under subsection (2).
- (2) The Board may —
  - (a) authorise one or more of its members; or
  - (b) with the consent of the CEO, authorise any officer or employee employed in the Department,to sign documents on behalf of the Board, either generally or subject to the conditions that are specified in the authorisation.
- (3) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.

**114. Annual report of Board**

- (1) The Board is to prepare and submit to the CEO, as soon as is practicable after 30 June in each year, a report that contains —
  - (a) information about the activities of the Board during the financial year; and
  - (b) a report about the Board's performance of its functions under this Act during that time; and

- (c) any other matters arising out of the performance of the Board's functions that are, in the opinion of the Board, of such significance as to require reporting.
- (2) The annual report submitted by the accountable authority of the Department under the *Financial Management Act 2006* Part 5 is to include the report of the Board under subsection (1).

**115. Teacher Registration Board Account**

- (1) An agency special purpose account called the Teacher Registration Board Account is to be established under the *Financial Management Act 2006* section 16.
- (2) The Teacher Registration Board Account is to be administered by the CEO.
- (3) The Teacher Registration Board Account must be credited with the following —
  - (a) fees, fines, costs and other moneys received or recovered under this Act;
  - (b) other moneys received by, made available to, or payable to, the Teacher Registration Board in the performance of functions under this or any other Act;
  - (c) any other moneys required or authorised under this or any other written law to be credited to the account.
- (4) Moneys held in the Teacher Registration Board Account must be applied for the following —
  - (a) in payment of the remuneration and allowances payable to the members of the Board or of a committee under this Act;
  - (b) in payment of the costs and expenses incurred in the performance of the functions of the Teacher Registration Board under this Act;
  - (c) in payment of the costs of the administration and enforcement of this Act.

## **Part 7 — Miscellaneous**

### **Division 1 — Publishing and using information**

**116. Term used: publish**

In this Division —

***publish***, in relation to information, includes —

- (a) include in a newspaper or other publication published in this State;
- (b) disseminate by the exhibition or broadcast of a photograph, slide, film, video recording, audio recording or other recording of images or sound;
- (c) broadcast by radio or for television;
- (d) include on a website or otherwise publicly disseminate by means of the internet;
- (e) publicly exhibit in, on, over or under any building, vehicle or place, or in the air, in view of persons in or on any street or public place;
- (f) include in a document sent or delivered to any person or body;
- (g) include in a document gratuitously sent or delivered to any person or body or thrown or left on premises occupied by any person or body or left on a vehicle;
- (h) make verbally to any person or body.

**117. Confidentiality of information**

- (1) This section applies to a person who is or has been engaged in the performance of functions under this Act.
- (2) A person to whom this section applies must not, directly or indirectly, publish or make use of information obtained in performing functions under this Act other than —
  - (a) for the purpose of, or in connection with, performing a function under this Act or another written law; or

- (b) as required or allowed under this Act or another written law; or
- (c) with the written consent of the person to whom the information relates; or
- (d) for the purpose of investigation of a suspected offence or the conduct of proceedings against a person arising out of the administration of this or another written law; or
- (e) in other circumstances, if any, prescribed.

Penalty: a fine of \$25 000.

- (3) Subsection (2) does not apply to the publication or use of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

**118. Publication of information**

- (1) The Board may cause to be published, in any form or manner that the Board considers appropriate, information concerning any of the following —
  - (a) the registration of teachers;
  - (b) matters that adversely affect or may adversely affect the interests of persons at educational venues who are taught by registered teachers.
- (2) Without limiting subsection (1) —
  - (a) information published under this section may include details of any of the following —
    - (i) orders or decisions of the Board or of a disciplinary committee;
    - (ii) orders made by the State Administrative Tribunal;

- (b) the Board may give notice of a finding, order, reason, decision or other action in respect of a person to any of the following —
  - (i) a board or authority under a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described);
  - (ii) any relevant professional association or trade union of which the person is a member;
  - (iii) a person who is, or at the relevant time was, the employer of a registered teacher;
  - (iv) any other person who, in the opinion of the Board, should be made aware of the finding, order, reason, decision or action.
- (3) The Board must not publish information under this section unless satisfied that it is in the public interest to do so.
- (4) Without limiting section 117, no civil or criminal liability is incurred by the Board or any other person in respect of the publication, in good faith, of information under this section.

### **Division 2 — Legal proceedings**

#### **119. Legal proceedings**

- (1) Proceedings for an offence against this Act or in respect of any other matter arising under this Act may be taken in the name of the Board by —
  - (a) the Board; or
  - (b) any other person authorised to do so by the Board.
- (2) Subsection (1) does not limit the ability of a person to commence or conduct the prosecution of an offence if the person has authority at law to do so.
- (3) All prosecutions for offences against this Act are to be heard in a court of summary jurisdiction constituted by a magistrate.

**120.    *Evidence Act 1906 not affected***

This Division is in addition to, and does not affect the operation of, the *Evidence Act 1906*.

**121.    Evidentiary matters**

- (1) In proceedings for an offence against this Act, in the absence of evidence to the contrary, the following matters are to be taken to be proved —
  - (a) the prosecutor is authorised to commence the prosecution; and
  - (b) the prosecution notice is executed by a person authorised to commence the prosecution.
  
- (2) In proceedings for an offence against this Act an allegation in a prosecution notice that, at a specified time, a specified person was —
  - (a) a member or an alternate member of the Board;
  - (b) the chairperson or deputy chairperson of the Board;
  - (c) a member of a committee,is taken to be proved in the absence of evidence to the contrary.
  
- (3) In proceedings for an offence against this Act a copy of or extract from the register or any statement that purports to reproduce matters entered in the register that is certified by the Board as a true copy, extract or statement, is evidence of the facts appearing in that copy, extract or statement.

**122.    Evidentiary certificate**

- (1) In any proceedings, production of a certificate containing a statement described in subsection (2) and purporting to be given by the Board is, without proof of any appointment or signature, evidence of the facts stated in the certificate in the absence of evidence to the contrary.



- (2) A certificate may state any or all of the following —
- (a) that a person is or was, or is not or was not, registered as a teacher;
  - (b) that a person does or does not, or did or did not, hold a specified category of registration;
  - (c) any conditions to which the registration of a person is or was subject;
  - (d) that the registration of a person has or had been suspended or cancelled under this Act;
  - (e) that a person was disqualified from holding registration as a teacher;
  - (f) the day, days or period on or during which anything referred to in any of paragraphs (a) to (e) applied.

**123. Recovery of amounts due**

The amount of any —

- (a) fees; or
- (b) penalty, costs or expenses ordered to be paid under Part 5,

is recoverable by the Board in any court of competent jurisdiction as a debt due to the State.

**Division 3 — Review by State Administrative Tribunal**

**124. Review by State Administrative Tribunal of certain decisions**

- (1) A person who is, or was —
- (a) a registered teacher; or
  - (b) an applicant for registration as a teacher; or
  - (c) the employer of a registered teacher who holds, or held, limited registration,

who is aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

**reviewable decision** means a decision of —

- (a) the Board to refuse an application by the person under Part 3 for the grant of registration; or
- (b) the Board to refuse an application by the person under Part 3 for the renewal of registration; or
- (c) the Board to impose a condition on the person's registration under section 26 when granting or renewing that registration; or
- (d) the Board to impose, modify or cancel a condition under section 26 during the currency of the teacher's registration; or
- (e) the Board to cancel the person's registration under section 27; or
- (f) a disciplinary committee to make an order against the person under section 70; or
- (g) the Board to make an order against the person under section 80.

#### **Division 4 — Other matters**

#### **125. Laying before House of Parliament that is not sitting**

(1) If the Minister is required under this Act to cause a document to be laid before each House of Parliament, or dealt with under this section, within 14 days and —

- (a) at the commencement of that period a House of Parliament is not sitting; and
- (b) the Minister is of the opinion that the House will not sit during that period of 14 days,

the Minister is to transmit a copy of the document to the Clerk of that House.

(2) A copy of a document transmitted to the Clerk of a House is to be taken to have been laid before that House.

- (3) The laying of a copy of a document that is regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

**126. Protection from liability**

- (1) An action in tort does not lie against a person for any thing that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done any thing as described in that subsection.
- (4) In this section, a reference to the doing of any thing includes a reference to the omission to do any thing.

**127. False or misleading information**

A person —

- (a) in, or in connection with, an application under this Act; or
- (b) in compliance or purported compliance with a requirement made by or under this Act to provide information; or
- (c) for any other purpose under this Act,

must not do any of the following —

- (d) make a statement which the person knows is false or misleading in a material particular;
- (e) make a statement which is false or misleading in a material particular, with reckless disregard as to whether or not the statement is false or misleading in a material particular;

- (f) provide, or cause to be provided, information that the person knows is false or misleading in a material particular;
- (g) provide, or cause to be provided, information that is false or misleading in a material particular, with reckless disregard as to whether the information is false or misleading in a material particular;
- (h) fail to disclose, or cause a failure to disclose, all information that the person knows is materially relevant.

Penalty:

- (a) for a first offence, a fine of \$5 000;
- (b) for a second or subsequent offence, a fine \$10 000.

## **128. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by the Act to be prescribed, or are necessary or convenient to be prescribed to give effect to the purposes of the Act.
- (2) Without limiting subsection (1), regulations may be made for all or any of the following purposes —
  - (a) regulating the meetings and proceedings of, and the conduct of business by, the Board or a committee;
  - (b) maintaining the accuracy of the register, including the provision of information to the Board to assist in maintaining the accuracy of the register;
  - (c) regulating the issue, display and use of certificates of registration, if any;
  - (d) regulating applications and registration including —
    - (i) conditions on registration;
    - (ii) the duration of non-practising registration;
    - (iii) the provision of information about eligibility for registration;

- (e) implementing and administering an accreditation scheme for initial teacher education programmes including —
  - (i) the grant and cancellation of accreditation, including conditions on accreditation and the duration of accreditation;
  - (ii) eligibility criteria for accreditation;
  - (iii) the fees to be paid for accreditation, and in relation to the accreditation scheme, and the person liable for the payment of any fee;
  - (iv) providing for accreditation panels, including the functions and powers of accreditation panels;
  - (v) the role of the Board and other bodies, including any accreditation panel or panels, in the accreditation scheme;
  - (vi) the review of accreditation decisions;
  - (vii) anything supplementary or additional for the implementation or administration of the accreditation scheme;
- (f) regarding information —
  - (i) as to persons who are teaching in an educational venue;
  - (ii) about teaching in educational venues,  
to be supplied to the Board, at the request of the Board, by any person who appoints, employs, engages or gives permission to another person to teach in an educational venue;
- (g) procedures in relation to the making of complaints;
- (h) procedures in relation to the conduct of inquiries;
- (i) prescribing fees to be paid for the purposes of this Act, and the person liable for payment of any fee;

- (j) providing that any information supplied to the Board or a committee may be required to be verified by statutory declaration.

**129. Forms**

Forms that are convenient for the purposes of this Act may be —

- (a) prescribed; or
- (b) approved by the Board.

**130. Review of Act**

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 4 years from the commencement of this section, and in the course of that review the Minister is to consider and have regard to the following —
  - (a) the effectiveness of the operations of the Board;
  - (b) the need for the continuation of the functions of the Board;
  - (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (2) The Minister is to prepare a report based on the review made under subsection (1) and, as soon as is practicable after the preparation of the report, cause it to be laid before each House of Parliament.

## **Part 8 — Repeals and transitional matters**

### **Division 1 — *Interpretation Act 1984* not affected**

**131. *Interpretation Act 1984* not affected**

The provisions of this Part are additional to and do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeal effected by section 132, except where the contrary intention appears.

### **Division 2 — Repeals**

**132. *Western Australian College of Teaching Act 2004* repealed**

- (1) The *Western Australian College of Teaching Act 2004* is repealed.
- (2) If, when this section comes into operation, Part 9 Division 1 is not in operation, then Part 9 Division 1 is repealed.

**133. *Western Australian College of Teaching Regulations 2004* repealed**

The *Western Australian College of Teaching Regulations 2004* are repealed.

**134. *Western Australian College of Teaching (Elections) Regulations 2007* repealed**

The *Western Australian College of Teaching (Elections) Regulations 2007* are repealed.

**Division 3 — Transitional provisions arising from the  
enactment of the *Teacher Registration Act 2012***

**Subdivision 1 — Terms used**

**135. Terms used**

In this Division —

***assets*** means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in personal property of any description, including money and includes securities, choses in action and documents;

***College*** means the Western Australian College of Teaching established under the *Western Australian College of Teaching Act 2004* section 5;

***commencement day*** means the day that is the earlier of the following —

- (a) the day on which Part 9 Division 1 comes into operation;  
or
- (b) the day on which section 132 comes into operation;

***currently teaching***, in relation to an individual, means engaged, employed, appointed or given permission to teach, in an educational venue other than a school, whether or not the individual was actually teaching, immediately before the commencement day;

***former Board*** means the Board —

- (a) established under the *Western Australian College of Teaching Act 2004* section 7; and
- (b) in existence immediately before commencement day;

***liability*** means any liability, duty or obligation, other than a liability that relates to real property, whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;



**right** means any right, power, privilege or immunity whether actual, contingent or prospective;

**school** has the meaning given in the *School Education Act 1999* section 4;

**WACOT Act** means the *Western Australian College of Teaching Act 2004* as in force immediately before commencement day.

### **Subdivision 2 — Registration**

#### **136. Current registration continues**

An individual who immediately before commencement day —

- (a) was registered as a teacher under the WACOT Act section 34, is to be taken to hold full registration; and
- (b) was provisionally registered as a teacher under the WACOT Act section 32, is to be taken to hold provisional registration; and
- (c) held a limited authority to teach under the WACOT Act section 36, is to be taken to hold limited registration,

on commencement day on the same terms and conditions (including suspension and period of registration) as applied in respect of that person under the WACOT Act.

#### **137. Registration of persons not currently registered at commencement day**

- (1) This section applies to an individual who immediately before commencement day —
  - (a) held a qualification in teaching approved by the Board for the purposes of this section; and
  - (b) was not registered as a teacher under the WACOT Act.

**Teacher Registration Act 2012**

**Part 8** Repeals and transitional matters

**Division 3** Transitional provisions arising from the enactment of the  
Teacher Registration Act 2012

**s. 137**

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- (2) An individual to whom this section applies who is currently teaching and has taught at an educational venue, other than a school —
- (a) for a period of at least 3 years is eligible for full registration as a teacher; and
  - (b) for a period of less than 3 years is eligible for provisional registration as a teacher.
- (3) An individual to whom this section applies who is not currently teaching but has taught at an educational venue other than a school at some time before commencement day is eligible for either full registration or provisional registration as a teacher, as the Board decides is appropriate.
- (4) The Board must, on application made in the manner approved by the Board, register an individual eligible for registration as a teacher under this section unless the Board is satisfied that the person is not a fit and proper person to be a registered teacher.
- (5) An application for registration —
- (a) by a person eligible for registration under subsection (2) must be made within 18 months after commencement day; or
  - (b) by a person eligible for registration under subsection (3) must be made within 24 months after commencement day,
- or such later time as the Board may allow having regard to the circumstances of a particular case.
- (6) Part 2 does not apply to, or in respect of, an individual to whom this section applies until whichever is the earlier of the following —
- (a) the expiration of the period during which the individual could apply for registration under this section;
  - (b) if the individual has made an application for registration under this section, when that application is dealt with by the Board.

- (7) An individual to whom this section applies who is aggrieved by a decision of the Board under this section may apply to the State Administrative Tribunal for a review of the decision.

**Subdivision 3 — Former Board abolished**

**138. Former Board abolished**

On commencement day, the former Board is to be taken to be abolished and its members go out of office.

**139. Unfinished proceedings**

Any proceedings commenced by, or against, the College that have not been finally determined by commencement day —

- (a) are to be dealt with and determined as if the proceedings had been commenced by or against the Board; and
- (b) are to continue under the direction and control of the Board.

**Subdivision 4 — Assets and liabilities of the College, other than those relating to real property, transferred**

**140. This Subdivision does not apply in respect of real property**

This Subdivision does not apply to, or in respect of, real property, and any liabilities relating to real property, held immediately before commencement day by the College under the WACOT Act.

**141. Transfer of assets, liabilities, etc.**

- (1) On commencement day, by force of this section —
- (a) the assets and rights vested in the College immediately before commencement day are transferred to, and vest, in the State and are to be administered in the Department; and
  - (b) the liabilities of the College (including a share of a liability) existing immediately before commencement

**Teacher Registration Act 2012**

**Part 8** Repeals and transitional matters

**Division 3** Transitional provisions arising from the enactment of the  
Teacher Registration Act 2012

**s. 142**

---

day are transferred to the State to be administered in the Department.

- (2) The assets, rights and liabilities referred to in subsection (1) pass to and become vested in the State under this section without any transfer or assignment.
- (3) The relevant officials are to take notice of this Part and are to record and register in the appropriate manner the documents necessary to show the effect of this section.

**142. Winding-up**

As soon as reasonably practicable after commencement day, the CEO is to wind-up the affairs of the College and in particular, but without limiting what may be done to wind-up those affairs, the CEO is to —

- (a) discharge the liabilities transferred to the State under this Subdivision; and
- (b) cause —
  - (i) any assets which remain after the discharge of those liabilities; and
  - (ii) moneys derived from the winding-up of the affairs of the College under this section, including any proceeds from the disposal of property,

to be credited to the account referred to in section 115.

**143. Final report**

- (1) In this section —

*final period* means the period beginning on the day after the last day of the period for which a report was made under the WACOT Act section 29 and ending on commencement day.
- (2) The Minister is to appoint a reporting officer to make and submit to the CEO, as soon as is reasonably practicable, but in any event not later than 4 months, after commencement day a

report (the *final report*) of the proceedings of the College for the final period.

- (3) The WACOT Act section 29(2) and (3)(a) to (d) applies in respect of the final report as if it was an annual report made under that section by the College.
- (4) The Minister must cause copies of the final report submitted under subsection (2) to be laid before each House of Parliament, or dealt with under section 125, within 14 days after the Minister receives it.

**144. Records etc. to be delivered to CEO**

The College is to ensure that, on commencement day, all documents, papers, books of accounts and other records (however compiled or stored) in the possession of the College or under its control, are delivered to the CEO.

**Subdivision 5 — Staff under WACOT Act**

**145. Staff under WACOT Act — transition of employment**

- (1) A person who, immediately before commencement day, was appointed, employed or engaged by the College becomes, on the commencement day, a person employed in the Department.
- (2) The employment of the person in the Department in accordance with subsection (1) is under and subject to the *Public Sector Management Act 1994*.
- (3) A person mentioned in subsection (1) is to be regarded as having been appointed, engaged or employed, as is relevant, by the CEO.
- (4) Except as otherwise agreed by a person to whom subsection (1) applies, the person's remuneration, existing, accrued or accruing rights, rights under a superannuation scheme or fund and continuity of service are not affected, prejudiced or interrupted by —

**Teacher Registration Act 2012**

**Part 8** Repeals and transitional matters

**Division 3** Transitional provisions arising from the enactment of the  
Teacher Registration Act 2012

**s. 146**

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- (a) the operation of subsection (1); or
  - (b) the abolition of the former Board; or
  - (c) the amendment or repeal of the *Western Australian College of Teaching Act 2004*.
- (5) For the purposes of this section, a person's service with the College is to be taken to have been with the Department.

**Subdivision 6 — Other matters**

**146. Disciplinary proceedings**

Disciplinary proceedings commenced under the WACOT Act Part 7 that are not complete by commencement day —

- (a) are taken to have been commenced under this Act; and
- (b) are to be dealt with under this Act.

**147. Orders made under WACOT Act**

An order for disciplinary action in force immediately before commencement day under the WACOT Act is to be taken to be an order made by a disciplinary committee or the Board, as is relevant under Part 5 of this Act.

**148. References to College or former Board**

- (1) If in a written law or other document or instrument there is a reference to the College or to the former Board, that reference may, on and after commencement day, where the context so requires, be read as if it had been amended to be a reference to the Board.
- (2) Subsection (1) does not apply to or in respect of a document or instrument relating to any asset or liability that is held after commencement day by the College under the *Western Australian College of Teaching Act 2004*.

**149. Transitional regulations**

- (1) If there is no sufficient provision in this Part for dealing with a transitional matter, regulations under this Act may prescribe all matters that are required or necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —  
*transitional matter* means a matter that needs to be dealt with for the transition required because of this Act.
- (3) Regulations made under subsection (1) may provide that specified provisions of any written law —
  - (a) do not apply to or in relation to any matter; or
  - (b) apply with specified modifications to or in relation to any matter.
- (4) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (5) In subsections (3) and (4) —  
*specified* means specified or described in the regulations.
- (6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the regulations were published in the *Gazette*; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the regulations were published in the *Gazette*.

## **Part 9 — Amendments to other Acts**

### **Division 1 — Western Australian College of Teaching Act 2004 amended**

**150. Western Australian College of Teaching Act 2004 amended**

This Division amends the *Western Australian College of Teaching Act 2004*.

**151. Long title amended**

In the long title delete the second, third and fourth dot points and insert:

- **provide for the winding-up of that College,**

**152. Section 3 replaced**

Delete section 3 and insert:

**3. Terms used**

In this Act —

**Board** means the Board established under section 7;

**CEO** has the meaning given in the *Teacher Registration Act 2012* section 3;

**College** means the Western Australian College of Teaching established under section 5;

**commencement day** means the day on which the *Teacher Registration Act 2012* Part 9 Division 1 comes into operation;

**Teacher Registration Board Account** means the account referred to in the *Teacher Registration Act 2012* section 115.



**153. Section 7 amended**

Delete section 7(2) and insert:

- (2) The Board is constituted by the CEO.

**154. Sections 9 to 13 deleted**

Delete sections 9 to 13.

**155. Section 15 amended**

- (1) In section 15(2):

- (a) in paragraph (b) delete “information; and” and insert:

information.

- (b) delete paragraph (c).

- (2) Delete section 15(3).

**156. Sections 16 to 18 replaced**

Delete sections 16, 17 and 18 and insert:

**16. Term used: residual affairs**

In this Division —

*residual affairs* means the affairs of the College in respect of —

- (a) the real property held by the College under this Act immediately before commencement day;  
and  
(b) any liabilities relating to that real property.

**17. Function of College**

- (1) The function of the College is to manage and wind-up its residual affairs.
- (2) The College is to wind-up its residual affairs as soon as is reasonably practicable after commencement day.

**18. Powers of College**

- (1) The College may do all things that are necessary or expedient for managing and winding-up its residual affairs.
- (2) Without limiting what may be done to wind-up its residual affairs, the College is to —
  - (a) dispose of the real property held by the College under this Act immediately before commencement day; and
  - (b) discharge any remaining liabilities relating to that real property.

**157. Sections 19 to 21 deleted**

Delete sections 19 to 21.

**158. Section 25 amended**

- (1) In section 25(1)(b) delete “a member, or members, of the Board authorised by the College to do so.” and insert:

the CEO.

- (2) In section 25(3) delete “any 2 members of the Board and each of them” and insert:

the CEO and the CEO

**159. Section 26 replaced**

Delete section 26 and insert:

**26. Funds available to the College**

- (1) All moneys received by the College in performing its function under this Act, including any proceeds from the disposal of property, are to be credited to the Teacher Registration Board Account.
- (2) All expenditure incurred by the College for the purposes of performing its function, including the repayment of moneys borrowed by or advanced to the College, is to be charged to the Teacher Registration Board Account.

**160. Sections 27 to 29 deleted**

Delete sections 27 to 29.

**161. Parts 4 to 9 deleted**

Delete Parts 4 to 9.

**162. Schedules 1 to 4 deleted**

Delete Schedules 1 to 4.

**Division 2 — Other Acts amended**

**163. *Children and Community Services Act 2004* amended**

- (1) This section amends the *Children and Community Services Act 2004*.

**Teacher Registration Act 2012**

**Part 9** Amendments to other Acts

**Division 2** Other Acts amended

**s. 164**

---

- (2) In section 124A in the definition of *teacher* delete paragraphs (a) and (b) and insert:

(a) a person who is registered under the *Teacher Registration Act 2012*; or

**164. Constitution Acts Amendment Act 1899 amended**

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the item relating to The Western Australian College of Teaching.
- (3) In Schedule V Part 3 after the item relating to The Taxi Industry Board insert:

The Teacher Registration Board of Western Australia established under the *Teacher Registration Act 2012*.

**165. Oaths, Affidavits and Statutory Declarations Act 2005 amended**

- (1) This section amends the *Oaths, Affidavits and Statutory Declarations Act 2005*.
- (2) In Schedule 2 delete item 42 and insert:

42. A person registered under the *Teacher Registration Act 2012*. Registered teacher

[166. *Has not come into operation*<sup>1</sup>.]

**167. Prostitution Amendment Act 2008 amended**

- (1) This section amends the *Prostitution Amendment Act 2008*.
- (2) Delete section 34.

**168.    *Sentencing Act 1995* amended**

- (1) This section amends the *Sentencing Act 1995*.
- (2) In Schedule 1 delete the item relating to the *Western Australian College of Teaching Act 2004*.
- (3) In Schedule 1 insert in alphabetical order:

*Teacher Registration Act 2012*      Teacher Registration Board Account

**169.    *Spent Convictions Act 1988* amended**

- (1) This section amends the *Spent Convictions Act 1988*.
- (2) In Schedule 3 clause 1(3) in the Table —
  - (a) in item 14 delete “section 7 of the *Western Australian College of Teaching Act 2004*.” and insert:

the *Teacher Registration Act 2012* section 86.
  - (b) delete item 15;
  - (c) delete item 16 and insert:

16. A person who is registered, or who has applied for registration, under the *Teacher Registration Act 2012*.
- (3) In Schedule 3 delete clause 1(4)(d) and insert:
  - (d) who has registered or is considering registering the person.

***Teacher Registration Act 2012***

**Part 9** Amendments to other Acts

**Division 2** Other Acts amended

**s. 170**

---

**170. *State Administrative Tribunal Act 2004* amended**

- (1) This section amends the *State Administrative Tribunal Act 2004*.
- (2) In Schedule 1 insert in alphabetical order:

*Teacher Registration Act 2012*



## Notes

This is a compilation of the *Teacher Registration Act 2012*. For provisions that have come into operation see the compilation table.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Teacher Registration Act 2012</i> <sup>1</sup>	16 of 2012	3 Jul 2012	s. 1 and 2: 3 Jul 2012 (see s. 2(a)); Act other than s. 1, 2, 132 and 166: 7 Dec 2012 (see s. 2(b) and <i>Gazette</i> 16 Nov 2012 p. 5637); s. 132: 3 Aug 2016 (see s. 2(b) and <i>Gazette</i> 2 Aug 2016 p. 3293)

### Other notes

- <sup>1</sup> The *Teacher Registration Act 2012* s. 166 will not come into operation because the Act it purported to amend was repealed by the *Health Practitioner Regulation National Law (WA) Act 2010* s. 14(g) as at 1 Jul 2012.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
accredited initial teacher education programme.....	3
application.....	3
approved .....	3
assets .....	135
Board.....	3
CEO .....	3
child .....	46
child care centre .....	3
child sex offender.....	46
College.....	135
commencement day .....	135
committee .....	3
complainant.....	3
complaint .....	3
condition .....	3
criminal record check.....	3
currently teaching .....	135
Department.....	3
detention centre.....	3
disciplinary committee.....	3
disciplinary matter .....	46
document.....	94(1)
educational programme.....	3
educational venue .....	3
employer .....	3
final period.....	143(1)
final report .....	143(2)
former Board.....	135
impairment .....	46
impairment matter.....	46
impairment review committee .....	3
information.....	94(1)
inquiry.....	3
insolvent.....	96(3)
interim disciplinary order.....	3
lawyer .....	3
liability .....	135
medical practitioner .....	3
nominee.....	3, 17
prescribed.....	3



principal .....	3
professional standards .....	3
publish.....	116
register .....	3
register information (professional).....	37(1)
register information (public) .....	37(1)
registered teacher .....	3
registration .....	3
reviewable decision.....	124(2)
right.....	135
school.....	135
sexual offence .....	46
sexual offence involving a child .....	3, 46
specified .....	149(5)
student.....	3
teach.....	3
teacher.....	46
transitional matter .....	149(2)
WACOT Act.....	135