



Western Australia

# **Teacher Registration Amendment Act 2023**

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# Teacher Registration Amendment Act 2023

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Western Australia

# Teacher Registration Amendment Act 2023

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No. 3 of 2023

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**An Act to amend the *Teacher Registration Act 2012*.**

[Assented to 1 March 2023]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This is the *Teacher Registration Amendment Act 2023*.

**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.

**3. Act amended**

This Act amends the *Teacher Registration Act 2012*.

**4. Section 3 amended**

- (1) In section 3 delete the definitions of:
- accredited initial teacher education programme*
  - application*
  - child care centre*
  - complaint*
  - educational programme*
  - educational venue*
  - employer*
  - inquiry*
  - interim disciplinary order*
  - medical practitioner*
  - registration*
  - sexual offence involving a child*
  - student*
  - teach*

(2) In section 3 insert in alphabetical order:

**accreditation standards** means the standards, as amended from time to time, developed by the Board and approved by the Minister under section 118B;

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

**actionable offence** 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; or
- (e) an offence prescribed for the purposes of this definition;

**application for renewal**, of registration, means an application under section 11;

**application to change**, in relation to a category of registration, means an application under section 12A;

**board-formulated complaint** means a complaint under section 51A;

**category**, of registration, means any of the following —

- (a) full registration;
- (b) provisional (returning teacher) registration;

- (c) provisional (graduate teacher) registration;
- (d) limited registration;
- (e) non-practising registration;

**centre-based service** —

- (a) means an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1); but
- (b) does not include a family day care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1);

**child** means a person who is under 18 years of age;

**child care service** has the meaning given in the *Child Care Services Act 2007* section 4;

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

**Commissioner of Police** means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

**complaint** means either of the following —

- (a) a public complaint;
- (b) a board-formulated complaint;

**conduct**, of a person, includes an omission of the person;

**Director of Public Prosecutions** means the Director as defined in the *Director of Public Prosecutions Act 1991* section 3;

**educational institution** 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 service;
- (d) a detention centre;
- (e) a centre-based service;
- (f) any other prescribed institution for the purposes of this definition;

**educational program** means an organised set of learning activities designed —

- (a) to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student's individual needs; and
- (b) to implement a prescribed curriculum;

**employer**, in relation to a registered teacher or nominee at an educational institution, means a person who is responsible for appointing, employing or engaging registered teachers at the institution or giving registered teachers permission to teach at the institution;

**formerly registered teacher** means a person who —

- (a) was a registered teacher; but
- (b) does not currently hold registration;

**full registration** means registration for which the eligibility requirements are set out in section 15;

**harm**, in relation to a person, includes harm to the mental health of the person;

**health assessment** —

- (a) means an assessment of a person to determine whether the person has an impairment; and
- (b) includes a medical, physical, psychiatric or psychological examination or test of the person;

**impairment**, in relation to a person —

- (a) means 1 or more of the following conditions, whether arising from a condition subsisting at birth or from an illness or injury —

- (i) any defect or disturbance in the normal structure or functioning of a person's body;
- (ii) any defect or disturbance in the normal structure or functioning of a person's brain;
- (iii) any illness or condition which impairs a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour;

and

- (b) includes an impairment which presently exists or existed in the past but has now ceased to exist;

***inquiry*** means the following —

- (a) in relation to an inquiry by a disciplinary committee — an inquiry under Part 5 Division 6 Subdivision 2;
- (b) in relation to an inquiry by the impairment review committee — an inquiry under Part 5 Division 7 Subdivision 2;

***interim order*** means an order made under section 59 or 60;

***limited registration*** means registration for which the eligibility requirements are set out in section 17;

***medical practitioner*** has the meaning given in the *Health Practitioner Regulation National Law (Western Australia)* section 5;

***nominee employer***, in relation to limited registration, has the meaning given in section 17(a);

***non-practising registration*** means registration for which the eligibility requirements are set out in section 18;



**professional learning activities policy** means the policy, as amended from time to time, approved by the Board under section 20A;

**provisional (graduate teacher) registration** means registration for which the eligibility requirements are set out in section 16A;

**provisional registration** means registration in either of the following categories —

- (a) provisional (returning teacher) registration;
- (b) provisional (graduate teacher) registration;

**provisional (returning teacher) registration** means registration for which the eligibility requirements are set out in section 16;

**psychologist** has the meaning given in the *Health Practitioner Regulation National Law (Western Australia)* section 5;

**public complaint** means a complaint under section 51;

**registration** means registration under Part 3;

**registration application** means any of the following —

- (a) an application for registration under section 10;
- (b) an application for renewal of registration under section 11;
- (c) an application to change a category of registration under section 12A;

**relevant applicant**, in relation to a registration application, means either —

- (a) if the registration application is for the grant or renewal of limited registration for a nominee — the nominee; or
- (b) for any other registration application — the applicant;

*serious incompetence* has the meaning given in section 48A;

*serious misconduct* has the meaning given in section 48B;

*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);

*student* means a person to whom an educational program is being delivered or whose participation in an educational program is being assessed at an educational institution;

*teach*, at an educational institution —

- (a) means to undertake duties at the institution that include any of the following —
  - (i) the delivery of an educational program and the assessment of student participation in an educational program;
  - (ii) leading the delivery and assessment referred to in subparagraph (i), including managing others undertaking the delivery and assessment;

but

- (b) does not include to undertake the following duties in the following circumstances —
- (i) assistance with the delivery and assessment referred to in paragraph (a)(i) at an educational institution by a teacher's aide or a teacher's assistant at the institution;
  - (ii) the delivery and assessment referred to in paragraph (a)(i) at an educational institution by a student teacher on practicum placement at the institution;
  - (iii) duties undertaken by a person employed or engaged to provide care at a child care service but who is not employed or engaged to undertake the delivery, assessment or leadership referred to in paragraph (a) at the service;
  - (iv) the delivery and assessment referred to in paragraph (a)(i) at an educational institution by an unpaid volunteer at the institution unless the volunteer is undertaking duties of a kind, or to an extent, prescribed for the purposes of this subparagraph;
  - (v) duties undertaken by prescribed persons or in other prescribed circumstances;

***Tribunal*** means the State Administrative Tribunal.

- (3) In section 3 in the definition of ***condition*** delete “restriction;” and insert:

restriction or a prohibition;

**s. 5**

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- (4) In section 3 in the definition of *professional standards* delete “professional standards” and insert:

standards, as amended from time to time,

**5. Section 6 amended**

In section 6 delete “in an educational venue” and insert:

at an educational institution

**6. Section 7 amended**

- (1) In section 7(1) delete “in an educational venue” and insert:

at an educational institution

- (2) At the end of section 7(1) insert:

Penalty for this subsection:

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

- (3) In section 7(2) delete “teacher to teach in an educational venue” and insert:

registered teacher to teach at an educational institution

- (4) At the end of section 7(2) insert:

Penalty for this subsection:

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

- (5) After section 7(2) insert:

- (3) A person must not appoint, employ, engage or give permission to a registered teacher whose registration is suspended to teach at an educational institution.

Penalty for this subsection:

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

- (6) At the end of section 7 delete the Penalty.

Note: The heading to amended section 7 is to read:

**Requirements in relation to appointing, employing or engaging registered teachers or giving permission to teach**

## 7. Section 8 amended

- (1) In section 8 delete “A registered” and insert:

(1) A registered

- (2) In section 8 in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

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- (3) At the end of section 8 insert:
- (2) A registered teacher whose registration is suspended must not teach at an educational institution.
- Penalty for this subsection:
- (a) for a first offence, a fine of \$5 000;
  - (b) for a second or subsequent offence, a fine of \$10 000.

Note: The heading to amended section 8 is to read:

**Registered teachers must comply with suspension and conditions on registration**

**8. Section 9 amended**

- (1) In section 9(1)(b) delete “in an educational venue.” and insert:
- at an educational institution.

- (2) At the end of section 9(1) insert:

Penalty for this subsection:

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

- (3) In section 9(2):
- (a) in paragraph (b) delete “himself or herself” and insert:  
themselves

- (b) in paragraph (d) delete “that he or she is a registered teacher or qualified or entitled to teach in an educational venue.” and insert:

that the person is a registered teacher or qualified or entitled to teach at an educational institution.

- (4) At the end of section 9(2) insert:

Penalty for this subsection:

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

- (5) In section 9(3)(b) delete “in an educational venue” and insert:

at an educational institution

- (6) At the end of section 9(3) insert:

Penalty for this subsection:

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

- (7) After section 9(3) insert:

- (4) A registered teacher whose registration is suspended must not claim to be qualified or entitled to teach at an educational institution.

Penalty for this subsection:

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

(8) At the end of section 9 delete the Penalty.

**9. Part 3 Division 1 Subdivision 1 replaced**

Delete Part 3 Division 1 Subdivision 1 and insert:

**Subdivision 1 — Registration applications**

**10. Application for registration**

- (1) An application may be made to the Board for registration as a teacher in 1 of the following categories —
  - (a) full registration;
  - (b) provisional (returning teacher) registration;
  - (c) provisional (graduate teacher) registration;
  - (d) limited registration.
- (2) An application must —
  - (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 the relevant applicant meets the requirements for the category of registration in accordance with Subdivision 2; and



- (d) be accompanied by the written consent of the relevant applicant for the Board to obtain a criminal history check in respect of the relevant applicant; and
  - (e) be accompanied by the prescribed registration fee, if any.
- (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 a registered teacher's registration if the registration is in 1 of the following categories —
- (a) full registration;
  - (b) provisional (returning teacher) registration;
  - (c) provisional (graduate teacher) registration;
  - (d) limited registration.
- (2) An application must —
- (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 of the relevant applicant for the Board to obtain a criminal history check in respect of the relevant applicant; and
  - (d) be accompanied by the prescribed renewal fee, if any.
- (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 must be made by a nominee employer in relation to the teaching position referred to in section 17(a) for the nominee.

**12A. Application to change category of registration**

- (1) An application may be made to the Board to change a registered teacher's category of registration to another category as follows —
  - (a) from full registration to non-practising registration;
  - (b) from provisional registration to full registration;
  - (c) from provisional registration to non-practising registration;
  - (d) from non-practising registration to full registration;
  - (e) from non-practising registration to provisional registration.
- (2) An application must —
  - (a) be in writing in the form approved by the Board; and
  - (b) specify the category to which the registration is to be changed; and
  - (c) be accompanied by evidence that the applicant meets the requirements for the category to which the registration is to be changed in accordance with Subdivision 2; and
  - (d) if the application is to change to a category of registration other than non-practising registration — be accompanied by the written consent of the applicant for the Board to obtain

a criminal history check in respect of the applicant; and

(e) be accompanied by the prescribed fee, if any.

(3) The fee referred to in subsection (2)(e) is not refundable.

**13. Information in support of registration application**

(1) The Board may, in writing, request that a relevant applicant or a nominee employer who has made a registration application does any or all of the following —

(a) provide the Board with any further information relevant to the application that the Board requires;

(b) verify any further information by statutory declaration;

(c) provide the Board with the relevant applicant's written consent to seek, from another person or body specified by the Board, information relevant to the application.

(2) The Board may, in writing, request that a relevant applicant or a nominee employer who has made a registration application attends before the Board for the purpose of satisfying the Board as to any matter relevant to the application.

(3) The Board may refuse a registration application if the relevant applicant or the nominee employer who has made the registration application does not comply with a request made under this section.

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

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

- (a) it is not made in accordance with this Act; or
- (b) a complaint was made against the relevant applicant and the complaint is not finally dealt with at the time the application was made; or
- (c) the relevant applicant's registration is suspended; or
- (d) the relevant applicant is disqualified from having registration granted.

**10. Sections 15 and 16 replaced**

Delete sections 15 and 16 and insert:

**15. Full registration: requirements**

A person is eligible for full registration in relation to a registration application if the person —

- (a) meets the teaching qualification requirements set out in section 18A; and
- (b) is a person who —
  - (i) meets any professional standards approved for full registration; or
  - (ii) within the 5 years before the day on which the Board receives the application, has met any professional standards approved for full registration as in force at the time the person was assessed against the standards;

and

- (c) is a fit and proper person under section 24; and
- (d) has the English language skills, both written and oral, prescribed as suitable for registration as a teacher.

**16. Provisional (returning teacher) registration: requirements**

A person is eligible for provisional (returning teacher) registration in relation to a registration application if the person —

- (a) meets the teaching qualification requirements set out in —
  - (i) if the person was conferred a qualification referred to in section 18A(1)(a)(i) more than 5 years before the day on which the Board receives the application — section 18A(1)(a)(i); or
  - (ii) in any other case — section 18A(1)(a)(ii) or (b);and
- (b) is a fit and proper person under section 24; and
- (c) has the English language skills, both written and oral, prescribed as suitable for registration as a teacher.

**16A. Provisional (graduate teacher) registration: requirements**

A person is eligible for provisional (graduate teacher) registration in relation to a registration application if the person —

- (a) meets the teaching qualification requirements set out in section 18A(1)(a)(i); and

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- (b) is a person who —
  - (i) meets any professional standards approved for provisional (graduate teacher) registration; or
  - (ii) within the 5 years before the day on which the Board receives the application, has met any professional standards approved for provisional (graduate teacher) registration as in force at the time the person was assessed against the standards;
- and
- (c) is a fit and proper person under section 24; and
- (d) has the English language skills, both written and oral, prescribed as suitable for registration as a teacher.

**11. Section 17 amended**

In section 17:

- (a) delete “eligible for limited registration as a teacher” and insert:

eligible for limited registration
- (b) delete paragraph (a) and insert:
  - (a) has been offered a teaching position at an educational institution by an employer (a *nominee employer*) at the institution; and

- (c) in paragraph (b) delete “to be a registered teacher; and” and insert:

under section 24; and

Note: The heading to amended section 17 is to read:

**Limited registration: requirements**

**12. Section 18 replaced**

Delete section 18 and insert:

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

A person is eligible for non-practising registration if the person —

- (a) does not intend to teach at an educational institution for a period of time; and
- (b) holds full registration or provisional registration.

**18A. Teaching qualification requirements**

- (1) A person meets the teaching qualification requirements if the person —

- (a) has a teaching qualification —
  - (i) from an accredited initial teacher education program; or
  - (ii) that the Board recognises as equivalent to the qualification referred to in subparagraph (i);

or

- (b) has a teaching qualification and teaching experience that the Board considers is sufficient to enable the person to hold registration as a teacher.
- (2) Subsection (1)(a)(ii) and (b) do not apply in relation to a person applying for provisional (returning teacher) registration if the person holds a teaching qualification from an accredited initial teacher education program.

**13. Section 20 replaced**

Delete section 20 and insert:

**20. Professional standards**

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



inspection under subsection (4) or on a later day provided for in the standards.

- (6) The standards are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (7) The *Interpretation Act 1984* sections 43 (other than subsection (6)) and 44 and Part VIII apply to the standards as if they were subsidiary legislation.

**14. Section 20A inserted**

At the end of Part 3 Division 1 Subdivision 2 insert:

**20A. Professional learning activities policy**

- (1) The Board may approve a policy for professional learning activities to set the standards for registered teachers, including those applying for renewal of their registration, to maintain their skills and knowledge in relation to teaching.
- (2) The Board must make the policy available for inspection on a website maintained by the Board.
- (3) The policy commences at the beginning of the day after the day on which it is made available for inspection under subsection (2) or on a later day provided for in the policy.
- (4) The policy is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (5) The *Interpretation Act 1984* sections 43 (other than subsection (6)) and 44 and Part VIII apply to the policy as if it was subsidiary legislation.

**15. Sections 21 to 23 replaced**

Delete sections 21 to 23 and insert:

**21. Grant of registration**

- (1) The Board may, on application under section 10, grant registration to the relevant applicant in the category for which the application was made if the Board is satisfied that the relevant applicant meets the requirements for registration in that category.
- (2) The Board cannot grant registration to a person who is indefinitely disqualified from having registration granted by an order of the Tribunal unless —
  - (a) the order was made more than 5 years before the day on which the registration is granted; and
  - (b) the Board has applied for, and obtained, the approval of the Tribunal to do so.
- (3) In considering whether to give approval under subsection (2)(b), the Tribunal must consider whether the person is a fit and proper person to be registered, having regard to —
  - (a) the matters set out in section 24(1)(a) to (g); and
  - (b) the recommendation of the Board about the person's fitness and propriety in relation to those matters.
- (4) The Board cannot grant non-practising registration under this section.
- (5) The Board cannot grant registration to a teacher whose registration is suspended.

**22. Renewal of registration**

- (1) An application for renewal of registration for a registered teacher must be made to the Board at least 28 days before the end of the nominal registration period under section 23(2) or (3) or 23A(1), as applicable, of the teacher's current registration.
- (2) The Board may, on application under section 11, renew the registration of a registered teacher if the Board is satisfied that —
  - (a) the teacher continues to be a fit and proper person under section 24; and
  - (b) the teacher is complying with the conditions, if any, imposed on the teacher's registration; and
  - (c) the teacher has met any other requirements for the renewal of registration as are prescribed in respect of the relevant category of registration.
- (3) The Board can renew provisional registration only if the Board is satisfied that there are sufficient reasons for doing so in the circumstances of the case.
- (4) The Board cannot renew non-practising registration.
- (5) The Board cannot renew the registration of a teacher whose registration is suspended.

**22A. Change of category of registration**

- (1) An application to change a registered teacher's category of registration from a category other than non-practising registration must be made to the Board at least 28 days before the end of the nominal registration period under section 23(2) or (3), as applicable, of the teacher's current registration.

- (2) If a registered teacher's non-practising registration has a nominal expiry date under section 23C(1)(a), an application to change the teacher's category of registration must be made to the Board at least 28 days before the nominal expiry date.
- (3) The Board may, on application under section 12A, change a registered teacher's category of registration to the category applied for if the Board is satisfied that the teacher meets the following requirements —
  - (a) in relation to an application to change the category from provisional registration to full registration — the requirements set out in section 15(b) and (c);
  - (b) in relation to an application to change the category from non-practising registration to full registration — the requirements set out in section 15(b) to (d);
  - (c) in relation to an application to change the category from non-practising registration to provisional (returning teacher) registration if the teacher was conferred a qualification referred to in section 18A(1)(a)(i) —
    - (i) the qualification was conferred more than 5 years before the day on which the application was received by the Board; and
    - (ii) the requirements set out section 16(b) and (c);
  - (d) in relation to an application to change the category from non-practising registration to provisional (returning teacher) registration if the teacher was not conferred a qualification referred to in section 18A(1)(a)(i) — the requirements set out in section 16(b) and (c);

- (e) in relation to an application to change the category from non-practising registration to provisional (graduate teacher) registration — the requirements set out in section 16A(b) and (c);
  - (f) in relation to an application to change the category from full registration or provisional registration to non-practising registration — the requirements set out in section 18.
- (4) The Board cannot change the category of registration of a teacher whose registration is suspended.

**23. Duration of full registration or provisional registration**

- (1) In this section —  
*required time* means —
- (a) in relation to the renewal of registration — the period of 28 days required under section 22(1);  
or
  - (b) in relation to a change of category of registration — the period of 28 days required under section 22A(1) or (2).
- (2) The period (the *nominal registration period*) of full registration is 5 years beginning on —
- (a) if the registration is granted under section 21 — the day on which the decision to grant the registration is made or a later day specified by the Board; or
  - (b) if the registration is renewed under section 22 — the day on which the decision to renew the registration is made or a later day specified by the Board; or

- (c) if the registration category is changed under section 22A — the day on which the decision to change the category is made or a later day specified by the Board.
- (3) The period (the *nominal registration period*) of provisional registration is 3 years or a shorter period as is approved by the Board beginning on —
  - (a) if the registration is granted under section 21 — the day on which the decision to grant the registration is made or a later day specified by the Board; or
  - (b) if the registration is renewed under section 22 — the day on which the decision to renew the registration is made or a later day specified by the Board; or
  - (c) if the registration category was changed under section 22A — the day on which the decision to change the category is made or a later day specified by the Board.
- (4) Despite a nominal registration period under subsection (2) or (3), a person's full registration or provisional registration (the *old registration*) expires as follows (whether or not this expiry is before or after the end of the nominal registration period) —
  - (a) if an application is made, within the required time, for renewal of the old registration and the renewal is granted (the *new registration*) — immediately before the day on which the new registration begins;
  - (b) if an application is made, within the required time, to change the category of the old registration and the change is granted (the *new registration*) — immediately before the day on which the new registration begins;

- (c) if an application for renewal of registration is made for the person within the required time and the application is refused after the end of the nominal registration period for the old registration — on the day on which notice of that decision is given to the applicant under section 29;
- (d) if an application to change the category of registration is made for the person within the required time and the application is refused after the end of the nominal registration period for the old registration — on the day on which notice of that decision is given to the applicant under section 29.

**23A. Duration of limited registration**

- (1) The period (the *nominal registration period*) of limited registration is 3 years or a shorter period as is approved by the Board beginning on —
  - (a) if the registration is granted under section 21 — the day on which the decision to grant the registration is made or a later day specified by the Board; or
  - (b) if the registration is renewed under section 22 — the day on which the decision to renew the registration is made or a later day specified by the Board.
- (2) However, if a nominee employer gives notice under subsection (3) to the Board of the employer's intention to make an application for limited registration under section 10 for a nominee, the nominee's limited registration is taken to have been granted on the day on which the notice was given.

- (3) A nominee employer may give the Board notice (a *pre-application notice*) of the employer's intention to make an application for limited registration under section 10 for a nominee if —
- (a) the pre-application notice is in a form approved by the Board; and
  - (b) the employer —
    - (i) has not previously given a pre-application notice to the Board in relation to the nominee; or
    - (ii) is approved by the Board to give the pre-application notice for the nominee.
- (4) Despite a nominal registration period under subsection (1), a nominee's limited registration (the *old registration*) expires as follows (whether or not this expiry is before or after the end of the nominal registration period) —
- (a) if an application is made for the nominee, within the period of 28 days required under section 22(1), for renewal of the old registration and the renewal is granted (the *new registration*) — immediately before the day on which the new registration begins;
  - (b) if an application for renewal of registration is made for the nominee within the required time under section 22(1) and the application is refused after the end of the nominal registration period for the old registration — on the day on which notice of that decision is given to the applicant and the nominee under section 29;



- (c) if an application for registration (the *new registration*) under section 10 is made for the nominee and the application is granted — immediately before the day on which the new registration begins;
- (d) if the nominee employer has given pre-application notice and the application for the limited registration is refused — on the day on which notice of that decision is given to the applicant and the nominee under section 29;
- (e) if the nominee employer has given pre-application notice and the application for the limited registration is not made within 14 days (the *termination period*) after the day on which the notice was given — at the end of the termination period.

**23B. Duration of limited registration when teaching position ends**

- (1) This section applies to limited registration held by a nominee in relation to an offer of a teaching position with a nominee employer.
- (2) Despite section 23A, the nominee’s limited registration expires on the day (the *expiry day*) on which the nominee’s appointment, employment or engagement or permission to teach with the nominee employer ends in relation to the teaching position if the expiry day is before —
  - (a) the end of the nominal registration period; or
  - (b) an expiry that applies under section 23A(4) to the registration.

**23C. Duration of non-practising registration**

- (1) The period of non-practising registration commences on the day on which the decision to grant the registration is made or a later day specified by the Board and —
  - (a) expires on a date (the *nominal expiry date*) specified by the Board; or
  - (b) in any other case — is for an indefinite period.
- (2) Despite subsection (1), a person’s non-practising registration expires immediately before the day on which registration begins in another category granted to the person by the Board if —
  - (a) the person applies to change their category of registration from non-practising registration; and
  - (b) in relation to non-practising registration with a nominal expiry date — the requirements in section 22A(2) are met.

**16. Section 24 amended**

- (1) In section 24:
  - (a) delete “In determining whether a person is a fit and proper person to be registered, the Board is to” and insert:
    - (1) In determining whether a person is a fit and proper person to be registered, the Board must
    - (b) in paragraph (b) delete “such an” and insert:  
  
the

- (c) in paragraph (c) after “history” insert:
    - from a criminal history check
  - (d) delete paragraph (d)(i) and insert:
    - (i) departs from the standard of behaviour reasonably expected of a registered teacher; or
  - (e) in paragraph (e)(i) delete “State Administrative”;
  - (f) after paragraph (f) insert:
    - (fa) whether the person would be unable to carry out the inherent requirements of the work of a registered teacher because of an impairment;
- (2) At the end of section 24 insert:
- (2) Despite subsection (1), a person is taken to be a fit and proper person to be registered in relation to a registration application if the person —
- (a) meets any prescribed requirements within 5 years before the day on which the Board receives the registration application for the person and no further information has become available to the Board about the person’s fitness or propriety, including from a criminal history check, since the person met the prescribed requirements; or
  - (b) has approval under section 21(2)(b) from the Tribunal given within 5 years before the day on which the Board receives the registration

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application for the person and no further information relevant to the approval has become available to the Board about the person's fitness or propriety, including from a criminal history check, since the approval was given.

**17. Section 26 amended**

- (1) In section 26(1)(a) delete “granting or renewing” and insert:

granting, renewing or changing the category of

- (2) After section 26(2) insert:

- (2A) Without limiting subsections (1) and (2), conditions on a teacher's registration may be imposed, modified or cancelled by the Board under this section if the teacher's ability to carry out the inherent requirements of the work of a registered teacher is affected, or is likely to be affected, because of an impairment.

- (3) In section 26(4) delete “State Administrative”.

**18. Section 26A inserted**

After section 26 insert:

**26A. Condition of non-practising registration**

It is a condition of non-practising registration that a person holding the registration must not teach at an educational institution.

**19. Section 27 amended**

In section 27(2):

- (a) in paragraph (a) delete “a sexual offence involving a child; or” and insert:

an actionable offence; or

- (b) after paragraph (e) insert:

- (ea) information in a registration application about the teaching experience referred to in section 18A(1)(b) that enabled the teacher to gain registration is misleading in a material particular; or

**20. Section 29 replaced**

Delete section 29 and insert:

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

- (1) The Board must give written notice of the outcome of a registration application no later than 14 days after deciding on the outcome of the application to —
- (a) the applicant; and
- (b) if the application is in respect of limited registration — the nominee.
- (2) If the registration is granted under section 21(1), renewed under section 22(2) or changed under section 22A(3) the notice must contain the following —
- (a) the category of registration;

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- (b) the period of the registration;
  - (c) the person's registration number;
  - (d) any conditions imposed on the registration;
  - (e) if a condition is 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 a registration application is refused the notice must 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.

**21. Section 30 amended**

In section 30(1)(b) delete “registration,” and insert:

registration —

Note: The heading to amended section 30 is to read:

**Notice of decisions to impose, modify or cancel a condition made during currency of registration**

**22. Section 31 amended**

- (1) In section 31(1)(b) delete “registration,” and insert:

registration —

- (2) After section 31(2) insert:
- (3) The notice must not contain identifying information provided by the Commissioner of Police under section 41A.

Note: The heading to amended section 31 is to read:

**Notice of cancellation or reinstatement of registration must be given**

**23. Section 32 amended**

- (1) In section 32(1)(a) and (b) delete “of an” and insert:
- of a registration
- (2) In section 32(2)(b) delete “registration, to” and insert:
- registration —

**24. Section 34 deleted**

Delete section 34.

**25. Section 36 amended**

After section 36(2) insert:

- (3) Despite subsection (1), the Board may remove information on the register in respect of a teacher whose registration is suspended.

**26. Section 37 amended**

- (1) In section 37(1) insert in alphabetical order:

*nominated supervisor* has the meaning given in the *Education and Care Services National Law (Western Australia)* section 5(1);

*supervising officer* has the meaning given in the *Child Care Services Act 2007* section 5A.

- (2) In section 37(1) in the definition of *register information (public)* delete “section 36(1)(e).” and insert:

section 36(1)(e);

- (3) Delete section 37(3) and insert:

- (3) The Board must make register information (professional) available for inspection, in accordance with subsection (2), by any of the following as the Board thinks appropriate —
- (a) a registered teacher (other than a teacher whose registration is suspended);
  - (b) an employer;
  - (c) a principal (other than a principal whose registration is suspended);
  - (d) a nominated supervisor of a centre-based service;
  - (e) a supervising officer for a child care service;
  - (f) a person appointed under the *Young Offenders Act 1994* section 11(1a)(b) as a principal of teaching staff at a detention centre;



- (g) a person who —
  - (i) has been nominated by a person referred to in any of paragraphs (a) to (f) as being a person who has good reason to inspect register information (professional); and
  - (ii) has been accepted by the Board as a suitable person to inspect register information (professional);
- (h) any other person prescribed.

**27. Section 38 amended**

(1) In section 38(1):

- (a) delete “A registered teacher must give written notice to the Board” and insert:

This section applies to a registered teacher

- (b) in paragraph (b) after “convicted” insert:

or found guilty

(2) Delete section 38(2) and insert:

(2) The registered teacher must give written notice to the Board of any prescribed details in relation to the order, conviction or finding of guilt, as applicable, no later than 30 days after the following —

- (a) for the order — the day on which the teacher becomes aware of the order;

- (b) for the finding of guilt — the day on which the teacher is found guilty;
- (c) for the conviction — the day on which the judgment of conviction is entered.

Penalty for this subsection: a fine of \$5 000.

- (3) It is a defence to a charge of an offence under subsection (2) for the teacher to prove that they had a reasonable excuse for failing to give the notice.

- (3) At the end of section 38 delete the Penalty.

**28. Section 39 amended**

- (1) In section 39(1) delete “A registered teacher must give written notice to the Board” and insert:

This section applies to a registered teacher

- (2) Delete section 39(2) and insert:

- (2) The registered teacher must give written notice to the Board of any prescribed details in relation to the withdrawal or cancellation no later than 30 days after the withdrawal or cancellation.

Penalty for this subsection: a fine of \$5 000.

- (3) At the end of section 39 delete the Penalty.

**29. Section 40 amended**

- (1) In section 40(1) delete “A registered teacher must give written notice to the Board if an interim negative notice or a negative notice is issued to the person, under” and insert:

This section applies to a registered teacher if an interim negative notice or a negative notice is issued to the teacher under

- (2) Delete section 40(2) and insert:

- (2) The registered teacher must give to the Board no later than 14 days after the interim negative notice or the negative notice is issued —

- (a) notice of any prescribed details in relation to the interim negative notice or negative notice; and  
(b) a copy of the interim negative notice or negative notice.

Penalty for this subsection: a fine of \$5 000.

- (3) At the end of section 40 delete the Penalty.

**30. Sections 41 and 42 replaced**

Delete sections 41 and 42 and insert:

**41. Commissioner of Police must give notice about prosecutions of registered teachers**

- (1) This section applies if the Commissioner of Police becomes aware of any of the following circumstances —

- (a) a registered teacher is charged by a police officer with an actionable offence;
  - (b) on prosecution by a police officer, a registered teacher is convicted or found guilty of an indictable offence dealt with summarily;
  - (c) a police officer discontinues, or there is an acquittal or mistrial in relation to, all charges against a registered teacher of actionable offences.
- (2) As soon as practicable after the Commissioner of Police becomes aware of a circumstance referred to in subsection (1), the Commissioner must give written notice in the prescribed form to the Board of the circumstance and any other prescribed information in relation to the circumstance.

**41A. Commissioner of Police may give notice about victims and witnesses in relation to prosecutions of registered teachers**

- (1) In this section —
- identifying information*, in relation to a prosecution by a police officer or the Director of Public Prosecutions of a registered teacher for an actionable offence, means information that identifies a person who the Commissioner of Police has reasonable grounds to believe —
- (a) was a child at any time during the commission of the offence; and
  - (b) is a victim or alleged victim in relation to the offence or is or was a witness or is to be a witness in relation to the prosecution of the offence.

- (2) The Board may request in writing that the Commissioner of Police gives identifying information to the Board, in relation to a prosecution by a police officer or the Director of Public Prosecutions of a registered teacher for an actionable offence, if the Board considers that the information is necessary to protect the safety of a child.
- (3) The Commissioner of Police may give written notice of the identifying information in the prescribed form to the Board in response to a request under subsection (2) if the Commissioner considers that giving the notice —
  - (a) will not prejudice an investigation or prosecution; and
  - (b) is in the best interests of the victim, alleged victim or witness, as the case requires.

**41B. DPP must give notice about prosecutions of registered teachers**

- (1) This section applies if the Director of Public Prosecutions becomes aware of any of the following circumstances —
  - (a) on prosecution by the Director of Public Prosecutions, a registered teacher is convicted or found guilty of an indictable offence;
  - (b) the Director of Public Prosecutions discontinues, or there is an acquittal or mistrial in relation to, all charges against a registered teacher of actionable offences.
- (2) As soon as practicable after the Director of Public Prosecutions becomes aware of a circumstance referred to in subsection (1), the Director must give written notice in the prescribed form to the Board of the circumstance and any other prescribed information in relation to the circumstance.

- (3) For the purposes of this section, the Director of Public Prosecutions is not required to confirm whether each person prosecuted for an offence referred to in subsection (1) is a registered teacher.

**42. Employers must give notice when teachers cease teaching in cases of serious incompetence or misconduct**

- (1) This section applies if the following 2 circumstances exist —
  - (a) an employer at an educational institution has reasonable grounds to suspect that a teacher at the institution may have engaged in serious misconduct or may have taught with serious incompetence;
  - (b) the teacher —
    - (i) is dismissed or suspended from teaching at the institution by the employer; or
    - (ii) has resigned or ceases teaching at the institution.
- (2) The employer must give written notice of the circumstances referred to in subsection (1)(a) and (b) and any prescribed information to the Board within 7 days after the day on which the later of the 2 circumstances occurs.  
Penalty for this subsection: a fine of \$5 000.
- (3) Subsection (2) does not apply to the employer if another person has already given notice under subsection (2) in relation to the circumstances.

**31. Section 42A inserted**

At the end of Part 4 Division 1 Subdivision 2 insert:

**42A. No liability for disclosing information**

If information is disclosed by a person under this Subdivision in good faith —

- (a) no civil or criminal liability is incurred by the person in respect of the disclosure; and
- (b) the disclosure cannot be regarded as a breach of any duty of confidentiality or secrecy imposed by law on the person; and
- (c) the disclosure cannot be regarded as a breach of professional ethics or standards or any principles of conduct applicable to the person's employment or as unprofessional conduct.

**32. Section 43 amended**

In section 43(2) delete “such later time as is” and insert:

a later time

**33. Section 45 replaced**

Delete section 45 and insert:

**45. Action to be taken by Board on receiving notice or criminal history check**

- (1) This section applies if the Board receives —
  - (a) a notice about a person under Division 1; or

- (b) a criminal history check in respect of a person.
- (2) As soon as practicable after receiving a notice or criminal history check referred to in subsection (1), the Board must consider the information in that notice or criminal history check, and any other information it considers relevant, and decide if it is appropriate to do any of the following —
- (a) cancel the person’s registration under section 27;
  - (b) make an interim order;
  - (c) formulate a complaint under section 51A;
  - (d) if the person is currently appointed, employed or engaged, or has permission to teach, at an educational institution — advise the person’s employer of the information contained in the notice or criminal history check;
  - (e) cause to be published under section 118 any of the information.

**34. Part 5 heading replaced**

Delete the heading to Part 5 and insert:

**Part 5 — Disciplinary matters, impairment matters and investigations**



**35. Sections 46 to 48 replaced**

Delete sections 46 to 48 and insert:

**46. Terms used**

In this Part —

*disciplinary matter* has the meaning given in section 47;

*impairment matter* has the meaning given in section 48.

**47. Disciplinary matters**

Each of the following is a *disciplinary matter* in relation to a registered teacher or formerly registered teacher —

- (a) the teacher has contravened this Act;
- (b) the teacher has contravened a condition imposed on their registration;
- (c) the teacher has contravened an order made under this Part;
- (d) the teacher has been convicted or found guilty of —
  - (i) a serious offence; or
  - (ii) an actionable offence; or
  - (iii) a prescribed offence;
- (e) the teacher has taught with serious incompetence at an educational institution;
- (f) the teacher has engaged in serious misconduct;
- (g) the teacher has contravened an undertaking given to the Board under this Act;

- (h) the teacher has taught at an educational institution while their registration was suspended.

**48. Impairment matters**

There is an *impairment matter* in relation to a registered teacher if the teacher's ability to carry out the inherent requirements of the work of a registered teacher is, or is likely to be, affected because of an impairment.

**48A. Serious incompetence**

- (1) A registered teacher or formerly registered teacher has taught with *serious incompetence* if the teacher has taught at a standard, whether by act or omission, that is substantially below the standard that is reasonably expected of a registered teacher.
- (2) For the purposes of subsection (1), in considering whether the standard of teaching is substantially below that which is reasonably expected of a registered teacher, the following must be taken into account —
  - (a) the frequency of the incompetence;
  - (b) the extent of the incompetence, including any risks caused by the incompetence to the education of a student or to the safety of a person;
  - (c) the level of the teacher's training or experience;
  - (d) any other relevant matter.

**48B. Serious misconduct**

A registered teacher or formerly registered teacher has engaged in *serious misconduct* if the teacher engaged in improper conduct of a serious kind that departs from

the standard of behaviour reasonably expected of a registered teacher.

**48C. Board's powers of investigation**

- (1) The Board may conduct an investigation in relation to any of the following —
  - (a) a notice about a person under Part 4 Division 1;
  - (b) a criminal history check;
  - (c) a complaint;
  - (d) any other information received by the Board.
- (2) The Board may do any of the following in relation to an investigation under this Act —
  - (a) by written direction given to a person, require the person to answer questions orally or in writing and require the attendance of the person at a time and place specified in the direction for that purpose;
  - (b) by written direction given to a person, require the person to produce at a time and place specified in the direction any document or other thing that is in the possession or under the control of the person and is relevant to an investigation;
  - (c) inspect or photograph a document or other thing produced;
  - (d) inspect a document or other thing produced and retain it for any reasonable period as the Board thinks fit;
  - (e) make copies of or take extracts from the document or other thing produced or any of its contents.

- (3) A person commits an offence if the person —
- (a) fails to comply with a direction given to the person under subsection (2)(a) or (b); and
  - (b) was informed when the direction was given that a failure to comply with the direction may constitute an offence under this subsection.

Penalty for this subsection: a fine of \$5 000.

- (4) It is a defence to a charge of an offence under subsection (3) for the person to prove that the person had a reasonable excuse for failing to comply with the direction.
- (5) For the purposes of subsection (4), it is not a reasonable excuse for a person to fail to comply with a direction given to the person under subsection (2)(a) or (b) on the ground that to do so might incriminate the person or render the person liable to a penalty.
- (6) However, any information or answer given by an individual, or the fact that a document or other thing was produced by an individual, in compliance with a direction given to the individual under subsection (2)(a) or (b), is not admissible in evidence against the individual in any proceedings other than the following —
- (a) a complaint, interim order, inquiry or proceedings taken under this Part or a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described);
  - (b) proceedings for an offence under section 127;
  - (c) proceedings for perjury.
- (7) This section is in addition to, and does not affect the operation of, the *Evidence Act 1906* section 11.

- (8) The Board may keep records of an investigation including an audio or visual recording of questions asked and answered in relation to a direction under this section.

**48D. Protection for compliance with direction**

- (1) A person must comply with a direction given to the person under section 48C(2)(a) or (b) despite the provisions of any other written law.
- (2) However, other than for a complaint, interim order, inquiry or proceedings referred to in section 48C(6)(a), (b) or (c) —
  - (a) no civil or criminal liability is incurred as a result of compliance with the direction; and
  - (b) compliance with the direction cannot be regarded as —
    - (i) a breach of any duty of confidentiality or secrecy imposed by law; or
    - (ii) a breach of professional ethics, professional standards or any principles of conduct applicable to the person's employment; or
    - (iii) unprofessional conduct (however described).

**36. Section 49 amended**

- (1) Delete section 49(1) and insert:
  - (1) The Board must establish 1 or more committees, each to be known as a disciplinary committee.

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- (2) In section 49(3)(c) delete “such other person as” and insert:

any other person that

- (3) In section 49(8):

- (a) delete “A notice or order” and insert:

A notice, direction, order or other document

- (b) in paragraph (b) delete “the notice or order.” and insert:

the notice, direction, order or other document.

**37. Section 50 amended**

- (1) Delete section 50(3)(c) and insert:

(c) a lawyer.

- (2) In section 50(8):

- (a) delete “A notice, order or appointment” and insert:

A notice, direction, order, appointment or other document

- (b) in paragraph (b) delete “the notice, order or appointment.” and insert:

the notice, direction, order, appointment or other document.

**38. Part 5 Division 3 heading replaced**

Delete the heading to Part 5 Division 3 and insert:

**Division 3 — Complaints, assessments and investigations**

**39. Section 51 replaced**

Delete section 51 and insert:

**51. Making a complaint**

- (1) A complaint may be made to the Board about a disciplinary matter that occurred or allegedly occurred in relation to —
  - (a) a registered teacher; or
  - (b) a formerly registered teacher who held registration at the time that the matter the subject of the complaint occurred or allegedly occurred.
- (2) A complaint may be made to the Board about an impairment matter that exists or allegedly exists in relation to a registered teacher.

**51A. Complaints formulated by Board**

- (1) The Board may formulate a complaint based on any of the information referred to in subsection (3) about a disciplinary matter that occurred or allegedly occurred in relation to —
  - (a) a registered teacher; or
  - (b) a formerly registered teacher who held registration at the time that the matter the

subject of the complaint occurred or allegedly occurred.

- (2) The Board may formulate a complaint based on any of the information referred to in subsection (3) about an impairment matter that exists or allegedly exists in relation to a registered teacher.
- (3) The Board may base a complaint on any of the following —
  - (a) a notice about a person under Part 4 Division 1;
  - (b) a criminal history check;
  - (c) any other information received by the Board, including information from any assessment or investigation;
  - (d) if the Board decides to reformulate a public complaint — the public complaint.
- (4) A complaint based on information referred to in subsection (3)(d) is taken not to be a public complaint when it is reformulated by the Board.

**51B. Assessments and investigations**

- (1) The Board may do any of the following it considers appropriate in relation to a complaint —
  - (a) make an assessment;
  - (b) undertake an investigation under section 48C.
- (2) The Board may reassess or reinvestigate a complaint at any time whether or not the Board has dealt with the complaint under this Part.



**40. Section 52 amended**

(1) Delete section 52(1) and insert:

(1) The Board must give written notice to a registered teacher or formerly registered teacher who is the subject of a complaint as soon as practicable after the complaint is made.

(2) In section 52(2)(b) before “the identity” insert:

if the complaint is a public complaint —

(3) In section 52(3):

(a) in paragraph (a) delete “the investigation of the” and insert:

an investigation of a

(b) in paragraph (c) delete “the complainant or another” and insert:

any

(c) in paragraph (d) delete “court”.

(4) In section 52(5) delete “the complaint, seek further information about the complaint from the complainant or another person or otherwise undertake preliminary inquiries into the complaint,” and insert:

or investigate the complaint

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Note: The heading to amended section 52 is to read:

**Teacher must be notified of complaint**

**41. Part 5 Division 4 heading amended**

Delete the heading to Part 5 Division 4 and insert:

**Division 4 — Dealing with and referring complaints**

**42. Section 53 replaced**

Delete section 53 and insert:

**53. Dealing with and referring complaints**

- (1) The Board must deal with a complaint in 1 of the following ways —
  - (a) reject a public complaint or withdraw a board-formulated complaint under section 57(1);
  - (b) make an interim 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 under Division 8 to the Tribunal;
  - (f) if the Board considers that another person, organisation or agency could deal more appropriately with the subject matter of the

complaint — refer the complaint to that person, organisation or agency.

- (2) Before dealing with a complaint under subsection (1), the Board may make any assessment or investigation as it considers appropriate.
- (3) Notice of a decision under this section must be given in accordance with section 85.

**43. Sections 55 and 56 replaced**

Delete sections 55 and 56 and insert:

**55. Committee may make requests or recommendations to Board about complaints**

- (1) 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 unless otherwise required under this Act —
  - (a) request that the Board undertakes further investigation of the complaint or part of the complaint;
  - (b) recommend that the Board make an interim order in relation to the complaint or part of the complaint;
  - (c) recommend that the Board refer the complaint or part of the complaint to another committee established under this Part;
  - (d) recommend that the Board refer the complaint or part of the complaint to the Tribunal;
  - (e) recommend that the Board refer the complaint or part of the complaint to another person, organisation or agency;

- (f) recommend that the Board dismiss the complaint or part of the complaint.
- (2) A committee to which the Board has referred a complaint under section 53(1)(c) or (d) may, before an inquiry into the complaint begins, recommend that the Board reject or withdraw the complaint under section 57(1).
- (3) The Board may deal with a complaint —
  - (a) in relation to which a request under subsection (1)(a) is made by a committee — by undertaking an investigation under section 48C in relation to the complaint or part of the complaint and providing any information from the investigation to the committee; or
  - (b) in relation to which a recommendation is made under subsection (1)(b) to (e) or (2) — in any of the ways referred to in section 53(1)(a) to (f); or
  - (c) in relation to which a recommendation is made under subsection (1)(f) — by dismissing the complaint in whole or in part if the Board is satisfied that —
    - (i) no disciplinary matter occurred or impairment matter exists in relation to the complaint or part of the complaint; or
    - (ii) there is not sufficient evidence for the complaint or part of the complaint to be determined; or
    - (iii) there are other reasons for the dismissal of the complaint or part of the complaint.

- (4) Notice of a decision under subsection (3)(b) or (c) must be given in accordance with section 85.

**44. Section 57 amended**

Delete section 57(1) and insert:

- (1) The Board may reject a public complaint or withdraw a board-formulated complaint if the Board is of the opinion that the complaint —
- (a) is in respect of a matter that is not within the power of the Board, a disciplinary committee, the impairment review committee or the Tribunal to deal with under this Act; or
  - (b) is in relation to a matter that has already been appropriately dealt with by another person, organisation or agency; or
  - (c) is —
    - (i) in relation to a public complaint — vexatious, trivial, unreasonable, without substance or not a matter that is in the public interest to pursue; or
    - (ii) in relation to a board-formulated complaint — without substance or not a matter that is in the public interest to pursue.

Note: The heading to amended section 57 is to read:

**Complaints without substance**

**45. Part 5 Division 5 replaced**

Delete Part 5 Division 5 and insert:

**Division 5 — Interim orders**

**58. Interim orders generally**

- (1) The Board may make an interim order in respect of a matter whether or not the matter, or part of the matter, is the subject of a complaint or inquiry being dealt with under this Act.
- (2) Unless section 83(2) applies, an interim order cannot have effect for more than 30 days.
- (3) The Board may vary or revoke an interim order unless the matter in respect of which the order was made has been referred to the Tribunal.
- (4) Notice of an interim order must be given in accordance with section 85.
- (5) An interim order takes effect —
  - (a) on —
    - (i) the day on which notice of the order is given to the person who is bound by the order; or
    - (ii) a later day specified in the order;and
  - (b) whether or not the person who is bound by the order has had an opportunity to make representations to the Board.

**59. Interim orders may be made if teacher poses risk of harm**

- (1) If the Board believes, on reasonable grounds, that a registered teacher may pose a risk of harm to any person, the Board may make an order imposing, modifying or cancelling 1 or more conditions on the teacher's registration.
- (2) The Board may make an order suspending the registration of a registered teacher if the Board believes on reasonable grounds that —
  - (a) the teacher may pose a risk of harm to a student; and
  - (b) the suspension is necessary to protect a student.
- (3) An order may be made under subsection (1) or (2) whether or not the teacher is currently appointed, employed or engaged, or has permission to teach, at an educational institution.
- (4) Nothing in subsection (1) limits the powers of the Board in relation to imposing, modifying or cancelling conditions on registration.

**60. Interim orders must be made if teacher charged with actionable offence**

- (1) If the Board becomes aware that a registered teacher has been charged with an actionable offence, the Board must make an order suspending the teacher's registration.
- (2) An order must be made under subsection (1) whether or not the teacher is currently appointed, employed or engaged, or has permission to teach, at an educational institution.

**61. Matters for which interim orders made must be referred to Tribunal**

- (1) Within 14 days after the day on which the Board makes an interim order the Board must —
  - (a) refer the matter in respect of which the interim order was made to the Tribunal to be determined under Division 8; and
  - (b) order that any inquiry in respect of the matter that was commenced before the making of the interim order is discontinued.
- (2) A disciplinary committee or the impairment review committee must give effect to an order under subsection (1)(b) in relation to a matter that has been referred to the committee.
- (3) Subsection (1) does not apply if the interim order is revoked under section 58(3) within the 14 days referred to in subsection (1).
- (4) On a referral under subsection (1)(a) the Tribunal may, in addition to any other order it may make, affirm or revoke an interim order or vary the order by extending the period for which it applies or in any other respect.
- (5) The Board may refer a matter or make an order under subsection (1) after the 14-day period referred to in subsection (1) if the Tribunal allows the referral or order.
- (6) If the registered teacher who is the subject of the matter referred under subsection (1)(a) has been charged with 1 or more offences, the Board may refer any complaint that relates to the matter before or after the charge or charges have been finally determined.



**46. Section 62 amended**

(1) Delete section 62(1) and insert:

- (1) A disciplinary committee must make a preliminary assessment of a complaint referred to it by the Board and may deal with the complaint in any of the following ways —
- (a) deal with the complaint under Subdivision 2;
  - (b) make a request or recommendation to the Board under section 55(1) or (2);
  - (c) without limiting any other paragraph, if the matter the subject of the complaint is before another person or body or is the subject of proceedings — postpone consideration of the complaint pending the outcome of any investigation, hearing or proceedings.

(2) In section 62(2) delete “this section is to” and insert:

subsection 1(a) or (c) must

Note: The heading to amended section 62 is to read:

**Initial assessment**

**47. Sections 63 and 64 replaced**

Delete sections 63 and 64 and insert:

**63. Disciplinary committee may conduct inquiry into certain complaints**

If a complaint in relation to a registered teacher or formerly registered teacher appears to a disciplinary

committee to be about a disciplinary matter, the committee may conduct an inquiry into the complaint.

**63A. Hearings**

- (1) A disciplinary committee may hold hearings for the purposes of an inquiry.
- (2) Hearings must be held in public.
- (3) However, the disciplinary committee may direct that a hearing, or any part of a hearing, be held in private if the committee is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason.

**64. Inquiry: procedure and evidence**

In conducting an inquiry, a disciplinary committee —

- (a) must act 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 receive oral or written submissions; and
- (d) may, subject to this Act and the rules of procedural fairness, determine its own procedures; and
- (e) may be assisted by a legal practitioner appointed by the Board for that purpose.

**48. Section 65 amended**

In section 65(1) delete “inquiry, a disciplinary committee is to give the teacher” and insert:

inquiry into a complaint, a disciplinary committee must give a registered teacher or formerly registered teacher who is the subject of the complaint

**49. Section 66 replaced**

Delete section 66 and insert:

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

- (1) For the purposes of an inquiry, a disciplinary committee may —
  - (a) receive in evidence any transcript of evidence taken in any proceedings of a court, tribunal or other body constituted under the law of this State or any other place; or
  - (b) adopt any findings, decisions, judgment or reasons for judgment of a court, tribunal or other body constituted under the law of this State or any other place.
- (2) A disciplinary committee may draw conclusions of fact that it considers appropriate from anything that it receives in evidence or adopts under subsection (1).

**50. Section 67 amended**

(1) In section 67(1):

(a) delete “A party to an inquiry” and insert:

For the purposes of an inquiry into a complaint, a registered teacher or formerly registered teacher who is the subject of the complaint

(b) in paragraph (b) delete “committee,” and insert:

committee —

(2) In section 67(2)(a) and (b) delete “a party” and insert:

the teacher

**51. Section 68 replaced**

Delete section 68 and insert:

**68. Inquiry powers**

(1) For the purposes of an inquiry, a disciplinary committee may —

(a) by written direction given to a person, require the person —

(i) to attend at a place and time specified in the direction; or

(ii) to produce at a place and time specified in the direction a document or other thing that is in the person’s possession or under the person’s control;

- and
- (b) direct a person attending in response to a direction under paragraph (a)(i) —
    - (i) to give any information the committee requests in relation to any matter; or
    - (ii) to answer a question put to the person.
- (2) A disciplinary committee may —
- (a) inspect a document or other thing produced in response to a direction under subsection (1)(a)(ii) and retain it for any reasonable period that the committee considers appropriate; or
  - (b) make a copy of or take extracts from a document or other thing produced, or any of its contents, in response to a direction under subsection (1)(a)(ii); or
  - (c) direct that any information or answer directed to be given under subsection (1)(b) be given on oath or affirmation or be verified by statutory declaration.
- (3) A disciplinary committee member may administer an oath or affirmation for the purposes of this section.
- (4) If a disciplinary committee gives a direction to a person under subsection (1)(a), the direction must state that —
- (a) under this Act, the person is required to comply with the direction; and
  - (b) failure to do so may be an offence under section 68A(1).

- (5) If a disciplinary committee gives a direction to a person under subsection (1)(b), the committee must inform the person that —
  - (a) under this Act, the person is required to comply with the direction; and
  - (b) failure to do so may be an offence under section 68A(1).

**68A. Failure to comply with direction**

- (1) A person commits an offence if the person —
  - (a) fails to comply with a direction given to the person under section 68(1); and
  - (b) was given a statement, or informed, when the direction was given that a failure to comply with the direction may constitute an offence under this subsection.

Penalty for this subsection: a fine of \$5 000.

- (2) It is a defence to a charge of an offence under subsection (1) for the person to prove that the person had a reasonable excuse for failing to comply with the direction.
- (3) For the purposes of subsection (2), it is not a reasonable excuse for a person to fail to comply with a direction given to the person under section 68(1) on the ground that to do so might incriminate the person or render the person liable to a penalty.
- (4) However, any information or answer given by an individual, or the fact that a document or other thing was produced by an individual, in compliance with a direction given to the individual under

section 68(1)(a)(ii) or (b) is not admissible in evidence against the individual in any proceedings other than —

- (a) a complaint, interim order, inquiry or proceedings taken under this Part or a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described); or
  - (b) proceedings for an offence under section 127; or
  - (c) proceedings for perjury.
- (5) This section is in addition to, and does not affect the operation of, the *Evidence Act 1906* section 11.

**68B. Protection for compliance with direction**

- (1) A person must comply with a direction given to the person under section 68(1) despite the provisions of any other written law.
- (2) However, other than for a complaint, interim order, inquiry or proceedings referred to in section 68A(4)(a), (b) or (c) —
  - (a) no civil or criminal liability is incurred as a result of compliance with the direction; and
  - (b) compliance with the direction cannot be regarded as —
    - (i) a breach of any duty of confidentiality or secrecy imposed by law; or
    - (ii) a breach of professional ethics, professional standards or any principles of conduct applicable to the person’s employment; or
    - (iii) unprofessional conduct (however described).

**68C. Disruption of inquiry**

- (1) A person must not hinder or obstruct the conduct of an inquiry.

Penalty for this subsection: a fine of \$5 000.

- (2) A person must not insult a disciplinary committee or a member of the committee when it is conducting an inquiry.

Penalty for this subsection: a fine of \$5 000.

**68D. Immunity for person performing inquiry functions**

A person who performs a function in relation to an inquiry, or is otherwise concerned in an inquiry, has the same protection and immunity as a member or officer of the Supreme Court, or a legal practitioner, witness or party before the Supreme Court, as relevant, would have in respect of a similar function or concern related to the jurisdiction of the Supreme Court.

**52. Section 69 amended**

Delete section 69(2) and insert:

- (2) The record of an inquiry may include an audio or visual recording of the inquiry or part of the inquiry.
- (3) The record of an inquiry must not contain identifying information provided by the Commissioner of Police under section 41A.
- (4) A registered teacher or formerly registered teacher is entitled, upon request, to a copy of the record of the inquiry in relation to the teacher's disciplinary matter.



**53. Section 70 amended**

- (1) Delete section 70(1) to (3) and insert:
- (1) If, after the completion of an inquiry into a complaint in relation to a registered teacher or formerly registered teacher, a disciplinary committee finds that a disciplinary matter occurred, the committee must deal with the complaint in 1 or more of the following ways —
- (a) if the finding is in respect of a person who is a registered teacher or is a formerly registered teacher —
- (i) uphold the complaint in whole or in part;
  - (ii) make a request or recommendation under section 55(1) in relation to any part of the complaint not related to the finding;
  - (iii) order that the person is cautioned or reprimanded;
  - (iv) order that the person pay to the Board a fine of a specified amount not exceeding \$5 000;
  - (v) recommend to the Board that the complaint is referred in whole or in part to the Tribunal under Division 8;
- (b) if the finding is in respect of a person who is a registered teacher —
- (i) order that the registration of the person be suspended for a period, not exceeding 2 years, as is specified in the order;

- (ii) order that 1 or more conditions be imposed on the registration of the person, or order that any existing conditions be modified or cancelled;
  - (iii) without limiting any other paragraph, if the committee finds that a teacher who holds full registration has taught with serious incompetence — order the cancellation of that registration and the substitution of provisional (returning teacher) registration.
- (2) A disciplinary committee may, in dealing with a complaint under subsection (1), order, as the disciplinary committee thinks fit, that the registered teacher or formerly registered teacher who is the subject of the complaint pay to the Board costs and expenses of, arising from, or incidental to any of the following —
  - (a) the Board’s investigation of the complaint;
  - (b) the inquiry.
- (3) If a disciplinary committee does not make a finding that a disciplinary matter occurred in relation to the registered teacher or formerly registered teacher who is the subject of a complaint after the completion of the committee’s inquiry into the complaint, the committee must —
  - (a) dismiss the complaint; or
  - (b) recommend that the Board refer the complaint to the impairment review committee under section 55(1)(c) unless the complaint was previously referred from that committee to a disciplinary committee.

(2) After section 70(5) insert:

- (6) The Board must give effect to, or enforce, an order made by a disciplinary committee under this section to the extent that it is an order that is capable of being given effect to or enforced by the Board.

**54. Part 5 Division 6 Subdivision 3 deleted**

Delete Part 5 Division 6 Subdivision 3.

**55. Part 5 Divisions 7 to 9 replaced**

Delete Part 5 Divisions 7 to 9 and insert:

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

**Subdivision 1 — Initial assessment of complaints and other matters**

**71. Initial assessment**

- (1) The impairment review committee must make a preliminary assessment of a complaint in relation to a registered teacher referred to it by the Board and may deal with the complaint in any of the following ways —
- (a) deal with the complaint under Subdivision 2;
  - (b) make a request or recommendation to the Board under section 55(1) or (2);
  - (c) without limiting any other paragraph, if the matter the subject of the complaint is before another person or body or is the subject of proceedings — postpone consideration of the

complaint pending the outcome of any investigation, hearing or proceedings;

- (d) without limiting any other paragraph, if an agreement is made under section 81(1) — recommend under section 81(1) that the Board imposes or modifies a condition on the teacher’s registration as the case requires.
- (2) Notice of a decision under subsection (1)(c) must be given in accordance with section 85.

**72. Complaints must be dismissed when registration is cancelled or ends**

The impairment review committee must dismiss a complaint in relation to a registered teacher if the committee is dealing with the complaint under this Part and the teacher’s registration is cancelled or otherwise ends.

**Subdivision 2 — Inquiries**

**73. Impairment review committee may conduct inquiry into certain complaints**

If a complaint appears to the impairment review committee to be about an impairment matter in relation to a registered teacher, the committee may conduct an inquiry under this Subdivision into the complaint.

**74. Registered teacher must be notified about inquiry**

- (1) The impairment review committee must give written notice to a registered teacher of its intention to conduct an inquiry under this Subdivision into a complaint in relation to the teacher.

- (2) The notice must —
  - (a) advise the teacher of the nature of the complaint; and
  - (b) contain a brief summary of the effect of this Subdivision; and
  - (c) if the impairment review committee considers that a health assessment of the teacher is necessary — seek the teacher’s consent to undergo a health assessment relating to the impairment matter within a period specified in the notice.

**74A. Hearings**

- (1) The impairment review committee may hold hearings for the purposes of an inquiry.
- (2) Hearings must be held in private.

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

In conducting an inquiry, the impairment review committee —

- (a) must act 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 receive oral or written submissions; and
- (d) may, subject to this Act and the rules of procedural fairness, determine its own procedures; and
- (e) may be assisted by a legal practitioner appointed by the committee for that purpose.

**75A. Rights of teacher as to evidence and witnesses**

- (1) In conducting an inquiry into a complaint, the impairment review committee must give the registered teacher who is the subject of the complaint an opportunity to —
  - (a) call and give evidence; and
  - (b) examine and cross-examine witnesses; and
  - (c) make submissions.
- (2) However, if the impairment review committee decides to conduct the inquiry by considering evidence contained only in documents or electronic form, subsection (1) does not apply to the teacher if the teacher is given the opportunity to make written submissions in relation to —
  - (a) the complaint; and
  - (b) any health assessment conducted for the purposes of an inquiry.

**75B. Representation in relation to impairment matters**

- (1) For the purposes of an inquiry into a complaint, a registered teacher who is the subject of the complaint may —
  - (a) appear before the impairment review committee in person; or
  - (b) with the leave of the impairment review committee — be represented by another person.
- (2) A person who is not a legal practitioner does not breach the *Legal Profession Uniform Law (WA)* or any other Act merely by —
  - (a) representing the teacher before the impairment review committee; or

- (b) providing advice and other services for the purpose of acting for the teacher in connection with an inquiry.
- (3) However, if the impairment review committee decides to conduct the inquiry by considering evidence contained only in documents or electronic form, subsection (1)(a) does not apply to the teacher if the teacher is given the opportunity to make written submissions in relation to —
  - (a) the complaint; and
  - (b) any health assessment conducted for the purposes of an inquiry.

**75C. Immunity for person performing inquiry functions**

A person who performs a function in relation to an inquiry, or is otherwise concerned in an inquiry, has the same protection and immunity as a member or officer of the Supreme Court, or a legal practitioner, witness or party before the Supreme Court, as relevant, would have in respect of a similar function or concern related to the jurisdiction of the Supreme Court.

**76. Health assessments**

- (1) If a registered teacher consents to undergo a health assessment within the period specified in the notice under section 74(2)(c), the teacher and the impairment review committee may agree upon a medical practitioner or psychologist to conduct the assessment.
- (2) If the impairment review committee and the teacher are unable to agree upon the medical practitioner or psychologist to conduct the health assessment, the committee must appoint a medical practitioner or psychologist to conduct the assessment.

- (3) The Board must pay for a health assessment conducted under this section and a report provided under section 77.
- (4) If the teacher does not undergo a health assessment within the period specified in the notice under section 74(2)(c), the impairment review committee must recommend to the Board that the complaint be referred to the Tribunal under Division 8.

**77. Report of health assessment must be given to impairment review committee and teacher**

- (1) A medical practitioner or psychologist who conducts a health assessment of a registered teacher under section 76 must give a report of the health assessment to the impairment review committee.
- (2) Within 7 days after the day on which the impairment review committee receives the report under subsection (1) from a medical practitioner or psychologist, the committee must give a copy of the report to the teacher assessed by the practitioner or psychologist.
- (3) Despite subsection (2), if it appears to the impairment review committee that the disclosure to the teacher assessed 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 person, nominated by the teacher.
- (4) If the teacher assessed does not nominate a medical practitioner or another person to the impairment review committee within 14 days after being requested to do so by the committee, the committee may give the



report to a medical practitioner selected by the committee.

**77A. Powers when dealing with impairment matters**

- (1) For the purposes of an inquiry, the impairment review committee may —
  - (a) by written direction given to a person, require the person —
    - (i) to attend at a place and time specified in the direction; or
    - (ii) to produce at a place and time specified in the direction a document or other thing that is in the person’s possession or under the person’s control;
 and
  - (b) direct a person attending in response to a direction under paragraph (a)(i) —
    - (i) to give information as is requested in relation to any matter; or
    - (ii) to answer a question put to the person.
- (2) The impairment review committee may —
  - (a) inspect a document or other thing produced in response to a direction under subsection (1)(a)(ii) and retain it for any reasonable period that the committee considers appropriate; or
  - (b) make a copy of or take extracts from a document or other thing produced, or any of its contents, in response to a direction under subsection (1)(a)(ii); or

- (c) direct that any information or answer directed to be given under subsection (1)(b) be given on oath or affirmation or be verified by statutory declaration.
- (3) A member of the impairment review committee may administer an oath or affirmation for the purposes of this section.
- (4) If the impairment review committee gives a direction to a person under subsection (1)(a), the direction must state that —
  - (a) under this Act, the person is required to comply with the direction; and
  - (b) failure to do so may be an offence under section 77B(1).
- (5) If the impairment review committee gives a direction to a person under subsection (1)(b), the committee must inform the person that —
  - (a) under this Act, the person is required to comply with the direction; and
  - (b) failure to do so may be an offence under section 77B(1).

**77B. Failure to comply with direction**

- (1) A person commits an offence if the person —
  - (a) fails to comply with a direction given to the person under section 77A(1); and
  - (b) was given a statement, or informed, when the direction was given that a failure to comply with the direction may constitute an offence under this subsection.

Penalty for this subsection: a fine of \$5 000.

- (2) It is a defence to a charge of an offence under subsection (1) for the person to prove that the person had a reasonable excuse for failing to comply with the direction.
- (3) For the purposes of subsection (2), it is not a reasonable excuse for a person to fail to comply with a direction given to the person under section 77A(1) on the ground that to do so might incriminate the person or render the person liable to a penalty.
- (4) However, any information or answer given by an individual, or the fact that a document or other thing was produced by an individual, in compliance with a direction given to the individual under section 77A(1)(a)(ii) or (b) is not admissible in evidence against the individual in any proceedings other than —
  - (a) a complaint, interim order, inquiry or proceedings taken under this Part or a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described); or
  - (b) proceedings for an offence under section 127; or
  - (c) proceedings for perjury.
- (5) This section is in addition to, and does not affect the operation of, the *Evidence Act 1906* section 11.

**77C. Protection for compliance with direction**

- (1) A person must comply with a direction given to the person under section 77A(1) despite the provisions of any other written law.

- (2) However, other than a complaint, interim order, inquiry or proceedings referred to in section 77B(4)(a), (b) or (c) —
- (a) no civil or criminal liability is incurred as a result of compliance with the direction; and
  - (b) compliance with the direction cannot be regarded as —
    - (i) a breach of any duty of confidentiality or secrecy imposed by law; or
    - (ii) a breach of professional ethics, professional standards or any principles of conduct applicable to the person's employment; or
    - (iii) unprofessional conduct (however described).

**77D. Disruption of inquiry**

- (1) A person must not hinder or obstruct the conduct of an inquiry.  
Penalty for this subsection: a fine of \$5 000.
- (2) A person must not insult the impairment review committee or a member of the committee when it is conducting an inquiry.  
Penalty for this subsection: a fine of \$5 000.

**77E. Immunity for person performing inquiry functions**

A person who performs a function in relation to an inquiry, or is otherwise concerned in an inquiry, has the same protection and immunity as a member or officer of the Supreme Court, or a witness or party before the Supreme Court, would have in respect of a similar function or concern related to the jurisdiction of the Supreme Court.

**77F. Record of inquiry**

- (1) The impairment review committee must ensure that a record is kept of an inquiry conducted by the committee.
- (2) The record of an inquiry may include an audio or visual recording of the inquiry or part of the inquiry.
- (3) A registered teacher or formerly registered teacher is entitled, upon request, to a copy of the record of the inquiry in relation to the teacher's impairment matter.

**78. Decision of impairment review committee after inquiry**

- (1) On completion of its inquiry into a complaint, the impairment review committee must deal with the complaint in 1 or more of the following ways if the committee finds an impairment matter exists in relation to the registered teacher who is the subject of the complaint —
  - (a) uphold the complaint in whole or in part;
  - (b) make a request or recommendation under section 55(1) in relation to any part of the complaint not related to the finding;
  - (c) recommend to the Board that the complaint is referred in whole or in part to the Tribunal under Division 8;
  - (d) request that the teacher consents —
    - (i) to the imposition of 1 or more conditions on their registration; or
    - (ii) to having their registration suspended for a period, not exceeding 2 years, specified by the impairment review committee; or

- (iii) to undergo the counselling specified by the impairment review committee.
- (2) If the impairment review committee does not make a finding that an impairment matter exists in relation to the registered teacher who is the subject of the complaint after the completion of the committee's inquiry into the complaint, the committee must —
  - (a) dismiss the complaint; or
  - (b) recommend that the Board refer the complaint to a disciplinary committee under section 55(1)(c) unless the complaint was previously referred from that committee to the impairment review committee.
- (3) Notice of a decision under this section must be given in accordance with section 85.

**79. Recommendation**

- (1) The impairment review committee must recommend to the Board that a complaint in relation to a registered teacher be referred to the Tribunal if the teacher —
  - (a) does not consent to a request made under section 78(1)(d) within 30 days after the request is made; or
  - (b) before the Board takes action under section 80(1), withdraws consent in writing to a request made under section 78(1)(d).
- (2) If a registered teacher consents to a request made under section 78(1)(d) within 30 days after the request is made, the impairment review committee must 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 complaint to which it relates.

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

- (1) The Board must consider a recommendation under section 78(1)(c) or 79 of the impairment review committee about a complaint relating to a registered teacher and may do any of the following —
  - (a) decide not to take any action;
  - (b) take any action to which the teacher has consented under section 78(1)(d);
  - (c) refer the complaint in whole or in part to a disciplinary committee or the Tribunal.
- (2) For the purpose of taking action to which the teacher has consented the Board may —
  - (a) order that 1 or more conditions 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) Consent given by the teacher cannot be withdrawn unless the Board receives the withdrawal in writing from the teacher before the Board takes action under subsections (1)(b) and (2).

- (4) Nothing in this section limits the powers of the Board in relation to imposing or modifying conditions on registration.
- (5) Notice of a decision or an order made under this section must be given in accordance with section 85.

**Subdivision 3 — Imposing or modifying conditions in relation to complaints about impairment matters**

**81. Imposing or modifying conditions**

- (1) A registered teacher who is the subject of a complaint referred to the impairment review committee may agree with the committee for the committee to recommend any of the following to the Board —
  - (a) to impose a condition on the teacher's registration;
  - (b) to modify an existing condition on the teacher's registration.
- (2) If a recommendation is made under subsection (1) to impose or modify a condition on a teacher's registration, the Board may impose that condition, or may modify the existing condition, on the registration of the teacher.
- (3) An agreement made by the teacher under subsection (1) cannot be withdrawn unless the Board receives the withdrawal in writing from the teacher before the Board imposes or modifies a condition under subsection (2).
- (4) If a condition is imposed or modified by the Board under subsection (2) on the registration of a teacher who is the subject of a complaint, the Board must dismiss the complaint.



- (5) Nothing in this section limits the powers of the Board in relation to imposing or modifying conditions on registration.
- (6) Notice of a decision under subsection (2) must be given in accordance with section 85.

**82. Cancellation of condition**

- (1) The Board may cancel a condition imposed or modified under section 81 if a registered teacher satisfies the impairment review committee that their ability to practise as a teacher is no longer affected because of the impairment matter that gave rise to the imposition or modification of the condition.
- (2) Notice of a decision under subsection (1) must be given in accordance with section 85.

**Division 8 — Tribunal**

**Subdivision 1 — Referrals to Tribunal**

**83. Complaints and matters referred to Tribunal**

- (1) Unless otherwise required under this Act, the Board may refer a complaint to the 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 Tribunal about a matter for which an interim order is in force, the order remains in force until it is varied or revoked by the Tribunal or the complaint relating to the matter is finally dealt with by the Tribunal.

**Subdivision 2 — Tribunal**

**84. Jurisdiction of Tribunal**

- (1) If, in a proceeding commenced by a referral under this Act, the Tribunal finds that a disciplinary matter occurred in relation to a complaint about a registered teacher or a formerly registered teacher the Tribunal may do 1 or more of the following —
  - (a) if the finding is in respect of a person who is a registered teacher or formerly registered teacher —
    - (i) uphold the complaint in whole or in part;
    - (ii) dismiss any part of the complaint not related to the finding;
    - (iii) order that the person is cautioned or reprimanded;
    - (iv) order that the person pay to the Board a fine of a specified amount not exceeding \$5 000;
  - (b) if the finding is in respect of a person who is a formerly registered teacher — order that the person is disqualified from having registration granted under Part 3 for a period specified in the order or for an indefinite period;
  - (c) if the finding is in respect of a person who is a registered teacher —
    - (i) order that the registration of the person is suspended for a period, not exceeding 2 years, specified in the order;
    - (ii) order that 1 or more conditions are imposed on the registration of the person, or order that any existing conditions are modified or cancelled;

- (iii) without limiting any other paragraph, if the Tribunal finds that a person who holds full registration has taught with serious incompetence — order the cancellation of the person’s full registration and the substitution of provisional (returning teacher) registration;
  - (iv) order that the person’s registration is cancelled;
  - (v) if an order is made under subparagraph (iv) in relation to a person — order that the person is disqualified from having registration granted under Part 3 for a period specified in the order or for an indefinite period.
- (2) If, in a proceeding commenced by a referral under this Act, the Tribunal does not make a finding that a disciplinary matter occurred in relation to a complaint about a registered teacher or formerly registered teacher, the Tribunal must dismiss any part of the complaint that relates to the disciplinary matter that was alleged.
- (3) If, in a proceeding commenced by a referral under this Act, the Tribunal finds that an impairment matter exists in relation to a complaint about a person who is a registered teacher the Tribunal may do 1 or more of the following —
- (a) uphold the complaint in whole or in part;
  - (b) dismiss any part of the complaint not related to the finding;

- (c) order that the person's registration is suspended for a period, not exceeding 2 years, specified in the order;
  - (d) order that 1 or more conditions are imposed on the person's registration, or order that any existing conditions are modified or cancelled;
  - (e) order that the person undergoes counselling or medical treatment or acts in accordance with medical advice given to the person;
  - (f) order that the person's registration is cancelled;
  - (g) if an order is made under paragraph (f) in relation to a person — order that the person is disqualified from having registration granted under Part 3 for a period specified in the order.
- (4) The Tribunal cannot make an order under subsection (3)(f) unless satisfied that the person is unable to carry out the inherent requirements of the work of a registered teacher because of an impairment.
- (5) If, in a proceeding commenced by a referral under this Act, the Tribunal does not make a finding that an impairment matter exists in relation to a complaint about a registered teacher, the Tribunal must dismiss any part of the complaint that relates to the impairment matter that was alleged.
- (6) In a proceeding commenced by a referral under this Act in relation to a complaint about a registered teacher's impairment matter, the Tribunal must dismiss any part of the complaint that relates to the impairment matter if the teacher's registration —
- (a) is cancelled (other than under subsection (3)(f)); or
  - (b) otherwise ends.

- (7) If a referral to the Tribunal is made in relation to a complaint for which an interim order is in force, the Tribunal may affirm, revoke or vary the order pending final determination of the referral.
- (8) Nothing in subsection (7) limits or restricts the functions of the Tribunal in respect of a complaint under this Act about a matter in respect of which an interim order is in force.
- (9) The Board must give effect to, or enforce, an order made by the Tribunal under this Division to the extent that it is an order that is capable of being given effect to, or enforced, by the Board.
- (10) Subsection (9) does not limit any right of review or appeal that the Board has in relation to an order made by the Tribunal under this Division.

**84A. Health assessments ordered by Tribunal**

- (1) In a proceeding on a complaint referred to the Tribunal about an impairment matter, the Tribunal may make an interlocutory order requiring 1 or more of the following —
  - (a) that the registered teacher who is the subject of the complaint undergoes a health assessment;
  - (b) that the Board appoints a medical practitioner or psychologist to conduct the health assessment;
  - (c) that the person appointed under paragraph (b) gives a written report about the health assessment to the Tribunal;
  - (d) that the Board pays the costs and expenses arising from, or incidental to, the health assessment and the provision of the report.

- (2) The Tribunal may affirm, revoke or vary an interlocutory order pending final determination of the referral.
- (3) Nothing in subsection (2) limits or restricts the functions of the Tribunal in respect of a complaint under this Act about a matter in respect of which an interlocutory order is in force.

**84B. Interlocutory orders to suspend registered teachers**

- (1) In a proceeding on a complaint referred to the Tribunal, the Tribunal may make an interlocutory order suspending the registration of the registered teacher who is the subject of the complaint if the Tribunal believes on reasonable grounds that —
  - (a) the teacher may pose a risk of harm to a student; and
  - (b) the suspension is necessary to protect a student.
- (2) In a proceeding on a complaint referred to the Tribunal, the Tribunal may make an interlocutory order suspending the registration of the registered teacher who is the subject of the complaint if the Tribunal believes on reasonable grounds that a health assessment of the teacher ordered under section 84A is not completed as ordered.
- (3) In a proceeding on a complaint referred to the Tribunal, the Tribunal may make an interlocutory order suspending the registration of the registered teacher who is the subject of the complaint if the teacher has been charged with an actionable offence.
- (4) An interlocutory order may be made under subsection (1), (2) or (3) whether or not the teacher is currently appointed, employed or engaged, or given permission to teach, at an educational institution.

- (5) The Tribunal may affirm, revoke or vary an interlocutory order pending final determination of the referral.
- (6) Nothing in subsection (5) limits or restricts the functions of the Tribunal in respect of a complaint under this Act about a matter in respect of which an interlocutory 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) In this section —
  - Part 5 order or decision* means —
    - (a) an interim order; or
    - (b) an order or a decision under any of the following provisions —
      - (i) section 53(1);
      - (ii) section 55(3)(b) or (c);
      - (iii) section 57(1);
      - (iv) section 62(1)(a) or (c);
      - (v) section 70(1), (2) or (3);
      - (vi) section 71(1)(c);
      - (vii) section 78(1) or (2);
      - (viii) section 80(1) or (2);
      - (ix) section 81(2);
      - (x) section 82(1).
- (2) Within 14 days after making a Part 5 order or decision (other than an interim order) in relation to a complaint about a registered teacher or formerly registered teacher, the Board, a disciplinary committee or the

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

- (a) if the teacher has been notified of the complaint — the teacher; and
  - (b) if the complaint is a public complaint — the complainant.
- (3) Within 14 days after making an interim order, the Board must give written notice about the order to the person who is bound by the order.
- (4) A notice must contain short particulars of the reasons for the order or decision.
- (5) Notice given to a person about an interim order must contain a statement that the Board must refer the matter in respect of which the order is made to the Tribunal under section 61.
- (6) Notice given to a teacher about an order or a decision made under the following provisions must contain a statement that the teacher may have a right to a review under section 124 —
- (a) section 70(1)(a)(i), (iii) or (iv);
  - (b) section 70(1)(b);
  - (c) section 70(2);
  - (d) section 78(1)(a);
  - (e) section 80(1)(b) or (2);
  - (f) section 82(1).
- (7) Notice given to a person about a Part 5 order or decision must not contain identifying information provided by the Commissioner of Police under section 41A.



**56. Section 87 amended**

- (1) In section 87(1) delete “7 members” and insert:

9 members

- (2) In section 87(4) delete “such experience, skills or qualifications as” and insert:

the experience, skills or qualifications that

- (3) In section 87(5):

- (a) delete “is to designate one” and insert:

must designate 1

- (b) delete “and one” and insert:

and another

**57. Section 88 amended**

- (1) At the beginning of section 88 insert:

- (1) In this section —

**account** means the Teacher Registration Board Account referred to in section 115;

**meeting** means a meeting of the Board or a committee;

**relief teacher**, in relation to a member of the Board or a committee who is a registered teacher, means another

registered teacher who teaches in the place of that member.

(2) In section 88 delete “A member” and insert:

(2) A member

(3) At the end of section 88 insert:

(3) However, if moneys standing to the credit of the account are applied to meet the reasonable cost of providing a relief teacher while a member of the Board or a committee is attending a meeting during school hours, then that member is not entitled to any remuneration under subsection (2) in respect of attendance at that meeting.

**58. Section 89 amended**

Delete section 89(b) to (d) and insert:

- (c) to work with, and join associations of, teacher regulatory authorities (however described) of other States or Territories or New Zealand to participate in, and contribute to, activities relating to teaching, teachers and accreditation schemes;
- (d) to establish, implement and administer for Western Australia an accreditation scheme for initial teacher education programs;

**59. Section 91 amended**

- (1) In section 91(1) delete “Act —” and insert:

Act (other than section 48C) —

- (2) After section 91(1) insert:

- (1A) The Board may delegate any power or duty of the Board under section 48C, with the consent of the CEO, to an officer or employee employed in the Department.

**60. Section 92 replaced**

Delete section 92 and insert:

**92. Staff and services**

The CEO must ensure that the Board is provided with any of the following as are reasonably necessary to enable it to perform its functions —

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

**61. Section 93 amended**

- (1) In section 93(1) delete “such direction.” and insert:

direction given.

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- (2) In section 93(2)(b) delete “application, complaint or proceeding.” and insert:

application, investigation, complaint, interim order, inquiry or proceeding.

- (3) In section 93(3)(a) delete “days after the direction is given or dealt with in accordance with section 125; and” and insert:

sitting days after the direction is given; and

**62. Section 94 amended**

- (1) In section 94(4) delete “his or her” and insert:

the CEO’s

- (2) In section 94(5):

- (a) delete paragraph (b) and insert:

(b) might enable the identity of a person involved in a particular application, complaint, investigation, inquiry or other proceeding to be ascertained.

- (b) delete “unless that person has consented to the disclosure.”.

(3) After section 94(5) insert:

(6) Subsection (5) does not apply if the person referred to in subsection (5)(a) or (b) has consented to the disclosure.

**63. Part 6 Division 5 heading amended**

In the heading to Part 6 Division 5 delete “**the**”.

**64. Section 96 amended**

In section 96(2)(c) after “convicted” insert:

or found guilty

**65. Section 98 amended**

In section 98(2) delete “his or her” and insert:

the deputy chairperson’s

**66. Section 102 amended**

In section 102 delete “is to” and insert:

may

**67. Section 108 amended**

In section 108(1) and (2) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

**68. Section 112 amended**

Delete section 112(2) and insert:

- (2) The Minister must cause a copy of the declaration to be laid before each House of Parliament within 14 sitting days of the relevant House after the declaration is made.

**69. Section 113 amended**

Delete section 113(2) and insert:

- (2) The Board may authorise any of the following to sign documents on behalf of the Board, either generally or subject to the conditions that are specified in the authorisation —
- (a) 1 or more members of the Board;
  - (b) with the consent of the CEO — any officer or employee employed in the Department.

Note: The heading to amended section 113 is to read:

**Execution of documents by Board**

**70. Section 115 amended**

- (1) In section 115(3)(b) delete “Teacher Registration Board” and insert:

Board

- (2) In section 115(4):

- (a) delete “Moneys held in the” and insert:

Moneys standing to the credit of the

- (b) delete paragraph (a) and insert:

- (a) in payment of any of the following —

- (i) the remuneration and allowances payable to the members of the Board or of a committee under this Act;
- (ii) remuneration and allowances for relief teachers referred to in section 88 to enable a member of the Board or of a committee to attend meetings of the Board or of the committee;

- (c) in paragraph (b) delete “Teacher Registration Board” and insert:

Board

**71. Section 116 amended**

In section 116 in the definition of *publish*:

(a) delete “includes —” and insert:

includes the following —

(b) in paragraph (h) delete “make verbally” and insert:

state orally

**72. Section 117 amended**

In section 117(2) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

**73. Section 118 amended**

(1) Delete section 118(1)(a) and (b) and insert:

- (a) matters in relation to the registration of teachers;
- (b) matters in relation to registered teachers or formerly registered teachers;
- (c) matters that adversely affect or may adversely affect the interests of persons at educational institutions who are or were taught by registered teachers or formerly registered teachers.



- (2) In section 118(2):
- (a) in paragraph (a)(ii) delete “State Administrative”;
  - (b) after paragraph (a)(ii) insert:
    - (iii) information referred to in Part 4;
    - (iv) matters under Part 5, including any complaints or investigations;
  - (c) after paragraph (a) insert:

and

- (3) After section 118(3) insert:
- (3A) This section is subject to the *Evidence Act 1906* section 36C and the *Children’s Court of Western Australia Act 1988* section 35.

**74. Section 118A inserted**

At the end of Part 7 Division 1 insert:

**118A. Provision of information to Australian Teacher Workforce Data Initiative**

- (1) In this section —
- Australian Teacher Workforce Data Initiative* means the initiative implemented by the Australian Institute for Teaching and School Leadership Limited (ACN 117 362 740) and partners for the collection, analysis and reporting of data in relation to the teaching workforce in Australia.

- (2) The Board may, with the approval of the Minister, provide any information held by the Board in relation to the teaching workforce to the Australian Teacher Workforce Data Initiative.

**75. Part 7 Division 1A inserted**

Before Part 7 Division 2 insert:

**Division 1A — Accreditation standards**

**118B. Accreditation standards**

- (1) The Minister may approve standards developed by the Board to detail the structure, content, duration, admission criteria, graduation criteria and outcomes of programs that are suitable for accreditation and related matters.
- (2) The standards may adopt the text of any code, rules, specifications, standard or other document issued, published or approved by another person or body.
- (3) The text referred to in subsection (2) may be adopted —
  - (a) wholly or in part or as modified by the standards; and
  - (b) as it exists at a particular date or as amended from time to time.
- (4) The Board must make the standards available for inspection on a website maintained by the Board.
- (5) The standards commence at the beginning of the day after the day on which they are made available for inspection under subsection (4) or a later day provided for in the standards.

- (6) The standards are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (7) The *Interpretation Act 1984* sections 43 (other than subsection (6)) and 44 and Part VIII apply to the standards as if they were subsidiary legislation.

**76. Section 119 amended**

After section 119(3) insert:

- (4) A prosecution of a person for an offence under this Act must be commenced within 6 years after the day on which the offence is alleged to have been committed.

**77. Section 121 amended**

Delete section 121(2) and insert:

- (2) In proceedings for an offence against this Act any of the following allegations specified in a prosecution notice are taken to be proved in the absence of evidence to the contrary —
  - (a) a specified person was a member or an alternate member of the Board at a specified time;
  - (b) a specified person was the chairperson or deputy chairperson of the Board at a specified time;
  - (c) a specified person was a member of a committee at a specified time.

**78. Section 122 amended**

In section 122(2):

- (a) delete “or all”;
- (b) delete paragraph (e) and insert:
  - (e) that a person is or was disqualified by an order under Part 5;

**79. Section 123 replaced**

Delete section 123 and insert:

**123. Recovery of amounts due**

The amount of any of the following is recoverable by the Board in any court of competent jurisdiction as a debt due to the State —

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

**80. Part 7 Division 3 replaced**

Delete Part 7 Division 3 and insert:

**Division 3 — Review by Tribunal**

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

- (1) A person who is aggrieved by a reviewable decision may apply to the Tribunal for a review of the decision if the person is any of the following —

- (a) a registered teacher or formerly registered teacher;
  - (b) an applicant for a grant of registration under Part 3;
  - (c) an applicant for a renewal of registration under Part 3;
  - (d) an applicant for a change of category of registration under Part 3;
  - (e) an employer of a person who holds, or held, limited registration.
- (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 refuse an application by the person under Part 3 for a change of category of registration; or
  - (d) the Board to impose a condition on the person's registration under section 26 when granting or renewing that registration or changing the category of registration; or
  - (e) the Board to impose, modify or cancel a condition under section 26 during the currency of the person's registration; or
  - (f) the Board to cancel the person's registration under section 27; or
  - (g) a disciplinary committee to deal with a complaint about the person under section 70(1)(a)(i), (iii) or (iv) or (b) or (2); or

- (h) the impairment review committee to deal with a complaint against the person under section 78(1)(a); or
- (i) the Board to make an order or obtain an undertaking against the person under section 80(1)(b) or (2); or
- (j) the Board to refuse to cancel under section 82(1) a condition on the person's registration.

**81. Section 125 replaced**

Delete section 125 and insert:

**125. Relationship with *Equal Opportunity Act 1984***

If a provision of this Act is inconsistent with a provision of the *Equal Opportunity Act 1984*, the provision of this Act prevails to the extent of the inconsistency.

**82. Section 127 replaced**

Delete section 127 and insert:

**127. False or misleading information**

- (1) A person must not take any of the actions or make any of the omissions set out in subsection (2) —
  - (a) in, or in connection with, a registration 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.

Penalty for this subsection:

- (a) for a first offence, a fine of \$5 000;
  - (b) for a second or subsequent offence, a fine of \$10 000.
- (2) The actions or omissions to which subsection (1) apply are any of the following —
- (a) making a statement which the person knows is false or misleading in a material particular;
  - (b) making 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;
  - (c) providing, or causing to be provided, information that the person knows is false or misleading in a material particular;
  - (d) providing, or causing 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;
  - (e) failing to disclose, or causing a failure to disclose, all information that the person knows is materially relevant.

**83. Section 128 amended**

In section 128(2):

- (a) delete “all or”;

- (b) delete paragraphs (d) to (f) and insert:
  - (d) regulating applications and registration, including —
    - (i) conditions on registration; and
    - (ii) the provision of information about eligibility for registration; and
    - (iii) requiring matters to be in accordance with the professional learning activities policy or the professional standards;
  - (e) implementing and administering an accreditation scheme for initial teacher education programs, including —
    - (i) the grant and cancellation of accreditation, including conditions on accreditation and the duration of accreditation; and
    - (ii) requiring matters to be in accordance with the accreditation standards; and
    - (iii) eligibility criteria for accreditation; and
    - (iv) the fees to be paid for accreditation, and in relation to the accreditation scheme, and the person liable for the payment of any fee; and
    - (v) providing for accreditation panels, including the functions and powers of accreditation panels; and
    - (vi) the role of the Board and other bodies, including any accreditation panel or panels, in the accreditation scheme; and
    - (vii) the review of accreditation decisions; and



- (viii) anything supplementary or additional for the implementation or administration of the accreditation scheme;
- (f) regarding information in relation to any of the following to be supplied to the Board, at the request of the Board, by an employer at an educational institution —
  - (i) any person who is teaching at an educational institution;
  - (ii) teaching at educational institutions;
- (fa) the keeping of records by the Board;

**84. Section 130 replaced**

Delete section 130 and insert:

**130. Review of Act in relation to *Teacher Registration Amendment Act 2023***

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 4<sup>th</sup> anniversary of the day on which the *Teacher Registration Amendment Act 2023* section 84 comes into operation.
- (2) The review must address the following —
  - (a) the effectiveness of the scheme for the registration of teachers, including the categories of registration;
  - (b) the effectiveness of Part 5, including in relation to complaints and disciplinary processes;

- (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 4<sup>th</sup> anniversary.

**85. Part 8 Division 4 inserted**

At the end of Part 8 insert:

**Division 4 — Application of Act to individual who was  
WACOT teacher**

**149A. Terms used**

In this Division —

**WACOT Act**, in relation to an individual who was a WACOT teacher, means the *Western Australian College of Teaching Act 2004* as in force at the relevant time the individual was a WACOT teacher;

**WACOT teacher** means an individual who —

- (a) was registered as a teacher under the WACOT Act section 34; or
- (b) was provisionally registered as a teacher under the WACOT Act section 32; or
- (c) held a limited authority to teach under the WACOT Act section 36.

**149B. Application of Act to individual who was WACOT teacher**

- (1) This Act is taken to apply to an individual who was a WACOT teacher.
- (2) For the purposes of the application in subsection (1), if the individual is a registered teacher —
  - (a) the definition of *teach* in section 3 is taken to include teaching as defined in the WACOT Act section 3(1); and
  - (b) in a provision listed in column 1 of the Table, each reference in column 2 of the Table is taken to include a reference specified opposite it in column 3 of the Table.

**Table**

<b>Column 1 Provision</b>	<b>Column 2 Reference</b>	<b>Column 3 Included reference</b>
section 47	a registered teacher	an individual who was a WACOT teacher
section 47(a)	contravened this Act	contravened the WACOT Act
section 47(b)	a condition imposed on their registration	any terms and conditions imposed on their registration, provisional registration or authority to teach under the WACOT Act

<b>Column 1 Provision</b>	<b>Column 2 Reference</b>	<b>Column 3 Included reference</b>
section 47(e) and (h)	an educational institution	a school
section 47(h)	registration	registration, provisional registration or authority to teach under the WACOT Act
section 48A	a registered teacher	an individual who was a WACOT teacher
section 48A(2)(b)	student	person taught at a school
sections 48B, 51(1)(a), 51A(1)(a) and 52 Part 5 Divisions 5 and 6 section 84 (other than subsections (3) to (6)) section 84B (other than subsection (2)) section 85	a registered teacher	an individual who was a WACOT teacher

<b>Column 1 Provision</b>	<b>Column 2 Reference</b>	<b>Column 3 Included reference</b>
section 118(1)(b) and (c)	registered teachers	individuals who were WACOT teachers
section 118(1)(c)	educational institutions	schools
sections 124(1)(a) and 149T	a registered teacher	an individual who was a WACOT teacher

- (3) For the purposes of the application in subsection (1), if the individual was a registered teacher but is not currently a registered teacher or has not been a registered teacher —
- (a) the definition of *formerly registered teacher* in section 3 is taken to include an individual who was a WACOT teacher; and
  - (b) the definition of *teach* in section 3 is taken to include teaching as defined in the WACOT Act section 3(1); and
  - (c) in a provision listed in column 1 of the Table, each reference in column 2 of the Table is taken to include a reference specified opposite it in column 3 of the Table.

**Table**

<b>Column 1 Provision</b>	<b>Column 2 Reference</b>	<b>Column 3 Included reference</b>
section 47(a)	contravened this Act	contravened the WACOT Act

<b>Column 1 Provision</b>	<b>Column 2 Reference</b>	<b>Column 3 Included reference</b>
section 47(b)	a condition imposed on their registration	any terms and conditions imposed on their registration, provisional registration or authority to teach under the WACOT Act
section 47(e) and (h)	an educational institution	a school
section 47(h)	registration	registration, provisional registration or authority to teach under the WACOT Act
section 48A	a registered teacher	an individual who was a WACOT teacher
section 48A(2)(b)	student	person taught at a school
section 48B	a registered teacher	an individual who was a WACOT teacher

<b>Column 1 Provision</b>	<b>Column 2 Reference</b>	<b>Column 3 Included reference</b>
sections 51(1)(b) and 51A(1)(b)	registration	registration, provisional registration or authority to teach under the WACOT Act
section 118(1)(b) and (c)	formerly registered teachers	individuals who were WACOT teachers
section 118(1)(c)	educational institutions	schools

**86. Part 8A inserted**

Before Part 9 insert:

**Part 8A — Transitional provisions for *Teacher Registration Amendment Act 2023***

**Division 1 — Preliminary**

**149C. Terms used**

In this Part —

*amended Act* means this Act as in force on and after commencement day;

*commencement day* means the day on which the *Teacher Registration Amendment Act 2023* section 3 comes into operation;

*finally dealt with*, in relation to a matter, means the matter has been finally dealt with by the decision-maker at first instance whether or not the matter has been subject to a review or appeal.

**149D. Application of *Interpretation Act 1984* not affected**

Except as provided in this Part and in any transitional regulations made under this Part, this Part and any transitional regulations made under this Part do not affect the application of the *Interpretation Act 1984* in relation to the amendments effected by the *Teacher Registration Amendment Act 2023*.

**Division 2 — Applications undecided before commencement day**

**149E. Applications for full registration**

(1) In this section —

*non-practising applicant* means an applicant who held non-practising registration immediately before commencement day whether or not the applicant holds provisional registration under section 149P on and after commencement day;

*undecided full registration application* means an application for full registration under section 10 as in force immediately before commencement day that was not —

- (a) finally decided by the Board before commencement day; or
- (b) refused under section 13(3), or refused consideration or further consideration under section 14, as in force immediately before commencement day.



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- (2) An undecided full registration application received by the Board before commencement day is taken to be an application for full registration under the amended Act section 10 and must be dealt with under the amended Act.
  - (3) However, despite section 21(1), if a non-practising applicant for an undecided full registration application does not meet the requirements for full registration, the Board may grant the non-practising applicant under section 21 —
    - (a) if the non-practising applicant was conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before the day on which the Board receives the application and meets the requirements set out in section 16A(b) to (d) — provisional (graduate teacher) registration; or
    - (b) if the non-practising applicant was not conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before the day on which the Board receives the application and meets the requirements set out in section 16(b) and (c) — provisional (returning teacher) registration.
  - (4) If subsection (3)(a) applies, an undecided full registration application for a non-practising applicant received by the Board before commencement day is taken to be an application under the amended Act section 10 for provisional (graduate teacher) registration and must be dealt with under the amended Act.
  - (5) If subsection (3)(b) applies, an undecided full registration application for a non-practising applicant received by the Board before commencement day is taken to be an application under the amended Act

section 10 for provisional (returning teacher) registration and must be dealt with under the amended Act.

**149F. Applications for full registration renewal**

- (1) In this section —  
*undecided full registration renewal application* means an application for full registration renewal under section 11 as in force immediately before commencement day that was not —
  - (a) finally decided by the Board before commencement day; or
  - (b) refused under section 13(3), or refused consideration or further consideration under section 14, as in force immediately before commencement day.
- (2) An undecided full registration renewal application received by the Board before commencement day is taken to be an application (a *transitional renewal application*) under the amended Act section 11 for the renewal of full registration and must be dealt with under the amended Act.
- (3) The amended Act section 22(1) does not apply to a transitional renewal application.
- (4) For the purposes of the amended Act section 23 —
  - (a) the nominal registration period of the registration that is the subject of a transitional renewal application is provided under section 149N(3); and
  - (b) a transitional renewal application is taken to be made within the required time.

**149G. Applications for provisional registration**

- (1) In this section —
- undecided provisional registration application* means an application for provisional registration under section 10 as in force immediately before commencement day that was not —
- (a) finally decided by the Board before commencement day; or
  - (b) refused under section 13(3), or refused consideration or further consideration under section 14, as in force immediately before commencement day.
- (2) An undecided provisional registration application for an applicant received by the Board before commencement day is taken to be an application under the amended Act section 10 for —
- (a) if the applicant was conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before the day on which the Board receives the application — provisional (graduate teacher) registration and must be dealt with under the amended Act; or
  - (b) if the applicant was not conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before the day on which the Board receives the application — provisional (returning teacher) registration and must be dealt with under the amended Act.

**149H. Applications for provisional registration renewal**

- (1) In this section —
- undecided provisional registration renewal application* means an application for provisional

- registration renewal under section 11 as in force immediately before commencement day that was not —
- (a) finally decided by the Board before commencement day; or
  - (b) refused under section 13(3), or refused consideration or further consideration under section 14, as in force immediately before commencement day.
- (2) An undecided provisional registration renewal application for an applicant received by the Board before commencement day is taken to be an application (a *transitional renewal application*) under the amended Act section 11 for the renewal of —
- (a) if the applicant has provisional (graduate teacher) registration under section 149O — provisional (graduate teacher) registration and must be dealt with under the amended Act; or
  - (b) if applicant has provisional (returning teacher) registration under section 149O — provisional (returning teacher) registration and must be dealt with under the amended Act.
- (3) The amended Act section 22(1) does not apply to a transitional renewal application.
- (4) For the purposes of the amended Act section 23 —
- (a) the nominal registration period of the registration that is the subject of a transitional renewal application is provided under section 149O(3); and
  - (b) a transitional renewal application is taken to be made within the required time.

**149I. Applications for limited registration**

- (1) In this section —  
*undecided limited registration application* means an application for limited registration under section 10 as in force immediately before commencement day that was not —
  - (a) finally decided by the Board before commencement day; or
  - (b) refused under section 13(3), or refused consideration or further consideration under section 14, as in force immediately before commencement day.
- (2) An undecided limited registration application received by the Board before commencement day is taken to be an application under the amended Act section 10 for limited registration and must be dealt with under the amended Act.
- (3) A notice given on a day (the *relevant day*) before commencement day under section 23(3) as in force immediately before commencement day is taken to be a pre-application notice under the amended Act section 23A(3) given on the relevant day.

**149J. Applications for limited registration renewal**

- (1) In this section —  
*undecided limited registration renewal application* means an application for limited registration renewal under section 11 as in force immediately before commencement day that was not —
  - (a) finally decided by the Board before commencement day; or
  - (b) refused under section 13(3), or refused consideration or further consideration under

section 14, as in force immediately before commencement day.

- (2) An undecided limited registration renewal application received by the Board before commencement day is taken to be an application (a ***transitional renewal application***) under the amended Act section 11 for the renewal of limited registration and must be dealt with under the amended Act.
- (3) The amended Act section 22(1) does not apply to a transitional renewal application.
- (4) For the purposes of the amended Act sections 23A and 23B —
  - (a) the nominal registration period of the registration that is the subject of a transitional renewal application is provided under section 149R(3); and
  - (b) a transitional renewal application is taken to be made within the required time.

**149K. Applications for non-practising registration**

- (1) In this section —

***undecided non-practising registration application*** means an application for non-practising registration under section 10 as in force immediately before commencement day that was not —

  - (a) finally decided by the Board before commencement day; or
  - (b) refused under section 13(3), or refused consideration or further consideration under section 14, as in force immediately before commencement day.

- (2) An undecided non-practising registration application received by the Board before commencement day is taken to be an application to change category of registration to non-practising registration under the amended Act section 12A and must be dealt with under the amended Act.
- (3) However, an undecided non-practising registration application for an applicant who does not hold full registration or provisional registration on commencement day lapses on commencement day and must not be dealt with under the amended Act.

**149L. Applications for extension of non-practising registration**

- (1) In this section —  
*undecided non-practising registration extension application* means an application for the period of non-practising registration to be extended under the *Teacher Registration (General) Regulations 2012* regulation 15(3) as in force immediately before commencement day that was not finally dealt with by the Board before commencement day.
- (2) An undecided non-practising registration extension application received by the Board before commencement day lapses on commencement day and must not be dealt with under the amended Act.

**149M. Fit and proper person**

- (1) In this section —  
*pre-commencement fit and proper person advice*, in relation to a person who makes a registration application, means advice given to the person by the Board under the *Teacher Registration (General)*

*Regulations 2012* regulation 19(2)(b) as in force immediately before commencement day.

- (2) A person who has been given pre-commencement fit and proper person advice within 5 years before the day on which the Board receives the registration application for the person is taken to be fit and proper to be registered under the amended Act section 24(1) in relation to the application if no further information has become available to the Board about the person's fitness or propriety, including from a criminal history check, since the advice was given.

### Division 3 — Registration

#### 149N. Teachers holding full registration before commencement day

- (1) A person who, immediately before commencement day, held full registration (the *pre-commencement registration*) under Part 3, as in force immediately before commencement day, is taken —
  - (a) to hold full registration (the *transitional registration*) under and subject to the amended Act; and
  - (b) no longer to hold the pre-commencement registration.
- (2) A person to whom subsection (1) applies is taken to hold the transitional registration —
  - (a) for the remainder of the period that would have applied to the person's pre-commencement registration and subject to any earlier termination or cancellation under the amended Act; and



- (b) otherwise on the same conditions (other than statutory conditions) as applied immediately before commencement day to the person's pre-commencement registration; and
  - (c) subject to any statutory conditions that apply to the transitional registration under the amended Act.
- (3) The period referred to in subsection (2)(a) is taken to be the nominal registration period of the transitional registration for the purposes of section 23.
- (4) The Board may record details in the register in relation to the transitional registration based on the duration that would have applied to the pre-commencement registration.

**1490. Teachers holding provisional registration before commencement day**

- (1) A person who, immediately before commencement day, held provisional registration (the *pre-commencement registration*) under Part 3, as in force immediately before commencement day, is taken —
- (a) to hold —
    - (i) if the person was conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before commencement day — provisional (graduate teacher) registration (the *transitional registration*) under and subject to the amended Act; or

- (ii) if the person was not conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before commencement day — provisional (returning teacher) registration (the *transitional registration*) under and subject to the amended Act;
  - and
  - (b) no longer to hold the pre-commencement registration.
- (2) A person to whom subsection (1) applies is taken to hold the transitional registration —
- (a) for the remainder of the period that would have applied to the person's pre-commencement registration subject to any earlier termination or cancellation under the amended Act; and
  - (b) otherwise on the same conditions (other than statutory conditions) as applied immediately before commencement day to the person's pre-commencement registration; and
  - (c) subject to any statutory conditions that apply to the transitional registration under the amended Act.
- (3) The period referred to in subsection (2)(a) is taken to be the nominal registration period of the transitional registration for the purposes of section 23.
- (4) The Board may record details in the register in relation to the transitional registration based on the duration that would have applied to the pre-commencement registration.

- (5) The Board may decide which registration referred to in subsection (1)(a) the person is taken to hold if the person does not provide evidence of their qualification referred to in subsection (1)(a) to the Board before commencement day.
- (6) Despite subsection (1)(a)(i) and (ii) (the *relevant subparagraphs*), if the person has made an undecided provisional registration renewal application referred to in section 149H, the Board can take the reference to commencement day in the relevant subparagraphs for the person to be the day on which the Board receives the undecided provisional registration renewal application.

**149P. Teachers holding non-practising registration who notified Board they commenced teaching before commencement day**

- (1) A person who, immediately before commencement day, held non-practising registration (the *pre-commencement registration*) under Part 3, as in force immediately before commencement day, and who notified the Board in writing before commencement day that they commenced teaching while holding the pre-commencement registration is taken —
  - (a) to hold —
    - (i) if the person was conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before commencement day — provisional (graduate teacher) registration (the *transitional registration*) under and subject to the amended Act; or

- (ii) if the person was not conferred a qualification referred to in section 18A(1)(a)(i) within 5 years before commencement day — provisional (returning teacher) registration (the *transitional registration*) under and subject to the amended Act;
  - and
  - (b) no longer to hold the pre-commencement registration.
- (2) A person to whom subsection (1) applies is taken to hold the transitional registration —
- (a) for a period that expires on the day that is 3 years after the day on which the person gave the notification referred to in subsection (1) to the Board, or 3 years after the day on which the person last received an extension of the person's pre-commencement registration, subject to any earlier termination or cancellation under the amended Act; and
  - (b) otherwise on the same conditions (other than statutory conditions) as applied immediately before commencement day to the person's pre-commencement registration; and
  - (c) subject to any statutory conditions that apply to the transitional registration under the amended Act.
- (3) The period referred to in subsection (2)(a) is taken to be the nominal registration period of the transitional registration for the purposes of section 23.

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- (4) The Board may record details in the register in relation to the transitional registration based on the duration that would have applied to the pre-commencement registration.
  - (5) The Board may decide which registration referred to in subsection (1)(a) the person is taken to hold if —
    - (a) the person does not provide evidence of their qualification referred to in subsection (1)(a) to the Board before commencement day; or
    - (b) section 149E or 149G applies to the person.

**149Q. Teachers holding non-practising registration who had not notified Board they commenced teaching before commencement day**

- (1) A person who, immediately before commencement day, held non-practising registration (the *pre-commencement registration*) under Part 3, as in force immediately before commencement day, and who did not notify the Board in writing before commencement day that they commenced teaching while holding the pre-commencement registration is taken —
  - (a) to hold non-practising registration (the *transitional registration*) under and subject to the amended Act; and
  - (b) no longer to hold the pre-commencement registration.
- (2) A person to whom subsection (1) applies is taken to hold the transitional registration —
  - (a) indefinitely subject to any earlier termination or cancellation under the amended Act; and
  - (b) otherwise on the same conditions (other than statutory conditions) as applied immediately

before commencement day to the person's pre-commencement registration; and

- (c) subject to any statutory conditions that apply to the transitional registration under this Act.

**149R. Teachers holding limited registration before commencement day**

- (1) A person who, immediately before commencement day, held limited registration (the *pre-commencement registration*) under Part 3, as in force immediately before commencement day, is taken —
  - (a) to hold limited registration (the *transitional registration*) under and subject to the amended Act; and
  - (b) no longer to hold the pre-commencement registration.
- (2) A person to whom subsection (1) applies is taken to hold the transitional registration —
  - (a) for the remainder of the period that would have applied to the person's pre-commencement registration subject to any earlier termination or cancellation under the amended Act; and
  - (b) otherwise on the same conditions (other than statutory conditions) as applied immediately before commencement day to the person's pre-commencement registration; and
  - (c) subject to any statutory conditions that apply to the transitional registration under the amended Act.
- (3) The period referred to in subsection (2)(a) is taken to be the nominal registration period of the transitional registration for the purposes of section 23A.

- (4) The Board may record details in the register in relation to the transitional registration based on the duration that would have applied to the pre-commencement registration.

#### **Division 4 — Professional standards, professional learning activities policy and accreditation standards**

##### **149S. Professional standards, professional learning activities policy and accreditation standards before commencement day repealed**

- (1) The professional standards as in force immediately before commencement day are repealed.
- (2) The policy about professional learning activities under the *Teacher Registration (General) Regulations 2012* regulation 9 as in force immediately before commencement day is repealed.
- (3) The accreditation standards under the *Teacher Registration (Accreditation of Initial Teacher Education Programmes) Regulations 2012* regulation 9 as in force immediately before commencement day are repealed.

#### **Division 5 — Investigations, complaints, inquiries, proceedings and other matters**

##### **149T. Conduct before commencement day**

- (1) In this section —  
*applicable matter*, of a registered teacher or formerly registered teacher, means any of the following in relation to the teacher —
  - (a) an interim order (whether or not section 149W applies to the order);

- (b) a complaint about a disciplinary matter (whether or not section 149V applies to the complaint);
- (c) an inquiry under Part 5 Division 6 Subdivision 2 (whether or not section 149X applies to the inquiry);
- (d) a proceeding under section 53(1)(e), 55(1)(d), 61, 70(1)(a)(v) or 83 in relation to a disciplinary matter (whether or not section 149Z applies to the proceeding);

***excluded conduct***, of a registered teacher or formerly registered teacher, means the teacher's conduct that occurred before commencement day that was finally dealt with before commencement day under —

- (a) an inquiry, or proceedings at the Tribunal, under Part 5 as in force at the time the inquiry was or proceedings were finally dealt with; or
  - (b) an inquiry or disciplinary action under the *Western Australian College of Teaching Act 2004* Part 7 as in force at the time the inquiry or action was finally dealt with.
- (2) The amended Act (other than section 47(a)) applies to a registered teacher or formerly registered teacher for an applicable matter of the teacher in relation to the teacher's conduct that occurred before commencement day unless the conduct is excluded conduct of the teacher.

**149U. Investigations commenced before commencement day**

An investigation under section 56, as in force immediately before commencement day, that was commenced but not completed before commencement



day must be continued and dealt with as if it were an investigation under the amended Act section 48C.

**149V. Complaints made before commencement day**

- (1) A complaint formulated by the Board under section 51 as in force immediately before commencement day that was not finally dealt with before commencement day must be continued and dealt with as if it were a board-formulated complaint under the amended Act and may be reformulated by the Board.
- (2) A complaint not formulated by the Board under section 51 as in force immediately before commencement day that was not finally dealt with before commencement day must be continued and dealt with as if it were a public complaint under the amended Act and may be reformulated by the Board.

**149W. Interim disciplinary orders made before commencement day**

An interim disciplinary order made before commencement day in relation to a matter that was not finally dealt with before commencement day must be continued and dealt with as if it were an interim order under the amended Act.

**149X. Inquiries commenced before commencement day by disciplinary committee**

- (1) In this section —  
*ongoing pre-commencement inquiry* means an inquiry commenced before commencement day into a complaint —
  - (a) for which a decision had not been made by a disciplinary committee under section 70 before commencement day; or

- (b) for which a referral had not been made to the Tribunal or the impairment review committee before commencement day; or
  - (c) that had not otherwise been finally dealt with before commencement day.
- (2) An ongoing pre-commencement inquiry under the Act as in force immediately before commencement day is taken to be an inquiry under the amended Act Part 5 Division 6 Subdivision 2 and must be continued and dealt with under the amended Act.
- (3) A disciplinary committee, on recommendation from the Board, may allow the complaint that is the subject of an ongoing pre-commencement inquiry to be reformulated.

**149Y. Complaints referred to impairment review committee before commencement day**

- (1) In this section —  
*pre-commencement impairment complaint* means a complaint that was referred to the impairment review committee by the Board before commencement day and —
  - (a) for which a decision had not been made by the Board under section 80 before commencement day; or
  - (b) for which a referral had not been made to the Tribunal or a disciplinary committee before commencement day; or
  - (c) that had not otherwise been finally dealt with before commencement day.
- (2) A pre-commencement impairment complaint is taken to be a complaint (a *transitional impairment complaint*) referred under the amended Act

section 53(1)(d) and must be continued and dealt with under the amended Act.

- (3) A notice given to a registered teacher under section 74 as in force immediately before commencement day for a transitional impairment complaint is taken to be a notice given under the amended Act section 74.
- (4) Consent sought under section 74(2)(d) as in force immediately before commencement day for a transitional impairment complaint is taken to be consent sought under the amended Act section 74(2)(c) for a health assessment.
- (5) Agreement given under section 76(1) as in force immediately before commencement day for a transitional impairment complaint is taken to be consent given under the amended Act section 76(1).
- (6) An examination referred to in sections 74(2)(d), 76 and 77 as in force immediately before commencement day that was undertaken before commencement day for a transitional impairment complaint is taken to be a health assessment under the amended Act.
- (7) The impairment review committee, on recommendation from the Board, may allow a transitional impairment complaint to be reformulated.

**149Z. Complaints referred to Tribunal before commencement day**

- (1) In this section —  
*referral provision* means any of the following provisions as in force immediately before commencement day —
  - (a) section 21(2);
  - (b) section 53(1)(e);

- (c) section 55(c);
  - (d) section 61;
  - (e) section 70(1)(g);
  - (f) section 80(1)(c);
  - (g) section 83.
- (2) A complaint or matter that was referred to the Tribunal under a referral provision before commencement day and that had not been finally dealt with by the Tribunal before commencement day —
- (a) is taken to be referred under the relevant provision of the amended Act; and
  - (b) must be dealt with under the amended Act.
- (3) The Tribunal, on recommendation from the Board, may allow a complaint or matter referred to in subsection (2) to be reformulated.

**149ZA. Disqualifications ordered before commencement day**

- (1) In this section —
- pre-commencement disqualification order* means an order under section 84(1)(b)(iii) or (2)(f) as in force immediately before commencement day.
- (2) A person who is disqualified from applying for registration as a teacher under a pre-commencement disqualification order —
- (a) is taken to be disqualified from having registration granted for the period, or indefinitely, as specified in the order; and
  - (b) may make a registration application subject to the amended Act but cannot have registration granted until the disqualification has ended or

approval is given under the amended Act section 21(2)(b).

- (3) An approval from the Tribunal under section 21(2) as in force immediately before commencement day is taken to be an approval under the amended Act section 21(2)(b).

**149ZB. Employers to give notice when teachers cease teaching in cases of serious incompetence or misconduct**

The amended Act section 42 applies to an employer even if —

- (a) the circumstance referred to in section 42(1)(a) occurred before commencement day; and
- (b) the circumstance referred to in section 42(1)(b) occurs on or after commencement day.

**Division 6 — Transitional regulations**

**149ZC. Transitional regulations**

- (1) In this section —

*publication day*, for transitional regulations, means the day on which those regulations are published in the *Gazette*;

*specified*, in relation to transitional regulations, means specified or described in those transitional regulations;

*transitional matter* —

- (a) means a matter that needs to be dealt with for the purpose of effecting the transition required because of the *Teacher Registration Amendment Act 2023*; and
- (b) includes a saving or application matter;

*transitional regulations* means regulations made under subsection (2).

- (2) If there is no sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing matters —
  - (a) required to be prescribed for the purpose of dealing with the transitional matter; or
  - (b) necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.
- (3) Transitional regulations may provide that specified provisions of this Act —
  - (a) do not apply to or in relation to a specified matter; or
  - (b) apply with specified modifications to or in relation to a specified matter.
- (4) If transitional regulations provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than publication day for the transitional regulations but not earlier than commencement day, the transitional regulations have effect according to their terms.
- (5) If transitional regulations contain a provision referred to in subsection (4), the provision does not operate so as to —
  - (a) affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that person existing before publication day for the transitional regulations; or
  - (b) impose liabilities on a person (other than the State or an authority of the State) in respect of an act done or omission made before publication day for the transitional regulations.

**87. Various references to “is to” and “are to” amended**

In the provisions listed in the Table:

- (a) delete “is to” (each occurrence) and insert:

must

- (b) delete “are to” and insert:

must

**Table**

s. 27(1)	s. 28
s. 30(1) and (2)	s. 31(1) and (2)
s. 32(1) and (2)	s. 33
s. 35	s. 37(2) and (4)
s. 43(2)	s. 49(3), (4), (6) and (7)
s. 50(1), (3), (4), (6) and (7)	s. 52(2)
s. 54	s. 57(2)
s. 69(1)	s. 70(4)
s. 87(2), (3)(a) and (b) and (4)	s. 93(1) and (3)
s. 94(4)	s. 97(1)
s. 99(1)	s. 101(1) and (2)
s. 106	s. 107(3)

s. 88

s. 108(4)	s. 114(1) and (2)
s. 115(1) and (2)	s. 119(3)

**88. Various references to “criminal record check” amended**

In the provisions listed in the Table:

- (a) delete “*criminal record check*” and insert:

*criminal history check*

- (b) delete “criminal record check” and insert:

criminal history check

- (c) delete “**criminal record checks**” and insert:

**criminal history checks**

- (d) delete “**criminal record checks**” and insert:

**criminal history checks**

**Table**

s. 3 def. of <i>criminal record check</i>	s. 27(2)(c)
Pt. 4 heading	Pt. 4 Div. 2 heading
s. 43(1)	s. 44
Pt. 4 Div. 3 heading	



Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

Table

Amended section	Section heading
s. 43	<b>Board may request consent to obtain criminal history check</b>
s. 44	<b>Criminal history check</b>

**89. Various references to “one” amended**

In the provisions listed in the Table delete “one” and insert:

1

Table

s. 49(5)	s. 50(5)
s. 87(3)(a)	s. 96(2)
s. 101(2)	s. 107(2)