

Western Australia

**Acts Amendment (Higher School Leaving Age
and Related Provisions) Act 2005**

As at 18 Nov 2005

No. 22 of 2005

Extract from www.slp.wa.gov.au, see that website for further information

Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005

CONTENTS

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — Amendments to the <i>School Education Act 1999</i>		
Division 1 — Preliminary		
3.	The Act amended	3
Division 2 — Amendments to change the school leaving age		
4.	Sections 6 and 7 replaced and transitional provision	3
6.	Definition of “compulsory education period”	3
7.	Definition of “post-compulsory education period”	5
Division 3 — Amendments consequential on those in Division 2		
5.	Section 4 amended	5
6.	Section 7 repealed	5
7.	Section 80 repealed	5
8.	Section 81 amended	6
9.	Section 82 amended	6
10.	Section 95 amended	6
11.	Section 97 amended	6

Contents

12.	Section 154 amended	7
13.	Section 156 amended	7
	Division 4 — Amendments to allow non-school options in years 11 and 12	
14.	Long title amended	7
15.	Section 3 amended	8
16.	Section 4 amended	8
17.	Part 2 Division 1 heading amended	9
18.	Section 9 amended	9
19.	Section 10 amended	9
20.	Part 2 Division 1 Subdivision 1A inserted	10
	Subdivision 1A — Alternatives to the operation of section 9 for children in year 11 and year 12	
11A.	Terms used in this Subdivision	10
11B.	Options available	11
11C.	Participation to be full-time	13
11D.	Notice of arrangements to be given to Minister	13
11E.	Special provision for enrolment in a combination of courses	14
11F.	Effect of notice	15
11G.	Approval required for employment option	16
11H.	Notice of employment to be given and effect of the notice	17
11I.	Requirement to participate in chosen options	18
11J.	What constitutes participation	19
11K.	Dealings with parents	20
11L.	Designation as an independent child	22
11M.	Functions of Minister in relation to this Subdivision	23
11N.	Regulations	24
21.	Transitional provision for the giving of notices	24
22.	Heading to Part 2 Division 1 Subdivision 2 amended	25
23.	Section 13 amended	25
24.	Section 23 amended	25
25.	Section 29 amended	26
26.	Part 2 Division 5 heading amended	26
27.	Section 32 amended	26
28.	Heading to Part 2 Division 5 Subdivision 2 amended	27
29.	Heading to Part 2 Division 5 Subdivision 3 amended	27

30.	Section 36 amended	27
31.	Part 2 Division 5 Subdivision 4 heading amended	28
32.	Section 38 amended	29
33.	Section 40 amended	29
34.	Section 41 amended	30
35.	Section 42 amended	30
36.	Section 43 amended	31
37.	Section 44 amended	32
38.	Section 45 amended	32
39.	Various references to “School Attendance Panel” amended	33
40.	Various references to “school attendance officer” amended	33

**Part 3 — Amendments to provide for
the keeping of student records by
the Curriculum Council**

41.	The Act amended	34
42.	Long title amended	34
43.	Section 3 amended	34
44.	Section 4 amended	35
45.	Section 12 amended	35
46.	Section 19 amended	36
47.	Part 3A inserted	36

Part 3A — Student records

19A.	Terms used in this Part	36
19B.	Application of this Part to overseas students	39
19C.	When student record to be opened	39
19D.	Provider may be directed to open student record	39
19E.	How student record is opened	40
19F.	Notifications relating to enrolment and employment	40
19G.	Notification of achievements	41
19H.	Further provisions relating to information	42
19I.	Database of student records and use of information by Council	42
19J.	Provision of information to student concerned	43
19K.	Disclosure by Council for checking purposes	43

**Acts Amendment (Higher School Leaving Age and Related Provisions) Act
2005**

Contents

	19L.	Provision of information to Minister for planning purposes	43
	19M.	Provision of information to Minister for monitoring and assisting compliance and participation	44
	19N.	Disclosure of information by Minister	45
	19O.	Delegation and subdelegation	46
	19P.	Provision of information to certain entities	46
48.		Section 32 amended	47
49.		Section 33 amended	47



Western Australia

Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005

No. 22 of 2005

An Act to amend —

- **the *School Education Act 1999*; and**
- **the *Curriculum Council Act 1997*.**

[Assented to 18 November 2005]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005*.

2. Commencement

- (1) Subject to subsections (2) and (3), this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Part 2 Division 3 comes into operation on 1 January 2008.
- (3) Part 2 Division 4 and Part 3 come into operation on 1 January 2006.

Part 2 — Amendments to the *School Education Act 1999*

Division 1 — Preliminary

3. The Act amended

The amendments in this Part are to the *School Education Act 1999**.

[* *Reprint 1 as at 3 September 2004.*

For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 405.]

Division 2 — Amendments to change the school leaving age

4. Sections 6 and 7 replaced and transitional provision

- (1) Sections 6 and 7 are repealed and the following sections are inserted instead —

“

6. Definition of “compulsory education period”

The compulsory education period for a child is as follows —

- (a) until 31 December 2005 —
 - (i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and
 - (ii) until the end of the year in which the child reaches the age of 15;
- (b) from 1 January 2006 until 31 December 2007 —
 - (i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 2 Amendments to change the school leaving age

s. 4

- (ii) until the end of the year in which the child reaches the age of 16;
- (c) from 1 January 2008 until 31 December 2013 —
 - (i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and
 - (ii) until —
 - (I) the end of the year in which the child reaches the age of 17; or
 - (II) the child satisfies the minimum requirements for graduation from secondary school established under the *Curriculum Council Act 1997*,
whichever happens first;
- (d) from 1 January 2014 —
 - (i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and
 - (ii) until —
 - (I) the end of the year in which the child reaches the age of 17 years and 6 months;
 - (II) the child satisfies the minimum requirements for graduation from secondary school established under the *Curriculum Council Act 1997*;
or
 - (III) the child reaches the age of 18,
whichever happens first.

7. Definition of “post-compulsory education period”

The post-compulsory education period for a child is as follows —

- (a) until 31 December 2005 —
 - (i) from the beginning of the year in which the child reaches the age of 16; and
 - (ii) until the end of the year in which the child reaches the age of 17;
- and
- (b) from 1 January 2006 until 31 December 2007, the year in which the child reaches the age of 17.

”

- (2) When the meaning of “compulsory education period” changes by operation of section 6(b) of the *School Education Act 1999* (inserted by subsection (1)), the change extends to the compulsory education period for a child which, but for the change, would have ended on 31 December 2005.

Division 3 — Amendments consequential on those in Division 2

5. Section 4 amended

Section 4 is amended by deleting the definition of “post-compulsory education period”.

6. Section 7 repealed

Section 7 is repealed.

7. Section 80 repealed

Section 80 is repealed.

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 3 Amendments consequential on those in Division 2

s. 8

8. Section 81 amended

Section 81(1) is amended by deleting “post-compulsory” and inserting instead —

“ compulsory ”.

9. Section 82 amended

Section 82(2) is amended by deleting “, 79 or 80” and inserting instead —

“ or 79 ”.

10. Section 95 amended

Section 95(1)(a) is amended by deleting “80 or”.

11. Section 97 amended

- (1) Section 97 is amended in the definition of “adult student” by deleting “post-compulsory” and inserting instead —

“ compulsory ”.

- (2) Section 97 is amended by deleting the definition of “extra cost optional component” and inserting instead —

“

“extra cost optional component” means an optional component of a government school’s educational programme having a cost that is not incorporated into the determination of the school’s charges or contributions under section 99 because of the high cost associated with the provision of that optional component before the end of a child’s compulsory education period;

”.

12. Section 154 amended

Section 154(1) is amended as follows:

- (a) by inserting after paragraph (a) —
“ or ”;
- (b) in paragraph (b) by deleting “; or” and inserting a comma instead;
- (c) by deleting paragraph (c).

13. Section 156 amended

Section 156(3) is repealed and the following subsection is inserted instead —

“

- (3) A school is to be registered as providing educational programmes of a general or any specified kind for one or both of the following —
 - (a) education for children in their pre-compulsory education period or for any specified part of that period;
 - (b) education for children in their compulsory education period or for any specified part of that period.

”

Division 4 — Amendments to allow non-school options in years 11 and 12

14. Long title amended

The long title is amended by inserting after “home education” —

“

with education, training and employment alternatives at the senior secondary level

”

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 15

15. Section 3 amended

Section 3(1) is amended as follows:

- (a) by deleting “and” after paragraph (c);
- (b) by inserting after paragraph (c) —

“

- (ca) to provide for education, training and employment alternatives at the senior secondary level; and

”.

16. Section 4 amended

Section 4 is amended as follows:

- (a) in the definition of “child of compulsory school age” by inserting after “programme” —

“

and includes a child to whom section 10(2) applies

”.

- (b) by deleting the full stop at the end of the definition of “teaching staff” and inserting a semicolon instead;
- (c) after the definition of “teaching staff” by inserting —

“

“year 11” and **“year 12”** mean the 11th year and the 12th year respectively of the compulsory education period determined on the basis of a model under which —

- (a) enrolment at a school occurs as soon as is required by section 9; and
- (b) schooling progresses normally through each year until the end of the compulsory education period.

”.

17. Part 2 Division 1 heading amended

The heading to Part 2 Division 1 is amended by inserting after “education” —

“ **with alternatives in year 11 and year 12** ”.

18. Section 9 amended

After section 9(1) the following is inserted —

“

- (1a) Subsection (1) has effect subject to sections 11F(2) and 11H(5) and (6).

Note: The effect of the provisions mentioned in subsection (1a) is that if a child in year 11 or 12 is, in accordance with Subdivision 1A, participating in an option or in options under that Subdivision and the required notice has been given and remains in force, the child does not have to be enrolled or to be provided with home education under section 9.

”.

19. Section 10 amended

- (1) Section 10 is amended by inserting before “The duty” the subsection designation “(1)”.
- (2) At the end of section 10 the following subsection is inserted —

“

- (2) The reference to enrolment in subsection (1)(a) includes enrolment of a child in year 11 or year 12 for part-time studies if the extent of those studies when taken with an option or options under section 11B will meet the requirements of section 11C and regulations made for the purposes of that section.

”.

20. Part 2 Division 1 Subdivision 1A inserted

After section 11 the following Subdivision is inserted —

“

**Subdivision 1A — Alternatives to the operation of section 9
for children in year 11 and year 12**

11A. Terms used in this Subdivision

(1) In this Subdivision —

“**course**” includes a programme or activity;

“**parent**”, in relation to a child, means —

- (a) a person who at law has responsibility for the long-term care, welfare and development of the child;
- (b) a person who at law has responsibility for the day-to-day care, welfare and development of the child; or
- (c) if, in the opinion of the Minister, there is no person to whom paragraph (a) or (b) applies who is reasonably available at the relevant time, an adult person who is responsible for the child;

“**participate**” has the meaning provided for by section 11J and regulations made for the purposes of that section;

“**provider**” has the meaning given to that term in subsection (2).

(2) In this Subdivision —

“**provider**”, in relation to a person who comes within a description in the first column of the Table to this definition, means a person or body specified in the second column of the Table opposite that description.

Table

- | | | |
|----|--|---|
| 1. | A student undertaking a course of study at a university. | The university. |
| 2. | A student undertaking a higher education course registered under section 23 of the <i>Higher Education Act 2004</i> . | The education institution that provides the course. |
| 3. | A student undertaking a course or skills training programme accredited under the <i>Vocational Education and Training Act 1996</i> . | The registered provider of the course or programme. |
| 4. | An apprentice or trainee (as mentioned in section 11B(1)(c)) or other employee. | The employer. |
| 5. | A student undertaking a course prescribed by order made under section 11B(2). | The provider specified in the order in respect of the course. |

11B. Options available

- (1) In year 11 and year 12 a child may, despite section 9(1), participate in one or more of the following options —
- (a) undertaking —
- (i) a course of study provided by a university established under a written law or under a law of another State, or of a Territory, of the Commonwealth; or

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 20

- (ii) a higher education course registered under section 23 of the *Higher Education Act 2004*;
 - (b) undertaking a course or skills training programme accredited under the *Vocational Education and Training Act 1996*;
 - (c) being —
 - (i) an apprentice as defined in the *Industrial Training Act 1975*; or
 - (ii) a trainee under a traineeship scheme as defined in that Act;
 - (d) being employed under a contract of employment otherwise than in a capacity mentioned in paragraph (c), but subject to approval being in force under section 11G; or
 - (e) undertaking a course prescribed under subsection (2).
- (2) The Minister may, by order published in the *Gazette*, prescribe —
- (a) a course; or
 - (b) a class or description of courses,
- that does not otherwise come within subsection (1), to be an option for the purposes of that subsection.
- (3) An order under subsection (2) is to specify for a course the person or body that is the provider of the course.
- (4) An order under subsection (2) is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

11C. Participation to be full-time

- (1) Participation in an option, or a combination of options, provided for by section 11B(1) must be on a full-time basis.
- (2) The regulations may make provision for —
 - (a) circumstances and arrangements that are to be taken to comply with the requirements of subsection (1); and
 - (b) rules or criteria that are to be taken into account in determining whether arrangements and circumstances so comply.
- (3) Enrolment of a child as mentioned in section 10(2) is to be treated for the purposes of this section as if it were an option provided for by section 11B(1).

11D. Notice of arrangements to be given to Minister

- (1) Where a child —
 - (a) is enrolled in a course or a combination of courses; or
 - (b) becomes an apprentice or trainee as mentioned in section 11B(1),

a parent of the child must give notice to the Minister as soon as is practicable after the arrangements are made.

- (2) A notice must include particulars of the arrangements made for the child.
- (3) A parent of a child may, by further notice given to the Minister, cancel a notice given under subsection (1).
- (4) Except as may be provided by the regulations, notice must be given to the Minister by a parent of the child concerned of —

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 20

- (a) any variation of the arrangements notified under subsection (1); or
 - (b) if the arrangements relate to, or will as varied relate to, a combination of courses, any variation proposed to be made.
- (5) If a child in respect of whom a notice has been given under this section ceases to be enrolled in a course or to be an apprentice or trainee as mentioned in section 11B(1), a parent of the child must give notice to the Minister of the cessation as soon as is practicable after it occurs.
- (6) A notice under a provision of this section must be in a form approved by the Minister for the purposes of that provision.
- (7) Subject to section 11E, a notice under this section comes into force when it is given to the Minister.

11E. Special provision for enrolment in a combination of courses

- (1) This section applies to a notice under section 11D(1) relating to the enrolment of a child in a combination of courses.
- (2) Such a notice must also include particulars of any enrolment of the child for part-time studies at a school.
- (3) A notice to which this section applies does not come into force unless the Minister gives the parent concerned a formal written acknowledgment of the choice of courses to which the notice relates.
- (4) Except as may be provided by the regulations, a proposed variation notified by a parent under section 11D(4)(b) is of no effect for the purposes of

this Subdivision unless the Minister gives the parent a formal written acknowledgment of the proposal.

- (5) The Minister is to give a formal written acknowledgment under subsection (3) or (4) if the Minister is satisfied that participation by the child concerned —
 - (a) in the combination of courses; or
 - (b) in the combination of courses as varied,
meets the requirements of section 11C and regulations made for the purposes of that section.
- (6) In making a decision under subsection (5) the Minister is to take into account, where applicable —
 - (a) any enrolment of the child for part-time studies at a school; and
 - (b) any part-time employment approved under section 11G.
- (7) The Minister may require the parent to give further information or documents to enable the Minister to make a decision under subsection (5).
- (8) A notice to which this section applies comes into force when the Minister gives a formal written acknowledgment in respect of the notice.

11F. Effect of notice

- (1) A notice that comes into force under section 11D or 11E remains in force until —
 - (a) the child concerned ceases to participate, as required by section 11I, in the option or any of the options notified, including any variation that has taken effect and any option taken into account under section 11E(6);

- (b) the notice is cancelled; or
- (c) the end of the compulsory education period of the child,

whichever happens first.

- (2) While a notice is in force, section 9(1) does not apply to the child concerned.

11G. Approval required for employment option

- (1) A child is not to be employed as mentioned in section 11B(1)(d), whether or not the employment is in combination with any other option, unless the approval of the Minister has been obtained under this section and remains in force.
- (2) On application made by a parent of a child in a form approved by the Minister, the Minister may, by notice in writing to the applicant, give approval to the child being employed by a specified employer.
- (3) If application is made for the approval of part-time employment, the Minister is to give approval only if the Minister is satisfied that the employment and participation in another option or other options chosen will meet the requirements of section 11C and regulations made for the purposes of that section.
- (4) In making a decision under subsection (3) the Minister is to also take into account any enrolment of the child for part-time studies at a school.
- (5) The Minister may —
 - (a) make an approval subject to any condition; and
 - (b) at any time by notice to a parent of the child concerned impose any further condition or vary or revoke a condition.

- (6) The Minister may at any time by notice to a parent of the child concerned vary or revoke an approval.
- (7) The Minister may exercise a power under subsection (5)(b) or (6) on application by a parent or on the Minister's own initiative.

11H. Notice of employment to be given and effect of the notice

- (1) Where a child is employed in accordance with an approval under section 11G, a parent of the child must give notice to the Minister as soon as is practicable after the employment starts.
- (2) If a child in respect of whom notice has been given under subsection (1) ceases to be employed in accordance with an approval under section 11G, a parent of the child must give notice to the Minister of the cessation as soon as is practicable after it occurs.
- (3) A notice under subsection (1) or (2) must be in a form approved by the Minister for the purposes of that subsection.
- (4) A notice duly given under subsection (1) remains in force until —
 - (a) the child concerned ceases to be employed in accordance with the relevant approval;
 - (b) the relevant approval is revoked under section 11G(6); or
 - (c) the end of the compulsory education period of the child,whichever happens first.
- (5) Where the employment to which a notice under subsection (1) relates is full-time employment,

section 9(1) does not apply to the child concerned while the notice is in force.

- (6) Where the employment to which a notice under subsection (1) relates is part-time employment, section 9(1) does not apply to the child concerned so long as —
- (a) that notice is in force;
 - (b) there is also in force a notice under section 11D relating to the other option or options mentioned in section 11G(3); and
 - (c) the child is participating in any part-time studies at a school that were taken into account as mentioned in section 11G(4).

11I. Requirement to participate in chosen options

- (1) Where a notice has been given under section 11D that a child has been enrolled in a course referred to in section 11B(1)(a), (b) or (e), the child is required to participate in the course.
- (2) Where a notice has been given under section 11D or 11H that a child has become an apprentice or trainee or is employed, the child is required to —
 - (a) participate in the apprenticeship or traineeship;
or
 - (b) unless the Minister's approval is revoked under section 11G(6), participate in the employment.
- (3) Where a notice to which section 11E applies has come into force in accordance with that section, the child concerned is required to participate in each of the courses to which the notice relates.
- (4) This section does not apply to a child after the compulsory education period for the child has ended.

- (5) Subsections (1), (2) and (3) apply subject to —
- (a) any variation that has taken effect; and
 - (b) a notice of cancellation given by a parent.

Note: If a child stops participating in any of the arrangements made under this Subdivision or in part-time studies at a school, the notice of those arrangements ceases to be in force by operation of section 11F(1) or 11H(4); and, if that happens, section 9(1a) no longer applies and the child has to be enrolled at a school as a full-time student or provided with home education.

11J. What constitutes participation

- (1) A child is taken to be participating in a course for the purposes of this Subdivision if the child —
- (a) is enrolled in the course with the relevant provider; and
 - (b) is complying with —
 - (i) the provider's requirements about physically attending, at particular times, the provider's premises or another place for the purposes of each such course;
 - (ii) in the case of a course of distance education, the provider's requirements about completing and returning the assigned work for the course; or
 - (iii) in the case of any other external course, the provider's requirements about communicating with or contacting the provider for the purpose of participating in the course.
- (2) For the purposes of this Subdivision, the fact of a child —
- (a) being an apprentice or trainee; or
 - (b) being employed in accordance with an approval under section 11G,

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 20

is taken to be participation in the option mentioned in section 11B(1)(c)(i) or (ii) or (d), as the case may be.

- (3) Participation is taken to continue, for the purposes of this Subdivision, during any absence allowed under the requirements, terms and conditions of the course, apprenticeship, traineeship or employment concerned.
- (4) Participation in a course, apprenticeship, traineeship or employment is taken to continue, for the purposes of this Subdivision, during any period —
 - (a) when a child is subject to suspension or exclusion; or
 - (b) after a child has been dismissed by an employer,

but, where the child has been excluded or dismissed, this subsection only applies during the period reasonably required for the child to comply with section 9 or participate, as required by section 11C and regulations made for the purposes of that section, in another option or other options provided for by section 11B.

- (5) The regulations may make provision, not inconsistent with this section, for acts, matters and circumstances —
 - (a) that are to be taken to constitute participation for the purposes of this Subdivision; or
 - (b) that are to be taken not to interrupt such participation.

11K. Dealings with parents

- (1) Where a parent —
 - (a) gives notice to the Minister under section 11D or 11H; or

- (b) makes an application under section 11G,
in respect of a child, the Minister need not inquire —
 - (c) whether there is any other person who in relation to the child is within the definition of “parent” in section 11A(1); or
 - (d) if there is such a person, whether he or she concurs with the giving of the notice or the making of the application or the information included in the notice or application.
- (2) The Minister may give to a parent a formal acknowledgment under section 11E or a notice under section 11G in respect of a child without being concerned —
 - (a) to inquire whether there is any other person who in relation to the child may be within the definition of “parent” in section 11A(1); or
 - (b) to give notice to another person whom he or she knows to be within that definition.
- (3) The Minister may —
 - (a) require a person who gives a notice or makes an application referred to in subsection (1) to provide the Minister with evidence or information to satisfy the Minister that the person comes within the definition of “parent” in section 11A(1); and
 - (b) decline to deal with the notice or application unless the Minister is so satisfied.
- (4) Nothing in this section affects the operation and enforcement of a Family Court order.

11L. Designation as an independent child

- (1) The Minister may designate a child to be an independent child for the purposes of this Subdivision if the Minister is satisfied that the child has the capacity to make his or her own decisions in relation to the provisions referred to in subsection (3).
- (2) The Minister is not to designate a child under subsection (1) —
 - (a) without having taken into account —
 - (i) the existence or absence of a relationship between the child and a parent of the child; and
 - (ii) the nature of the relationship, if any;and
 - (b) unless the Minister is satisfied that no working relationship exists between the child and a parent of the child.
- (3) An independent child may, in relation to the child —
 - (a) give or cancel a notice under section 11D(1) or (3);
 - (b) give notice of a variation or proposed variation under section 11D(4);
 - (c) give notice of cessation under section 11D(5);
 - (d) make an application under section 11G(2); or
 - (e) give notice of employment or cessation of employment under section 11H,and the notice or application has effect as if it had been given or made by a parent of the child.
- (4) If an independent child has made an application under section 11G(2) references in section 11G(5) and (6) to

a parent are, subject to subsection (5), to be read as references to the child.

- (5) A decision to designate a child as an independent child may be reviewed or revoked by the Minister at any time.
- (6) This section does not apply to a child —
 - (a) who, before the commencement day, is a ward for the purposes of the *Child Welfare Act 1947*, whether or not the child is under the guardianship of the Director-General as defined in that Act; or
 - (b) for whom, after the commencement day, the CEO as defined in section 3 of the *Children and Community Services Act 2004* has parental responsibility under that Act.
- (7) In subsection (6) —
“**commencement day**” means the day on which section 250 of the Act mentioned in subsection (6)(b) comes into operation.

11M. Functions of Minister in relation to this Subdivision

- (1) The functions of the Minister include —
 - (a) monitoring, and carrying out planning in relation to, the operation and effectiveness of this Subdivision; and
 - (b) developing strategies to better provide for the education and training of children in year 11 and year 12.
- (2) The functions of the Minister also include —
 - (a) identifying those children in year 11 or year 12 who are not engaged full-time in education, training or employment as provided by this Act;

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 21

- (b) giving such children information about school education and the options that are available under section 11B(1); and
 - (c) encouraging and helping parents to assist in the carrying out of the functions mentioned in paragraphs (a) and (b).
- (3) The Minister is to from time to time consult with, and take into account the views of —
- (a) the Director of Catholic Education in Western Australia; and
 - (b) the Association of Independent Schools of Western Australia (Inc.),

on the carrying out of the functions mentioned in subsection (1) in relation to children who are enrolled at schools registered under section 160.

11N. Regulations

The regulations may make provision for matters that are incidental or supplementary to those provided for by, or are expedient for the operation of, this Subdivision.

”.

21. Transitional provision for the giving of notices

- (1) In this section —
- “**child**” means a child who will be in year 11 or year 12 during the year 2006;
- “**principal Act**” means the *School Education Act 1999*;
- “**year 11**” and “**year 12**” have the meanings given to those terms by section 4 of the principal Act.
- (2) If before 1 January 2006 a child —

- (a) has been enrolled in a course or a combination of courses; or
- (b) becomes an apprentice or trainee,

as mentioned in section 11B(1) of the principal Act (inserted by section 20), notice under section 11D(1) of the principal Act (as so inserted) must be given no later than 1 February 2006.

22. Heading to Part 2 Division 1 Subdivision 2 amended

The heading to Part 2 Division 1 Subdivision 2 is amended by deleting “section 9” and inserting instead —

“ **sections 9 and 11I** ”.

23. Section 13 amended

Section 13(2) is repealed and the following subsection is inserted instead —

“

- (2) A question is relevant only if it is reasonably connected with finding out whether there is living at the premises —
 - (a) any child of compulsory school age who is not enrolled in an educational programme; or
 - (b) any child in respect of whom notice has been given under section 11D or 11H and who is not complying with section 11I, as the case may be.

”.

24. Section 23 amended

After section 23(1) the following subsection is inserted —

“

- (1a) A student who is enrolled as mentioned in section 10(2) may attend or participate for the purposes

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 25

of subsection (1) or section 24 on a part-time basis, and the principal is to facilitate the student doing so.

”.

25. Section 29 amended

(1) After section 29(1) the following subsection is inserted —

“

(1a) In subsection (1) —

“**child of compulsory school age**” includes a child to whom section 9(1) does not apply by operation of section 11F(2), 11H(5) or 11H(6).

”.

(2) Section 29(3)(b) is deleted and the following paragraph is inserted instead —

“

(b) is —

(i) included in the educational programme applicable to the child; or

(ii) approved under section 11G,

and is consistent with the terms and conditions of the programme or approval.

”.

26. Part 2 Division 5 heading amended

The heading to Part 2 Division 5 is amended by inserting after “students” —

“ **and non-participating children** ”.

27. Section 32 amended

Section 32 is amended as follows:

(a) by inserting in the appropriate alphabetical position —

“

“provider” has the meaning given by section 11A(2);

”;

- (b) in the definition of “school attendance officer” by deleting “school”;
- (c) in the definition of “School Attendance Panel” —
 - (i) by deleting “School”; and
 - (ii) by deleting “a School” and inserting instead —
“ an ”.

28. Heading to Part 2 Division 5 Subdivision 2 amended

The heading to Part 2 Division 5 Subdivision 2 is amended by deleting “School attendance” and inserting instead —

“ **Attendance** ”.

29. Heading to Part 2 Division 5 Subdivision 3 amended

The heading to Part 2 Division 5 Subdivision 3 is amended by deleting “school”.

30. Section 36 amended

- (1) Section 36(1)(a) is amended by deleting “student;” and inserting instead —

“

student or a child who is not complying with section 11I;

”.

- (2) Section 36(1)(b) is amended by inserting after “absentee student” —

“ or child who is not complying with section 11I ”.

- (3) Section 36(2)(a) is amended by deleting “student;” and inserting instead —

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 31

“

student or a child who is not complying with
section 11I;

”.

(4) Section 36(2)(b) is amended as follows:

(a) after paragraph (b)(ii) by deleting “and”;

(b) in paragraph (b)(iii) by inserting before “the name” —

“

in the case of a person who appears to
the officer to be an absentee student,

”.

(c) by deleting the full stop and inserting instead —

“ ; and ”;

(d) by inserting after paragraph (b)(iii) the following
subparagraph —

“

(iv) in the case of a person who appears to
the officer to be a child who is not
complying with section 11I, the name or
names of the relevant provider or
providers in respect of the child.

”.

31. Part 2 Division 5 Subdivision 4 heading amended

The heading to Part 2 Division 5 Subdivision 4 is amended as
follows:

(a) by inserting after “non-attendance” —

“ **and non-participation** ”;

(b) by inserting after “attendance” —

“ **and participation** ”.

32. Section 38 amended

- (1) Section 38(1) is amended by inserting after “school age” —
“ who is enrolled at a school ”.
- (2) Section 38(2) is amended by inserting after “school age” —
“ who is enrolled at a school ”.

33. Section 40 amended

- (1) After section 40(1) the following subsections are inserted —
“
 - (1a) Where a child in respect of whom notice has been given under section 11D or 11H is not complying with section 11I, the child’s case may be referred to an Attendance Panel by —
 - (a) a relevant provider in respect of the child; or
 - (b) an officer mentioned in subsection (1)(b) or (c).
 - (1b) Subsection (1a) does not apply where the non-compliance is a failure to participate in an apprenticeship or traineeship as mentioned in section 11I(2)(a).”.
- (2) Section 40(2)(a) is amended by inserting after “section” —
“ 11I or ”.
- (3) Section 40(5) is amended as follows:
 - (a) by deleting “and” after paragraph (f);
 - (b) by inserting after paragraph (f) the following paragraph —
“
 - (fa) if the child is a child who has not complied with section 11I, to the provider or providers in respect of the child; and”.

”

34. Section 41 amended

- (1) Section 41(1) is amended by deleting “26 or 40” and inserting instead —

“ 26 or 40(1) ”.

- (2) After section 41(1) the following subsection is inserted —

“

- (1a) Where a child’s case has been referred to an Attendance Panel under section 40(1a) and the Panel has given advice or offered assistance under section 40(2)(b), a prosecution for an offence against section 9 is not to be commenced unless there has been failure to follow the advice or accept the assistance.

”

35. Section 42 amended

- (1) After section 42(1) the following subsections are inserted —

“

- (1a) A prosecution for an offence against section 9(2) is not to be commenced in respect of a child to whom a notice under section 11D or 11H relates unless a certificate has been given that —
- (a) all reasonably practicable steps have been taken to secure compliance with section 11I by the child; but
 - (b) non-compliance with that section has continued.
- (1b) Subsection (1a) does not apply where the non-compliance is a failure to participate in an apprenticeship or traineeship as mentioned in section 11I(2)(a).

”

- (2) Section 42(2)(b)(ii) is amended by deleting “school.” and inserting instead —

“

school or a child in respect of whom notice has been given under section 11D or 11H.

”.

- (3) Section 42(4) is amended as follows:
- (a) by deleting “subsection (1)” and inserting instead —
“ subsection (1) or (1a) ”;
 - (b) in paragraph (b) by inserting after “with section” —
“ 11I or ”.
- (4) Section 42(5) is amended as follows:
- (a) by inserting after “under section” —
“ 9 or ”;
 - (b) by deleting “subsection (1)” and inserting instead —
“ subsection (1) or (1a) ”.
- (5) Section 42(6) is amended by deleting “subsection (1)” and inserting instead —
“ subsection (1) or (1a) ”.

36. Section 43 amended

- (1) Section 43(1) is amended by deleting “In any proceedings for an offence against section 38(1) in respect of a child” and inserting instead —
“ Where this section applies ”.
- (2) After section 43(1) the following subsection is inserted —
“
- (1a) This section applies in any proceedings —

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 2 Amendments to the School Education Act 1999

Division 4 Amendments to allow non-school options in years 11 and 12

s. 37

- (a) for an offence against section 9(2) in respect of a child who has not complied with section 11I; and
- (b) for an offence against section 38.

”.

37. Section 44 amended

Section 44 is amended as follows:

- (a) by inserting after “against section” —

“

9(2) in respect of a child who has not complied with section 11I or against section

”.

- (b) by inserting after paragraph (c) the following paragraphs —

“

- (ca) that a notice was given under section 11D or 11H in respect of a child;
- (cb) a statement as to the contents at a particular time of a notice given under section 11D or 11H;
- (cc) that a child in respect of whom a notice was given under section 11D or 11H has not complied with section 11I;
- (cd) a statement as to acts, omissions or conduct that constitute such non-compliance;

”.

38. Section 45 amended

Section 45(1) is amended by inserting after “against section” —

“

9(2) in respect of a child who has not complied with section 11I or against section

”

39. Various references to “School Attendance Panel” amended

- (1) Each provision specified in the Table to this subsection is amended by deleting “a School” and inserting instead —

“ an ”.

Table

s. 26(2)(a)	s. 41(1) and (2)
s. 39(1)	s. 42(3) and (4)
s. 40(1)	

- (2) Section 42(2)(a) is amended by deleting “School”.

40. Various references to “school attendance officer” amended

- (1) Each provision specified in the Table to this subsection is amended by deleting “a school” and inserting instead —

“ an ”.

Table

s. 33	s. 36(2)(a) and (b)
s. 34(1)	s. 37
s. 34(4)	s. 40(1)(b) and (5)(g)
s. 35	s. 43(3) (definition of “authorised person”, paragraph (a))

- (2) Each provision specified in the Table to this subsection is amended by deleting “A school” and inserting instead —

“ An ”.

Table

s. 34(2) and (4)	s. 36(1)
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**Part 3 — Amendments to provide for the keeping of
student records by the Curriculum Council**

41. The Act amended

The amendments in this Part are to the *Curriculum Council
Act 1997*.*.

[* *Reprint 1 as at 11 April 2003.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2004, Table 1, p. 113.]*

42. Long title amended

The long title is amended by inserting after “achievement,” —

“

**to provide for a database relating to participation in
education, training or employment by children during their
secondary school years,**

”

43. Section 3 amended

Section 3 is amended by inserting after the definition of
“committee” —

“

“compulsory education period” means the
compulsory education period under the *School
Education Act 1999* determined on the basis of a
model under which —

- (a) enrolment at a school occurs as soon as is
required by section 9 of that Act; and
- (b) schooling progresses normally through each
year until the end of the compulsory
education period under that Act;

”

44. Section 4 amended

Section 4 is amended as follows:

- (a) in paragraph (c) by deleting “post-compulsory” and inserting instead —
“ senior secondary ”;
- (b) after paragraph (c) by deleting “and”;
- (c) by deleting the full stop at the end of paragraph (d) and inserting —
“ ; and ”;
- (d) by inserting after paragraph (d) the following paragraph —
“
 - (e) provide for the maintenance of a database of information relating to participation by children during their secondary school years in education, training or employment as provided for by the *School Education Act 1999*.”.

45. Section 12 amended

- (1) After the heading to section 12 the following subsection is inserted —

“

- (1) In this section —
“**senior secondary schooling**” means the 11th and 12th years of the compulsory education period.

”.

- (2) Section 12 is amended as follows:

- (a) by inserting before “It is a function” the subsection designation “(2)”;

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 3 Amendments to provide for the keeping of student records by
the Curriculum Council

s. 46

- (b) in paragraphs (a), (c) and (d)(i) by deleting
“post-compulsory” in each place where it occurs and
inserting instead —
“ senior secondary ”.

46. Section 19 amended

Section 19(4) is amended in the definition of “information” by
deleting “Council.” and inserting instead —

“

Council, but does not include the information to which
section 19L or 19M applies.

”.

47. Part 3A inserted

After section 19 the following Part is inserted —

“

Part 3A — Student records

19A. Terms used in this Part

- (1) In this Part, unless the contrary intention appears —
- “**aggregated form**”, in relation to information, means
in a form that could not reasonably be expected to
result in the identification of any of the persons to
whom the information relates;
 - “**educational programme**”, “**principal**” and “**school**”
have the meanings given to those terms in
section 4 of the School Education Act;
 - “**exempt child**” means a child who is exempted under
section 11 of the School Education Act;
 - “**Minister**” means the Minister responsible for the
administration of the School Education Act;

“provider” has the meaning given to that term in subsection (2);

“School Education Act” means the *School Education Act 1999*;

“student” includes —

- (a) a child in the 11th or 12th year of the compulsory education period who is not enrolled at a school or receiving home education; and
- (b) an exempt child;

“student record”, in relation to a student, means a record of —

- (a) any educational programme in which the student is or has been enrolled, or that is being or has been provided to the student by a home educator;
- (b) any option under section 11B of the School Education Act notified under this Part to the Council by a provider in respect of the student;
- (c) any achievement or other result on the part of the student in relation to —
 - (i) an educational programme referred to in paragraph (a); or
 - (ii) a course, programme, activity or employment that comes within paragraph (b);

and

- (d) any information in respect of the student required to be given to the Council under this Part.

**Acts Amendment (Higher School Leaving Age and Related Provisions)
Act 2005**

Part 3 Amendments to provide for the keeping of student records by
the Curriculum Council

s. 47

(2) In this Part —

“provider”, in relation to a person who comes within a description in the first column of the Table to this definition, means a person or body specified in the second column of the Table opposite that description.

Table

1.	A student enrolled in an educational programme at a school.	The principal of the school.
2.	A student undertaking a course of study at a university.	The university.
3.	A student undertaking a higher education course registered under section 23 of the <i>Higher Education Act 2004</i> .	The education institution that provides the course.
4.	A student undertaking a course or skills training programme accredited under the <i>Vocational Education and Training Act 1996</i> .	The registered provider of the course or programme.
5.	An apprentice or trainee (as mentioned in section 11B(1)(c) of the School Education Act) or other employee.	The employer.

- | | | |
|----|--|--|
| 6. | A student undertaking a course, programme or activity prescribed by order made under section 11B(2) of the School Education Act. | The provider specified in the order in respect of the course, programme or activity. |
|----|--|--|

19B. Application of this Part to overseas students

- (1) In this section —
“**overseas student**” means a person who holds a student visa issued under the *Migration Act 1958* of the Commonwealth.
- (2) Sections 19C and 19D do not apply to an overseas student unless the student consents to a record being opened for the student.

19C. When student record to be opened

A student record must be opened for every student who is in the 8th year of the compulsory education period —

- (a) by the principal of the school at which the student is enrolled at the beginning of the school year; or
- (b) in the case of a student who at that time —
- (i) is receiving home education; or
 - (ii) is an exempt child,

by the chief executive officer referred to in section 229 of the School Education Act.

19D. Provider may be directed to open student record

If the Council receives information from a provider about a student for whom a student record has not been opened under section 19C, the Council may in writing request the provider to open a student record for the student, and the provider must comply with the request.

Penalty: \$1 500.

19E. How student record is opened

A student record is opened by the giving of the following information to the Council, in accordance with section 19H, in respect of a student —

- (a) the student's —
 - (i) name, including any previous name;
 - (ii) address; and
 - (iii) date of birth;
- (b) particulars of —
 - (i) any educational programme in which the student is enrolled or that is being provided to the student; or
 - (ii) any option under section 11B of the School Education Act for which participation arrangements have been made in respect of the student,at the time when the record is opened, or in the case of an exempt child, particulars of the exemption; and
- (c) any other prescribed information.

19F. Notifications relating to enrolment and employment

- (1) In this section —

“apprentice” has the meaning given by the *Industrial Training Act 1975*;

“employed” includes employed as an apprentice or trainee;

“trainee” means a trainee under a traineeship scheme as defined in the *Industrial Training Act 1975*.

- (2) Where —
- (a) a student record has been opened by the principal of a school; and
 - (b) the student concerned is enrolled with, or becomes employed by, another provider,
- the provider mentioned in paragraph (b) is to inform the Council, in accordance with section 19H, of the enrolment or employment.
- (3) Where a student is enrolled with or becomes employed by a provider otherwise than as mentioned in subsection (2), the provider is to inform the Council, in accordance with section 19H, of the enrolment or employment.
- (4) If a provider is aware that information previously given in respect of a student under this Part has changed or is incorrect, the provider is to give the new or correct information to the Council in accordance with section 19H.
- (5) Where a student ceases to be enrolled with, or employed by, a provider, the provider is to inform the Council, in accordance with section 19H, of the cessation and when it occurred.

Penalty applicable to subsections (2), (3), (4) and (5):
\$1 500.

19G. Notification of achievements

A provider must, in accordance with section 19H, give to the Council such information as may be prescribed in respect of results achieved, or not achieved, by a student for whom a student record has been opened.

Penalty: \$1 500.

19H. Further provisions relating to information

- (1) Information is to be given to the Council under this Part —
 - (a) in a form of notice; or
 - (b) by an electronic means of communication,as approved by the Council for the purposes of the provision under which the information is given.
- (2) Such information is also to be given in accordance with any provision made by the regulations, including provision as to the time or times at which the information is to be given.
- (3) Without limiting its powers under section 19I(3) or 19K, the Council is not required to satisfy itself as to the validity or correctness of information given to it under this Part.

19I. Database of student records and use of information by Council

- (1) It is a function of the Council to maintain a database containing —
 - (a) information in its possession relating to student records at the commencement of section 47 of the *Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005*;
 - (b) the information relating to student records given to it under this Part; and
 - (c) other information relating to student records received by the Council.
- (2) The database is to be maintained in such manner and form as the Council thinks fit.

- (3) The Council may at any time change information in the database to correct any error or omission.
- (4) The Council may use the database for the purpose of keeping the records of assessment and the register of courses referred to in section 14(1)(a).
- (5) The Council may use information in the database for the purpose of performing the functions mentioned in section 14(1)(c), (2) and (3).

19J. Provision of information to student concerned

- (1) The Council is to provide to a person who makes a request under subsection (2) and pays the prescribed fee, if any, a copy of the student record kept by the Council in respect of a student.
- (2) A request may be made for a copy of a student record only by the student concerned or a person who is authorised in writing by the student to obtain such a copy.

19K. Disclosure by Council for checking purposes

The Council may disclose to a provider information given to it under this Part in respect of a student for the purpose of ensuring that the information is accurate.

19L. Provision of information to Minister for planning purposes

The Minister may in writing request the Council to provide the Minister with information, in aggregated form, that comprises, includes or is derived from information given under this Part, and the Council is to comply with any such request.

**19M. Provision of information to Minister for monitoring
and assisting compliance and participation**

- (1) In subsection (2) —
“allowed information”, in relation to a child,
means —
- (a) the child’s —
 - (i) name, including any previous name;
 - (ii) address; and
 - (iii) date of birth;and
 - (b) the details shown in the child’s student
record of —
 - (i) the educational programme in or for
which the child was most recently
enrolled or receiving home education;
or
 - (ii) the option, or combination of options,
under section 11B of the School
Education Act, in which the child was
most recently a participant.
- (2) The Minister may, for a purpose referred to in
subsection (5), in writing request the Council to
provide the Minister with the allowed information in
respect of children to whom this section applies.
- (3) The Council is to comply with a request made under
subsection (2).
- (4) This section applies to a child if the student record for
the child shows that he or she is or appears to be a child
who —
- (a) is required by section 9 of the School Education
Act to be enrolled in an educational programme

- or receiving home education, but is not so enrolled or receiving such education; or
- (b) is required by section 11I of that Act to be participating in an option or a combination of options under section 11B of that Act, but is not so participating.
- (5) A request may only be made by the Minister under subsection (2) —
- (a) in respect of children referred to in subsection (4)(a), for the purpose of monitoring or investigating compliance with section 9 of the School Education Act or assisting or securing such compliance; or
- (b) in respect of children referred to in subsection (4)(b), for the purpose of —
- (i) identifying those children in the 11th or 12th year of the compulsory education period who are not engaged full-time in education, training or employment as provided by the School Education Act;
- (ii) giving such children information about school education and the options that are available under that Act; and
- (iii) encouraging and helping parents in relation to the matters referred to in subparagraphs (i) and (ii).

19N. Disclosure of information by Minister

- (1) This section applies to information provided to the Minister under section 19M in respect of a child to whom that section applies.
- (2) The Minister may disclose the information to a person or body that the Minister considers appropriate,

s. 47

including an authorised person as defined in section 12 of the School Education Act.

- (3) Such a disclosure may only be made by the Minister for a purpose referred to in section 19M(5).
- (4) A person, or a person connected with a body, that receives information disclosed by the Minister under subsection (2) must not, directly or indirectly, record, disclose or make use of the information except for a purpose referred to in section 19M(5).

Penalty: \$10 000 and imprisonment for 12 months.

19O. Delegation and subdelegation

Sections 224 and 225 of the School Education Act apply in respect of the functions of the Minister under sections 19L, 19M and 19N in the same way as they apply to the functions of the Minister under that Act.

19P. Provision of information to certain entities

- (1) The Council is to provide each of —
 - (a) the Director of Catholic Education in Western Australia; and
 - (b) the Association of Independent Schools of Western Australia (Inc.),

with the information prescribed in respect of that body being information that comprises, includes or is derived from information given under this Part.

- (2) The information is to be in aggregated form and given at the prescribed times.

”.

48. Section 32 amended

After section 32(2) the following subsection is inserted —

“

(3) In relation to information given under Part 3A to the Minister responsible for the administration of the *School Education Act 1999*, subsection (1) also applies to —

- (a) the chief executive officer under section 229 of that Act; and
- (b) the persons referred to in section 235(1) of that Act.

”

49. Section 33 amended

After section 33(3) the following subsection is inserted —

“

(4) Before the Minister recommends the making or amendment of a regulation for the purposes of section 19E(c), 19G, 19H(2) or 19P, the Minister is to consult with, and take into account the views of —

- (a) the Director of Catholic Education in Western Australia; and
- (b) the Association of Independent Schools of Western Australia (Inc.).

”

=====