Western Australia

Teacher Registration Act 2012

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Defined terms

Western Australia

Teacher Registration Act 2012

An Act to —

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

and for related purposes.

Part 1 — Preliminary

1. Short title

This is the *Teacher Registration Act 2012*.

2. Commencement

This Act comes into operation as follows —

(a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;

(b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Terms used

In this Act —

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;

approved means approved in writing;

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

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 (WA)* section 5(1); but

(b) does not include a family day care service as defined in the *Education and Care Services National Law (WA)* section 5(1);

CEO means the chief executive officer of the Department;

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*;

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

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

complaint means either of the following —

(a) a public complaint;

(b) a board-formulated complaint;

condition includes a restriction or a prohibition;

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

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

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

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

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

disciplinary committee means a committee established under section 49;

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;

impairment review committee means the committee established under section 50;

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

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;

prescribed means prescribed by regulation;

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

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

professional standards means the standards, as amended from time to time, developed by the Board and approved by the Minister under section 20;

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;

register means the register kept under Part 3 Division 2;

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

registration means registration under Part 3;

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;

serious offence means an offence (whether committed in or outside this State) that is —

(a) an indictable offence against a law of this State, the Commonwealth, another State or a Territory (whether or not the offence is or may be dealt with summarily); or

(b) an offence against the law of another State or a Territory that would be an indictable offence against a law of this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this State); or

(c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this State);

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.

[Section 3 amended: No. 7 of 2022 s. 53; No. 9 of 2022 s. 424; No. 3 of 2023 s. 4 and 88; No. 2 of 2026 s. 102.]

4. Crown bound

(1) This Act binds the State and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act makes the State, or the Crown in any of its other capacities, liable to be prosecuted for an offence.

5. Best interests of children paramount

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

Part 2 — Teaching by unregistered persons and related offences

6. Requirement to be registered

A person must not teach at an educational institution unless the person is a registered teacher.

Penalty:

(a) for a first offence, a fine of $5 000;

(b) for a second or subsequent offence, a fine of $10 000.

[Section 6 amended: No. 3 of 2023 s. 5.]

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

(1) A person must not appoint, employ, engage or give permission to another person to teach at an educational institution unless the other person is a registered teacher.

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) A person must not appoint, employ, engage or give permission to a registered teacher to teach at an educational institution in contravention of a condition to which the teacher's registration is subject.

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) 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.

[Section 7 amended: No. 3 of 2023 s. 6.]

8. Registered teachers must comply with suspension and conditions on registration

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

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) 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.

[Section 8 amended: No. 3 of 2023 s. 7.]

9. Pretending to be registered or entitled to teach

(1) A person who is not a registered teacher must not —

(a) claim to be a registered teacher; or

(b) claim to be qualified or entitled to teach 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.

(2) Without limiting subsection (1), a person who is not a registered teacher must not —

(a) take or use the title of registered teacher or any other title calculated to induce a belief that the person is registered under this Act; or

(b) claim to be registered, or hold themself out as being registered, under this Act; or

(c) claim to be entitled to practise as a teacher; or

(d) use a title that indicates, or could reasonably be understood as indicating, that the person is a registered teacher or 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.

(3) A registered teacher must not —

(a) claim to be registered as a teacher in a category other than the category that the person is registered in; or

(b) claim to be qualified or entitled to teach at an educational institution in contravention of a condition to which the teacher's registration is subject.

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.

(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.

[Section 9 amended: No. 3 of 2023 s. 8.]

Part 3 — Registration of teachers

Division 1 — Registration of teachers

Subdivision 1 — Registration applications

[Heading inserted: No. 3 of 2023 s. 9.]

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.

[Section 10 inserted: No. 3 of 2023 s. 9.]

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.

[Section 11 inserted: No. 3 of 2023 s. 9.]

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.

[Section 12 inserted: No. 3 of 2023 s. 9.]

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.

[Section 12A inserted: No. 3 of 2023 s. 9.]

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.

[Section 13 inserted: No. 3 of 2023 s. 9.]

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.

[Section 14 inserted: No. 3 of 2023 s. 9.]

Subdivision 2 — Requirements for registration

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.

[Section 15 inserted: No. 3 of 2023 s. 10.]

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.

[Section 16 inserted: No. 3 of 2023 s. 10.]

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

(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.

[Section 16A inserted: No. 3 of 2023 s. 10.]

17. Limited registration: requirements

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

(a) has been offered a teaching position at an educational institution by an employer (a ***nominee employer***) at the institution; 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 limited registration as a teacher; and

(d) meets any other requirements for limited registration as are prescribed.

[Section 17 amended: No. 3 of 2023 s. 11.]

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.

[Section 18 inserted: No. 3 of 2023 s. 12.]

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.

[Section 18A inserted: No. 3 of 2023 s. 12.]

19. Only natural persons may be registered as teachers

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

20. Professional standards

(1) 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.

[Section 20 inserted: No. 3 of 2023 s. 13.]

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.

[Section 20A inserted: No. 3 of 2023 s. 14.]

Subdivision 3 — Registration

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.

[Section 21 inserted: No. 3 of 2023 s. 15.]

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.

[Section 22 inserted: No. 3 of 2023 s. 15.]

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.

[Section 22A inserted: No. 3 of 2023 s. 15.]

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.

[Section 23 inserted: No. 3 of 2023 s. 15.]

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.

[Section 23A inserted: No. 3 of 2023 s. 15.]

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.

[Section 23B inserted: No. 3 of 2023 s. 15.]

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.

[Section 23C inserted: No. 3 of 2023 s. 15.]

24. Who is a fit and proper person

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

(a) the person's history of compliance with —

(i) this Act; or

(ii) a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described);

(b) any decision under this Act or a law referred to in paragraph (a)(ii) to refuse, refuse to renew, suspend or cancel a licence, approval, registration, certification or other authorisation (however described) granted to the person under the Act or law;

(c) the criminal history from a criminal history check of the person;

(d) any behaviour of the person that —

(i) departs from the standard of behaviour reasonably expected of a registered teacher; or

(ii) shows that the person is not of good character;

(e) whether the person has contravened —

(i) an order of the Board, a disciplinary committee or the Tribunal under Part 5; or

(ii) an order of a disciplinary body or of a court or tribunal of another jurisdiction exercising jurisdiction or powers by way of appeal or review of an order of a disciplinary body that deals with the registration of teachers (however described);

(f) without limiting any other paragraph, whether the person has failed to pay any costs, expenses or fines for which the person is liable under this Act;

(fa) whether the person would be unable to carry out the inherent requirements of the work of a registered teacher because of an impairment;

(g) any other matters relating to the person that the Board considers are appropriate.

(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 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.

[Section 24 amended: No. 3 of 2023 s. 16.]

Subdivision 4 — Conditions and cancellation

25. Conditions generally

(1) Registration of a teacher is subject to any condition —

(a) imposed by the Board under section 26; or

(b) to which the registration is subject under this Act; or

(c) imposed by order made under Part 5.

(2) The regulations may provide for conditions of registration.

26. Conditions imposed by the Board

(1) The Board may impose conditions on the registration of a teacher —

(a) when granting, renewing or changing the category of the registration; or

(b) during the currency of the registration.

(2) The Board may at any time, on the application of a registered teacher or on its own initiative, on reasonable grounds, modify or cancel a condition on a teacher's registration.

(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) Conditions imposed or modified by the Board under this section must be reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher.

(4) The Board must not exercise its power under this section to modify or cancel a condition imposed or modified by the Tribunal without the consent of the Tribunal.

(5) A condition imposed by the Board may apply indefinitely or for a specified period of time.

(6) A decision to impose, modify or cancel a condition on a teacher's registration made during the currency of the registration takes effect —

(a) on the day on which notice of the decision is given to the teacher under section 30; or

(b) on a later day specified in the notice.

[Section 26 amended: No. 3 of 2023 s. 17.]

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.

[Section 26A inserted: No. 3 of 2023 s. 18.]

27. Cancellation of registration by Board

(1) The Board must cancel the registration of a teacher as soon as possible after the Board becomes aware that the teacher is not entitled to be registered.

(2) A teacher is not entitled to be registered if —

(a) the teacher has been convicted or found guilty of an actionable offence; or

(b) a negative notice or an interim negative notice has been issued to the teacher under the *Working with Children (Screening) Act 2004*; or

(c) the teacher has failed to give to the Board the teacher's written consent for the Board to obtain a criminal history check in accordance with a notice under section 43; or

(d) a qualification that enabled the teacher to gain registration has been withdrawn or cancelled by the body that conferred the qualification; or

(e) a qualification that enabled the teacher to gain registration was forged or fraudulently obtained; or

(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

(f) the teacher is in arrears in respect of fees due and payable under this Act.

(3) However, the registration of a teacher must not be cancelled under this section, or if the registration has been cancelled must be reinstated by the Board, if —

(a) where subsection (2)(a) applies, the Board becomes aware that a relevant conviction or finding in respect of that teacher has been quashed or overturned on appeal; or

(b) where subsection (2)(b) applies, the Board becomes aware that an interim negative notice or a negative notice has been cancelled under the *Working with Children (Screening) Act 2004* in respect of that teacher; or

(c) where subsection (2)(c) or (f) applies, the Board is of the opinion that there are extenuating circumstances.

(4) Subsection (2) continues to apply in respect of a person during —

(a) an appeal from a conviction or finding relevant to subsection (2)(a); or

(b) a review of a decision to issue, or to refuse to cancel, a negative notice referred to in subsection (2)(b).

(5) The cancellation or reinstatement of a teacher's registration under this section takes effect —

(a) on the day on which notice of the cancellation or reinstatement is given to the teacher; or

(b) on a later day specified in the notice.

[Section 27 amended: No. 47 of 2022 s. 53; No. 3 of 2023 s. 19, 87 and 88.]

28. Cancellation of registration at teacher's request

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

[Section 28 amended: No. 3 of 2023 s. 87.]

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

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;

(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.

[Section 29 inserted: No. 3 of 2023 s. 20.]

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

(1) The Board must give written notice of a decision under section 26 to impose, modify or cancel a condition on a teacher's registration during the currency of the registration no later than 14 days after making the decision to —

(a) the teacher; and

(b) if the teacher holds limited registration — the employer of the teacher.

(2) The notice must contain —

(a) the reasons for the decision; and

(b) a statement that the teacher and the employer may have a right to a review under section 124.

[Section 30 amended: No. 3 of 2023 s. 21 and 87.]

31. Notice of cancellation or reinstatement of registration must be given

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

(a) the person whose registration is cancelled or reinstated; and

(b) if the person holds, or held, limited registration — the employer of that person.

(2) The notice must contain —

(a) a reference to the provision of this Act under which the registration was cancelled or reinstated; and

(b) the reasons for the cancellation or reinstatement of the registration; and

(c) if the notice is about the cancellation of registration, a statement that the person whose registration is cancelled may have a right to a review under section 124.

(3) The notice must not contain identifying information provided by the Commissioner of Police under section 41A.

[Section 31 amended: No. 3 of 2023 s. 22 and 87.]

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

(1) Before making any of the following decisions the Board must give the applicant a reasonable opportunity to show cause why the decision should not be made —

(a) the refusal of a registration application;

(b) the granting of a registration application subject to a condition.

(2) Before making a decision under section 26 to impose, modify or cancel a condition on a teacher's registration during the currency of the registration, the Board must give a reasonable opportunity to show cause why the decision should not be made to —

(a) the teacher whose registration will be affected; and

(b) if the teacher holds limited registration — the employer of the teacher.

[Section 32 amended: No. 3 of 2023 s. 23 and 87.]

Subdivision 6 — General provisions

33. Effect of cancellation of registration

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

[Section 33 amended: No. 3 of 2023 s. 87.]

*[**34.** Deleted: No. 3 of 2023 s. 24]*

35. Annual fees

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

[Section 35 amended: No. 3 of 2023 s. 87.]

Division 2 — The register

36. Register of teachers to be kept

(1) The Board is required to keep an accurate and up to date register that records the following information in respect of each registered teacher —

(a) the person's name;

(b) the category of registration that the person holds;

(c) the person's registration number;

(d) the date of commencement of the person's registration;

(e) any other information prescribed.

(2) The register may be kept in any way the Board thinks appropriate, including by electronic means.

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

[Section 36 amended: No. 3 of 2023 s. 25.]

37. Inspection of register

(1) In this section —

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

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

register information (public) means the information on the register other than the information prescribed under section 36(1)(e);

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

(2) Information on the register must be made available for inspection in accordance with this section in any way the Board thinks appropriate, including on a website maintained by the Board.

(3) 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.

(4) Register information (public) must be made available for inspection, in accordance with subsection (2), by members of the public during normal office hours.

(5) A person to whom register information may be made available for inspection under this section may, on application to the Board and payment of the fee prescribed, if any, obtain a certified copy of all or some of that information.

[Section 37 amended: No. 3 of 2023 s. 26 and 87; No. 2 of 2026 s. 102.]

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

[Heading amended: No. 3 of 2023 s. 88.]

Division 1 — Notices to be given

Subdivision 1 — Notices to be given by registered teachers

38. Notice about legal actions

(1) This section applies to a registered teacher if —

(a) the teacher, or a person who is or was an employer of the teacher, is ordered to pay damages or compensation as a result of civil proceedings arising out of the practice of teaching by the teacher, or arising from events which occurred while the teacher was engaged in teaching; or

(b) the teacher is convicted or found guilty of an offence the statutory penalty for which is, or includes, imprisonment.

(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.

[Section 38 amended: No. 3 of 2023 s. 27.]

39. Notice about loss of qualifications

(1) This section applies to a registered teacher if a qualification that enabled the teacher to gain registration is withdrawn or cancelled by the body that conferred the qualification.

(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.

[Section 39 amended: No. 3 of 2023 s. 28.]

40. Notice about working with children notices and assessments

(1) This section applies to a registered teacher if an interim negative notice or a negative notice is issued to the teacher under the *Working with Children (Screening) Act 2004*.

(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.

[Section 40 amended: No. 47 of 2022 s. 53; No. 3 of 2023 s. 29.]

Subdivision 2 — Notices to be given by other persons

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.

[Section 41 inserted: No. 3 of 2023 s. 30.]

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.

[Section 41A inserted: No. 3 of 2023 s. 30.]

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.

[Section 41B inserted: No. 3 of 2023 s. 30.]

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.

[Section 42 inserted: No. 3 of 2023 s. 30.]

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.

[Section 42A inserted: No. 3 of 2023 s. 31.]

Division 2 — Criminal history checks

[Heading amended: No. 3 of 2023 s. 88.]

43. Board may request consent to obtain criminal history check

(1) The Board may give written notice to a registered teacher requesting that the teacher provide written consent for the Board to obtain a criminal history check in respect of the teacher.

(2) Notice to a teacher under subsection (1) must state that the consent must be given to the Board within 14 days of the notice being given, or a later time specified in the notice.

[Section 43 amended: No. 3 of 2023 s. 32, 87 and 88.]

44. Criminal history check

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

[Section 44 amended: No. 3 of 2023 s. 88.]

Division 3 — Board to consider notices and criminal history checks received

[Heading amended: No. 3 of 2023 s. 88.]

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.

[Section 45 inserted: No. 3 of 2023 s. 33.]

Part 5 — Disciplinary matters, impairment matters and investigations

[Heading inserted: No. 3 of 2023 s. 34.]

Division 1 — Preliminary

46. Terms used

In this Part —

disciplinary matter has the meaning given in section 47;

impairment matter has the meaning given in section 48.

[Section 46 inserted: No. 3 of 2023 s. 35.]

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.

[Section 47 inserted: No. 3 of 2023 s. 35.]

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.

[Section 48 inserted: No. 3 of 2023 s. 35.]

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.

[Section 48A inserted: No. 3 of 2023 s. 35.]

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.

[Section 48B inserted: No. 3 of 2023 s. 35.]

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.

[Section 48C inserted: No. 3 of 2023 s. 35.]

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).

[Section 48D inserted: No. 3 of 2023 s. 35.]

Division 2 — Disciplinary committee and impairment review committee

49. Disciplinary committee

(1) The Board must establish 1 or more committees, each to be known as a disciplinary committee.

(2) The Board may discharge or alter any disciplinary committee it has established.

(3) A disciplinary committee must consist of the following 3 persons appointed in writing by the Board, from time to time —

(a) a registered teacher;

(b) a lawyer;

(c) any other person that the Board considers appropriate.

(4) Each member of a disciplinary committee must be a natural person.

(5) A disciplinary committee may include people who are not members of the Board but must include at least 1 member of the Board.

(6) The Board must appoint a member of a disciplinary committee to be the committee's chairperson.

(7) A disciplinary committee must submit an annual report to the Board as soon as is practicable after 30 June in each year in respect of the functions performed by the committee during the year that ended on that day.

(8) A notice, direction, order or other document authorised by this Act to be given or made by a disciplinary committee is taken to have been given or made by the committee if it is signed on behalf of the committee —

(a) by the chairperson of the committee; or

(b) by some other person authorised by the committee to sign the notice, direction, order or other document.

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

[Section 49 amended: No. 3 of 2023 s. 36, 87 and 89.]

50. Impairment review committee

(1) The Board must establish a committee to be known as the impairment review committee.

(2) The Board may discharge or alter any impairment review committee it has established.

(3) The impairment review committee must consist of the following 3 persons appointed in writing by the Board, from time to time —

(a) a registered teacher;

(b) a medical practitioner;

(c) a lawyer.

(4) Each member of the impairment review committee must be a natural person.

(5) The impairment review committee may include people who are not members of the Board but must include at least 1 member of the Board.

(6) The Board must appoint a member of the impairment review committee to be the committee's chairperson.

(7) The impairment review committee must submit an annual report to the Board as soon as is practicable after 30 June in each year in respect of the functions performed by the committee during the year that ended on that day.

(8) A notice, direction, order, appointment or other document authorised by this Act to be given or made by the impairment review committee is taken to have been given or made by the committee if it is signed on behalf of the committee —

(a) by the chairperson of the committee; or

(b) by some other person authorised by the committee to sign the notice, direction, order, appointment or other document.

(9) The impairment review committee may determine its own procedures but they must be consistent with the terms of any delegation under which the committee is acting.

[Section 50 amended: No. 3 of 2023 s. 37, 87 and 89.]

Division 3 — Complaints, assessments and investigations

[Heading inserted: No. 3 of 2023 s. 38.]

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.

[Section 51 inserted: No. 3 of 2023 s. 39.]

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.

[Section 51A inserted: No. 3 of 2023 s. 39.]

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.

[Section 51B inserted: No. 3 of 2023 s. 39.]

52. Teacher must be notified of complaint

(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) The notice must set out the following —

(a) the nature of the complaint;

(b) if the complaint is a public complaint — the identity of the complainant;

(c) a brief summary of the effect of this Part.

(3) Subsection (1) does not apply if the Board is of the opinion that giving the notice will or is likely to —

(a) prejudice an investigation of a complaint; or

(b) prejudice an investigation by the police or other investigatory or law enforcement body of any matter with which the complaint is concerned; or

(c) place any person at risk of intimidation or harassment; or

(d) prejudice pending proceedings.

(4) In a case to which subsection (3) applies, the Board —

(a) may postpone giving the teacher notice of the complaint until it is of the opinion that it is appropriate to do so; or

(b) may in its discretion give the teacher a notice setting out —

(i) the general nature of the complaint; and

(ii) a brief summary of the effect of this Part.

(5) Nothing in this section requires the Board to give notice under this section to the teacher until the Board has had time to assess or investigate the complaint and properly prepare the notice.

[Section 52 amended: No. 3 of 2023 s. 40 and 87.]

Division 4 — Dealing with and referring complaints

[Heading inserted: No. 3 of 2023 s. 41.]

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.

[Section 53 inserted: No. 3 of 2023 s. 42.]

54. Board to provide report to committee

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

[Section 54 amended: No. 3 of 2023 s. 87.]

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.

[Section 55 inserted: No. 3 of 2023 s. 43.]

*[**56.** Deleted: No. 3 of 2023 s. 43.]*

57. Complaints without substance

(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.

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

[Section 57 amended: No. 3 of 2023 s. 44 and 87.]

Division 5 — Interim orders

[Heading inserted: No. 3 of 2023 s. 45.]

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.

[Section 58 inserted: No. 3 of 2023 s. 45.]

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.

[Section 59 inserted: No. 3 of 2023 s. 45.]

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.

[Section 60 inserted: No. 3 of 2023 s. 45.]

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.

[Section 61 inserted: No. 3 of 2023 s. 45.]

Division 6 — Role of disciplinary committee

Subdivision 1 — Initial assessment of complaints

62. Initial assessment

(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) Notice of a decision under subsection 1(a) or (c) must be given in accordance with section 85.

[Section 62 amended: No. 3 of 2023 s. 46.]

Subdivision 2 — Inquiries

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.

[Section 63 inserted: No. 3 of 2023 s. 47.]

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.

[Section 63A inserted: No. 3 of 2023 s. 47.]

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.

[Section 64 inserted: No. 3 of 2023 s. 47.]

65. Rights of teacher as to evidence and witnesses

(1) In conducting an inquiry into a complaint, a disciplinary committee must give a registered teacher or formerly 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) Subsection (1) does not apply if —

(a) the disciplinary committee has adopted any findings, decision, judgment or reasons for judgment under section 66; and

(b) the teacher has been given the opportunities referred to in subsection (1) by a court, tribunal or other body referred to in that section.

[Section 65 amended: No. 3 of 2023 s. 48.]

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).

[Section 66 inserted: No. 3 of 2023 s. 49.]

67. Representation at inquiry

(1) For the purposes of an inquiry into a complaint, a registered teacher or formerly registered teacher who is the subject of the complaint may —

(a) appear before the inquiry in person; or

(b) with the leave of a disciplinary committee — be represented by another person.

(2) A person who is not a legal practitioner does not breach the *Legal Profession Uniform Law (WA)* or any other Act merely by —

(a) representing the teacher before an inquiry; or

(b) providing advice and other services for the purpose of acting for the teacher in connection with an inquiry.

[Section 67 amended: No. 9 of 2022 s. 424; No. 3 of 2023 s. 50.]

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).

[Section 68 inserted: No. 3 of 2023 s. 51.]

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.

[Section 68A inserted: No. 3 of 2023 s. 51.]

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).

[Section 68B inserted: No. 3 of 2023 s. 51.]

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.

[Section 68C inserted: No. 3 of 2023 s. 51.]

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.

[Section 68D inserted: No. 3 of 2023 s. 51.]

69. Record of inquiry

(1) A disciplinary 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) 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.

[Section 69 amended: No. 3 of 2023 s. 52 and 87.]

70. Decision of disciplinary committee after inquiry

(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.

(4) Notice of a decision or an order made under this section must be given in accordance with section 85.

(5) An order made under this section takes effect —

(a) on the day on which notice of the order is given to the teacher; or

(b) on a later day specified in the order.

(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.

[Section 70 amended: No. 3 of 2023 s. 53 and 87.]

[Subdivision 3 deleted: No. 3 of 2023 s. 54.]

Division 7 — Role of impairment review committee

[Heading inserted: No. 3 of 2023 s. 55.]

Subdivision 1 — Initial assessment of complaints and other matters

[Heading inserted: No. 3 of 2023 s. 55.]

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.

[Section 71 inserted: No. 3 of 2023 s. 55.]

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.

[Section 72 inserted: No. 3 of 2023 s. 55.]

Subdivision 2 — Inquiries

[Heading inserted: No. 3 of 2023 s. 55.]

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.

[Section 73 inserted: No. 3 of 2023 s. 55.]

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.

[Section 74 inserted: No. 3 of 2023 s. 55.]

74A. Hearings

(1) The impairment review committee may hold hearings for the purposes of an inquiry.

(2) Hearings must be held in private.

[Section 74A inserted: No. 3 of 2023 s. 55.]

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.

[Section 75 inserted: No. 3 of 2023 s. 55.]

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.

[Section 75A inserted: No. 3 of 2023 s. 55.]

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.

[Section 75B inserted: No. 3 of 2023 s. 55.]

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.

[Section 75C inserted: No. 3 of 2023 s. 55.]

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.

[Section 76 inserted: No. 3 of 2023 s. 55.]

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.

[Section 77 inserted: No. 3 of 2023 s. 55.]

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).

[Section 77A inserted: No. 3 of 2023 s. 55.]

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.

[Section 77B inserted: No. 3 of 2023 s. 55.]

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).

[Section 77C inserted: No. 3 of 2023 s. 55.]

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.

[Section 77D inserted: No. 3 of 2023 s. 55.]

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.

[Section 77E inserted: No. 3 of 2023 s. 55.]

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.

[Section 77F inserted: No. 3 of 2023 s. 55.]

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.

[Section 78 inserted: No. 3 of 2023 s. 55.]

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.

[Section 79 inserted: No. 3 of 2023 s. 55.]

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.

[Section 80 inserted: No. 3 of 2023 s. 55.]

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

[Heading inserted: No. 3 of 2023 s. 55.]

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.

[Section 81 inserted: No. 3 of 2023 s. 55.]

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.

[Section 82 inserted: No. 3 of 2023 s. 55.]

Division 8 — Tribunal

[Heading inserted: No. 3 of 2023 s. 55.]

Subdivision 1 — Referrals to Tribunal

[Heading inserted: No. 3 of 2023 s. 55.]

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.

[Section 83 inserted: No. 3 of 2023 s. 55.]

Subdivision 2 — Tribunal

[Heading inserted: No. 3 of 2023 s. 55.]

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.

[Section 84 inserted: No. 3 of 2023 s. 55.]

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.

[Section 84A inserted: No. 3 of 2023 s. 55.]

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.

[Section 84B inserted: No. 3 of 2023 s. 55.]

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

[Heading inserted: No. 3 of 2023 s. 55.]

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.

[Section 85 inserted: No. 3 of 2023 s. 55.]

Part 6 — Teacher Registration Board

Division 1 — Establishment

86. Board established

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

87. Membership of Board

(1) The Board consists of 9 members appointed by the Minister.

(2) Each member must be a natural person.

(3) At least —

(a) 1 member must be a lawyer; and

(b) 3 members must be registered teachers.

(4) The Minister must appoint to the Board people that between them have the experience, skills or qualifications that the Minister considers appropriate to enable them to effectively carry out the functions of the Board under this Act.

(5) The Minister must designate 1 member to be the chairperson, and another member to be the deputy chairperson, of the Board.

[Section 87 amended: No. 3 of 2023 s. 56, 87 and 89.]

88. Remuneration and allowances

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

(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.

[Section 88 amended: No. 3 of 2023 s. 57.]

Division 2 — Functions and powers

89. Functions

The functions of the Board are as follows —

(a) to perform the functions that are conferred on the Board under this Act or any other Act;

[(b) deleted]

(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;

(e) to advise the Minister on matters to which this Act applies.

[Section 89 amended: No. 3 of 2023 s. 58.]

90. Powers

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

91. Delegation by Board

(1) The Board may delegate any power or duty of the Board under another provision of this Act (other than section 48C) —

(a) to a member of the Board; or

(b) to a committee; or

(c) with the consent of the CEO, to an officer or employee employed in the Department.

(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.

(2) The delegation must be in writing executed by the Board.

(3) A person or committee to whom a power or duty is delegated under this section cannot delegate that power or duty.

(4) A person or committee exercising or performing a power or duty that has been delegated to the person or committee under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(5) Nothing in this section limits the ability of the Board to perform a function through a member of staff provided to the Board by the CEO under this Act or a person representing the Board.

[Section 91 amended: No. 3 of 2023 s. 59.]

Division 3 — Staff and services

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.

[Section 92 inserted: No. 3 of 2023 s. 60.]

Division 4 — Relationship of Board with Minister

93. Directions by Minister

(1) Subject to subsection (2), the Minister may give written directions to the Board with respect to the performance of its functions, either generally or in relation to a particular matter, and the Board must give effect to any direction given.

(2) The Minister must not under subsection (1) direct the Board with respect to the performance of its functions in respect of —

(a) a particular person; or

(b) a particular application, investigation, complaint, interim order, inquiry or proceeding.

(3) A copy of a direction given under subsection (1) must be —

(a) laid before each House of Parliament within 14 sitting days after the direction is given; and

(b) included in the report of the Board made under section 114.

[Section 93 amended: No. 3 of 2023 s. 61 and 87.]

94. Minister to have access to information

(1) In this section —

document includes any tape, disk or other device or medium on which information is recorded or stored;

information means information specified, or of a description specified, by the Minister that relates to the functions of the Board.

(2) The Minister is entitled —

(a) to have information in the possession of the Board; and

(b) if the information is in or on a document, to have, and make and retain copies of, that document.

(3) For the purposes of subsection (2), the Minister may —

(a) request the Board to furnish information to the Minister; and

(b) request the Board to give the Minister access to information; and

(c) for the purposes of paragraph (b) make use of the services of any officer or employee employed in the Department to obtain the information and furnish it to the Minister.

(4) The Board must comply with a request under subsection (3) and the CEO must arrange for the CEO's staff and facilities to be available to the Minister for the purposes of subsection (3)(c).

(5) The Minister is not entitled to have information under this section in a form that —

(a) discloses the identity of a person involved in a particular application, complaint, investigation, inquiry or other proceeding; or

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

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

[Section 94 amended: No. 3 of 2023 s. 62 and 87.]

Division 5 — Constitution and proceedings of Board

[Heading amended: No. 3 of 2023 s. 63.]

Subdivision 1 — General provisions

95. Term of office

(1) Subject to section 96, a member of the Board holds office for the term, not exceeding 5 years, that is specified in the member's instrument of appointment.

(2) A member of the Board is eligible for reappointment.

(3) A member of the Board whose term of office expires without a person having been appointed to fill the vacancy continues in office (unless under section 96, the person resigns or is removed from office) until whichever of the following occurs first —

(a) a person is appointed to fill the vacancy;

(b) a period of 3 months elapses after the expiry of the term of office.

96. Casual vacancies

(1) A member of the Board may at any time resign from office by written notice given to the Minister.

(2) The Minister may remove a member of the Board from office on 1 of the following grounds —

(a) mental or physical incapacity to carry out the person's duties in a satisfactory manner;

(b) the person being an insolvent;

(c) the person being convicted or found guilty of a serious offence;

(d) absence, without leave, from 3 consecutive meetings of the Board of which the member has had notice;

(e) neglect of duty;

(f) misconduct.

(3) In subsection (2)(b) —

insolvent means a person who is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.

(4) The office of a member becomes vacant if, before the term for which the person holding the office was appointed expires, the person dies or resigns or is removed from office.

[Section 96 amended: No. 3 of 2023 s. 64 and 89.]

97. Deputy chairperson acting as chairperson

(1) The deputy chairperson must perform the functions of the chairperson —

(a) when the chairperson is unable to act because of illness, absence or other cause; or

(b) during any vacancy in the office of chairperson.

(2) An act or omission of the deputy chairperson acting in the place of the chairperson is not to be questioned on the ground that the occasion for acting had not arisen or had ceased.

[Section 97 amended: No. 3 of 2023 s. 87.]

98. Alternate members

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

(2) If the deputy chairperson is acting in place of the chairperson at a meeting, the Minister may appoint another person to act in the deputy chairperson's place as an alternate member.

(3) While acting in accordance with the appointment the alternate member is to be taken to be, and to have any entitlement of, a member.

(4) An act or omission of an alternate member is not to be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

[Section 98 amended: No. 3 of 2023 s. 65.]

99. Holding meetings

(1) The first meeting of the Board must be convened by the chairperson and subsequent meetings, unless convened under subsection (2), must be held at times and places determined by the Board.

(2) A special meeting of the Board may at any time be convened by the chairperson.

[Section 99 amended: No. 3 of 2023 s. 87.]

100. Quorum

Five members constitute a quorum of the Board.

101. Presiding at meetings

(1) The chairperson if present must preside at a meeting of the Board.

(2) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (1) the members present at the meeting must appoint 1 of their number to preside.

[Section 101 amended: No. 3 of 2023 s. 87 and 89.]

102. Procedure at meetings

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

[Section 102 amended: No. 3 of 2023 s. 66.]

103. Voting

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

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

104. Holding meetings remotely

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

105. Resolution without meeting

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

106. Minutes

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

[Section 106 amended: No. 3 of 2023 s. 87.]

107. Committees

(1) The Board may establish committees to assist it to perform its functions, and may discharge or alter any committee it has established.

(2) A committee may include people who are not members of the Board but must include at least 1 member of the Board.

(3) Each member of a committee must be a natural person.

(4) The Board may give directions to a committee on the following matters —

(a) the functions to be performed by the committee;

(b) the procedures of the committee;

(c) reporting by the committee on the performance of its functions.

(5) A committee must comply with a direction of the Board.

(6) A committee may determine its own procedures but they must be consistent with any directions of the Board and the terms of any delegation under which the committee is acting.

(7) This section does not apply to a disciplinary committee and the impairment review committee.

[Section 107 amended: No. 3 of 2023 s. 87 and 89.]

Subdivision 2 — Disclosure of interest

108. Disclosure of interest

(1) A member of the Board who has a material personal interest in a matter being considered or about to be considered by the Board must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

Penalty for this subsection: a fine of $25 000.

(2) A member of a committee who has a material personal interest in a matter being considered or about to be considered by the committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.

Penalty for this subsection: a fine of $25 000.

(3) Subsection (2) applies to a person who is a member of the committee and also a member of the Board even though the person has already disclosed the nature of the interest at a meeting of the Board.

(4) A disclosure under subsection (1) or (2) must be recorded in the minutes of the meeting.

[Section 108 amended: No. 3 of 2023 s. 67 and 87.]

109. Voting by interested Board member

(1) A member who has a material personal interest in a matter that is being considered by the Board —

(a) must not vote, whether at a meeting or otherwise, on the matter; and

(b) must not be present while the matter is being considered at a meeting.

(2) A reference in subsection (1)(a) or (b) to a matter includes a reference to a proposed resolution under section 110 in respect of the matter, whether relating to that member or a different member.

110. Section 109 may be declared inapplicable

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

(a) specifies the member, the interest and the matter; and

(b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

111. Quorum where section 109 applies

(1) Despite section 100, if the Board is dealing with a matter in relation to which a member is disqualified under section 109, a quorum is present during the consideration of the matter if at least half the number of members who are entitled to vote on

any motion that may be moved at the meeting in relation to the matter are present.

(2) The Minister may deal with a matter insofar as the Board cannot deal with it because of subsection (1).

112. Minister may declare sections 109 and 111 inapplicable

(1) The Minister may by writing declare that section 109 or 111 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.

(2) The Minister must 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.

[Section 112 amended: No. 3 of 2023 s. 68.]

Division 6 — General

113. Execution of documents by Board

(1) A document is duly executed by the Board if it is signed on behalf of the Board by a person or persons authorised to do so under subsection (2).

(2) The Board may 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.

(3) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.

[Section 113 amended: No. 3 of 2023 s. 69.]

114. Annual report of Board

(1) The Board must prepare and submit to the CEO, as soon as is practicable after 30 June in each year, a report that contains —

(a) information about the activities of the Board during the financial year; and

(b) a report about the Board's performance of its functions under this Act during that time; and

(c) any other matters arising out of the performance of the Board's functions that are, in the opinion of the Board, of such significance as to require reporting.

(2) The annual report submitted by the accountable authority of the Department under the *Financial Management Act 2006* Part 5 must include the report of the Board under subsection (1).

[Section 114 amended: No. 3 of 2023 s. 87.]

115. Teacher Registration Board Account

(1) An agency special purpose account called the Teacher Registration Board Account must be established under the *Financial Management Act 2006* section 16.

(2) The Teacher Registration Board Account must be administered by the CEO.

(3) The Teacher Registration Board Account must be credited with the following —

(a) fees, fines, costs and other moneys received or recovered under this Act;

(b) other moneys received by, made available to, or payable to, the Board in the performance of functions under this or any other Act;

(c) any other moneys required or authorised under this or any other written law to be credited to the account.

(4) Moneys standing to the credit of the Teacher Registration Board Account must be applied for the following —

(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;

(b) in payment of the costs and expenses incurred in the performance of the functions of the Board under this Act;

(c) in payment of the costs of the administration and enforcement of this Act.

[Section 115 amended: No. 3 of 2023 s. 70 and 87.]

Part 7 — Miscellaneous

Division 1 — Publishing and using information

116. Term used: publish

In this Division —

publish, in relation to information, includes the following —

(a) include in a newspaper or other publication published in this State;

(b) disseminate by the exhibition or broadcast of a photograph, slide, film, video recording, audio recording or other recording of images or sound;

(c) broadcast by radio or for television;

(d) include on a website or otherwise publicly disseminate by means of the internet;

(e) publicly exhibit in, on, over or under any building, vehicle or place, or in the air, in view of persons in or on any street or public place;

(f) include in a document sent or delivered to any person or body;

(g) include in a document gratuitously sent or delivered to any person or body or thrown or left on premises occupied by any person or body or left on a vehicle;

(h) state orally to any person or body.

[Section 116 amended: No. 3 of 2023 s. 71.]

117. Confidentiality of information

(1) This section applies to a person who is or has been engaged in the performance of functions under this Act.

(2) A person to whom this section applies must not, directly or indirectly, publish or make use of information obtained in performing functions under this Act other than —

(a) for the purpose of, or in connection with, performing a function under this Act or another written law; or

(b) as required or allowed under this Act or another written law; or

(c) with the written consent of the person to whom the information relates; or

(d) for the purpose of investigation of a suspected offence or the conduct of proceedings against a person arising out of the administration of this or another written law; or

(e) in other circumstances, if any, prescribed.

Penalty for this subsection: a fine of $25 000.

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

[Section 117 amended: No. 3 of 2023 s. 72.]

118. Publication of information

(1) The Board may cause to be published, in any form or manner that the Board considers appropriate, information concerning any of the following —

(a) 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) Without limiting subsection (1) —

(a) information published under this section may include details of any of the following —

(i) orders or decisions of the Board or of a disciplinary committee;

(ii) orders made by the Tribunal;

(iii) information referred to in Part 4;

(iv) matters under Part 5, including any complaints or investigations;

and

(b) the Board may give notice of a finding, order, reason, decision or other action in respect of a person to any of the following —

(i) a board or authority under a law of another State or a Territory or New Zealand that deals with the registration of teachers (however described);

(ii) any relevant professional association or trade union of which the person is a member;

(iii) a person who is, or at the relevant time was, the employer of a registered teacher;

(iv) any other person who, in the opinion of the Board, should be made aware of the finding, order, reason, decision or action.

(3) The Board must not publish information under this section unless satisfied that it is in the public interest to do so.

(3A) This section is subject to the *Evidence Act 1906* section 36C and the *Children's Court of Western Australia Act 1988* section 35.

(4) Without limiting section 117, no civil or criminal liability is incurred by the Board or any other person in respect of the publication, in good faith, of information under this section.

[Section 118 amended: No. 3 of 2023 s. 73.]

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.

[Section 118A inserted: No. 3 of 2023 s. 74.]

Division 1A — Accreditation standards

[Heading inserted: No. 3 of 2023 s. 75.]

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.

[Section 118B inserted: No. 3 of 2023 s. 75.]

Division 2 — Legal proceedings

119. Legal proceedings

(1) Proceedings for an offence against this Act or in respect of any other matter arising under this Act may be taken in the name of the Board by —

(a) the Board; or

(b) any other person authorised to do so by the Board.

(2) Subsection (1) does not limit the ability of a person to commence or conduct the prosecution of an offence if the person has authority at law to do so.

(3) All prosecutions for offences against this Act must be heard in a court of summary jurisdiction constituted by a magistrate.

(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.

[Section 119 amended: No. 3 of 2023 s. 76 and 87.]

120. *Evidence Act 1906* not affected

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

121. Evidentiary matters

(1) In proceedings for an offence against this Act, in the absence of evidence to the contrary, the following matters are to be taken to be proved —

(a) the prosecutor is authorised to commence the prosecution; and

(b) the prosecution notice is executed by a person authorised to commence the prosecution.

(2) In proceedings for an offence against this Act 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.

(3) In proceedings for an offence against this Act a copy of or extract from the register or any statement that purports to reproduce matters entered in the register that is certified by the Board as a true copy, extract or statement, is evidence of the facts appearing in that copy, extract or statement.

[Section 121 amended: No. 3 of 2023 s. 77.]

122. Evidentiary certificate

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

(2) A certificate may state any of the following —

(a) that a person is or was, or is not or was not, registered as a teacher;

(b) that a person does or does not, or did or did not, hold a specified category of registration;

(c) any conditions to which the registration of a person is or was subject;

(d) that the registration of a person has or had been suspended or cancelled under this Act;

(e) that a person is or was disqualified by an order under Part 5;

(f) the day, days or period on or during which anything referred to in any of paragraphs (a) to (e) applied.

[Section 122 amended: No. 3 of 2023 s. 78.]

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.

[Section 123 inserted: No. 3 of 2023 s. 79.]

Division 3 — Review by Tribunal

[Heading inserted: No. 3 of 2023 s. 80.]

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.

[Section 124 inserted: No. 3 of 2023 s. 80.]

Division 4 — Other matters

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.

[Section 125 inserted: No. 3 of 2023 s. 81.]

126. Protection from liability

(1) An action in tort does not lie against a person for any thing that the person has done, in good faith, in the performance or purported performance of a function under this Act.

(2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.

(3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done any thing as described in that subsection.

(4) In this section, a reference to the doing of any thing includes a reference to the omission to do any thing.

127. False or misleading information

(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.

[Section 127 inserted: No. 3 of 2023 s. 82.]

128. Regulations

(1) The Governor may make regulations prescribing all matters that are required or permitted by the Act to be prescribed, or are necessary or convenient to be prescribed to give effect to the purposes of the Act.

(2) Without limiting subsection (1), regulations may be made for any of the following purposes —

(a) regulating the meetings and proceedings of, and the conduct of business by, the Board or a committee;

(b) maintaining the accuracy of the register, including the provision of information to the Board to assist in maintaining the accuracy of the register;

(c) regulating the issue, display and use of certificates of registration, if any;

(d) regulating applications and registration, including —

(i) conditions on registration; 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;

(g) procedures in relation to the making of complaints;

(h) procedures in relation to the conduct of inquiries;

(i) prescribing fees to be paid for the purposes of this Act, and the person liable for payment of any fee;

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

[Section 128 amended: No. 3 of 2023 s. 83.]

129. Forms

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

(a) prescribed; or

(b) approved by the Board.

130. Review of Act 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 4th 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 4th anniversary.

[Section 130 inserted: No. 3 of 2023 s. 84.]

Part 8 — Repeals and transitional matters

Division 1 — *Interpretation Act 1984* not affected

131. *Interpretation Act 1984* not affected

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

Division 2 — Repeals

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

(1) The *Western Australian College of Teaching Act 2004* is repealed.

(2) If, when this section comes into operation, Part 9 Division 1 is not in operation, then Part 9 Division 1 is repealed.

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

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

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

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

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

Subdivision 1 — Terms used

135. Terms used

In this Division —

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

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

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

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

(b) the day on which section 132 comes into operation;

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

former Board means the Board —

(a) established under the *Western Australian College of Teaching Act 2004* section 7; and

(b) in existence immediately before commencement day;

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

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

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

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

Subdivision 2 — Registration

136. Current registration continues

An individual who immediately before commencement day —

(a) was registered as a teacher under the WACOT Act section 34, is to be taken to hold full registration; and

(b) was provisionally registered as a teacher under the WACOT Act section 32, is to be taken to hold provisional registration; and

(c) held a limited authority to teach under the WACOT Act section 36, is to be taken to hold limited registration,

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

137. Registration of persons not currently registered at commencement day

(1) This section applies to an individual who immediately before commencement day —

(a) held a qualification in teaching approved by the Board for the purposes of this section; and

(b) was not registered as a teacher under the WACOT Act.

(2) An individual to whom this section applies who is currently teaching and has taught at an educational venue, other than a school —

(a) for a period of at least 3 years is eligible for full registration as a teacher; and

(b) for a period of less than 3 years is eligible for provisional registration as a teacher.

(3) An individual to whom this section applies who is not currently teaching but has taught at an educational venue other than a school at some time before commencement day is eligible for either full registration or provisional registration as a teacher, as the Board decides is appropriate.

(4) The Board must, on application made in the manner approved by the Board, register an individual eligible for registration as a teacher under this section unless the Board is satisfied that the person is not a fit and proper person to be a registered teacher.

(5) An application for registration —

(a) by a person eligible for registration under subsection (2) must be made within 18 months after commencement day; or

(b) by a person eligible for registration under subsection (3) must be made within 24 months after commencement day,

or such later time as the Board may allow having regard to the circumstances of a particular case.

(6) Part 2 does not apply to, or in respect of, an individual to whom this section applies until whichever is the earlier of the following —

(a) the expiration of the period during which the individual could apply for registration under this section;

(b) if the individual has made an application for registration under this section, when that application is dealt with by the Board.

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

Subdivision 3 — Former Board abolished

138. Former Board abolished

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

139. Unfinished proceedings

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

(a) are to be dealt with and determined as if the proceedings had been commenced by or against the Board; and

(b) are to continue under the direction and control of the Board.

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

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

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

141. Transfer of assets, liabilities, etc.

(1) On commencement day, by force of this section —

(a) the assets and rights vested in the College immediately before commencement day are transferred to, and vest,

in the State and are to be administered in the Department; and

(b) the liabilities of the College (including a share of a liability) existing immediately before commencement day are transferred to the State to be administered in the Department.

(2) The assets, rights and liabilities referred to in subsection (1) pass to and become vested in the State under this section without any transfer or assignment.

(3) The relevant officials are to take notice of this Part and are to record and register in the appropriate manner the documents necessary to show the effect of this section.

142. Winding-up

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

(a) discharge the liabilities transferred to the State under this Subdivision; and

(b) cause —

(i) any assets which remain after the discharge of those liabilities; and

(ii) moneys derived from the winding-up of the affairs of the College under this section, including any proceeds from the disposal of property,

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

143. Final report

(1) In this section —

final period means the period beginning on the day after the last day of the period for which a report was made under the WACOT Act section 29 and ending on commencement day.

(2) The Minister is to appoint a reporting officer to make and submit to the CEO, as soon as is reasonably practicable, but in any event not later than 4 months, after commencement day a report (the ***final report***) of the proceedings of the College for the final period.

(3) The WACOT Act section 29(2) and (3)(a) to (d) applies in respect of the final report as if it was an annual report made under that section by the College.

(4) The Minister must cause copies of the final report submitted under subsection (2) to be laid before each House of Parliament, or dealt with under section 125, within 14 days after the Minister receives it.

144. Records etc. to be delivered to CEO

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

Subdivision 5 — Staff under WACOT Act

145. Staff under WACOT Act — transition of employment

(1) A person who, immediately before commencement day, was appointed, employed or engaged by the College becomes, on the commencement day, a person employed in the Department.

(2) The employment of the person in the Department in accordance with subsection (1) is under and subject to the *Public Sector Management Act 1994*.

(3) A person mentioned in subsection (1) is to be regarded as having been appointed, engaged or employed, as is relevant, by the CEO.

(4) Except as otherwise agreed by a person to whom subsection (1) applies, the person's remuneration, existing, accrued or accruing rights, rights under a superannuation scheme or fund and continuity of service are not affected, prejudiced or interrupted by —

(a) the operation of subsection (1); or

(b) the abolition of the former Board; or

(c) the amendment or repeal of the *Western Australian College of Teaching Act 2004*.

(5) For the purposes of this section, a person's service with the College is to be taken to have been with the Department.

Subdivision 6 — Other matters

146. Disciplinary proceedings

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

(a) are taken to have been commenced under this Act; and

(b) are to be dealt with under this Act.

147. Orders made under WACOT Act

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

148. References to College or former Board

(1) If in a written law or other document or instrument there is a reference to the College or to the former Board, that reference may, on and after commencement day, where the context so

requires, be read as if it had been amended to be a reference to the Board.

(2) Subsection (1) does not apply to or in respect of a document or instrument relating to any asset or liability that is held after commencement day by the College under the *Western Australian College of Teaching Act 2004*.

149. Transitional regulations

(1) If there is no sufficient provision in this Part for dealing with a transitional matter, regulations under this Act may prescribe all matters that are required or necessary or convenient to be prescribed in relation to that matter.

(2) In subsection (1) —

transitional matter means a matter that needs to be dealt with for the transition required because of this Act.

(3) Regulations made under subsection (1) may provide that specified provisions of any written law —

(a) do not apply to or in relation to any matter; or

(b) apply with specified modifications to or in relation to any matter.

(4) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.

(5) In subsections (3) and (4) —

specified means specified or described in the regulations.

(6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as —

(a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the regulations were published in the *Gazette*; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the regulations were published in the *Gazette*.

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

[Heading inserted: No. 3 of 2023 s. 85.]

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.

[Section 149A inserted: No. 3 of 2023 s. 85.]

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

Column 1 **Provision**	**Column 2** **Reference**	**Column 3** **Included reference**
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
section 47(e) and (h)	an educational institution	a school

Column 1 **Provision**	**Column 2** **Reference**	**Column 3** **Included reference**
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
section 118(1)(b) and (c)	registered teachers	individuals who were WACOT teachers

Column 1 Provision	Column 2 Reference	Column 3 Included reference
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

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

Column 1 Provision	Column 2 Reference	Column 3 Included reference
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

Column 1 **Provision**	**Column 2** **Reference**	**Column 3** **Included reference**
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

[Section 149B inserted: No. 3 of 2023 s. 85.]

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

[Heading inserted: No. 3 of 2023 s. 86.]

Division 1 — Preliminary

[Heading inserted: No. 3 of 2023 s. 86.]

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.

[Section 149C inserted: No. 3 of 2023 s. 86.]

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*.

[Section 149D inserted: No. 3 of 2023 s. 86.]

Division 2 — Applications undecided before commencement day

[Heading inserted: No. 3 of 2023 s. 86.]

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.

(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.

[Section 149E inserted: No. 3 of 2023 s. 86.]

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.

[Section 149F inserted: No. 3 of 2023 s. 86.]

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.

[Section 149G inserted: No. 3 of 2023 s. 86.]

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.

[Section 149H inserted: No. 3 of 2023 s. 86.]

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.

[Section 149I inserted: No. 3 of 2023 s. 86.]

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.

[Section 149J inserted: No. 3 of 2023 s. 86.]

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.

[Section 149K inserted: No. 3 of 2023 s. 86.]

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.

[Section 149L inserted: No. 3 of 2023 s. 86.]

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.

[Section 149M inserted: No. 3 of 2023 s. 86.]

Division 3 — Registration

[Heading inserted: No. 3 of 2023 s. 86.]

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.

[Section 149N inserted: No. 3 of 2023 s. 86.]

149O. 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.

[Section 149O inserted: No. 3 of 2023 s. 86.]

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.

(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.

[Section 149P inserted: No. 3 of 2023 s. 86.]

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.

[Section 149Q inserted: No. 3 of 2023 s. 86.]

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.

[Section 149R inserted: No. 3 of 2023 s. 86.]

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

[Heading inserted: No. 3 of 2023 s. 86.]

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.

[Section 149S inserted: No. 3 of 2023 s. 86.]

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

[Heading inserted: No. 3 of 2023 s. 86.]

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.

[Section 149T inserted: No. 3 of 2023 s. 86.]

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.

[Section 149U inserted: No. 3 of 2023 s. 86.]

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.

[Section 149V inserted: No. 3 of 2023 s. 86.]

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.

[Section 149W inserted: No. 3 of 2023 s. 86.]

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.

[Section 149X inserted: No. 3 of 2023 s. 86.]

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.

[Section 149Y inserted: No. 3 of 2023 s. 86.]

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.

[Section 149Z inserted: No. 3 of 2023 s. 86.]

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).

[Section 149ZA inserted: No. 3 of 2023 s. 86.]

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.

[Section 149ZB inserted: No. 3 of 2023 s. 86.]

Division 6 — Transitional regulations

[Heading inserted: No. 3 of 2023 s. 86.]

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.

[Section 149ZC inserted: No. 3 of 2023 s. 86.]

Part 9 — Amendments to other Acts

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

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

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

151. Long title amended

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

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

152. Section 3 replaced

Delete section 3 and insert:

3. Terms used

In this Act —

Board means the Board established under section 7;

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

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

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

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

153. Section 7 amended

Delete section 7(2) and insert:

(2) The Board is constituted by the CEO.

154. Sections 9 to 13 deleted

Delete sections 9 to 13.

155. Section 15 amended

(1) In section 15(2):

(a) in paragraph (b) delete "information; and" and insert:

information.

(b) delete paragraph (c).

(2) Delete section 15(3).

156. Sections 16 to 18 replaced

Delete sections 16, 17 and 18 and insert:

16. Term used: residual affairs

In this Division —

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

(a) the real property held by the College under this Act immediately before commencement day; and

(b) any liabilities relating to that real property.

17. Function of College

(1) The function of the College is to manage and wind-up its residual affairs.

(2) The College is to wind-up its residual affairs as soon as is reasonably practicable after commencement day.

18. Powers of College

(1) The College may do all things that are necessary or expedient for managing and winding-up its residual affairs.

(2) Without limiting what may be done to wind-up its residual affairs, the College is to —

(a) dispose of the real property held by the College under this Act immediately before commencement day; and

(b) discharge any remaining liabilities relating to that real property.

157. Sections 19 to 21 deleted

Delete sections 19 to 21.

158. Section 25 amended

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

the CEO.

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

the CEO and the CEO

159. Section 26 replaced

Delete section 26 and insert:

26. Funds available to the College

(1) All moneys received by the College in performing its function under this Act, including any proceeds from the disposal of property, are to be credited to the Teacher Registration Board Account.

(2) All expenditure incurred by the College for the purposes of performing its function, including the repayment of moneys borrowed by or advanced to the College, is to be charged to the Teacher Registration Board Account.

160. Sections 27 to 29 deleted

Delete sections 27 to 29.

161. Parts 4 to 9 deleted

Delete Parts 4 to 9.

162. Schedules 1 to 4 deleted

Delete Schedules 1 to 4.

Division 2 — Other Acts amended

163. *Children and Community Services Act 2004* amended

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

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

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

164. *Constitution Acts Amendment Act 1899* amended

(1) This section amends the *Constitution Acts Amendment Act 1899*.

(2) In Schedule V Part 3 delete the item relating to The Western Australian College of Teaching.

(3) In Schedule V Part 3 after the item relating to The Taxi Industry Board insert:

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

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

(1) This section amends the *Oaths, Affidavits and Statutory Declarations Act 2005*.

(2) In Schedule 2 delete item 42 and insert:

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

*[**166.** Will not come into operation [1].]*

167. *Prostitution Amendment Act 2008* amended

(1) This section amends the *Prostitution Amendment Act 2008*.

(2) Delete section 34.

168. *Sentencing Act 1995* amended

(1) This section amends the *Sentencing Act 1995*.

(2) In Schedule 1 delete the item relating to the *Western Australian College of Teaching Act 2004*.

(3) In Schedule 1 insert in alphabetical order:

Teacher Registration Act 2012	Teacher Registration Board Account

169. *Spent Convictions Act 1988* amended

(1) This section amends the *Spent Convictions Act 1988*.

(2) In Schedule 3 clause 1(3) in the Table —

(a) in item 14 delete "section 7 of the *Western Australian College of Teaching Act 2004*." and insert:

the *Teacher Registration Act 2012* section 86.

(b) delete item 15;

(c) delete item 16 and insert:

16. A person who is registered, or who has applied for registration, under the *Teacher Registration Act 2012*.

(3) In Schedule 3 delete clause 1(4)(d) and insert:

(d) who has registered or is considering registering the person.

170. *State Administrative Tribunal Act 2004* amended

(1) This section amends the *State Administrative Tribunal Act 2004*.

(2) In Schedule 1 insert in alphabetical order:

Teacher Registration Act 2012

Notes

This is a compilation of the *Teacher Registration Act 2012* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Teacher Registration Act 2012 [1]	16 of 2012	3 Jul 2012	s. 1 and 2: 3 Jul 2012 (see s. 2(a)); Act other than s. 1, 2, 132 and 166: 7 Dec 2012 (see s. 2(b) and *Gazette* 16 Nov 2012 p. 5637); s. 132: 3 Aug 2016 (see s. 2(b) and *Gazette* 2 Aug 2016 p. 3293)
Mutual Recognition (Western Australia) Amendment Act 2022 Pt. 3 Div. 13	7 of 2022	29 Mar 2022	1 Jul 2022 (see s. 2(b) and SL 2022/80 cl. 2)
Legal Profession Uniform Law Application Act 2022 s. 424	9 of 2022	14 Apr 2022	1 Jul 2022 (see s. 2(c) and SL 2022/113 cl. 2)
Working with Children (Criminal Record Checking) Amendment Act 2022 s. 53	47 of 2022	7 Dec 2022	1 Jul 2023 (see s. 2(b) and SL 2023/90 cl. 2)
Teacher Registration Amendment Act 2023	3 of 2023	1 Mar 2023	s. 1 and 2: 1 Mar 2023 (see 2(a)); Act other than s. 1 and 2: 19 Dec 2023 (see s. 2(b) and SL 2023/195 cl. 2)
Statutes (Repeals and Minor Amendments) Act 2025 s. 36 [1]	14 of 2025	25 Sep 2025	26 Sep 2025 (see s. 2(b))
Education and Care Services National Law Application Act 2026 Pt. 6 Div. 7	2 of 2026	31 Mar 2026	1 May 2026 (see s. 2(1)(d) and SL 2026/50 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA legislation website.

Short title	Number and year	Assent	Commencement
Evidence Act 2025 s. 492	15 of 2025	25 Sep 2025	To be proclaimed (see s. 2(e))

Other notes

[1] The *Teacher Registration Act 2012* s. 166 was deleted by the *Statutes (Repeals and Minor Amendments) Act 2025* s. 36(2) before it purported to come into operation.

Defined terms

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

Defined term	Provision(s)
account	88(1)
accreditation standards	3
accredited initial teacher education program	3
actionable offence	3
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professional learning activities policy 3
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provisional registration 3
provisional (returning teacher) registration 3

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transitional matter ..... 149(2), 149ZC(1)
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transitional regulations ..... 149ZC(1)
transitional renewal application ..... 149F(2), 149H(2), 149J(2)
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undecided non-practising registration extension application ..... 149L(1)
undecided provisional registration application ..... 149G(1)
undecided provisional registration renewal application ..... 149H(1)

WACOT Act 135, 149A
WACOT teacher 149A

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