

WESTERN AUSTRALIA

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**EDUCATION AMENDMENT  
ACT 1996**

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**No. 22 of 1996**

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**AN ACT to amend the *Education Act 1928* and to amend  
various other Acts for consequential purposes.**

*[Assented to 11 July 1996.]*

The Parliament of Western Australia enacts as follows:

## **PART 1 — PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Education Amendment Act 1996*.

### **Commencement**

2. (1) Parts 1 and 5 and, subject to subsection (2), Part 2 come into operation on the day on which this Act receives the Royal Assent.

(2) Section 4 (2), to the extent it refers to sections 6AA and 6B of the principal Act as if they had been inserted by this Act, and Part 3 come into operation on such day as is fixed by proclamation.

(3) Part 4 comes into operation on such day as is fixed by proclamation.

### **Principal Act**

3. In this Act the *Education Act 1928\** is referred to as the principal Act.

[\* *Reprinted as at 11 August 1992.*  
*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 63-4 and Act No. 1 of 1995.]*

**PART 2 — AMENDMENTS RELATING TO THE  
ADMINISTRATION OF THE PRINCIPAL ACT**

**Section 3 amended**

4. (1) Section 3 (1) of the principal Act is amended —

(a) by deleting the definition of “chief executive officer” and substituting the following definition —

“

“**chief executive officer**”, subject to subsection (2), means the person holding or acting in the office of chief executive officer of the Education Department, the Department of Training or the Office;

”;

(b) by deleting the definition of “department” and substituting the following definition —

“

“**department**”, subject to subsection (3), means the Department of Training, the Education Department or the Office;

”;

(c) in the definition of “teaching staff” by deleting “within the meaning of the *Public Sector Management Act 1994*”; and

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- (d) by inserting, in the appropriate alphabetical positions, the following definitions —

“

**“Education Department”** means the department of the Public Service designated “Education Department of Western Australia” at the commencement of Part 2 of the *Education Amendment Act 1996*;

**“Office”** means the department of the Public Service designated “Western Australian Office of Non-Government Education” at the commencement of Part 2 of the *Education Amendment Act 1996*;

**“public service officer”** has the meaning given by the *Public Sector Management Act 1994*;

”.

- (2) Section 3 (2) of the principal Act is repealed and the following subsections are substituted —

“

(2) A reference in this Act to the chief executive officer shall be taken to be —

- (a) in relation to a teacher or an employee referred to in section 7 (3) or Division 3 of Part II, a reference to the chief executive officer of the department to which the teacher or employee has been appointed;
- (b) in relation to sections 6AA, 6B, 14, 17B, 20G, 21B and 29, a reference to the chief executive officer of the Education Department;

- (c) in relation to section 9B, a reference to the chief executive officer of the Education Department or the chief executive officer of the Department of Training, or either as the case requires;
  - (d) in relation to section 27B, a reference to the chief executive officer of the Education Department or the chief executive officer of the Office, or either as the case requires; and
  - (e) in relation to sections 32B and 33, a reference to the chief executive officer of the Office.
- (3) A reference in this Act to the department shall be taken to be —
- (a) in relation to sections 9, 17A (3) (a), 26 (2), 27C (1) (b) and 34 (1), a reference to the Education Department;
  - (b) in relation to the definitions of “teacher” and “teaching staff” in section 3 (1) and in relation to sections 7A and 7C (2) (a), a reference to the department to which the person has been appointed;
  - (c) in relation to sections 28 (1) (a), (d1) and (p2) and 28A (3) (r), a reference to the Education Department or the Department of Training, or either as the case requires;
  - (d) in relation to section 32A, a reference to the Office; and
  - (e) in relation to section 38, a reference to one or more, as the case requires, of the

Education Department, the Department of Training or the Office.

”.

**Division 1 heading for Part II inserted**

5. After the heading to Part II of the principal Act the following Division heading is inserted —

“

***Division 1 — Minister’s functions and matters relating to property vested in the Minister***

”.

**Division 2 heading for Part II inserted**

6. Before section 7 of the principal Act the following Division heading is inserted —

“

***Division 2 — Persons required to administer Act***

”.

**Section 7 amended**

7. (1) Section 7 (1) and (2) of the principal Act are repealed and the following subsections are substituted —

“

(1) There shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* —

- (a) a chief executive officer of the Education Department;
- (b) a chief executive officer of the Department of Training;

- (c) a chief executive officer of the Office; and
- (d) such other public service officers as may be necessary for the due administration of this Act.

(2) The Minister may, in relation to either the Education Department or the Department of Training, appoint teachers and employees, other than public service officers, of that Department.

”.

(2) Section 7 (3) of the principal Act is amended by deleting “an officer, of the department” and substituting the following —

“

a public service officer, of the department to which the teacher or employee was appointed

”.

**Section 7AA and Division 3 heading for Part II inserted**

**8.** After section 7 of the principal Act the following section and Division heading are inserted —

“

**Chief executive officers**

**7AA.** (1) The chief executive officer of the Education Department is responsible for the administration of this Act except where another chief executive officer has responsibility under subsection (2) or (3).

(2) The chief executive officer of the Department of Training is responsible for the administration of provisions of this Act which relate, amongst other things, to education provided by technical colleges but

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only to the extent that those provisions relate to education provided by technical colleges.

(3) The chief executive officer of the Office is responsible for the administration of —

- (a) sections 9A, 32A, 32B and 33; and
- (b) sections 27B and 27C but only to the extent that those provisions do not relate to care-centres or pre-school centres at which teachers or employees of the Education Department are employed.

***Division 3 — Disciplinary matters***

”.

**Section 8 repealed**

**9.** Section 8 of the principal Act is repealed.

**Section 21C amended**

**10.** Section 21C of the principal Act is amended in the definition of “staff” by inserting after “or” the following —

“ public service ”.

**Section 27B amended**

**11.** Section 27B (3) of the principal Act is amended by deleting “officer of the department appointed” and substituting the following —

“ person authorized ”.



**Section 28 amended**

12. Section 28 (1) (a1) is amended by deleting “officers of the department” and substituting the following —

“ public service officers to whom section 7 (1) (d) applies ”.

**Section 28A amended**

13. Section 28A (3) (r) of the principal Act is amended by inserting after “teacher,” the following —

“ public service ”.

**Section 32B amended**

14. Section 32B of the principal Act is amended —

(a) in subsection (1) by deleting “superintendent of education” and substituting the following —

“  
person authorized by the chief executive  
officer  
”;

and

(b) in subsection (3) by deleting “superintendent of education” and substituting the following —

“  
person authorized by the chief executive  
officer for that purpose  
”.

**Section 33 amended**

**15.** Section 33 of the principal Act is amended —

- (a) by deleting “a superintendent of education” in both places where it occurs and substituting in each case the following —

“  
a person authorized by the chief executive officer for that purpose  
”;

and

- (b) by deleting “said superintendent of education” and substituting the following —

“  
said person authorized by the chief executive officer  
”.

**Consequential amendments**

**16.** (1) The *Coal Mines Regulation Act 1946\** is amended —

- (a) in section 41D (1) (b) (ii) (C) by deleting “Technical Education Division of the Education Department of Western Australia” and substituting the following —

“  
Department of Training as defined in the *Education Act 1928*  
”;

and

- (b) in section 41DA (b) (ii) (C) by deleting “Technical Education Division of the department of the Public Service principally assisting the Minister of the Crown to whom the administration of the *Education Act 1928* is for the time being committed” and substituting the following —

“  
Department of Training as defined in the  
*Education Act 1928*

”.

[\* *Reprinted as at 2 September 1980.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, pp. 34-5.]*

- (2) The *Colleges Act 1978*\* is amended in section 11 (2) (a) by deleting “department of the Public Service principally assisting the Minister charged with the administration of the *Education Act 1928* in administering that Act” and substituting the following —

“  
Education Department as defined in the *Education  
Act 1928*

”.

[\* *Act No. 100 of 1978.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, p. 35.]*

- (3) The *Curtin University of Technology Act 1966*\* is amended by deleting section 9 (1) (c) and substituting the following paragraph —

“  
(c) one person who is nominated by the Minister  
charged with the administration of the  
*Education Act 1928*;

”.

[\* *Reprinted as at 24 August 1988.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, p. 55.]*

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(4) The *Edith Cowan University Act 1984\** is amended by deleting section 9 (1) (aa) and substituting the following paragraph —

“

(aa) 1 person who is nominated by the Minister charged with the administration of the *Education Act 1928*;

”.

[\* *Reprinted as at 16 May 1991.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 63.]*

(5) The *Government Employees' Housing Act 1964\** is amended by deleting section 8 (2) (c) and substituting the following paragraph —

“

(c) one person shall be the chief executive officer of the Education Department as defined in the *Education Act 1928* or a public service officer employed at that Department nominated in writing by that chief executive officer;

”.

[\* *Act No. 95 of 1964.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 89 and Act No. 1 of 1995.]*

(6) The *Library Board of Western Australia Act 1951\** is amended in section 5 (3) by deleting “department of the Public Service principally assisting the Minister charged with the

administration of the *Education Act 1928* in administering that Act” and substituting the following —

“  
Education Department as defined in the *Education Act 1928*  
”.

[\* Reprinted as at 17 May 1984.  
For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, p. 120.]

(7) The *Litter Act 1979\** is amended in section 9 (1) (g) by deleting “department of the Public Service principally assisting the Minister charged with the administration of the *Education Act 1928* in administering that Act” and substituting the following —

“  
Education Department as defined in the *Education Act 1928*  
”.

[\* Reprinted as at 20 July 1983.  
For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, p. 122 and  
Act No. 53 of 1994 .]

(8) The *Murdoch University Act 1973\** is amended by deleting section 12 (1) (b) and substituting the following paragraph —

“  
(b) one person who is nominated by the Minister charged with the administration of the *Education Act 1928*;  
”.

[\* Act No. 20 of 1973.  
For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, pp. 145-6.]

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(9) The *Museum Act 1969*\* is amended in section 37 (3) (b) by deleting “department of the Public Service principally assisting the Minister charged with the administration of the *Education Act 1928* in administering that Act” and substituting the following —

“

Education Department as defined in the *Education Act 1928*

”.

[\* *Act No. 90 of 1969.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 146.]*

(10) The *Public Education Endowment Act 1909*\* is amended in section 1A in the definition of “chief executive officer of the department” by deleting “department of the Public Service principally assisting the Minister charged with the administration of the *Education Act 1928* in administering that Act” and substituting the following —

“

Education Department as defined in the *Education Act 1928*

”.

[\* *Reprinted as at 29 December 1987.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 173.]*

(11) The *Secondary Education Authority Act 1984*\* is amended —

- (a) in section 3 in the definition of “chief executive officer of the department” by deleting “department of the Public Service principally assisting the Minister

charged with the administration of the *Education Act 1928* in administering that Act” and substituting the following —

“  
Education Department as defined in the  
*Education Act 1928*  
”;

- (b) in section 3 by deleting the semicolon at the end of the definition of “sub-committee” and substituting a full stop;
- (c) in section 3 by deleting the definition of “technical college or school”;
- (d) in section 6 (2) (d) by deleting “senior officer of the department having responsibility with respect to technical and further education under” and substituting the following —

“  
chief executive officer of the Department of  
Training as defined in  
”;  
and

- (e) in section 25 (3) (h) by deleting “senior officer of the department having responsibility with respect to technical and further education under” and substituting the following —

“  
chief executive officer of the Department of  
Training as defined in  
”.

[\* *Act No. 118 of 1984.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, pp. 192-3.]*

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(12) The *University of Western Australia Act 1911\** is amended by deleting section 10 (e) and substituting the following paragraph —

“

- (e) One person who is nominated by the Minister charged with the administration of the *Education Act 1928*.

”.

[\* *Reprinted as at 31 March 1993.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 224-5.]*

(13) The *Western Australian Planning Commission Act 1985\** is amended in section 19 (1g) (a) (iv) by deleting “within the meaning of” and substituting the following —

“ of the Education Department as defined in ”.

[\* *Act No. 91 of 1985.*

*(Previously State Planning Commission Act 1985).*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 204 and Act No. 84 of 1994.]*



**PART 3 — AMENDMENTS RELATING TO PROPERTY  
VESTED IN THE MINISTER**

**Section 6AA inserted**

**17.** After section 6 of the principal Act the following section is inserted —

“

**CEO may enter into agreements on Minister’s  
behalf for improvement of school lands**

**6AA.** The Minister may, by a signed instrument of delegation, delegate to the chief executive officer either generally or as otherwise provided in the instrument, the power —

- (a) to enter into; and
- (b) to sign,

on the Minister’s behalf, an agreement for the provision of a building, structure or other erection, whether permanent or temporary, on land vested in the Minister, but the Minister cannot delegate this power of delegation.

”.

**Sections 6B and 6C inserted**

**18.** After section 6A of the principal Act the following sections are inserted —

“

**Licences for use of school property by persons  
generally**

**6B.** (1) The Minister may grant a licence to a person for the use of real or personal property vested in the Minister.

- (2) A licence under this section —
- (a) must be in writing;
  - (b) has effect for up to one year or such lesser period as is specified in the licence;
  - (c) may provide for a payment to be made to the Minister in connection with the use of the property;
  - (d) may provide for an amount of money to be paid to the Minister as a security for the performance of the licensee's obligations under the licence; and
  - (e) is otherwise to be on such terms and subject to such conditions as may be specified in the licence.

(3) The Minister may, by a signed instrument of delegation, delegate to the chief executive officer either generally or as otherwise provided in the instrument, the power —

- (a) to grant; and
- (b) to sign,

on the Minister's behalf, a licence under this section.

(4) The Minister may, by a signed instrument of delegation, delegate to the chief executive officer the power to delegate to another person the power —

- (a) to grant; and
- (b) to sign,

on the Minister's behalf, a licence under this section.

(5) The use of property in respect of which a licence can be granted under this section is not limited to the purposes of public education but the use must not interfere with the normal operations of any school to which the property relates.

**Financial provisions relating to licences**

**6C.** Where a licence granted under section 6B —

- (a) relates to property in respect of a particular school; and
- (b) requires an amount of money to be paid in accordance with section 6B (2) (c) or (d),

then the money may be credited to the school's Fund within the meaning of section 9B and shall be treated for the purposes of, but subject to, section 9B as moneys forming part of the Fund.

”.

**Section 9B amended**

**19.** (1) Section 9B (5) of the principal Act is amended —

(a) in paragraph (a), by inserting before “may” the following —

“ subject to paragraph (aa), ”;

(b) by inserting after paragraph (a) the following paragraph —

“

(aa) comprising an amount of money paid under a licence granted under section 6B as a security for the

performance of an obligation may only be applied in accordance with the licence, and paragraph (a) only applies to that money if the money has been forfeited under, and in accordance with, the licence;

”;

and

- (c) in paragraph (c), by inserting after “paragraph (a)” the following —

“ or (aa) ”.

- (2) Section 9B (6) of the principal Act is amended —

- (a) by deleting paragraph (a) and substituting the following paragraph —

“

- (a) monies in the Fund —

(i) subject to subparagraph (ii), shall be dealt with as the chief executive officer may direct;

(ii) comprising an amount of money paid under a licence granted under section 6B as a security for the performance of an obligation may only be applied in accordance with the licence, and subparagraph (i) only applies to that money if the money has been forfeited under, and in accordance with, the licence;

”;

and

- (b) in paragraph (b), by deleting “such a direction” and substituting the following —

“ a direction under paragraph (a) ”.

**PART 4 — AMENDMENTS RELATING TO SCHOOL  
DRESS CODES**

**Section 21C amended**

**20.** Section 21C of the principal Act is amended —

- (a) by deleting the semicolon at the end of the definition of “staff” and substituting a full stop; and
- (b) by deleting the definition of “students”.

**Section 21D repealed and a section substituted**

**21.** Section 21D of the principal Act is repealed and the following section is substituted —

“

**School decision-making groups**

**21D.** (1) A school decision-making group shall be established in respect of each school and shall comprise —

- (a) parents of students at the school;
- (b) staff at the school;
- (c) members of the local community; and
- (d) where the school is a school other than a pre-primary centre or primary school, students at the school,

but nothing in this section requires students to be represented on a school decision-making group if the students have chosen not to be represented on the group.

(2) The functions of a school decision-making group are —

- (a) to participate in the planning and review of the school's development and, as part of that process, to participate in the formulation of educational objectives and priorities for the school; and
- (b) to formulate and approve, after consultation with the school community, a dress code to be complied with by students at the school when the students are attending or representing the school.

(3) Notwithstanding subsection (1), the Minister may by notice published in the *Government Gazette* declare that that subsection does not apply in respect of a school or schools specified in the notice.

(4) For the purposes of subsection (2) (b), a school's "school community" shall comprise —

- (a) parents of students at the school;
- (b) staff at the school; and
- (c) students at the school.

”.

### **Section 21E amended**

**22.** Section 21E (2) of the principal Act is amended by inserting after paragraph (g) the following paragraphs —

“

- (ga) providing for the matters which may, or cannot, be provided for in a school dress code;

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- (gb) providing for the procedures to be followed by a school decision-making group in respect of the formulation and approval of a dress code for the school;
- (gc) enabling the principal of a school to exempt a student at the school from complying with any requirement of a dress code approved by the school's school decision-making group;

”.

**Section 28 amended**

**23.** Section 28 (1) of the principal Act is amended in paragraph (c) by inserting after “enforced,” the following —

“

including discipline for not complying with a requirement of a dress code approved by a school decision-making group under Part VA,

”.



**PART 5 — AMENDMENTS RELATING TO FUNDING OF,  
AND LOANS FOR, CARE-CENTRES AND PRE-SCHOOL  
CENTRES**

**Section 9A amended**

**24.** Section 9A (1) of the principal Act is amended in the definition of “non-government school” by inserting after “includes” the following —

“ a centre that is a care-centre or ”.

**Section 27C amended**

**25.** Section 27C of the principal Act is amended by inserting after subsection (2) the following subsection —

“

(3) The Minister may, out of such moneys as may be provided by Parliament for the purposes of this Act, provide for loans to be made to care-centres and to pre-school centres and for interest payable in respect of loans of moneys borrowed for the establishment, construction or acquisition of land, buildings, plant and equipment by care-centres and pre-school centres to be subsidized and for repayments of such loans to be made on the terms fixed by the Minister.

”.