

Western Australia

Curriculum Council Amendment Act 2011

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No. 37 of 2011

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Curriculum Council Amendment Act 2011

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Western Australia

Curriculum Council Amendment Act 2011

No. 37 of 2011

An Act to amend —

- **the *Curriculum Council Act 1997*; and**
 - **certain other Acts as a consequence,**
- and for related purposes.**

[Assented to 13 September 2011]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Curriculum Council Amendment Act 2011*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — 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.

Part 2 — *Curriculum Council Act 1997* amended

3. Act amended

This Part amends the *Curriculum Council Act 1997*.

4. Long title replaced

Delete the long title and insert:

An Act to establish a State agency with functions relating to the development and accreditation of courses and the standards, assessment and certification of student achievement, to provide for a database relating to participation in education, training or employment by students during their school years, and for related purposes.

5. Section 1 (short title) amended

In section 1 delete “*Curriculum Council*” and insert:

School Curriculum and Standards Authority

6. Section 3 amended

(1) In section 3 delete the definitions of:

appointed member

committee

Council

course of study

member of the Council

school system

(2) In section 3 insert in alphabetical order:

advisory committee means the Curriculum and Assessment Committee or the Standards Committee;

Authority means the School Curriculum and Standards Authority established by section 5;

Board means the governing body of the Authority referred to in section 6;

committee means an advisory committee or a committee appointed under section 7F;

community kindergarten means a community kindergarten registered under the School Education Act Part 5;

course means a course of study, subject or syllabus;

Curriculum and Assessment Committee means the committee established under section 7D;

member means a member of the Board and includes a person acting under Schedule 1 clause 4;

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

school system means a school system that is declared to be a recognised school system under the School Education Act section 169;

school years includes the pre-compulsory education period as defined in the School Education Act section 5;

Standards Committee means the committee established under section 7B;

standards of student achievement means the standards of student achievement that are expected to be attained at designated stages in a course or in the compulsory education period;

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

Board;

- (4) In section 3 in the definition of *school* delete “kindergarten registered under Part 5 of that Act;” and insert:

kindergarten;

- (5) In section 3 in the definitions of *compulsory education period*, *Education Department*, *education provider*, *governing body*, *home education* and *school* delete “*School Education Act 1999*” and insert:

School Education Act

7. Section 4 replaced

Delete section 4 and insert:

4. Objects

The main objects of this Act are —

- (a) to establish the School Curriculum and Standards Authority; and
- (b) to provide for standards of student achievement and for the assessment and certification of student achievement according to those standards; and
- (c) to provide for the development of an outline of curriculum and assessment in schools that, taking account of the needs of students, sets out

the knowledge, understanding, skills, values and attitudes that students are expected to acquire and guidelines for the assessment of student achievement; and

- (d) to provide for the development and accreditation of courses for schooling; and
- (e) to provide for the maintenance of a database of information relating to —
 - (i) the participation by students during their school years in education, training or employment as provided for by the School Education Act; and
 - (ii) the achievements of students during those years; and
 - (iii) records of assessment in respect of students.

8. Part 2 heading replaced and Part 2 Division 1 heading inserted

Delete the heading to Part 2 and insert:

**Part 2 — The School Curriculum and Standards
Authority and committees**

**Division 1 — School Curriculum and Standards
Authority**

**9. Sections 5 and 6 replaced and section 7A and Part 2
Division 2 inserted**

Delete sections 5 and 6 and insert:

5. School Curriculum and Standards Authority established

- (1) A body called the School Curriculum and Standards Authority is established.
- (2) The Authority is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Authority in its corporate name.
- (4) The Authority is an agent of the State and has the status, immunities and privileges of the State.

6. The Board

- (1) The Authority is to have a governing body (the *Board*).
- (2) The Board, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

7A. How Board is constituted

- (1) The Minister is to appoint 7 people to be the members of the Board.
- (2) A person who is the chief executive officer or a member of staff is not eligible to be appointed as a member of the Board.
- (3) The Minister is to designate one of the members to be the chairperson.
- (4) The Minister is to ensure that the members of the Board have, between them, the knowledge, experience and expertise needed to enable the Authority's functions under this Act to be performed effectively.

Division 2 — Committees

7B. Standards Committee

- (1) A committee called the Standards Committee is established.
- (2) The Standards Committee is to consist of —
 - (a) one person who is a member of, and appointed by, the Board; and
 - (b) 4 people appointed by the Board, with the approval of the Minister, who have between them, in the opinion of the Board, qualifications, experience and expertise in the development and measurement of standards of student achievement.
- (3) A person who is the chief executive officer or a member of staff is not eligible to be a member of the Standards Committee.
- (4) The person appointed in accordance with subsection (2)(a) is the chairperson of the Standards Committee.
- (5) A member of the Standards Committee holds office for the term determined by the Board and is eligible for reappointment.

7C. Function and procedures of Standards Committee

- (1) The function of the Standards Committee is to provide advice to the Board in relation to —
 - (a) the functions of the Authority referred to in section 9(1)(j) to (o); and
 - (b) any other matter on which the Board requests the Standards Committee to provide advice.

- (2) To the extent that the procedures of the Standards Committee are not prescribed by the regulations, and subject to any direction given to it by the Board, the Standards Committee may determine its own procedures.

7D. Curriculum and Assessment Committee

- (1) A committee called the Curriculum and Assessment Committee is established.
- (2) The Curriculum and Assessment Committee is to consist of —
 - (a) one person who is a member of, and appointed by, the Board; and
 - (b) 12 people appointed by the Board, with the approval of the Minister, who have between them, in the opinion of the Board, qualifications, experience and expertise in —
 - (i) the development and implementation of courses in government schools or non-government schools, as defined in the School Education Act; and
 - (ii) the options for employment or further study available to students leaving secondary school.
- (3) A person who is the chief executive officer or a member of staff is not eligible to be a member of the Curriculum and Assessment Committee.
- (4) The person appointed in accordance with subsection (2)(a) is the chairperson of the Curriculum and Assessment Committee.
- (5) A member of the Curriculum and Assessment Committee holds office for the term determined by the Board and is eligible for reappointment.

7E. Function and procedures of Curriculum and Assessment Committee

- (1) The function of the Curriculum and Assessment Committee is to provide advice to the Board in relation to —
 - (a) the functions of the Authority referred to in section 9(1)(a) to (d) and (f) to (i); and
 - (b) any other matter on which the Board requests the Curriculum and Assessment Committee to provide advice.
- (2) To the extent that the procedures of the Curriculum and Assessment Committee are not prescribed by the regulations, and subject to any direction given to it by the Board, the Curriculum and Assessment Committee may determine its own procedures.

7F. Other committees

- (1) The Board —
 - (a) may appoint committees to assist the Board in relation to the performance of the Authority's functions; and
 - (b) may discharge or alter any committee so appointed.
- (2) A committee appointed under this section may consist of or include people who are not members of the Board.
- (3) The chief executive officer is not eligible to be a member of a committee appointed under this section.
- (4) Subject to any direction given to it by the Board, a committee appointed under this section may determine its own procedures.

7G. Support services for committees

The Authority is to provide a committee with any clerical or other support services that the Authority determines are appropriate.

10. Part 2 Division 3 heading inserted

Before section 7 insert:

Division 3 — General

11. Section 7 amended

In section 7 delete “Council” and insert:

Board

12. Section 8A inserted

After section 7 insert:

8A. Chief executive officer or representative may attend meetings of Board and committees

- (1) Unless the Board or committee, as the case requires —
- (a) determines otherwise in respect of a particular meeting; and
 - (b) informs the chief executive officer or member of staff of the determination before the meeting is held,

the chief executive officer, or a member of staff representing the chief executive officer, may attend any

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meeting of the Board or a committee and, subject to subsection (2), may take part in the consideration and discussion of any matter before a meeting, but cannot vote on any matter.

- (2) If so requested by the Board or a committee in relation to a particular matter, the chief executive officer, or a member of staff representing the chief executive officer, is not to attend a meeting while the matter is before the meeting.

13. Section 8 amended

In section 8 delete “Council or a committee, other than the chief executive officer,” and insert:

Board or a committee

14. Sections 9, 10, 11, 12 and 13 replaced

Delete sections 9, 10, 11, 12 and 13 and insert:

9. Functions of Authority

- (1) The functions of the Authority are —
- (a) to establish an outline of curriculum and assessment in schools; and
 - (b) to issue guidelines for the development of courses and the assessment of student achievement in those courses; and
 - (c) to develop courses, or to cause courses to be developed, in accordance with the guidelines issued under paragraph (b); and
 - (d) to evaluate and, where appropriate, accredit courses developed by the Authority or other

- persons in accordance with the guidelines issued under paragraph (b); and
- (e) to recognise either wholly or in part or with modification —
- (i) courses; and
 - (ii) the assessment of student achievement; and
 - (iii) the standards of student achievement that apply to that assessment,
- that are —
- (iv) the subject of agreements or arrangements made between the State and the Commonwealth (whether or not those agreements or arrangements involve another State or a Territory); or
 - (v) otherwise considered appropriate by the Authority;
- and
- (f) to determine courses —
- (i) recognised or accredited by the Authority; or
 - (ii) otherwise considered by the Authority to be appropriate for the purposes of this paragraph,
- in which students may be assessed, or caused to be assessed, by the Authority, whether for the purposes of certification or otherwise; and
- (g) to establish the minimum requirements for graduation from secondary school and for the issue of a certificate of student achievement; and
- (h) for the purposes of graduation from secondary school and the issue of a certificate of student

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achievement, to maintain a register of student achievements in courses and activities that are considered by the Authority to be relevant to those purposes and are —

- (i) recognised or accredited by the Authority or by bodies other than the Authority; or
- (ii) otherwise considered by the Authority to be appropriate for those purposes;

and

- (i) to evaluate and if appropriate recognise, for the purposes of certification or otherwise, the achievement of students, whether that achievement is attained in the State or elsewhere; and
- (j) to establish the standards of student achievement and other requirements that apply to the assessment of student achievement made, or caused to be made, by the Authority; and
- (k) to determine the eligibility of students and other people in relation to assessments made, or caused to be made, by the Authority; and
- (l) to assess student achievement, or cause student achievement to be assessed, at the times determined by the Authority; and
- (m) to provide, at the times and in the manner determined by the Authority, the results of, and reports on, the assessment of student achievement made, caused to be made or recognised by the Authority to governing bodies, principals of schools, students and parents of students; and
- (n) to the extent determined by the Authority, to provide for the comparability of assessments of

- student achievement in the compulsory education period that are made, caused to be made or recognised by the Authority; and
- (o) to consult with universities, and persons and bodies having functions relating to vocational education and training, with respect to standards of student achievement and other requirements and procedures for admission to university and vocational education and training, and to review from time to time the effects of those standards, requirements and procedures; and
 - (p) to provide information to universities, and persons and bodies having functions relating to vocational education and training, on the achievement of students seeking admission to university or to vocational education and training; and
 - (q) to establish, determine the criteria for, and administer exhibitions and awards to be granted in recognition of student achievement.
- (2) The Authority has any other function given to it under this Act or another written law.
- (3) The Authority is to ensure that —
- (a) each school receives free of charge a copy of the most recent outline of curriculum and assessment in schools established by the Authority; and
 - (b) that outline of curriculum and assessment in schools is made available to the public in any manner the Authority thinks fit.

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- (4) The Authority is to ensure that decisions of the Authority made in the performance of its functions under subsection (1) are notified to —
 - (a) education providers to whom or which the decisions are relevant; and
 - (b) any other person or body to whom or which the Authority considers the decisions should be notified.
- (5) Without limiting subsection (4), the Authority may comply with that subsection by publishing in the *Gazette*, or in another manner determined by the Authority, a notice of —
 - (a) a decision to which subsection (4) applies; and
 - (b) a variation or revocation of a decision of which notice is published under this subsection.

10. Advisory function

It is a function of the Authority to advise the Minister —

- (a) on matters arising under this Act; and
- (b) on any agreements or arrangements made, or proposed to be made, between the State and the Commonwealth (whether or not those agreements or arrangements involve another State or a Territory) that relate to any of the Authority's other functions.

11. Draft reports on standards of student achievement

- (1) The Authority may prepare reports on the standards of student achievement attained in schools in the State.
- (2) A report under subsection (1) is to be prepared in draft form (a *draft report*).

- (3) The Authority —
 - (a) is to give a copy of a draft report to any governing body that the Authority considers likely to want to make submissions to the Authority in relation to the report; and
 - (b) is to notify the governing body that it has a specified period (of not less than 28 days) within which it may make written submissions to the Authority in relation to the report.
- (4) The governing body may make written submissions to the Authority in relation to the draft report within the period specified under subsection (3)(b).
- (5) The Authority may, in a notice under subsection (3)(b), request the governing body to provide specified information to the Authority within a specified period (of not less than 28 days) in relation to any matter referred to in the draft report.
- (6) A governing body is to comply with a request under subsection (5).

12. Reports to be given to Minister and governing bodies

- (1) In this section —
 - aggregated form* has the meaning given in section 19A(1);
 - draft report* means a report prepared under section 11(2);
 - relevant governing body* means a governing body to which a copy of a draft report is given under section 11(3).
- (2) After considering in relation to a draft report —
 - (a) any submissions made to the Authority by a governing body under section 11(4); and

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- (b) any information provided to the Authority by a governing body under section 11(6); and
 - (c) any other information available to the Authority under this Act that the Authority considers relevant,
- the Authority —
- (d) may finalise the report, including any modifications it considers appropriate; or
 - (e) may decide not to proceed with the report.
- (3) If subsection (2)(d) applies, the Authority is to give a copy of the report to the Minister and to any relevant governing body.
- (4) If subsection (2)(e) applies and without limiting section 9(4), the Authority is to notify any relevant governing body of the decision made by the Authority not to proceed with the report.
- (5) Any information in a report finalised by the Authority under this section that relates to students is to be in aggregated form.

15. Section 14 amended

- (1) In section 14(1)(a):
 - (a) in subparagraph (i) delete “made or recognized” and insert:

made, caused to be made or recognised
 - (b) in subparagraph (ii) delete “of study”.
- (2) Delete section 14(3).

16. Section 15 amended

In section 15(2):

- (a) in paragraph (c) delete “property;” and insert:

property; and
- (b) after paragraph (c) insert:

(da) with the approval of the Minister, provide funds by way of grants, subsidies or otherwise to governing bodies or other persons or bodies for purposes related to —
 - (i) the development of courses and standards of student achievement; and
 - (ii) the assessment of student achievement;and
- (c) after each of paragraphs (a), (b), (d) and (e) insert:

and

17. Section 16 amended

In section 16(3):

- (a) delete “The Council” and insert:

The Authority
- (b) in paragraph (a) delete “Council” and insert:

Authority

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(c) delete paragraph (c) and insert:

(c) advise and confer with employers, organisations of employees and employers, and such other persons and bodies as the Authority thinks fit, with respect to recognition by those persons and bodies of courses in which students are assessed, or caused to be assessed, by the Authority, and advise those persons and bodies with respect to methods of assessment and methods of certification.

(d) delete paragraph (d).

18. Section 17 amended

In section 17(1):

(a) delete “The Council” and insert:

The Authority

(b) in paragraph (a) delete “members of the Council;” and insert:

members; or

(c) after paragraph (a) insert:

(ba) the chief executive officer; or

(d) after paragraph (b) insert:

or

19. Section 18 amended

Delete section 18(2) and insert:

- (2) The text of a direction given under subsection (1) is to be —
 - (a) tabled in each House of Parliament not later than 14 sitting days of that House after the day on which the direction was given; and
 - (b) included in the annual report submitted by the accountable authority of the Authority under the *Financial Management Act 2006* Part 5.

20. Section 19A amended

- (1) In section 19A(1) delete the definition of *School Education Act*.
- (2) In section 19A(2) in the definition of *provider* in the Table:
 - (a) before item 1 insert:

1A.	A student enrolled at a	The governing body.
	community kindergarten.	
 - (b) in item 1 delete “at a school.” and insert:

at a school (other than a community kindergarten).
 - (c) in item 2 delete “of study”.

21. Section 19C amended

(1) At the beginning of section 19C insert:

(1) In this section —

first year of the relevant education period means —

- (a) for a student enrolled in a school during the pre-compulsory education period — the first year of that enrolment; or
- (b) otherwise, the first year of the compulsory education period.

(2) In section 19C:

(a) delete “A student” and insert:

(2) A student

(b) delete “8th year of the compulsory” and insert:

first year of the relevant

(c) after paragraph (a) insert:

- (ba) in the case of a student who at that time is enrolled in a community kindergarten — by the governing body of the community kindergarten; or

- (3) At the end of section 19C insert:
- (3) The regulations may provide for the opening of a student record for students for whom —
- (a) on the commencement of the *Curriculum Council Amendment Act 2011* section 21, a student record has not been opened; and
 - (b) a student record would not otherwise be required to be opened under this section.

22. Section 19I amended

- (1) In section 19I(1):
- (a) delete “of the Council” and insert:

of the Authority
 - (b) delete paragraph (a) and insert:

(a) information relating to student records in the possession of the former Council immediately before the commencement of the *Curriculum Council Amendment Act 2011* section 9; and
 - (c) in paragraph (c) after “received by” insert:

or otherwise available to
- (2) After section 19I(1) insert:
- (2A) In subsection (1) —

former Council means the Curriculum Council established under this Act as in force immediately

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before the commencement of the *Curriculum Council Amendment Act 2011* section 9.

- (3) In section 19I(5) delete “section 14(1)(c), (2) and (3).” and insert:

sections 11(1), 12(2) and 14(1)(c) and (2).

Note: The heading to amended section 19I is to read:

Function of Authority to maintain database relating to student records

23. Section 19J amended

- (1) Before section 19J(1) insert:

- (1A) In this section —

parent, of a student, means a person who at law has responsibility for the day to day care, welfare and development of the student;

student record includes a record of assessment referred to in section 14(1)(a) that is kept in respect of a student on the database maintained under section 19I.

- (2) In section 19J(2) delete “concerned” and insert:

concerned, a parent of the student

Note: The heading to amended section 19J is to read:

Provision of information to students and others

24. Section 20 amended

In section 20(2):

- (a) delete “Council,” and insert:

Board,

- (b) delete “Council.” and insert:

Authority.

25. Section 22 amended

In section 22(1)(a) delete “the Crown in right of”.

26. Section 23 amended

In section 23:

- (a) in paragraph (c) delete “section 25 or 26; and” and insert:

section 26; and

- (b) after each of paragraphs (a) and (b) insert:

and

Note: The heading to amended section 23 is to read:

Fund of Authority

27. Section 24 amended

(1) Delete section 24(1) and insert:

(1) An account called the School Curriculum and Standards Authority Account is to be established as an agency special purpose account under the *Financial Management Act 2006* section 16, to which the funds referred to in section 23 are to be credited.

(2) In section 24(2)(b) delete “section 25 or 26; and” and insert:

section 26; and

Note: The heading to amended section 24 is to read:

School Curriculum and Standards Authority Account

28. Section 25 deleted

Delete section 25.

29. Section 26 amended

In section 26(1) delete “In addition to its powers under section 25, the Council” and insert:

The Authority

Note: The heading to amended section 26 is to read:

Borrowing

30. Sections 27 and 28 deleted

Delete sections 27 and 28.

31. Section 30 amended

In section 30(3) delete “Council or the Crown” and insert:

Authority or the State

32. Section 31 amended

(1) In section 31(4):

(a) delete “Council” and insert:

Authority

(b) delete “Council,” and insert:

Board,

(2) In section 31(5):

(a) delete “Council” (first occurrence) and insert:

Authority

(b) delete “Council” (second occurrence) and insert:

Board

(c) delete “Council,” and insert:

Authority,

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

Execution of documents by Authority

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33. Section 32 amended

(1) In section 32(2):

(a) in paragraph (a) delete “Council;” and insert:

Board; or

(b) after paragraph (b) insert:

(ca) the chief executive officer; or

(2) After section 32(2) insert:

(3A) Subsection (1) does not apply to information in a report referred to in section 11 or 12 to the extent to which the information is summary or statistical information that could not reasonably be expected to enable details relating to a person or a school to be ascertained.

(3) In section 32(3) delete “*School Education Act 1999*,” and insert:

School Education Act,

34. Section 33 amended

In section 33(2):

(a) in paragraph (a)(i) delete “of study”;

(b) delete paragraph (b) and insert:

(b) procedures for the external assessment by the Authority of student achievement, including external assessment for the purposes of certification, and the proper conduct of that

assessment and, without limiting this paragraph, providing for —

- (i) enrolment for external assessments; and
- (ii) the designation of examination centres; and
- (iii) the appointment of supervisors of external assessments; and
- (iv) requirements for people undertaking or proposing to undertake external assessments (*candidates*) to produce identification documents; and
- (v) restrictions relating to materials that candidates may bring into examination centres and the exclusion from examination centres of candidates who do not comply with those restrictions; and
- (vi) the inspection by supervisors of materials brought into examination centres by candidates; and
- (vii) restrictions relating to the consumption of food and drinks by candidates during external assessments; and
- (viii) special arrangements for candidates with disabilities or suffering illness, injury or other impairment; and
- (ix) requirements for candidates suffering illness, injury or other impairment to provide to the Authority a medical certificate, statutory declaration or other evidence of that illness, injury or impairment; and
- (x) requirements relating to the conduct of candidates during external assessments; and

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- (xi) the disqualification of, or other disciplinary action that the Authority may take in respect of, candidates who engage in fraud, collusion or other misconduct during external assessments; and
- (xii) appeals by candidates who are subject to disqualification or other disciplinary action taken by the Authority; and
- (xiii) protection of examination papers and related materials.

35. Section 34 deleted

Delete section 34.

36. Section 36 amended

In section 36(1) delete “its commencement.” and insert:

the commencement of the *Curriculum Council Amendment Act 2011* section 36.

37. Part 7 inserted

After section 36 insert:

Part 7 — Transitional provisions

37. Terms used

In this Part —

assets —

- (a) means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal; and

- (b) without limiting paragraph (a), includes choses in action, goodwill, rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by or the subject of an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

commencement day means the day on which the *Curriculum Council Amendment Act 2011* section 37 comes into operation;

Council means the Curriculum Council under this Act as in force before the commencement day;

liability means any liability, duty or obligation 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, prospective or contingent.

38. Council abolished

At the beginning of the commencement day the Council is abolished and its members go out of office.

39. Devolution of Council's assets, liabilities, etc.

- (1) On the commencement day —
 - (a) the assets and rights of the Council that were immediately before that day vested in the Council vest in the Authority by force of this section; and
 - (b) the liabilities of the Council immediately before that day become, by force of this section, the liabilities of the Authority.
- (2) On and after the commencement day, any proceedings or remedy that, immediately before that day, might

have been brought or continued by or available against or to the Council may be brought or continued by, and are or is available against or to, the Authority.

- (3) As soon as is practicable after the commencement day, all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) relating to the operations of the Council are to be delivered to the Authority.

40. Chief executive officer of Council continues in office

The person holding office as the chief executive officer of the Council immediately before the commencement day continues to hold office as if appointed as the chief executive officer of the Authority in accordance with section 20(1).

41. Transfer of members of staff to Authority

- (1) A person engaged by the Council immediately before the commencement day under section 21(2) is to be taken to have been engaged by the Authority under that provision on the same terms and conditions as the person was engaged by the Council.
- (2) A person engaged under a contract for services or appointed on a casual employment basis by the Council under the *Public Sector Management Act 1994* section 100 immediately before the commencement day is to be taken to have been engaged or appointed under that section by the Authority on the same terms and conditions as the person was engaged or appointed by the Council.
- (3) An arrangement on agreed terms between the Council and an employer under section 21(6) or an employing authority under section 22 that is in force immediately before the commencement day is to be taken to be an arrangement under the relevant provision on the same

terms between the Authority and the employer or employing authority.

- (4) Nothing in this section prevents the exercise by the Authority on and after the commencement day of its powers in relation to the management of the members of staff of the Authority.

42. Employees' rights preserved

Except as otherwise agreed by an employee, the operation of section 41 does not —

- (a) affect the employee's pay, as that term is defined in the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* regulation 3; or
- (b) affect the employee's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave; or
- (c) affect any rights under a superannuation scheme; or
- (d) interrupt the continuity of the employee's service.

43. Curriculum Council Account

The Curriculum Council Account established under section 24, as in force before the commencement day, continues to operate under that section as the School Curriculum and Standards Authority Account.

44. Completion of things commenced

Anything commenced to be done by the Council before the commencement day may be continued by the Authority so far as the doing of that thing is within the functions of the Authority.

45. Continuing effect of things done

Any act, matter or thing done or omitted to be done before the commencement day by, to or in respect of the Council, to the extent that the act, matter or thing —

- (a) has any force or significance; and
- (b) is not governed by another provision of this Part,

is to be taken to have been done or omitted by, to or in respect of the Authority so far as the act, matter or thing is relevant to the Authority.

46. Exemption from State taxes

- (1) In this section —

State tax includes duty under the *Duties Act 2008* and any other tax under a written law.

- (2) State tax is not payable in relation to —

- (a) anything that occurs by the operation of this Part; or
- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Part, or to give effect to this Part, or for a purpose connected with or arising out of giving effect to this Part.

47. Agreements and instruments generally

Any agreement or instrument subsisting immediately before the commencement day —

- (a) to which the Council was a party; or

(b) that contains a reference to the Council,
has effect on and after the commencement day as if —

- (c) the Authority were substituted for the Council as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to the Council were (unless the context otherwise requires) amended to be or include a reference to the Authority.

48. Immunity continues

Despite the abolition of the Council under section 38, if the Council had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Authority.

49. Duty of confidentiality continues to apply to members of the Council

Despite the amendment of section 32(2)(a) by the *Curriculum Council Amendment Act 2011* section 33, section 32(1) continues to apply to a person who has been a member of the Council.

50. Registration of documents

- (1) In this section —

relevant officials means —

- (a) the Registrar of Titles under the *Transfer of Land Act 1893*; or
- (b) the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*; or
- (c) the Minister administering the *Land Administration Act 1997*; or
- (d) any other person authorised by a written law to record and give effect to the registration of

documents relating to transactions affecting any estate or interest in land or any other property.

- (2) The relevant officials are to take notice of the provisions of this Part and are empowered to record and register in the appropriate manner the necessary documents and otherwise to give effect to this Part.

51. Transitional regulations

- (1) If this Part does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of the amendments made to this Act by the *Curriculum Council Amendment Act 2011*, the Governor may make regulations under section 33 (*transitional regulations*) prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.
- (2) If the transitional regulations provide that a state of affairs specified or described in the regulations is 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.
- (3) If the transitional regulations contain a provision referred to in subsection (2), 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 day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

52. Saving

The operation of any provision of this Part is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information; or
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability; or
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

38. Schedule 1 heading amended

In the heading to Schedule 1 delete “**Council**” and insert:

Board

39. Schedule 1 Division 1 heading amended

In the heading to Schedule 1 Division 1 delete “**Council**” and insert:

Board

40. Schedule 1 clause 1 amended

- (1) Delete Schedule 1 clause 1(1) and insert:
- (1) Subject to clause 2, a member holds office for the term that is specified in the member's instrument of appointment, and that term is not to exceed —
- (a) 4 years; or
- (b) in the case of the member who is the chairperson, 5 years.
- (2A) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.
- (2) In Schedule 1 clause 1(2) delete "An appointed member" and insert:

A member

41. Schedule 1 clause 2 amended

- (1) In Schedule 1 clause 2(1) and (2) delete "an appointed member" and insert:
- a member
- (2) After Schedule 1 clause 2(1)(b) insert:
- (ca) has ceased to be eligible to be appointed as a member; or

(3) After Schedule 1 clause 2(1)(a) insert:

or

42. Schedule 1 clause 3 amended

In Schedule 1 clause 3:

(a) delete “The Council” and insert:

The Board

(b) delete “of the Council”.

43. Schedule 1 clause 4 amended

In Schedule 1 clause 4(1):

(a) delete “an appointed member” and insert:

a member

(b) delete “member of the Council.” and insert:

member.

44. Schedule 1 clause 5 deleted

Delete Schedule 1 clause 5.

45. Schedule 1 clause 6 amended

In Schedule 1 clause 6 delete “clause 4, 5” and insert:

clause 4

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46. Schedule 1 clause 9 amended

In Schedule 1 clause 9 delete “Council is 7 members.” and insert:

Board is 5 members.

47. Schedule 1 clause 10 amended

In Schedule 1 clause 10(1) delete “appointed”.

48. Schedule 1 clause 13 amended

In Schedule 1 clause 13:

- (a) delete “7 members of the Council” and insert:

5 members

- (b) delete “Council if” and insert:

Board if

49. Schedule 1 clause 14 deleted

Delete Schedule 1 clause 14.

50. Schedule 1 clause 16 amended

In Schedule 1 clause 16(1):

- (a) delete “member of the Council” and insert:

member

- (b) delete “Council” (second occurrence) and insert:

Board

- (c) delete “Council.” and insert:

Board.

- (d) in the Penalty delete “\$1 000.” and insert:

a fine of \$10 000.

51. Schedule 1 clause 17 amended

In Schedule 1 clause 17:

- (a) delete “of the Council”;
(b) delete “Council —” and insert:

Board —

52. Schedule 1 clause 19 amended

In Schedule 1 clause 19(1):

- (a) delete “of the Council”;
(b) delete “3 members” and insert:

4 members

53. Various references to “Council” amended

- (1) In the provisions listed in the Table delete “Council” (each occurrence) and insert:

Authority

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Table

s. 3 def. of <i>member of staff</i> par. (c)	s. 14(1) and (2)
s. 15(1) and (2)	s. 16(1) and (2)
s. 17(2) and (4)	s. 18(1)
s. 19(1), (2), (3) and (4) def. of <i>information</i>	s. 19A(1) def. of <i>student record</i> par. (b) and (d)
s. 19D	s. 19E
s. 19F(2), (3), (4) and (5)	s. 19G
s. 19H(1) and (3)	s. 19I(1)(c), (2), (3), (4) and (5)
s. 19J(1)	s. 19K
s. 19L	s. 19M(2) and (3)
s. 19P(1)	s. 20(1)
s. 21(1), (2), (3), (5) and (6)	s. 22(1) and (2)
s. 23	s. 24(2)
s. 26(2)	s. 29
s. 30(1)	s. 31(1), (2), (3) and (7)
s. 33(2)(a) and (3)	s. 36(2)

- (2) In the provisions listed in the Table delete “Council” (each occurrence) and insert:

Board

Table

Sch. 1 cl. 7(1), (2) and (3)	Sch. 1 cl. 8(1)
Sch. 1 cl. 10(1), (2) and (3)	Sch. 1 cl. 11
Sch. 1 cl. 12	Sch. 1 cl. 15
Sch. 1 cl. 18	Sch. 1 cl. 19(2)

54. Schedules 2 and 3 deleted

Delete Schedules 2 and 3.

Part 3 — Other Acts amended

Division 1 — *Constitution Acts Amendment Act 1899* amended

55. *Constitution Acts Amendment Act 1899* amended

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete “The Curriculum Council established under the *Curriculum Council Act 1997*.”.
- (3) In Schedule V Part 3 insert in alphabetical order:

The governing body of the School Curriculum and Standards
Authority established by the *School Curriculum and
Standards Authority Act 1997*.

Division 2 — *Financial Management Act 2006* amended

56. *Financial Management Act 2006* amended

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 delete “Curriculum Council”.
- (3) In Schedule 1 insert in alphabetical order:

School Curriculum and Standards Authority

Division 3 — *Public Sector Management Act 1994* amended

57. *Public Sector Management Act 1994* amended

- (1) This section amends the *Public Sector Management Act 1994*.
- (2) In Schedule 2:
 - (a) delete item 5A;
 - (b) after item 41 insert:

42 School Curriculum and Standards Authority established
 under the *School Curriculum and Standards Authority*
Act 1997

Division 4 — *School Education Act 1999* amended

58. *School Education Act 1999* amended

- (1) This section amends the *School Education Act 1999*.
- (2) Delete section 53(2)(a) and insert:
 - (a) the outline of curriculum and assessment in schools established under the *School Curriculum and Standards Authority Act 1997*;
- (3) In the provisions listed in the Table delete “*Curriculum Council*” and insert:

School Curriculum and Standards Authority

Table

s. 6(c)(ii)(II)	s. 6(d)(ii)(II)
s. 63(1)(d)(i)	s. 67
s. 167(1)(a)(ii)	s. 176(1)(b)
s. 177(1)(a)(ii)	s. 200(1)(c)(ii)

**Division 5 — Western Australian College of Teaching Act 2004
amended**

59. Western Australian College of Teaching Act 2004 amended

- (1) This section amends the *Western Australian College of Teaching Act 2004*.
- (2) In section 3(1) in the definition of **teaching** paragraph (a) delete “curriculum framework approved under the *Curriculum Council Act 1997*” and insert:

outline of curriculum and assessment in schools
established under the *School Curriculum and
Standards Authority Act 1997*

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