



Western Australia

Western Australian College of Teaching Act 2004

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Western Australian College of Teaching Act 2004

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Western Australia

Western Australian College of Teaching Act 2004

An Act to —

- **establish the Western Australian College of Teaching;**
 - **provide for the winding-up of that College,**
- and for related purposes.**

[Long title amended by No. 16 of 2012 s. 151.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Western Australian College of Teaching Act 2004*¹.

2. Commencement

This Act comes into operation on a day fixed by proclamation¹.

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.

[Section 3 inserted by No. 16 of 2012 s. 152.]

4. Crown bound

- (1) This Act binds the Crown in right of the State.
- (2) Nothing in this Act renders the Crown liable to be prosecuted for an offence under this Act.
- (3) Subsection (2) does not affect any liability of any officer, employee or agent of the Crown to be prosecuted for an offence.

Part 2 — Western Australian College of Teaching

Division 1 — Establishment of College

5. College established

- (1) The Western Australian College of Teaching is established.
- (2) The College —
 - (a) is a body corporate;
 - (b) has perpetual succession and a common seal; and
 - (c) may sue and be sued in its corporate name.

6. College not an agent of the Crown

The College does not represent, and is not an agent of, the Crown.

Division 2 — Board of management

7. Board of management

- (1) The College is to have a board of management.
- (2) The Board is constituted by the CEO.
[Section 7 amended by No. 16 of 2012 s. 153.]

8. Functions of Board

- (1) The Board is the governing body of the College.
- (2) The Board, in the name of the College, is to perform the functions, determine the policies and control the affairs of the College.

[9-13. Deleted by No. 16 of 2012 s. 154.]

Division 3 — Relationship of College with the Minister

14. College to give regard to advice of Minister

- (1) The College must give due regard to any advice given by the Minister in relation to the exercise of its powers and the performance of its functions.
- (2) The text of any written advice given under subsection (1) is to be included in the annual report of the College under section 29.

15. Minister to have access to information

- (1) The Minister is entitled —
 - (a) to have information in the possession of the College; and
 - (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
 - (a) request the College to furnish information to the Minister;
 - (b) request the College to give the Minister access to information.

[(c) deleted]

[(3) deleted]

- (4) 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, proceeding or inquiry; or
 - (b) might enable the identity of any such person to be ascertained,

unless that person has consented to the disclosure.

- (5) In this section —

document includes any tape, disc 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 College.

[Section 15 amended by No. 16 of 2012 s. 155.]

Division 4 — Functions and powers

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.

[Section 16 inserted by No. 16 of 2012 s. 156.]

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.

[Section 17 inserted by No. 16 of 2012 s. 156.]

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.

[Section 18 inserted by No. 16 of 2012 s. 156.]

Division 5 — Director and other staff

[19-21. Deleted by No. 16 of 2012 s. 157.]

22. Use of government staff and facilities

- (1) The College may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
 - (a) in the Public Service;
 - (b) in a State agency or instrumentality; or
 - (c) otherwise in the service of the Crown in right of the State.
- (2) The Board may by arrangement with —
 - (a) a department of the Public Service; or
 - (b) a State agency or instrumentality,make use of any facilities of the department, agency or instrumentality.
- (3) An arrangement under subsection (1) or (2) is to be made on such terms as are agreed to by the parties.

Division 6 — General

23. Protection from liability

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

- (2) The College is also relieved of any liability it might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

24. Duty not to make improper use of information

A member or former member of the Board or a committee must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as such to gain, directly or indirectly, an advantage for himself or herself or for any other person.

Penalty: \$10 000.

25. Common seal and execution of documents by College

- (1) A document is duly executed by the College if —
 - (a) the common seal of the College is affixed in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the College by the CEO.
- (2) The common seal of the College is not to be affixed to a document except as authorised by the College.
- (3) The common seal of the College is to be affixed to a document in the presence of the CEO and the CEO is to sign the document to attest that the common seal was so affixed.
- (4) The common seal of the College is —
 - (a) to be in a form determined by the College;
 - (b) to be kept in such custody as the College directs; and
 - (c) not to be used except as authorised by the College.

- (5) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (6) When a document is produced bearing a seal purporting to be the common seal of the College, it is to be presumed that the seal is the common seal of the College until the contrary is shown.
- (7) All courts and persons acting judicially are to take notice of the common seal of the College.

[Section 25 amended by No. 16 of 2012 s. 158.]

Part 3 — Financial provisions

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.

[Section 26 inserted by No. 16 of 2012 s. 159.]

[27-29. Deleted by No. 16 of 2012 s. 160.]

[Parts 4-9 deleted by No. 16 of 2012 s. 161.]

[Schedules 1-4 deleted by No. 16 of 2012 s. 162.]

Notes

¹ This is a compilation of the *Western Australian College of Teaching Act 2004* and includes the amendments made by the other written laws referred to in the following table ^{1a, 2}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Western Australian College of Teaching Act 2004</i>	8 of 2004	10 Jun 2004	s. 1 and 2: 10 Jun 2004; Act other than s. 1 and 2: 15 Sep 2004 (see s. 2 and <i>Gazette</i> 3 Sep 2004 p. 3849)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Western Australian College of Teaching Amendment Act 2007</i>	18 of 2007	3 Jul 2007	s. 1 and 2: 3 Jul 2007 (see s. 2(a)); Act other than s. 1 and 2: 4 Jul 2007 (see s. 2(b))
<i>Criminal Law and Evidence Amendment Act 2008</i> s. 72	2 of 2008	12 Mar 2008	27 Apr 2008 (see s. 2 and <i>Gazette</i> 24 Apr 2008 p. 1559)
<i>Legal Profession Act 2008</i> s. 712	21 of 2008	27 May 2008	1 Mar 2009 (see s. 2(b) and <i>Gazette</i> 27 Feb 2009 p. 511)
Reprint 1: The Western Australian College of Teaching Act 2004 as at 5 Dec 2008 (includes amendments listed above except those in the <i>Legal Profession Act 2008</i>)			
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 135	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<i>Curriculum Council Amendment Act 2011</i> Pt. 3 Div. 5	37 of 2011	13 Sep 2011	1 Mar 2012 (see s. 2(b) and <i>Gazette</i> 28 Feb 2012 p. 841)
<i>Teacher Registration Act 2012</i> Pt. 9 Div. 1	16 of 2012	3 Jul 2012	7 Dec 2012 (see s. 2(b) and <i>Gazette</i> 16 Nov 2012 p. 5637)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in

this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Teacher Registration Act 2012</i> s. 132 ³	16 of 2012	3 Jul 2012	To be proclaimed (see s. 2(b))

² The amendment in the *Prostitution Amendment Act 2008* s. 34 is not included because the Schedule it sought to amend had been deleted by the *Teacher Registration Act 2012* s. 167 before the amendment purported to come into operation.

³ On the date as at which this compilation was prepared, the *Teacher Registration Act 2012* s. 132 had not come into operation. It reads as follows:

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.

Defined Terms

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)
affected person	60
applicant	42(4)
application	3(1)
appointed	Sch. 1 cl. 1
associate member of the College	3(1)
Board	3(1)
child	55(6)
College	3(1)
commencement day	Sch. 4 cl. 1
committee	3(1)
criminal record check	3(1)
Director	3(1)
disciplinary action	3(1)
document	15(5)
elected	Sch. 1 cl. 1
employer	50(3), 59(3), 73(5)
inaugural election	Sch. 1 cl. 1
information	15(5)
inquiry	3(1)
limited authority to teach	3(1)
member	Sch. 1 cl. 1
member of the Board	3(1)
member of the College	3(1)
misconduct	Sch. 1 cl. 4(3)
provisional registration	3(1)
register	3(1)
registered teacher	3(1)
registration	3(1)
rules	3(1)
serious misconduct the nature of which renders the person unfit to be a teacher	63(2)
seriously incompetent as a teacher	63(2)
sexual offence	55(6)
teacher	49(2)
teacher currently teaching	Sch. 4 cl. 2(3)
teacher not currently teaching	Sch. 4 cl. 3(3)
teaching	3(1)
unprofessional conduct	3(1)

