



Western Australia

School Boarding Facilities Legislation Amendment and Repeal Act 2016

As at 28 Nov 2016

No. 41 of 2016

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School Boarding Facilities Legislation Amendment and Repeal Act 2016

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Western Australia

School Boarding Facilities Legislation Amendment and Repeal Act 2016

No. 41 of 2016

An Act to —

- **amend the *School Education Act 1999* to make provision for student residential colleges; and**
- **repeal the *Country High School Hostels Authority Act 1960* and regulations made under that Act; and**
- **make consequential amendments to various other Acts, and for related purposes.**

[Assented to 28 November 2016]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *School Boarding Facilities Legislation Amendment and Repeal Act 2016*.

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Part 2 — *Country High School Hostels Authority Act 1960* and regulations repealed

3. *Country High School Hostels Authority Act 1960* repealed

The *Country High School Hostels Authority Act 1960* is repealed.

4. Regulations repealed

These regulations are repealed:

- (a) the *Country High School Hostels Authority Act Regulations 1960*;
- (b) the *Country High School Hostels Authority Act Regulations 1962*.

Part 3 — *School Education Act 1999* amended

5. Act amended

This Part amends the *School Education Act 1999*.

6. Long title amended

In the long title delete the 5th bullet point and insert:

- **for the establishment and administration of student residential colleges; and**

7. Section 3 amended

In section 3(1):

- (a) in paragraph (d) delete “education.” and insert:

education; and

- (b) after paragraph (d) insert:

- (e) to provide for student residential colleges that offer residential accommodation for students to attend, and participate in an educational programme of, a school.

8. Section 4 amended

In section 4 insert in alphabetical order:

student residential college has the meaning given in section 213A;

9. Part 2 heading replaced

Delete the heading to Part 2 and insert:

Part 2 — Education of children during compulsory education period

10. Section 129 amended

In section 129(3) delete “subsection (1)” and insert:

subsection (2)

11. Part 6A inserted

After section 212 insert:

Part 6A — Student residential colleges

What this Part is about

This Part provides for student residential colleges.

In particular it deals with —

- the establishment of student residential colleges (Division 2);
- the administration of student residential colleges (Division 3);
- local input networking and communications committees (LINC committees) for student residential colleges (Division 4);
- provisions for the management of college funds and funds appropriated by Parliament for student residential colleges (Division 5).

Division 1 — Preliminary

213A. Terms used

In this Part —

code of conduct means the code of conduct issued under section 213J;

college fund means the General Purposes Fund and a fund referred to in section 213R;

General Purposes Fund, in relation to a student residential college, means the fund referred to in section 213Q;

joint arrangement means an arrangement entered into by the Minister for purposes that are complementary and beneficial to the functions conferred on the Minister under this Part in relation to student residential colleges and which involves any or all of the following —

- (a) enabling any property vested in the Minister to be used for the purposes of the arrangement (**joint use property**);
- (b) controlling and managing the use of joint use property for the purposes of the arrangement;
- (c) sharing the use of joint use property for the purposes of the arrangement and for the purposes of performing any of the functions conferred on the Minister under this Part in relation to student residential colleges;

LINC committee, in relation to a student residential college, means the committee constituted for that college under section 213M;

property has the meaning given in section 213;

student residential college means a student residential college established under section 213B;

Student Residential Colleges Fund means the account established under section 213Y.

Division 2 — Establishment of student residential colleges

213B. Establishing student residential colleges

- (1) The Minister may establish such student residential colleges as the Minister considers necessary to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school.
- (2) The Minister, in considering if it is necessary to establish a student residential college, is to take into account the following —
 - (a) the social, cultural, lingual, economic or geographic factors that might affect access to school education for particular students;
 - (b) any other matter prescribed by the regulations.
- (3) The Minister may assign a name to, or change the name of, a student residential college.

213C. Closing or amalgamating student residential colleges

- (1) The Minister may on such terms and conditions as the Minister thinks fit —
 - (a) amalgamate 2 or more student residential colleges; and
 - (b) close any student residential college either temporarily or permanently.
- (2) Before making a decision under subsection (1), the Minister is to take into account the matters described in section 213B(2).

Division 3 — Administration of student residential colleges

Subdivision 1 — Operation and management

213D. Operation and management of student residential colleges

- (1) The Minister is responsible for the operation and management of student residential colleges.
- (2) The responsibility of the Minister under subsection (1) includes determining, implementing and monitoring the standard of care provided to students at student residential colleges.

213E. Powers of Minister relating to student residential colleges

- (1) The Minister may do all things necessary or convenient to be done for the purposes of —
 - (a) performing the functions conferred on the Minister under this Part in relation to student residential colleges; or
 - (b) carrying out joint arrangements.
- (2) Without limiting subsection (1), the Minister may for any of the purposes mentioned —
 - (a) acquire, hold, manage, improve, develop and dispose of property or an interest in property; and
 - (b) accept any gift, grant, devise or bequest if it is absolute or subject to conditions to which the Minister agrees; and
 - (c) subject to section 213F, participate in any business arrangement and acquire, hold and

- dispose of shares, units or other interests in, or relating to, a business arrangement; and
- (d) allow persons to undertake advertising or sponsorship, of the kind and to the extent that is authorised by regulations, in connection with student residential colleges; and
 - (e) enter into any contract or arrangement; and
 - (f) use the expertise and resources of the department to provide consultancy, advisory or other services for profit.
- (3) In exercising any power under this section the Minister may act in conjunction with —
- (a) any person or firm, or a public authority; or
 - (b) any department of the Public Service or any agency of the State or the Commonwealth.
- (4) An agreement or arrangement for advertising or sponsorship in relation to a student residential college is not to be entered into by a person acting —
- (a) in exercise of the power conferred by subsection (2)(d); and
 - (b) as a subdelegate of the Minister under section 225,
- unless the LINC committee for that college has approved the agreement or arrangement.
- (5) If a term is given a meaning in section 216(6), it has the same meaning in subsection (2).

213F. Treasurer to consider proposals under s. 213E(2)(c)

- (1) Before the Minister exercises any power conferred by section 213E(2)(c) he or she is to —
- (a) notify the Treasurer of the proposal; and

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(b) seek the Treasurer's approval to it,

unless it is of a kind that the Treasurer has determined in writing need not be so notified.

- (2) If the Treasurer approves the proposal, he or she may impose requirements to be complied with by the Minister in connection with it.
- (3) The Treasurer may also give directions to be complied with generally by the Minister in the exercise of the powers referred to in subsection (1).

213G. When money paid for advertising or sponsorship to be paid to student residential college's General Purposes Fund

- (1) Where —
 - (a) an agreement or arrangement for advertising or sponsorship in relation to a student residential college is entered into —
 - (i) in exercise of the power conferred by section 213E(2)(d); and
 - (ii) as the subdelegate of the Minister under section 225;and
 - (b) the subdelegation expressly states that this section is to apply,

any money payable for the advertising or sponsorship is to be credited to the General Purposes Fund of the college in accordance with section 213T(1)(d).

- (2) The Minister is to ensure that a subdelegation does not state that this section is to apply unless the application of the section in the particular case is in accordance with the fair distribution across student residential colleges of the benefits of advertising and sponsorship.

213H. Sections 120 and 121 have effect in respect of student residential colleges

Sections 120 and 121 have effect in respect of a student residential college as if references in those sections —

- (a) to a government school were to a student residential college; and
- (b) to a teacher included a person employed at a student residential college; and
- (c) to an authorised person, in relation to a government school, were to —
 - (i) a person authorised by the chief executive officer to exercise the powers conferred by this section in respect of a student residential college; and
 - (ii) a person who belongs to a class of persons so authorised.

Subdivision 2 — Regulations and code of conduct

213I. Regulations about student residential colleges

- (1) Regulations may be made in respect of student residential colleges.
- (2) Without limiting subsection (1), regulations may make provision for, and in relation to, any or all of the following —
 - (a) agreements under which accommodation and related services are provided at student residential colleges (an *agreement*), including any requirements as to any, or all, of the contents of an agreement (including any specific terms and conditions);
 - (b) kinds of, and limits to, the costs and charges payable for accommodation and related

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- services provided under an agreement and any other matter relevant to such costs and charges and their recovery;
- (c) requirements as to the health and safety of students boarding at student residential colleges;
 - (d) the operation and management of student residential colleges including —
 - (i) the making of applications for places at colleges and the offering of those places based on the availability of suitable accommodation and conformity with any other criteria prescribed;
 - (ii) access to, and the use of, the facilities and services of colleges;
 - (iii) the means by which disputes or complaints about the operation or management of a college, or the conduct of any student, or person employed at a college, may be dealt with.
- (3) Regulations of the kind mentioned in subsection (2)(d)(iii) may —
- (a) confer authority on the Minister to make provision, by instrument published in the *Gazette*, for a scheme for dealing with disputes and complaints; and
 - (b) confer protection on persons in respect of statements made or information given; and
 - (c) provide for the powers that may be exercised in connection with the investigation and resolution of disputes and complaints.

- (4) Regulations for the purposes of section 213E(2)(d) may provide for —
- (a) the duration of an agreement or arrangement for advertising or sponsorship in relation to a student residential college; and
 - (b) naming rights in relation to advertising or sponsorship in relation to a student residential college; and
 - (c) the means of ensuring that advertising or sponsorship in relation to a student residential college does not interfere with the normal operations of the college.

213J. Code of conduct for students

- (1) The Minister is to prepare and issue a code of conduct for students at student residential colleges.
- (2) A code of conduct is to set out minimum standards of conduct to be observed by students at student residential colleges.
- (3) A code of conduct may —
- (a) be about any aspect of the conduct of students at student residential colleges; and
 - (b) set general principles to guide the behaviour of students at student residential colleges; and
 - (c) make specific provision in respect of a particular student residential college.
- (4) The Minister may consult with any, or all, of the LINC committees before issuing a code of conduct if the Minister considers it necessary or desirable to do so.
- (5) A code of conduct —
- (a) is to be published —
 - (i) in the *Gazette*; and

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- (ii) by any other means (including on the Internet) that the Minister thinks fit;
- and
- (b) takes effect —
 - (i) on the day it is published in the *Gazette*;
or
 - (ii) if a later day is stated in the code, on that day.
- (6) The Minister may amend a code of conduct in force under subsection (1) or repeal it and substitute a new code of conduct.
- (7) Subsections (4) and (5) apply to and in relation to the amendment or repeal of a code of conduct.

Subdivision 3 — Power of Minister to grant licences

213K. Licences by Minister for use of tangible property relating to student residential colleges

- (1) This section applies to a licence granted by the Minister to a person for the use of tangible property vested in the Minister that relates to a student residential college.
- (2) A licence is not to be granted if the use of the property would adversely affect the safety or welfare of students or other persons residing or employed at the student residential college to which the property relates.
- (3) A licence —
 - (a) must be in writing; and
 - (b) may provide for a payment to be made by the licensee in connection with the use of the property; and

- (c) may provide for an amount of money to be paid by the licensee as security for the performance of the licensee's obligations under the licence; and
 - (d) is otherwise to be on such terms and subject to such conditions as the Minister thinks fit.
- (4) A licence granted for the use of property that is not in use by the college to which the property relates —
- (a) is not to be granted for a period of more than—
 - (i) in the case of a licence granted by a subdelegate acting under section 225 — 2 years; or
 - (ii) otherwise — 5 years;and
 - (b) may be renewed once or more than once for a period or successive periods, each not exceeding the period allowed under paragraph (a)(i) or (ii).
- (5) The use of property in respect of which a licence referred to in subsection (4) applies must not interfere with the normal operations of the student residential college to which the property relates.
- (6) A licence granted for the purposes of a joint arrangement may provide for all things necessary or convenient to be done for the purpose of furthering the joint arrangement, including —
- (a) the establishment, composition, powers and duties of a management committee to manage and control the use of the property in accordance with the licence and the joint arrangement; and

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- (b) setting out how the property is to be shared and how disputes as to the use of the property are to be resolved; and
- (c) the provision of facilities relating to the property; and
- (d) payment to be made to the Minister by the licensee by way of contribution towards the costs incurred in the provision of any facilities; and
- (e) the appointment and remuneration of staff with respect to the use of the property and any facilities.

213L. When money paid under licence to be paid to a General Purposes Fund

Where a licence under section 213K for the use of tangible property vested in the Minister that relates to a student residential college —

- (a) requires an amount of money to be paid in accordance with section 213K(3)(b) or (c); and
- (b) is granted by a subdelegate of the Minister acting under section 225 and the subdelegation expressly states that this section is to apply,

subject to section 213S(4), the money is to be credited to the General Purposes Fund of the college in accordance with section 213T(1)(d).

Division 4 — LINC committees

213M. LINC committees

- (1) Each student residential college is to have a local input networking and communications committee (*LINC committee*).

- (2) It is sufficient compliance with subsection (1) for 2 or more colleges, with the approval of the Minister, to have one LINC committee that operates for those colleges jointly.
- (3) Subject to this Division, a LINC committee may determine its own procedure.
- (4) The Minister is to ensure that each LINC committee is provided with such support services as it may reasonably require.

213N. Membership of LINC committees

- (1) A LINC committee is to be constituted by not less than 4 or more than 10 members appointed by the chief executive officer.
- (2) The membership of a LINC committee is to be drawn from persons who have such experience, skills, attributes or qualifications as the chief executive officer considers appropriate to enable them to effectively perform the functions set out in section 213O, and may include —
 - (a) parents of students at the college; and
 - (b) other members of the general community; and
 - (c) any person employed at the college.
- (3) Persons referred to in subsections (2)(a) and (b) must form the majority of members of a LINC committee.
- (4) Unless otherwise provided by the regulations, a member is to hold office for a term of not more than 3 years as is specified in the instrument of his or her appointment, and is eligible for reappointment.

2130. Functions of LINC committees

- (1) A LINC committee for a student residential college has the following functions —
 - (a) to provide advice regarding the operation and management of the college;
 - (b) to promote the interests of the college and to foster community interest in the college;
 - (c) to carry out the functions given by sections 213E(4) and 213J(4);
 - (d) to undertake such other functions prescribed by the regulations for the purposes of this section.
- (2) A LINC committee for a student residential college may do any or all of the following —
 - (a) take part in and provide advice on the selection, but not the appointment, of any person employed at the college, if the person comes within a class of employees referred to in section 235(1);
 - (b) provide advice as to the means by which disputes or complaints about the conduct of students at the college may be dealt with;
 - (c) take part in the planning of, and provide advice on, the financial arrangements and priorities for the college.
- (3) A LINC committee cannot —
 - (a) intervene in the operation or management of a student residential college; or
 - (b) exercise authority over any person employed at a student residential college.
- (4) A LINC committee may do all things necessary or convenient to be done for or in connection with the carrying out of its functions.

213P. Regulations about LINC committees

- (1) Regulations may be made in respect of LINC committees.
- (2) Without limiting subsection (1), regulations may be made about any or all of the following —
 - (a) the proceedings of LINC committees;
 - (b) matters relating to ineligibility for, and cessation or termination of, membership of LINC committees;
 - (c) enabling LINC committees to allow students, principals and other staff of a school and members of the local community to attend meetings and take part in discussion but without having a right to vote or being counted in determining a quorum.

Division 5 — Financial provisions

Subdivision 1 — Fund for each student residential college

213Q. General Purposes Fund for each student residential college

Each student residential college is to have a fund to be called the “(name of student residential college) General Purposes Fund”.

213R. Funds for other moneys received for a student residential college

The chief executive officer may authorise an officer designated under section 213S(1) to establish funds for the receipt of donations and bequests for or towards —

- (a) the addition of new capital works to the student residential college premises; or

- (b) the benefit of the college generally.

213S. Management of college funds

- (1) The management of a college fund is to be vested in an officer designated by the chief executive officer to perform that function for the college.
- (2) The chief executive officer may amend, revoke or replace a designation under subsection (1).
- (3) Moneys forming part of a college fund may only be expended by or with the authority of the person designated under subsection (1) and in accordance with —
 - (a) the regulations; and
 - (b) any directions (not being inconsistent with the regulations) issued by the chief executive officer either generally or in any particular case.
- (4) However —
 - (a) money paid under a licence to which section 213K applies as a security for the performance of an obligation may only be applied in accordance with the licence; and
 - (b) subsection (3) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

213T. Money to be credited to college funds

- (1) The following are to be credited to the General Purposes Fund of a student residential college —
 - (a) moneys from time to time allocated to the college from funds appropriated by Parliament;

- (b) grants and advances to the college from government and private sources;
 - (c) charges and other moneys received or recovered under agreements under which accommodation and related services are provided at the colleges;
 - (d) moneys payable to the college under section 213G or 213L;
 - (e) the proceeds of any investment of the General Purposes Fund under section 213W;
 - (f) subject to subsection (2), other moneys properly receivable for the purposes of the college.
- (2) There are to be credited to a fund established for a student residential college under section 213R —
- (a) donations and bequests to the school for the purpose for which the fund was established; and
 - (b) the proceeds of any investment of the fund under section 213W.

213U. Bank account for college funds

- (1) Moneys forming part of a college fund are to be paid into an account at a bank approved by the chief executive officer.
- (2) A student residential college is to have only one such bank account for each college fund except to the extent that the chief executive officer approves otherwise.
- (3) The bank account or accounts may only be operated jointly by 2 or more office-holders, or persons belonging to a class, designated under subsection (4).

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- (4) The chief executive officer is to designate for each student residential college the office-holders or class of persons who may act under subsection (3).
- (5) In this section —
bank means —
- (a) an ADI (authorised deposit-taking institution) as defined in the *Banking Act 1959* (Commonwealth) section 5; or
 - (b) a bank constituted by a law of a State, a Territory or the Commonwealth.

213V. *Financial Management Act 2006* s. 8 and 34, application of to s. 213Q to 213U

Sections 213Q to 213U have effect despite the *Financial Management Act 2006* sections 8 and 34, but nothing in sections 213Q to 213U is to be read as affecting the responsibilities of the chief executive officer as accountable authority under that Act in respect of moneys referred to in section 213T.

213W. Investment of college funds

Moneys forming part of a college fund may, until required to be paid out under section 213S, be invested in the name of the college by the officer designated under section 213S(1) in the manner in which money standing to the credit of the Public Bank Account may be invested under the *Financial Management Act 2006* section 37.

213X. Dealing with college funds on closure or amalgamation of a college

- (1) If a student residential college is closed or amalgamated with another college —

- (a) subject to subsection (2), moneys in a college fund are to be dealt with as the chief executive officer may direct; and
 - (b) the bank account for the fund may be operated by the chief executive officer for the purpose of giving effect to such a direction.
- (2) However —
- (a) money paid under a licence to which section 213K applies as a security for the performance of an obligation may only be applied in accordance with the licence; and
 - (b) subsection (1)(a) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

Subdivision 2 — Student Residential Colleges Fund

213Y. Student Residential Colleges Fund

- (1) An account called the Student Residential Colleges Fund is established for the department.
- (2) The Student Residential Colleges Fund is an agency special purpose account under the *Financial Management Act 2006* section 16.
- (3) The following are to be credited to the Student Residential Colleges Fund —
 - (a) moneys appropriated by Parliament for the purposes of student residential colleges;
 - (b) moneys borrowed under section 213ZA;
 - (c) any other moneys received by, made available to or payable to the Minister in the performance of functions under this Act that relate to student residential colleges.

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- (4) Moneys standing to the credit of the Student Residential Colleges Fund are to be applied in the payment of —
 - (a) expenditure incurred in the performance of the functions of the Minister under this Part;
 - (b) the costs of the administration and enforcement of this Act in relation to student residential colleges.
- (5) For the purposes of the *Financial Management Act 2006* section 52, the administration of the Student Residential Colleges Fund is to be regarded as a service of the department.

213ZA. Minister’s power to borrow money

- (1) The Minister may, if the Treasurer approves, borrow sums of money from the Western Australian Treasury Corporation established under the *Western Australian Treasury Corporation Act 1986* for the purposes of this Part.
- (2) All sums borrowed under subsection (1) are to be credited to the Student Residential Colleges Fund.

12. Section 216 amended

In section 216(2)(b) after “gift,” insert:

grant,

13. Section 218 amended

In section 218(1) delete “Minister.” and insert:

Minister, other than property that relates to a student residential college.

Note: The heading to amended section 218 is to read:

Licences by Minister for use of tangible property, other than property relating to student residential colleges

14. Section 227 amended

In section 227 after “Minister under” insert:

Part 6A or

Note: The heading to amended section 227 is to read:

Application of *Financial Management Act 2006*

15. Section 228 amended

In section 228(b) after “Act” insert:

(except Part 6A)

Note: The heading to amended section 228 is to read:

Department to assist in administration of Act, other than in relation to non-government schools and students attending non-government schools

16. Section 240 amended

In section 240(1):

(a) in paragraph (a) after “school” insert:

or a student residential college

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- (b) in paragraph (b)(i) after “school” insert:

or college
- (c) in paragraph (b)(ii) after “school” insert:

or any student residential college
- (d) delete “specified in the order and remain away from those premises, or from the premises of all government schools,” and insert:

or college specified in the order and remain away from those premises, or from the premises of all government schools or all student residential colleges, or both,

17. Schedule 1 clause 1 amended

In Schedule 1 Division 1 clause 1 delete “Schedule —” and insert:

Division —

18. Schedule 1 clause 2 amended

In Schedule 1 Division 1 clause 2 delete “Schedule” and insert:

Division

19. Schedule 1 clause 23 amended

In Schedule 1 Division 1 clause 23(1) delete “Schedule” and insert:

Division

20. Schedule 1 Division 4 inserted

At the end of Schedule 1 insert:

Division 4 — Transitional provisions for the *School Boarding Facilities Legislation Amendment and Repeal Act 2016*

33. Terms used

In this Division, unless the contrary intention appears —
1960 Act means the *Country High School Hostels Authority Act 1960*;

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

commencement day means the day on which the *School Boarding Facilities Legislation Amendment and Repeal Act 2016* section 20 comes into operation;

former Authority means the Country High School Hostels Authority —

- (a) established under the 1960 Act section 4; and
- (b) as in existence immediately before commencement day;

hostel has the meaning given in the 1960 Act section 3;

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, contingent or prospective.

34. Hostels

On commencement day, each hostel ceases to be a hostel and becomes, by force of this clause, a student residential college taken to have been established under section 213B.

35. Hostel land

(1) In this clause —

hostel land means land the care, control and management of which was, immediately before commencement day, placed with the Authority in accordance with the 1960 Act section 11.

(2) On commencement day, hostel land ceases to be under the care, control and management of the former Authority and is placed under the care, control and management of the Minister by force of this clause.

36. Former Authority abolished

On commencement day, the former Authority is abolished and its members go out of office.

37. Staff members of former Authority

(1) In this clause —

staff member of the former Authority means a person who, immediately before commencement day, was an officer or servant of the former Authority appointed under the 1960 Act section 10.

(2) At commencement day each staff member of the former Authority becomes a person employed in the department within the class of employees referred to in section 235(1)(c) or (d), as is relevant in accordance with any relevant industrial award or agreement applying to the staff member immediately before commencement day.

- (3) Except as otherwise agreed by a person mentioned in subclause (2) the operation of this clause does not —
 - (a) affect the person’s remuneration; or
 - (b) affect the person’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 person’s service.
- (4) For the purposes of subclause (3)(d), the staff member’s service with the former Authority is to be taken to have been with the department.

38. Transfer of assets, liabilities, proceedings, remedies and immunities

- (1) On commencement day—
 - (a) the assets and rights of the former Authority immediately before that day vest in or become, by force of this clause, the property of the Minister; and
 - (b) the liabilities of the former Authority immediately before that day become, by force of this clause, the liabilities of the Minister.
- (2) From commencement day, any proceedings or remedy that, immediately before that day, might have been brought or continued by or available against or to the former Authority may be brought or continued by, and are or is available against or to, the Minister.
- (3) As soon as is practicable after commencement day, all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) relating to the operations of the former Authority are to be delivered to the Minister.
- (4) As soon as is possible after commencement day, any account maintained by the former Authority must be closed

by the Minister and the moneys in the account credited to the Student Residential Colleges Fund.

39. Completion of things commenced

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

40. Continuing effect of things done

(1) In this clause —

relevant act means an act, matter or thing done or omitted to be done before commencement day by, to or in respect of the former Authority.

(2) To the extent that a relevant act has force or significance on or after commencement day it is to be taken, from that day, to have been done or omitted by, to or in respect of the Minister so far as the act, matter or thing is relevant to the functions of Minister.

(3) This clause does not affect the operation of any other provision of this Schedule.

41. Exemption from State tax

(1) In this clause —

State tax includes —

- (a) duty under the *Duties Act 2008*; and
- (b) any other tax, duty, fee, levy or charge under a law of the State.

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

- (a) anything that occurs by operation of this Division;
or
- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Division, or to give effect to this Division, or for a purpose

connected with or arising out of giving effect to this Division.

- (3) The Minister may certify in writing that —
 - (a) a specified thing occurred by operation of this Division; or
 - (b) a specified thing was done under this Division, or to give effect to this Division, or for a purpose connected with or arising out of giving effect to this Division.
- (4) For all purposes and in all proceedings, a certificate under subclause (3) is sufficient evidence of the matters it certifies, except so far as the contrary is shown.

42. Agreements, instruments and documents

- (1) In this clause —

subsisting, in relation to an agreement, instrument or document, means subsisting immediately before commencement day.
- (2) A subsisting agreement, instrument or document that contains a reference to the former Authority has effect from that day as if that reference were amended to be a reference to the Minister.
- (3) Subclause (2) does not apply to an agreement or instrument to which the former Authority was a party.
- (4) A subsisting agreement or instrument to which the former Authority was a party has effect from commencement day as if —
 - (a) the Minister were substituted for the former Authority as a party to the agreement or instrument; and
 - (b) a reference to the former Authority in the agreement or instrument were amended to be a reference to the Minister.
- (5) Subclause (2) or (4)(b) does not apply to a reference if —

- (a) regulations made under clause 45 provide otherwise; or
- (b) that application would be inappropriate in the context in which the reference occurs.

43. Registration of documents

- (1) In this clause —

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 Division and are to record and register in the appropriate manner the documents necessary to show the effect of this Division.

44. Saving

- (1) The operation of any provision of this Division 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.

(2) This Division is additional to any relevant provisions of the *Interpretation Act 1984*.

45. Transitional regulations

(1) In this clause —

specified means specified or described in the regulations;

transitional matter —

- (a) means a matter or issue of a transitional nature that arises as a result of the transition from the 1960 Act to this Act; and
- (b) includes a saving or application matter.

(2) If there is no sufficient provision in this Division for dealing with a transitional matter, regulations under this Act may be made prescribing all matters that are required or necessary or convenient to be prescribed for dealing with the matter.

(3) Regulations made under subclause (2) 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 subclause (2) 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 commencement day, the regulations have effect according to their terms.

(5) If regulations made under subclause (2) contain a provision referred to in subclause (4), the provision does not operate so as —

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- (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 anything done or omitted to be done before the regulations were published in the *Gazette*.
- (6) Regulations made under subclause (2) in relation to a matter referred to in subclause (3) must be made within such period as is reasonable and practically necessary to deal with a transitional matter.

Notes:

1. The note at the beginning of Part 6 is to be altered in the 3rd bullet point by deleting "non-teaching" and inserting:

other
2. The note at the beginning of Part 7 is to be altered by deleting the 5th bullet point and inserting :
 - the repeal of the *Education Act 1928* (section 246);
 - the transition from that Act to this Act, and various other subsequent statutory transitions (Schedule 1).

Part 4 — Other Acts amended

21. *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 Country High School Hostels Authority.

22. *Financial Management Act 2006* amended

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 delete the item relating to the Country High School Hostels Authority.

23. *Public Sector Management Act 1994* amended

- (1) This section amends the *Public Sector Management Act 1994*.
- (2) Delete Schedule 2 item 4.

24. *Spent Convictions Act 1988* amended

- (1) This section amends the *Spent Convictions Act 1988*.
- (2) In Schedule 3 clause 1(3) in the Table item 13 delete “by the Country High School Hostels Authority.” and insert:

in a student residential college established under the *School Education Act 1999*.

