

TEACHER REGISTRATION BILL 2011

Introduction and First Reading

Bill introduced, on motion by **Dr E. Constable (Minister for Education)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

DR E. CONSTABLE (Churchlands — Minister for Education) [11.15 am]: I move —

That the bill be now read a second time.

The Teacher Registration Bill 2011 repeals and replaces the Western Australian College of Teaching Act 2004. The bill is based on the findings of the statutory review of the Western Australian College of Teaching Act 2004, the report of which was tabled in this Parliament on 23 September 2010.

The review of the act and its administration found high levels of dissatisfaction among teachers, who were of the opinion that they were promised more than what was being delivered by the Western Australian College of Teaching. At the same time, the review found that if teachers' expectations were to be met, fees would have to rise to levels that would be generally unacceptable. In light of this, the functions of this bill are limited primarily to registration and discipline, which have been reformulated in terms of a "fit and proper" test and so that applicants and registrants have recourse to the State Administrative Tribunal in the event that their fitness and propriety is called into question.

The working with children check will still be required for teachers, as it is essential for every individual in the state who works with children. The board's fit and proper test will go to additional considerations specifically relevant to teachers as professionals and role models. A criminal history other than offences against children is relevant; for example, offences of dishonesty, and drug offences, would be considered. Non-criminal behaviour such as bullying may also be a relevant consideration for the board.

The review found shortcomings with the governance arrangements in the act. The government has virtually no say in the appointment of the 19-member WACOT board, with no guarantee that it has the expertise and experience needed to carry out its functions. The review concluded that the WACOT board should be smaller, and that its members should be appointed by the minister, who should also have the discretion to direct the board when appropriate, as distinct from a power to simply advise the board.

The bill proposes that the WACOT board be abolished and replaced by the Teacher Registration Board, a name that reflects its true nature, purpose and functions. This bill proposes a seven-member board, appointed by the minister for their qualifications, expertise and experience. The minister may request information from the board and is to have a power, when appropriate, to direct the board, although not in relation to any individual applicant, complaint or proceeding. Ministerial directions must be tabled in the Parliament within 14 days.

The review also found that the functions under the act do not concentrate the WACOT board's attention on the primary reason for teacher registration, which is the protection of the public interest, especially the interests of schoolchildren. Instead, the act is more about enhancing the status of the profession, which, although important, is not the primary reason for a registration body. To remove any doubt as to the primary purpose, the bill provides that the TRB—Teacher Registration Board—in performing its functions, must regard the best interests of children as the paramount consideration. The TRB will be hosted by the Department of Education Services, which will provide corporate services and support. This department has the expertise and a track record in the regulation of the education sector; experience in similar arrangements, particularly the Training Accreditation Council; and has direct access to government services and expertise.

Under the bill, the TRB's functions are limited to the determination of professional standards, the registration of teachers, dealing with complaints and discipline and impairment matters, and accrediting initial teacher education programs. Teachers aggrieved by the TRB's decisions will have access to the State Administrative Tribunal. Currently, the only appeal avenue is to the District Court, which can be expensive, time consuming and cumbersome for individual teachers. Serious disciplinary matters will not be dealt with by the TRB and will go straight to the SAT in its original jurisdiction.

All teachers working in defined "educational venues" must be registered. These include schools, community kindergartens and childcare centres, with the option to add venues by regulation. Currently, only teachers working in schools can register or remain registered. There are four registration categories: full, which is the same as now; provisional, which is also the same as now; limited, which is similar, but adapted; and non-practising, which takes account of those who take a long break from teaching but who want to maintain their registration. The bill attends to a finding of the review that the act's provisions for limited authority to teach are slow, cumbersome and overly bureaucratic. This does not mean that there will be any drop in standards for

registration in this category. The “limited” category will also provide for non-traditional graduate entry teacher education programs and the employment of students who have completed all course requirements but have yet to graduate.

The TRB will be able to take appropriate action to deal with complaints and other information that raise a question as to a teacher’s fitness and propriety, including competence to teach. The TRB will have an interim emergency power to suspend a teacher’s registration in defined circumstances in which the teacher is deemed to pose a potential risk of harm or injury to another. Such suspension is only for a very limited period while the SAT considers the matter. The TRB will also be required to cancel a teacher’s registration in defined circumstances. These circumstances notably include when a person has been convicted of a sexual offence involving a child or is denied permission to continue working with children. A person whose teaching qualifications are found to have been forged or fraudulently obtained will also have his or her registration cancelled.

In respect of other questions about a teacher’s fitness to be registered, the TRB may refer the complaint to the SAT for consideration, or offer to the teacher an internal process. The internal proceedings may be undertaken by either the disciplinary committee or the impairment review committee of the TRB, provided the teacher consents. The disciplinary committee has a range of penalties available to it should a teacher be found to have breached the requirements outlined in the bill, but they do not include cancellation of registration. A teacher aggrieved by a finding of the disciplinary committee will be able to apply for a full merits review in the SAT.

The impairment review committee is required to work with the teacher to find a mutually acceptable outcome, which might include suspension of registration, placing conditions on registration, or counselling. However, should it not be possible to reach such consensus, the impairment review committee will make a recommendation to the TRB that the complaint be referred to the SAT. These provisions do not require the board to deal with every complaint received. Complaints must first be evaluated, and only those with substance will proceed to be dealt with. The bill provides for the TRB to assist in the establishment and implementation of a national scheme for the accreditation of teacher education programs that was agreed by education ministers at the Ministerial Council for Education, Early Childhood Development and Youth Affairs earlier this year. It also provides for the possible adoption, through regulations, of national standards for the profession, including recency of experience and ongoing professional development. The adoption of these agreements, in whole or in part, does not involve the enactment of uniform legislation across jurisdictions.

Early childhood teachers working in child care will also be accommodated, in accordance with strong representations to that effect from the early childhood sector. Teachers registered currently will transition to the equivalent registration category, subject to the same renewal date and any conditions as applicable under the Western Australian College of Teaching Act 2004. Teachers who have been working in educational venues other than schools, and who will be both entitled and required to be registered in accordance with the new provisions, will be able to register in the appropriate category. Vocational education and training lecturers delivering vocational education and training in schools will no longer have to be registered. WACOT’s staff will transition, with their full entitlements, to the department.

At the present time, WACOT’s financial position is precarious. Its recent annual reports show it has incurred operating losses and has had to draw down its cash reserves, which is unsound practice. The college’s projection for the coming March to April financial year indicates that it does not have sufficient funds to sustain its operations beyond next November. WACOT’s principal remaining asset is its mortgaged office premises. Under the provisions of this bill, WACOT’s assets and liabilities will be wound up and the net proceeds placed in an agency special-purpose account called the teacher registration board account. The operations of the TRB will be self-funded through fees that are commensurate with actual costs. Having the TRB hosted by the department will enable economies of scale that are not possible in a small stand-alone agency like WACOT. The bill makes provision for the retention of some provisions of the WACOT act after the commencement of the new legislation for the purposes of retaining and managing WACOT’s premises and related mortgage liabilities. Under these provisions, the WACOT board will be replaced by the chief executive officer of the department, whose responsibility will be to wind up the residual affairs of WACOT, after which time that act will be repealed in its entirety. The proceeds of the eventual sale of the premises are to be credited, together with all other assets of the college, to the teacher registration board account to be used for the purposes of the new Teacher Registration Act.

In summary, the bill provides for the registration of teachers by a process that ensures that they are appropriately qualified, and fit and proper to be employed as teachers. There is provision for periodic renewal of registration for teachers who continue in good standing and maintain currency of relevant skills and experience. Consistency with national developments will also enhance teacher mobility across state borders. There is provision for dealing with complaints against teachers alleged to be no longer fit and proper, or to be affected by an addiction or other impairment which significantly affects the teacher’s ability to teach. Natural justice in dealing with

registration applications will be served by having TRB members who are required to act in the public interest and, in particular, the best interests of children. It will be further served by the way in which complaints, disciplinary and impairment matters are handled by independent people with relevant expertise and experience. Matters relating to impairment will be treated differently, not as disciplinary matters but with the due care and sensitivity they deserve. The bill will be debated when Parliament resumes next year and commenced as soon as possible after its passage. The decision to introduce this bill has not been taken lightly, and I am confident that its clauses will take account of the concerns of the teaching profession and the public. I would be surprised if there are any members who are unaware, through their constituents, of teachers' concerns about the current system. I trust they will welcome the provisions of this bill, which I now commend to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.