

School Boarding Facilities Legislation Amendment and Repeal Bill 2015

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Western Australia

LEGISLATIVE COUNCIL

School Boarding Facilities Legislation Amendment and Repeal Bill 2015

A Bill for

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.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *School Boarding Facilities Legislation Amendment and Repeal Act 2015*.

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.

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2 **Act 1960 and regulations repealed**

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 Country High School Hostels Authority Act 1960 repealed**

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5 repealed.

6 **4. Regulations repealed**

7 These regulations are repealed:

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

1 **Part 3 — *School Education Act 1999* amended**

2 **5. Act amended**

3 This Part amends the *School Education Act 1999*.

4 **6. Long title amended**

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

6

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

9

10 **7. Section 3 amended**

11 In section 3(1):

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

13

14 education; and

15

16 (b) after paragraph (d) insert:

17

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

22

23 **8. Section 4 amended**

24 In section 4 insert in alphabetical order:

25

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

28

1 **9. Part 2 heading replaced**

2 Delete the heading to Part 2 and insert:

3

4 **Part 2 — Education of children during**
5 **compulsory education period**

6

7 **10. Section 129 amended**

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

9

10 subsection (2)

11

12 **11. Part 6A inserted**

13 After section 212 insert:

14

15 **Part 6A — Student residential colleges**

16 **What this Part is about**

17 This Part provides for student residential colleges.

18 In particular it deals with —

- 19
- 20 • the establishment of student residential colleges (Division 2);
 - 21 • the administration of student residential colleges (Division 3);
 - 22 • local input networking and communications committees (LINC
23 committees) for student residential colleges (Division 4);
 - 24 • provisions for the management of college funds and funds
25 appropriated by Parliament for student residential colleges
(Division 5).

1 **Division 1 — Preliminary**

2 **213A. Terms used**

3 In this Part —

4 *code of conduct* means the code of conduct issued
5 under section 213J;

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

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

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

- 17 (a) enabling any property vested in the Minister to
18 be used for the purposes of the arrangement
19 (*joint use property*);
- 20 (b) controlling and managing the use of joint use
21 property for the purposes of the arrangement;
- 22 (c) sharing the use of joint use property for the
23 purposes of the arrangement and for the
24 purposes of performing any of the functions
25 conferred on the Minister under this Part in
26 relation to student residential colleges;

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

30 *property* has the meaning given in section 213;

31 *student residential college* means a student residential
32 college established under section 213B;

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

3 **Division 2 — Establishment of student**
4 **residential colleges**

5 **213B. Establishing student residential colleges**

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

20 **213C. Closing or amalgamating student residential**
21 **colleges**

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

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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

- 1 (d) allow persons to undertake advertising or
2 sponsorship, of the kind and to the extent that is
3 authorised by regulations, in connection with
4 student residential colleges; and
- 5 (e) enter into any contract or arrangement; and
- 6 (f) use the expertise and resources of the
7 department to provide consultancy, advisory or
8 other services for profit.
- 9 (3) In exercising any power under this section the Minister
10 may act in conjunction with —
- 11 (a) any person or firm, or a public authority; or
- 12 (b) any department of the Public Service or any
13 agency of the State or the Commonwealth.
- 14 (4) An agreement or arrangement for advertising or
15 sponsorship in relation to a student residential college
16 is not to be entered into by a person acting —
- 17 (a) in exercise of the power conferred by
18 subsection (2)(d); and
- 19 (b) as a subdelegate of the Minister under
20 section 225,
- 21 unless the LINC committee for that college has
22 approved the agreement or arrangement.
- 23 (5) If a term is given a meaning in section 216(6), it has
24 the same meaning in subsection (2).
- 25 **213F. Treasurer to consider proposals under s. 213E(2)(c)**
- 26 (1) Before the Minister exercises any power conferred by
27 section 213E(2)(c) he or she is to —
- 28 (a) notify the Treasurer of the proposal; and
- 29 (b) seek the Treasurer's approval to it,
- 30 unless it is of a kind that the Treasurer has determined
31 in writing need not be so notified.

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- 1 (2) If the Treasurer approves the proposal, he or she may
2 impose requirements to be complied with by the
3 Minister in connection with it.
- 4 (3) The Treasurer may also give directions to be complied
5 with generally by the Minister in the exercise of the
6 powers referred to in subsection (1).
- 7 **213G. When money paid for advertising or sponsorship to**
8 **be paid to student residential college's General**
9 **Purposes Fund**
- 10 (1) Where —
- 11 (a) an agreement or arrangement for advertising or
12 sponsorship in relation to a student residential
13 college is entered into —
- 14 (i) in exercise of the power conferred by
15 section 213E(2)(d); and
- 16 (ii) as the subdelegate of the Minister under
17 section 225;
- 18 and
- 19 (b) the subdelegation expressly states that this
20 section is to apply,
- 21 any money payable for the advertising or sponsorship
22 is to be credited to the General Purposes Fund of the
23 college in accordance with section 213T(1)(d).
- 24 (2) The Minister is to ensure that a subdelegation does not
25 state that this section is to apply unless the application
26 of the section in the particular case is in accordance
27 with the fair distribution across student residential
28 colleges of the benefits of advertising and sponsorship.

1 **213H. Sections 120 and 121 have effect in respect of**
2 **student residential colleges**

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

- 5 (a) to a government school were to a student
6 residential college; and
- 7 (b) to a teacher included a person employed at a
8 student residential college; and
- 9 (c) to an authorised person, in relation to a
10 government school, were to —
- 11 (i) a person authorised by the chief
12 executive officer to exercise the powers
13 conferred by this section in respect of a
14 student residential college; and
- 15 (ii) a person who belongs to a class of
16 persons so authorised.

17 **Subdivision 2 — Regulations and code of conduct**

18 **213I. Regulations about student residential colleges**

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

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- 1 other matter relevant to such costs and charges
2 and their recovery;
- 3 (c) requirements as to the health and safety of
4 students boarding at student residential
5 colleges;
- 6 (d) the operation and management of student
7 residential colleges including —
- 8 (i) the making of applications for places at
9 colleges and the offering of those places
10 based on the availability of suitable
11 accommodation and conformity with
12 any other criteria prescribed;
- 13 (ii) access to, and the use of, the facilities
14 and services of colleges;
- 15 (iii) the means by which disputes or
16 complaints about the operation or
17 management of a college, or the conduct
18 of any student, or person employed at a
19 college, may be dealt with.
- 20 (3) Regulations of the kind mentioned in
21 subsection (2)(d)(iii) may —
- 22 (a) confer authority on the Minister to make
23 provision, by instrument published in the
24 *Gazette*, for a scheme for dealing with disputes
25 and complaints; and
- 26 (b) confer protection on persons in respect of
27 statements made or information given; and
- 28 (c) provide for the powers that may be exercised in
29 connection with the investigation and resolution
30 of disputes and complaints.

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

13 **213J. Code of conduct for students**

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

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

14 **Subdivision 3 — Power of Minister to grant licences**

15 **213K. Licences by Minister for use of tangible property**
16 **relating to student residential colleges**

- 17 (1) This section applies to a licence granted by the
18 Minister to a person for the use of tangible property
19 vested in the Minister that relates to a student
20 residential college.
- 21 (2) A licence is not to be granted if the use of the property
22 would adversely affect the safety or welfare of students
23 or other persons residing or employed at the student
24 residential college to which the property relates.
- 25 (3) A licence —
26 (a) must be in writing; and
27 (b) may provide for a payment to be made by the
28 licensee in connection with the use of the
29 property; and
30 (c) may provide for an amount of money to be paid
31 by the licensee as security for the performance

- 1 of the licensee's obligations under the licence;
2 and
- 3 (d) is otherwise to be on such terms and subject to
4 such conditions as the Minister thinks fit.
- 5 (4) A licence granted for the use of property that is not in
6 use by the college to which the property relates —
- 7 (a) is not to be granted for a period of more than—
- 8 (i) in the case of a licence granted by a
9 subdelegate acting under section 225 —
10 2 years; or
- 11 (ii) otherwise — 5 years;
- 12 and
- 13 (b) may be renewed once or more than once for a
14 period or successive periods, each not
15 exceeding the period allowed under
16 paragraph (a)(i) or (ii).
- 17 (5) The use of property in respect of which a licence
18 referred to in subsection (4) applies must not interfere
19 with the normal operations of the student residential
20 college to which the property relates.
- 21 (6) A licence granted for the purposes of a joint
22 arrangement may provide for all things necessary or
23 convenient to be done for the purpose of furthering the
24 joint arrangement, including —
- 25 (a) the establishment, composition, powers and
26 duties of a management committee to manage
27 and control the use of the property in
28 accordance with the licence and the joint
29 arrangement; and
- 30 (b) setting out how the property is to be shared and
31 how disputes as to the use of the property are to
32 be resolved; and

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- 1 (c) the provision of facilities relating to the
2 property; and
3 (d) payment to be made to the Minister by the
4 licensee by way of contribution towards the
5 costs incurred in the provision of any facilities;
6 and
7 (e) the appointment and remuneration of staff with
8 respect to the use of the property and any
9 facilities.

10 **213L. When money paid under licence to be paid to a**
11 **General Purposes Fund**

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

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

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

23 **Division 4 — LINC committees**

24 **213M. LINC committees**

- 25 (1) Each student residential college is to have a local input
26 networking and communications committee (*LINC*
27 *committee*).
28 (2) It is sufficient compliance with subsection (1) for 2 or
29 more colleges, with the approval of the Minister, to
30 have one LINC committee that operates for those
31 colleges jointly.

1 (3) Subject to this Division, a LINC committee may
2 determine its own procedure.

3 (4) The Minister is to ensure that each LINC committee is
4 provided with such support services as it may
5 reasonably require.

6 **213N. Membership of LINC committees**

7 (1) A LINC committee is to be constituted by not less than
8 4 or more than 10 members appointed by the chief
9 executive officer.

10 (2) The membership of a LINC committee is to be drawn
11 from persons who have such experience, skills,
12 attributes or qualifications as the chief executive officer
13 considers appropriate to enable them to effectively
14 perform the functions set out in section 213O, and may
15 include —

- 16 (a) parents of students at the college; and
17 (b) other members of the general community; and
18 (c) any person employed at the college.

19 (3) Persons referred to in subsections (2)(a) and (b) must
20 form the majority of members of a LINC committee.

21 (4) Unless otherwise provided by the regulations, a
22 member is to hold office for a term of not more than
23 3 years as is specified in the instrument of his or her
24 appointment, and is eligible for reappointment.

25 **213O. Functions of LINC committees**

26 (1) A LINC committee for a student residential college has
27 the following functions —

- 28 (a) to provide advice regarding the operation and
29 management of the college;
30 (b) to promote the interests of the college and to
31 foster community interest in the college;

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- 1 (c) to carry out the functions given by
2 sections 213E(4) and 213J(4);
- 3 (d) to undertake such other functions prescribed by
4 the regulations for the purposes of this section.
- 5 (2) A LINC committee for a student residential college
6 may do any or all of the following —
- 7 (a) take part in and provide advice on the selection,
8 but not the appointment, of any person
9 employed at the college, if the person comes
10 within a class of employees referred to in
11 section 235(1);
- 12 (b) provide advice as to the means by which
13 disputes or complaints about the conduct of
14 students at the college may be dealt with;
- 15 (c) take part in the planning of, and provide advice
16 on, the financial arrangements and priorities for
17 the college.
- 18 (3) A LINC committee cannot —
- 19 (a) intervene in the operation or management of a
20 student residential college; or
- 21 (b) exercise authority over any person employed at
22 a student residential college.
- 23 (4) A LINC committee may do all things necessary or
24 convenient to be done for or in connection with the
25 carrying out of its functions.

26 **213P. Regulations about LINC committees**

- 27 (1) Regulations may be made in respect of LINC
28 committees.
- 29 (2) Without limiting subsection (1), regulations may be
30 made about any or all of the following —
- 31 (a) the proceedings of LINC committees;

- 1 (b) matters relating to ineligibility for, and
2 cessation or termination of, membership of
3 LINC committees;
- 4 (c) enabling LINC committees to allow students,
5 principals and other staff of a school and
6 members of the local community to attend
7 meetings and take part in discussion but
8 without having a right to vote or being counted
9 in determining a quorum.

10 **Division 5 — Financial provisions**

11 **Subdivision 1 — Fund for each student residential college**

12 **213Q. General Purposes Fund for each student residential**
13 **college**

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

17 **213R. Funds for other moneys received for a student**
18 **residential college**

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

- 22 (a) the addition of new capital works to the student
23 residential college premises; or
24 (b) the benefit of the college generally.

25 **213S. Management of college funds**

- 26 (1) The management of a college fund is to be vested in an
27 officer designated by the chief executive officer to
28 perform that function for the college.
- 29 (2) The chief executive officer may amend, revoke or
30 replace a designation under subsection (1).

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- 1 (3) Moneys forming part of a college fund may only be
2 expended by or with the authority of the person
3 designated under subsection (1) and in accordance
4 with —
5 (a) the regulations; and
6 (b) any directions (not being inconsistent with the
7 regulations) issued by the chief executive
8 officer either generally or in any particular
9 case.
- 10 (4) However —
11 (a) money paid under a licence to which
12 section 213K applies as a security for the
13 performance of an obligation may only be
14 applied in accordance with the licence; and
15 (b) subsection (3) only applies to that money if the
16 money has been forfeited under, and in
17 accordance with, the licence.

18 **213T. Money to be credited to college funds**

- 19 (1) The following are to be credited to the General
20 Purposes Fund of a student residential college —
21 (a) moneys from time to time allocated to the
22 college from funds appropriated by Parliament;
23 (b) grants and advances to the college from
24 government and private sources;
25 (c) charges and other moneys received or
26 recovered under agreements under which
27 accommodation and related services are
28 provided at the colleges;
29 (d) moneys payable to the college under
30 section 213G or 213L;
31 (e) the proceeds of any investment of the General
32 Purposes Fund under section 213W;

- 1 (f) subject to subsection (2), other moneys
2 properly receivable for the purposes of the
3 college.
- 4 (2) There are to be credited to a fund established for a
5 student residential college under section 213R —
- 6 (a) donations and bequests to the school for the
7 purpose for which the fund was established;
8 and
- 9 (b) the proceeds of any investment of the fund
10 under section 213W.
- 11 **213U. Bank account for college funds**
- 12 (1) Moneys forming part of a college fund are to be paid
13 into an account at a bank approved by the chief
14 executive officer.
- 15 (2) A student residential college is to have only one such
16 bank account for each college fund except to the extent
17 that the chief executive officer approves otherwise.
- 18 (3) The bank account or accounts may only be operated
19 jointly by 2 or more office-holders, or persons
20 belonging to a class, designated under subsection (4).
- 21 (4) The chief executive officer is to designate for each
22 student residential college the office-holders or class of
23 persons who may act under subsection (3).
- 24 (5) In this section —
- 25 **bank** means —
- 26 (a) an ADI (authorised deposit-taking institution)
27 as defined in the *Banking Act 1959*
28 (Commonwealth) section 5; or
- 29 (b) a bank constituted by a law of a State, a
30 Territory or the Commonwealth.

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1 **213V. *Financial Management Act 2006* s. 8 and 34,**
2 **application of to s. 213Q to 213U**

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

9 **213W. Investment of college funds**

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

17 **213X. Dealing with college funds on closure or**
18 **amalgamation of a college**

- 19 (1) If a student residential college is closed or
20 amalgamated with another college —
- 21 (a) subject to subsection (2), moneys in a college
22 fund are to be dealt with as the chief executive
23 officer may direct; and
- 24 (b) the bank account for the fund may be operated
25 by the chief executive officer for the purpose of
26 giving effect to such a direction.
- 27 (2) However —
- 28 (a) money paid under a licence to which
29 section 213K applies as a security for the
30 performance of an obligation may only be
31 applied in accordance with the licence; and

- 1 (b) subsection (1)(a) only applies to that money if
2 the money has been forfeited under, and in
3 accordance with, the licence.

4 **Subdivision 2 — Student Residential Colleges Fund**

5 **213Y. Student Residential Colleges Fund**

- 6 (1) An account called the Student Residential Colleges
7 Fund is established for the department.
- 8 (2) The Student Residential Colleges Fund is an agency
9 special purpose account under the *Financial*
10 *Management Act 2006* section 16.
- 11 (3) The following are to be credited to the Student
12 Residential Colleges Fund —
- 13 (a) moneys appropriated by Parliament for the
14 purposes of student residential colleges;
- 15 (b) moneys borrowed under section 213ZA;
- 16 (c) any other moneys received by, made available
17 to or payable to the Minister in the performance
18 of functions under this Act that relate to student
19 residential colleges.
- 20 (4) Moneys standing to the credit of the Student
21 Residential Colleges Fund are to be applied in the
22 payment of —
- 23 (a) expenditure incurred in the performance of the
24 functions of the Minister under this Part;
- 25 (b) the costs of the administration and enforcement
26 of this Act in relation to student residential
27 colleges.
- 28 (5) For the purposes of the *Financial Management*
29 *Act 2006* section 52, the administration of the Student
30 Residential Colleges Fund is to be regarded as a service
31 of the Department.

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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*

1 **15. Section 228 amended**

2 In section 228(b) after “Act” insert:

3

4 (except Part 6A)

5

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

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

10 **16. Section 240 amended**

11 In section 240(1):

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

13

14 or a student residential college

15

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

17

18 or college

19

20 (c) in paragraph (b)(ii) after “school” insert:

21

22 or any student residential college

23

24 (d) delete “specified in the order and remain away from
25 those premises, or from the premises of all government
26 schools,” and insert:

27

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

31

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1 **17. Schedule 1 clause 1 amended**

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

4
5 Division —
6

7 **18. Schedule 1 clause 2 amended**

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

9
10 Division
11

12 **19. Schedule 1 clause 23 amended**

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

15
16 Division
17

18 **20. Schedule 1 Division 4 inserted**

19 At the end of Schedule 1 insert:

20

21 **Division 4 — Transitional provisions for the *School***
22 ***Boarding Facilities Legislation Amendment and Repeal***
23 ***Act 2015***

24 **33. Terms used**

25 In this Division, unless the contrary intention appears —
26 ***1960 Act*** means the *Country High School Hostels Authority*
27 *Act 1960*;

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

6 *commencement day* means the day on which *School*
7 *Boarding Facilities Legislation Amendment and Repeal*
8 *Act 2015* section 20 comes into operation;

9 *former Authority* means the Country High School Hostels
10 Authority —

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

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

15 *liability* means any liability, duty or obligation whether
16 actual, contingent or prospective, liquidated or unliquidated,
17 or whether owed alone or jointly or jointly and severally
18 with any other person;

19 *right* means any right, power, privilege or immunity
20 whether actual, contingent or prospective.

21 **34. Hostels**

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

25 **35. Hostel land**

26 (1) In this clause —

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

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

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- 1 **36. Former Authority abolished**
- 2 On commencement day, the former Authority is abolished
3 and its members go out of office.
- 4 **37. Staff members of former Authority**
- 5 (1) In this clause —
- 6 *staff member of the former Authority* means a person who,
7 immediately before commencement day, was an officer or
8 servant of the former Authority appointed under the 1960
9 Act section 10.
- 10 (2) At commencement day each staff member of the former
11 Authority becomes a person employed in the department
12 within the class of employees referred to in
13 section 235(1)(c) or (d), as is relevant in accordance with
14 any relevant industrial award or agreement applying to the
15 staff member immediately before commencement day.
- 16 (3) Except as otherwise agreed by a person mentioned in
17 subclause (2) the operation of this clause does not —
- 18 (a) affect the person’s remuneration; or
- 19 (b) affect the person’s existing or accruing rights in
20 respect of annual leave, long service leave, sick
21 leave or any other leave; or
- 22 (c) affect any rights under a superannuation scheme; or
- 23 (d) interrupt the continuity of the person’s service.
- 24 (4) For the purposes of subclause (3)(d), the staff member’s
25 service with the former Authority is to be taken to have been
26 with the department.
- 27 **38. Transfer of assets, liabilities, proceedings, remedies and**
28 **immunities**
- 29 (1) On commencement day—
- 30 (a) the assets and rights of the former Authority
31 immediately before that day vest in or become, by
32 force of this clause, the property of the Minister;
33 and

1 (b) the liabilities of the former Authority immediately
2 before that day become, by force of this clause, the
3 liabilities of the Minister.

4 (2) From commencement day, any proceedings or remedy that,
5 immediately before that day, might have been brought or
6 continued by or available against or to the former Authority
7 may be brought or continued by, and are or is available
8 against or to, the Minister.

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

14 (4) As soon as is possible after commencement day, any
15 account maintained by the former Authority must be closed
16 by the Minister and the moneys in the account credited to
17 the Student Residential Colleges Fund.

18 **39. Completion of things commenced**

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

23 **40. Continuing effect of things done**

24 (1) In this clause —
25 *relevant act* means an act, matter or thing done or omitted to
26 be done before commencement day by, to or in respect of
27 the former Authority.

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

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

- 1 **41. Exemption from State tax**
- 2 (1) In this clause —
- 3 **State tax** includes —
- 4 (a) duty under the *Duties Act 2008*; and
- 5 (b) any other tax, duty, fee, levy or charge under a law
- 6 of the State.
- 7 (2) State tax is not payable in relation to —
- 8 (a) anything that occurs by operation of this Division;
- 9 or
- 10 (b) anything done (including a transaction entered into
- 11 or an instrument or document of any kind made,
- 12 executed, lodged or given) under this Division, or to
- 13 give effect to this Division, or for a purpose
- 14 connected with or arising out of giving effect to this
- 15 Division.
- 16 (3) The Minister may certify in writing that —
- 17 (a) a specified thing occurred by operation of this
- 18 Division; or
- 19 (b) a specified thing was done under this Division, or to
- 20 give effect to this Division, or for a purpose
- 21 connected with or arising out of giving effect to this
- 22 Division.
- 23 (4) For all purposes and in all proceedings, a certificate under
- 24 subclause (3) is sufficient evidence of the matters it certifies,
- 25 except so far as the contrary is shown.
- 26 **42. Agreements, instruments and documents**
- 27 (1) In this clause —
- 28 **subsisting**, in relation to an agreement, instrument or
- 29 document, means subsisting immediately before
- 30 commencement day.
- 31 (2) A subsisting agreement, instrument or document that
- 32 contains a reference to the former Authority has effect from

- 1 that day as if that reference were amended to be a reference
2 to the Minister.
- 3 (3) Subclause (2) does not apply to an agreement or instrument
4 to which the former Authority was a party.
- 5 (4) A subsisting agreement or instrument to which the former
6 Authority was a party has effect from commencement day
7 as if —
- 8 (a) the Minister were substituted for the former
9 Authority as a party to the agreement or instrument;
10 and
- 11 (b) a reference to the former Authority in the agreement
12 or instrument were amended to be a reference to
13 the Minister.
- 14 (5) Subclause (2) or (4)(b) does not apply to a reference if —
- 15 (a) regulations made under clause 45 provide
16 otherwise; or
- 17 (b) that application would be inappropriate in the
18 context in which the reference occurs.

19 **43. Registration of documents**

- 20 (1) In this clause —
- 21 ***relevant officials*** means —
- 22 (a) the Registrar of Titles under the *Transfer of Land*
23 *Act 1893*; or
- 24 (b) the Registrar of Deeds and Transfers under the
25 *Registration of Deeds Act 1856*; or
- 26 (c) the Minister administering the *Land Administration*
27 *Act 1997*; or
- 28 (d) any other person authorised by a written law to
29 record and give effect to the registration of
30 documents relating to transactions affecting any
31 estate or interest in land or any other property.
- 32 (2) The relevant officials are to take notice of the provisions of
33 this Division and are to record and register in the

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- 1 appropriate manner the documents necessary to show the
2 effect of this Division.
- 3 **44. Saving**
- 4 (1) The operation of any provision of this Division is not to be
5 regarded —
- 6 (a) as a breach of contract or confidence or otherwise
7 as a civil wrong; or
- 8 (b) as a breach of any contractual provision prohibiting,
9 restricting or regulating the assignment or transfer
10 of assets, rights or liabilities or the disclosure of
11 information; or
- 12 (c) as giving rise to any remedy by a party to an
13 instrument or as causing or permitting the
14 termination of any instrument, because of a change
15 in the beneficial or legal ownership of any asset,
16 right or liability; or
- 17 (d) as causing any contract or instrument to be void or
18 otherwise unenforceable; or
- 19 (e) as releasing or allowing the release of any surety.
- 20 (2) This Division is additional to any relevant provisions of the
21 *Interpretation Act 1984*.
- 22 **45. Transitional regulations**
- 23 (1) In this clause —
- 24 *specified* means specified or described in the regulations;
25 *transitional matter* —
- 26 (a) means a matter or issue of a transitional nature that
27 arises as a result of the transition from the 1960 Act
28 to this Act; and
- 29 (b) includes a saving or application matter.
- 30 (2) If there is no sufficient provision in this Division for dealing
31 with a transitional matter, regulations under this Act may be
32 made prescribing all matters that are required or necessary
33 or convenient to be prescribed for dealing with the matter.

- 1 (3) Regulations made under subclause (2) may provide that
2 specified provisions of any written law —
- 3 (a) do not apply to or in relation to any matter; or
4 (b) apply with specified modifications to or in relation
5 to any matter.
- 6 (4) If regulations made under subclause (2) provide that a
7 specified state of affairs is to be taken to have existed, or not
8 to have existed, on and from a day that is earlier than the
9 day on which the regulations are published in the *Gazette*
10 but not earlier than commencement day, the regulations
11 have effect according to their terms.
- 12 (5) If regulations made under subclause (2) contain a provision
13 referred to in subclause (4), the provision does not operate
14 so as —
- 15 (a) to affect in a manner prejudicial to any person
16 (other than the State or an authority of the State) the
17 rights of that person existing before the regulations
18 were published in the *Gazette*; or
19 (b) to impose liabilities on any person (other than the
20 State or an authority of the State) in respect of
21 anything done or omitted to be done before the
22 regulations were published in the *Gazette*.
- 23 (6) Regulations made under subclause (2) in relation to a matter
24 referred to in subclause (3) must be made within such period
25 as is reasonable and practically necessary to deal with a
26 transitional matter.
27
- 28 Note: The note at the beginning of Part 6 is to be altered in the 3rd bullet point
29 by deleting “non-teaching” and inserting:
- 30 other
- 31 Note: The note at the beginning of Part 7 is to be altered by deleting the
32 5th bullet point and inserting :
- 33 • the repeal of the *Education Act 1928* (section 246);
34 • the transition from that Act to this Act, and various other
35 subsequent statutory transitions (Schedule 1).

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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*.

