

TEACHER REGISTRATION BILL 2011

**EXPLANATORY MEMORANDUM
AND
CLAUSE NOTES**

INTRODUCTION

Objective

The objective of this Bill is to replace the Western Australian College of Teaching with a Teacher Registration Board to undertake teacher registration, discipline and related functions in Western Australia.

Part 1

Part 1 contains preliminary provisions including definitions. In this Part the extension of the obligation to become registered is achieved by requiring teachers in certain educational venues other than schools to register. Educational venues include child care centres as well as schools and community kindergartens.

Part 2

This Part creates offences of unregistered teaching, engaging an unregistered teacher and related offences. These offences are materially unchanged from those created by the *Western Australian College of Teaching Act 2004*.

Part 3

This Part outlines the categories of registration, the eligibility requirements for each and the application process. The requirements and nature of full and provisional registration closely mirror those applicable under the *Western Australian College of Teaching Act 2004*, while limited registration implements similar objectives to those sought to be achieved by the current Limited Authority to Teach. A new category of non-practising registration is created. Applicants aggrieved by a registration decision may seek full merits review in the State Administrative Tribunal.

Part 4

This Part imposes a duty to notify the Board of certain matters relevant to eligibility for registration and fitness and propriety upon registered teachers, employers, the Director of Public Prosecutions and the Commissioner of Police. These obligations are similar to those applicable under the *Western Australian College of Teaching Act 2004*.

Part 5

This Part sets out the disciplinary procedures and procedures applicable to impairment matters which affect a teacher's ability to practise as a teacher. The Teacher Registration Board will be required to establish a disciplinary committee and an impairment review committee which, with the teacher's consent, will have certain powers to consider complaints. The Board will be able to refer complaints to the State Administrative Tribunal and a teacher dissatisfied with an outcome under this Part will be able to seek review of the decision in the Tribunal.

Part 6

This Part establishes the Teacher Registration Board. The Board will be constituted by seven persons appointed for their experience and expertise by the Minister, one of whom must be an Australian lawyer.

The Minister will be able to give directions to the Board, although not in relation to any individual applicant, complaint or proceeding.

The Board will be hosted by the Department of Education Services which will provide the staff, services and facilities reasonably necessary to enable it to perform its functions.

Part 7

This Part sets out miscellaneous provisions including the list of reviewable decisions which can be considered by the State Administrative Tribunal.

Part 8

This Part will repeal the *Western Australian College of Teaching Act 2004* and regulations made under that Act. It also sets out the transitional arrangements.

Teachers registered currently will transition to the equivalent registration category subject to the same renewal date and any conditions as applicable under the College Act. 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.

Staff of the College will transition to the Department with retention of all entitlements and orderly arrangements are made with respect to the assets and liabilities of the College. Pending the sale of the College's office premises, should a sale not be finalised before the day this Act commences, the CEO of the Department will hold and manage the property, replacing the College board of management for this purpose. The proceeds of the eventual sale of the office premises are to be credited, together with all other assets of the College, to an agency special purpose account to be administered by the CEO for the purposes of the Teacher Registration Act.

Part 9

This Part details the amendments to the *Western Australian College of Teaching Act 2004* should it be necessary to retain the College pending the sale of its real property. The Part also makes consequential amendments to other Acts.

CLAUSE NOTES

- Long title** An Act to –
- provide for the establishment of the Teacher Registration Board of Western Australia; and
 - provide for the regulation of the teaching profession in Western Australia; and
 - facilitate the establishment and administration of an inter-jurisdictional accreditation scheme for teacher education programmes; and
 - repeal the *Western Australian College of Teaching Act 2004* and the regulations made under that Act; and
 - make consequential amendments to various Acts, and for related purposes.

Part 1 – Preliminary

- Clause 1 Short title**
- Sets out the name of the Act.
- Clause 2 Commencement**
- Provides for the commencement of the Act on a day or days to be fixed by proclamation.
- Clause 3 Terms used**
- Defines terms used in the Act.
- Clause 4 Crown bound**
- Provides that the Act will bind the Crown in right of the State of Western Australia and, so far as Parliament’s legislative power permits, the Crown in all its other capacities. However, the Crown will not be liable to prosecution for an offence under this Act.
- Clause 5 Best interests of children paramount**
- Stipulates that the best interests of children will be the paramount consideration in the performance of functions under the Act.

Part 2 – Teaching by unregistered persons - offences

- Clause 6 Requirement to be registered**
- Creates an offence of teaching in an educational venue without being registered subject to a maximum fine of \$5,000 for a first offence or \$10,000 for a second or subsequent offence.
- Clause 7 Requirement to employ etc. teachers who are registered**

Creates an offence of engaging an unregistered person to teach in an educational venue. The same maximum penalties apply.

Clause 8 Registered teachers must comply with conditions of registration

Creates an offence of teaching in contravention of a condition to which ones registration is subject. The same maximum penalties apply.

Clause 9 Pretending to be registered

Creates an offence of pretending to be registered. The same maximum penalties apply.

Part 3 – Registration of teachers

Division 1 – Registration of teachers

Subdivision 1 – Applications

Clause 10 Application for registration

Sets out the four categories in which a teacher may be registered: full registration; provisional registration, limited registration; non-practising registration. It also sets out the information required in an application for registration. It provides that a registration fee may be prescribed.

Clause 11 Application for renewal of registration

Sets out the information required in an application for renewal of registration. It provides that a renewal fee may be prescribed.

Clause 12 Applicant for limited registration is employer

Provides that it is the prospective employer of the proposed teacher who is the applicant when limited registration is sought.

Clause 13 Information in support of application

Enables the Board to require further information in support of an application.

Clause 14 Board may refuse to consider some applications

Provides for those situations in which the Board may refuse to deal with an application, namely where the application is not made in accordance with the Act or where a complaint against the applicant has been made but not finally dealt with.

Subdivision 2 – Requirements for registration

Clause 15 Full registration - requirements

Sets out the eligibility requirements for full registration as to being qualified, meeting the professional standards for full registration, being fit and proper, being proficient in English and enabling other requirements to be prescribed.

Clause 16 Provisional registration - requirements

Sets out the eligibility requirements for provisional registration as to being qualified, meeting the professional standards for provisional registration, being fit and proper, being proficient in English and enabling other requirements to be prescribed.

Clause 17 Limited registration - requirements

Sets out the eligibility requirements for limited registration as to having been offered a teaching position, being fit and proper, being proficient in English as required and enabling other requirements to be prescribed.

Clause 18 Non-practising registration - requirements

Sets out the eligibility requirements for non-practising registration.

Clause 19 Only natural persons may be registered as teachers

Stipulates that only natural persons may be registered.

Clause 20 Professional standards

Requires that the Board develop professional standards and enables the Board to do so by adopting standards developed elsewhere either in whole or in part. This clause further provides for the Minister to approve professional standards prior to their publication on the Board's website.

Subdivision 3 – Registration

Clause 21 Grant of registration

Sets out general requirements for registration.

Clause 22 Renewal of registration

Requires an application for renewal of registration to be made at least 28 days before expiry of current registration. Also sets out the requirements for renewal of registration.

Clause 23 Duration of registration

Provides for the duration of each category of registration: five years for full registration and up to three years for provisional or limited registration.

Clause 24 Who is a fit and proper person

Sets out what matters are relevant to the Board's determination of the fitness and propriety of a person to be registered including compliance with this and like legislation in other jurisdictions, the person's criminal history and character, and whether the person's standard of behaviour satisfies that generally expected of a teacher.

Subdivision 4 – Conditions and cancellation

Clause 25 Conditions generally

Lists the sources of possible conditions on a teacher's registration.

Clause 26 Conditions imposed by the Board

Enables the Board to impose conditions on a teacher's registration and provides for the nature of such conditions, their duration and that they may be modified or cancelled.

Clause 27 Cancellation of registration by Board

Provides for the Board to cancel a teacher's registration at any time the Board becomes aware that the teacher is not entitled to be registered. This clause also sets out the circumstances in which a teacher will become disentitled to be registered and, in two of those circumstances, enables the Board to take extenuating circumstances into account, namely, failure to consent to a criminal record check and failure to pay fees.

Clause 28 Cancellation of registration at teacher's request

Requires the Board to cancel a teacher's registration at the teacher's request.

Subdivision 5 – Notice of decisions and opportunity to show cause why some decisions should not be made

Clause 29 Notice of decisions on registration to be given

Requires the Board to give notice of its decision on an application for registration and sets out what the notice is to contain. The notice must advise of the possibility of review by the State Administrative Tribunal.

Clause 30 Notice of decision to impose, modify or cancel a condition made during the currency of the registration

Requires the Board to give notice if it decides to impose, modify or cancel a condition on a teacher's registration during the currency of that registration together with reasons for the decision. The notice must advise of the possibility of review by the State Administrative Tribunal.

Clause 31 Notice of cancellation of registration to be given

Requires the Board to give notice if it decides to cancel a teacher's registration and sets out what the notice is to contain. The notice must advise of the possibility of review by the State Administrative Tribunal.

Clause 32 Board to give reasonable opportunity to show cause why some decisions should not be made

Requires the Board to give an applicant or registered teacher an opportunity to show cause why a decision it intends to make under certain clauses should not be made.

Subdivision 6 – General provisions

Clause 33 Effect of cancellation of registration

Provides that when a person's registration is cancelled his or her name is to be removed from the register.

Clause 34 Effect of suspension of registration

Provides that a teacher whose registration is suspended is taken not to be registered for the duration of the suspension.

Clause 35 Annual fees

Provides for regulations to set annual fees for registered teachers.

Division 2 – The register

Clause 36 Register of teachers to be kept

Requires the Board to maintain a register of teachers and sets out what the register is to contain.

Clause 37 Inspection of register

Provides for access to the information on the register, stipulating that employers, principals and registered teachers may be given access to more information than is publicly available.

Part 4 – Board to be given notice, and may obtain criminal record checks, in some circumstances

Division 1 – Notices to be given

Subdivision 1 – Notices to be given by registered teachers

Clause 38 Notice about legal actions

Requires a registered teacher to notify the Board if he or she is ordered to pay compensation or damages because of something that happened while he or she was teaching. Further requires a registered teacher to notify the Board if he or she is convicted of a criminal offence which could result in imprisonment.

Clause 39 Notice about loss of qualifications

Requires a registered teacher to notify the Board if his or her qualifications are withdrawn or cancelled.

Clause 40 Notice about working with children notices and assessments

Requires a registered teacher to notify the Board in the event his or her entitlement to work with children is lost.

Subdivision 2 – Notices to be given by other persons

Clause 41 Notice to be given by DPP or Commissioner of Police about committal, conviction etc. of registered teacher

Sets out the circumstances in which the Director of Public Prosecutions and the Commissioner of Police are to notify the Board in respect of a registered teacher.

Clause 42 Notice to be given by employer about suspension, dismissal or resignation of registered teacher

Sets out the circumstances in which an employer has an obligation to notify the Board in respect of a registered teacher. Failure to do so will be subject to a maximum penalty of \$5,000.

Division 2 – Criminal record checks

Clause 43 Board may request consent to obtain a criminal record check

Enables the Board to require a teacher to consent to a criminal record check.

Clause 44 Criminal record check

The Board may obtain a criminal record check on any teacher who consents.

Division 3 – Board to consider notices and criminal record checks received

Clause 45 Action to be taken by Board on receiving a notification or criminal record check

Sets out the actions which can be taken by the Board on receipt of a notice or criminal record check. They include cancellation of registration, imposition of an interim disciplinary order and formulating a complaint for consideration under the disciplinary provisions in Part 5.

Part 5 – Discipline and impairment matters

Division 1 – Preliminary

Clause 46 Terms used

Defines terms used in Part 5 including ‘impairment’ and ‘sexual offence involving a child’. ‘Impairment’ means mental disability, injury or physical illness.

Clause 47 Disciplinary matters

Provides for the following to be treated as disciplinary matters: that the teacher has -

- been charged with a sexual offence involving a child;
- contravened the Act;
- contravened a condition of registration;
- contravened a disciplinary order;
- been convicted of an offence or engaged in serious misconduct the nature of which renders him or her unfit to be registered;
- been seriously incompetent as a teacher;
- failed to comply with an undertaking given to the Board.

Clause 48 Impairment matters

Defines impairment matters: that the teacher’s alcohol or drug use or dependence or impairment, as defined in clause 46, is experienced to such an extent that the teacher’s practice as a teacher is or is likely to be affected.

Division 2 – Disciplinary committee and impairment review committee

Clause 49 Disciplinary committee

Requires the Board to establish a disciplinary committee of three members, one of whom must be a lawyer, one of whom must be a registered teacher and one of whom must be a member of the Board.

Clause 50 Impairment review committee

Requires the Board to establish an impairment review committee of three members, one of whom must be a medical practitioner, one of whom must be a registered teacher and one of whom must be a member of the Board.

Division 3 – Complaints about teachers

Clause 51 Making a complaint

Provides that complaints can be made to the Board about a currently or formerly registered teacher. This clause further provides that the Board itself

may formulate a complaint based on a notification, criminal record check or other information it receives.

Clause 52 Teacher to be notified of complaint

Provides for notification of a complaint to the teacher who is the subject of it. This clause further provides for the circumstances in which the Board can postpone such notification.

Division 4 – Assessment, investigation and referral of complaints

Clause 53 Assessment, investigation and referral by Board

Sets out the ways in which the Board may deal with a complaint. They include dismissing the complaint as lacking in substance or for another reason, making an interim disciplinary order, referring the complaint to the disciplinary committee or the impairment review committee, and referring the complaint to the State Administrative Tribunal. This clause further enables the Board to make such investigations as it deems appropriate before deciding how to deal with a complaint.

Clause 54 Board to provide report to committee

Requires the Board to provide a report on its investigation when it refers a complaint to either the disciplinary committee or the impairment review committee.

Clause 55 Committee may request Board to undertake further investigations or recommend that the complaint be referred elsewhere

Enables the committee to which a complaint has been referred to request that the Board undertake further investigations or to recommend that the Board refer the complaint either to the other committee or to the State Administrative Tribunal.

Clause 56 Board's powers of investigation

Sets out the powers of the Board when investigating a complaint.

Clause 57 Inappropriate and trivial complaints

Provides for the circumstances in which the Board is under no duty to deal with a complaint. These include where the substance of the complaint would be more appropriately dealt with by another authority.

Division 5 – Interim disciplinary orders

Clause 58 Interim disciplinary orders generally

Sets out general requirements applicable to interim disciplinary orders. In particular, they are time-limited to 30 days.

Clause 59 Interim disciplinary orders may be made where risk of injury or harm

Enables the Board to make an interim disciplinary order where a teacher presents a risk of harm or injury to another person. The order may impose conditions on the teacher's registration or suspend that registration.

Clause 60 Interim disciplinary order may be made if teacher charged with sexual offence involving a child

Enables the Board to make an interim disciplinary order where a teacher has been charged with a sexual offence involving a child. The order may impose conditions on the teacher's registration or suspend that registration.

Clause 61 Interim disciplinary orders to be referred to the State Administrative Tribunal

Requires the Board to refer an interim disciplinary order to the State Administrative Tribunal within 14 days.

Division 6 – Role of disciplinary committee

Subdivision 1 – Initial assessment of complaints

Clause 62 Initial assessment and decision of disciplinary committee on complaint

Sets out the decisions which may be made by the disciplinary committee following its initial assessment of a complaint. They include dismissing the complaint; making an interim disciplinary order; and referring the complaint to another agency. Notice of the committee's decision is to be provided within 14 days to the teacher involved and to the complainant, if any.

Subdivision 2 – Inquiries

Clause 63 Disciplinary committee to deal with certain complaints

Enables the disciplinary committee to deal with a complaint by means of an inquiry provided the teacher involved consents.

Clause 64 Inquiry – procedure and evidence

Makes general provisions about the conduct of inquiries by the disciplinary committee.

Clause 65 Rights of teacher as to evidence and witnesses

Provides for the rights of the affected teacher during an inquiry, including calling and giving evidence, examining and cross-examining witnesses and making submissions.

Clause 66 Evidence and findings in other proceedings

Enables an inquiry to consider evidence in and findings of other court or tribunal proceedings.

Clause 67 Representation at inquiry

Entitles a party to an inquiry to appear before it in person or to be represented by another.

Clause 68 Powers of inquiry

Sets out the disciplinary committee's powers when conducting an inquiry.

Clause 69 Record of inquiry

Requires that a record is to be kept of an inquiry.

Clause 70 Decision of disciplinary committee after inquiry

Sets out the outcomes available to the disciplinary committee at the conclusion of an inquiry. They include imposing a fine up to \$5,000; imposing conditions on the teacher's registration; suspension of registration up to two years; substitution of the teacher's full registration with provisional registration; and making a recommendation to the Board that the matter be referred to the State Administrative Tribunal. The disciplinary committee may also award costs.

Subdivision 3 – Offences relating to inquiries

Clause 71 Failure to comply with notice under section 68

Requires a registered teacher to comply with a notice to attend or produce a document or other thing for the purposes of an inquiry. A registered teacher must not refuse to make an oath or affirmation if required to do so by an inquiry. The maximum penalty is a \$5,000 fine.

Clause 72 Disruption of inquiry

Creates an offence of disrupting an inquiry, including by wilfully interrupting or obstructing proceedings, subject to a penalty of up to \$5,000.

Division 7 – Role of impairment review committee

Subdivision 1 – Complaints relating to impairment matters

Clause 73 Impairment review committee to deal with certain complaints

Requires the impairment review committee to deal with complaints referred to it by the Board in accordance with this Subdivision.

Clause 74 Registered teacher to be notified about impairment matter

Requires the impairment review committee to notify the teacher involved about the complaint and seek the teacher's consent to the matter being dealt

with by the committee and, if relevant, to undergoing an examination relating to the impairment matter.

Clause 75 Impairment matter – procedure and evidence

Makes general provisions about how impairment matters are to be handled by the impairment review committee.

Clause 76 Examination

Makes provisions with respect to the examination of a teacher by a medical practitioner either agreed by the committee and the teacher or appointed by the committee. Such an examination is to be paid for by the Board. This clause further provides that, if the teacher declines to undergo an examination, the committee is to recommend to the Board that the complaint be referred to the State Administrative Tribunal.

Clause 77 Report of examination to impairment review committee

Requires the medical practitioner appointed under clause 76 to conduct an examination to provide a report to the Board with a copy to the teacher. This clause further makes provision for circumstances in which the report may be withheld from the teacher and provided instead to another medical practitioner or a registered teacher either nominated by the teacher or selected by the committee.

Clause 78 Decision of impairment review committee after consideration of matter

Sets out the outcomes available to the impairment review committee at the conclusion of its consideration of an impairment matter. They include requesting that the teacher consent to the imposition of conditions on his or her registration, suspension of registration for up to two years or undergoing counselling specified by the committee.

Clause 79 Recommendation

Requires the impairment review committee to recommend that the Board implement an outcome to which the teacher has consented. Further provides that the impairment review committee is to recommend that the matter be referred to the State Administrative Tribunal if an agreement cannot be reached with the teacher.

Clause 80 Decision of Board after consideration of recommendation of impairment review committee

Enables the Board to accept the recommendation of the impairment review committee or to make a different decision. Notice of the decision is to be given within 14 days to the teacher and to any complainant.

Subdivision 2 – Requests to impairment review committee by teachers

Clause 81 Request by teacher for imposition of condition

Enables a teacher to request that the impairment review committee recommend that the Board impose a condition on his or her registration or that an existing condition be modified.

Clause 82 Cancellation of condition

Enables the Board to cancel a condition of registration imposed at the teacher's request if the teacher satisfies the impairment review committee that his or her ability to teach is no longer affected by the impairment.

Division 8 – State Administrative Tribunal

Subdivision 1 – Role of the Board

Clause 83 Certain complaints to be referred to state Administrative Tribunal.

Enables the Board to refer complaints to the State Administrative Tribunal. This clause further provides that an order of the Board, if any, remains in force until revoked by the Tribunal.

Subdivision 2 – State Administrative Tribunal

Clause 84 Jurisdiction of State Administrative Tribunal

Lists the orders that can be made by the State Administrative Tribunal.

Division 9 – Notice of orders and decisions made under this Part

Clause 85 Notice of orders and decisions made under this Part

Sets out the generally applicable requirements as to notice in respect of disciplinary and impairment decisions. In particular the teacher and any complainant are to be notified within 14 days of the making of the decision and short particulars of the reasons are to be given. Where there is a right of review, that information is also to be included in the notice.

Part 6 – Teacher Registration Board

Division 1 – Establishment

Clause 86 Board established

Establishes the Teacher Registration Board of Western Australia.

Clause 87 Membership of Board

Sets out the number of members – seven – to be appointed by the Minister to the Board and the matters the Minister is to take into account in appointing the members.

Clause 88 Remuneration and allowances

Provides for Board members to receive such remuneration and allowances as are determined by the Minister on the recommendation of the Public Sector Commissioner.

Division 2 – Functions and powers

Clause 89 Functions

Sets out the functions of the Board. They include working with other jurisdictions to establish a national initial teacher education program accreditation scheme.

Clause 90 Powers

Provides that the Board will have all the powers it needs to perform its functions.

Clause 91 Delegation by Board

Empowers the Board to delegate a power or duty to a member of the Board, a committee of the Board or an officer or employee of the Department.

Division 3 – Staff and services

Clause 92 Staff and services

Requires the CEO of the Department assisting the Minister in the administration of the Act to provide to the Board such staff, facilities, services, resources and other support as are reasonably necessary to enable it to perform its functions.

Division 4 – Relationship of Board with Minister

Clause 93 Directions by Minister

Enables the Minister to give directions to the Board and requires that any direction so given be laid before each House of Parliament within 14 days as well as being included in the annual report of the Board. This clause further provides that the Minister cannot direct the Board with respect to a particular person, application, complaint or proceeding.

Clause 94 Minister to have access to information

Enables the Minister to have access to information in the possession of the Board with the exception of information which identifies a person involved in a particular application, complaint, investigation or other proceeding.

Division 5 – Constitution and proceedings of the Board

Subdivision 1 – General provisions

Clause 95 Term of office

Provides for the term of office of Board members (up to five years) and that members are eligible for reappointment. This clause also provides for the situation of a term of office expiring without another person having been appointed to fill the vacancy.

Clause 96 Casual vacancies

Makes provision for the resignation of Board members and the removal of Board members by the Minister.

Clause 97 Deputy chairperson acting as chairperson

Enables the deputy chairperson of the Board to act as chairperson in certain circumstances.

Clause 98 Alternate members

Enables the Minister to appoint alternate members in certain circumstances.

Clause 99 Holding meetings

Sets out how meetings are to be convened.

Clause 100 Quorum

Establishes a quorum of five members.

Clause 101 Presiding at meetings

Makes provision as to who will preside at a Board meeting.

Clause 102 Procedure at meetings

Provides that the Board will determine its own meeting procedures.

Clause 103 Voting

Provides that each Board member has a deliberative vote and that the person presiding will have a casting vote if necessary.

Clause 104 Holding meetings remotely

Enables Board meetings to be conducted remotely by telephone or other means of instantaneous communication.

Clause 105 Resolution without meeting

Enables a resolution to be passed without a meeting having been held by providing that a resolution in writing signed or assented to by at least half the members of the Board will have the same effect as if it had been passed at a meeting.

Clause 106 Minutes

Requires the board to keep accurate minutes of its meetings.

Clause 107 Committees

Enables the Board to establish committees and to give directions as to their functions, procedures and reporting obligations. This clause further provides that a committee may include people who are not Board members but each must include at least one Board member.

Subdivision 2 – Disclosure of interest

Clause 108 Disclosure of interest

Requires a Board or committee member who has a material personal interest in a matter before the Board to declare that interest subject to a maximum penalty of \$25,000.

Clause 109 Voting by interested Board member

Prevents a Board member from deliberating or voting on a matter in which he or she has a material personal interest.

Clause 110 Section 109 may be declared inapplicable

Enables the Board to permit a member with an interest in a matter to participate in the deliberations and to vote notwithstanding the previous clause.

Clause 111 Quorum where section 109 applies

Makes provision for the quorum applicable where a Board member is unable to deliberate or vote due to having a material person interest in a matter. This clause further provides that the Minister can deal with a matter where a quorum cannot be achieved because of the operation of the rules on material personal interests.

Clause 112 Minister may declare sections 109 and 111 inapplicable

Enables the Minister to declare the rules on material personal interests inoperable. The clause further requires that any such declaration be laid before each House of Parliament within 14 days.

Division 6 – General

Clause 113 Execution of documents by the Board

Sets out when a document is properly executed by the Board.

Clause 114 Annual report of Board

Stipulates that the Board is to prepare an annual report after the end of each financial year for inclusion in the annual report of the Department. The clause further stipulates what the annual report is to contain.

Clause 115 Teacher Registration Board Account

Establishes the Teacher Registration Board Account as an agency special purpose account to be administered by the CEO of the Department. Fees payable to the Board are to be credited to this Account and the costs of performing the functions of the Board under the Act are to be paid from it.

Part 7 – Miscellaneous

Division 1 – Publishing and using information

Clause 116 Term used: publish

Defines the term “publish” as used in Division 1.

Clause 117 Confidentiality of information

Requires persons dealing with information in pursuance of functions under the Act to refrain from publishing or making use of it improperly subject to a maximum penalty of \$25,000.

Clause 118 Publication of information

Enables the Board to publish registration and any other information under the Act to any person it deems should be made aware of it provided it is satisfied publication is in the public interest. In particular, the Board may give notice of findings and orders resulting from disciplinary proceedings to the employer of the registered teacher involved and to the teacher regulatory authority of any other State or Territory or of New Zealand. The clause further provides that, provided the Board acts in good faith, no liability attaches to such publication.

Division 2 – Legal proceedings

Clause 119 Legal proceedings

Provides that offences under the Act can be prosecuted by the Board or another person authorised to do so by the Board or by another law and that prosecutions are to be heard by a magistrate.

Clause 120 *Evidence Act 1906* not affected

Stipulates that this Division does not affect the operation of the *Evidence Act 1906*.

Clause 121 Evidentiary matters

Sets out the matters which are taken to be proved in legal proceedings for offences against the Act.

Clause 122 Evidentiary certificate

Provides what matters can be stated in an evidentiary certificate given by the Board and for the effect of such a certificate.

Clause 123 Recovery of amounts due

Enables fees, penalties, costs or expenses to be recovered by the Board in any court of competent jurisdiction.

Division 3 – Review by State Administrative Tribunal

Clause 124 Review by State Administrative Tribunal of certain decisions

Provides that reviewable decisions as defined in the clause can be the subject of an application to the State Administrative Tribunal for review by a person who is or was a registered teacher or by the employer of a registered teacher.

Division 4 – Other matters

Clause 125 Laying before House of Parliament that is not sitting

Sets out the procedures applicable in respect of matters that must be laid before each House of Parliament when Parliament, or either House, is not sitting.

Clause 126 Protection from liability

Provides that a person acting in good faith in the performance of functions under the Act is protected from liability.

Clause 127 False or misleading information

Creates an offence of providing false or misleading information in connection with an application or for any other purpose under the Act subject to a maximum penalty of \$5,000 for a first offence and \$10,000 for a second or subsequent offence.

Clause 128 Regulations

Provides for regulations to be made prescribing all matters required or permitted by the Act to be prescribed or which are necessary or convenient.

Clause 129 Forms

Enables forms to be prescribed or approved by the Board.

Clause 130 Review of Act

Requires the Minister to review the operation and effectiveness of the Act after four years from the commencement of this provision and lists the matters to which the Minister must have regard.

Part 8 – Repeals and transitional matters

Division 1 – *Interpretation Act 1984* not affected

Clause 131 *Interpretation Act 1984* not affected

Stipulates that this Part is not intended to prejudice the operation of the *Interpretation Act 1984*.

Division 2 – Repeals

Clause 132 *Western Australian College of Teaching Act 2004* repealed

Repeals the *Western Australian College of Teaching Act 2004* (WACOT Act). This section will not be proclaimed until the real property the Western Australian College of Teaching (the College) has been disposed of. Until that time, the WACOT Act will continue to operate solely for the purpose of holding the real property and disbursing liabilities in relation to it. For this purpose, the WACOT Act is consequentially amended by Division 1 of Part 9.

Clause 133 *Western Australian College of Teaching Regulations 2004* repealed

Repeals the *Western Australian College of Teaching Regulations 2004*.

Clause 134 *Western Australian College of Teaching (Elections) Regulations 2007* repealed

Repeals the *Western Australian College of Teaching (Elections) Regulations 2007*.

Division 3 – Transitional provisions arising from the enactment of the *Teacher Registration Act 2011*

Subdivision 1 – Terms used

Clause 135 Terms used

Defines terms used in this Division.

Subdivision 2 – Registration

Clause 136 Registration continues

Protects the existing registration status of teachers registered under the WACOT Act.

Clause 137 Teachers not registered at commencement day

Provides for the appropriate registration category for teachers not formerly registered but required to be registered under the Act.

Subdivision 3 – Former Board abolished

Clause 138 Former Board abolished

Abolishes the Board of the College and provides that its members go out of office.

Clause 139 Unfinished proceedings

Any proceedings commenced under the repealed Act are to be dealt with and determined as if they were commenced by the Teacher Registration Board and under this Act.

Subdivision 4 – Assets and liabilities of the College, other than those relating to real property, transferred

Clause 140 This Subdivision does not apply in respect of real property

Stipulates that this Subdivision does not apply to the College's real property or any liabilities in respect of it.

Clause 141 Transfer of assets, liabilities, etc.

Makes provision for the transfer of the other assets and liabilities of the College.

Clause 142 Winding up

Requires the CEO to wind up the affairs of the College as soon as reasonably practicable.

Clause 143 Final report

Makes provision with respect to the final annual report of the College in respect of the period between its last annual report and the abolition of its Board. This clause further requires that this final report be included in the Department's annual report.

Clause 144 Records etc. to be delivered to CEO

Requires the College to ensure that its records are delivered to the CEO.

Subdivision 5 – Staff under WACOT Act

Clause 145 Staff under WACOT Act – transition of employment

Transfers all staff of the College to the Department without loss of entitlements.

Subdivision 6 – Other matters

Clause 146 Disciplinary proceedings

Provides that disciplinary proceedings incomplete on the date this Act commences are to continue as if they had commenced under this Act.

Clause 147 Orders made under WACOT Act

Orders made under the WACOT Act are to continue in force.

Clause 148 References to College or former Board

Provides that references in a written law or other document or instrument to the College or the former Board may be read as a reference to the Teacher Registration Board.

Clause 149 Transitional regulations

If there is no provision sufficient for dealing with a transitional matter, this clause enables transitional regulations to be made to deal with it.

Part 9 – Amendments to other Acts

Division 1 – *Western Australian College of Teaching Act 2004* amended

Clause 150 *Western Australian College of Teaching Act 2004* amended

Stipulates that the WACOT Act is amended as outlined.

Clause 151 Long title amended

Replaces the long title of the WACOT Act with the following:

An Act to -

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

Clause 152 Section 3 amended

Replaces section 3 of the WACOT Act with a list of terms used in that Act as amended.

Clause 153 Section 7 amended

Amends section of the WACOT Act to provide that the College board of management is to be constituted by the CEO of the Department principally assisting the Minister in the administration of the Teacher Registration Act.

Clause 154 Sections 9 to 13 deleted

Deletes sections 9 to 13 of the WACOT Act in relation to membership of the former board, its procedures and committees.

Clause 155 Section 15 amended

Amends those parts of section 15 of the WACOT Act which enabled the Minister to make use of College staff to obtain and provide information at the Minister's request.

Clause 156 Sections 16 to 18 replaced

Deletes sections 16 to 18 of the WACOT Act, replacing them as follows:

- new section 16 defines the term "residual affairs" by reference to the College's real property and its liabilities relating to it;
- new section 17 stipulates that the function of the College is to manage and wind up its residual affairs; and
- new section 18 states that the College has all necessary powers for the performance of its functions.

Clause 157 Sections 19 to 21 deleted

Deletes sections 19 to 21 of the WACOT Act which deal with the Director and staff of the College.

Clause 158 Section 25 amended

Amends section 25 of the WACOT Act with respect to the common seal and execution of documents by the College, by replacing references to members of the Board with references to the CEO.

Clause 159 Section 26 replaced

Replaces section 26 of the WACOT Act with respect to the funds of the College. The new section will require moneys received by the College to be credited to the Teacher Registration Board Account and all expenditures to be charged to that account.

Clause 160 Sections 27 to 29 deleted

Deletes sections 27 to 29 of the WACOT Act.

Clause 161 Parts 4 to 9 deleted

Deletes Parts 4 to 9 of the WACOT Act which covers sections 30 to 90.

Clause 162 Schedules 1 to 4 deleted

Deletes the Schedules to the WACOT Act.

Division 2 – Other Acts amended

Clause 163 *Children and Community Services Act 2004* amended

Consequentially amends the *Children and Community Services Act 2004*.

Clause 164 *Constitution Acts Amendment Act 1899* amended

Consequentially amends the *Constitution Acts Amendment Act 1899*.

Clause 165 *Curriculum Council Amendment Act 2011* amended

Consequentially amends the *Curriculum Council Amendment Act 2011*.

Clause 166 *Occupational Therapists Act 2005* amended

Consequentially amends the *Occupational Therapists Act 2005*.

Clause 167 *Prostitution Amendment Act 2008* amended

Consequentially amends the *Prostitution Amendment Act 2008*.

Clause 168 *Sentencing Act 1995* amended

Consequentially amends the *Sentencing Act 1995*.

Clause 169 *Spent Convictions Act 1988* amended

Consequentially amends the *Spent Convictions Act 1988*.