

**TEACHER REGISTRATION AMENDMENT BILL 2022**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Matthew Swinbourn (Parliamentary Secretary)** on behalf of Hon Sue Ellery (Minister for Education and Training), read a first time.

*Second Reading*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [5.44 pm]: On behalf of the Minister for Education and Training, I move —

That the bill be now read a second time.

The significance of the teaching profession to the lives of every Western Australian can never be underestimated. Teachers serve a vital role and the importance of the profession is reflected in many ways. It is reflected in the demands of the work that they do. This has never been better demonstrated than in the response of the profession to COVID-19 over the past few years. It is reflected in the standards that they must uphold, centred on professional knowledge, practice and engagement. It is also reflected in research that shows that teachers are the single most important factor in a child's learning achievement in the classroom.

A scheme to regulate the teaching profession in Western Australia, which was originally introduced through the Western Australian College of Teaching Act 2004, has been in place for nearly 20 years. The purpose of such a scheme is to ensure that WA children are taught by qualified people who practise teaching professionally, competently and safely. The public interest is served by providing a scheme that provides for quality and contemporary regulation of the teaching profession. The paramount consideration is the best interests of children.

This bill, the Teacher Registration Amendment Bill 2022, amends the Teacher Registration Act 2012. The bill is based on the findings of the statutory review, tabled in 2018, of the Teacher Registration Act 2012. The review considered the operation and effectiveness of the act and the effectiveness of the Teacher Registration Board, including the need for the continuation of its functions. The review also examined the need for amendments to ensure that the act operates as intended, the purposes of the act are achieved, and that appropriate consistency with national developments is promoted. The review found that a statutory scheme has been adopted in all Australian states and territories, and that the public interest is generally served in maintaining the scheme of teacher registration in this state through a board with the core functions of registering teachers, administering disciplinary and impairment review processes, and accrediting initial teacher education programs. Further, the act has delivered a fair and efficient registration system for most applicants and employers. It was also found, however, that adjustments are necessary in some key areas that this bill is designed to address.

The bill is intended to strengthen the power of the board to respond to matters of child safety involving teachers, consistent with the intent of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The bill provides that interim orders can now be made if the board believes, on reasonable grounds, that a registered teacher poses a risk of harm to a student and a suspension is necessary to protect the student. This essentially removes the very narrow current requirement that there be an imminent risk, which has unreasonably curtailed the board's capacity to impose such an order in certain circumstances. It will mean that it is possible for the board to suspend a teacher's registration, notwithstanding that they are not currently working as a teacher, to remove the possibility of the risk to children they may pose by later acquiring employment as a teacher. Such orders will continue to be very carefully applied, and the board will have regard to the evidentiary status of the matter and the best interests of children before imposing the order. The making of these orders will allow the board to suspend teachers from teaching for up to 30 days and will continue to be the subject of referral to the State Administrative Tribunal for review.

Significantly, the obligations placed on employers, the Western Australia Police Force and the Director of Public Prosecutions to notify the board in certain circumstances have been reviewed and clarified. Employer obligations to notify the board have been simplified and the current requirement, which turns on there being an investigation that results in the teacher's dismissal, has been removed. The time that employers have to notify the board when a teacher ceases teaching in cases of serious incompetence or serious misconduct has been reduced from 28 days to seven days.

The responsibilities of WA police and the DPP to give notice have been appropriately distinguished. The basic purpose is that the board is able to consider and address any risks associated with the prosecution of registered teachers. For example, WA police are to provide notice to the board as soon as practicable after they become aware that a registered teacher has been charged by a police officer with certain offences under the act. This will assist the board in taking appropriate steps to address any risk to children associated with the teacher's duties as a registered teacher as soon as possible. WA police are also to provide notice to the board as soon as practicable after charges against a registered teacher are discontinued or there is an acquittal or mistrial. Subject to the circumstances of the

case, this will assist the board to assess whether any further regulatory action ought to be taken in the interests of child safety. A proposed new section has been included to provide for the board to request child victim and witness information from WA police, in the rare circumstances in which the board may be unable to take effective action in the best interests of children without it. The Commissioner of Police may give notice to the board only when they consider that it will not prejudice an investigation or prosecution, and that it is in the best interests of the victim or witness.

Some key terms have been defined in the bill, including “serious misconduct” and “serious incompetence”. Inclusion of these definitions will assist teachers and employers to better meet their obligations under the act. The term “actionable offence” replaces “sexual offence involving a child”, to better reflect that not all serious offences that have a bearing on child safety are sexual offences.

The board’s powers of investigation have been enhanced. These powers will enable the board to get a fuller picture as early as possible when a matter comes to light. In particular, a penalty provision has been included for any person failing to comply with a direction notice given under the section without a reasonable excuse. The board will, of course, cooperate with any person, and the imposition of such a penalty would only be a last resort. There are, of course, circumstances in which a teacher may have a serious medical condition or impairment that may adversely affect their ability to work as a teacher. The bill defines impairment in line with the relevant provisions of the Equal Opportunity Act 1984. Further, it makes it clear that whether a person is unable to carry out the inherent requirements of the work of a registered teacher because of an impairment is a relevant consideration in determining whether they are fit to teach. What constitutes an impairment matter during the course of someone’s registration has, along similar lines, been made clearer too. Provision has also been made to enhance the capacity of the board’s impairment review committee to assess and undertake inquiries regarding complaints referred to it. Reform has been undertaken, in the interests of natural justice, to provide rights for a teacher to appear in person or to be represented, similar to someone appearing before a disciplinary committee. In this light, the membership of the committee will, in addition to a doctor, include a lawyer.

The limitation period for prosecutions under the act will be extended from the current 12 months to six years. This limitation period will be extended to account for the practical realities involved in bringing a prosecution to court within 12 months of the commission of an offence.

The bill is also directed at improving the effectiveness of the registration system and improving fairness, particularly for those teachers who may have returned to the profession after an absence. In this regard, the scheme of teacher registration has been somewhat impeded by the current act, which places certain teachers in the category of non-practising registration and then provides that they have permission to teach while non-practising. This has led to considerable confusion both on the part of teachers and employers. The changes flowing from the bill will mean that it will become an offence for anyone with non-practising registration to teach.

There will be two new subcategories of provisional registration: provisional registration, graduate teacher and provisional registration, returning teacher. This differentiation will generally distinguish those who are recent graduates and those who are more experienced teachers. Provisional registration for returning teachers will allow experienced teachers from Australia and from overseas or those who are returning to the profession time to demonstrate that they meet the requirements of full registration. The bill will also allow the board to more fairly deal with teachers in both Australia and from overseas who may have very substantial and successful teaching experience but may not currently quite meet the requirements for registration because their qualifications do not meet contemporary requirements, particularly with regard to the duration of their teaching degree. The changes will allow the board to consider both their qualifications and teaching experience in combination when determining whether a teacher may hold provisional or full registration.

The changes will also enable Western Australia to fully participate in the Australian Teacher Workforce Data strategy. This followed a December 2016 decision of the Council of Australian Governments Education Council, as it was known then, to fund the Australian Institute for Teaching and School Leadership—AITSL—to work with relevant organisations, including teacher regulatory authorities across Australia to implement an Australian Teacher Workforce Data strategy. The aim is to compile data on who is being prepared to teach and how effectively, and who is teaching and where they are teaching, and to identify any gaps in the availability of teachers for Australian student population needs. A key component of the strategy is the inclusion of registration data, and the bill provides a mechanism to provide for the lawful provision of that data, noting that Western Australia is currently the only jurisdiction not fully participating in the initiative.

The bill will also increase the membership of the board from seven to nine members. The general rationale is that the current membership of seven may be considered too small to cover the range and expertise needed to take account of the board’s statutory functions. This includes teaching at all types of educational institutions, as defined in the act, and in different parts of the state; making judgements about a teacher’s proficiency, competence, misconduct and impairment; assessing the fitness and propriety of members of the teaching profession; and sound

and ethical regulatory decision-making. Members will continue to be appointed by the minister responsible for administering the act and will continue to include at least three registered teachers and an Australian lawyer as part of the membership. I would like to emphasise that the paramount consideration, which is the best interests of children, will, of course, remain in the act.

I am confident that the bill and the changes it makes to the established regulatory framework will work to ensure the highest teaching standards and promote the professional, competent and safe practice of teaching, in the interests of education and student safety.

Pursuant to standing order 126(1), I advise that this bill is a uniform legislation bill. It is a bill that ratifies or gives effect to an intergovernmental or multilateral agreement to which the government of the state is a party.

I commend the bill to the house and table the explanatory memorandum.

[See paper [1779](#).]

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.