

Teacher Registration Bill 2011

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Defined Terms

Western Australia

LEGISLATIVE ASSEMBLY

Teacher Registration Bill 2011

A Bill for

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.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Teacher Registration Act 2011*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — 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.

3. Terms used

In this Act —

accredited initial teacher education programme means a teacher education programme accredited under, or in a manner described in, the regulations;

application means an application under Part 3 Division 1 Subdivision 1;

approved means approved in writing;

Board means the Teacher Registration Board of Western Australia established by section 86;

CEO means the chief executive officer of the Department;

child care centre means a place where a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

child sex offender has the meaning given in section 46;

committee means a committee established by the Board under this Act;

complainant, in relation to a complaint, means the person who made the complaint, but does not include the Board;

complaint means a complaint made under Part 5;

- 1 **condition** includes a restriction;
- 2 **criminal record check** means information provided by the
3 Australian Federal Police, the Police Force of a State or
4 Territory or another country, or another body or agency
5 prescribed, regarding the criminal convictions of a person for
6 offences under the law of the Commonwealth, or of a State or
7 Territory, or of another country;
- 8 **Department** means the department of the Public Service
9 principally assisting the Minister in the administration of this
10 Act;
- 11 **disciplinary committee** means the committee established under
12 section 49;
- 13 **educational programme** means an organised set of learning
14 activities designed to enable a student to develop knowledge,
15 understanding, skills and attitudes relevant to the student's
16 individual needs;
- 17 **educational venue** means any of the following —
- 18 (a) a school as defined in the *School Education Act 1999*
19 section 4;
- 20 (b) a kindergarten registered under the *School Education*
21 *Act 1999* Part 5;
- 22 (c) a child care centre;
- 23 (d) any other place prescribed as an educational venue;
- 24 **employer**, in relation to a registered teacher, means the person
25 or entity who engaged, employed or appointed the teacher, or
26 gave the teacher permission to teach, in an educational venue;
- 27 **impairment review committee** means the committee established
28 under section 50;
- 29 **interim disciplinary order** means an order made under Part 5
30 Division 5;
- 31 **lawyer** means an Australian lawyer as defined in the *Legal*
32 *Profession Act 2008* section 3;

s. 3

- 1 **medical practitioner** means a person registered under the
2 *Health Practitioner Regulation National Law (Western*
3 *Australia)* in the medical profession;
- 4 **nominee**, in relation to limited registration, has the meaning
5 given in section 17;
- 6 **prescribed** means prescribed by regulation;
- 7 **principal** has the meaning given in the *School Education*
8 *Act 1999* section 4;
- 9 **professional standards** means the professional standards
10 developed by the Board and approved by the Minister under
11 section 20;
- 12 **register** means the register kept under Part 3 Division 2;
- 13 **registration** means registration under Part 3 in one of the
14 following categories —
- 15 (a) full registration;
- 16 (b) provisional registration;
- 17 (c) limited registration;
- 18 (d) non-practising registration;
- 19 **sexual offence involving a child** has the meaning given in
20 section 46;
- 21 **student** means a person to whom an educational programme is
22 being delivered;
- 23 **teach** means to undertake duties in an educational venue that
24 include —
- 25 (a) the delivery of an educational programme designed to
26 implement a prescribed curriculum and the assessment
27 of student participation in such an educational
28 programme; or
- 29 (b) the administration of any such educational programme,
30 but does not include duties of the kind undertaken —
- 31 (c) by a teacher's aide, a teacher's assistant or a student
32 teacher; or

- 1 (d) by a person employed or engaged to provide care at a
2 child care centre but who is not employed or engaged to
3 teach at that centre; or
4 (e) by an unpaid volunteer, unless the volunteer is
5 undertaking duties of a kind, or to an extent, prescribed
6 for the purposes of this paragraph; or
7 (f) by such persons, or in such circumstances, if any, as are
8 prescribed.

9 **4. Crown bound**

- 10 (1) This Act binds the State and, so far as the legislative power of
11 the Parliament permits, the Crown in all its other capacities.
12 (2) Nothing in this Act makes the State, or the Crown in any of its
13 other capacities, liable to be prosecuted for an offence.

14 **5. Best interests of children paramount**

15 A person or body with functions under this Act must, in the
16 performance of those functions, regard the best interests of
17 children as the paramount consideration.

1 **Part 2 — Teaching by unregistered persons—offences**

2 **6. Requirement to be registered**

3 A person must not teach in an educational venue unless the
4 person is a registered teacher.

5 Penalty:

- 6 (a) for a first offence, a fine of \$5 000;
7 (b) for a second or subsequent offence, a fine of \$10 000.

8 **7. Requirement to employ etc. teachers who are registered**

9 A person must not appoint, employ, engage or give permission
10 to another person to teach in an educational venue unless the
11 other person is a registered teacher.

12 Penalty:

- 13 (a) for a first offence, a fine of \$5 000;
14 (b) for a second or subsequent offence, a fine of \$10 000.

15 **8. Registered teachers must comply with conditions of**
16 **registration**

17 A registered teacher must not contravene a condition to which
18 the teacher's registration is subject.

19 Penalty:

- 20 (a) for a first offence, a fine of \$5 000;
21 (b) for a second or subsequent offence, a fine of \$10 000.

22 **9. Pretending to be registered**

- 23 (1) A person who is not a registered teacher must not —
24 (a) claim to be a registered teacher; or
25 (b) claim to be qualified or entitled to teach in an
26 educational venue.

- 1 (2) Without limiting subsection (1), a person who is not a registered
2 teacher must not —
- 3 (a) take or use the title of registered teacher or any other
4 title calculated to induce a belief that the person is
5 registered under this Act; or
- 6 (b) claim to be registered, or hold himself or herself out as
7 being registered, under this Act; or
- 8 (c) claim to be entitled to practise as a teacher; or
- 9 (d) use a title that indicates, or could reasonably be
10 understood as indicating, that he or she is a registered
11 teacher or qualified or entitled to teach in an educational
12 venue.
- 13 Penalty:
- 14 (a) for a first offence, a fine of \$5 000;
- 15 (b) for a second or subsequent offence, a fine of \$10 000.

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Part 3 — Registration of teachers

Division 1 — Registration of teachers

Subdivision 1 — Applications

10. Application for registration

- (1) An application may be made to the Board for registration as a teacher in one of the following categories —
 - (a) full registration;
 - (b) provisional registration;
 - (c) limited registration;
 - (d) non-practising registration.

- (2) An application is to —
 - (a) be in writing in the form approved by the Board; and
 - (b) specify the category of registration applied for; and
 - (c) be accompanied by evidence that —
 - (i) the applicant; or
 - (ii) if the application is for the grant of limited registration, the nominee,meets the requirements for the category of registration applied for in accordance with Subdivision 2; and
 - (d) be accompanied by the written consent —
 - (i) of the applicant; or
 - (ii) if the application is for the grant of limited registration, the nominee,for the Board to obtain a criminal record check in respect of him or her; and
 - (e) be accompanied by the registration fee, if any, prescribed; and

1 (f) be in compliance with such other requirements, if any,
2 as are prescribed for the purposes of this section.

3 (3) The fee referred to in subsection (2)(e) is not refundable.

4 **11. Application for renewal of registration**

5 (1) An application may be made to the Board for the renewal of
6 registration as a teacher.

7 (2) An application is to —

8 (a) be in writing in the form approved by the Board; and

9 (b) specify the category of registration that the application is
10 in respect of; and

11 (c) be accompanied by the written consent —

12 (i) of the applicant; or

13 (ii) if the application is for the renewal of limited
14 registration, the nominee,

15 for the Board to obtain a criminal record check in
16 respect of him or her; and

17 (d) be accompanied by the renewal fee, if any, prescribed;
18 and

19 (e) be in compliance with such other requirements, if any,
20 as are prescribed for the purposes of this section.

21 (3) The fee referred to in subsection (2)(d) is not refundable.

22 **12. Applicant for limited registration is employer**

23 An application for the grant or renewal of limited registration
24 for a nominee is to be made by the person or entity, referred to
25 in section 17(a), who made the offer of a teaching position to
26 the nominee.

1 **13. Information in support of application**

2 (1) The Board may, in writing, require —

3 (a) the applicant; or

4 (b) if the application is for the grant or renewal of limited
5 registration, the nominee,

6 to do any or all of the following —

7 (c) provide the Board with such further information relevant
8 to the application as the Board requires;

9 (d) verify any further information by statutory declaration;

10 (e) provide the Board with the applicant's or nominee's
11 written consent to seek, from another person or body
12 specified by the Board, information about the applicant
13 or nominee relevant to the application.

14 (2) The Board may, in writing, request —

15 (a) the applicant; or

16 (b) if the application is for the grant or renewal of limited
17 registration, the nominee,

18 to attend before the Board for the purpose of satisfying the
19 Board as to any matter relevant to the application.

20 (3) The Board may refuse an application if the applicant or nominee
21 does not comply with a request made under this section.

22 **14. Board may refuse to consider some applications**

23 The Board may refuse to consider, or consider further, an
24 application if —

25 (a) it is not made in accordance with this Act; or

26 (b) a complaint has been made, and has not been finally
27 determined at the time the application is made,
28 against —

29 (i) the applicant; or

- 1 (ii) if the application is for the grant or renewal of
2 limited registration, the nominee.

3 **Subdivision 2 — Requirements for registration**

4 **15. Full registration — requirements**

5 A person is eligible for full registration as a teacher if the
6 person —

- 7 (a) has a teaching qualification —
- 8 (i) from an accredited initial teacher education
9 programme; or
- 10 (ii) that the Board recognises as equivalent to such a
11 qualification;
- 12 and
- 13 (b) meets the professional standards approved by the Board
14 for full registration, or has done so within the previous
15 5 years; and
- 16 (c) is a fit and proper person to be a registered teacher; and
- 17 (d) has the English language skills, both written and oral,
18 prescribed as suitable for registration as a teacher; and
- 19 (e) meets any other requirements for full registration as are
20 prescribed.

21 **16. Provisional registration — requirements**

22 A person is eligible for provisional registration as a teacher if
23 the person —

- 24 (a) has a teaching qualification —
- 25 (i) from an accredited initial teacher education
26 programme; or
- 27 (ii) that the Board recognises as equivalent to such a
28 qualification;
- 29 and

- 1 (b) meets the professional standards approved by the Board
2 for provisional registration, or has done so within the
3 previous 5 years; and
4 (c) is a fit and proper person to be a registered teacher; and
5 (d) has the English language skills, both written and oral,
6 prescribed as suitable for registration as a teacher; and
7 (e) meets any other requirements for provisional registration
8 as are prescribed.

9 **17. Limited registration — requirements**

10 A person (the *nominee*) is eligible for limited registration as a
11 teacher if the nominee —

- 12 (a) has been offered a teaching position in an educational
13 venue by a person or entity; and
14 (b) is a fit and proper person to be a registered teacher; and
15 (c) has the English language skills, both written and oral,
16 prescribed as suitable for limited registration as a
17 teacher; and
18 (d) meets any other requirements for limited registration as
19 are prescribed.

20 **18. Non-practising registration — requirements**

21 A person is eligible for non-practising registration as a teacher if
22 the person —

- 23 (a) has, or meets the requirements for, full registration or
24 provisional registration, set out in section 15 or 16 as is
25 relevant; and
26 (b) does not intend to teach in an educational venue for a
27 period of time.

28 **19. Only natural persons may be registered as teachers**

29 Registration as a teacher under this Act may be granted only to
30 a natural person.

- 1 (b) an order by the State Administrative Tribunal under
2 Part 5,
3 unless the Board has applied for, and obtained, the approval of
4 the State Administrative Tribunal to do so.
- 5 (3) Subsection (2) does not apply if the order specified that the
6 person was disqualified from applying for registration as a
7 teacher for a period of time and that period of time has expired.

8 **22. Renewal of registration**

- 9 (1) An application for the renewal of registration is to be made to
10 the Board at least 28 days before the expiry of the registration.
- 11 (2) The Board may renew the registration of a teacher if, on
12 application to the Board, the Board is satisfied of the
13 following —
- 14 (a) that the teacher continues to meet the requirements for
15 registration set out in section 15, 16 or 17 as is relevant;
- 16 (b) that the teacher is complying with the conditions, if any,
17 imposed on the person's registration;
- 18 (c) that the teacher has met such other requirements for the
19 renewal of registration, if any, as are prescribed in
20 respect of the relevant category of registration.
- 21 (3) The Board may renew provisional registration only if, in the
22 opinion of the Board, there are exceptional circumstances for
23 doing so.

24 **23. Duration of registration**

- 25 (1) The period of full registration is 5 years from the day that
26 registration is granted or renewed.
- 27 (2) The period of provisional registration or limited registration is
28 3 years, or such shorter period as is approved by the Board,
29 from the day that registration is granted or renewed.

- 1 (3) However, if a person who intends to make an application for a
2 grant of limited registration —
- 3 (a) gives notice to the Board in the form prescribed of that
4 intention; and
- 5 (b) makes an application for limited registration within
6 5 days after giving that notice to the Board,
- 7 then the limited registration is to be taken to have been granted
8 on the day on which that notice was given to the Board.
- 9 (4) Registration expires —
- 10 (a) at the end of the period of the registration; or
- 11 (b) if an application for the grant of limited registration is
12 refused, and subsection (3) applies, on the day on which
13 notice of that decision is given to the applicant and the
14 nominee under section 29.
- 15 (5) However, if an application for renewal of registration is made in
16 accordance with section 22(1), the registration is taken to
17 continue until the application is decided.

18 **24. Who is a fit and proper person**

19 In determining whether a person is a fit and proper person to be
20 registered, the Board is to have regard to the following —

- 21 (a) the person's history of compliance with —
- 22 (i) this Act; or
- 23 (ii) a law of another State or a Territory or
24 New Zealand that deals with the registration of
25 teachers (however described);
- 26 (b) any decision under this Act or a law referred to in
27 paragraph (a)(ii) to refuse, refuse to renew, suspend or
28 cancel a licence, approval, registration, certification or
29 other authorisation (however described) granted to the
30 person under such an Act or law;
- 31 (c) the criminal history of the person;

- 1 (d) any behaviour of the person that —
2 (i) does not satisfy a standard of behaviour
3 generally expected of a teacher; or
4 (ii) shows that the person is not of good character;
5 (e) whether the person has contravened —
6 (i) an order of the Board, the disciplinary committee
7 or the State Administrative Tribunal under
8 Part 5; or
9 (ii) an order of a disciplinary body or of a court or
10 tribunal of another jurisdiction exercising
11 jurisdiction or powers by way of appeal or
12 review of an order of a disciplinary body that
13 deals with the registration of teachers (however
14 described);
15 (f) without limiting any other paragraph, whether the
16 person has failed to pay other costs, expenses or fines
17 for which the person is liable under this Act;
18 (g) any other matters relating to the person that the Board
19 considers are appropriate.

20 **Subdivision 4 — Conditions and cancellation**

21 **25. Conditions generally**

- 22 (1) Registration of a teacher is subject to any condition —
23 (a) imposed by the Board under section 26; or
24 (b) to which the registration is subject under this Act; or
25 (c) imposed by order made under Part 5.
26 (2) The regulations may provide for conditions of registration.

27 **26. Conditions imposed by the Board**

- 28 (1) The Board may impose conditions on the registration of a
29 teacher —
30 (a) when granting or renewing the registration; or

- 1 (b) during the currency of the registration.
- 2 (2) The Board may at any time, on the application of a registered
3 teacher or on its own initiative, on reasonable grounds, modify
4 or cancel a condition on a teacher's registration.
- 5 (3) Conditions imposed or modified by the Board under this section
6 must be reasonable and relevant to ensuring the professional,
7 competent and safe practice of teaching by the registered
8 teacher.
- 9 (4) The Board must not exercise its power under this section to
10 modify or cancel a condition imposed or modified by the State
11 Administrative Tribunal without the consent of the Tribunal.
- 12 (5) A condition imposed by the Board may apply indefinitely or for
13 a specified period of time.
- 14 (6) A decision to impose, modify or cancel a condition on a
15 teacher's registration made during the currency of the
16 registration takes effect —
- 17 (a) on the day on which notice of the decision is given to
18 the teacher under section 29; or
- 19 (b) on a later day specified in the notice.

20 **27. Cancellation of registration by Board**

- 21 (1) The Board is to cancel the registration of a teacher as soon as
22 possible after the Board becomes aware that the teacher is not
23 entitled to be registered.
- 24 (2) A teacher is not entitled to be registered if —
- 25 (a) the teacher —
- 26 (i) is a child sex offender; or
- 27 (ii) has been convicted or found guilty of a sexual
28 offence involving a child;
- 29 or

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Part 3 Registration of teachers

Division 1 Registration of teachers

s. 27

- 1 (b) under the *Working with Children (Criminal Record*
2 *Checking) Act 2004* —
- 3 (i) the teacher’s current assessment notice has been
4 cancelled, other than at the request of the
5 teacher; or
- 6 (ii) a negative notice or an interim negative notice
7 has been issued to the teacher;
- 8 or
- 9 (c) the teacher has failed to give to the Board the teacher’s
10 written consent for the Board to obtain a criminal record
11 check in accordance with a notice under section 43; or
- 12 (d) a qualification that enabled the teacher to gain
13 registration has been withdrawn or cancelled by the
14 body that conferred the qualification; or
- 15 (e) a qualification that enabled the teacher to gain
16 registration was forged or fraudulently obtained; or
- 17 (f) the teacher is in arrears in respect of fees due and
18 payable under this Act.
- 19 (3) However, the registration of a teacher must not be cancelled
20 under this section if —
- 21 (a) where subsection (2)(a) applies, a relevant conviction or
22 finding in respect of that teacher has been quashed or
23 overturned on appeal; or
- 24 (b) where subsection (2)(b) applies, an interim negative
25 notice or a negative notice is no longer current under the
26 *Working with Children (Criminal Record Checking)*
27 *Act 2004* in respect of that teacher; or
- 28 (c) where subsection (2)(c) or (f) applies, the Board is of the
29 opinion that there are extenuating circumstances.
- 30 (4) Subsection (2) continues to apply in respect of a person
31 during —
- 32 (a) an appeal from a conviction or finding relevant to
33 subsection (2)(a); or

1 (b) a review of a decision to issue, or to refuse to cancel, a
2 negative notice referred to in subsection (2)(b).

3 (5) The cancellation of a teacher's registration under this section
4 takes effect —

5 (a) on the day on which notice of the cancellation is given
6 to the teacher; or

7 (b) on a later day specified in the notice.

8 **28. Cancellation of registration at teacher's request**

9 The Board is to cancel the registration of a teacher at the written
10 request of the teacher.

11 **Subdivision 5 — Notice of decisions and opportunity to show cause**
12 **why some decisions should not be made**

13 **29. Notice of decisions on registration to be given**

14 (1) The Board is to give written notice of the outcome of an
15 application no later than 14 days after deciding on the outcome
16 of the application to —

17 (a) the applicant; and

18 (b) if the application was in respect of limited registration,
19 the nominee.

20 (2) If an application for registration, or the renewal of registration,
21 is granted the notice is to contain the following —

22 (a) the category of registration granted;

23 (b) the period for which registration is granted;

24 (c) the person's registration number;

25 (d) any conditions imposed on the registration;

26 (e) if a condition has been imposed —

27 (i) the reasons for the imposition of the condition;
28 and

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1 (ii) a statement that the applicant may have a right to
2 a review under section 124.

3 (3) If an application for registration, or renewal of registration, is
4 refused the notice is to contain —

5 (a) the reasons why it has been refused; and

6 (b) a statement that the applicant may have a right to a
7 review under section 124.

8 **30. Notice of decision to impose, modify or cancel a condition**
9 **made during the currency of the registration**

10 (1) The Board is to give written notice of a decision under
11 section 26 to impose, modify or cancel a condition on a
12 teacher's registration during the currency of the registration no
13 later than 14 days after making the decision to —

14 (a) the teacher; and

15 (b) if the teacher holds limited registration, the employer of
16 the teacher.

17 (2) The notice is to contain —

18 (a) the reasons for the decision; and

19 (b) a statement that the teacher and the employer may have
20 a right to a review under section 124.

21 **31. Notice of cancellation of registration to be given**

22 (1) The Board is to give written notice of the cancellation of the
23 person's registration under section 27 no later than 14 days after
24 making the decision to cancel the registration to —

25 (a) the person whose registration is cancelled; and

26 (b) if the person held limited registration, the employer of
27 that person.

28 (2) The notice is to contain —

29 (a) a reference to the provision of this Act under which the
30 registration was cancelled; and

- 1 (b) the reasons for the cancellation of the registration; and
2 (c) a statement that the applicant may have a right to a
3 review under section 124.

4 **32. Board to give reasonable opportunity to show cause why**
5 **some decisions should not be made**

- 6 (1) Before making any of the following decisions the Board is to
7 give the applicant a reasonable opportunity to show cause why
8 the decision should not be made —
9 (a) the refusal of an application;
10 (b) the granting of an application in respect of a category of
11 registration other than the category applied for;
12 (c) the granting of an application subject to a condition.
- 13 (2) Before making a decision under section 26 to impose, modify or
14 cancel a condition on a teacher’s registration during the
15 currency of the registration, the Board is to give a reasonable
16 opportunity to show cause why the decision should not be made
17 to —
18 (a) the teacher whose registration will be affected; and
19 (b) if the teacher holds limited registration, to the employer
20 of the teacher.

21 **Subdivision 6 — General provisions**

22 **33. Effect of cancellation of registration**

23 If a person’s registration is cancelled under this Act the person’s
24 name is to be removed from the register.

25 **34. Effect of suspension of registration**

26 A teacher whose registration is suspended is to be taken not to
27 be registered as a teacher for the period of the suspension.

1 **35. Annual fees**

2 Each registered teacher is to pay to the Board the annual fee, if
3 any, prescribed.

4 **Division 2 — The register**

5 **36. Register of teachers to be kept**

6 (1) The Board is required to keep an accurate and up to date register
7 that records the following information in respect of each
8 registered teacher —

- 9 (a) the person's name;
- 10 (b) the category of registration that the person holds;
- 11 (c) the person's registration number;
- 12 (d) the date of commencement of the person's registration;
- 13 (e) any other information prescribed.

14 (2) The register may be kept in any way the Board thinks
15 appropriate, including by electronic means.

16 **37. Inspection of register**

17 (1) In this section —

18 ***register information (professional)*** means all of the information
19 on the register;

20 ***register information (public)*** means the information on the
21 register other than the information prescribed under
22 section 36(1)(e).

23 (2) Information on the register is to be made available for
24 inspection in accordance with this section in any way the Board
25 thinks appropriate, including on a website maintained by the
26 Board.

27 (3) Register information (professional) is to be made available for
28 inspection, in accordance with subsection (2), by registered

1 teachers, employers of registered teachers and principals, as the
2 Board thinks appropriate.

3 (4) Register information (public) is to be made available for
4 inspection, in accordance with subsection (2), by members of
5 the public during normal office hours.

6 (5) A person may, on application to the Board and payment of the
7 fee prescribed, if any, obtain a certified copy of the register or a
8 particular entry in the register.

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

Division 1 Notices to be given

s. 38

1 **Part 4 — Board to be given notice, and may obtain**
2 **criminal record checks, in some circumstances**

3 **Division 1 — Notices to be given**

4 **Subdivision 1 — Notices to be given by registered teachers**

5 **38. Notice about legal actions**

6 (1) A registered teacher must give written notice to the Board if the
7 teacher, or a person who is or was an employer of the teacher,
8 is —

9 (a) ordered to pay damages or compensation as a result of
10 civil proceedings arising out of the practice of teaching
11 by the teacher, or arising from events which occurred
12 while the teacher was engaged in teaching; or

13 (b) convicted of an offence the statutory penalty for which
14 is, or includes, imprisonment.

15 (2) The notice is to be given in writing to the Board no later than
16 30 days after the order is made or judgment of conviction
17 entered and is to set out the details of the order or conviction.

18 Penalty: a fine of \$5 000.

19 **39. Notice about loss of qualifications**

20 (1) A registered teacher must give written notice to the Board if a
21 qualification that enabled the teacher to gain registration is
22 withdrawn or cancelled by the body that conferred the
23 qualification.

24 (2) The notice is to be given in writing to the Board no later than
25 30 days after the withdrawal or cancellation.

26 Penalty: a fine of \$5 000.

1 **40. Notice about working with children notices and assessments**

2 (1) A registered teacher must give written notice to the Board if a
3 current assessment notice is cancelled, or an interim negative
4 notice or a negative notice is issued to the person, under the
5 *Working with Children (Criminal Record Checking) Act 2004*.

6 (2) The notice is to be given in writing to the Board no later than
7 14 days after the interim negative notice or the negative notice
8 is issued, or written notice of the cancellation is given.

9 Penalty: a fine of \$5 000.

10 **Subdivision 2 — Notices to be given by other persons**

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

13 (1) The Director of Public Prosecutions, or where the matter is
14 conducted by a police prosecutor, the Commissioner of Police,
15 is, where practicable, to give notice to the Board if he or she
16 becomes aware that any of the following situations exist or
17 believes, on reasonable grounds, that any of the following
18 situations exist —

19 (a) a registered teacher is charged with, or committed for
20 trial or sentence before any court for a sexual offence
21 involving a child;

22 (b) a registered teacher is convicted or found guilty of an
23 indictable offence in this State;

24 (c) in the case of a charge referred to in paragraph (a), the
25 prosecution of the charge is discontinued or does not
26 result in a committal for trial or sentence, or there is an
27 acquittal or mistrial;

28 (d) in the case of a committal referred to in paragraph (a),
29 there is an acquittal or mistrial or the prosecution of the
30 charge is discontinued.

31 (2) The notice is to be given in writing to the Board as soon as is
32 practicable after the person under a duty to give the notice

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

Division 2 Criminal record checks

s. 42

1 becomes aware, or forms the belief, that the relevant situation
2 exists.

3 **42. Notice to be given by employer about suspension, dismissal**
4 **or resignation of registered teacher**

5 (1) An employer of a registered teacher at an educational venue is
6 to give written notice to the Board of any investigation —

7 (a) into the conduct of a registered teacher who teaches, or
8 taught, at the educational venue; and

9 (b) that was held because, in the opinion of the employer,
10 there was reason to believe that the teacher —

11 (i) has been seriously incompetent as a teacher; or

12 (ii) had engaged in serious misconduct,

13 if, as a result of that investigation —

14 (c) the teacher has been suspended or dismissed from
15 teaching at the educational venue; or

16 (d) the teacher has resigned or no longer teaches at the
17 educational venue.

18 (2) The notice is to be given within 30 days after the teacher was
19 suspended, dismissed or ceased teaching at the educational
20 venue.

21 Penalty: a fine of \$5 000.

22 **Division 2 — Criminal record checks**

23 **43. Board may request consent to obtain a criminal record**
24 **check**

25 (1) The Board may give written notice to a registered teacher
26 requesting that the teacher provide written consent for the Board
27 to obtain a criminal record check in respect of the teacher.

28 (2) Notice to a teacher under subsection (1) is to state that the
29 consent is to be given to the Board within 14 days of the notice
30 being given, or such later time as is specified in the notice.

1 **44. Criminal record check**

2 The Board may obtain a criminal record check for a person who
3 has given written consent for the Board to do so.

4 **Division 3 — Board to consider notices and criminal record**
5 **checks received**

6 **45. Action to be taken by Board on receiving a notification or**
7 **criminal record check**

8 As soon as is possible after receiving —

- 9 (a) a notification about a person under Division 1; or
10 (b) a criminal record check in respect of a person,

11 the Board is to consider the information in that notice or
12 criminal record check, and any other information it considers
13 relevant, and decide if it is necessary to do any of the
14 following —

- 15 (c) cancel the person’s registration under section 27;
16 (d) make an interim disciplinary order;
17 (e) formulate a complaint;
18 (f) if the person is teaching in an educational venue, advise
19 the person’s employer of the information contained in
20 the notice or criminal record check.

1 **Part 5 — Discipline and impairment matters**

2 **Division 1 — Preliminary**

3 **46. Terms used**

4 In this Part —

5 ***child*** means a person who has not attained the age of 18 years;

6 ***child sex offender*** has the meaning given in *The Criminal Code*
7 section 557K;

8 ***disciplinary matter*** means a matter referred to in section 47;

9 ***impairment*** means —

- 10 (a) mental disability; or
11 (b) injury; or
12 (c) physical illness;

13 ***impairment matter*** means a matter referred to in section 48;

14 ***sexual offence*** means any of the following offences —

- 15 (a) an offence under *The Criminal Code* Part V
16 Chapter XXXI;
17 (b) any other offence prescribed for the purposes of this
18 definition;
19 (c) an offence of attempting to commit an offence referred
20 to in paragraph (a) or (b);
21 (d) an offence against a law of a jurisdiction other than
22 Western Australia that is substantially similar to an
23 offence referred to in paragraph (a), (b) or (c);

24 ***sexual offence involving a child***, means that —

- 25 (a) the sexual offence was committed against or in respect
26 of a child; or
27 (b) the sexual offence was committed when a child was
28 present, or within sight of a child; or

- 1 (c) the production of material used, or involved, in the
2 commission of the sexual offence involved a sexual
3 offence against a child;

4 **teacher** means a person the subject of a complaint.

5 **47. Disciplinary matters**

6 The following are disciplinary matters —

- 7 (a) that a teacher has been charged with a sexual offence
8 involving a child;
- 9 (b) that a teacher has contravened this Act;
- 10 (c) that a teacher has contravened a condition imposed on
11 his or her registration;
- 12 (d) that a teacher has contravened an order made under this
13 Part;
- 14 (e) that a teacher has been convicted of an offence the
15 nature of which renders him or her unfit to be registered;
- 16 (f) that a teacher has —
- 17 (i) been seriously incompetent as a teacher; or
- 18 (ii) engaged in serious misconduct the nature of
19 which renders the person unfit to be registered;
20 or
- 21 (iii) failed to comply with an undertaking given to the
22 Board under this Act.

23 **48. Impairment matters**

24 The following are impairment matters —

- 25 (a) that a registered teacher is affected by his or her use of
26 or dependence on alcohol or a drug to such an extent
27 that his or her ability to practise as a teacher is or is
28 likely to be affected;
- 29 (b) that a registered teacher suffers from an impairment to
30 such an extent that the ability of the person to practise as
31 a teacher is or is likely to be affected.

1 (9) The disciplinary committee may determine its own procedures,
2 but they must be consistent with the terms of any delegation
3 under which the committee is acting.

4 **50. Impairment review committee**

5 (1) The Board is to establish a committee to be known as the
6 impairment review committee.

7 (2) The Board may discharge or alter any impairment review
8 committee it has established.

9 (3) The impairment review committee is to consist of the following
10 3 persons appointed in writing by the Board, from time to
11 time —

12 (a) a registered teacher;

13 (b) a medical practitioner;

14 (c) such other person as the Board considers appropriate.

15 (4) Each member of the impairment review committee is to be a
16 natural person.

17 (5) The impairment review committee may include people who are
18 not members of the Board but must include at least one member
19 of the Board.

20 (6) The Board is to appoint a member of the impairment review
21 committee to be the committee's chairperson.

22 (7) The impairment review committee is to submit an annual report
23 to the Board as soon as is practicable after 30 June in each year
24 in respect of the functions performed by the committee during
25 the year that ended on that day.

26 (8) A notice, order or appointment authorised by this Act to be
27 given or made by the impairment review committee is taken to
28 have been given or made by the committee if it is signed on
29 behalf of the committee —

30 (a) by the chairperson of the committee; or

1 (b) by some other person authorised by the committee to
2 sign the notice, order or appointment.

3 (9) The impairment review committee may determine its own
4 procedures but they must be consistent with the terms of any
5 delegation under which the committee is acting.

6 **Division 3 — Complaints about teachers**

7 **51. Making a complaint**

8 (1) A complaint may be made to the Board about the conduct of —

9 (a) a registered teacher; or

10 (b) a person who was a registered teacher at the time that
11 the matter the subject of the complaint occurred or
12 allegedly occurred.

13 (2) A complaint should be made in writing, but the Board may
14 formulate in writing any oral complaint received.

15 (3) A complaint may be made by the Board formulating a
16 complaint based on —

17 (a) a notification about a person under Part 4 Division 1; or

18 (b) a criminal record check in respect of a person under
19 Part 4 Division 2; or

20 (c) any other information received by the Board.

21 **52. Teacher to be notified of complaint**

22 (1) The Board is to give written notice to the teacher that a
23 complaint has been made about the teacher as soon as is
24 possible after the complaint is made.

25 (2) The notice is to set out the following —

26 (a) the nature of the complaint;

27 (b) the identity of the complainant;

28 (c) a brief summary of the effect of this Part.

- 1 (3) Subsection (1) does not apply if the Board is of the opinion that
2 giving the notice will or is likely to —
- 3 (a) prejudice the investigation of the complaint; or
4 (b) prejudice an investigation by the police or other
5 investigatory or law enforcement body of any matter
6 with which the complaint is concerned; or
7 (c) place the complainant or another person at risk of
8 intimidation or harassment; or
9 (d) prejudice pending court proceedings.
- 10 (4) In a case to which subsection (3) applies, the Board —
- 11 (a) may postpone giving the teacher notice of the complaint
12 until it is of the opinion that it is appropriate to do so; or
13 (b) may in its discretion give the teacher a notice setting
14 out —
- 15 (i) the general nature of the complaint; and
16 (ii) a brief summary of the effect of this Part.
- 17 (5) Nothing in this section requires the Board to give notice under
18 this section to the teacher until the Board has had time to assess
19 the complaint, seek further information about the complaint
20 from the complainant or another person or otherwise undertake
21 preliminary inquiries into the complaint, and properly prepare
22 the notice.

23 **Division 4 — Assessment, investigation and referral of**
24 **complaints**

25 **53. Assessment, investigation and referral by Board**

- 26 (1) The Board is to deal with a complaint in one of the following
27 ways —
- 28 (a) reject the complaint under section 57;
29 (b) make an interim disciplinary order;

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Division 4 Assessment, investigation and referral of complaints

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- 1 (c) refer the complaint, together with a report under
2 section 54, to the disciplinary committee to deal with
3 under Division 6;
- 4 (d) if the complaint is in respect of a registered teacher,
5 refer the complaint, together with a report under
6 section 54, to the impairment review committee to deal
7 with under Division 7;
- 8 (e) refer the complaint to the State Administrative Tribunal.
- 9 (2) Before dealing with a complaint under subsection (1) the Board
10 may make such assessments and investigations as it considers
11 appropriate.
- 12 (3) Notice of a decision under this section is to be given in
13 accordance with section 85.

14 **54. Board to provide report to committee**

15 When referring a complaint to a committee under
16 section 53(1)(c) or (d), the Board is to provide a report outlining
17 its assessment and investigation of the complaint.

18 **55. Committee may request Board to undertake further
19 investigations or recommend that the complaint be referred
20 elsewhere**

21 A committee to which the Board has referred a complaint under
22 section 53(1)(c) or (d) may, at any time while dealing with the
23 complaint, do any of the following —

- 24 (a) request the Board to undertake further investigation of
25 the complaint;
- 26 (b) recommend to the Board that the complaint be referred
27 to the other committee established under this Part;
- 28 (c) recommend to the Board that the complaint be referred
29 to the State Administrative Tribunal.

1 **56. Board's powers of investigation**

- 2 (1) For the purposes of conducting an investigation the Board
3 may —
- 4 (a) by written notice given to a person require the
5 attendance of the person as a witness at a time and place
6 specified in the notice to give evidence; or
- 7 (b) by written notice given to a person require the person to
8 produce any document or other thing that is in the
9 possession or under the control of the person and is
10 relevant to the matter before the Board; or
- 11 (c) inspect a document or other thing produced before it.
- 12 (2) The Board may —
- 13 (a) inspect a document or other thing produced and retain it
14 for such reasonable period as it thinks fit; and
- 15 (b) make copies of, photograph and take extracts from, the
16 document or any of its contents.

17 **57. Inappropriate and trivial complaints**

- 18 (1) The Board is not under a duty to deal with a complaint if the
19 Board is of the opinion that the complaint —
- 20 (a) is in respect of a matter that could more appropriately be
21 dealt with by another person or authority; or
- 22 (b) is in respect of a matter that is not within the power of
23 the Board, the disciplinary committee or the impairment
24 review committee to deal with under this Act; or
- 25 (c) is vexatious, trivial, unreasonable or without substance.
- 26 (2) Notice of a decision under this section is to be given in
27 accordance with section 85.

1

Division 5 — Interim disciplinary orders

2

58. Interim disciplinary orders generally

3

(1) The Board or the disciplinary committee may make an interim disciplinary order in respect of a matter under this Division even if the disciplinary committee or the impairment review committee is already dealing with a complaint —

4

5

6

7

(a) that deals with the same matter; or

8

(b) that includes elements of the same matter.

9

(2) Unless section 83(2) applies, an interim disciplinary order cannot have effect for more than 30 days.

10

11

(3) The Board or the disciplinary committee may vary or revoke an interim disciplinary order unless the matter in respect of which the order was made has been referred to the State Administrative Tribunal.

12

13

14

15

(4) Notice of an interim disciplinary order is to be given in accordance with section 85.

16

17

(5) An interim disciplinary order takes effect —

18

(a) on the day on which notice of the order is given to the teacher; or

19

20

(b) on a later day specified in the order.

21

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

22

23

If the Board or the disciplinary committee is of the opinion that an activity of a registered teacher involves, or will involve, a risk of imminent injury or harm to the physical or mental health of any person the Board or the committee may make one or more of the following orders —

24

25

26

27

28

(a) an order imposing a condition, or conditions, on the registration of the teacher;

29

30

(b) an order suspending the person's registration.

1 **60. Interim disciplinary order may be made if teacher charged**
2 **with sexual offence involving a child**

3 If the Board or the disciplinary committee becomes aware that a
4 registered teacher has been charged —

- 5 (a) with a sexual offence involving a child; or
6 (b) with an offence set out in the definition of *child sex*
7 *offender* in *The Criminal Code* section 557K,

8 the Board or the committee may make one or both of the
9 following orders —

- 10 (c) an order imposing a condition, or conditions, on the
11 registration of the teacher;
12 (d) an order suspending the person’s registration.

13 **61. Interim disciplinary orders to be referred to the State**
14 **Administrative Tribunal**

15 (1) Within 14 days of making an interim disciplinary order the
16 Board is to —

- 17 (a) refer the matter in respect of which the order was made
18 to the State Administrative Tribunal; and
19 (b) order that any other proceedings under this Part in
20 respect of the matter commenced before the making of
21 the order be discontinued.

22 (2) Subsection (1) does not apply if the order is revoked under
23 section 58(3).

24 (3) On a referral made under subsection (1) the State
25 Administrative Tribunal may, in addition to any other order it
26 may make, affirm or revoke an interim disciplinary order or
27 vary the order by extending the period for which it applies or in
28 any other respect.

1

Division 6 — Role of disciplinary committee

2

Subdivision 1 — Initial assessment of complaints

3

62. Initial assessment and decision of disciplinary committee on complaint

4

5

- (1) The disciplinary committee is to make a preliminary assessment of a complaint referred to it by the Board and is to deal with the complaint in one of the following ways —

6

7

8

(a) dismiss the complaint;

9

(b) make an interim disciplinary order;

10

(c) with the consent of the teacher, deal with the complaint under Subdivision 2;

11

12

(d) make a request or recommendation to the Board under section 55;

13

14

(e) if the matter the subject of the complaint is before another person or body or the subject of proceedings, postpone consideration of the complaint pending the outcome of any investigation, hearing or proceedings;

15

16

17

18

(f) with the consent of another person, organisation or agency that, in the opinion of the committee, could deal more appropriately with the subject matter of the complaint, refer the complaint to that person, organisation or agency.

19

20

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22

23

- (2) Notice of a decision under this section is to be given in accordance with section 85.

24

25

Subdivision 2 — Inquiries

26

63. Disciplinary committee to deal with certain complaints

27

This Subdivision applies if —

28

- (a) the disciplinary committee considers that a disciplinary matter may exist in relation to a teacher; and

29

- 1 (b) the teacher consents in writing to the exercise of power
2 by the disciplinary committee under this Subdivision.

3 **64. Inquiry — procedure and evidence**

4 In carrying out an inquiry, the disciplinary committee —

- 5 (a) must proceed with as little formality and technicality
6 and as speedily as the requirements of this Act and
7 proper hearing of the matter permit; and
8 (b) is not bound by the rules of evidence and may inform
9 itself on any matter as it thinks fit; and
10 (c) may, subject to this Act and the rules of procedural
11 fairness, determine its own procedures.

12 **65. Rights of teacher as to evidence and witnesses**

13 (1) In conducting an inquiry, the disciplinary committee is to give
14 the teacher an opportunity to —

- 15 (a) call and give evidence; and
16 (b) examine and cross-examine witnesses; and
17 (c) make submissions.

18 (2) Subsection (1) does not apply if —

- 19 (a) the disciplinary committee has adopted any findings,
20 decision, judgment or reasons for judgment under
21 section 66; and
22 (b) the teacher has been given the opportunities referred to
23 in subsection (1) by a court, tribunal or other body
24 referred to in that section.

25 **66. Evidence and findings in other proceedings**

26 For the purposes of an inquiry the disciplinary committee may,
27 as it considers proper —

- 28 (a) receive in evidence any transcript of evidence taken in
29 any proceedings; or

- 1 (b) adopt any findings, decision, judgment or reasons for
2 judgment,
3 of a court, tribunal or other body constituted under the law of
4 Western Australia or any other place and draw such conclusions
5 of fact from those as it considers proper.

6 **67. Representation at inquiry**

- 7 (1) A party to an inquiry may —
8 (a) appear before the inquiry in person; or
9 (b) be represented by another person.
10 (2) A person who is not an Australian legal practitioner (within the
11 meaning of that term in the *Legal Profession Act 2008*
12 section 3) is authorised —
13 (a) to represent a party before an inquiry; and
14 (b) to provide advice and other services for the purpose of
15 acting for a party in connection with an inquiry.

16 **68. Powers of inquiry**

- 17 (1) For the purposes of conducting an inquiry the disciplinary
18 committee may —
19 (a) by written notice given to a registered teacher require —
20 (i) the attendance of the teacher as a witness at a
21 time and place specified in the notice to give
22 evidence; or
23 (ii) the teacher to produce any document or other
24 thing that is in the possession or under the
25 control of the teacher and is relevant to the
26 matter before the disciplinary committee;
27 or

- 1 (b) by written notice given to a person who is not a
2 registered teacher request —
- 3 (i) the attendance of the person as a witness at a
4 time and place specified in the notice to give
5 evidence; or
- 6 (ii) the person to produce any document or other
7 thing that is in the possession or under the
8 control of the person and is relevant to the matter
9 before the disciplinary committee;
- 10 or
- 11 (c) examine witnesses on oath or affirmation; or
- 12 (d) inspect a document or other thing produced before it.
- 13 (2) The disciplinary committee may —
- 14 (a) require a person who appears before the inquiry to take
15 an oath or make an affirmation; and
- 16 (b) authorise a member of the committee to administer an
17 oath or affirmation to the person.
- 18 (3) The disciplinary committee may —
- 19 (a) inspect a document or other thing produced and retain it
20 for such reasonable period as it thinks fit; and
- 21 (b) make copies of, photograph and take extracts from, the
22 document or any of its contents.

23 **69. Record of inquiry**

- 24 (1) The disciplinary committee is to ensure that a record is kept of
25 an inquiry.
- 26 (2) The teacher is entitled to a copy of the record of the inquiry if
27 he or she so requests and on payment of any costs incurred by
28 the Board in making a copy of the record.

- 1 **70. Decision of disciplinary committee after inquiry**
- 2 (1) After an inquiry on a complaint is completed, the disciplinary
3 committee is to deal with the complaint in one of the following
4 ways —
- 5 (a) dismiss the complaint;
- 6 (b) order that the teacher be cautioned or reprimanded;
- 7 (c) order that the teacher pay to the Board a fine of a
8 specified amount not exceeding \$5 000;
- 9 (d) order that the registration of the teacher be suspended
10 for a period, not exceeding 2 years, as is specified in the
11 order;
- 12 (e) order that a condition be imposed on the registration of
13 the teacher, or order that an existing condition be
14 modified;
- 15 (f) if the committee has found that a teacher who holds full
16 registration has been seriously incompetent as a teacher,
17 order the cancellation of that registration and the
18 substitution of provisional registration;
- 19 (g) recommend to the Board that the complaint be referred
20 to the impairment review committee or the State
21 Administrative Tribunal.
- 22 (2) The disciplinary committee may, in dealing with a complaint
23 under subsection (1), order that the teacher pay to the Board
24 such costs and expenses of, arising from, or incidental to —
- 25 (a) the Board’s investigation of the complaint; or
26 (b) the inquiry,
- 27 as the disciplinary committee thinks fit.
- 28 (3) If action is taken under subsection (1) in relation to a complaint,
29 no further action is to be taken by the Board or a committee
30 under this Part with respect to the complaint.
- 31 (4) Notice of a decision or an order made under this section is to be
32 given in accordance with section 85.

- 1 (5) An order made under this section takes effect —
2 (a) on the day on which notice of the order is given to the
3 teacher; or
4 (b) on a later day specified in the order.

5 **Subdivision 3 — Offences relating to inquiries**

6 **71. Failure to comply with notice under section 68**

- 7 (1) A registered teacher must not, without lawful excuse, refuse or
8 fail —
9 (a) to attend; or
10 (b) to produce a document or other thing,
11 as required by a notice under section 68(1)(a).
12 (2) A registered teacher must not, without lawful excuse, refuse or
13 fail to be sworn or make an affirmation as required under
14 section 68(2).
15 Penalty: a fine of \$5 000.

16 **72. Disruption of inquiry**

- 17 During an inquiry a person must not do any of the following —
18 (a) attempt to improperly influence the inquiry;
19 (b) wilfully insult the Board or the disciplinary committee
20 or a member of the Board or the committee;
21 (c) wilfully interrupt or obstruct the proceedings of the
22 inquiry;
23 (d) otherwise wilfully disrupt the inquiry.
24 Penalty: a fine of \$5 000.

1 **Division 7 — Role of impairment review committee**

2 **Subdivision 1 — Complaints relating to impairment matters**

3 **73. Impairment review committee to deal with certain**
4 **complaints**

5 The impairment review committee is to deal under this
6 Subdivision with a complaint referred to it by the Board.

7 **74. Registered teacher to be notified about impairment matter**

8 (1) The impairment review committee may give written notice to a
9 registered teacher of its intention to deal with an impairment
10 matter in respect of that teacher.

11 (2) The notice must —

12 (a) advise the teacher of the nature of the impairment
13 matter; and

14 (b) contain a brief summary of the effect of this
15 Subdivision; and

16 (c) seek the teacher's consent to the matter being dealt with
17 under this Subdivision; and

18 (d) if the impairment review committee considers that an
19 examination of the teacher is necessary, seek the
20 teacher's consent to undergo an examination relating to
21 the impairment matter within a period specified in the
22 notice.

23 **75. Impairment matter — procedure and evidence**

24 In dealing with an impairment matter the impairment review
25 committee —

26 (a) must proceed with as little formality and technicality
27 and as speedily as the requirements of this Act and
28 proper hearing of the matter permit; and

29 (b) is not bound by the rules of evidence and may inform
30 itself on any matter as it thinks fit; and

1 (c) may, subject to this Act and the rules of procedural
2 fairness, determine its own procedures.

3 **76. Examination**

4 (1) If the teacher agrees to undergo an examination within the
5 period specified in the notice under section 74(2)(d), the teacher
6 is to be examined by a medical practitioner agreed upon by the
7 impairment review committee and the teacher.

8 (2) If the impairment review committee and the teacher are unable
9 to agree upon the person to conduct the examination, the
10 committee is to appoint a medical practitioner to perform the
11 examination.

12 (3) The Board is to pay for an examination conducted under this
13 section and a report provided under section 77.

14 (4) If the teacher does not agree to undergo an examination within
15 the period specified in the notice under section 74(2)(d), or does
16 not abide by an agreement to undergo such an examination, the
17 impairment review committee is to recommend to the Board
18 that the complaint be referred to the State Administrative
19 Tribunal.

20 **77. Report of examination to impairment review committee**

21 (1) A medical practitioner who conducts an examination under
22 section 76 is to give a report of the examination to the
23 impairment review committee and, not more than 7 days later,
24 the committee is to give a copy of the report to the teacher.

25 (2) Despite subsection (1), if it appears to the impairment review
26 committee that the disclosure to the teacher of information in
27 the report might be prejudicial to the physical or mental health
28 or wellbeing of the teacher, the committee may decide not to
29 give that report to the teacher but to give it instead to a medical
30 practitioner, or another teacher, nominated by the teacher.

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Part 5 Discipline and impairment matters

Division 7 Role of impairment review committee

s. 78

- 1 (3) If the teacher does not nominate a medical practitioner or
2 another teacher to the impairment review committee within
3 14 days of being requested to do so by the committee, the
4 committee may give the report to a medical practitioner or
5 teacher selected by the committee.
- 6 (4) The teacher may make written representations to the impairment
7 review committee with respect to the report within 30 days after
8 the report is given to him or her or the medical practitioner or
9 teacher nominated by him or her or selected by the committee.
- 10 **78. Decision of impairment review committee after**
11 **consideration of matter**
- 12 (1) On completion of its consideration of an impairment matter and
13 after taking into account —
- 14 (a) the report of the Board referred to in section 54; and
15 (b) any report given to the impairment review committee
16 under section 77(1); and
17 (c) any representations made by the teacher under
18 section 77(4),
- 19 the committee is to deal with the matter in one of the following
20 ways —
- 21 (d) dismiss the complaint;
22 (e) recommend to the Board that the complaint be referred
23 to the disciplinary committee or the State Administrative
24 Tribunal;
25 (f) request that the teacher consent —
- 26 (i) to the imposition of conditions on his or her
27 registration; or
28 (ii) to having his or her registration suspended for a
29 period, not exceeding 2 years, specified by the
30 impairment review committee; or
31 (iii) to undergo counselling specified by the
32 impairment review committee.

1 (2) Notice of a decision under this section is to be given in
2 accordance with section 85.

3 **79. Recommendation**

4 (1) If the teacher does not consent to a request made under
5 section 78(1)(f) within 30 days of the request being made, the
6 impairment review committee is to recommend to the Board
7 that the complaint be referred to the State Administrative
8 Tribunal.

9 (2) If the teacher does consent to a request made under
10 section 78(1)(f) within 30 days of the request being made, the
11 impairment review committee is to recommend that the Board
12 take any action to which the teacher has consented.

13 (3) A recommendation made under subsection (1) or (2) must be
14 made in writing and contain details of the impairment review
15 committee's consideration of the impairment matter.

16 **80. Decision of Board after consideration of recommendation of**
17 **impairment review committee**

18 (1) The Board is to consider a recommendation of the impairment
19 review committee and may —

- 20 (a) decide not to take any action; or
21 (b) take any action under section 78 to which the teacher
22 has consented; or
23 (c) refer the complaint to the State Administrative Tribunal.

24 (2) For the purpose of taking action to which the teacher has
25 consented the Board may —

- 26 (a) order that a condition be imposed on the registration of
27 the teacher, or order that an existing condition be
28 modified; or
29 (b) order that the registration of the teacher is suspended for
30 the period specified in the order; or

1 (c) obtain an undertaking from the teacher to undergo the
2 counselling specified by the impairment review
3 committee.

4 (3) Notice of a decision or an order made under this section is to be
5 given in accordance with section 85.

6 **Subdivision 2 — Requests to impairment review committee**
7 **by teachers**

8 **81. Request by teacher for imposition of condition**

9 (1) A registered teacher who believes that his or her ability to
10 practise as a teacher is affected because of an impairment matter
11 may ask the impairment review committee to recommend to the
12 Board that a condition on his or her registration be imposed, or
13 that an existing condition be modified.

14 (2) If the impairment review committee and the teacher agree upon
15 the condition to be imposed, or the modification of an existing
16 condition, the Board is to impose that condition, or to modify
17 the existing condition, with respect to the registration of the
18 teacher.

19 (3) Notice of a decision under this section is to be given in
20 accordance with section 85.

21 **82. Cancellation of condition**

22 The Board may cancel a condition imposed under section 81 if
23 the registered teacher satisfies the impairment review committee
24 that his or her ability to practise as a teacher is no longer
25 affected because of the impairment matter that gave rise to the
26 imposition of the condition.

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Division 8 — State Administrative Tribunal

Subdivision 1 — Role of the Board

83. Certain complaints to be referred to State Administrative Tribunal

- (1) The Board may refer a complaint to the State Administrative Tribunal on the recommendation of the disciplinary committee or the impairment review committee.
- (2) If a referral is made to the State Administrative Tribunal about a complaint in relation to which an interim disciplinary order has been made, the order remains in force until it is revoked by the Tribunal or a referral about the complaint is finally determined by the Tribunal.

Subdivision 2 — State Administrative Tribunal

84. Jurisdiction of State Administrative Tribunal

- (1) If, in a proceeding commenced by a referral under this Act, the State Administrative Tribunal finds that a disciplinary matter exists in relation to a teacher the Tribunal may do one or more of the following —
 - (a) if the finding is in respect of someone who is no longer registered as a teacher —
 - (i) take any action, or make any order, that the disciplinary committee may take or make under section 70(1)(a), (b) or (c) in respect of a teacher; or
 - (ii) order that the person is disqualified from applying for registration as a teacher for a period of time specified in the order;

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Division 9 Notice of orders and decisions made under this Part

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- 1 (b) if the finding is in respect of a person who is registered
2 as a teacher —
- 3 (i) take any action, or make any order, that the
4 disciplinary committee may take or make under
5 section 70(1)(a) to (f); or
- 6 (ii) order the cancellation of the person’s registration
7 as a teacher.
- 8 (2) If a referral to the State Administrative Tribunal is made about a
9 complaint in relation to which an interim disciplinary order is in
10 force, the Tribunal may affirm, revoke or vary the order pending
11 final determination of the referral.
- 12 (3) Nothing in subsection (2) limits or restricts the functions of the
13 State Administrative Tribunal in respect of a complaint under
14 this Act about a matter in respect of which an interim
15 disciplinary order is in force.

16 **Division 9 — Notice of orders and decisions made under this**
17 **Part**

18 **85. Notice of orders and decisions made under this Part**

- 19 (1) Within 14 days of making —
- 20 (a) an interim disciplinary order; or
21 (b) an order under section 70 or 80; or
22 (c) a decision under section 53(1), 57(1), 62(1), 70(1)
23 or (2), 78(1), 80(1) or (2), or 81(2),
- 24 the Board, the disciplinary committee or the impairment review
25 committee, as is relevant, is to give written notice of the order
26 or the decision to —
- 27 (d) the teacher; and
28 (e) any complainant.
- 29 (2) A notice is to contain short particulars of the reasons for the
30 order or decision.

- 1 (3) Notice given to a teacher about an interim disciplinary order is
2 to contain a statement that the Board is to refer the matter in
3 respect of which the order is made to the State Administrative
4 Tribunal under section 61.
- 5 (4) Notice given to a teacher about an order made under section 70
6 or 80 is to contain a statement that the teacher may have a right
7 to a review under section 124.

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Part 6 — Teacher Registration Board

Division 1 — Establishment

86. Board established

A body called the Teacher Registration Board of Western Australia is established.

87. Membership of Board

- (1) The Board consists of 7 members appointed by the Minister.
- (2) Each member is to be a natural person.
- (3) At least one member is to be a lawyer.
- (4) The Minister is to appoint to the Board people that between them have such experience, skills or qualifications as the Minister considers appropriate to enable them to effectively carry out the functions of the Board under this Act.
- (5) The Minister is to designate one member to be the chairperson, and one member to be the deputy chairperson, of the Board.

88. Remuneration and allowances

A member of the Board or of a committee is entitled to the remuneration and allowances, if any, that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

Division 2 — Functions and powers

89. Functions

The functions of the Board are as follows —

- (a) to perform the functions that are conferred on the Board under this Act or any other Act;

- 1 (b) to facilitate and assist in the establishment of an
2 accreditation scheme for teacher education that may
3 apply throughout Australia;
- 4 (c) to work with teacher registration authorities (however
5 described) in one or more other States and Territories to
6 establish such a scheme;
- 7 (d) to facilitate and assist in the administration of an
8 accreditation scheme for teacher education so
9 established;
- 10 (e) to advise the Minister on matters to which this Act
11 applies.

12 **90. Powers**

13 The Board has all the powers it needs to perform its functions.

14 **91. Delegation by Board**

- 15 (1) The Board may delegate any power or duty of the Board under
16 another provision of this Act —
- 17 (a) to a member of the Board; or
18 (b) to a committee; or
19 (c) with the consent of the CEO, to an officer or employee
20 employed in the Department.
- 21 (2) The delegation must be in writing executed by the Board.
- 22 (3) A person or committee to whom a power or duty is delegated
23 under this section cannot delegate that power or duty.
- 24 (4) A person or committee exercising or performing a power or
25 duty that has been delegated to the person or committee under
26 this section is to be taken to do so in accordance with the terms
27 of the delegation unless the contrary is shown.
- 28 (5) Nothing in this section limits the ability of the Board to perform
29 a function through an agent.

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Division 3 — Staff and services

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92. Staff and services

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The CEO is to ensure that the Board is provided with such —

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(a) staff, services and facilities; and

5

(b) other resources and support,

6

as are reasonably necessary to enable it to perform its functions.

7

Division 4 — Relationship of Board with Minister

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93. Directions by Minister

9

(1) Subject to subsection (2), the Minister may give written directions to the Board with respect to the performance of its functions, either generally or in relation to a particular matter, and the Board is to give effect to any such direction.

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(2) The Minister must not under subsection (1) direct the Board with respect to the performance of its functions in respect of —

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(a) a particular person; or

16

(b) a particular application, complaint or proceeding.

17

(3) The copy of a direction given under subsection (1) is to be —

18

(a) laid before each House of Parliament within 14 days after the direction is given or dealt with in accordance with section 125; and

19

20

21

(b) included in the report of the Board made under section 114.

22

23

94. Minister to have access to information

24

(1) In this section —

25

document includes any tape, disk or other device or medium on which information is recorded or stored;

26

- 1 **information** means information specified, or of a description
2 specified, by the Minister that relates to the functions of the
3 Board.
- 4 (2) The Minister is entitled —
- 5 (a) to have information in the possession of the Board; and
6 (b) if the information is in or on a document, to have, and
7 make and retain copies of, that document.
- 8 (3) For the purposes of subsection (2), the Minister may —
- 9 (a) request the Board to furnish information to the Minister;
10 and
11 (b) request the Board to give the Minister access to
12 information; and
13 (c) for the purposes of paragraph (b) make use of the
14 services of any officer or employee employed in the
15 Department to obtain the information and furnish it to
16 the Minister.
- 17 (4) The Board is to comply with a request under subsection (3) and
18 the CEO is to arrange for his or her staff and facilities to be
19 available to the Minister for the purposes of subsection (3)(c).
- 20 (5) The Minister is not entitled to have information under this
21 section in a form that —
- 22 (a) discloses the identity of a person involved in a particular
23 application, complaint, investigation, inquiry or other
24 proceeding; or
25 (b) might enable the identity of any such person to be
26 ascertained,
- 27 unless that person has consented to the disclosure.

1 **Division 5 — Constitution and proceedings of the Board**

2 **Subdivision 1 — General provisions**

3 **95. Term of office**

4 (1) Subject to section 96, a member of the Board holds office for
5 the term, not exceeding 5 years, that is specified in the
6 member's instrument of appointment.

7 (2) A member of the Board is eligible for reappointment.

8 (3) A member of the Board whose term of office expires without a
9 person having been appointed to fill the vacancy continues in
10 office (unless under section 96, the person resigns or is removed
11 from office) until whichever of the following occurs first —

12 (a) a person is appointed to fill the vacancy;

13 (b) a period of 3 months elapses after the expiry of the term
14 of office.

15 **96. Casual vacancies**

16 (1) A member of the Board may at any time resign from office by
17 written notice given to the Minister.

18 (2) The Minister may remove a member of the Board from office
19 on one of the following grounds —

20 (a) mental or physical incapacity to carry out the person's
21 duties in a satisfactory manner;

22 (b) the person being an insolvent;

23 (c) the person being convicted of a serious offence;

24 (d) absence, without leave, from 3 consecutive meetings of
25 the Board of which the member has had notice;

26 (e) neglect of duty;

27 (f) misconduct.

1 (3) In subsection (2)(b) —
2 ***insolvent*** means a person who is, according to the *Interpretation*
3 *Act 1984* section 13D, a bankrupt or a person whose affairs are
4 under insolvency laws.

5 (4) The office of a member becomes vacant if, before the term for
6 which the person holding the office was appointed expires, the
7 person dies or resigns or is removed from office.

8 **97. Deputy chairperson acting as chairperson**

9 (1) The deputy chairperson is to perform the functions of the
10 chairperson —

11 (a) when the chairperson is unable to act because of illness,
12 absence or other cause; or

13 (b) during any vacancy in the office of chairperson.

14 (2) An act or omission of the deputy chairperson acting in the place
15 of the chairperson is not to be questioned on the ground that the
16 occasion for acting had not arisen or had ceased.

17 **98. Alternate members**

18 (1) If a member of the Board other than the chairperson is unable to
19 act because of illness, absence or other cause, the Minister may
20 appoint another person as an alternate member to act
21 temporarily in the member's place.

22 (2) If the deputy chairperson is acting in place of the chairperson at
23 a meeting, the Minister may appoint another person to act in his
24 or her place as an alternate member.

25 (3) While acting in accordance with the appointment the alternate
26 member is to be taken to be, and to have any entitlement of, a
27 member.

28 (4) An act or omission of an alternate member is not to be
29 questioned on the ground that the occasion for the appointment
30 or acting had not arisen or had ceased.

1 **99. Holding meetings**

2 (1) The first meeting of the Board is to be convened by the
3 chairperson and subsequent meetings, unless convened under
4 subsection (2), are to be held at times and places determined by
5 the Board.

6 (2) A special meeting of the Board may at any time be convened by
7 the chairperson.

8 **100. Quorum**

9 Five members constitutes a quorum of the Board.

10 **101. Presiding at meetings**

11 (1) The chairperson if present is to preside at a meeting of the
12 Board.

13 (2) If neither the chairperson, nor the deputy chairperson acting as
14 the chairperson, is presiding under subsection (1) the members
15 present at the meeting are to appoint one of their number to
16 preside.

17 **102. Procedure at meetings**

18 The Board is to determine its own meeting procedures to the
19 extent that they are not fixed by this Act.

20 **103. Voting**

21 (1) At a meeting of the Board, each member present has a
22 deliberative vote unless section 109 prevents the member from
23 voting.

24 (2) A question is resolved according to how a majority of the votes
25 are cast but if there is not a majority the question is resolved
26 according to the casting vote of the person presiding.

1 **104. Holding meetings remotely**

2 The presence of a person at a meeting of the Board need not be
3 by attendance in person but may be by that person and each
4 other person at the meeting being simultaneously in contact by
5 telephone or other means of instantaneous communication.

6 **105. Resolution without meeting**

7 A resolution in writing signed or assented to by letter, facsimile,
8 email or other similar means by at least half of the number of
9 members of the Board has the same effect as if it had been
10 passed at a meeting of the Board.

11 **106. Minutes**

12 The Board is to cause accurate minutes to be kept of the
13 proceedings at each of its meetings and each meeting of its
14 committees.

15 **107. Committees**

- 16 (1) The Board may establish committees to assist it to perform its
17 functions, and may discharge or alter any committee it has
18 established.
- 19 (2) A committee may include people who are not members of the
20 Board but must include at least one member of the Board.
- 21 (3) Each member of a committee is to be a natural person.
- 22 (4) The Board may give directions to a committee on the following
23 matters —
- 24 (a) the functions to be performed by the committee;
- 25 (b) the procedures of the committee;
- 26 (c) reporting by the committee on the performance of its
27 functions.
- 28 (5) A committee must comply with a direction of the Board.

1 (6) A committee may determine its own procedures but they must
2 be consistent with any directions of the Board and the terms of
3 any delegation under which the committee is acting.

4 (7) This section does not apply to the disciplinary committee and
5 the impairment review committee.

6 **Subdivision 2 — Disclosure of interest**

7 **108. Disclosure of interest**

8 (1) A member of the Board who has a material personal interest in a
9 matter being considered or about to be considered by the Board
10 must, as soon as possible after the relevant facts have come to
11 the member's knowledge, disclose the nature of the interest at a
12 meeting of the Board.

13 Penalty: a fine of \$25 000.

14 (2) A member of a committee who has a material personal interest
15 in a matter being considered or about to be considered by the
16 committee must, as soon as possible after the relevant facts have
17 come to the member's knowledge, disclose the nature of the
18 interest at a meeting of the committee.

19 Penalty: a fine of \$25 000.

20 (3) Subsection (2) applies to a person who is a member of the
21 committee and also a member of the Board even though the
22 person has already disclosed the nature of the interest at a
23 meeting of the Board.

24 (4) A disclosure under subsection (1) or (2) is to be recorded in the
25 minutes of the meeting.

26 **109. Voting by interested Board member**

27 (1) A member who has a material personal interest in a matter that
28 is being considered by the Board —

29 (a) must not vote, whether at a meeting or otherwise, on the
30 matter; and

1 (b) must not be present while the matter is being considered
2 at a meeting.

3 (2) A reference in subsection (1)(a) or (b) to a matter includes a
4 reference to a proposed resolution under section 110 in respect
5 of the matter, whether relating to that member or a different
6 member.

7 **110. Section 109 may be declared inapplicable**

8 Section 109 does not apply if the Board has at any time passed a
9 resolution that —

- 10 (a) specifies the member, the interest and the matter; and
11 (b) states that the members voting for the resolution are
12 satisfied that the interest should not disqualify the
13 member from considering or voting on the matter.

14 **111. Quorum where section 109 applies**

15 (1) Despite section 100, if the Board is dealing with a matter in
16 relation to which a member is disqualified under section 109, a
17 quorum is present during the consideration of the matter if at
18 least half the number of members who are entitled to vote on
19 any motion that may be moved at the meeting in relation to the
20 matter are present.

21 (2) The Minister may deal with a matter insofar as the Board cannot
22 deal with it because of subsection (1).

23 **112. Minister may declare sections 109 and 111 inapplicable**

24 (1) The Minister may by writing declare that section 109 or 111 or
25 both of them do not apply in relation to a specified matter either
26 generally or in voting on particular resolutions.

27 (2) The Minister must, within 14 days after a declaration under
28 subsection (1) is made, cause a copy of the declaration to be laid
29 before each House of Parliament or dealt with in accordance
30 with section 125.

Division 6 — General

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113. Execution of documents by the Board

- (1) A document is duly executed by the Board if it is signed on behalf of the Board by a person or persons authorised to do so under subsection (2).
- (2) The Board may —
 - (a) authorise one or more of its members; or
 - (b) with the consent of the CEO, authorise any officer or employee employed in the Department,to sign documents on behalf of the Board, either generally or subject to the conditions that are specified in the authorisation.
- (3) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.

114. Annual report of Board

- (1) The Board is to prepare and submit to the CEO, as soon as is practicable after 30 June in each year, a report that contains —
 - (a) information about the activities of the Board during the financial year; and
 - (b) a report about the Board’s performance of its functions under this Act during that time; and
 - (c) any other matters arising out of the performance of the Board’s functions that are, in the opinion of the Board, of such significance as to require reporting.
- (2) The annual report submitted by the accountable authority of the Department under the *Financial Management Act 2006* Part 5 is to include the following reports —
 - (a) the report of the Board under subsection (1);
 - (b) the report of the disciplinary committee under section 49(7);

- 1 (c) the report of the impairment review committee under
2 section 50(7).

3 **115. Teacher Registration Board Account**

- 4 (1) An agency special purpose account called the Teacher
5 Registration Board Account is to be established under the
6 *Financial Management Act 2006* section 16.
- 7 (2) The Teacher Registration Board Account is to be administered
8 by the CEO.
- 9 (3) The Teacher Registration Board Account must be credited with
10 the following —
- 11 (a) fees, fines, costs and other moneys received or
12 recovered under this Act;
- 13 (b) other moneys received by, made available to, or payable
14 to, the Teacher Registration Board in the performance of
15 functions under this or any other Act;
- 16 (c) any other moneys required or authorised under this or
17 any other written law to be credited to the account.
- 18 (4) Moneys held in the Teacher Registration Board Account must
19 be applied for the following —
- 20 (a) in payment of the remuneration and allowances payable
21 to the members of the Board or of a committee under
22 this Act;
- 23 (b) in payment of the costs and expenses incurred in the
24 performance of the functions of the Teacher Registration
25 Board under this Act;
- 26 (c) in payment of the costs of the administration and
27 enforcement of this Act.

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Part 7 — Miscellaneous

Division 1 — Publishing and using information

116. Term used: publish

In this Division —

publish, in relation to information, includes —

- (a) include in a newspaper or other publication published in this State;
- (b) disseminate by the exhibition or broadcast of a photograph, slide, film, video recording, audio recording or other recording of images or sound;
- (c) broadcast by radio or for television;
- (d) include on a website or otherwise publicly disseminate by means of the internet;
- (e) publicly exhibit in, on, over or under any building, vehicle or place, or in the air, in view of persons in or on any street or public place;
- (f) include in a document sent or delivered to any person or body;
- (g) include in a document gratuitously sent or delivered to any person or body or thrown or left on premises occupied by any person or body or left on a vehicle;
- (h) make verbally to any person or body.

117. Confidentiality of information

- (1) This section applies to a person who is or has been engaged in the performance of functions under this Act.
- (2) A person to whom this section applies must not, directly or indirectly, publish or make use of information obtained in performing functions under this Act other than —
 - (a) for the purpose of, or in connection with, performing a function under this Act or another written law; or

- 1 (b) as required or allowed under this Act or another written
2 law; or
- 3 (c) with the written consent of the person to whom the
4 information relates; or
- 5 (d) for the purpose of investigation of a suspected offence
6 or the conduct of proceedings against a person arising
7 out of the administration of this or another written law;
8 or
- 9 (e) in other circumstances, if any, prescribed.

10 Penalty: a fine of \$25 000.

- 11 (3) Subsection (2) does not apply to the publication or use of
12 statistical or other information that could not reasonably be
13 expected to lead to the identification of any person to whom it
14 relates.

15 **118. Publication of information**

- 16 (1) The Board may cause to be published, in any form or manner
17 that the Board considers appropriate, information concerning
18 any of the following —
- 19 (a) the registration of teachers;
- 20 (b) matters that adversely affect or may adversely affect the
21 interests of persons at educational venues who are taught
22 by registered teachers.
- 23 (2) Without limiting subsection (1) —
- 24 (a) information published under this section may include
25 details of any of the following —
- 26 (i) orders or decisions of the Board or the
27 disciplinary committee;
- 28 (ii) orders made by the State Administrative
29 Tribunal;
- 30 or

- 1 (b) the Board may give notice of a finding, order, reason,
2 decision or other action in respect of a person to any of
3 the following —
- 4 (i) a board or authority under a law of another State
5 or a Territory or New Zealand that deals with the
6 registration of teachers (however described);
- 7 (ii) any relevant professional association or trade
8 union of which the person is a member;
- 9 (iii) a person who is, or at the relevant time was, the
10 employer of a registered teacher;
- 11 (iv) any other person who, in the opinion of the
12 Board, should be made aware of the finding,
13 order, reason, decision or action.
- 14 (3) The Board must not publish information under this section
15 unless satisfied that it is in the public interest to do so.
- 16 (4) Without limiting section 117, no civil or criminal liability is
17 incurred by the Board or any other person in respect of the
18 publication, in good faith, of information under this section.

19 **Division 2 — Legal proceedings**

20 **119. Legal proceedings**

- 21 (1) Proceedings for an offence against this Act or in respect of any
22 other matter arising under this Act may be taken in the name of
23 the Board by —
- 24 (a) the Board; or
25 (b) any other person authorised to do so by the Board.
- 26 (2) Subsection (1) does not limit the ability of a person to
27 commence or conduct the prosecution of an offence if the
28 person has authority at law to do so.
- 29 (3) All prosecutions for offences against this Act are to be heard in
30 a court of summary jurisdiction constituted by a magistrate.

1 **120. Evidence Act 1906 not affected**

2 This Division is in addition to, and does not affect the operation
3 of, the *Evidence Act 1906*.

4 **121. Evidentiary matters**

5 (1) In proceedings for an offence against this Act, in the absence of
6 evidence to the contrary, the following matters are to be taken to
7 be proved —

8 (a) the prosecutor is authorised to commence the
9 prosecution; and

10 (b) the prosecution notice is executed by a person
11 authorised to commence the prosecution.

12 (2) In proceedings for an offence against this Act an allegation in a
13 prosecution notice that, at a specified time, a specified person
14 was —

15 (a) a member or an alternate member of the Board;

16 (b) the chairperson or deputy chairperson of the Board;

17 (c) a member of a committee,

18 is taken to be proved in the absence of evidence to the contrary.

19 (3) In proceedings for an offence against this Act a copy of or
20 extract from the register or any statement that purports to
21 reproduce matters entered in the register that is certified by the
22 Board as a true copy, extract or statement, is evidence of the
23 facts appearing in that copy, extract or statement.

24 **122. Evidentiary certificate**

25 (1) In any proceedings, production of a certificate containing a
26 statement described in subsection (2) and purporting to be given
27 by the Board is, without proof of any appointment or signature,
28 evidence of the facts stated in the certificate in the absence of
29 evidence to the contrary.

- 1 (2) A certificate may state any or all of the following —
2 (a) that a person is or was, or is not or was not, registered as
3 a teacher;
4 (b) that a person does or does not, or did or did not, hold a
5 specified category of registration;
6 (c) any conditions to which the registration of a person is or
7 was subject;
8 (d) that the registration of a person has or had been
9 suspended or cancelled under this Act;
10 (e) that a person was disqualified from holding registration
11 as a teacher;
12 (f) the day, days or period on or during which anything
13 referred to in any of paragraphs (a) to (e) applied.

14 **123. Recovery of amounts due**

15 The amount of any —

- 16 (a) fees; or
17 (b) penalty, costs or expenses ordered to be paid under
18 Part 5,

19 is recoverable by the Board in any court of competent
20 jurisdiction as a debt due to the State.

21 **Division 3 — Review by State Administrative Tribunal**

22 **124. Review by State Administrative Tribunal of certain**
23 **decisions**

- 24 (1) A person who is, or was —
25 (a) a registered teacher; or
26 (b) the employer of a registered teacher who holds, or held,
27 limited registration,
28 who is aggrieved by a reviewable decision may apply to the
29 State Administrative Tribunal for a review of the decision.

- 1 (2) In subsection (1) —
2 *reviewable decision* means a decision of —
3 (a) the Board to refuse an application by the person under
4 Part 3 for the grant of registration; or
5 (b) the Board to refuse an application by the person under
6 Part 3 for the renewal of registration; or
7 (c) the Board to impose a condition under section 26 when
8 granting or renewing an application by the person for
9 registration; or
10 (d) the Board to impose, modify or cancel a condition under
11 section 26 during the currency of the teacher’s
12 registration; or
13 (e) the Board to cancel the person’s registration under
14 section 27; or
15 (f) the disciplinary committee to make an order against the
16 person under section 70; or
17 (g) the Board to make an order against the person under
18 section 80.

19 **Division 4 — Other matters**

20 **125. Laying before House of Parliament that is not sitting**

- 21 (1) If the Minister is required under this Act to cause a document to
22 be laid before each House of Parliament, or dealt with under this
23 section, within 14 days and —
24 (a) at the commencement of that period a House of
25 Parliament is not sitting; and
26 (b) the Minister is of the opinion that the House will not sit
27 during that period of 14 days,
28 the Minister is to transmit a copy of the document to the Clerk
29 of that House.
30 (2) A copy of a document transmitted to the Clerk of a House is to
31 be taken to have been laid before that House.

- 1 (f) provide, or cause to be provided, information that the
2 person knows is false or misleading in a material
3 particular;
- 4 (g) provide, or cause to be provided, information that is
5 false or misleading in a material particular, with reckless
6 disregard as to whether the information is false or
7 misleading in a material particular;
- 8 (h) fail to disclose, or cause a failure to disclose, all
9 information that the person knows is materially relevant.
- 10 Penalty:
- 11 (a) for a first offence, a fine of \$5 000;
- 12 (b) for a second or subsequent offence, a fine \$10 000.

13 **128. Regulations**

- 14 (1) The Governor may make regulations prescribing all matters that
15 are required or permitted by the Act to be prescribed, or are
16 necessary or convenient to be prescribed to give effect to the
17 purposes of the Act.
- 18 (2) Without limiting subsection (1), regulations may be made for all
19 or any of the following purposes —
- 20 (a) regulating the meetings and proceedings of, and the
21 conduct of business by, the Board or a committee;
- 22 (b) maintaining the accuracy of the register, including the
23 provision of information to the Board to assist in
24 maintaining the accuracy of the register;
- 25 (c) regulating the issue, display and use of certificates of
26 registration, if any;
- 27 (d) regulating registration including —
- 28 (i) conditions on registration;
- 29 (ii) the duration of non-practising registration;

- 1 (e) regarding information —
- 2 (i) as to persons who are teaching in an educational
- 3 venue;
- 4 (ii) about teaching in educational venues,
- 5 to be supplied to the Board, at the request of the Board,
- 6 by any person who appoints, employs, engages or gives
- 7 permission to another person to teach in an educational
- 8 venue;
- 9 (f) procedures in relation to the making of complaints;
- 10 (g) procedures in relation to the conduct of inquiries;
- 11 (h) prescribing fees to be paid for the purposes of this Act,
- 12 and the person liable for payment of any fee;
- 13 (i) providing that any information supplied to the Board or
- 14 a committee may be required to be verified by statutory
- 15 declaration.

16 **129. Forms**

17 Forms that are convenient for the purposes of this Act

18 may be —

- 19 (a) prescribed; or
- 20 (b) approved by the Board.

21 **130. Review of Act**

22 (1) The Minister is to carry out a review of the operation and

23 effectiveness of this Act as soon as is practicable after the

24 expiration of 4 years from the commencement of this section,

25 and in the course of that review the Minister is to consider and

26 have regard to the following —

- 27 (a) the effectiveness of the operations of the Board;
- 28 (b) the need for the continuation of the functions of the
- 29 Board;
- 30 (c) any other matters that appear to the Minister to be
- 31 relevant to the operation and effectiveness of this Act.

- 1 (2) The Minister is to prepare a report based on the review made
2 under subsection (1) and, as soon as is practicable after the
3 preparation of the report, cause it to be laid before each House
4 of Parliament.

1 **Part 8 — Repeals and transitional matters**

2 **Division 1 — *Interpretation Act 1984* not affected**

3 **131. *Interpretation Act 1984* not affected**

4 The provisions of this Part are additional to and do not prejudice
5 or affect the application of the *Interpretation Act 1984* to and in
6 relation to the repeal effected by section 132, except where the
7 contrary intention appears.

8 **Division 2 — Repeals**

9 **132. *Western Australian College of Teaching Act 2004* repealed**

10 (1) The *Western Australian College of Teaching Act 2004* is
11 repealed.

12 (2) If, when this section comes into operation, Part 9 Division 1 is
13 not in operation, then Part 9 Division 1 is repealed.

14 **133. *Western Australian College of Teaching Regulations 2004*
15 **repealed****

16 The *Western Australian College of Teaching Regulations 2004*
17 are repealed.

18 **134. *Western Australian College of Teaching (Elections)*
19 **Regulations 2007** repealed**

20 The *Western Australian College of Teaching (Elections)*
21 *Regulations 2007* are repealed.

1 **Division 3 — Transitional provisions arising from the**
2 **enactment of the *Teacher Registration Act 2011***

3 **Subdivision 1 — Terms used**

4 **135. Terms used**

5 In this Division —

6 ***assets*** means any legal or equitable estate or interest (whether
7 present or future, whether vested or contingent and whether
8 personal or assignable) in personal property of any description,
9 including money and includes securities, choses in action and
10 documents;

11 ***College*** means the Western Australian College of Teaching
12 established under the *Western Australian College of Teaching*
13 *Act 2004* section 5;

14 ***commencement day*** means the day that is the earlier of the
15 following —

- 16 (a) the day on which Part 9 Division 1 comes into
17 operation; or
18 (b) the day on which section 132 comes into operation;

19 ***former Board*** means the Board —

- 20 (a) established under the *Western Australian College of*
21 *Teaching Act 2004* section 7;
22 (b) in existence immediately before commencement day;

23 ***liability*** means any liability, duty or obligation, other than a
24 liability that relates to real property, whether actual, contingent
25 or prospective, liquidated or unliquidated, or whether owed
26 alone or jointly or jointly and severally with any other person;

27 ***right*** means any right, power, privilege or immunity whether
28 actual, contingent or prospective;

29 ***school*** has the meaning given in the *School Education Act 1999*
30 section 4;

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Division 3 Transitional provisions arising from the enactment of the
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1 *WACOT Act* means the *Western Australian College of Teaching*
2 *Act 2004* as in force immediately before commencement day.

3 **Subdivision 2 — Registration**

4 **136. Registration continues**

5 An individual who immediately before commencement day —

- 6 (a) was registered as a teacher under the WACOT Act
7 section 34, is to be taken to hold full registration; and
8 (b) was provisionally registered as a teacher under the
9 WACOT Act section 32, is to be taken to hold
10 provisional registration; and
11 (c) held a limited authority to teach under the WACOT Act
12 section 36, is to be taken to hold limited registration,

13 on commencement day on the same terms and conditions
14 (including suspension and period of registration) as applied in
15 respect of that person under the WACOT Act.

16 **137. Teachers not registered at commencement day**

17 (1) This section applies to an individual who —

- 18 (a) held a qualification in teaching approved by the Board
19 for the purposes of this section; and
20 (b) was not registered as a teacher under the WACOT Act.

21 (2) An individual to whom this section applies who was teaching at
22 an educational venue, other than a school, for a period of at least
23 3 years is to be taken on commencement day to hold full
24 registration.

25 (3) An individual to whom this section applies who was teaching at
26 an educational venue, other than a school, for a period of less
27 than 3 years is to be taken on commencement day to hold
28 provisional registration.

Subdivision 3 — Former Board abolished

138. Former Board abolished

On commencement day, the former Board is to be taken to be abolished and its members go out of office.

139. Unfinished proceedings

Any proceedings commenced by, or against, the College that have not been finally determined by commencement day —

- (a) are to be dealt with and determined as if the proceedings had been commenced by or against the Board; and
- (b) are to continue under the direction and control of the Board.

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

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

This Subdivision does not apply to, or in respect of, real property, and any liabilities relating to real property, held immediately before commencement day by the College under the WACOT Act.

141. Transfer of assets, liabilities, etc.

(1) On commencement day, by force of this section —

- (a) the assets and rights vested in the College immediately before commencement day are transferred to, and vest, in the State and are to be administered in the Department; and
- (b) the liabilities of the College (including a share of a liability) existing immediately before commencement day are transferred to the State to be administered in the Department.

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1 (2) The assets, rights and liabilities referred to in subsection (1)
2 pass to and become vested in the State under this section
3 without any transfer or assignment.

4 (3) The relevant officials are to take notice of this Part and are to
5 record and register in the appropriate manner the documents
6 necessary to show the effect of this section.

7 **142. Winding-up**

8 As soon as reasonably practicable after commencement day, the
9 CEO is to wind-up the affairs of the College and in particular,
10 but without limiting what may be done to wind-up those affairs,
11 the CEO is to —

12 (a) discharge the liabilities transferred to the State under
13 this Subdivision; and

14 (b) cause —

15 (i) any assets which remain after the discharge of
16 those liabilities; and

17 (ii) moneys derived from the winding-up of the
18 affairs of the College under this section,
19 including any proceeds from the disposal of
20 property,

21 to be credited to the account referred to in section 115.

22 **143. Final report**

23 (1) In this section —

24 *final period* means the period beginning on the day after the last
25 day of the period for which a report was made under the
26 WACOT Act section 29 and ending on commencement day.

27 (2) The Minister is to appoint a reporting officer to make and
28 submit to the CEO, as soon as is reasonably practicable, but in
29 any event not later than 4 months, after commencement day a
30 report (the *final report*) of the proceedings of the College for
31 the final period.

- 1 (3) The WACOT Act section 29(2) and (3)(a) to (d) applies in
2 respect of the final report as if it was an annual report made
3 under that section by the College.
- 4 (4) The Minister must cause copies of the final report submitted
5 under subsection (2) to be laid before each House of Parliament,
6 or dealt with under section 125, within 14 days after the
7 Minister receives it.

8 **144. Records etc. to be delivered to CEO**

9 The College is to ensure that, on commencement day, all
10 documents, papers, books of accounts and other records
11 (however compiled or stored) in the possession of the College
12 or under its control, are delivered to the CEO.

13 **Subdivision 5 — Staff under WACOT Act**

14 **145. Staff under WACOT Act — transition of employment**

- 15 (1) A person who, immediately before commencement day, was
16 appointed, employed or engaged by the College becomes, on the
17 commencement day, a person employed in the Department.
- 18 (2) The employment of the person in the Department in accordance
19 with subsection (1) is under and subject to the *Public Sector*
20 *Management Act 1994*.
- 21 (3) A person mentioned in subsection (1) is to be regarded as
22 having been appointed, engaged or employed, as is relevant, by
23 the CEO.
- 24 (4) Except as otherwise agreed by a person to whom subsection (1)
25 applies, the person's remuneration, existing, accrued or accruing
26 rights, rights under a superannuation scheme or fund and
27 continuity of service are not affected, prejudiced or interrupted
28 by —
- 29 (a) the operation of subsection (1); or
30 (b) the abolition of the former Board; or

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1 (c) the amendment or repeal of the *Western Australian*
2 *College of Teaching Act 2004*.

3 (5) For the purposes of this section, a person's service with the
4 College is to be taken to have been with the Department.

5 **Subdivision 6 — Other matters**

6 **146. Disciplinary proceedings**

7 Disciplinary proceedings commenced under the WACOT Act
8 Part 7 that are not complete by commencement day —

- 9 (a) are taken to have been commenced under this Act; and
10 (b) are to continue under the direction and control of the
11 Board.

12 **147. Orders made under WACOT Act**

13 An order for disciplinary action in force immediately before
14 commencement day under the WACOT Act is to be taken to be
15 an order made by the disciplinary committee or the Board, as is
16 relevant under Part 5 of this Act.

17 **148. References to College or former Board**

18 (1) If in a written law or other document or instrument there is a
19 reference to the College or to the former Board, that reference
20 may, on and after commencement day, where the context so
21 requires, be read as if it had been amended to be a reference to
22 the Board.

23 (2) Subsection (1) does not apply to or in respect of a document or
24 instrument relating to any asset or liability that is held after
25 commencement day by the College under the *Western Australia*
26 *College of Teaching Act 2004*.

27 **149. Transitional regulations**

28 (1) If there is no sufficient provision in this Part for dealing with a
29 transitional matter, regulations under this Act may prescribe all

- 1 matters that are required or necessary or convenient to be
2 prescribed in relation to that matter.
- 3 (2) In subsection (1) —
- 4 ***transitional matter*** means a matter that needs to be dealt with
5 for the transition required because of this Act.
- 6 (3) Regulations made under subsection (1) may provide that
7 specified provisions of any written law —
- 8 (a) do not apply to or in relation to any matter; or
9 (b) apply with specified modifications to or in relation to
10 any matter.
- 11 (4) If regulations made under subsection (1) provide that a specified
12 state of affairs is to be taken to have existed, or not to have
13 existed, on and from a day that is earlier than the day on which
14 the regulations are published in the *Gazette* but not earlier than
15 the commencement day, the regulations have effect according to
16 their terms.
- 17 (5) In subsections (3) and (4) —
- 18 ***specified*** means specified or described in the regulations.
- 19 (6) If regulations contain a provision referred to in subsection (4),
20 the provision does not operate so as —
- 21 (a) to affect in a manner prejudicial to any person (other
22 than the State or an authority of the State) the rights of
23 that person existing before the regulations were
24 published in the *Gazette*; or
- 25 (b) to impose liabilities on any person (other than the State
26 or an authority of the State) in respect of any thing done
27 or omitted to be done before the regulations were
28 published in the *Gazette*.

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Part 9 — Amendments to other Acts

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

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

This Division amends the *Western Australian College of Teaching Act 2004*.

151. Long title amended

In the long title delete the second, third and fourth dot points and insert:

- **provide for the winding-up of that College,**

152. Section 3 replaced

Delete section 3 and insert:

3. Terms used

In this Act —

Board means the Board established under section 7;

CEO has the meaning given in the *Teacher Registration Act 2011* section 3;

College means the Western Australian College of Teaching established under section 5;

commencement day means the day on which the *Teacher Registration Act 2011* Part 9 Division 1 comes into operation;

Teacher Registration Board Account means the account referred to in the *Teacher Registration Act 2011* section 115.

1 **153. Section 7 amended**

2 Delete section 7(2) and insert:

3

4 (2) The Board is constituted by the CEO.

5

6 **154. Sections 9 to 13 deleted**

7 Delete sections 9 to 13.

8 **155. Section 15 amended**

9 Delete section 15(2)(c) and (3).

10 **156. Sections 16 to 18 replaced**

11 Delete sections 16, 17 and 18 and insert:

12

13 **16. Term used: residual affairs**

14 In this Division —

15 *residual affairs* means the affairs of the College in
16 respect of —

17 (a) the real property held by the College under this
18 Act immediately before commencement day;
19 and

20 (b) any liabilities relating to that real property.

21 **17. Function of College**

22 (1) The function of the College is to manage and wind-up
23 its residual affairs.

24 (2) The College is to wind-up its residual affairs as soon as
25 is reasonably practicable after commencement day.

- 1 **18. Powers of College**
- 2 (1) The College may do all things that are necessary or
- 3 expedient for managing and winding-up its residual
- 4 affairs.
- 5 (2) Without limiting what may be done to wind-up its
- 6 residual affairs, the College is to —
- 7 (a) dispose of the real property held by the College
- 8 under this Act immediately before
- 9 commencement day; and
- 10 (b) discharge any remaining liabilities relating to
- 11 that real property.
- 12
- 13 **157. Sections 19 to 21 deleted**
- 14 Delete sections 19 to 21.
- 15 **158. Section 25 amended**
- 16 (1) In section 25(1)(b) delete “a member, or members, of the Board
- 17 authorised by the College to do so.” and insert:
- 18
- 19 the CEO.
- 20
- 21 (2) In section 25(3) delete “any 2 members of the Board and each
- 22 of them” and insert:
- 23
- 24 the CEO and the CEO
- 25

Teacher Registration Bill 2011

Part 9 Amendments to other Acts

Division 2 Other Acts amended

s. 164

- 1 (2) In section 124A in the definition of *teacher* delete
2 paragraphs (a) and (b) and insert:
3
- 4 (a) a person who is registered under the *Teacher*
5 *Registration Act 2011*; or
6
- 7 **164. *Constitution Acts Amendment Act 1899* amended**
- 8 (1) This section amends the *Constitution Acts Amendment Act 1899*.
- 9 (2) In Schedule V Part 3 delete the item relating to The Western
10 Australian College of Teaching.
- 11 (3) In Schedule V Part 3 after the item relating to The Taxi Industry
12 Board insert:
13
- 14 The Teacher Registration Board of Western Australia
15 established under the *Teacher Registration Act 2011*.
16
- 17 **165. *Curriculum Council Amendment Act 2011* amended**
- 18 (1) This section amends the *Curriculum Council Amendment*
19 *Act 2011*.
- 20 (2) Delete section 59.
- 21 **166. *Occupational Therapists Act 2005* amended**
- 22 (1) This section amends the *Occupational Therapists Act 2005*.
- 23 (2) Delete section 4(d) and insert:
24
- 25 (d) the practice of his or her profession by a person
26 who is registered under the *Teacher*
27 *Registration Act 2011*.
28

1 **167. *Prostitution Amendment Act 2008* amended**

2 (1) This section amends the *Prostitution Amendment Act 2008*.

3 (2) Delete section 34.

4 **168. *Sentencing Act 1995* amended**

5 (1) This section amends the *Sentencing Act 1995*.

6 (2) In Schedule 1 delete the item relating to the *Western Australian*
7 *College of Teaching Act 2004*.

8 (3) In Schedule 1 insert in alphabetical order:

9

Teacher Registration Act 2011 Teacher Registration Board Account

10

11 **169. *Spent Convictions Act 1988* amended**

12 (1) This section amends the *Spent Convictions Act 1988*.

13 (2) In Schedule 3 clause 1(3) in the Table —

14 (a) in item 14 delete “section 7 of the *Western Australian*
15 *College of Teaching Act 2004*.” and insert:

16

17 the *Teacher Registration Act 2011* section 86.

18

19 (b) delete item 15;

20 (c) delete item 16 and insert:

21

16. A person who is registered, or who has applied for
registration, under the *Teacher Registration Act 2011*.

22

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Part 9 Amendments to other Acts

Division 2 Other Acts amended

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1 (3) In Schedule 3 delete clause 1(4)(d) and insert:

2

3 (d) who has registered or is considering registering the
4 person.

5

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Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
accredited initial teacher education programme	3
application	3
approved	3
assets	135
Board	3
CEO	3
child	46
child care centre	3
child sex offender	3, 46
College	135
commencement day	135
committee	3
complainant	3
complaint	3
condition	3
criminal record check	3
Department	3
disciplinary committee	3
disciplinary matter	46
document	94(1)
educational programme	3
educational venue	3
employer	3
final period	143(1)
final report	143(2)
former Board	135
impairment	46
impairment matter	46
impairment review committee	3
information	94(1)
insolvent	96(3)
interim disciplinary order	3
lawyer	3
liability	135
medical practitioner	3
nominee	3, 17
prescribed	3
principal	3
professional standards	3

Defined Terms

publish	116
register	3
register information (professional)	37(1)
register information (public)	37(1)
registration	3
reviewable decision	124(2)
right	135
school	135
sexual offence	46
sexual offence involving a child	3, 46
specified	149(5)
student	3
teach	3
teacher	46
transitional matter	149(2)
WACOT Act	135