

School Education Amendment Bill 2014

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Western Australia

LEGISLATIVE COUNCIL

School Education Amendment Bill 2014

A Bill for

An Act —

- **to amend the *School Education Act 1999*; and**
 - **to make consequential amendments to the *School Curriculum and Standards Authority Act 1997*,**
- and for related purposes.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *School Education Amendment Act 2014*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 comes into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) section 29 —
 - (i) comes into operation on assent day if assent day is on or before 1 January 2015; or
 - (ii) is deemed to have come into operation on 1 January 2015 if assent day is later than that day;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1 **Part 2 — *School Education Act 1999* amended**

2 **Division 1 — Preliminary**

3 **3. Act amended**

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

5 **Division 2 — Amendments about the registration of**
6 **non-government schools**

7 **4. Section 150 amended**

8 (1) In section 150 insert in alphabetical order:

9
10 *advance determination* means an advance
11 determination made under section 157B(1);

12 *certificate of registration*, in relation to a school,
13 means a certificate of registration issued to the
14 governing body of the school under section 162(1)
15 or (2);

16 *condition* means a condition imposed on the
17 registration of a school under section 165(1);

18 *direction* means a direction given to the governing
19 body of a registered school under section 166(1);

20 *quality improvement notice* means a notice given
21 under section 165A(1);

22 *register* means the register of non-government schools
23 kept under section 161;

24 *registration change*, in relation to a registered school,
25 means a change to, or in relation to, any of the things
26 listed in section 161(1);

27 *school planning proposal* has the meaning given in
28 section 156;

29 *significant registration change* has the meaning given
30 in section 156(b);

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1 **student record**, in relation to a student, means all of the
2 following —

3 (a) any information in respect of the student that is
4 shown on the register referred to in section 19;

5 (b) any record in respect of the student that is kept
6 under section 28;

7 (c) any student record, as defined in the *School*
8 *Curriculum and Standards Authority Act 1997*
9 section 19A(1), in respect of the student;
10

11 (2) In section 150 in the definition of **governing body**:

12 (a) in paragraph (a) delete “school or” (each occurrence);

13 (b) after paragraph (a) insert:

14
15 (ba) in relation to a registered school, the person or
16 body of persons that is recorded in the register
17 as the governing body of the school; and
18

19 (c) in paragraph (b) delete “that exercises a supervisory role
20 over the schools in the system;” and insert:

21
22 that is specified as the governing body of the system in
23 an order made under section 169;
24

25 (3) In section 150 in the definitions of **non-system school** and
26 **system school** before “school that” insert:

27

28 registered
29

- 1 **5. Section 153 amended**
- 2 (1) In section 153:
- 3 (a) delete “The” and insert:
- 4
- 5 (1) The
- 6
- 7 (b) delete “but the Minister cannot give a direction in
- 8 relation to a particular person.” and insert:
- 9
- 10 and the chief executive officer is to give effect to any
- 11 such direction.
- 12
- 13 (2) At the end of section 153 insert:
- 14
- 15 (2) The Minister must not under subsection (1) give a
- 16 direction with respect to the performance of the chief
- 17 executive officer’s functions —
- 18 (a) under Division 3B; or
- 19 (b) in respect of a particular person, governing
- 20 body or school.
- 21 (3) A copy of a direction given under subsection (1)
- 22 must —
- 23 (a) within 14 days after the direction is given, be
- 24 laid before each House of Parliament or dealt
- 25 with under subsection (4); and
- 26 (b) be included in the annual report of the
- 27 department submitted under the *Financial*
- 28 *Management Act 2006* Part 5.

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- 1 (4) The Minister must transmit a copy of the direction to
2 the Clerk of a House of Parliament if —
3 (a) at the commencement of the period referred to
4 in subsection (3)(a) the House is not sitting; and
5 (b) the Minister is of the opinion that the House
6 will not sit during that period.
- 7 (5) A copy of a direction transmitted to the Clerk of a
8 House is to be regarded as having been laid before that
9 House.
- 10 (6) The laying of a copy of a direction that is regarded as
11 having occurred under subsection (5) is to be recorded
12 in the Minutes, or Votes and Proceedings, of the House
13 on the first sitting day of the House after the receipt of
14 the copy by the Clerk.
15

16 **6. Part 4 Division 2 heading replaced**

17 Delete the heading to Part 4 Division 2 and insert:
18

19 **Division 2 — Offences**
20

21 **7. Section 154 amended**

22 (1) Delete section 154(1) and insert:
23

- 24 (1) A person must not establish or conduct a school for the
25 education of children unless the school is registered
26 under section 160.

27 Penalty: a fine of \$10 000 and a daily penalty of \$200.
28

- 1 (2) In section 154(2):
2 (a) delete “Subsection (1) does not apply to —” and insert:
3
4 In subsection (1) —
5 *school* does not include —
6
7 (b) after paragraph (b) insert:
8
9 (ca) a child care service as defined in the *Child Care*
10 *Services Act 2007* section 4; or
11 (cb) an education and care service as defined in the
12 *Education and Care Services National Law*
13 (*Western Australia*) section 5(1); or
14
15 (c) in paragraph (c) delete “that provides an educational
16 programme”.

17 (3) Delete section 154(3).

18 Note: The heading to amended section 154 is to read:

19 **Establishing or conducting an unregistered school**

20 **8. Sections 155 to 162 replaced**

21 Delete sections 155 to 162 and insert:
22

23 **155. Making false representations**

24 A person must not falsely represent that —

- 25 (a) an establishment is registered under
26 section 160; or
27 (b) enrolment in an establishment satisfies the
28 requirements of section 9(1); or

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1 (c) an advance determination is in force in relation
2 to an establishment.

3 Penalty: a fine of \$10 000.

4 **156A. Schools to be conducted in accordance with**
5 **registered information**

6 The governing body of a registered school must ensure
7 that the school —

- 8 (a) is not conducted under a name other than the
9 name recorded in the register in respect of the
10 school; and
11 (b) is not conducted from any place other than the
12 school premises recorded in the register in
13 respect of the school; and
14 (c) does not provide a year level of education other
15 than a year level of education recorded in the
16 register in respect of the school; and
17 (d) does not provide a curriculum other than a
18 curriculum recorded in the register in respect of
19 the school.

20 Penalty: a fine of \$10 000 and a daily penalty of \$100.

21 **156B. Notice to be given to CEO about changes to**
22 **governing bodies of schools**

23 (1) The governing body of a registered school must give
24 written notice, in accordance with subsection (2), to the
25 chief executive officer if —

- 26 (a) there is a change to the constitution of the
27 governing body, whether by the amendment or
28 substitution of the constitution; or
29 (b) there is a change to the membership of the
30 governing body.

31 Penalty: a fine of \$5 000.

-
- 1 (2) Notice is to be given no later than 30 days after the
2 change is made and is to be accompanied by —
3 (a) if subsection (1)(a) applies — a copy of the
4 amendment to the constitution or the
5 substituted constitution; and
6 (b) if subsection (1)(b) applies — a list of the
7 names of any new members and of any persons
8 who are no longer members.

9 **156C. Minister or CEO may require information about**
10 **registered schools**

- 11 (1) The Minister or the chief executive officer may, by
12 notice in writing, require the governing body of a
13 registered school to provide, within the period
14 specified in the notice —
15 (a) statistical, educational and financial
16 information about the school; and
17 (b) any other information about the school relating
18 to any matter referred to in section 159 or 160.
- 19 (2) The period specified in the notice must not be less than
20 14 days from receipt of the notice.
- 21 (3) A governing body must comply with a notice given to
22 it under this section.
23 Penalty: a fine of \$5 000.

24 **Division 3A — School planning proposals require an**
25 **advance determination**

26 **156. What is a school planning proposal**

- 27 A *school planning proposal* is a proposal —
28 (a) to establish a non-government school; or

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- 1 (b) to make a registration change to a registered
2 school that is of a kind prescribed by the
3 regulations (a *significant registration change*).

4 **157A. Application for advance determination**

- 5 (1) An application may be made to the Minister for an
6 advance determination about a school planning
7 proposal.
- 8 (2) An application is to —
- 9 (a) be made in writing at least 18 months, or such
10 shorter period as may be approved by the
11 Minister, before it is intended to implement the
12 school planning proposal; and
- 13 (b) be made in a form approved by the Minister;
14 and
- 15 (c) be accompanied by the prescribed fee, if any.
- 16 (3) An application is to be made by the governing body of
17 the school or proposed school.
- 18 (4) The Minister may, in writing, request the governing
19 body to provide the Minister with such further
20 information relevant to the application as the Minister
21 requires.
- 22 (5) The Minister may refuse to consider an application if
23 the governing body does not comply with a request
24 made under subsection (4).

25 **157B. Minister may make advance determination**

- 26 (1) The Minister is to make an advance determination, on
27 an application under section 157A, if the Minister is
28 satisfied that the school planning proposal is
29 satisfactory taking into account the policy direction
30 issued under section 157C.

- 1 (2) The Minister is to specify in an advance determination
2 the day on which the determination will expire.
- 3 (3) An advance determination is in force until the expiry
4 day specified in the determination.
- 5 (4) If the Minister is not satisfied as described in
6 subsection (1), the Minister is to refuse to make an
7 advance determination.

8 **157C. Policy direction for advance determinations**

- 9 (1) The Minister is to issue a policy direction in respect of
10 the making of advance determinations.
- 11 (2) In preparing a policy direction the Minister is to —
- 12 (a) have regard to the need for diversity of schools
13 and educational choices; and
- 14 (b) address the potential for adverse effects on
15 existing schools; and
- 16 (c) address how previously made advance
17 determinations that are in force in respect of
18 schools, and proposed schools, are to be taken
19 into account; and
- 20 (d) address the need for consultation, in accordance
21 with procedures prescribed by the regulations,
22 about school planning proposals; and
- 23 (e) take into account such other matters as the
24 Minister thinks fit.
- 25 (3) A policy direction —
- 26 (a) is to be published —
- 27 (i) in the *Gazette*; and
- 28 (ii) by any other means (including on the
29 Internet) that the Minister thinks fit;
- 30 and

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- 1 (b) takes effect —
2 (i) on the day it is published in the *Gazette*;
3 or
4 (ii) if a later day is stated in the direction,
5 on that day.
- 6 (4) A policy direction may be amended or repealed by a
7 subsequent policy direction issued by the Minister.
- 8 (5) Subsection (2) applies to and in relation to the
9 amendment of a policy direction.
- 10 (6) Subsection (3) applies to and in relation to the
11 amendment or repeal of a policy direction.

12 **157. Notice to be given about decisions on advance**
13 **determinations**

- 14 (1) The Minister is to notify an applicant in writing —
15 (a) of a decision to make, or refuse to make, an
16 advance determination; and
17 (b) if the decision is to refuse to make an advance
18 determination, of the reasons for the decision.
- 19 (2) Notification is to be given as soon as is practicable
20 after the decision is made, but in any event not later
21 than 6 months after the application is made.

22 **Division 3B — Registration of non-government schools**

23 **Subdivision 1 — Applications and requirements**

24 **158A. When advance determination required before**
25 **making application under this Division**

- 26 (1) An advance determination must be in force in respect
27 of a proposal to establish a non-government school
28 when an application is made under section 158 for the

1 registration of an establishment as a non-government
2 school.

3 (2) An advance determination must be in force in respect
4 of a proposal to make a significant registration change
5 to a registered school when an application is made
6 under section 159B for that change to be made to, or in
7 relation to, the school.

8 **158. Application for registration**

9 (1) An application may be made to the chief executive
10 officer for the registration of an establishment as a
11 non-government school.

12 (2) An application is to —

13 (a) be made in writing at least 6 months before the
14 day from which registration is sought; and

15 (b) be made in a form approved by the chief
16 executive officer; and

17 (c) be accompanied by —

18 (i) a copy of the advance determination
19 referred to in section 158A(1); and

20 (ii) a statement to the effect that there has
21 been no material change to the
22 information provided under
23 section 157A in relation to the advance
24 determination;

25 and

26 (d) be accompanied by the prescribed fee, if any.

27 (3) An application is to be made by the governing body of
28 the proposed school.

29 (4) The chief executive officer may, in writing, request the
30 governing body to provide the chief executive officer

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- 1 with such further information relevant to the
2 application as the chief executive officer requires.
- 3 (5) The chief executive officer may refuse to consider an
4 application if the governing body does not comply with
5 a request made under subsection (4).
- 6 **159A. Application for renewal of registration**
- 7 (1) An application may be made to the chief executive
8 officer for the renewal of the registration of a
9 non-government school.
- 10 (2) A registration change cannot be made on an application
11 under this section, unless it is an application referred to
12 in section 172(2).
- 13 (3) An application is to —
- 14 (a) be made in writing at least 6 months but not
15 more than 12 months before the current period
16 of registration will end; and
- 17 (b) be made in a form approved by the chief
18 executive officer; and
- 19 (c) be accompanied by the prescribed fee, if any.
- 20 (4) An application is to be made by the governing body of
21 the school.
- 22 (5) The chief executive officer may, in writing, request the
23 governing body to provide the chief executive officer
24 with such further information relevant to the
25 application as the chief executive officer requires.
- 26 (6) The chief executive officer may refuse to consider an
27 application if the governing body does not comply with
28 a request made under subsection (5).

- 1 **159B. Application for registration change**
- 2 (1) An application may be made to the chief executive
- 3 officer for a registration change in respect of a
- 4 registered school.
- 5 (2) An application is to —
- 6 (a) be made in writing at least 6 months, or such
- 7 shorter period as may be approved by the chief
- 8 executive officer, before it is intended to
- 9 implement the change; and
- 10 (b) be made in a form approved by the chief
- 11 executive officer; and
- 12 (c) be accompanied by the prescribed fee, if any.
- 13 (3) If the application is in respect of a significant
- 14 registration change, it is to be accompanied by —
- 15 (a) a copy of the advance determination referred to
- 16 in section 158A(2); and
- 17 (b) a statement to the effect that there has been no
- 18 material change to the information provided
- 19 under section 157A in relation to the advance
- 20 determination.
- 21 (4) An application is to be made by the governing body of
- 22 the school.
- 23 (5) The chief executive officer may, in writing, request the
- 24 governing body to provide the chief executive officer
- 25 with such further information relevant to the
- 26 application as the chief executive officer requires.
- 27 (6) The chief executive officer may refuse to consider an
- 28 application if the governing body does not comply with
- 29 a request made under subsection (5).

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- 1 **159. Standards for non-government schools**
- 2 (1) The Minister may determine standards for
- 3 non-government schools about any of the following
- 4 matters —
- 5 (a) the curriculum or curriculums of schools;
- 6 (b) staff to student ratios at schools;
- 7 (c) the days, and hours per day, of instruction
- 8 provided by schools;
- 9 (d) the staff of schools;
- 10 (e) the premises that may be used for, or in
- 11 connection with, schools;
- 12 (f) the facilities of schools;
- 13 (g) the number of children in each year level at
- 14 schools;
- 15 (h) the enrolment and attendance procedures at
- 16 schools;
- 17 (i) the management, recording and reporting of
- 18 critical and emergency incidents at schools;
- 19 (j) the arrangements (if any) for board and lodging
- 20 for students on school premises or premises
- 21 associated with schools;
- 22 (k) the response to, and recording of, complaints
- 23 and disputes at schools;
- 24 (l) the arrangements for preventing child abuse at
- 25 schools and for responding to any such abuse
- 26 which may occur;
- 27 (m) the sufficiency of schools' financial resources
- 28 for providing education of the kind for which
- 29 registration is sought;
- 30 (n) any other matter prescribed by the regulations.
- 31 (2) A standard is to be determined in accordance with
- 32 consultation procedures prescribed by the regulations.

- 1 (3) A standard —
2 (a) takes effect —
3 (i) on the day the standard is determined by
4 the Minister; or
5 (ii) if a later day is stated in the standard, on
6 that day;
7 and
8 (b) is to be published on a website maintained by
9 the chief executive officer.
- 10 (4) A standard may be amended or repealed by a
11 subsequent determination by the Minister.
- 12 (5) Subsection (2) applies to and in relation to the
13 amendment of a standard.
- 14 (6) Subsection (3) applies to and in relation to the
15 amendment or repeal of a standard.

16 **160. Determining applications for registration and**
17 **renewal of registration**

- 18 (1) The chief executive officer, on an application under
19 section 158, is to register an establishment as a
20 non-government school if satisfied that —
21 (a) the governing body of the school is the person
22 or body that has the ownership, management or
23 control of the school; and
24 (b) the constitution of the governing body of the
25 school is satisfactory for the purposes of this
26 Act; and
27 (c) each member of the governing body of the
28 school is a fit and proper person to operate a
29 school having regard to —
30 (i) the prior conduct, whether in Western
31 Australia or elsewhere, of the member,

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- 1 or any person who, as described in
2 subsection (5), is related to the member;
3 and
4 (ii) any other matter the chief executive
5 officer considers relevant;
6 and
7 (d) the school will observe any standards
8 determined by the Minister under section 159;
9 and
10 (e) the day-to-day management and control of the
11 school by the principal will be separate from
12 the overall governance of the school by its
13 governing body; and
14 (f) the governing body of the school will be
15 accountable for the following —
16 (i) development and implementation of an
17 effective strategic direction for the
18 school;
19 (ii) development and implementation of
20 effective processes to plan for, monitor
21 and achieve improvements in student
22 learning;
23 (iii) effective management of the school's
24 financial resources in accordance, where
25 relevant, with any purposes for which
26 they were provided;
27 (iv) compliance with all written and other
28 laws that apply to and in respect of the
29 school and the operation of the school;
30 and
31 (g) the school will provide a satisfactory standard
32 of education of the kind for which registration
33 is sought; and

-
- 1 (h) the school will provide satisfactory levels of
2 care for the children concerned; and
- 3 (i) there has been no material change to the
4 information provided under section 157A in
5 relation to the advance determination about the
6 proposal to establish the school.
- 7 (2) The chief executive officer, on an application under
8 section 159A, is to renew the registration of a school if
9 satisfied as to the matters referred to in subsection (1).
- 10 (3) Past and current compliance with a matter referred to in
11 subsection (1) may be taken into account, where
12 relevant, for the purposes of being satisfied as to the
13 matter under this Act.
- 14 (4) If the chief executive officer is not satisfied as required
15 under subsection (1) or (2), the chief executive officer
16 is to —
- 17 (a) register, or renew the registration of, the school,
18 as is relevant and —
- 19 (i) give a quality improvement notice; or
20 (ii) impose, or change, a condition; or
21 (iii) give a direction;
- 22 or
- 23 (b) refuse to register, or renew the registration of,
24 the school, as is relevant.
- 25 (5) For the purposes of subsection (1)(c)(i), a person is
26 related to a member if —
- 27 (a) one is an employer or employee of the other; or
28 (b) they are partners in a partnership; or
29 (c) one is a body corporate and the other —
- 30 (i) is a director or a member of the
31 governing body of the body corporate;
32 or

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- 1 (ii) is otherwise involved in the control or
2 management of the body corporate; or
3 (iii) has a legal or equitable interest in 5% or
4 more of the share capital of the body
5 corporate;
6 or
7 (d) one is the trustee or beneficiary of a trust of
8 which the other is also a trustee or beneficiary;
9 or
10 (e) they are associated or related in a manner
11 prescribed by the regulations; or
12 (f) a chain of relationships can be traced between
13 them under one or more of the preceding
14 paragraphs.

15 **161A. Determining applications for registration change**

- 16 (1) The chief executive officer is to approve an application
17 under section 159B for a registration change if the
18 chief executive officer is satisfied —
19 (a) as to the matters referred to in section 160(1)
20 that, in the opinion of the chief executive
21 officer, are relevant to the application; and
22 (b) if the application is in respect of a significant
23 registration change, there has been no material
24 change to the information supplied under
25 section 157A in relation to the advance
26 determination about the proposal to make the
27 significant registration change.
28 (2) If the chief executive officer is not satisfied as required
29 under subsection (1), the chief executive officer is
30 to —
31 (a) approve the application and —
32 (i) give a quality improvement notice; or

- 1 (ii) impose, or change, a condition; or
2 (iii) give a direction;
3 or
4 (b) refuse to approve the application.
- 5 (3) If the chief executive officer approves the application,
6 the chief executive officer is to amend the information
7 that is recorded in the register in respect of the school
8 in accordance with the approval.

9 **161B. Notice to be given about decisions under this**
10 **Subdivision**

- 11 (1) The chief executive officer is to notify an applicant in
12 writing —
13 (a) of a decision made under this Subdivision; and
14 (b) of the reasons for the decision, if the decision is
15 to —
16 (i) refuse to register, or to renew the
17 registration of, a school; or
18 (ii) refuse to approve an application for a
19 registration change in respect of a
20 school.
- 21 (2) Notification is to be given as soon as is practicable
22 after the decision is made, but, unless the application is
23 for the renewal of registration, in any event not later
24 than 6 months after the application is made.

25 **Subdivision 2 — Register and certificates of registration**

26 **161. Register of non-government schools to be kept**

- 27 (1) The chief executive officer is to keep an accurate and
28 up-to-date register that records the following
29 information in respect of each registered school —
30 (a) the name of the school;

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- 1 (b) the address of the school and the location of all
2 other school premises;
- 3 (c) the year levels of education that the school may
4 provide;
- 5 (d) the curriculum or curriculums that the school
6 may provide;
- 7 (e) the name of the governing body of the school;
- 8 (f) any other information prescribed by the
9 regulations.
- 10 (2) The following information is also to be recorded in the
11 register in respect of each registered school —
- 12 (a) the date on which the period of registration
13 starts and, unless the school is a member of a
14 school system, the date on which the period of
15 registration ends;
- 16 (b) any condition of the school's registration;
- 17 (c) any direction given in relation to the school.
- 18 (3) The register may be kept in any way the chief
19 executive officer thinks appropriate, including by
20 electronic means.

21 **162. Certificate of registration**

- 22 (1) The chief executive officer is to issue a certificate of
23 registration to the governing body of a school that is
24 granted registration, or renewal of registration,
25 specifying the information that is recorded in the
26 register in respect of the school.
- 27 (2) The chief executive officer is to issue a new certificate
28 of registration to the governing body of a school if the
29 information recorded in the register in respect of the
30 school is amended.

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163A. Surrender of certificate of registration

- (1) The governing body of a school is to surrender to the chief executive officer the certificate of registration of the school within 14 days after the governing body is notified in writing that —
- (a) the registration of the school is cancelled under section 167; or
 - (b) the renewal of the registration of the school is refused under section 160(4)(b); or
 - (c) the certificate is to be surrendered under this section because a certificate is to be issued under section 162(2) as information recorded in the register in respect of the school has been amended.
- Penalty: a fine of \$5 000.
- (2) It is a defence to a prosecution for an offence against subsection (1) for the governing body to show that the failure to surrender the certificate is due to its loss or destruction.

9. Section 163 amended

- (1) In section 163(1) delete “7 years.” and insert:
- 5 years.
- (2) After section 163(2) insert:
- (3) Despite subsection (1) and (2), the registration of a school that is the subject of an application under section 159A continues until a decision on the application is made under section 160.

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1 **10. Part 4 Division 3B Subdivision 3 heading inserted**

2 After section 163 insert:

3

4 **Subdivision 3 — Notices, conditions, directions**
5 **and cancellations**
6

7 **11. Sections 164 to 167 replaced**

8 Delete sections 164 to 167 and insert:

9

10 **164. Continuing suitability of governing body**

11 (1) The chief executive officer may assess the suitability of
12 the governing body of a registered school —

13 (a) as soon as is possible after receiving a notice
14 under section 156B; and

15 (b) at any other time the chief executive officer
16 sees fit.

17 (2) If, after conducting an assessment, the chief executive
18 officer is not satisfied as to any matter referred to in
19 section 160(1)(a), (b) and (c) the chief executive officer
20 must —

21 (a) give a quality improvement notice; or

22 (b) impose, or change, a condition; or

23 (c) give a direction; or

24 (d) cancel the registration of the school under
25 section 167(1)(c).

26 (3) The chief executive officer may, in writing, request the
27 governing body of a registered school to provide the
28 chief executive officer with any relevant information
29 that the chief executive officer requires for the

1 purposes of conducting an assessment under this
2 section.

3 **165A. Quality improvement notices**

- 4 (1) The chief executive officer may give a quality
5 improvement notice to the governing body of a
6 registered school at any time if not satisfied as to any
7 matter referred to in section 160(1).
- 8 (2) A quality improvement notice is to be in writing and is
9 to —
- 10 (a) identify the matter that the chief executive
11 officer is not satisfied as to; and
- 12 (b) specify —
- 13 (i) the remedial action required in respect
14 of the matter; and
- 15 (ii) if relevant, the period of time within
16 which the action is to be taken.
- 17 (3) If a matter identified under subsection (2)(a) is a failure
18 to observe a standard determined by the Minister under
19 section 159, then the standard is also to be identified in
20 the notice.

21 **165. Conditions of registration**

- 22 (1) The chief executive officer may impose a condition on
23 the registration of a school, or change an existing
24 condition, at any time if —
- 25 (a) not satisfied as to any matter referred to in
26 section 160(1); or
- 27 (b) not satisfied that a quality improvement notice
28 given to the governing body of the school has
29 been complied with.

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- 1 (2) A condition is to be in writing and is to —
2 (a) identify —
3 (i) the matter that the chief executive
4 officer is not satisfied as to; or
5 (ii) the quality improvement notice that the
6 chief executive officer is not satisfied
7 has been complied with;
8 and
9 (b) specify —
10 (i) any remedial action required in respect
11 of the matter or quality improvement
12 notice; and
13 (ii) if relevant, the period of time within
14 which the action is to be taken.
- 15 (3) If a matter identified under subsection (2)(a)(i) is a
16 failure to observe a standard determined by the
17 Minister under section 159, then the standard is also to
18 be identified in the condition.
- 19 (4) The governing body of a registered school must ensure
20 that a condition imposed on the registration of the
21 school is complied with.
- 22 (5) The chief executive officer may remove a condition if
23 satisfied that the condition has been complied with or is
24 no longer required.

25 **166. Directions to comply**

- 26 (1) The chief executive officer may give a written
27 direction to the governing body of a registered school
28 at any time if —
29 (a) not satisfied as to any matter referred to in
30 section 160(1); or

- 1 (b) not satisfied that any condition of the school's
2 registration is being complied with.
- 3 (2) A direction is to be in writing and is to —
- 4 (a) identify —
- 5 (i) the matter that the chief executive
6 officer is not satisfied as to; or
- 7 (ii) the condition that the chief executive
8 officer is not satisfied is being complied
9 with;
- 10 and
- 11 (b) specify —
- 12 (i) any remedial action required in respect
13 of the matter or condition; and
- 14 (ii) if relevant, the period of time within
15 which the action is to be taken.
- 16 (3) If a matter identified under subsection (2)(a)(i) is a
17 failure to observe a standard determined by the
18 Minister under section 159, then the standard is also to
19 be identified in the direction.
- 20 (4) The governing body of a registered school must ensure
21 that a direction given in relation to the school is
22 complied with.
- 23 (5) The chief executive officer may withdraw a direction if
24 satisfied that the direction has been complied with or is
25 no longer required.

26 **167A. No new enrolments while a direction is outstanding**

27 A governing body of a registered school that has been
28 given a direction is to ensure that no children are
29 accepted for enrolment at the school until the direction
30 is withdrawn under section 166(5).

31 Penalty: a fine of \$10 000.

- 1 **167. Cancelling registration**
- 2 (1) The chief executive officer may cancel the registration
- 3 of a registered school at any time if —
- 4 (a) satisfied that the school or its governing body is
- 5 not complying with —
- 6 (i) this Act; or
- 7 (ii) a condition; or
- 8 (iii) a direction;
- 9 or
- 10 (b) satisfied that it is in the best interests of the
- 11 children at the school to do so; or
- 12 (c) not satisfied as to any matter referred to in
- 13 section 160(1).
- 14 (2) The chief executive officer is to cancel the registration
- 15 of a school at the written request of the governing body
- 16 of the school.
- 17 (3) A request by a governing body to cancel the
- 18 registration of a school is to be accompanied by a copy
- 19 of the student record for each student currently enrolled
- 20 at the school.
- 21 (4) The chief executive officer is not to cancel the
- 22 registration of a school under subsection (1) without
- 23 first —
- 24 (a) notifying the governing body of the proposed
- 25 cancellation and of the reasons for it; and
- 26 (b) giving the governing body a reasonable
- 27 opportunity to show why the registration should
- 28 not be cancelled.
- 29 (5) Subsection (4) does not apply if, in the opinion of the
- 30 chief executive officer, the health or welfare of any
- 31 person may be at risk if the registration is not cancelled
- 32 immediately.

- 1 (6) On cancelling the registration of a school, the chief
2 executive officer is to give to the governing body of the
3 school written notice stating —
- 4 (a) that the registration of the school is cancelled
5 and giving the reasons for the cancellation; and
6 (b) the time when the cancellation takes effect.
- 7 (7) The cancellation takes effect at such time as is
8 specified in the notice given under subsection (6).
- 9 (8) The chief executive officer may, by notice in writing,
10 require the governing body of a registered school to
11 provide to the chief executive officer, as soon as is
12 possible after receiving the notice, a copy of the
13 student record for each student currently enrolled at the
14 school if —
- 15 (a) the school has requested that its registration be
16 cancelled; or
17 (b) the chief executive officer has made a decision
18 to cancel the registration of the school.
- 19 (9) A governing body must comply with a notice given to
20 it under subsection (8).
21 Penalty: a fine of \$10 000.

23 **12. Part 4 Division 3C heading inserted**

24 Before section 168 insert:
25

26 **Division 3C — Review of decisions under**
27 **Divisions 3A and 3B**
28

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1 **13. Section 168 amended**

2 Delete section 168(1) and (2) and insert:

3

4 (1) The governing body of a school, or proposed school,
5 may apply in writing to the Minister for a review of
6 any of the following —

- 7 (a) a decision under section 157B(4) to refuse to
8 make an advance determination;
- 9 (b) a decision under section 160(4)(b) to refuse to
10 register, or renew the registration of, the school;
- 11 (c) a decision under section 161A(2)(b) to refuse to
12 approve an application for a registration
13 change;
- 14 (d) a decision to impose, or change, a condition to
15 which the school's registration is subject;
- 16 (e) a decision to give a direction in relation to the
17 school;
- 18 (f) a decision under section 167(1) to cancel the
19 registration of the school.

20 (2) The application is to —

- 21 (a) be made in writing within 20 days after the
22 applicant receives written notice of the
23 decision; and
- 24 (b) if reasons are given for the decision, address the
25 reasons for the decision; and
- 26 (c) be made in a form approved by the Minister;
27 and
- 28 (d) be accompanied by the prescribed fee, if any.

29

30 Note: The heading to amended section 168 is to read:

31 **Review of certain decisions**

1 **14. Section 169 amended**

2 In section 169(2) delete “schools.” and insert:

3

4 schools (the *governing body of the system*).

5

6 **15. Section 172 amended**

7 (1) In section 172(1) delete “wishes to withdraw from the system
8 and apply for registration as a non-system school.” and insert:

9

10 intends to withdraw from the system.

11

12 (2) Delete section 172(2) and (3) and insert:

13

14 (2) Despite section 159A(3)(a), an application under
15 section 159A for the renewal of the registration of a
16 school that withdraws from a school system can be
17 made within one month after the withdrawal of the
18 school from the system.

19 (3) The Minister is to inform the governing body of the
20 relevant school system of the notice given under
21 subsection (1).

22

23 **16. Section 174 amended**

24 (1) In section 174(1):

25 (a) in paragraph (a) delete “responsibility of the governing
26 body for the supervision” and insert:

27

28 accountability of the governing body for the proper
29 oversight and management

30

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- 1 (b) in paragraph (b) delete “schools of” and insert:
2
3 schools in
4
- 5 (c) delete paragraph (c) and insert:
6
7 (c) the provision of the information referred to in
8 section 156C by the governing body of the
9 system on behalf of the schools in the system;
10 and
11 (da) the methods by which the governing body will
12 ensure that satisfactory levels of care are
13 maintained for the children in the schools in the
14 system; and
15
- 16 (d) in paragraph (d) delete “schools within” and insert:
17
18 schools in
19
- 20 (2) Delete section 174(2) and insert:
21
- 22 (2) A system agreement may also include provisions as to
23 any of the following —
24 (a) the delegation of responsibility for registration
25 and performance review of the schools in the
26 system to the governing body of the system;
27 (b) the provision of information about the system
28 including —
29 (i) statistical, educational and financial
30 information; and
31 (ii) information about policies, procedures
32 and practices;

- 1 (c) the manner in which compliance by the
2 governing body with the system agreement is to
3 be audited and reported to the Minister;
4 (d) any other matter prescribed by the regulations.
5

6 **17. Part 4 Division 4 heading replaced**

7 Delete the heading to Part 4 Division 4 and insert:
8

9 **Division 4 — Inspection of registered schools**
10

11 **18. Section 176 amended**

12 (1) Delete section 176(1) and insert:
13

- 14 (1) The chief executive officer may authorise a person to
15 inspect registered schools for all or any of the
16 following purposes —
17 (a) to ensure that the following are being complied
18 with —
19 (i) this Act;
20 (ii) a quality improvement notice;
21 (iii) a condition;
22 (iv) a direction;
23 (b) to inquire into the following —
24 (i) any matter referred to in section 160(1);
25 (ii) where any matter referred to in
26 section 160(1) has not been complied
27 with, the causes of the failure to
28 comply.
29

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- 1 (2) In section 176(2):
2 (a) delete “Minister” and insert:
3
4 chief executive officer
5
6 (b) delete paragraph (a) and insert:
7
8 (a) the full name of the person so authorised; and
9
- 10 (3) In section 176(3)(b) after “records” insert:
11
12 (including student records)
13
- 14 (4) Delete section 176(4).
- 15 **19. Section 177 amended**
- 16 (1) Delete section 177(1) and insert:
17
18 (1) The chief executive officer may authorise a person to
19 inspect a registered school without notice for any of the
20 purposes referred to in section 176(1) if the chief
21 executive officer is of the opinion that it is necessary to
22 do so because the health or welfare of a person may be
23 at risk.
24
- 25 (2) In section 177(2):
26 (a) delete “Minister” and insert:
27
28 chief executive officer
29

- 1 (b) delete paragraph (a) and insert:
2
3 (a) the full name of the person so authorised; and
4
5 (3) In section 177(3):
6 (a) in paragraph (b) after “records” insert:
7
8 (including student records)
9
10 (b) in paragraph (c) delete “Minister to do so, take
11 possession of any records” and insert:
12
13 chief executive officer to do so, take possession of any
14 records (including student records)
15

16 **20. Sections 180 and 181 deleted**

17 Delete sections 180 and 181.

18 Note: The note under the heading to amended Part 4 is to read:

19 **What this Part is about**

20 This Part requires non-government schools to be registered and makes various
21 provisions about their operation and funding.

22 In particular it deals with —

- 23 • advance determinations about proposals to establish, or make certain changes
24 to, non-government schools (*school planning proposals*) (Division 3A);
- 25 • registration of non-government schools (Division 3B);
- 26 • review of decisions about advance determinations or registration
27 (Division 3C);
- 28 • recognition of groups of registered schools (*school systems*) and agreements
29 between the Minister and the governing body of a school system about the
30 operation of schools in the group (Division 3);
- 31 • inspection of registered schools (Division 4);

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- 1 • the allocation of funds appropriated by Parliament for registered schools
2 (Division 5);
3 • loans to registered schools or school systems for capital works (Division 6).

4 **21. Schedule 1 Division 3 inserted**

5 At the end of Schedule 1 insert:
6

7 **Division 3 — Transitional provisions for the *School***
8 ***Education Amendment Act 2014***

9 **26. Terms used**

10 In this Division —

11 *commencement* means the commencement of the *School*
12 *Education Amendment Act 2014* Part 2 Division 2;

13 *former provisions* means this Act as in force immediately
14 before commencement.

15 **27. Interpretation Act 1984 not affected**

16 Except to the extent this Division or regulations made under
17 clause 32 expressly provide otherwise, the *Interpretation*
18 *Act 1984* Part V applies in relation to the amendments
19 effected by the *School Education Amendment Act 2014*.

20 **28. Pending applications and reviews of certain decisions**

21 (1) In this clause —

22 *pending application* means an application under section 157
23 or 158 made, but not determined, before commencement.

24 (2) The former provisions continue to apply in relation to the
25 determination of a pending application.

26 (3) The former provisions continue to apply in relation to an
27 application for, and the determination of, a review under
28 section 168 of—

29 (a) a decision made under this Act before
30 commencement; or

- 1 (b) a decision made on a pending application to refuse
2 to register a school.

3 **29. Application for imminent renewal of registration**

- 4 (1) In this clause —
5 *application for imminent renewal of registration* means an
6 application under Part 4 for the renewal of registration of a
7 school —
8 (a) made, but not determined, before commencement;
9 or
10 (b) made after commencement where the current period
11 of registration ends within 12 months after
12 commencement.
13 (2) The former provisions continue to apply in relation to the
14 determination of an application for the imminent renewal of
15 registration.

16 **30. Advance determinations under former provisions**
17 **continue**

- 18 (1) In this clause —
19 *advance determination under the former provisions* means
20 an advance determination —
21 (a) that is in force under section 157 of the former
22 provisions immediately before commencement; or
23 (b) made by the Minister under section 157 of the
24 former provisions on a pending application under
25 clause 28.
26 (2) On and after commencement, an advance determination
27 under the former provisions is to be taken to be an advance
28 determination made under section 157B and for that purpose
29 a reference in this Act to information provided under
30 section 157A is to be taken to be a reference to information
31 provided under section 157 of the former provisions.

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- 1 **31. Directions in force before commencement**
- 2 Section 167A does not apply in relation to a direction given
- 3 under section 166 that is in force immediately before
- 4 commencement.
- 5 **32. Transitional regulations**
- 6 (1) If there is no sufficient provision in this Division for dealing
- 7 with a transitional matter, the Governor may make
- 8 regulations prescribing all matters that are required or
- 9 necessary or convenient to be prescribed in relation to that
- 10 matter.
- 11 (2) In subsection (1) —
- 12 *transitional matter* means a matter that needs to be dealt
- 13 with for the transition required because of the enactment of
- 14 the *School Education Amendment Act 2014*.
- 15 (3) Regulations made under subsection (1) may provide that
- 16 specific provisions of any written law —
- 17 (a) do not apply in relation to any matter; or
- 18 (b) apply with specific modifications in relation to any
- 19 matter.
- 20 (4) If regulations made under subsection (1) provide that a
- 21 specified state of affairs is to be taken to have existed, or not
- 22 to have existed, on and from a day that is earlier than the
- 23 day on which the regulations are published in the *Gazette*
- 24 but not earlier than commencement, the regulations have
- 25 effect according to their terms.
- 26 (5) In subsection (4) —
- 27 *specified* means specified or described in the regulations.
- 28 (6) If regulations contain a provision referred to in
- 29 subsection (4), the provision does not operate so as —
- 30 (a) to affect in a manner prejudicial to any person
- 31 (other than the State or an authority of the State),
- 32 the rights of that person existing before the
- 33 regulations were published in the *Gazette*; or

- 1 (b) to impose liabilities on any person (other than the
2 State or an authority of the State) in relation to
3 anything done or omitted to be done before the
4 regulations were published in the *Gazette*.
5

6 **Division 3 — Other amendments**

7 **22. Long title amended**

8 In the long title:

- 9 (a) in the last bullet point delete “**education;**” and insert:
10

11 **education; and**
12

- 13 (b) after the last bullet point insert:
14

- 15 • **for the use of property that is vested in the Minister;**
16 **and**
17

18 **23. Section 9 amended**

19 In section 9(3) delete “all”.

20 **24. Section 11AA inserted**

21 After section 10 insert:
22

23 **11AA. Proof of enrolment to be provided**

24 (1) If the chief executive officer is of the opinion that
25 section 9(1) is not being complied with in respect of a
26 child to whom it applies, then the chief executive
27 officer, by notice in writing to a parent of the child,
28 may request the parent to provide —

- 29 (a) proof that the child is enrolled in a school for
30 the current year; or

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- 1 (b) proof that a parent of the child is currently
2 registered under section 48 as the child's home
3 educator.
- 4 (2) A parent to whom notice is given under subsection (1)
5 must provide the chief executive officer with the proof
6 requested —
7 (a) in writing; and
8 (b) within the time specified in the notice.
9 Penalty: a fine of \$2 500.
10

11 **25. Section 11M amended**

12 Delete section 11M(3)(a) and insert:

- 13
14 (a) the Executive Director Catholic Education in
15 Western Australia; and
16

17 **26. Section 26 amended**

18 After section 26(2) insert:

- 19
20 (3) Under subsection (2)(b)(ii), a Panel may advise that a
21 responsible parenting agreement under the *Parental*
22 *Support and Responsibility Act 2008* be entered into,
23 and complied with, in respect of the child.
24

25 **27. Section 40 amended**

26 After section 40(2) insert:

- 27
28 (3A) Under subsection (2)(b), a Panel may advise that a
29 responsible parenting agreement under the *Parental*

1 *Support and Responsibility Act 2008* be entered into,
2 and complied with, in respect of the child.
3

4 **28. Section 42 amended**

- 5 (1) In section 42(1)(a) and (1a)(a) delete “all”.
- 6 (2) Delete section 42(4).
- 7 (3) In section 42(5) delete “and, if a report is required under
8 subsection (4), a copy of the report are” and insert:
9
- 10 is
- 11
- 12 (4) Delete section 42(6) and insert:
- 13
- 14 (6) Where in any proceedings a document is produced
15 purporting to be a certificate given under subsection (1)
16 or (1a), the court is to presume, unless the contrary is
17 shown, that the document is such a certificate.
18

19 **29. Section 97 amended**

- 20 In section 97 in the definition of *first charges payment year*:
- 21 (a) in paragraph (b):
- 22 (i) delete “January 2011,” and insert:
23 1 January 2011 until 31 December 2014,
- 24
- 25
- 26 (ii) delete “year” and insert:
27 year; and
28
- 29

1 (b) after paragraph (b) insert:

2

3 (c) on and from 1 January 2015, means the first
4 calendar year in which the student has reached
5 11 years and 6 months by the beginning of the
6 year;

7

8 **30. Section 213 amended**

9 In section 213 insert in alphabetical order:

10

11 *joint arrangement* means an arrangement entered into
12 by the Minister for purposes that are complementary
13 and beneficial to the purposes of school education and
14 which involves any or all of the following —

15 (a) enabling any property vested in the Minister to
16 be used for the purposes of the arrangement
17 (*joint use property*);

18 (b) controlling and managing the use of joint use
19 property for the purposes of the arrangement;

20 (c) sharing the use of joint use property for the
21 purposes of the arrangement and for the
22 purposes of school education;

23

24 Note: The heading to amended section 213 is to read:

25 **Terms used**

26 **31. Section 216 amended**

27 (1) Delete section 216(1) and insert:

28

29 (1) The Minister may do all things necessary or convenient
30 to be done for the purposes of —

31 (a) school education; or

- 1 (b) furthering the best interests of students and
2 educational programmes in government
3 schools; or
4 (c) carrying out joint arrangements.
5

6 (2) In section 216(2) delete “the purpose” and insert:
7

8 any of the purposes
9

10 **32. Sections 218 and 219 replaced**

11 Delete sections 218 and 219 and insert:
12

13 **218. Licences by Minister for use of tangible property**

- 14 (1) This section applies to a licence granted by the
15 Minister to a person for the use of tangible property
16 that is vested in the Minister.
- 17 (2) A licence is not to be granted if the use of the property
18 would adversely affect the safety or welfare of
19 students, teaching staff or other persons employed at
20 any school to which the property relates.
- 21 (3) A licence —
- 22 (a) must be in writing; and
23 (b) may provide for a payment to be made by the
24 licensee in connection with the use of the
25 property; and
26 (c) may provide for an amount of money to be paid
27 by the licensee as security for the performance
28 of the licensee’s obligations under the licence;
29 and
30 (d) is otherwise to be on such terms and subject to
31 such conditions as the Minister thinks fit.

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s. 32

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

- 1 costs incurred in the provision of any facilities;
2 and
3 (e) the appointment and remuneration of staff with
4 respect to the use of the property and any
5 facilities.
6

7 **33. Section 220 amended**

8 In section 220(a):

- 9 (a) delete “to which section 218 applies —” and insert:

10 referred to in section 218(4) —
11
12

- 13 (b) in subparagraph (ii) delete “218(2)(c) or (d);” and insert:

14 218(3)(b) or (c);
15
16

17 **34. Section 240 amended**

18 In section 240(1):

- 19 (a) delete paragraph (b) and insert:

20
21 (b) that the presence of the person —

22 (i) on the premises of that school
23 constitutes a risk to the safety or welfare
24 of students at the premises; or

25 (ii) on the premises of any government
26 school constitutes a risk to the safety or
27 welfare of students generally,
28

School Education Amendment Bill 2014

Part 2 School Education Act 1999 amended

Division 3 Other amendments

s. 35

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(b) delete “him or her to leave the school premises and remain away —” and insert:

the person to leave the premises of the school specified in the order and remain away from those premises, or from the premises of all government schools, as the case requires —

35. Various penalties amended

In the provisions listed in the Table after “Penalty:” insert:

a fine of

Table

s. 9(2)	s. 13(3)
s. 15	s. 27(4)
s. 29(1)	s. 35
s. 36(3)	s. 37
s. 38(1) and (2)	s. 43(2)
s. 120(2)	s. 121(1)
s. 149(4)	s. 179
s. 240(3)	s. 242(1)

