

Queensland



# **TRAINING REFORM ACT 2003**

**Act No. 63 of 2003**



# Queensland



## TRAINING REFORM ACT 2003

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Queensland



## **Training Reform Act 2003**

**Act No. 63 of 2003**

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**An Act to amend the *Training and Employment Act 2000*, and for other purposes**

*[Assented to 13 October 2003]*

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### 1 Short title

This Act may be cited as the *Training Reform Act 2003*.

### 2 Commencement

(1) The following provisions commence on 1 January 2006—

- section 7<sup>1</sup>
- section 8<sup>2</sup>
- section 10<sup>3</sup>
- section 11<sup>4</sup>
- section 23<sup>5</sup>
- section 26<sup>6</sup>
- section 27<sup>7</sup>
- section 28<sup>8</sup>
- section 29<sup>9</sup>

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1 Section 7 (Amendment of s 7 (What is an “apprenticeship”))

2 Section 8 (Amendment of s 8 (What is a “traineeship”))

3 Section 10 (Amendment of s 24 (Decision about registration))

4 Section 11 (Insertion of new s 27A)

5 Section 23 (Insertion of new s 106C)

6 Section 26 (Amendment of s 134 (Functions of ombudsman))

7 Section 27 (Amendment and relocation of ch 5, pt 1, div 2, hdg)

8 Section 28 (Renumbering of ch 5, pt 1, div 3)

9 Section 29 (Insertion of new ch 5, pt 1, div 3)

- section 31(2)<sup>10</sup>
- section 37<sup>11</sup>
- section 38<sup>12</sup>
- section 40<sup>13</sup>
- section 44(2) and (3)<sup>14</sup>
- section 46<sup>15</sup>
- section 53(7)<sup>16</sup>
- section 57(3) and (5).<sup>17</sup>

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF TRAINING AND EMPLOYMENT ACT 2000**

### **3 Act amended in pt 2**

This part amends the *Training and Employment Act 2000*.

### **4 Replacement of title**

Title—

*omit, insert—*

**‘An Act to provide for vocational education, training and employment’.**

10 Section 31 (Amendment of s 147 (Board’s functions))

11 Section 37 (Amendment of s 168 (Council’s functions))

12 Section 38 (Amendment of s 169 (Council subject to Minister and board))

13 Section 40 (Insertion of new ch 5, pt 3, divs 5A and 5B)

14 Section 44 (Amendment of s 217 (Chief executive’s functions for TAFE institutes))

15 Section 46 (Amendment of s 224 (Appeal to Magistrates Court))

16 Section 53 (Amendment of sch 3 (Dictionary))

17 Section 57 (Amendment of s 7 (Functions of college board))

## **5 Replacement of s 1 (Short title)**

Section 1—

*omit, insert—*

### **‘1 Short title**

‘This Act may be cited as the *Vocational Education, Training and Employment Act 2000*.’.

## **6 Amendment of s 3 (Objectives)**

Section 3(f)—

*omit, insert—*

- (f) to further the commitment by the States, the Territories and the Commonwealth, in partnership with industry, to work together to increase the participation of Australians in an integrated national vocational education and training system that allows for local diversity; and
- (g) to promote a community commitment towards supporting young people in the compulsory participation phase; and
- (h) to implement initiatives that are consistent with the ministerial declaration ‘Stepping forward: improving pathways for all young people.’.

## **7 Amendment of s 7 (What is an “apprenticeship”)**

Section 7, note—

*omit, insert—*

*Notes—*

1. The declaration is made under section 183.<sup>18</sup>
2. Without limiting who may undertake an apprenticeship, an apprenticeship may be undertaken by a young person in the compulsory participation phase.’.

## **8 Amendment of s 8 (What is a “traineeship”)**

Section 8, note—

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18 Section 183 (Declaring apprenticeships or traineeships)

*omit, insert—*

*Notes—*

1. The declaration is made under section 183.
2. Without limiting who may undertake a traineeship, a traineeship may be undertaken by a young person in the compulsory participation phase.’.

## **9 Replacement of ch 2 (Training organisations)**

Chapter 2—

*omit, insert—*

### **‘CHAPTER 2—TRAINING ORGANISATIONS**

#### **‘PART 1—PRELIMINARY**

##### **‘18 Application**

‘Chapter 2 only applies to the provision of training and assessments for qualifications and statements of attainments in relation to vocational education and training.

##### **‘19 Definitions for ch 2**

‘In this chapter—

“**accreditation**” includes renewed accreditation.

“**accredited**”, for a course, means registered.

“**amended**” includes varied, altered and replaced.

“**another jurisdiction**” means a jurisdiction other than this jurisdiction.

“**ANTA**” means the Australian National Training Authority established under the Commonwealth Act.

“**ANTA agreement**” means the ‘Agreement’ as defined in section 4(1) of the Commonwealth Act.

“**AQF**” means the policy framework entitled ‘Australian Qualifications Framework’ that defines all qualifications (whether as defined under this chapter or otherwise) recognised nationally in education and training within Australia, endorsed by the Ministerial Council on

Education, Employment, Training and Youth Affairs so as to commence on 1 January 1995 and that policy framework as amended from time to time.

**“AQTF”** means the policy framework entitled ‘Australian Quality Training Framework’ that defines the criteria and standards for the registration of training organisations and the accreditation of courses in the vocational education and training sector as endorsed or amended from time to time by the ministerial council.<sup>19</sup>

**“Commonwealth Act”** means the *Australian National Training Authority Act 1992* (Cwlth).

**“compliance audit”**—

- (a) for an audit conducted by the council—means an audit establishing whether the subject of the audit complies with—
  - (i) the national standards, other than the legislative compliance standard; and
  - (ii) this Act; or
- (b) for an audit conducted under a corresponding law for this chapter—means a compliance audit within the meaning of the corresponding law.

**“condition”** means any of the following—

- (a) a condition on all or some of the operations of a registered training organisation;
- (b) a restriction.

**“corresponding law”** for this chapter or a provision of this chapter, means—

- (a) if a regulation prescribes a law of another jurisdiction as the corresponding law for this definition—the law prescribed under the regulation; or
- (b) otherwise—a law of another jurisdiction that corresponds to this chapter or the provision of this chapter.

**“course accrediting body”** means the council or an equivalent body in another jurisdiction responsible for the administration of the

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<sup>19</sup> The initial policy framework was endorsed on 8 June 2001.

accreditation of courses under that jurisdiction's legislation relating to vocational education and training.

**“jurisdiction”** means Queensland or, if it has enacted a corresponding law for this chapter, another State, the Australian Capital Territory or the Northern Territory.

**“legislative compliance standard”** means the standard included in the national standards requiring that a registered training organisation ensures that compliance with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations is integrated into its policies and procedures and that compliance is maintained.

*Note—*

On enactment of this definition, the relevant standard was standard 2 of the national standards.

**“ministerial council”** means the Council consisting of the Ministers from each State and the Commonwealth responsible for vocational education and training operating in accordance with the ANTA Agreement.

**“nationally endorsed”**, for a training package, means endorsed by a committee established by ANTA's members.

**“national register”** see section 20.

**“national standards”** means the standards for registered training organisations.

**“prohibition”** means a prohibition on all or some of the operations of a registered training organisation.

**“qualification”** means formal certification in the vocational education and training sector by a registered training organisation and under the AQF that a person has achieved all the units of competencies or modules comprising learning outcomes stated for the qualification in—

- (a) a nationally endorsed training package for which details of the qualification have been registered by ANTA; or
- (b) an accredited course that provides training for the qualification.

**“registered”** means registered as prescribed under section 20.

**“registered training organisation”** means a person whose details as a training organisation are registered.

**“registering body”** means the council or an equivalent body in another jurisdiction responsible for the registration of training organisations under that jurisdiction’s legislation relating to vocational education and training.

**“registration”** includes renewed registration.

**“restriction”** means a restriction on all or some of the operations of a registered training organisation or a prohibition.

**“scope of registration”**, of a training organisation, means its scope of registration as prescribed under section 22(2).

**“standards for accreditation of courses”** means the standards for accreditation of courses as adopted or amended from time to time by the ministerial council under the AQTF.<sup>20</sup>

**“standards for registered training organisations”** means the standards for registered training organisations as adopted or amended from time to time by the ministerial council under the AQTF.<sup>21</sup>

**“standards for State and Territory registering and course accrediting bodies”** means the standards for State and Territory registering/course accrediting bodies as adopted or amended from time to time by the ministerial council under the AQTF.<sup>22</sup>

**“statement of attainment”** means formal certification in the vocational education and training sector by a registered training organisation under the AQF that a person has achieved—

- (a) part of a qualification; or
- (b) one or more units of competency from a nationally endorsed training package; or
- (c) all the units of competency or modules comprising learning outcomes for an accredited course that does not meet the requirements for a qualification.

**“this jurisdiction”** means Queensland.

**“training package”** means an integrated set of competency standards and assessment guidelines leading to a qualification for a particular industry, industry sector or enterprise.

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20 Standards were initially adopted on 8 June 2001.

21 Standards were initially adopted on 8 June 2001.

22 Standards were initially adopted on 8 June 2001.

“**unit of competency**” means a specification of knowledge and skill and their application to a specified standard of performance.

“**vocational education and training**” means the education and training and qualifications and statements of attainment under the vocational education and training provisions of the AQF.

## ‘PART 2—NATIONAL REGISTRATION

### ‘20 National register and national effect of registration

‘(1) The “**national register**” is the National Training Information Service maintained by ANTA to the extent it consists of registered matters.

‘(2) For subsection (1), a matter is “**registered**” to the extent details of the matter are recorded—

- (a) for the purposes of this chapter—by the council; or
- (b) for the purposes of a corresponding law—by another registering body or course accrediting body; or
- (c) for the purposes of this chapter, a corresponding law or a regulation made under either of the laws—by ANTA or another entity.

## ‘PART 3—REGISTERED TRAINING ORGANISATIONS

### ‘Division 1—Requirement for registration

### ‘21 Offence to falsely claim to be a registered training organisation

‘(1) A person who is not a registered training organisation must not claim to be a registered training organisation.

Maximum penalty—80 penalty units.

‘(2) A person who is not, or not acting for, a registered training organisation operating within the scope of registration of the registered training organisation must not—

- (a) issue, or claim to be able to issue, a qualification or statement of attainment; or

- (b) claim to be able to provide training or assessments resulting in the issue of a qualification or statement of attainment.

Maximum penalty—80 penalty units.

‘(3) A person must not claim to be able to provide training resulting in the issue of a qualification or statement of attainment by another person knowing that the other person is not lawfully able to issue the qualification or statement of attainment.

Maximum penalty—80 penalty units.

‘(4) For subsections (1) to (3), a person claims to be a registered training organisation or claims to be able to do a particular thing if the person—

- (a) makes that claim; or
- (b) purports to be a registered training organisation or to be able to do the particular thing; or
- (c) does any act likely to induce someone else to believe the person is a registered training organisation or is able to do the particular thing.

‘(5) This section does not apply to a registering body.

### *‘Division 2—Registration activities in this jurisdiction*

## **‘22 Registration and scope of registration**

‘(1) A person may be registered under this chapter as a training organisation that provides, within its scope of registration—

- (a) training and assessments resulting in the issue of qualifications or statements of attainment by the organisation; or
- (b) assessments resulting in the issue of qualifications or statements of attainment by the organisation.

‘(2) A training organisation’s **“scope of registration”** consists of—

- (a) the training or assessments the training organisation is registered to provide; and
- (b) the qualifications, statements of attainment or units of competency for which the training organisation is registered to provide training or assessments.

**‘23 Applying in this jurisdiction for registration**

‘(1) A person may apply to the council for registration as a training organisation.

‘(2) The application must be in the approved form and accompanied by the prescribed fee.

‘(3) The applicant must give the council any information required by it to decide the application.

**‘24 Decision about registration**

‘(1) On an application for registration, the council may register the applicant as a training organisation, or refuse to do so.

‘(2) In deciding the application, the council must apply the national standards.

‘(3) The council must not grant the application unless—

- (a) on registration under the application, the applicant will not otherwise be registered as a training organisation by any registering body; and
- (b) the council considers that the applicant’s principal place of business is, or all or most of its operations will be conducted, in this jurisdiction; and
- (c) the council considers that the applicant complies with the national standards (other than the legislative compliance standard) and this Act.

‘(4) In considering whether the applicant complies with the national standards (other than the legislative compliance standard) and this Act, the council may, without limiting the matters the council may have regard to, have regard to a compliance audit of the applicant.

*Note—*

Section 39 prescribes a requirement for an audit mentioned in subsection (4).

‘(5) Subsection (3)(c) does not apply to an application, if—

- (a) the application is made by a registered training organisation registered by another registering body; and
- (b) the registered training organisation has received a notice from the other registering body under a corresponding law for section 31; and

- (c) the application does not ask for an amendment of the existing scope of registration or registered conditions of the registered training organisation.

‘(6) Subsections (2) and (3) do not limit the grounds on which the council may decide not to grant the application.

*Note—*

Section 25 provides an example of additional grounds.

‘(7) The council may impose reasonable conditions on the registration of the training organisation to take effect for the period of registration.

*Note—*

Section 27 deals with the imposition of a condition about continued suitability for registration.

‘(8) A condition imposed under subsection (7)—

- (a) must apply for all jurisdictions, that is, it may not be limited in effect to a particular place or jurisdiction; and
- (b) is not limited to matters mentioned in this chapter; and
- (c) must be consistent with this chapter and the national standards.

*Note—*

All the conditions to which a registered training organisation is subject under this chapter are listed in section 26.

‘(9) If the council decides to grant the application, the registering body must—

- (a) register the applicant as a training organisation and the applicant’s scope of registration; and
- (b) if the council imposes a condition under subsection (7)—
  - (i) give the applicant an information notice for the decision; and
  - (ii) register the condition for the applicant; and
- (c) give the applicant a certificate of registration.

‘(10) The council must comply with subsection (9)—

- (a) immediately after granting the application; or
- (b) if the application is a transfer application mentioned in section 33—immediately after the existing registration of the training organisation is cancelled under section 36.

‘(11) If the council decides not to grant the application, the council must immediately give the applicant an information notice for its decision.

## ‘25 Suitability for registration

‘(1) Without limiting section 24(6), the council may decide not to grant an application for registration of a training organisation on the ground that the council is not satisfied that the training organisation is suitable for registration.

‘(2) In considering whether a training organisation is suitable for registration, the council may have regard to—

- (a) the prior conduct of the training organisation or an associate of the organisation, whether in this State or elsewhere; and
- (b) any other matter that the council considers relevant.

‘(3) For this section, a person is an “**associate**” of a training organisation if—

- (a) they are partners; or
- (b) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
- (c) one is a body corporate and the other is a member of the board or committee of management of the body corporate; or
- (d) one is a body corporate and the other is a person who has a legal or equitable interest in 5% or more of the share capital of the body corporate; or
- (e) a chain of relationships can be traced between them under any 1 or more of the preceding paragraphs.

## ‘26 Registration conditions

‘(1) Registration of a training organisation under section 24 is subject to—

- (a) conditions imposed under subsection (2); and
- (b) registered conditions imposed—
  - (i) under section 24(7) or 32(2); or

- (ii) by another registering body under a corresponding law for section 32(2)(a).

‘(2) For a training organisation registered under section 24, the following conditions are imposed for the training organisation’s period of registration—

- (a) the training organisation must comply with requirements stated to apply to a registered training organisation under the national standards;
- (b) the training organisation must give notice to the council of the following matters immediately after they happen—
  - (i) any substantial change to the control, management or operations of the training organisation;
  - (ii) any matter the national standards states the training organisation must give notice of to the council;
- (c) the training organisation—
  - (i) must submit to any compliance audit conducted by the council under section 37; and
  - (ii) if a particular compliance audit shows the training organisation does not comply with the national standards, other than the legislative compliance standard, or this Act, must take all necessary steps to comply;
- (d) the training organisation must submit to any compliance audit conducted by another registering body under a corresponding law for section 38;

*Note—*

Section 39 prescribes a requirement for a compliance audit mentioned in subsection (2)(c) and (d).

- (e) the training organisation must not contravene a provision of this chapter or a corresponding law;
- (f) the training organisation must give to the council any information about any of its operations reasonably required by the council;
- (g) the training organisation must give to the council any information reasonably required by it relating to a registered condition imposed by the council under section 32;
- (h) the training organisation must give to another registering body any information reasonably required by the other registering

body relating to a registered condition imposed by the registering body under a corresponding law for section 32(2)(a).

‘(3) Conditions mentioned in subsections (1) and (2) to which a training organisation is subject apply in relation to the operations of the training organisation in every jurisdiction, unless the contrary intention appears.

‘(4) A training organisation must not contravene a condition of its registration.

Maximum penalty—80 penalty units.

*Note—*

For effect on registration of non-compliance with a condition, see section 32(2).

‘(5) It is declared that a condition to which a training organisation registered by another registering body is expressed to be subject in this jurisdiction under a corresponding law for subsection (3) has effect for this jurisdiction.

## **‘27 Condition—continued suitability for registration**

‘(1) Without limiting the conditions the council may impose on a registered training organisation under section 24(7), the council may impose a condition requiring that the organisation remains suitable for registration.

‘(2) In considering whether a training organisation remains suitable for registration, the council may have regard to the matters mentioned in section 25(2).

## **‘28 Term of registration**

‘Registration may be for a term up to 5 years and may be renewed if application for renewal is made at least 3 months before the registration expires.

## **‘29 Amending registration on application by registered training organisation**

‘(1) The council may, on application by a training organisation that was registered by it, amend the training organisation’s registered details.

*Note—*

For the procedure to be followed after exercising a power under subsection (1), see section 35.

‘(2) If the application is to amend the training organisation’s scope of registration or registered conditions—

- (a) the application must be in the approved form and accompanied by the prescribed fee; and
- (b) the training organisation must give the council any information reasonably required by it to decide the application.

‘(3) For an application mentioned in subsection (2), section 24 applies as if it were an application under the section, subject to the following—

- (a) section 24(3)(a) is not relevant;
- (b) section 24(3)(b) applies in relation to the scope of registration or registered conditions as amended in accordance with the application;
- (c) section 24(3)(c) applies only in relation to the proposed amendment;
- (d) section 24(9)(c) does not apply.

**‘30 Removal of registered details on registration expiry or on application**

‘The council must remove from the national register the details of a training organisation registered by it—

- (a) if the training organisation’s registration expires; or
- (b) if the training organisation applies to the council to have its registration cancelled and the council grants the application.

**‘31 Procedure for amending, suspending or cancelling registration**

‘(1) Before amending, suspending or cancelling the registration of a training organisation under section 32(2) or 33(2)(b), the council must—

- (a) give the training organisation a signed notice to show cause (a “**show cause notice**”); and
- (b) consider all representations made within the time to show cause stated in the show cause notice.

‘(2) The show cause notice must state the following—

- (a) the action (the “**proposed action**”) the council proposes taking under section 32 or 33;
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances that are the basis of the grounds;
- (d) if the proposed action is to amend the registration, including a condition of registration—the proposed amendment;
- (e) if the proposed action is to suspend the registration—the proposed maximum suspension period;
- (f) an invitation to the training organisation to show, within a stated reasonable time, not less than 14 days after the notice is given to the training organisation, why the proposed action should not be taken.

‘(3) If the council decides to take no further action about the proposed action, the council must give the training organisation signed written notice of the decision.

‘(4) If the council decides to amend, suspend or cancel the registration—

- (a) the council must immediately give the training organisation an information notice for its decision; and
- (b) any amendment must be the same as the proposed amendment mentioned in the show cause notice unless the training organisation consents to the new amendment; and
- (c) any suspension must not be for more than the proposed maximum suspension period mentioned in the show cause notice unless the training organisation consents to a longer period; and
- (d) for an amendment, suspension or cancellation, the decision takes effect on the day the information notice is given to the training organisation, or if a later day is stated in the information notice, the later day.

‘(5) However, if a condition is imposed under section 27 on the organisation’s registration and the council decides to amend, suspend or cancel the registration because the organisation has contravened the condition because of the organisation’s conviction for an offence, the decision—

- (a) does not take effect until—

- (i) the time to appeal against the conviction ends without an appeal being made; or
  - (ii) the appeal is finally decided or otherwise ends; and
- (b) has no effect if the conviction is quashed.

### **‘32 Amending, suspending or cancelling registration without application on particular grounds**

‘(1) An object of this section is to ensure that, of all registering bodies, the registering body that registers a training organisation has the primary responsibility to take action against the training organisation if a ground mentioned in subsection (3) arises.

‘(2) On 1 or more of the grounds mentioned in subsection (3), the council may on its own initiative—

- (a) amend the scope of registration or registered conditions of a training organisation that was registered by another registering body, but only to impose a restriction applying in this jurisdiction; or
- (b) amend the scope of registration or registered conditions of a training organisation that was registered by it, including by imposing a restriction applying in this or another jurisdiction; or
- (c) suspend the registration, or part of the scope of registration, of a training organisation that was registered by it, by imposing a prohibition applying in this or another jurisdiction while the suspension is in force; or
- (d) cancel the registration of a training organisation that was registered by it.

*Note—*

For the procedure to be followed before exercising a power under subsection (2), see section 31.

For the procedure to be followed after exercising a power under subsection (2), see section 35.

‘(3) The grounds are as follows—

- (a) the registration, or the part of the scope of registration, was obtained because of incorrect or misleading information;
- (b) the training organisation has contravened a condition of its registration.

**(4)** The council may not impose a restriction under subsection (2)(a) unless the registering body that registered the training organisation—

- (a) fails to take any step to deal with the matter to which the grounds relate within 30 days after the matter comes to its attention; or
- (b) advises the council that it does not propose taking any step to deal with the matter to which the grounds relate; or
- (c) after taking any step to deal with the matter to which the grounds relate—
  - (i) fails to take another step within 30 days; or
  - (ii) advises the council that it does not propose taking another step.

**(5)** Subsection (4) does not apply if the council is relying on a ground established by a compliance audit under section 38.

**(6)** Also, subsection (4) does not stop the council, before the end of a 30 day period mentioned in the subsection, taking all steps necessary to impose a restriction immediately after, or at any time after, the period has ended.

**(7)** A restriction imposed under subsection (2)(a), (b) or (c) may, but need not, relate to a particular place or jurisdiction, but if it does so, it may only be imposed because of a particular fact situation that has arisen in the place or jurisdiction.

**(8)** Also, a restriction imposed under subsection (2)(a), (b) or (c) must be consistent with this chapter and the national standards.

**(9)** For subsection (2)(c), in exceptional circumstances, the registering body may direct the training organisation to immediately stop conducting operations continued under section 34(3).

*Example of exceptional circumstance—*

Danger of injury to anyone's health or safety.

**(10)** Before cancelling the registration of a training organisation under subsection (2)(d), the council must consult the registering bodies of each of the other jurisdictions where the training organisation is operating.

**(11)** Failure to comply with subsection (10) does not affect a cancellation of the registration of a training organisation.

### **‘33 Cancelling registration on change of business operations**

‘(1) This section applies to a training organisation registered by the council.

‘(2) On the grounds that the training organisation neither has its principal place of business, nor conducts all or most of its operations, in this jurisdiction, the council may cancel the training organisation’s registration—

- (a) on application by the training organisation; or
- (b) on its own initiative.

*Note—*

For the procedure to be followed before exercising a power under subsection (2), see section 31.

For the procedure to be followed after exercising a power under subsection (2), see section 35.

‘(3) If, before the end of the time to show cause mentioned in the show cause notice given under section 31, the training organisation makes an application to another registering body for registration as a training organisation (the “**transfer application**”), the council must not cancel the registration of the training organisation until the transfer application is decided.

### **‘34 Effect of suspension of registration of training organisation**

‘(1) This section applies if a prohibition is imposed on a training organisation under section 32(2)(c).

‘(2) A person must not, for training or an assessment provided or to be provided in operations the subject of the prohibition, do anything for any of the following purposes—

- (a) recruiting or enrolling anyone;
- (b) soliciting or accepting any consideration from anyone for anyone’s recruitment or enrolment;
- (c) starting anyone’s training or assessment;
- (d) if the operations have been directed to immediately stop under section 32(9)—training or assessing anyone.

Maximum penalty—50 penalty units.

‘(3) If the training organisation, before the prohibition took effect, entered into an agreement to provide training or an assessment to a person, subsection (2)(a) to (c) does not prohibit anyone from relying on the agreement—

- (a) to provide the training or assessment; or
- (b) to solicit or accept consideration for the provision of the training or assessment.

### **‘35 Return of registration certificate**

‘(1) If a training organisation’s registration is suspended or cancelled, the training organisation must return the certificate of registration to the council within 14 days after the decision takes effect, unless the training organisation has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(2) If the registration was suspended, the council must return the certificate of registration to the training organisation at the end of the suspension period.

### **‘36 Council to register amendment, suspension or cancellation**

‘If, in relation to a registered training organisation, the council decides to do anything under sections 32(2) or 33(2), it must, on the national register—

- (a) for an amendment of the scope of registration or registered conditions—amend the scope of registration or registered conditions in accordance with its decision; or
- (b) for a suspension of the registration or part of the scope of registration—register the suspension; or
- (c) for a cancellation of the registration—remove the registered details of the training organisation.

## ***‘Division 3—Audit powers***

### **‘37 Audit of training organisation registered by the council**

‘(1) This section applies in relation to—

- (a) a training organisation registered by the council; and
- (b) any of the training organisation's operations.

‘(2) The council may at any time conduct a compliance audit of the training organisation.

### **‘38 Audit of training organisation registered by another registering body**

‘(1) This section applies in relation to—

- (a) a training organisation registered by a registering body other than the council (the “**other registering body**”); and
- (b) any of the training organisation's operations in this jurisdiction.

‘(2) Subsection (3) applies if—

- (a) the council—
  - (i) suspects on reasonable grounds that the training organisation may have contravened the national standards; and
  - (ii) has advised the other registering body of the suspected contravention; and
- (b) the other registering body—
  - (i) within 30 days after receiving the advice, fails to take steps to deal with the suspected contravention to the satisfaction of the council; or
  - (ii) at any time advises the council that it does not propose to take any step or further step to deal with the suspected contravention.

‘(3) The council may conduct a compliance audit of the training organisation.

### **‘39 Conduct of audit**

‘(1) A compliance audit mentioned in section 24(4), 26(2)(c), 26(2)(d), 37 or 38 must have regard to the standards for State and Territory registering and course accrediting bodies.

‘(2) A failure to comply with subsection (1) is of no effect if the failure—

- (a) does not substantially affect the outcome of the audit; or
- (b) arises out of inconsistency between the standards mentioned in the subsection and the legislation of the particular jurisdiction in relation to which the failure arises.

#### **‘40 Powers not limited by compliance audit provisions**

‘A provision of this chapter that makes provision for a compliance audit does not limit the power of any registering body to inquire into the activities of a registered training organisation or other training organisation.

#### *‘Division 4—Other powers*

#### **‘41 Function or power may be used to support national scheme**

‘(1) This section applies to a person who, apart from this section, may exercise a power or perform a function under this chapter in relation to a registered training organisation or an applicant for registration under section 24.

‘(2) The person may also perform the same kind of function or exercise the same kind of power in this jurisdiction—

- (a) at the request of the council—for inquiries into whether a training organisation registered by another registering body is complying with this chapter or a corresponding law; or
- (b) at the request of another registering body—for a compliance audit that is being conducted under a corresponding law for this chapter in relation to—
  - (i) a training organisation registered by the other registering body; or
  - (ii) an applicant for registration by the other registering body under a corresponding law for section 24.

‘(3) Subsection (2) does not limit the person’s functions or powers.

**‘42 Information may be made available to other registering bodies**

‘(1) The council may disclose to another registering body information it has about, or arising from, the following—

- (a) an application by anyone for registration as a training organisation;
- (b) a training organisation’s registration;
- (c) a compliance audit conducted for this chapter;
- (d) action taken by the council in relation to a registered training organisation;
- (e) the performance of a function, or the exercise of a power, by a person at the request of another registering body.

‘(2) A person disclosing information under subsection (1) or under a corresponding law for subsection (1) does not contravene an obligation not to disclose the information, whether imposed by an Act or by another rule of law.

***‘Division 5—Other provisions*****‘43 Issuing qualifications and statements of attainment**

‘(1) A registered training organisation must issue a qualification or statement of attainment to a student who—

- (a) has—
  - (i) undertaken an accredited course or training consistent with the vocational education and training provisions of the AQF with the organisation; and
  - (ii) attained the skills and knowledge required for the issue of a qualification or statement of attainment; or
- (b) has been recognised by the organisation as having the skills and knowledge required for the issue of a qualification or statement of attainment.

Maximum penalty—40 penalty units.

‘(2) For subsection (1), the qualification or statement of attainment must be issued within 21 days after both of the following matters are satisfied—

- (a) the organisation—
  - (i) is satisfied the student attains the skills and knowledge required for its issue; or
  - (ii) recognises the student as having the skills and knowledge required for its issue;
- (b) the student has paid all fees payable by the student to the organisation.

#### **‘44 Assessment of skills or knowledge by registered training organisation**

‘(1) This section applies if a person—

- (a) claims to have skills or knowledge for which no qualification or statement of attainment has been issued; and
- (b) reasonably believes a qualification or statement of attainment could be issued to the person for the skills or knowledge.

‘(2) The person may apply to a registered training organisation to have the person’s skills or knowledge assessed to decide whether the person may be issued a qualification or statement of attainment for the skills or knowledge.

‘(3) After assessing the person’s skills or knowledge, the organisation must issue the person with the appropriate qualification or statement of attainment within 21 days after all of the following matters are satisfied—

- (a) the organisation is authorised by its registration to issue the qualification or statement of attainment; and
- (b) the organisation is satisfied the person has the skills or knowledge required for the issue of a qualification or statement of attainment; and
- (c) the person has paid all fees payable by the person to the organisation.

#### **‘45 Cancellation of qualification or statement of attainment**

‘(1) A registered training organisation may cancel a qualification or statement of attainment that it issued, by fair procedures prescribed under a regulation, if the qualification or statement of attainment was issued—

- (a) in error; or
- (b) because of a document or representation that—
  - (i) is false or misleading; or
  - (ii) was obtained or made in another improper way.

‘(2) If the registered training organisation cancels the qualification or statement of attainment, the organisation must give an information notice to the person to whom the qualification or statement was issued (“holder”).

‘(3) The holder must, unless the holder has a reasonable excuse, return the cancelled qualification or statement of attainment to the registered training organisation after the later of—

- (a) 21 days after the organisation gives the holder the information notice; or
- (b) if the holder appeals the decision under section 230—the holder withdraws the appeal or the appeal is dismissed.<sup>23</sup>

Maximum penalty for subsection (3)—40 penalty units.

## ‘PART 4—ACCREDITED COURSES

### ‘Division 1—Requirement for accreditation

#### ‘46 Offence of falsely claiming to provide an accredited course

‘(1) A person must not claim to provide an accredited course unless the course is an accredited course.

Maximum penalty—80 penalty units.

‘(2) For subsection (1), a person claims to provide an accredited course if the person—

- (a) makes that claim; or
- (b) claims to provide a course that purports to be an accredited course; or

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23 Section 230 (Appeal to industrial commission against council or other decisions)

- (c) does any act likely to induce someone else to believe a course the person is providing is accredited.

*‘Division 2—Course accreditation activities in this jurisdiction*

**‘47 Applying in this jurisdiction for accreditation**

‘(1) A person may apply to the council to have a course accredited if the skills and knowledge that may be attained under the course are not recognised under the vocational education and training provisions of the AQF.

‘(2) The application must be in the approved form and accompanied by the prescribed fee.

‘(3) The applicant must give the council any information required by it to decide the application.

**‘47A Decision about accreditation**

‘(1) On an application to have a course accredited if the skills and knowledge that may be attained under the course are not recognised under the vocational education and training provisions of the AQF, the council must grant, or refuse to grant, the accreditation.

‘(2) In deciding the application, the council must apply the standards for accreditation of courses.

‘(3) Subsection (2) does not limit the grounds on which the council may decide not to grant the application.

‘(4) If the council decides to grant the application, it must—

- (a) immediately register the course as an accredited course; and
- (b) give the applicant a certificate of accreditation for the course.

‘(5) If the council decides not to grant the application, it must immediately give the applicant an information notice for its decision.

**‘47B Accreditation conditions**

‘(1) An accreditation may be subject to reasonable conditions imposed by the council.

‘(2) Without limiting subsection (1), a condition may be about restrictions on providing the course.

#### **‘47C Term of accreditation**

‘Accreditation may be for a term up to 5 years and may be renewed if application for renewal is made at least 3 months before the accreditation expires.

#### **‘47D Procedure for amending accreditation**

‘The amendment of an accreditation granted by the council may be applied for and granted or refused as prescribed under a regulation.

#### **‘47E Cancellation of accreditation on application**

‘The council may cancel an accreditation granted by it at the written request of the person who applied for the accreditation.

#### **‘47F Amendment or cancellation of accreditation without application**

‘(1) The council may, on its own initiative and by fair procedures prescribed under a regulation, amend or cancel an accreditation granted by it.

‘(2) Amendment of an accreditation under subsection (1) includes imposing a condition on the accreditation or changing an existing condition.

#### **‘47G Reassessment of accredited course**

‘The council may, by fair procedures prescribed under a regulation, reassess a course accredited by the council to ensure it continues to meet the needs of industry and the community.

#### **‘47H Council to give notice of decision and register amendment or cancellation**

‘(1) This section applies if the council amends or cancels an accreditation granted by it.

‘(2) The council must immediately give an information notice for its decision to the person on whose application the accreditation was granted.

‘(3) The council must also, on the national register—

- (a) for an amendment—amend the registered accreditation in accordance with its decision; or
- (b) for a cancellation—remove the registered accreditation.

#### **‘47I Return of registration certificate**

‘(1) If the council amends or cancels an accreditation, the person on whose application the accreditation was granted must return a certificate of accreditation for the course to the council within 14 days after the decision takes effect, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(2) If the registration was amended, the council must promptly return the certificate to the person after amending it.

#### **‘47J Expiry of accreditation**

‘(1) This section applies to a course that has been accredited on an application to the council.

‘(2) If the accreditation of the course expires, the council must remove the registered details of the accredited course from the national register.’

### **10 Amendment of s 24 (Decision about registration)**

Section 24(7), note—

*omit, insert—*

*Note—*

Sections 27 and 27A deal with the imposition of conditions about continued suitability for registration and training or assessments provided to young people in the compulsory participation phase.’

### **11 Insertion of new s 27A**

After section 27—

*insert—*

**‘27A Condition—compulsory participation phase**

‘Without limiting the conditions the council may impose on a registered training organisation under section 24(7), the council may, if the organisation within its scope of registration provides training or assessments to young people in the compulsory participation phase, impose a condition in relation to the training or assessments.’.

**12 Amendment of s 57 (Amending or assigning registered training contract)**

(1) Section 57(1)(a), after ‘writing’—

*insert—*

‘and the council approves the amendment or assignment’.

(2) Section 57(1)(b)(i), ‘as’—

*omit, insert—*

‘in the way’.

(3) Section 57—

*insert—*

‘(1A) If the council refuses to approve the amendment or assignment, the council must promptly give the parties an information notice.’.

**13 Amendment of s 59 (Statutory assignment or cancellation of registered training contract)**

Section 59(1), from ‘when’—

*omit, insert—*

‘on the day agreed between the employer and the purchaser.’.

**14 Omission of s 60 (Reinstatement in previous position)**

Section 60—

*omit.*

**15 Replacement of s 64 (Cancellation for serious misconduct)**

Section 64—

*omit, insert—*

**‘64 Suspension and cancellation for serious misconduct**

**(1)** This section applies if—

- (a) an apprentice or trainee who is a party to a training contract engages in serious misconduct; and
- (b) because of the misconduct, the employer of the apprentice or trainee decides it is unreasonable to continue to train the apprentice or trainee at that time.

**‘(2)** The employer may immediately suspend the training contract by—

- (a) telling the apprentice or trainee the contract is suspended; or
- (b) giving the apprentice or trainee a suspension notice.

**‘(3)** If the employer suspends the contract under subsection (2)(a), the employer must, within 1 working day after the suspension, give the apprentice or trainee a suspension notice.

**‘(4)** If the employer suspends the contract, the employer must—

- (a) within 1 working day after the suspension, notify the council of the suspension; and
- (b) within 5 working days after the suspension, give the council a copy of the suspension notice.

**‘(5)** If the suspension notice states that the employer proposes to apply for cancellation of the contract—

- (a) the employer is taken to have applied for the cancellation by giving the council a copy of the suspension notice; and
- (b) the apprentice or trainee is taken to be stood down from employment without pay until the council decides the application.

**‘(6)** If the suspension notice does not state that the employer proposes to apply for cancellation of the contract, the apprentice or trainee is taken to be stood down from employment without pay for—

- (a) if the suspension notice states a period for which the apprentice or trainee is suspended of not longer than 1 working day—the stated period; or

(b) otherwise—1 working day.

‘(7) The council must promptly—

(a) by fair procedures prescribed under a regulation—

(i) for an application for cancellation of a contract—decide the application; or

(ii) for a suspension notice that does not state that the employer proposes to apply for cancellation of the contract—confirm or refuse to confirm the suspension; and

(b) give the employer and the apprentice or trainee an information notice for its decision.

‘(8) The council may cancel the contract only if—

(a) it is satisfied the employer gave the apprentice or trainee a suspension notice as required under subsection (2)(b) or (3); and

(b) the council reasonably believes—

(i) the apprentice or trainee engaged in the serious misconduct; and

(ii) it is unreasonable in the circumstances for the employer to continue the training.

‘(9) However, subsection (10) applies if—

(a) having told the apprentice or trainee of the suspension under subsection (2)(a), the employer fails to give the apprentice or trainee a suspension notice as required under subsection (3); or

(b) the employer fails to notify the council of the suspension as required under subsection (4)(a); or

(c) the employer fails to give the council a copy of the suspension notice as required under subsection (4)(b); or

(d) for a suspension notice that states that the employer proposes to apply for cancellation of the contract—the council, or the commission on appeal, refuses to cancel the contract; or

(e) for a suspension notice that does not state that the employer proposes to apply for cancellation of the contract—the council, or the commission on appeal, refuses to confirm the suspension.

‘(10) The suspension is taken not to have happened and the employer must immediately—

- (a) resume training the apprentice or trainee; and
- (b) reimburse the apprentice or trainee for wages lost during the period the apprentice or trainee was stood down from employment without pay.

Maximum penalty—50 penalty units.

‘(11) In this section—

“**dangerous event**” see the *Workplace Health and Safety Act 1995*, schedule 3.<sup>24</sup>

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24 The *Workplace Health and Safety Act 1995*, schedule 3 defines dangerous event as follows—

“**dangerous event**” means an event caused by specified high risk plant, or an event at a workplace caused by a workplace activity, if the event involves or could have involved exposure of persons to risk to their health and safety because of—

- (a) collapse, overturning, failure or malfunction of, or damage to, an item of specified high risk plant; or
- (b) collapse or failure of an excavation or of any shoring supporting an excavation; or
- (c) collapse or partial collapse of any part of a building or other structure; or
- (d) damage to any load bearing member of, or the failure of any brake, steering device or other control device of, a crane, hoist, conveyor, lift or escalator; or
- (e) implosion, explosion or fire; or
- (f) escape, spillage or leakage of any hazardous material or dangerous goods; or
- (g) fall or release from a height of any plant, substance or object; or
- (h) damage to a boiler, pressure vessel or refrigeration plant; or
- (i) uncontrolled explosion, fire or escape of gas or steam.

**“serious bodily injury”** see the *Workplace Health and Safety Act 1995*, schedule 3.<sup>25</sup>

**“serious misconduct”** means any of the following—

- (a) theft;
- (b) assault;
- (c) fraud;
- (d) at work—
  - (i) being under the influence of liquor or a drug; or
  - (ii) causing an imminent risk of serious bodily injury or work caused illness or a dangerous event happening; or
  - (iii) behaving in a way that is inconsistent with the continuation of a registered training contract.

**“suspension notice”** means a notice—

- (a) stating, or (if the apprentice or trainee was told of the suspension under subsection (2)(a)) confirming, that the apprentice or trainee is suspended; and
- (b) stating the grounds for the suspension; and
- (c) stating whether the employer proposes to apply for cancellation of the contract.

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25 The *Workplace Health and Safety Act 1995*, schedule 3 defines serious bodily injury as follows—

**“serious bodily injury”** means an injury to a person that causes—

- (a) the injured person’s death; or
- (b) the loss of a distinct part or an organ of the injured person’s body; or
- (c) the injured person to be absent from the person’s voluntary or paid employment for more than 4 days.

“work caused illness” see *Workplace Health and Safety Act 1995*, schedule 3.<sup>26</sup>.

## 16 Amendment of s 66 (Cancelling registration of training contract)

(1) Section 66(1), after ‘training contract’—

*insert—*

‘, whether on application by a party to the contract or the council’s own initiative.’.

(2) Section 66(1)—

*insert—*

‘(d) an apprentice or trainee is failing, for a reason other than neglect or default, to make reasonable progress in training under the apprentice’s or trainee’s training plan.

*‘Example for paragraph (d)—*

After starting an apprenticeship, the apprentice contracts a debilitating illness that prevents the apprentice making reasonable progress in training under the apprentice’s training plan.’.

## 17 Amendment of s 70 (Definition for div 5)

Section 70, definition “**misconduct**”, paragraph (b)(iv), after ‘fails’—

*insert—*

‘, because of the party’s deliberate neglect or default.’.

---

26 The *Workplace Health and Safety Act 1995*, schedule 3 defines work caused illness as follows—

“work caused illness” means—

- (a) an illness contracted by a person to which work, a workplace, a workplace activity or specified high risk plant was a significant contributing factor; or
- (b) the recurrence, aggravation, acceleration, exacerbation or deterioration in a person of an existing illness if work, a workplace, a workplace activity or specified high risk plant was a significant contributing factor to the recurrence, aggravation, acceleration, exacerbation or deterioration.

**18 Amendment of s 77 (Delayed completion of registered training contract)**

Section 77—

*insert—*

‘(5) The council must—

- (a) if it extends the nominal term, give the parties signed notice of the extension; or
- (b) if it refuses to extend the nominal term, promptly give the parties an information notice.’.

**19 Amendment of s 78 (Cancellation or completion of registered training contract terminates employment)**

Section 78(2)(a)—

*omit, insert—*‘(a) the *Industrial Relations Act 1999*, section 139A<sup>27</sup> applies; or’.**20 Amendment of s 83 (Prohibited employers)**

Section 83(4)—

*insert—*

- ‘(e) whether the employer behaves, or permits his or her employees to behave, in an objectionable way towards an apprentice or trainee.’.

**21 Amendment of s 86 (Temporary stand down under registered training contract)**

(1) Section 86—

*insert—*

‘(2A) When the council decides the application, it must promptly give the employer and the apprentice or trainee an information notice.’.

(2) Section 86(3), from ‘it’ to ‘stating’—

---

27 *Industrial Relations Act 1999*, Section 139A (Reinstatement to previous position)

*omit, insert—*

‘the information notice must state’.

(3) Section 86(4), ‘notice’—

*omit, insert—*

‘information notice’.

## 22 Insertion of new ch 3A

After section 106—

*insert—*

### **‘CHAPTER 3A—SPECIAL PROVISIONS TO COMPLEMENT COMPULSORY PARTICIPATION PHASE**

#### **‘106A Relationship with other legislation**

‘This chapter complements the provisions of the *Youth Participation in Education and Training Act 2003* dealing with the compulsory participation phase for young people.

#### **‘106B Ministerial declaration ‘Stepping forward: improving pathways for all young people’**

‘(1) The “**ministerial declaration ‘Stepping forward: improving pathways for all young people’**” is the declaration of commitment to the young people of Australia by Ministers for Education, Employment, Training, Youth Affairs and Community Services endorsed in July 2002 by the Ministerial Council on Education, Employment, Training and Youth Affairs.

*Note—*

Section 3(h) provides that it is an objective of this Act to implement initiatives for young people that are consistent with the declaration.

‘(2) A copy of the declaration is set out in the attachment.

‘(3) The attachment is not part of this Act.’.

**23 Insertion of new s 106C**

Chapter 3A, after section 106B—

*insert—*

**‘106C Chief executive to ensure diversity and accessibility of employment skills development programs**

‘(1) The chief executive must ensure—

- (a) employment skills development programs are developed to meet the diverse needs of young people in the compulsory participation phase; and
- (b) the programs are accessible by young people in the compulsory participation phase.

‘(2) The chief executive may provide employment skills development programs (“**departmental employment skills development programs**”).’.

**24 Amendment of ch 5, pt 1, hdg**

Chapter 5, part 1, heading—

*omit, insert—*

**‘PART 1—TRAINING OMBUDSMAN’.****25 Amendment of s 133 (Appointing apprenticeship and traineeship ombudsman)**

(1) Section 133, heading—

*omit, insert—*

**‘133 Appointing training ombudsman’.**

(2) Section 133(1), ‘apprenticeship and traineeship ombudsman’—

*omit, insert—*

‘training ombudsman’.

**26 Amendment of s 134 (Functions of ombudsman)**

(1) Section 134(1)(d)—

*renumber* as section 134(1)(e).

(2) Section 134(1)—

*insert*—

‘(d) if asked by a young person in the compulsory participation phase, or a parent of the young person, to review the council’s decision about an employment exemption for the young person;’.

## **27 Amendment and relocation of ch 5, pt 1, div 2, hdg**

(1) Chapter 5, part 1, division 2, heading—

*omit, insert*—

***‘Division 2—Dealing with complaints’.***

(2) Chapter 5, part 1, division 2, heading, as amended—

*relocate* to after section 135.

## **28 Renumbering of ch 5, pt 1, div 3**

Chapter 5, part 1, division 3—

*renumber* as division 4.

## **29 Insertion of new ch 5, pt 1, div 3**

After section 141—

*insert*—

***‘Division 3—Reviewing decisions about employment exemptions***

### **‘141A Who may apply for review**

‘(1) A young person in the compulsory participation phase, or a parent of the young person, may apply to the ombudsman to review an adverse decision about an employment exemption for the young person.

‘(2) In this section—

**“adverse decision about an employment exemption”** means—

(a) a decision of the council refusing to grant an employment exemption; or

- (b) a decision of the council amending or cancelling an employment exemption.

#### **‘141B How to apply for review**

‘An application for review of an adverse decision about an employment exemption must—

- (a) be in the approved form; and
- (b) give particulars of the decision and state in detail the grounds on which the applicant disputes the decision; and
- (c) be made within 30 days after the information notice for the decision is given to the applicant or within the longer period the ombudsman allows, whether before or after the end of that period.

#### **‘141C Council to provide material to ombudsman**

‘The council must, at the written request of the ombudsman stating the receipt of an application for review, give the ombudsman a copy of the material before the council in making its decision.

#### **‘141D Ombudsman to review decision and report findings**

‘(1) As soon as practicable after completing a review of the council’s decision, the ombudsman must—

- (a) give the applicant and the interested person signed notice of the findings of the review; and
- (b) give the council and the Minister a signed report of the review that includes the findings.

‘(2) The notice must also state the following—

- (a) that a person aggrieved by the decision may, within 21 days after being given the notice, appeal against the decision;
- (b) how to appeal.

‘(3) The report may include any recommendation the ombudsman considers appropriate.

‘(4) If the report includes a recommendation, the Minister may ask the council to notify the Minister, within a stated time, of—

- (a) the steps that have been or are proposed to be taken to give effect to the recommendation; or
- (b) if no steps have been, or are proposed to be, taken to give effect to the recommendations, the reasons for not taking the steps.

‘(5) The ombudsman must not make an adverse comment in the report about a person unless the person has been given an opportunity to respond to the proposed comment and the person’s response is fairly stated in the report.

‘(6) In this section—

“interested person” means—

- (a) if the applicant is the young person—a parent of the young person; or
- (b) if the applicant is a parent of the young person—the young person.’.

### 30 Amendment of s 145 (Annual report)

Section 145(1), ‘3 months’—

*omit, insert—*

‘4 months’.

### 31 Amendment of s 147 (Board’s functions)

‘(1) Section 147(1)(d)—

*insert—*

‘(xii)the recognition of learning and qualifications within the education and training system;’.

‘(2) Section 147(1)(d)—

*insert—*

‘(xiii)making decisions about employment exemptions;

(xiv)recognising non-departmental employment skills development programs under section 183D;<sup>28</sup>’.

---

28 Section 183D (Council may recognise program)

**32 Amendment of s 149 (Board membership)**

(1) Section 149(4)—

*renumber* as section 149(6).

(2) Section 149—

*insert*—

‘(4) One member must be a young adult having current or recent student experience in vocational education and training.

‘(5) One member must be a person nominated by the Minister administering the *Youth Participation in Education and Training Act 2003*.’.

**33 Amendment of s 165 (Report on board’s operations)**

Section 165(1), ‘3 months’—

*omit, insert*—

‘4 months’.

**34 Amendment of ch 5, pt 3, hdg (Training recognition council)**

Chapter 5, part 3, heading, after ‘TRAINING’—

*insert*—

‘AND EMPLOYMENT’.

**35 Amendment of s 167 (Establishment of council)**

Section 167, after ‘Training’—

*insert*—

‘and Employment’.

**36 Replacement of s 168 (Council’s functions)**

Section 168—

*omit, insert*—

**‘168 Council’s functions**

‘(1) The council has the following functions—

- (a) if asked by the Minister, to make recommendations to the Minister on the AQF and AQTF;
- (b) to advise the board on policy and guidelines for—
  - (i) registering and regulating training organisations and training contracts; and
  - (ii) accrediting courses and regulating accredited courses; and
  - (iii) the training requirements for apprentices and trainees; and
  - (iv) vocational placements; and
  - (v) the recognition of learning and qualifications within the education and training system;
- (c) to register and regulate training organisations and training contracts;
- (d) to accredit courses and regulate accredited courses;
- (e) to recognise vocational placement schemes and register and regulate vocational placement agreements;
- (f) to regulate the issuing of qualifications and statements of attainment;
- (g) to declare apprenticeships or traineeships;
- (h) to declare a calling to be a restricted calling;
- (i) to decide probationary periods and nominal terms for apprenticeships and traineeships;
- (j) to issue recognition certificates;
- (k) to perform other functions requested by the board.

‘(2) Subsection (1) does not limit the council in performing another function conferred on it under this Act.

‘(3) The council has power to do all things necessary or convenient for performing its functions.

‘(4) In performing its functions, the council must have regard to industry.’.

**37 Amendment of s 168 (Council's functions)**

(1) Section 168(1)(b)—

*insert—*

- '(vi) making decisions about employment exemptions;
- (vii) recognising non-departmental employment skills development programs for the purposes of the *Youth Participation in Education and Training Act 2003*, section 20(3);<sup>29</sup>.

(2) Section 168(1)(k)—

*renumber* as section 168(1)(n).

(3) Section 168(1), as amended—

*insert—*

- '(k) to grant employment exemptions;
- (l) to recognise non-departmental employment skills development programs for the purposes of the *Youth Participation in Education and Training Act 2003*, section 20(3);
- (m) to maintain a register of recognised non-departmental employment skills development programs;'

**38 Amendment of s 169 (Council subject to Minister and board)**

Section 169(2), 'to (k)'—

*omit, insert—*

'to (n)'.

**39 Amendment of s 170 (Council membership)**

(1) Section 170(4)—

*renumber* as section 170(5).

(2) Section 170—

*insert—*

---

<sup>29</sup> *Youth Participation in Education and Training Act 2003*, section 20 (Exceptions to obligation)

‘(4) One member must be a person nominated by the Minister administering the *Youth Participation in Education and Training Act 2003*.’.

#### **40 Insertion of new ch 5, pt 3, divs 5A and 5B**

After section 183—

*insert—*

##### ***‘Division 5A—Deciding employment exemptions***

#### **‘183A Application for employment exemption**

‘(1) A young person in the compulsory participation phase or a parent of the young person may apply to the council for an employment exemption for the young person.

‘(2) The application must be in the approved form.

‘(3) The applicant must give the council any information required by it to decide the application.

‘(4) In this section—

**“employment exemption”** means an exemption from the compulsory participation phase for a young person who is—

- (a) in paid employment for less than 25 hours each week; or
- (b) in unpaid employment.

#### **‘183B Decision about employment exemption**

‘(1) On an application for an employment exemption, the council may grant the employment exemption for the young person, or refuse to do so.

‘(2) If the council decides to grant the application, the council must immediately give the applicant a notice of the decision (**“exemption notice”**).

‘(3) If the council decides to refuse the application, the council must immediately give the applicant a notice of the decision (**“information notice”**).

‘(4) An information notice must state the following—

- (a) the decision;

- (b) the reasons for the decision;
- (c) the day the decision has effect;
- (d) that the young person or a parent of the young person may, within 30 days after receiving the notice, apply to have the decision reviewed by the ombudsman or to appeal the decision;
- (e) how to apply for a review and how to appeal.

### **‘183C Amending or cancelling employment exemption**

‘(1) The council may amend or cancel the employment exemption for a young person—

- (a) on application by the young person or a parent of the young person; or
- (b) on its own initiative.

‘(2) The application must be in the approved form.

‘(3) If the council decides to amend the employment exemption—

- (a) the council must immediately give a notice of the decision (also an **“exemption notice”**)—
  - (i) if the decision is made on application—to the applicant and an interested person; or
  - (ii) otherwise—to the young person and a parent of the young person; and
- (b) the amended employment exemption replaces any earlier employment exemption for the young person.

‘(4) If the council decides to cancel the employment exemption, the council must immediately give a notice of the decision (also an **“information notice”**)—

- (a) if the decision is made on application—to the applicant and an interested person; or
- (b) otherwise—to the young person and a parent of the young person.

‘(5) An exemption notice or information notice given under this section must include appropriate information about the following—

- (a) the decision;

- (b) the reasons for the decision;
- (c) the day the decision has effect;
- (d) that the young person or a parent of the young person may, within 30 days after receiving the notice, apply to have the decision reviewed by the ombudsman or to appeal the decision;
- (e) how to apply for a review and how to appeal.

‘(6) In this section—

**“interested person”** means—

- (a) if the applicant is the young person—a parent of the young person; or
- (b) if the applicant is a parent of the young person—the young person.

***‘Division 5B—Recognising non-departmental employment skills development programs***

**‘183D Council may recognise program**

‘(1) The council may recognise a non-departmental employment skills development program for the purposes of the *Youth Participation in Education and Training Act 2003*, section 20(3).<sup>30</sup>

‘(2) The council may withdraw a recognition by fair procedures prescribed under a regulation.

‘(3) In this section—

**“non-departmental employment skills development program”** means an employment skills development program other than a departmental employment skills development program.

---

30 *Youth Participation in Education and Training Act 2003*, section 20 (Exceptions to obligation)

**‘183E Council must maintain register**

‘The council must maintain a register of non-departmental employment skills development programs recognised under section 183D.<sup>31</sup>’.

**41 Amendment of s 187 (Establishing committees)**

Section 187(1), ‘chapter 3’—

*omit, insert—*

‘this Act’.

**42 Amendment of s 196 (Composition of TAFE institute council)**

(1) Section 196(2), ‘An appointed member’—

*omit, insert—*

‘Other appointed members’.

(2) Section 196(2), as amended—

*renumber* as section 196(4).

(3) Section 196—

*insert—*

‘(2) Two appointed members must be young adults having current or recent student experience in vocational education and training.

‘(3) One appointed member must be a person nominated by the Minister administering the *Youth Participation in Education and Training Act 2003*.’.

**43 Amendment of s 211 (Report on TAFE institute council’s operations)**

Section 211(1), ‘3 months’—

*omit, insert—*

‘4 months’.

---

31 The register is available for inspection during office hours at Level 4, Education House, 30 Mary Street, Brisbane.

**44 Amendment of s 217 (Chief executive's functions for TAFE institutes)**

(1) Section 217—

*insert—*

- '(f) to improve the participation of young people in vocational education and training by attracting young people to, and supporting young people in, vocational education and training resulting in a qualification or statement of attainment;
- (g) to ensure rural, remote and indigenous communities are given support, advice or other help in developing services in those communities that facilitate better access to education and training for young people in those communities.'

(2) Section 217—

*insert—*

- '(h) to participate in the development of whole-of-community planning in relation to young people in the compulsory participation phase.'

(3) Section 217—

*insert—*

'(2) Without limiting subsection (1)(a), the reference in that provision to vocational education and training services includes a reference to vocational education and training services for young people in the compulsory participation phase.'

**45 Amendment of ch 8, pt 1 hdg (Training recognition decisions)**

Chapter 8, part 1, heading—

*omit, insert—*

**'PART 1—TRAINING RECOGNITION DECISIONS AND  
EMPLOYMENT EXEMPTION DECISIONS'**

**46 Amendment of s 224 (Appeal to Magistrates Court)**

Section 224—

*insert—*

‘(e) a decision about an employment exemption for a young person in the compulsory participation phase.’.

#### **47 Amendment of s 230 (Appeal to industrial commission against council or other decisions)**

Section 230(1)—

*omit, insert—*

‘(1) A person aggrieved by any of the following decisions may appeal to the industrial commission—

- (a) a registered training organisation’s cancellation of a qualification or statement of attainment under section 45;<sup>32</sup>
- (b) the council’s refusal to register a training contract under section 54;<sup>33</sup>
- (c) the council’s refusal to approve an amendment or assignment of a registered training contract under section 57;<sup>34</sup>
- (d) the council’s cancellation of, or refusal to cancel, a registered training contract under section 63, 64 or 66;<sup>35</sup>
- (e) the council’s confirmation of, or refusal to confirm, the suspension of an apprentice or trainee under section 64;
- (f) the council’s cancellation, or refusal to cancel, a completion certificate under section 76;<sup>36</sup>
- (g) the council’s refusal to extend the nominal term of a registered training contract under section 77;<sup>37</sup>

32 Section 45 (Cancellation of qualification or statement of attainment)

33 Section 54 (Registering training contract)

34 Section 57 (Amending or assigning registered training contract)

35 Section 63 (Cancelling training contract for inability to perform contract on stated grounds), section 64 (Suspension or cancellation for serious misconduct) or 66 (Cancelling registration of training contract)

36 Section 76 (Cancelling completion certificate)

37 Section 77 (Delayed completion of registered training contract)

- (h) the council's declaration, variation of a declaration or refusal to vary a declaration, of a prohibited employer under section 83 or 84;<sup>38</sup>
- (i) the council's approval, or refusal to approve, the temporary stand down of an apprentice or trainee under section 86.<sup>39</sup>.

#### **48 Amendment of s 291 (Regulation-making power)**

Section 291(2)—

*insert—*

- '(c) provide for the registration as prescribed under section 20<sup>40</sup> of details not otherwise expressly provided for under chapter 2; or
- (d) provide for the prescription of a law of a jurisdiction other than Queensland as the corresponding law for chapter 2 or a provision of chapter 2.'

#### **49 Amendment of ch 10, hdg (Amendments, repeals and transitional provisions)**

Chapter 10, heading, 'AMENDMENTS,'—

*omit.*

#### **50 Renumbering of ch 10, pt 2 (Repeals)**

Chapter 10, part 2—

*renumber* as chapter 10, part 1.

#### **51 Amendment of ch 10, pt 3, hdg (Transitional provisions)**

Chapter 10, part 3, heading—

*omit, insert—*

---

38 Section 83 (Prohibited employers) or 84 (Revocation of declaration as prohibited employer)

39 Section 86 (Temporary stand down under registered training contract)

40 Section 20 (National register and national effect of registration)

**‘PART 2—TRANSITIONAL PROVISIONS FOR ACT  
NO. 23 OF 2000’.**

**52 Insertion of new ch 10, pt 3**

After section 316—

*insert—*

**‘PART 3—TRANSITIONAL PROVISIONS FOR  
TRAINING REFORM ACT 2003**

***‘Division 1—General transitional provisions***

**‘317 References to *Training and Employment Act 2000***

‘In an Act or document, a reference to the *Training and Employment Act 2000* may, if the context permits, be taken to be a reference to this Act.

**‘318 Apprenticeship and traineeship ombudsman**

‘(1) In an Act or document, a reference to the apprenticeship and traineeship ombudsman may, if the context permits, be taken to be a reference to the training ombudsman.

‘(2) The person who, immediately before the commencement of this section, was the apprenticeship and traineeship ombudsman is taken, for the remaining term of the person’s appointment, to be the training ombudsman.

‘(3) The *Training Reform Act 2003* does not affect anything done or existing in relation to the ombudsman before the commencement of this section.

**‘319 Training Recognition Council**

‘(1) The Training Recognition Council as formerly established is continued in existence as the Training and Employment Recognition Council.

‘(2) In an Act or document, a reference to the Training Recognition Council may, if the context permits, be taken to be a reference to the Training and Employment Recognition Council.

‘(3) A person who, immediately before the commencement of this section, was a member of the Training Recognition Council is taken, for the remaining term of the person’s appointment, to be a member of the Training and Employment Recognition Council.

‘(4) The *Training Reform Act 2003* does not affect anything done or existing in relation to the council before the commencement of this section.

### **‘320 Amending or assigning registered training contract**

‘Section 57, as in force immediately before the commencement of this section, continues to apply to a training contract registered before the commencement as if the *Training Reform Act 2003*, section 12<sup>41</sup> had not been enacted.

### **‘321 Appeal to industrial commission against council or other decision**

‘Section 230, as in force immediately before the commencement of this section, (“**old section 230**”) continues to apply in relation to a decision mentioned in old section 230 that was made before the commencement as if the *Training Reform Act 2003*, section 47<sup>42</sup> had not been enacted.

### **‘322 Amendment of subordinate legislation by Act does not affect power of Governor in Council**

‘The amendment of particular subordinate legislation by the *Training Reform Act 2003* does not affect the power of the Governor in Council to further amend the subordinate legislation or to repeal it.

## ***‘Division 2—Transitional provisions for training organisations***

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41 Section 12 (Amendment of s 57 (Amending or assigning registered training contract))

42 Section 47 (Amendment of s 230 (Appeal to industrial commission against council or other decisions))

### **‘323 Definitions for div 2**

‘In this division—

**“commencement”** means the commencement of this section.

**“old”** in relation to a provision, means the provision as in force immediately before commencement.

### **‘324 Details on register on commencement**

‘(1) The following details recorded on the National Training Information Service maintained by ANTA at commencement are taken to have been registered under chapter 2 or a corresponding law by the entity that recorded the detail—

- (a) a training organisation’s registration;
- (b) a training organisation’s scope of registration and term of registration;
- (c) registered conditions of a registered training organisation;
- (d) registration of an accredited course;
- (e) an accredited course’s term of registration;
- (f) a qualification registered for a nationally endorsed training package.

*Note—*

Under section 20,<sup>43</sup> these details are the national register.

‘(2) On commencement, a condition of a registered training organisation taken to be registered under subsection (1) (a **“recorded condition”**) is taken to be a condition imposed under a section of chapter 2 or a corresponding law under which a similar condition may be imposed in similar circumstances to those applying when the recorded condition was imposed.

### **‘325 Application for registration**

‘An application for registration of a training organisation made under old section 18<sup>44</sup> and not decided by council before commencement is, after

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43 Section 20 (National register and national effect of registration)

44 Old section 18 (Applying for registration)

commencement, taken to have been made under section 23<sup>45</sup> and to have been accompanied by the prescribed fee.

### **‘326 Contravention of registration condition**

‘If, before commencement, a registered training organisation contravenes a condition stated in its certificate of registration, old chapter 2, in particular old section 23(2) and old section 28(b)<sup>46</sup> continue to apply after commencement in relation to the contravention as if those provisions had not been repealed.

### **‘327 Return of registration certificate**

‘(1) If, before commencement, the council cancelled the registration of a training organisation under old section 27,<sup>47</sup> old section 27(2) continues to apply in relation to the organisation as if old section 27 had not been repealed.

‘(2) If, before commencement, the council amended, suspended or cancelled the registration of a training organisation under old section 29, old section 30 continues to apply after commencement in relation to the organisation as if old section 30<sup>48</sup> had not been repealed.

### **‘328 Show cause notice issued**

‘(1) This section applies if, before commencement—

- (a) a show cause notice is given under old section 29; and
- (b) the council has not made a decision, or, if the council has made a decision, the decision has not taken effect.

---

45 Section 23 (Applying in this jurisdiction for registration)

46 Old section 23 (Registration conditions) and 28 (Grounds for amending, suspending or cancelling registration without application)

47 Old section 27 (Amending or cancelling registration on application by registered training organisation)

48 Old section 29 (Procedure for amending, suspending or cancelling registration) and old section 30 (Return of registration certificate)

‘(2) Old chapter 2, part 1, division 2<sup>49</sup> continues to apply after commencement in relation to the show cause notice and the council’s decision as if it had not been repealed.

### **‘329 Issuing qualifications and statements of attainment**

‘(1) This section applies if, before commencement—

- (a) a student has complied with old section 34(1)(a) or has been recognised under old section 34(1)(b);<sup>50</sup> and
- (b) the registered training organisation has not issued the appropriate qualification or statement of attainment.

‘(2) Old section 34(2) continues to apply after commencement as if it had not been repealed.

### **‘330 Assessment of skills or knowledge**

‘(1) This section applies if, before commencement—

- (a) a registered training organisation has assessed a person’s skills or knowledge for the purposes of old section 35;<sup>51</sup> and
- (b) the organisation has not issued the appropriate qualification or statement of attainment.

‘(2) Old section 35(3) continues to apply after commencement as if it had not been repealed.

### **‘331 Return of qualification or statement of attainment**

‘(1) This section applies if, before commencement—

- (a) a registered training organisation cancels a qualification or statement of attainment under old section 36;<sup>52</sup> and

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49 Old chapter 2 (Training organisations), part 1 (Registration of training organisations), division 2 (Provisions about amending, suspending and cancelling registration)

50 Old section 34 (Issuing qualifications and statements of attainment)

51 Old section 35 (Assessment of skills or knowledge by registered training organisation)

52 Old section 36 (Cancellation of qualification or statement of attainment)

- (b) the person to whom the qualification or statement of attainment was issued has not returned it to the organisation.

‘(2) Old section 36(2) continues to apply after commencement as if it had not been repealed.

### ‘332 Application for course accreditation

‘(1) This section applies if, before commencement—

- (a) an entity applies for the grant of an accreditation for a course under old section 38; and
- (b) the council has not granted or refused to grant the accreditation.

‘(2) Old sections 38, 40, 41 and 44<sup>53</sup> continue to apply after commencement as if the provisions had not been repealed.

‘(3) Section 47C<sup>54</sup> applies in relation to the term of accreditation.

### ‘333 Amendment or cancellation of accreditation without application

‘(1) This section applies if, before commencement—

- (a) the council begins the process to amend or cancel an accreditation under old section 45<sup>55</sup> without application by the entity to whom it was granted; and
- (b) the council has not made a decision, or, if the council has made a decision, the decision has not taken effect.

‘(2) Section 47F<sup>56</sup> applies in relation to the process and decision.’.

## 53 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions “council” and “ombudsman”—

*omit.*

53 Old sections 38 (Council may accredit courses), 40 (How council may deal with application), 41 (Accreditation conditions) and 44 (Procedure for granting and amending accreditation)

54 Section 47C (Term of accreditation)

55 Old section 45 (Amendment or cancellation of accreditation without application)

56 Section 47F (Amendment or cancellation of accreditation without application)

(2) Schedule 3—

*insert—*

‘ **“council”** means the Training and Employment Recognition Council established under section 167.

**“industrial commission”** means the Queensland Industrial Relations Commission under the *Industrial Relations Act 1999*.

**“ministerial declaration ‘Stepping forward: improving pathways for all young people’”** see section 106B.

**“ombudsman”** means the training ombudsman appointed under section 133.

**“young adult”** means a person aged between 18 and 25 years.’.

(3) Schedule 3, definitions **“accredited”**, **“corresponding law”**, **“national training system of qualifications”**, **“qualification”**, **“registered”**, **“registered training organisation”** and **“statement of attainment”**—

*omit.*

(4) Schedule 3—

*insert—*

**“accreditation”**, for chapter 2, see section 19.

**“accredited”**, for chapter 2, see section 19.

**“amended”**, for chapter 2, see section 19.

**“another jurisdiction”**, for chapter 2, see section 19.

**“ANTA”**, for chapter 2, see section 19.

**“ANTA agreement”**, for chapter 2, see section 19.

**“AQF”**, for chapter 2, see section 19.

**“AQTF”**, for chapter 2, see section 19.

**“Commonwealth Act”**, for chapter 2, see section 19.

**“compliance audit”**, for chapter 2, see section 19.

**“condition”**, for chapter 2, see section 19.

**“corresponding law”**, for chapter 2, see section 19.

**“course accrediting body”**, for chapter 2, see section 19.

“**jurisdiction**”, for chapter 2, see section 19.

“**legislative compliance standard**”, for chapter 2, see section 19.

“**ministerial council**”, for chapter 2, see section 19.

“**nationally endorsed**”, for chapter 2, see section 19.

“**national register**”, for chapter 2, see section 20.

“**national standards**”, for chapter 2, see section 19.

“**prohibition**”, for chapter 2, see section 19.

“**qualification**”, for chapter 2, see section 19.

“**registered**”, for chapter 2, see section 19.

“**registered training organisation**”, for chapter 2, see section 19.

“**registering body**”, for chapter 2, see section 19.

“**registration**”, for chapter 2, see section 19.

“**restriction**”, for chapter 2, see section 19.

“**scope of registration**”, for chapter 2, see section 19.

“**standards for accreditation of courses**”, for chapter 2, see section 19.

“**standards for registered training organisations**”, for chapter 2, see section 19.

“**standards for State and Territory registering and course accrediting bodies**”, for chapter 2, see section 19.

“**statement of attainment**”, for chapter 2, see section 19.

“**this jurisdiction**”, for chapter 2, see section 19.

“**training package**”, for chapter 2, see section 19.

“**unit of competency**”, for chapter 2, see section 19.

“**vocational education and training**”, for chapter 2, see section 19.

(5) Schedule 3, definition “**information notice**”, ‘or the council’—  
*omit, insert—*

‘, the council or a registered training organisation’.

(6) Schedule 3, definition “**information notice**”—  
*insert—*

‘(e) other information required under this Act to be stated in the notice.’.

(7) Schedule 3—

*insert—*

‘ **“adverse decision about an employment exemption”** see section 141A(2).

**“compulsory participation phase”** see the *Youth Participation in Education and Training Act 2003*, section 11.

**“departmental employment skills development program”** see section 106C(2).

**“employment exemption”** see section 183B.

**“non-departmental employment skills development program”** see section 183D(3).’.

#### **54 Insertion of new attachment**

After schedule 3—

*insert—*

### **‘ATTACHMENT**

## **‘MINISTERIAL DECLARATION ‘STEPPING FORWARD: IMPROVING PATHWAYS FOR ALL YOUNG PEOPLE’**

section 106B

### **A COMMITMENT TO THE YOUNG PEOPLE OF AUSTRALIA BY MINISTERS FOR EDUCATION,**

## **EMPLOYMENT, TRAINING, YOUTH AFFAIRS AND COMMUNITY SERVICES**

Young people make a significant contribution to Australia today and will shape what it will be tomorrow. The vitality, ideas, creativity and visions of all young people must be embraced.

The majority of young people are doing well, moving successfully through the different stages of their lives and responding to the challenges of the future. We can be confident that they will achieve success, find fulfilment in their adult lives and make a positive contribution to this country.

Some young people find their journeys more difficult and challenging. They may face problems in acquiring the knowledge, skills and self-confidence that form the foundations of their adult lives. We recognise the emotional, physical, cultural and learning barriers faced by these young people and the social, economic and locational factors that may negatively impact on their lives. There are opportunities for governments to address these barriers so that young people can achieve their best.

As Ministers entrusted with the collective wellbeing and interests of young people, we must foster an environment in which young people are nurtured and challenged—a society where all young people can realise their full potential. We must work together to support young Australians to achieve success as individuals and as members of society. We need to act collectively and we need to act now.

### **VISION**

Our vision is of an Australia where:

- young people benefit and flourish through sustaining networks of family, friends and community, and through their engagement in education, training, employment, recreation and society
- young people's opinions and contributions are sought and valued, and they are encouraged and supported to take an active role in their communities and the nation

- young people's lives are enriched by positive learning experiences and opportunities that assist them to reach their full potential
- we recognise and celebrate young people's achievements.

## **CHALLENGE**

Our challenge is to:

- listen and respond to young people
- work creatively in partnership with young people to build comprehensive networks that draw together jurisdictions, government departments, families and communities so that united we can address the complex issues confronting young people
- recognise and address structural barriers faced by young people
- ensure that our governmental systems recognise the diversity of young people through being inclusive, flexible and adaptive
- create effective opportunities for young people that are accessible, integrated and meaningful
- encourage young people to take increasing responsibility for their own lives, support their peers and contribute to their community
- ensure that young people have the information, skills and support needed to negotiate the transition to adult life and to make informed life decisions.

## **OUR DECLARATION**

With this declaration, we commit to developing practical ways to increase the social, educational and employment outcomes of Australia's young people including those who are at risk, disconnected or in vulnerable circumstances. We agree to establish a common direction to make a real and lasting difference to the lives of young people. We are united by a shared commitment and a joint responsibility. We unanimously agree to

work in partnership towards implementing a shared vision for all young people.

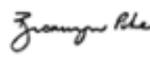
### Australia's Ministers for Education, Employment, Training, Youth Affairs and Community Services



The Hon. Lynne Kosky MP  
Chair, Ministerial Council on Education,  
Employment, Training and Youth Affairs  
Minister for Education and Training (VIC.)



The Hon. Matt Foley MP  
Chair, Ministerial Subcommittee  
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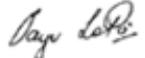
Senator Amanda  
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## PART 3—AMENDMENT OF AGRICULTURAL COLLEGES ACT 1994

### 55 Act amended in pt 3

This part amends the *Agricultural Colleges Act 1994*.

### 56 Insertion of new s 4A

Part 1—

*insert—*

#### **‘4A Ministerial declaration ‘Stepping forward: improving pathways for all young people’**

‘(1) One of the objectives of this Act is to implement initiatives that are consistent with the ministerial declaration ‘Stepping forward: improving pathways for all young people’.

‘(2) The ministerial declaration is the declaration of commitment to the young people of Australia by Ministers for Education, Employment, Training, Youth Affairs and Community Services endorsed in July 2002 by the Ministerial Council on Education, Employment, Training and Youth Affairs.

‘(3) A copy of the declaration is set out in the attachment.

‘(4) The attachment is not part of this Act.’.

#### **57 Amendment of s 7 (Functions of college board)**

(1) Section 7(3)(h) to (l)—

*renumber* as section 7(3)(i) to (m).

(2) Section 7(3)—

*insert*—

‘(h) improving the participation of young people in training by attracting young people to, and supporting young people in, training resulting in a qualification or statement of attainment;’

(3) Section 7(3)—

*insert*—

‘(ha) without limiting the other training the college may provide, ensuring the college provides training for young people in the compulsory participation phase;

(hb) ensuring the community the college serves is given support, advice or other help in developing services in the community that facilitate better access to education and training for young people in the community in the compulsory participation phase;’

(4) Section 7—

*insert*—

‘(4) In this section—

**“qualification”** see the *Vocational Education, Training and Employment Act 2000*, section 19.

**“statement of attainment”** see the *Vocational Education, Training and Employment Act 2000*, section 19.’.

(5) Section 7(4), as inserted—

*insert—*

‘ **“compulsory participation phase”** see the *Youth Participation in Education and Training Act 2003*, section 11.’.

### **58 Amendment of s 13 (Official members)**

Section 13(3), ‘subsection (2)(e)’—

*omit, insert—*

‘subsection (2)(f)’.

### **59 Insertion of new attachment**

After part 7—

*insert—*

**‘ATTACHMENT****‘MINISTERIAL DECLARATION ‘STEPPING FORWARD: IMPROVING PATHWAYS FOR ALL YOUNG PEOPLE’**

section 4A

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## PART 4—CONSEQUENTIAL AMENDMENTS

### 60 Amended legislation—schedule

The schedule amends the legislation mentioned in it.

**SCHEDULE****AMENDED LEGISLATION**

section 60

**AGRICULTURAL COLLEGES ACT 1994****1 Section 3, definition “accredited”, ‘Training and Employment Act 2000’—***omit, insert—**‘Vocational Education, Training and Employment Act 2000’.***2 Section 3, definition “registered training organisation”—***omit, insert—**‘“registered training organisation” means a training organisation under the Vocational Education, Training and Employment Act 2000.’.***3 Section 3, definition “TAFE institute”, ‘Training and Employment Act 2000’—***omit, insert—**‘Vocational Education, Training and Employment Act 2000’.***4 Section 39(3), footnote, ‘Training and Employment Act 2000’—***omit, insert—**‘Vocational Education, Training and Employment Act 2000’.*

## SCHEDULE (continued)

**ANTI-DISCRIMINATION ACT 1991**

- 1 Schedule, definition “work”, paragraph (ea), ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**CHARITABLE AND NON-PROFIT GAMING ACT 1999**

- 1 Section 10(5), definition “educational purpose”, paragraph (a)(i), ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**CRIMINAL LAW (REHABILITATION OF OFFENDERS)  
ACT 1986**

- 1 Section 9A(1), table, column 1, item 7, ‘Training and Employment Act 2000’, both mentions—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**DRUG REHABILITATION (COURT DIVERSION)  
REGULATION 2000**

- 1 Schedule 4, definition “chief executive (State colleges)”—**

*omit, insert—*

- ‘**“chief executive (State colleges)”** means the chief executive of the department within which the *Vocational Education, Training and Employment Act 2000* is administered.’.

## SCHEDULE (continued)

**EDUCATION (ACCREDITATION OF NON-STATE SCHOOLS) ACT 2001****1 Section 6(2)(d) and footnote, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**EDUCATION (QUEENSLAND STUDIES AUTHORITY) ACT 2002****1 Section 14(a)—**

*omit, insert—*

‘(a) to exercise powers delegated to the authority, by the Training and Employment Recognition Council, under the *Vocational Education, Training and Employment Act 2000*, section 186;<sup>57</sup>’.

**2 Section 15(f)(ii) and (viii), ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**3 Section 74—**

*omit, insert—*

**‘74 Authority’s annual report**

‘In the authority’s annual report for a financial year, the authority must include details of any powers delegated by the Training and Employment

---

<sup>57</sup> *Vocational Education, Training and Employment Act 2000*, section 186 (Delegation by council)

## SCHEDULE (continued)

Recognition Council to the authority, in the financial year, under the *Vocational Education, Training and Employment Act 2000*, section 186.<sup>58</sup>.

**4 Schedule 2, definition “vocational education and training department”, ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

## EDUCATION (WORK EXPERIENCE) ACT 1996

**1 Section 5(1)(f) and (g), ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

**2 Section 11, ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

## ELECTRICAL SAFETY ACT 2002

**1 Schedule 2, definition “Training and Employment Act”, ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

---

58 *Vocational Education, Training and Employment Act 2000*, section 186 (Delegation by council)

## SCHEDULE (continued)

**ELECTRICAL SAFETY REGULATION 2002**

- 1 Sections 34 to 38, ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*
  
- 2 Section 53(2)(c), ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*
  
- 3 Section 209(4), definition “training person”, paragraph (a),**  
**‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*

**ENVIRONMENTAL PROTECTION REGULATION 1998**

- 1 Section 6D, definition “educational institution”, paragraph (b),**  
**‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*

**HEALTH (DRUGS AND POISONS) REGULATION 1996**

- 1 Appendix 9, definition “hospital pharmaceutical assistant”,**  
**paragraph (a), ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*

## SCHEDULE (continued)

**2 Appendix 9, definition “registered training organisation”—***omit, insert—*

- ‘ **“registered training organisation”** means a registered training organisation under the *Vocational Education, Training and Employment Act 2000*.’.

**3 Appendix 9, definition “statement of attainment” from ‘Training and Employment Act 2000’—***omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*, section 19.<sup>59</sup>’.

**INDUSTRIAL RELATIONS ACT 1999****1 Section 5(2), ‘Training and Employment Act 2000’—***omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

**2 Section 138A(4)—***omit, insert—*

‘**(4)** However, subsection (1) does not apply if section 139A applies.’.

59 *Vocational Education, Training and Employment Act 2000*, section 19—

**“statement of attainment”** means formal certification in the vocational education and training sector by a registered training organisation under the AQF that a person has achieved—

- (a) part of a qualification; or
- (b) one or more units of competency from a nationally endorsed training package; or
- (c) all the units of competency or modules comprising learning outcomes for an accredited course that does not meet the requirements for a qualification.

## SCHEDULE (continued)

**3 Section 138A(5), definition “probationary period”—**

*omit, insert—*

‘**“probationary period”** means the probationary period decided by the Training and Employment Recognition Council under the *Vocational Education, Training and Employment Act 2000*.’.

**4 Section 139(2), ‘Training and Employment Act 2000’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*.’.

**5 After section 139—**

*insert—*

**‘139A Reinstatement to previous position**

‘(1) This section applies if—

- (a) an apprenticeship or traineeship is started with an employer; and
- (b) immediately before the apprenticeship or traineeship started, the person training as the apprentice or trainee was employed in a position (the **“previous position”**) by the employer; and
- (c) any of the following events happen—
  - (i) the Training and Employment Recognition Council refuses to register the person’s training contract;
  - (ii) the training contract is cancelled;
  - (iii) the apprenticeship or traineeship ends before the probationary period for the apprenticeship or traineeship ends;
  - (iv) the person completes the apprenticeship or traineeship.

‘(2) The person is taken to be immediately reinstated with the employer in the person’s previous position.’

## SCHEDULE (continued)

‘(3) The reinstated person is not excluded from the operation of chapter 3<sup>60</sup> only because of the apprenticeship or traineeship.

*Example—*

If the reinstated person is dismissed, section 73(1)<sup>61</sup> may apply to the reinstated person despite section 72(1)(f).’.

**6 Section 140A(5), definition “vocational placement scheme”, ‘Training and Employment Act 2000’—**

*omit, insert—*

‘Vocational Education, Training and Employment Act 2000’.

**7 Section 350(3)(a)(ii), ‘Training and Employment Act 2000’—**

*omit, insert—*

‘Vocational Education, Training and Employment Act 2000’.

**8 Section 391(2)(b), ‘Training and Employment Act 2000’—**

*omit, insert—*

‘Vocational Education, Training and Employment Act 2000’.

**9 Section 392(4), definition “supervised training”, ‘Training and Employment Act 2000’—**

*omit, insert—*

‘Vocational Education, Training and Employment Act 2000’.

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60 Chapter 3 (Dismissals)

61 Section 73 (When is a dismissal unfair)

## SCHEDULE (continued)

**10 Schedule 5, definitions “apprentice” and “trainee” and footnotes, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**11 Schedule 5, definitions “apprenticeship”, “approving authority”, “group training organisation”, “traineeship” and “young employee”, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**12 Schedule 5, definition “Training Recognition Council”—**

*omit, insert—*

‘**“Training Recognition Council”** means the Training and Employment Recognition Council established under the *Vocational Education, Training and Employment Act 2000*, section 167.’.

**INDUSTRIAL RELATIONS (TRIBUNALS) RULES 2000****1 Rule 78 and footnote, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**2 Rule 108(c) and footnote, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

## SCHEDULE (continued)

- 3 Rule 109(1), ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*
- 4 Rule 110(1) and footnote, ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*
- 5 Rule 112(1)(a), ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*
- 6 Schedule 2, definition “council”—**  
*omit, insert—*  
*‘ “council” means the Training and Employment Recognition Council established under the Vocational Education, Training and Employment Act 2000, section 167.’.*

**PAY-ROLL TAX ACT 1971**

- 1 Section 10(2)(j), ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*

## SCHEDULE (continued)

**PROSTITUTION REGULATION 2000**

- 1 Schedule 1, ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*

**PUBLIC SECTOR ETHICS ACT 1994**

- 1 Schedule, definition “TAFE institute” and footnote, ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*

**QUEENSLAND BUILDING SERVICES AUTHORITY  
REGULATION 1992**

- 1 Section 3, definitions “recognition certificate” and “Training and Employment Board” and footnotes, ‘Training and Employment Act 2000’—**  
*omit, insert—*  
*‘Vocational Education, Training and Employment Act 2000’.*
- 2 Section 3, definition “registered training organisation”—**  
*omit, insert—*  
*‘“registered training organisation” means a registered training organisation under the Vocational Education, Training and Employment Act 2000.’.*

## SCHEDULE (continued)

**SEWERAGE AND WATER SUPPLY ACT 1949**

- 1 Sections 6(1)(b) and 21(2)(b), ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**SUPERANNUATION (STATE PUBLIC SECTOR)  
NOTICE 2000**

- 1 Schedule, column 1, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**SUPERANNUATION (STATE PUBLIC SECTOR)  
REGULATION 1996**

- 1 Schedule, entry starting ‘an industry training advisory body’—**

*omit, insert—*

*‘an industry training advisory body under the Vocational Education, Training and Employment Act 2000;’.*

**TRANSPORT OPERATIONS (ROAD USE  
MANAGEMENT) REGULATION 1995**

- 1 Section 33R, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

## SCHEDULE (continued)

**2 Section 34, definition “council”—**

*omit, insert—*

- ‘**“council”** means the Training and Employment Recognition Council established under the *Vocational Education, Training and Employment Act 2000*, section 167.’.

**3 Section 34, definition “registered training organisation”, ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

**4 Section 39(2)(b)(iii), ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

**5 Section 40(2)(b)(ii), ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

**WHISTLEBLOWERS PROTECTION ACT 1994****1 Schedule 6, definition “TAFE institute” and footnote, ‘*Training and Employment Act 2000*’—**

*omit, insert—*

‘*Vocational Education, Training and Employment Act 2000*’.

## SCHEDULE (continued)

**WORKERS' ACCOMMODATION ACT 1952****1 Section 4, definition “worker”, paragraph (b), ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**WORKERS' COMPENSATION AND REHABILITATION ACT 2003****1 Section 22(4), definition “registered training organisation”—**

*omit, insert—*

‘**“registered training organisation”** means a registered training organisation under the *Vocational Education, Training and Employment Act 2000*.’

**2 Section 22(4), definition “vocational placement” and footnote, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

**3 Schedule 6, definitions “contract of service” and “group training organisation”, ‘Training and Employment Act 2000’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*

## SCHEDULE (continued)

**WORKPLACE HEALTH AND SAFETY ACT 1995**

- 1 Section 10(4), definitions “apprentice”, “group training organisation” and “trainee”, ‘*Training and Employment Act 2000*’—**

*omit, insert—*

*‘Vocational Education, Training and Employment Act 2000’.*