

# Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Bill 2013

## Explanatory Notes

### Short title

The short title of the Bill is the Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Bill 2013.

### Policy objectives and the reasons for them

The objectives of the Bill are to:

- amend the *Vocational Education, Training and Employment Act 2000* (VETE Act) to abolish Skills Queensland and give the Director-General of the Department of Education, Training and Employment (DETE) responsibility for its functions regarding: apprentices and trainees; restricted callings; vocational placements; group training organisations; principal employer organisations; employment exemptions and non-departmental employment skills development programs; and
- amend the *TAFE Queensland Act 2013* to ensure TAFE Queensland has the capacity to employ staff on a temporary basis.

#### Skills Queensland

In November 2010, Skills Queensland was established as a statutory body under the VETE Act. Its functions include advising the Minister on skills and workforce development matters, skilled migration and the delivery of vocational education and training (VET). Skills Queensland is also responsible for the development of an annual Skills and Workforce Development Investment Plan to identify priorities for Government investment in skills, qualifications and workforce development.

When the Training and Employment Recognition Council was abolished in 2012, Skills Queensland took over its functions regarding: apprentices and trainees; restricted callings; vocational placements; group training organisations; principal employer organisations; employment exemptions and non-departmental employment skills development programs.

In 2012, the Queensland Government commissioned a Skills and Training Taskforce (the Taskforce) to undertake a comprehensive review of the VET sector. The Taskforce delivered its final report in November 2012, which indicated that Skills Queensland had not been effective in addressing the fundamental strategic skills needs of industry.

In 2012, the Independent Commission of Audit (the Commission) was established to review the Queensland Government's financial position. The Commission's Final Report, released in April 2013, recommended that a new industry-led skills statutory authority be established,

with leadership responsibility for developing a competitive skills market through a clearly defined purchaser role in the VET system. However, the Government's response to the Commission's Final Report: *A Plan – Better Services for Queenslanders* did not accept the Commission's recommendation. While it was acknowledged that a stronger alignment between skills training and the needs of employers was needed, an independent statutory skills authority was not considered the best way to meet this objective.

*Great skills. Real opportunities - The Queensland Government reform action plan for further education and training* (the Action Plan), outlines the Government's commitment to establish an industry advisory body — the Ministerial Industry Commission. The Ministerial Industry Commission will be responsible for advising the Minister on the State's skill priorities and critical training market issues affecting small, medium and larger enterprises and for informing Government purchasing. The Ministerial Industry Commission will also oversee the training market and advise the Minister on how best to ensure ongoing value for money out of investment in training by Government and industry.

With the establishment of the Ministerial Industry Commission, Skills Queensland is to be abolished and its functions are to be transferred to the Director-General of DETE.

Under current arrangements, Skills Queensland delegates most of its day to day regulatory functions to regional DETE officers. It is anticipated that on assuming responsibility for the abovementioned Skills Queensland functions, the Director-General will also delegate these functions to regional DETE staff. Accordingly, there will be no discernible change in the nature or type of service provided to industry, employers and employees as a result of the abolition of Skills Queensland.

### TAFE Queensland

On 1 July 2013, the *TAFE Queensland Act 2013* commenced, establishing TAFE Queensland, a statutory body, as the public provider of VET in Queensland. TAFE Queensland will take over the existing network of TAFE Institutes run by DETE by mid-2014, with transition of TAFE Institutes to the new entity commencing from 1 January 2014.

Currently, TAFE staff are employed under the *Public Service Act 2008*, which allows employment on a temporary basis. The *TAFE Queensland Act 2013* does not provide for employment of temporary staff. It is essential for its effective operation that TAFE Queensland have capacity to continue to employ staff under temporary employment arrangements.

## **Achievement of policy objectives**

### Skills Queensland

To achieve its objectives the Bill will abolish Skills Queensland and transfer its functions relating to: apprentices and trainees; vocational placements; group training organisations; principal employer organisations; employment exemptions and non-departmental employment skills development programs to the Director-General of DETE.

### TAFE Queensland

The Bill will also amend the *TAFE Queensland Act 2013* to ensure TAFE Queensland has capacity to employ temporary staff from 1 January 2014.

## **Alternative ways of achieving policy objectives**

There was no alternative way of achieving the policy objectives of abolishing Skills Queensland and ensuring TAFE Queensland has capacity to employ on a temporary basis.

## **Estimated cost for government implementation**

### Skills Queensland

The implementation of the Bill will not result in any additional costs to Government. With the abolition of Skills Queensland and establishment of the Ministerial Industry Commission, Skills Queensland's functions, staff and resources will be returned to DETE. It is anticipated that this will achieve a saving of approximately \$1 million per annum.

### TAFE Queensland

There is no cost resulting from the technical amendment to the *TAFE Queensland Act 2013* regarding temporary employment.

## **Consistency with fundamental legislative principles**

**Legislation should have sufficient regard to the rights and liberties of individuals and the institution of Parliament - *Legislative Standards Act 1992*, sections 4(2)(a) and (b)**

The Bill abolishes Skills Queensland and the Board members and the chief executive officer are not to be compensated for going out of office. It is common for members of a board of a statutory entity not to receive compensation when the entity ceases to exist.

## **Consultation**

### Skills Queensland

A comprehensive public consultation process occurred from July to October 2012, facilitated by the Taskforce. All Taskforce members, as experts in their own field, were charged with engaging and consulting with stakeholders to bring the views of constituents to the attention of the Taskforce. This included targeted face-to-face consultations and submissions were invited from a number of peak bodies and organisations and the public. No further consultation was undertaken on the Bill as it is simply a technical amendment required to implement the Government's decision to abolish Skills Queensland.

*TAFE Queensland*

No consultation has been undertaken on the proposed amendment to the *TAFE Queensland Act 2013* regarding temporary employment.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland and does not introduce uniform or complementary legislation.

## Notes on provisions

### Part 1 Preliminary

*Clause 1* provides that the short title of the Act is the *Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013*.

*Clause 2* provides that the Act commences on a day to be fixed by proclamation.

### Part 2 Amendment of Vocational Education, Training and Employment Act 2000

*Clause 3* provides that Part 2 amends the *Vocational Education, Training and Employment Act 2000* (VETE Act).

*Clause 4* inserts a new section 54A into the VETE Act providing that the chief executive may keep a register of training contracts for apprentices and trainees.

*Clause 5* inserts a new chapter 3, part 1A into the VETE Act providing the chief executive the power to declare employment based training leading to a qualification or statement of attainment to be an apprenticeship or traineeship. This is based on section 183 of the VETE Act, which will be omitted together with all provisions in chapter 5 (see clause 7).

*Clause 6* amends section 53 of the VETE Act to replace references to ‘Skills Queensland’ with ‘the chief executive’.

*Clause 7* omits chapter 5 from the VETE Act. Chapter 5 establishes Skills Queensland and provides for its functions, membership and staffing. It also includes provisions regarding particular functions of Skills Queensland, such as recognition of work or training, declaring apprenticeships or traineeships, deciding employment exemptions and recognising non-departmental employment skills development programs. Provisions regarding these matters will be retained in the VETE Act under chapter 9.

*Clause 8* amends section 230 of the VETE Act to replace references to ‘Skills Queensland’ with ‘the chief executive’ and make other minor amendments. Section 230 provides for appeals of decisions to the Queensland Industrial Relations Commission. Upon commencement, appeals to the Queensland Industrial Relations Commission under this section will be from decisions of the chief executive.

*Clause 9* inserts a new heading (Subdivision 1 Functions and powers generally) in chapter 9, part 1, division 1. This is necessary to reflect the insertion of additional subdivisions in chapter 9 regarding recognition of work or training, employment exemptions and non-departmental employment skills development programs, previously contained in chapter 5.

*Clause 10* makes a minor consequential amendment to section 245(3)(i) of the VETE Act. The clause removes the reference to the chief executive issuing guidelines. The chief executive’s powers to issue guidelines will be prescribed in section 245A as amended by clause 11.

*Clause 11* inserts a new section 245A into the VETE Act to provide that the chief executive may make guidelines for performing functions under the Act and provides for the guidelines to be published on the DETE website.

*Clause 12* amends section 246 of the VETE Act to enable the chief executive to delegate functions and powers under the Act to an appropriately qualified person. The clause also provides that the delegated function or power may be subdelegated to an appropriately qualified person, if permitted under the delegation.

*Clause 13* inserts new subdivisions 2, 3 and 4 into chapter 9, part 1, division 1 of the VETE Act providing for recognition of work or training, deciding employment exemptions and non-departmental employment skills development programs, previously contained in chapter 5.

*Clauses 14 to 19* amend sections 262 (Power to enter places), 277 (False or misleading statements to official), 282 (Disclosure of interests by member of disclosure body), 284 (Other disclosure of interests), 289 (Evidentiary provisions) and 290 (Protection from liability) to remove references to 'Skills Queensland' and the Skills Queensland 'chief executive officer' and 'chairperson' and to make other minor amendments, where necessary, to apply sections to the chief executive.

*Clause 20* inserts a new section 290A into the VETE Act permitting the chief executive to approve forms under the Act. Section 152B of the VETE Act, which provided for Skills Queensland to approve forms for use under the Act will be repealed by clause 7. It is therefore necessary to include a new provision enabling the chief executive to approve forms.

*Clause 21* inserts a new chapter 10, part 9 into the VETE Act to provide for transitional provisions for the *Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013*.

New section 411 prescribes definitions for terms relevant to the transitional provisions.

New section 412 provides that on commencement Skills Queensland is dissolved; that the members and chief executive officer go out of office; and that no compensation is payable for going out of office.

New section 413 provides that the chief executive is the successor in law of Skills Queensland.

New section 414 provides that on commencement, Skills Queensland's documents become documents of the chief executive.

New section 415 provides for training contacts and vocational placements for a long placement, registered by Skills Queensland to continue from commencement as if they were registered by the chief executive.

New section 416 ensures that if an obligation to return a cancelled recognition certificate to Skills Queensland has not been complied with before commencement, the obligation is to return the certificate to the chief executive.

New section 417 will enable applications made to Skills Queensland prior to commencement that have not been finally dealt with, to be taken to be made to the chief executive to deal with the application after commencement.

New section 418 ensures that an approval, certificate, consent, decision, declaration, notice, order, recognition, requirement or thing given, issued, made or done by Skills Queensland prior to commencement is taken to be recognised, given, issued, made or done by the chief executive after commencement.

New section 419 ensures that if a person had a right of review or appeal against a decision mentioned in section 418 that had not ended on commencement, the person may apply for a review or appeal as if the decision were made by the chief executive.

New section 420 substitutes the chief executive as a party to proceedings before the Queensland Civil and Administrative Tribunal or the Queensland Industrial Relations Commission to which Skills Queensland was a party immediately prior to commencement.

New section 421 ensures that if the Queensland Industrial Relations Commission allows an appeal about a matter relating to a decision of Skills Queensland made before commencement and the Commission decides to remit the matter to the decision maker, the matter is remitted after commencement to the chief executive.

New section 422 ensures delegations made by Skills Queensland and any subdelegations in force immediately prior to commencement continue in force until the earlier of the following events: the chief executive ends the delegation or subdelegation or one year after commencement. During that period the chief executive is taken to replace Skills Queensland as delegator for any delegations.

New section 423 ensures guidelines made by Skills Queensland in force immediately before commencement that relate to functions to be performed by the chief executive under the VETE Act are taken to be approved by the chief executive until the earlier of the following events: the chief executive repeals the guideline or one year after commencement.

New section 424 ensures a form approved by Skills Queensland in force immediately before commencement that are related to functions to be performed by the chief executive under the VETE Act are taken to be approved by the chief executive until the earlier of the following events: the chief executive repeals the form or one year after commencement.

New section 425 provides that a reference to 'Skills Queensland' in a document may, if the context permits, be taken to be a reference to 'chief executive'.

*Clause 22* amends the dictionary in schedule 3 of the VETE Act.

### **Part 3      Amendment of Industrial Relations Act 1999**

*Clause 23* provides that this part amends the *Industrial Relations Act 1999*.

*Clauses 24 and 25* amend the *Industrial Relations Act 1999* to replace references to 'Skills Queensland' with 'the chief executive' and provide transitional arrangements to continue

decisions of Skills Queensland made as an approving authority under that Act, which are taken to be decisions of the chief executive on commencement.

## **Part 4      Amendment of TAFE Queensland Act 2013**

*Clause 26* provides that this part amends the *TAFE Queensland Act 2013*.

*Clause 27* amends the *TAFE Queensland Act 2013* to make it clear TAFE Queensland has capacity to employ staff on a temporary basis to meet temporary circumstances.

## **Part 5      Minor and consequential amendments**

*Clause 28* provides that schedule 1 amends the Acts mentioned in it.

### **Schedule 1 Acts amended**

The schedule contains minor and consequential amendments to references in the *Education (General Provisions) Act 2006* relating to employment exemptions and non-departmental employment skills development programs to reflect amendments made to the VETE Act.

The schedule makes minor and consequential amendments to the *Industrial Relations Act 1999* to replace references to ‘Skills Queensland’ with ‘the chief executive (VETE)’ to reflect that the chief executive is assuming responsibility for Skills Queensland functions.

The schedule makes minor and consequential amendments to the *Public Service Act 2008* to omit the reference to ‘Skills Queensland’ in schedule 1 to that Act, which lists public service offices and their heads.

The schedule makes minor and consequential amendments to the VETE Act, including amendments to replace references to ‘Skills Queensland’ with ‘the chief executive’ and make other minor amendments to reflect that the chief executive is assuming responsibility for Skills Queensland functions.