

Jobs Queensland Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the Jobs Queensland Bill 2015.

Policy objectives and the reasons for them

The objective of the Bill is to establish Jobs Queensland as an independent statutory entity to provide strategic industry-led advice to government on skills demand and long-term workforce development and planning, with a focus on making the Queensland vocational education and training (VET) sector the strongest and most productive in Australia.

The establishment of Jobs Queensland was one of the Government's election commitments outlined in the *Working Queensland* framework.

For industry and employers, the new entity will:

- provide the opportunity to inform government of the strategic skills they need to grow their business in the medium to long term;
- reinstate the independent voice of industry on skills in Queensland; and
- assist with the development of medium to long term workforce planning.

For the community and workforce, including apprentices and trainees, the new entity will:

- help support future employment opportunities;
- ensure skills better align to the job needs of the future; and
- help develop a workforce capable of supporting sustainable economic growth across Queensland.

Since the early 1980s, government has relied on a variety of formal engagement strategies with industry advisory bodies or organisations in relation to advice on skills and priorities for the VET sector. While the structure and funding of formal engagement strategies has varied over time, these strategies have continually provided the mechanism through which government could maintain close relationships with industry.

Within Queensland's current VET investment framework, the majority of investment in training places is provided under demand-driven arrangements. It is important for industry to inform the Government's significant investment in VET to underpin skills development and sustainable economic growth in Queensland.

Industry-led workforce planning, facilitated by Jobs Queensland, is critical to ensure industry can meet their future workforce needs, stimulate innovation and achieve global competitiveness.

The vision for the new entity, Jobs Queensland, is to re-instate the independent voice of industry on skills in Queensland.

Achievement of policy objectives

Establishment and functions

The Bill establishes Jobs Queensland as an independent statutory entity with functions to give advice to the Minister for Training and Skills (the Minister) about:

- skills it anticipates will be needed for particular industries and regional areas;
- future workforce development and planning; and
- the apprenticeship and traineeship system.

Providing advice to the Minister about skills needs will help inform government training priorities, the development of training strategies and programs, and government investment in VET. Jobs Queensland's advice on future workforce development and planning issues may include a broad range of information relevant to the future needs of Queensland industries and employers (for example, revised or alternate training pathways).

Jobs Queensland will also be able to carry out and promote research and market intelligence, and promote public awareness of its statutory functions.

How its functions are to be exercised

In performing its functions, Jobs Queensland must have regard to the skills and workforce development needs of industries and communities, and economic factors affecting the State.

Jobs Queensland must undertake broad community and industry stakeholder consultation it considers appropriate, including with representatives from rural or regional areas, and representatives of employers, unions and industry associations and peak bodies. This will provide the opportunity for a broad range of industry sectors to inform and provide advice about skills and workforce development and planning needs in particular sectors of the labour market. Broad employer consultation will help small, medium and large entities, from across Queensland, contribute towards advising government on skills and workforce development and planning matters.

Relationship to government

Jobs Queensland will be independent from government in terms of its core functions of developing and providing strategic advice about skills and workforce development and planning, but will benefit from operational and financial management support from the Department of Education and Training (DET).

The Bill preserves the independence of Jobs Queensland by providing limited ministerial powers. The Minister can refer a matter to Jobs Queensland or provide a written direction with which Jobs Queensland must comply. For example, the Minister could ask Jobs Queensland for advice on a particular topic to help inform government policy. However, neither the Minister, nor DET, will be able to direct the content of the advice that Jobs Queensland provides.

The Minister may also give Jobs Queensland a written statement of expectations about the performance by Jobs Queensland of its functions, including on key strategies, functional activities (such as scheduled industry consultations) and reporting requirements. The statement of expectations, and other referrals or directions from the Minister, must align with the functions of Jobs Queensland. Jobs Queensland must have regard to this statement of expectation when performing its functions.

As well as providing regular formal advice to the Minister (as outlined in any statement of expectations), Jobs Queensland must prepare and give to the Minister an annual report on the discharge of its functions, which must be tabled in Parliament.

The advice and reports from Jobs Queensland will help inform priorities for state investment in skills, training and workforce planning, and will inform the development of strategies and programs to respond to these priorities.

What the new entity will not cover

The Minister will retain accountability for the VET system in Queensland, including establishing the level of funding available for investment, ensuring that government priorities are achieved and representing the State's interests at national skills councils and forums.

DET retains the regulatory responsibilities for apprentices and trainees, and retains responsibility for managing the VET budget and investing in priority training that is informed by Jobs Queensland's advice to government. DET will also undertake industry engagement in order to develop strategies and programs to respond to the skills priorities identified by Jobs Queensland.

While Jobs Queensland will take responsibility for advising on and supporting effective workforce planning, DET will take responsibility for the training-related workforce development strategies identified through the planning process. In this way, Jobs Queensland will plan for the future workforce needs of the economy, and DET will respond to the training related needs through the deployment of appropriate investment and program responses to meet demand.

Membership

The Bill provides that Jobs Queensland will have between 7 and 12 members, appointed by the Governor in Council and will allow for a strong independent membership with an equal number of employer and employee representatives, a mix of industry leaders, and members with expert or specialist skills to meet the functions of Jobs Queensland (for example, people with experience in economics, workforce planning and research skills).

Alternative ways of achieving policy objectives

There is no alternative way of achieving the policy objectives to establish Jobs Queensland as an independent statutory entity.

Estimated cost for government implementation

The Government has allocated up to \$40 million over four years to establish Jobs Queensland.

Consistency with fundamental legislative principles

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

Disqualification from membership in certain circumstances

The Bill (clause 12) provides that a person cannot be appointed, or continue as a member, of Jobs Queensland if the person is insolvent or has a conviction for an indictable offence, that is not a spent conviction. It is arguable that this proposal could adversely affect the rights and liberties of a person who is, or may become, a member of Jobs Queensland. This is justified on the basis that it is appropriate for members of the proposed entity to be integrity checked, particularly given the new entity will be publicly funded and its advisory functions may help to inform government training investment.

Access to criminal history of members of Jobs Queensland

The Bill (clause 18) will enable the Minister to request from the Commissioner of Police a criminal history for the purposes of deciding whether a member or a prospective member is disqualified. It is arguable that this proposal could adversely affect the rights and liberties of a person. This power is necessary to enable the Minister to consider a person's criminal history to ensure members or prospective members are appropriate for the role. The Bill includes safeguards about the use of a person's criminal history: it will not include spent convictions; the consent of the person is required before conducting the check; and the check must be kept confidential and destroyed once the appointment process is complete.

Consultation

DET conducted consultation with peak bodies on a draft version of the Bill. Consultation occurred with the Australian Industry Group, the Queensland Chamber of Commerce and Industry, the Australian Workers Union and the Queensland Council of Unions. There was general support for the Bill, and the need to introduce a body to engage with industry and to provide consolidated advice to government about skills and workforce planning.

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 *Jobs Queensland Act 2015*.

Clause 2 provides that the Act commences on 4 January 2016.

Clause 3 sets out the purpose of the Act.

Clause 4 states that the Act binds all persons, including the State, and that nothing in the Act makes the State liable to be prosecuted for an offence.

Clause 5 states that the definitions for the Act are contained in Schedule 1.

Part 2 Jobs Queensland

Division 1 Establishment, functions and consultation

Clause 6 provides for the establishment of Jobs Queensland.

Clause 7 prescribes the functions of Jobs Queensland, which is to provide advice to the Minister for Training and Skills about:

- the skills it anticipates will be needed for particular industries and regional areas;
- future workforce development and planning; and
- the apprenticeship and traineeship system.

Jobs Queensland will also be able to carry out and promote research on matters relating to its functions, and communicate to the public about its functions.

Examples of matters that Jobs Queensland may provide advice on include:

- providing advice on emerging or innovative industries that may affect demand for skilled workers in particular areas;
- working directly with industry bodies and other government agencies to identify sectors or regions where workforce planning is required, and partnering with relevant stakeholders with the expertise and skills needed to undertake effective and comprehensive workforce planning;
- providing advice on skills priorities for the vocational educational and training (VET) sector. This may include priorities for VET in school programs funded through the VET Investment Plan to ensure skills developed at school link to the jobs of the future;
- strategic issues impacting on the future effectiveness of the apprenticeship and traineeship pathway for particular industries; and
- future skills and training that is required to support major projects in Queensland.

Clause 8 prescribes the matters that Jobs Queensland must have regard to when performing its functions. These matters are: skills and workforce development needs of communities and industries; and economic factors affecting the State.

Clause 9 provides that Jobs Queensland must, in performing its functions, consult with community representatives, including representatives from rural or regional areas, and consult with representatives from a broad range of industries, including employers, unions, industry associations and peak bodies. Jobs Queensland will decide who and how they consult, depending on the nature and scope of the activities being undertaken.

Division 2 Membership

Clause 10 provides that Jobs Queensland consists of at least seven but no more than 12 members appointed by the Governor in Council. This is considered the optimum size for Jobs Queensland to balance being efficient and strategically focused with being able to engage with a range of stakeholders and perform its functions.

The members must include at least one person the Minister considers represents employers; and one person the Minister considers represents employees. The number of persons appointed to represent employers and employees must be equal. Members who do not represent either employers or employees must have experience in a particular industry; direct experience in the education, training or employment sectors; or other knowledge, experience or standing relevant to the functions of Jobs Queensland (for example, economics, workforce planning and research skills). In addition, the Act provides that in recommending persons for appointment as members, the Minister must consider a balanced gender representation in the membership of Jobs Queensland. Certain persons are disqualified from being or continuing as a member (see clause 12).

Clause 11 provides for the appointment of the chairperson.

Clause 12 provides for the disqualification of persons from becoming, or continuing as, a member of Jobs Queensland to ensure integrity and independence of the new entity. A person is disqualified from becoming, or continuing as, a member if the person:

- is a member of the Legislative Assembly;
- is a councillor of a local government;
- has a conviction, other than a spent conviction, for an indictable offence (section 659 of the *Criminal Code* provides that an indictable offence does not include an indictable offence dealt with summarily);
- is an insolvent under administration; or
- is disqualified from managing corporations under the Corporations Act, part 2D.6.

Clause 13 provides that a member holds office for a term of no longer than 4 years as stated in the member's instrument of appointment.

Clause 14 provides for the conditions of appointment. It also makes it clear that a member of Jobs Queensland is appointed under this Act and not under the *Public Service Act 2008*.

Clause 15 provides for the resignation of a member (that is, how the member can resign and when the resignation takes effect).

Clause 16 provides for the circumstance in which the office of a member becomes vacant.

Clause 17 provides for the Minister to approve a leave of absence for the chairperson or another member, and the appointment of someone else to act in their position during the period of leave. It also makes it clear that this does not impact on the Governor in Council's power to appoint a person to act in the office if the person appointed to the office is absent or is unable to discharge the functions of the office (whether because of illness or otherwise).

Division 3 Criminal history reports

Clause 18 provides that, for the purposes of determining if a person is suitable to become or continue as a member, the Minister may, with the written consent of the person, ask the commissioner of the police service for a written report about the person's criminal history and a brief description of a conviction mentioned in the report. The clause provides that the Minister must ensure the report is destroyed as soon as practicable after it is no longer needed. A person's 'criminal history' is defined in Schedule 1 of the Act (and does not include spent convictions).

Clause 19 provides that criminal history information is confidential. Disclosure, unless permitted under the section, is an offence with a maximum penalty of 100 penalty units.

Clause 20 provides for the disclosure of changes to the criminal history of a member. The section requires that if a member is convicted of an indictable offence (during the term of the member's appointment) they must, unless they have a reasonable excuse, immediately disclose the conviction to the Minister. Failure to comply with this requirement is an offence with a maximum penalty of 100 penalty units.

Division 4 Reporting

Clause 21 provides that Jobs Queensland must prepare an annual report about how its functions have been discharged. The annual report must be given to the Minister. The Minister must table a copy of the report in the Legislative Assembly within 14 days of receiving the report.

Part 3 Minister's powers

Clause 22 provides the Minister with the power to refer a matter relevant to Jobs Queensland's functions to Jobs Queensland. If a matter is referred, Jobs Queensland must consider the matter and give the Minister a written report about the matter.

Clause 23 provides the Minister with the power to give Jobs Queensland a written direction about a matter relevant to the performance of its functions. Jobs Queensland must comply with the direction. For transparency, the details of any direction given by the Minister must be included in Jobs Queensland's annual report.

Clause 24 provides the Minister with the power to give Jobs Queensland a written statement of expectations about the performance by Jobs Queensland of its functions. Jobs Queensland must have regard to this statement of expectations in performing its functions.

The clause provides that the statement of expectations may provide for any of the following:

- Jobs Queensland's strategic or operational activities;
- the nature and scope of Jobs Queensland's activities proposed to be carried out for a particular period;
- information required to be given to the Minister by Jobs Queensland;
- the way Jobs Queensland must report to the Minister about its activities; and
- the sharing of information with government agencies.

Clause 25 provides the Minister with the power to request, by written notice, documents or information related to the functions of Jobs Queensland. Jobs Queensland must comply with this request.

Part 4 Other matters

Clause 26 provides that an offence under the Act is a summary offence.

Clause 27 provides that it is an offence for a person who is, or has been, a member of Jobs Queensland who has obtained confidential information, to disclose the information unless the disclosure is: in the performance of a function; with the consent of the person to whom the information relates; or otherwise required or permitted by law. Confidential information is defined in the section as information that

- could identify an individual;
- is about a person's current financial position or financial background; or
- would be likely to damage the commercial activities of a person to whom the information relates.

However, confidential information does not include information that is publicly available; or statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates. Disclosure, unless permitted under the section, is an offence with a maximum penalty of 50 penalty units.

Clause 28 provides for the application of other Acts to Jobs Queensland.

Clause 28(1) declares that Jobs Queensland is not a statutory body for the purposes of the *Financial Accountability Act 2009* or the *Statutory Bodies Financial Arrangements Act 1982*. Jobs Queensland will not have control of its own funds, and will receive operational and financial management support from the Department of Education and Training.

Clause 28(2) states that the *Public Service Act 2008*, section 26C which deals with civil liability of public servants, applies to each member of Jobs Queensland as if the member were a state employee for Part 3, division 3 of the *Public Service Act 2008*. While Jobs Queensland is established as an independent entity, members of Jobs Queensland will be provided with the benefit of immunity provisions under the *Public Service Act 2008*, and any liability will attach to the State.

Clause 29 provides that the Governor in Council may make regulations under the Act.

Schedule 1 Dictionary

Schedule 1 defines particular words for the Act.

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