



Queensland

TAFE Queensland Regulation 2013

Explanatory Notes for SL 2013 No. 109

made under the

Civil Liability Act 2003

Statutory Bodies Financial Arrangements Act 1982

TAFE Queensland Act 2013

Vocational Education, Training and Employment Act 2000

Workers' Compensation and Rehabilitation Act 2003

General outline

Short title

TAFE Queensland Regulation 2013.

Authorising law

Section 17 of the *Acts Interpretation Act 1954*

Section 74 of the *Civil Liability Act 2003*

Sections 33, 42 and 78 of the *Statutory Bodies Financial Arrangements Act 1982*

Sections 2, 50, 53 and 67 of the *TAFE Queensland Act 2013*

Section 291 of the *Vocational Education, Training and Employment Act 2000*

Section 584 of the *Workers' Compensation and Rehabilitation Act 2003*

Policy objectives and the reasons for them

The *TAFE Queensland Act 2013* received Royal Assent on 3 June 2013 and will be proclaimed to commence on 1 July 2013. The Act will establish TAFE Queensland as a statutory body. TAFE Queensland will be the public provider of vocational education and training in Queensland. TAFE Queensland is being established as part of the Government's response to the report of the Skills and Training Taskforce from November 2012. TAFE Queensland will ultimately manage the operations of the current TAFE institutes and Statutory TAFE Institutes (STIs) established under the *Vocational Education, Training and Employment Act 2000* (VETE Act).

The policy objective of this regulation is to facilitate the broad restructure of TAFE and the ultimate transfer of TAFE operations to TAFE Queensland. Currently TAFE in Queensland is delivered through two STIs which are separate statutory bodies and 11 TAFE institutes which are business units within the Department of Education, Training and Employment (DETE). The Government proposes to restructure TAFE into six or seven institutes based on geographic regions, managed by TAFE Queensland. To effectively transition from the current structure to the new TAFE Queensland entity it is necessary to bring all TAFE operations back into DETE to allow for the restructuring of institutes. To achieve this it is necessary for the two existing STIs to be dissolved and re-established as TAFE institutes within DETE. The business of the TAFE institutes will then be transferred to TAFE Queensland. It is proposed that this will occur by 1 July 2014.

It is necessary to provide for the transfer of employees of the two STIs to DETE. Nearly all staff at STIs are public service officers employed by DETE who perform work at the STIs on a work performance arrangement. The STIs also directly employ a small number of staff on common law contracts. These staff members are not public service officers. To ensure that operations can continue once the STIs are dissolved and the TAFE institutes are established within DETE, these staff need to be transferred to DETE. Section 55 *TAFE Queensland Act 2013* provides that the rights and entitlements of staff being transferred are preserved when they are transferred.

The Regulation also provides for the borrowing and investment powers of TAFE Queensland under the *Statutory Bodies Financial Arrangements Act 1982*. The Government has approved that TAFE Queensland will have borrowing powers and category 3 investment powers. As the public provider of vocational education and training in Queensland, TAFE

Queensland will require these powers to undertake key activities to effectively perform its functions. Such powers will provide TAFE Queensland with the necessary agility and flexibility to transition to more commercial operations and remain viable in an increasingly competitive vocational education and training market. Borrowing and category 3 investment powers will allow TAFE Queensland to operate akin to its peers and competitors, including universities and large private training providers. These powers will also allow TAFE Queensland to invest cash either on a short or long term cash management regime through the Queensland Treasury Corporation or Queensland Investment Corporation.

The Regulation also makes a number of consequential amendments to reflect the creation of TAFE Queensland and the dissolution of the STIs.

Achievement of policy objectives

The Regulation achieves the policy objectives by providing for

- the dissolution of the STIs established under Chapter 6A of the VETE Act;
- the transfer assets, liabilities, and other matters from the statutory TAFE institutes to DETE and student enrolments to TAFE institutes established under Chapter 6 of the VETE Act;
- the transfer of staff employed directly by the STIs to DETE;
- borrowing and category 3 investment powers for TAFE Queensland under the Statutory Bodies Financial Arrangements Act 1982; and
- consequential amendments to other regulations.

The Regulation clarifies that transferred staff do not become public service employees. The Regulation also clarifies that the chief executive of DETE becomes the employing authority for the purpose of the employment contract.

The Regulation, as it relates to the restructure of Statutory TAFE Institutes, is being made in anticipation of the commencement of the TAFE Queensland Act 2013 as permitted by section 17 *Acts Interpretation Act 1954*. The Regulation commences on 1 July 2013.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the *TAFE Queensland Act 2013* which is to provide for the establishment of TAFE Queensland and the restructuring of existing TAFE and STIs.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of this Regulation is that it will allow for an efficient restructuring of TAFE by dissolving the two STIs and transferring their business to DETE. The costs of the transition will be met from existing resources.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

The Gold Coast Institute of TAFE and South Bank Institute of Technology were consulted on the Regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Education, Training and Employment.