

Vocational Education and Training (Training Framework) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 sets out the purpose of the Bill, which is to amend the **Vocational Education and Training Act 1990** and the **Adult, Community and Further Education Act 1991** to make further provision for vocational education and training and adult community and further education, to amend the **Accident Compensation Act 1985**, the **Accident Compensation (WorkCover Insurance) Act 1993** and the **Pay-roll Tax Act 1971** and to make consequential amendments to other Acts.
- Clause 2 sets out when the various provisions of the Bill will commence. Any provision not in operation before 1 January 1999 will come into operation on that day.

PART 2—AMENDMENTS TO THE VOCATIONAL EDUCATION AND TRAINING ACT 1990

- Clause 3 defines the **Vocational Education and Training Act 1990** as the Principal Act for the purposes of Part 2 of the Bill.
- Clause 4 amends, repeals and inserts definitions in section 3 of the Principal Act.
- Clause 5 amends the objects of the Principal Act.
- Clause 6 inserts a new section 9C into the Principal Act to empower the State Training Board to exercise the functions of an approving authority under the Commonwealth Workplace Relations Act 1996.
- Clause 7 amends section 20 of the Principal Act to enable the State Training Board to delegate powers and functions to training recognition boards established under the Principal Act and further education recognition boards established under the **Adult, Community and Further Education Act 1991**.

- Clause 8 inserts a new section 20AA into the Principal Act to enable the State Training Board to further delegate its functions as an approving authority.
- Clause 9 amends section 20B of the Principal Act to expand the categories of delegations that approved training agents, appointed by the Governor in Council, may receive from the State Training Board. These will now include delegations of the Board's accreditation and training recognition functions.
- Clause 10 replaces Part 5 of the Principal Act with a new Part entitled "Apprenticeships".

Division 1—Application of Part

Section 49 provides that the Part binds the Crown

Section 50 provides for certain provisions of the new Part 5 to apply in relation to a vocation unless the State Training Board determines that they will not apply to the vocation.

Division 2—Training Schemes

Section 51 empowers the State Training Board to approve training schemes for vocations. An approved training scheme will be able to specify a range of matters including probationary periods and whether the apprenticeship may be full or part time.

Section 52 applies the State Training Wage provisions in Schedule 3 to training agreements.

Division 3—Training Agreements

Section 53 requires an employer to obtain State Training Board approval before employing an apprentice and makes it an offence if approval is not obtained.

Section 54 specifies an employer's obligations under a training agreement.

Section 55 specifies an apprentice's obligations under a training agreement.

Section 56 contains general provisions about training agreements.

Section 57 empowers the State Training Board to specify terms, fix maximum or minimum terms or extend or reduce terms, of training agreements.

Section 58 provides for the cancellation, suspension or variation of training agreements, by mutual consent of the parties, and empowers the State Training Board to cancel or suspend training agreements in special circumstances.

Section 59 empowers an employer to reduce the time of employment, and wages, of an apprentice if insufficient work is available, and provides for the suspension or cancellation of training agreements, by order, of the State Training Board in specified circumstances.

Section 60 empowers the State Training Board to determine specified questions or differences between employers and apprentices.

Section 61 empowers associations of employers to employ apprentices.

Section 62 provides for the transfer of a training agreement on the dissolution of a partnership or the transmission of a business.

Division 4—Miscellaneous

Section 63 requires the State Training Board to maintain a register of apprentices who have entered into training agreements.

Section 64 empowers the State Training Board to pay subsidies to apprentices.

Clause 11 repeals Division 1 of Part 6 of the Principal Act, which contains definitions for the purposes of that Part.

Clause 12 makes consequential amendments to section 74 of the Principal Act.

Clause 13 replaces sections 75 and 76 of the Principal Act with a new section which empowers the Minister to establish training recognition boards. The new boards will replace the existing Vocational Education and Training Accreditation Board and

Industry Accreditation Boards. The functions of the new boards will be to advise the State Training Board and the Adult, Community and Further Education Board on matters relating to course accreditation and the registration of training organisations, and to receive delegations in respect of those matters from both Boards.

- Clause 14 repeals sections 77 and 78 of the Principal Act. Those sections empowered the State Training Board to declare public TAFE institutions as qualified to accredit their own courses. It is proposed that the devolution of accreditation and recognition functions will occur through the appointment of approved training agents.
- Clause 15 changes the name of the "State Register of Accredited Courses" to the "State Register of Accredited Courses and Recognised Qualifications". The Minister may request the Board to include a qualification on the Register if the Minister is satisfied that the qualification should be recorded as a recognised qualification.
- Clause 16 repeals section 79 of the Principal Act which requires public TAFE institutions to obtain from the State Training Board authority to conduct a course on which Government funds are to be spent.
- Clause 17 amends section 80 of the Principal Act to require TAFE colleges, universities and the Council of Adult Education to be registered with the State Training Board if they propose to use the title "registered provider". These organisations will be deemed by the Bill to be so registered until 30 June 1999.
- Clause 18 amends section 81 of the Principal Act to empower the State Training Board to register training organisations in terms of their capacity to issue recognised qualifications. It also extends the period of registration from three to five years and changes the criteria to which the Board may have regard in the registration process.
- Clause 19 amends section 82 of the Principal Act to require TAFE colleges, universities and the Council of Adult Education to be registered with the State Training Board if they propose to offer their courses as "government accredited". The clause also makes it an offence for a training organisation to claim that a

qualification issued by it is a recognised qualification unless the organisation is registered by the State Training Board.

- Clause 20 repeals section 83 of the Principal Act thereby removing the requirement for a registered provider to also obtain State Training Board approval to deliver the course.
- Clause 21 makes a consequential amendment to section 84 of the Principal Act.
- Clause 22 amends section 85 of the Principal Act to change the criteria to which the State Training Board may have regard in considering applications by educational institutions for endorsement of courses as suitable for overseas students. The clause also provides for an endorsement to remain in force for 5 years (instead of 3 years, as is the current situation).
- Clause 23 repeals Division 5 of Part 6 of the Principal Act. That Division empowers the State Training Board to recognise Defence Force training institutions and courses as equivalent to TAFE colleges and courses.
- Clause 24 amends definitions in section 86 of the Principal Act.
- Clause 25 inserts new sub-sections 87(3)–(7) into the Principal Act to empower the Governor in Council to fix remuneration for students of TAFE providers undergoing practical placement.
- Clause 26 repeals section 89 of the Principal Act to remove conditions on practical placements which have been identified as inconsistent with the requirements of some courses.
- Clause 27 substitutes section 9C of the Principal Act to enable the State Training Board to suspend any provision of Part 7 of the Principal Act for any students undergoing practical placement. Currently, the Board may only suspend conditions of employment for disabled students.
- Clause 28 amends section 91B of the Principal Act to enable staff of public TAFE institutions and approved training agents to be appointed as authorised officers for the purposes of the Act.
- Clause 29 makes consequential amendments to evidentiary provisions in section 93 of the Principal Act.

- Clause 30 inserts new section 93AA into the Principal Act to empower the State Training Board to issue certificates to persons who have satisfactorily completed an approved training scheme, where the approved training scheme was entered into prior to the commencement of clause 10.
- Clause 31 makes a statute law revision amendment to section 94 of the Principal Act.
- Clause 32 makes a consequential amendment to section 94A of the Principal Act.
- Clause 33 provides for the review by the State Training Board of decisions of approved training agents.
- Clause 34 makes consequential amendments to the State Training Wage provisions of Schedule 3 to the Principal Act.
- Clause 35 makes statute law revision amendments to the Principal Act.
- Clause 36 contains further savings provisions.

Clause 36(1) provides that a contract of employment or training agreement in force prior to the commencement of clause 10 will be deemed to be made under the new Part 5 of the Principal Act.

Clause 36(2) continues the approval of an employer who had the permission of the State Training Board to employ an apprentice before the commencement of clause 10.

Clause 36(3) deems TAFE colleges, universities and the Council of Adult Education to be registered under section 81 of the Principal Act until 30 June 1999.

Clause 36(4) provides for members of the Vocational Education and Training Accreditation Board and Industry Training Accreditation Boards to go out of office when those boards are abolished.

PART 3—AMENDMENTS TO THE ADULT, COMMUNITY AND FURTHER EDUCATION ACT 1991

- Clause 37 defines the **Adult, Community and Further Education Act 1991** as the Principal Act for the purposes of Part 3 of the Bill.
- Clause 38 amends section 12 of the Principal Act to permit adult, community and further education plans to be made at less than three yearly intervals. Unless they are remade, plans must be reviewed at regular intervals not exceeding three years.
- Clause 39 makes consequential amendments to section 13A of the Principal Act.
- Clause 40 provides for the establishment of further education recognition boards.
- Clause 41 amends section 13D of the Principal Act to enable the Adult, Community and Further Education Board to register community providers of further education to issue recognised qualifications. The clause also amends the criteria to which the Board may have regard in the registration process.
- Clause 42 repeals section 13E of the Principal Act.
- Clause 43 amends section 19 of the Principal Act in relation to the membership of the Adult, Community and Further Education Board.
- Clause 44 substitutes section 27(k) of the Principal Act to empower the Adult, Community and Further Education Board to delegate powers or functions to a further education recognition board or a training recognition board established under the **Vocational Education and Training Act 1990**.
- Clause 45 inserts a new section 27A into the Principal Act to enable the Adult, Community and Further Education Board to delegate certain powers and functions in relation to accreditation and provider recognition to approved training agents and to review decisions made by those training agents.
- Clause 46 amends section 35 of the Principal Act in relation to the functions of Regional Councils of Adult, Community and Further Education.

- Clause 47 amends section 37 of the Principal Act in relation to the accountability of Regional Councils.
- Clause 48 amends section 38 of the Principal Act to provide for the Minister to appoint the chairpersons of Regional Councils and to delete the requirement for half the members appointed by the Minister to Regional Councils to be persons with current experience in the provision of adult, community and further education.
- Clause 49 inserts new section 52 into the Principal Act to provide for members of Adult, Community and Further Education Board in office prior to the commencement of the **Vocational Education and Training (Training Framework) Act 1997** to remain in office until the expiration of their terms of office.

PART 3—AMENDMENTS TO OTHER ACTS

Division 1—Accident Compensation Act 1985

- Clause 50 amends definitions in section 5(1) of the **Accident Compensation Act 1985**. The amendments made by clauses 50(a) and (c) are consequential on amendments made to the Principal Act by clause 10. The effect of clause 50(c) is to exempt from the WorkCover levy remuneration paid to apprentices who are within classes, or are engaged under training agreements within classes, declared by the Minister for Finance. The effect of clause 50(b) is to make remuneration paid to students of TAFE providers undergoing practical placement subject to the WorkCover levy. The amendment made by clause 50(d) is consequential on amendments made to the **Accident Compensation (WorkCover Insurance) Act 1993** by clause 51.

Division 2—Accident Compensation (WorkCover Insurance) Act 1993

- Clause 51 amends sections 4 and 7(4A) respectively of the **Accident Compensation (WorkCover Insurance) Act 1993**. The effect of these amendments is to extend WorkCover arrangements that apply to schools work experience and work placement arrangements to practical placements by TAFE providers. Under this arrangement, the host employer of a student on practical placement will be deemed to have a policy of Work

Cover insurance with the insurer of the Department of Education.

Division 3—Pay-roll Tax Act 1971

Clause 52 amends the definition of "remuneration" in section 10(1) of the **Pay-roll Tax Act 1971**. The effect of the amendment is to exempt from Pay-roll Tax remuneration paid to apprentices who are within classes, or are engaged under training agreements within classes declared by the Minister for Finance.

Division 4—Tertiary Education Act 1993

Clauses 53 makes a consequential amendment to the definition of "higher education award" in section 9 of the **Tertiary Education Act 1993**.

Clauses 54 makes statute law revision amendments to sections 10 and 22 of the **Tertiary Education Act 1993**.

PART 5—CONSEQUENTIAL AMENDMENTS

Clause 55 makes the consequential amendments to the **Building Act 1993**, the **Dental Technicians Act 1972**, the **Education Act 1958**, and the **Transport Accident Act 1986** set out in Schedule 1.

