

2014

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TRAINING AND TERTIARY EDUCATION AMENDMENT BILL 2014

EXPLANATORY STATEMENT

Presented by
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Training and Tertiary Education Amendment Bill 2014

Introduction

This explanatory statement relates to the *Training and Tertiary Education Amendment Bill 2014* (the Bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Statement is to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill.

Overview

The Bill will amend the *Training and Tertiary Education Act 2003* (the TaTE Act) and make consequential amendments to a wide range of other legislation with provisions related to vocational education and training (VET) and higher education in the ACT.

The purpose of the Bill is to:

- a) align ACT legislation with relevant changes to Commonwealth legislation
- b) repeal the establishment of the ACT Accreditation and Registration Council (the Council) and its functions and powers
- c) assign to the director-general, of the administrative unit responsible for VET:
 - i) functions relating to the oversight of VET in the ACT
 - ii) the power to determine probationary periods for apprenticeships and traineeships
 - iii) powers relating to visits to premises where a registered training organisation (RTO) is conducting, or proposing to conduct, training or assessment as part of a VET course.

For over a decade the ACT VET and higher education sectors have undergone a succession of reforms. These reforms are linked to reforms at the national level. ACT VET and higher education legislation has undergone two major revisions in this period to complement reforms agreed at the national level.

For example, in 2003 the *Vocational Education and Training Act 2003* (repealed) was amended and the *Tertiary Accreditation and Registration Act 2003* (repealed) was enacted to bring ACT regulatory arrangements for VET and higher education into line with the requirements of the nationally agreed Australian Qualifications Framework (the AQF), the *AQF Standards for Registered Training Organisations*, and the *National Protocols for Higher Education Approval Processes*.

In 2007, the *Training and Tertiary Education Legislation Amendment Act 2007* (repealed) also enacted amendments related to additional agreed reforms to the VET and higher education systems at the national level. The repealed *Training and Tertiary Education Legislation Amendment Act 2007* also enacted the TaTE Act. An outline of the history of these amendments is provided at Appendix 2).

This Bill will align the TaTE Act with further reforms—including changes to Commonwealth legislation—to the VET and higher education sectors agreed at the national level.

For example, on 1 July 2011, section 155 of the *National Vocational Education and Training Regulator Act 2011* (Cwlth) established the National VET Regulator, which is known as the Australian Skills Quality Authority (ASQA). Since that date, ASQA has been the national regulator responsible for RTOs in all States and Territories, with the exception of Western Australia and Victoria

ASQA's powers effectively override the powers and functions of the Council in relation to the registration of RTOs in the ACT and the accreditation and mutual recognition of State/Territory-based VET courses.

This Bill will remove from the TaTE Act reference to the Council and provisions relating to registration of RTOs and accreditation of VET courses. The Bill will also amend related references in other ACT legislation.

The effect of these amendments will be that the ACT's legislation will better reflect the ACT's position within the national VET system.

The ACT's participation in the national VET system has benefits for employers, workers and students. For example, a nationally recognised VET qualification—delivered by a nationally recognised RTO—gives employers, workers and students confidence that the qualification holder has attained skills of a consistent quality, accepted and recognised everywhere in Australia, not just the state or territory in which the training was conducted. This has the added benefit of facilitating the mobility of the workforce and consistency of occupational requirements (for example licensing requirements) between jurisdictions.

The Bill also repeals redundant provisions in the TaTE Act relating to higher education. On 30 January 2012, the Tertiary Education Quality and Standards Agency (TEQSA) assumed national regulatory responsibility for regulation of higher education providers, including universities, and accreditation of their courses. TEQSA is established by the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth).

TEQSA's powers effectively replace or duplicate provisions in the TaTE Act relating to the establishment, recognition and approval of universities, and the registration and accreditation of non-university higher education providers.

With the changes to Commonwealth legislation, it is no longer necessary for the ACT to maintain a legislative framework for higher education providers, including universities. The clauses in the Bill repealing the chapters and other provisions in the TaTE Act relating to higher education providers accord with the broader ACT Government objective of reducing red tape and duplication in the higher education sector.

Other clauses in this Bill are intended to provide greater clarity around the functions of the director-general of the administrative unit responsible for the oversight of vocational education and training in the ACT. Currently, this is the Director-General of the ACT Education and Training Directorate (the Directorate).

These amendments to the functions and powers of the director-general are intended to facilitate the implementation of nationally agreed Australian Apprenticeship

harmonisation principles, designed to simplify and streamline the Australian Apprenticeships system. The amendments are also intended to facilitate the Directorate's implementation of ongoing reforms to quality, efficiency, transparency, equity and access in the ACT VET sector, in line with similar reforms at the national level.

These provisions in the Bill accord with the broader ACT Government objective of promoting the role of quality VET in providing a skilled workforce that meets the current and future needs of the ACT economy.

Human Rights Considerations

No provisions in this Bill engage rights under the *Human Rights Act 2004*.

Climate Change Vulnerability Assessment

The measures contained in the Bill have negligible climate change effects.

Training and Tertiary Education Amendment Bill 2014

Detail

Preliminary

Clause 1 Name of Act

This clause is a formal provision that sets out the name of the proposed legislation.

Clause 2 Commencement

This clause explains that the Bill will take effect on the 14th day after its notification.

Clause 3 Legislation amended

This clause lists the main Act amended by the Bill. It also refers the reader to other legislation amended and repealed by the Bill.

Clause 4 Long title

This clause changes the long title from ‘An Act about tertiary accreditation and registration, and for other purposes’ to ‘An Act about vocational education and training, and for other purposes’.

The tertiary accreditation and registration functions in the *Training and Tertiary Education Act 2003* (the current TaTE Act) will be repealed by the Bill. (Note that in the national education and training system, the term ‘tertiary’ encompasses both vocational education and training and higher education).

Registration of vocational education and training organisations (known as registered training organisations) and higher education providers, and accreditation of their courses, is now the function of national regulatory bodies. Therefore, it is no longer necessary for the ACT to maintain a regulatory framework for registered training organisations or higher education providers.

The new long title reflects the substance of the provisions preserved, revised and added by the Bill.

Clause 5 Preliminary Chapter 1

This clause renumbers the amended Chapter 1 as Part 1.

The Bill repeals a substantial amount of the current TaTE Act. As a result the amended TaTE Act will be much shorter and chapters will not be needed. The Bill provides the opportunity to renumber the remaining provisions and change the chapters to parts.

A summary designed to help the reader grasp the structure of the Act as amended by the Bill is provided at Appendix 1.

Clause 6 Section 3

This clause replaces the purpose section in the current TaTE Act with an objects section.

The new objects section is an important distinction between this Bill and the current TaTE Act. The purpose stated in the current TaTE Act is “to establish an accreditation

and registration framework for vocational education and training and higher education, in particular by applying nationally agreed protocols and standards.”

Commonwealth legislation now overrides the accreditation and registration powers in the current TaTE Act. National regulatory bodies now apply nationally agreed protocols and standards.

The new objects section reflects the intention and scope of the provisions preserved, revised and added by the Bill.

The provisions that will be preserved by the Bill are those provisions that were originally relocated from the repealed *Vocational Education and Training Act 2003* to the current TaTE Act in 2007. That is, Chapter 3A—Work-related training and training contracts—of the current TaTE Act was inserted by the *Training and Tertiary Education Legislation Amendment Act 2007* (the Amendment Act 2007). A flow chart to assist the reader to understand the history of amendments to ACT training and tertiary education legislation is provided at Appendix 2.

The explanatory statement for the Amendment Act 2007 states that clause 12 “inserts those provisions of the repealed *Vocational Education and Training Act 2003*, relating to governance and administration, required to retain the ACT Government’s authority to enforce good conduct and good practice by employers of apprentices and trainees and resolve disputes related to training.”

The provisions in Chapter 3A of the current TaTE Act relate to the regulation of apprenticeships and traineeships. The powers of the director-general in relation to the governance and administration of the Australian Apprenticeships system in the ACT will be retained and strengthened by the Bill.

The provisions that have been revised and added by the Bill support the existing powers of the director-general. New provisions also clarify the director-general’s functions in relation to the ACT vocational education and training system, including the ACT Australian Apprenticeships system.

New object (a) is a variation of an original object from the *Vocational Education and Training Act 2003* (repealed), which was “to regulate vocational education and training”. New object (a) is to “regulate apprenticeships and traineeships”, which is consistent with the regulatory provisions preserved by the Bill.

New objects (b) and (c) reproduce two of the original objects from the *Vocational Education and Training Act 2003* (repealed). New objects (b) and (c) reflect the intentions of the provisions for the regulation of apprenticeships and traineeships and the director-general’s functions in relation to vocational education and training in general.

Clause 7 Dictionary
Section 4, note 1

This clause is a technical amendment to assist readers of the legislation to understand the use of signpost definitions.

The Bill amends a number of terms in the dictionary by inserting references to terms defined in Commonwealth legislation. The purpose of these amendments is to achieve consistency with terms used in the national vocational education and training and higher education systems, reducing complexity and assisting interpretation.

Repeal of the ACT Accreditation and Registration Council

Clause 8 Chapters 2 and 3

This clause substitutes Chapters 2 and 3 with a new Part 2 titled “Vocational education and training”.

Chapter 2 provided for the establishment and functions of the ACT Accreditation and Registration Council (the Council). Chapter 2 also provided the Council’s powers to conduct compliance audits of training organisations and higher education providers.

Chapter 3 provided for the Council’s powers to register training organisations conducting vocational education and training and assessments for qualifications and statements of attainment. Chapter 3 also provided for the Council’s powers to accredit vocational education and training courses (VET courses).

This clause repeals the establishment of the Council and its functions and powers under Chapters 2 and 3. Accreditation and registration were the major functions of the Council under the current TaTE Act. Since January 2012, all the Council’s accreditation and registration functions have been taken over by national regulatory bodies. As a result, the Council chairperson made the decision—under section 19 (1) of the current Act—that the Council would no longer meet. Section 19 (1) of the current Act provides that “the council meets at the times and places the council chairperson decides.”

In addition to registration and accreditation, the Council has minor functions under the current Act to inquire into, and advise the Minister on, issues about vocational education and training and higher education, and to facilitate recognition and quality assurance in the provision of vocational education and training.

New subsections 7 (a) and (b) give similar functions to the director-general of the administrative unit responsible for vocational education and training in the ACT, currently the ACT Education and Training Directorate (the Directorate).

New subsections 7 (c) and (d) provide the director-general with additional functions relating to policy-making for vocational education and training and streamlining of the Australian Apprenticeships system in the ACT.

The provisions relating to the Council’s functions under Chapters 2 and 3 of the current TaTE Act were originally relocated from the repealed *Tertiary Accreditation and Registration Act 2003* and *Vocational Education and Training Act 2003* to the *Training and Tertiary Education Act 2003* in 2007 (see Appendix 2).

Chapter 2 of the *Tertiary Accreditation and Registration Act 2003* (repealed) provided that “the functions of the council are to advise the Minister on any aspect of tertiary education and training, on the request of the Minister, and to inquire into and advise on any aspect of vocational education and training or higher education.”

Section 17—Council staff—of the *Tertiary Accreditation and Registration Act 2003* (repealed) provided that “the council may make arrangements with the chief executive to use public servants in the administrative unit under the chief executive’s control.” Section 17 was inserted into the current TaTE Act by the Amendment Act 2007.

In addition, section 8—Functions of the authority—of the *Vocational Education and Training Act 2003* (repealed) provided that a function of the Vocational Education and Training Authority (the Authority) was “in association with the accreditation and registration council, to facilitate recognition and quality assurance in the provision of vocational education and training”.

Section 17—Authority staff—of the *Vocational Education and Training Act 2003* (repealed) provided that “the authority may make arrangements with the chief executive to use public servants in the administrative unit under the chief executive’s control.”

Since its establishment in 1995, the Council has been supported in the exercise of its legislative functions by the Directorate.

In the absence of Council meetings, the Directorate has continued its role in the provision of advice about vocational education and training to the ACT Minister for Education and Training.

This clause repeals the function to inquire into, and advise the Minister on, issues about higher education. In 2012 the ACT Government established a ministerial portfolio for higher education. *Administrative Arrangements 2014 (No 1)* transferred the responsibility for the provision of advice about higher education from the Directorate to the Chief Minister, Treasury and Economic Development Directorate.

New section 7 clarifies the role of the director-general in overseeing vocational education and training in the ACT. With the repeal of the Council it is necessary and appropriate to give functions previously assigned to the Council in relation to vocational education and training—and undertaken by the Directorate on the Council’s behalf—to the director-general.

It is also necessary and appropriate to provide the director-general with additional functions in light of the substantial changes to the landscape of vocational education and training since the Council was established in 1995. The additional functions in new section 7 accord with the broader ACT Government objective of implementing reforms in the ACT vocational education and training system.

Under new subsection 7 (c) the director-general has the function of ensuring a strong policy framework for the delivery of vocational education and training in the ACT. This amendment will support the implementation of agreed reforms intended to increase quality, efficiency, transparency, equity and access in the ACT vocational education and training sector.

New subsection 7 (d) provides the director-general with a function to establish a simple, streamlined system for apprenticeships and traineeships. This will support the implementation of nationally agreed Australian Apprenticeship harmonisation principles.

The principles of harmonisation are intended to support the changing needs of Australian Apprentices, employers and industry through the provision of nationally consistent arrangements, supporting system efficiency and mobility.

The intended effect of new subsection 7 (d) is the implementation of harmonisation principles via the revision and development of policies and procedures, where appropriate and effective, and via legislative instrument where necessary.

For example, Clause 10 will provide the director-general with the power to implement a harmonisation principle via a legislative instrument.

Regulation of apprenticeships and traineeships

Clause 9 Work-related training and training contracts Chapter 3A

This clause renumbers Chapter 3A, as amended by this Bill, as Part 3.

Clause 10 New section 55AA

This clause provides the director-general with the power to determine a period of probation under an apprenticeship or traineeship contract (a probationary period).

The purpose of this clause is to implement an aspect of the agreed national harmonisation principle of achieving consistent rules for Australian Apprenticeship training contracts across multiple jurisdictions.

The nationally agreed training contract form states:

“We understand that the Contract can only be terminated within the period of the probation and/or, in accordance with the requirements of the relevant State/Territory legislation, and that the probation periods are determined by the State/Territory Training Authority or relevant industrial award/agreement for this qualification and vocation.”

In the ACT, the Territory Training Authority is the ACT Education and Training Directorate. Currently there is no legislative probationary period for apprenticeships and traineeships in the ACT.

Under new section 55AA it is intended that a probationary period determined for a particular class of training contract (for example, a traineeship training contract) will apply generally to all training contracts of that class.

This clause relates to clause 12, which inserts a provision which allows the employer or apprentice or trainee to end the training contract before the end of the probationary period.

After the probationary period has ended, the training contract may only be cancelled by the director-general (see section 55H—Director-general may suspend, cancel or amend contract—of the current TaTE Act).

New sections 55AA will enable the director-general to determine probationary periods that align with nationally agreed training contract probationary periods, ensuring compliance requirements are streamlined and nationally consistent, while maintaining appropriate protection for parties to the contract.

Arguably, the Legislature intended the director-general to be able to designate a probationary period in a training contract, as part of the approval process and as an action “required to retain the ACT Government’s authority to enforce good conduct and good practice by employers of apprentices and trainees and resolve disputes related to training” (see the explanatory statement for the Amendment Act 2007).

Alternatively, a probationary period could be implemented via an administrative procedure or a policy. For example, section 55B (3) of the current TaTE Act provides that “the director-general may approve a training contract subject to conditions.” However, the administrative process of imposing a probationary period as a condition of each individual contract would be burdensome and create delays in the approval

process. The Directorate approves approximately 4,500 training contracts per year. This approach would not accord with the broader ACT Government objective of reducing red tape and streamlining government services. Implementing a policy which specifies the probationary periods to apply in differing circumstances is also inadvisable given any such policy would lack legislative or contractual force.

Providing a legislative power that applies generally to each class of training contract is an efficient approach to implementing probationary periods for training contracts.

In addition, determining a probationary period via a notifiable instrument has benefits over inserting specific probationary periods in the amended Act. This approach provides the ACT with greater flexibility to amend probationary periods if national agreements, and the needs of ACT Australian Apprentices, employers and industry, change.

**Clause 11 Training contracts for qualification or statement of attainment
Section 55D (2)**

This clause omits reference to the Council’s power under section 55D (2) to decide “that training contracts cannot be entered into for the particular qualification or statement of attainment”.

Revised section 55D (2) will limit this power to the director-general alone. This clause is related to clause 8, which repeals the establishment of the Council and its functions.

Clause 12 New section 55FA

This clause inserts the new section 55FA, which provides for the ending of the training contract during the probationary period. This clause is related to clause 10, which provides for the determination of a probationary period.

The effect of this clause is that the employer or apprentice or trainee may end the contract before the end of the probationary period without the need for mutual consent or formal application to the director-general. In practice, the employer or apprentice or trainee can inform the Directorate of their decision to cancel the contract via a simple online procedure.

After the probationary period has ended only the director-general may cancel the training contract. In practice, the director-general will seek the mutual consent of both parties before cancelling the contract.

In the current TaTE Act only the director-general has the power to cancel a training contract (see section 55H—Director-general may suspend, cancel or amend contract).

New section 55FA is intended to align ACT legislation with the intent of the clause regarding termination of the contract in the nationally agreed training contract form.

New section 55FA will contribute to the achievement of consistent rules for training contract probationary periods across multiple jurisdictions, as well as simplifying administrative processes. This amendment is intended to better meet the needs of ACT Australian Apprentices and employers

**Clause 13 Director-general may suspend, cancel or amend contract
Section 55H (b)**

This clause replaces the words “the trainee” with the words “the apprentice or trainee”.

The current TaTE Act sometimes refers to “the trainee” (e.g. section 55H) and sometimes “trainee or apprentice” (e.g. section 55E). The nationally agreed training contract form uses the term “apprentice/trainee”. The agreed Australian Apprenticeships national harmonisation principles refer to “apprentices and trainees”.

The purpose of this clause is to achieve consistent use of the term ‘trainee and apprentice’ throughout the TaTE Act.

It is also intended that aligning the TaTE Act with the terminology of the nationally agreed training contract and the national harmonisation principles will assist users to understand and use the legislation.

Clause 14 Section 55I heading

This clause replaces the heading “Dispute between employer and trainee” with the heading “Dispute between employer and apprentice or trainee”.

The purpose and intention of this clause is the same as for clause 13.

Clause 15 Section 55I (4)

This clause omits section 55I (4), which states “In attempting to resolve the dispute, the director-general must take into account any views of the council on an issue in dispute.”

This clause is related to clause 8, which repeals the establishment of the Council and its functions. It is also consistent with a simple, streamlined approach to resolving disputes between employers and apprentices or trainees.

Repeal of higher education provisions

Clause 16 Chapters 4 and 5

This clause repeals Chapter 4 Higher education—non-universities and Chapter 5 Higher education—universities.

Chapter 4 applied to the provision, by providers other than universities, of higher education courses leading to higher education awards. Chapter 4 provides for the registration of non-university higher education providers and accreditation of higher education courses by the council. This clause is related to clause 8, which repeals the Council’s higher education registration and accreditation functions.

The provisions in Chapter 4 are now redundant following the establishment of the Tertiary Education Quality and Standards Agency (TEQSA). Under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth; the TEQSA Act) TEQSA has assumed national regulatory responsibility for higher education providers. TEQSA has also assumed responsibility for maintaining a national register of higher education providers and accredited courses.

The provisions in Chapter 5 are also redundant. It no longer necessary for the ACT to maintain a regulatory framework for universities as all universities operating, or seeking to operate, in the ACT are regulated by TEQSA.

The TEQSA Act requires TEQSA to consult with the relevant state or territory minister responsible for higher education during an assessment of any application for registration in a higher education provider category that permits the use of the word ‘university’. TEQSA must consult “and have regard to any advice or recommendations given by each of those ministers” during the application assessment process.

Applicants seeking registration as an ‘Australian University’ provider must have the support of the relevant Commonwealth, state or territory government (see *Higher Education Standards Framework (Threshold Standards) 2011* (Cwlth), Chapter 2, Section 2—“Australian University” Category).

Overseas universities seeking registration in the provider category of ‘Overseas University’ must meet criteria equivalent to those for the Australian University Category. TEQSA requires information about the applicant’s engagement with relevant government departments in relation to the proposed site, or sites, for its proposed Australian operations. The applicant must also address any matters of significant risk that the applicant has identified in relation to meeting the criteria, and associated mitigation strategies. Signed and dated statements of support for the application from relevant Commonwealth and state or territory government ministers with responsibility for higher education must be provided, along with evidence of contractual, financial or other arrangements with government bodies or other stakeholders.

Visits to premises

Clause 17 General Chapter 6 heading

This is a technical clause, which omits the Chapter 6 heading “General”. This clause is related to the change of the chapters to parts.

The Bill will divide Chapter 6 of the current TaTE Act into Parts 4, 5 and 6. See clauses 18, 29 and 32.

Clause 18 Visits to premises Part 6.1

This clause rennumbers Part 6.1, as amended by this Bill, as Part 4.

Clause 19 Section 99 heading

This clause replaces the heading “Visits by council—RTO premises” with “Visits by director-general—RTO premises”.

This clause is related to clause 8, which repeals the establishment of the Council and its functions and powers.

This clause is also related to clause 20 which assigns powers to the director-general relating to visiting premises where a registered training organisation (RTO) is conducting, or proposing to conduct, vocational education and training courses (VET courses).

Clause 20 Section 99 (1)

This clause replaces the reference to the “council” with “director-general”. It also omits the references to “a council member” and “a staff member of the council”. It also adds a note referring the reader to the definition of “RTO” in the dictionary.

This clause assigns the power to the director-general to give an RTO written notice that a person authorised by the director-general proposes to visit premises where the RTO is conducting, or proposing to conduct, training or assessment as part of a VET course. It is intended that the director-general may give authority under this section to Directorate staff or other suitably qualified or experienced persons.

This clause is related to clause 8 which reassigns the Council’s function “to facilitate recognition and quality assurance in the provision of vocational education and training” to the director-general.

This clause is also consistent with object (b) inserted by clause 6, “support quality assurance and best management practices for vocational education and training”.

This clause is also related to section 55B—Approval of training contract—in the current TaTE Act, which provides that the director-general must not approve a training contract unless satisfied that certain conditions can be met. For example, the director-general must be satisfied that “the facilities, equipment and methods proposed to be used for the training are suitable”.

This clause provides powers to the director-general that are similar and related to the director-general’s power under section 99A of the current TaTE Act.

The Bill will preserve section 99A which provides “The director-general may give an employer written notice that a person authorised by the director-general proposes to visit premises where the employer is providing, or proposes to provide, training under a training contract.”

An effect of this clause, together with section 99A, is that the director-general may authorise a person to visit the premises where either an RTO or an employer are conducting or providing training. In practice, it is becoming increasingly common for an RTO to conduct training and/or assessment at the employee’s workplace, in addition to formal classroom training.

For the director-general to be satisfied, for example, that “the facilities, equipment and methods proposed to be used for the training are suitable” it may be necessary for persons authorised by the director-general to observe the operations of the RTO conducting the training. Examples include circumstances where the Directorate has received a complaint or has been made aware of concerns about the RTO’s training operations.

It is the further intention of this amendment that the director-general can authorise a person to visit the premises where an RTO is conducting, or proposing to conduct, any government-subsidised VET course. This power is essential to enable the director-general to exercise the function of facilitating quality assurance in the provision of vocational education and training in the ACT.

This amendment accords with the ACT Government’s broader objective to deliver a higher quality vocational education and training sector in the ACT. Effective monitoring of an RTO’s compliance with the Directorate’s quality standards for access to public subsidy funding for the delivery of VET courses may, at times, require Directorate staff to observe the operations of the RTO on the training premises and gather relevant information and documents.

Legislation should have sufficient regard for the rights and liberties of individuals where the legislation confers the power to enter premises and obtain information or documents.

The powers provided under this clause can be justified on the basis that they will be appropriately confined. Firstly, unless in exceptional circumstances (such as danger of injury to anyone’s health or safety), the RTO will be given at least seven days notice of the proposed visit. Secondly, the day and time of the proposed visit must be a day and time when the RTO normally conducts business on the premises. Thirdly, under

section 102 of the current TaTE Act, a person who has entered RTO premises under this power must not remain on the premises if, on request by the occupier, the person, or someone accompanying that person, does not produce the identity card proving he or she is acting under the authority of the director-general.

The addition of the note about the definition of RTO is a technical amendment related clause 8. Clause 8 will omit all references to RTOs in provisions prior to section 99 in the current TaTE Act. The note alerts the reader to the location of the definition of term ‘RTO’.

Clause 21 Section 99 (4)

This clause is consequential on the amendments under clause 20. This clause omits the terms “member, staff member or” because they refer to Council members and staff members of the Council. As clause 20 omits reference to the Council, it is only necessary to retain the term “authorised person” in section 99 (4).

Clause 22 Section 99 (5)

This clause is consequential on the amendments under clause 20. This clause aligns the wording of subsection 99 (5) with the amendments to subsection 99 (1) under clause 20 and subsection 99 (4) under clause 21.

Clause 23 New section 99 (6)

This clause inserts a new section defining the term *VET course*.

New section 99 (6) provides a signpost definition referencing the term defined in Commonwealth legislation i.e. the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3—Dictionary.

Commonwealth legislation governing the definition of a VET course—for the purposes of registration of training organisations—effectively overrides the definitions in the current TaTE Act.

The Commonwealth Act states:

“*VET course means:*

- (a) *the units of competency of a training package that is endorsed by the Ministerial Council; or*
- (b) *the modules of a VET accredited course; or*
- (c) *the modules of a course accredited by a VET Regulator of a non-referring State.”*

The Commonwealth Act also defines the terms *units of competency, Ministerial Council, modules, VET accredited course, VET Regulator, and non-referring State*.

This clause intends to enhance consistency and accurate interpretation of the meaning of the term *VET course*.

Clause 24 Visits by council—higher education provider premises Section 100

This clause omits section 100 Visits by council—higher education provider premises. This amendment is related to clauses 8 and 16, which repeal the Council’s functions and powers in relation to higher education providers.

**Clause 25 Identity cards
Section 101 (1) and (2)**

This clause omits reference to the “relevant authority” and substitutes “director-general”. This amendment aligns sections 101 (1) and (2) with the amendments under clauses 19 and 20.

Clause 26 Section 101 (4)

This clause omits the definition of “relevant authority”, made redundant by the amendments under clause 25.

**Clause 27 Obstructing visits-council
Section 103**

This clause omits section 103, which deals with obstructions to visits by the Council. Section 103 is made redundant by the amendments under clauses 8, 16, 19- 22, and 24.

Clause 28 Section 103A

This clause amends section 103A Obstructing visits—director-general.

This clause effectively combines the provisions in section 103 relating to RTOs and the provisions in 103A relating to employers and applies both sets of provisions to the director-general.

This clause is related to clause 20, which provides the director-general with powers relating to visiting RTO premises.

The purpose of the amendments is to reduce duplication of provisions applying to the director-general.

This clause does not transfer the powers under subsection 103 (2) of the current TaTE Act to “suspend or cancel the registration of the RTO or registered higher education provider” as these powers have already been made redundant by Commonwealth legislation.

Instead, this clause extends the application of the existing power—under subsection 103A (2) of the current TaTE Act—to “suspend or cancel the approval of, or amend, an approved training contract” to the RTO specified in the training contract. In most cases, the extended application of the power in this subsection would be used to amend the training contract to specify a different RTO to deliver work-related training, rather than to cancel the contract. It is further intended that, except in exceptional circumstance (e.g. danger of injury to anyone’s health or safety), the director-general would seek the agreement of the parties to the contract (i.e. the employer and apprentice or trainee) before making any decision to change the RTO specified in the training contract.

Notification and review of decisions

**Clause 29 Notification and review of decisions
Part 6.2**

This clause renumbers Part 6.2, as amended by this Bill, as Part 5.

Clause 30 Reviewable decision notices
Section 105

This clause omits reference to the “council” and “Minister” and substitutes “director-general”.

The Bill repeals all the provisions in the current TaTE Act under which the Council may make a reviewable decision. For example, the provision for Council decisions about registration as a RTO will be repealed by clause 8.

The Bill repeals all the provisions in the current TaTE Act under which the Minister may make a reviewable decision. For example, the provision for ministerial decisions about declaring that a university is established or recognised has been repealed by clause 16.

The director-general is the decision-maker for all the reviewable decisions preserved by the Bill.

This clause corrects an apparent error in this section of the current TaTE Act by adding reference to the reviewable decisions that may be made by the director-general.

Section 67A—Reviewable decision notice— of the *ACT Civil and Administrative Tribunal Act 2008* states “A person who makes a reviewable decision must take reasonable steps to give written notice (a **reviewable decision notice**) of the decision to any person whose interests are affected by the decision.”

Arguably, the Legislature intended the director-general to give written notice of reviewable decisions. Firstly, the reviewable decisions listed in Schedule 1 that will be retained by the Bill are those provisions that were originally relocated from the *Vocational Education and Training Act 2003* (repealed) to the current TaTE Act by the Amendment Act 2007. Secondly, the explanatory statement for the Amendment Act 2007 states clause 30 “amended Schedule 1 to include the reviewable decisions that will be retained from the repealed *Vocational Education and Training Act 2003*”.

Thirdly, section 40—Notice of reviewable decisions—of the *Vocational Education and Training Act 2003* (repealed) states “If the authority makes a reviewable decision, the authority must give written notice of the decision to each person mentioned in schedule 1, column 4 in relation to the decision.”

Finally, the Amendment Act 2007, clause 12 states “All references to the Vocational Education and Training Authority have been replaced by references to the chief executive.”

Clause 31 Time for lodging ACAT review applications for s 55 and s 80
decisions-ACAT Act, s 11
Section 107

This clause is a consequential amendment. Section 107 will be made redundant by the amendments under clauses 8 and 16.

Clause 8 repeals section 55—Disagreement with decision of council under s 33 or s 48—of the current TaTE Act.

Clause 16 repeals section 80—Disagreement with decision of council under s 60 or s 73—of the current TaTE Act.

Other provisions

Clause 32 Other provisions Part 6.3

This clause renumbers Part 6.3, as amended by this Bill, as Part 6.

Clause 33 CRICOS approval Section 108 (2), definition of CRICOS

This clause is a consequential amendment.

When the *Education Services for Overseas Students Act 2000* (Cwlth) was amended in August 2012, section 10— which deals with the definition of the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)—was renumbered as section 14A.

Clause 34 Section 112

This clause is consequential on the amendments in clauses 8 and 16. Clause 34 revises section 112 to omit reference to the Council and retain only reference to the director-general.

Clause 35 Regulation-making power Section 113 (2)

This clause is a consequential amendment. Subsection 113 (2) is made redundant by Commonwealth legislation.

Subsection 113 (2) states “The regulations may provide for the registration of details in the national register or the ACT register of higher education providers not otherwise expressly provided for in this Act.”

Under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), the Australian Government department with responsibility for vocational education and training maintains the registration details of training organisations on the National Register of VET in Australia (the National Register), also known as training.gov.au.

Under section 198 of the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth), the Tertiary Education Quality and Standards Agency (TEQSA) is responsible for publishing the registration details of higher education providers, including those operating in the ACT. The register maintained by TEQSA is known as the National Register of Higher Education Providers.

Clause 36 Schedule 1

This clause substitutes an amended Schedule 1.

Redundant reviewable decisions related to provisions that will be repealed by the Bill have been omitted from Schedule 1. Only reviewable decisions that may be made under preserved provisions have been retained.

Dictionary

Clauses 38 to 57 make consequential and technical amendments to the dictionary.

For example, the Bill repeals a substantial number of provisions. The definitions of many terms will be made redundant by the repealing of the provisions that refer to them.

The Bill also revises some terms to align the terminology used in the Act with the nationally accepted terminology of the Australian Apprenticeship system.

Other definitions have been updated to align the Act with definitions in the relevant Commonwealth legislation, which overrides the definitions in ACT legislation.

Clause 37 Dictionary, note 2

This clause omits redundant terms in note 2. Note 2 lists examples of terms, relevant to the current TaTE Act, that are defined in the dictionary of the *Legislation Act 2001*.

Clause 38 Dictionary, note 2

This clause makes a technical amendment to the reference to the term “person” in Note 2.

Clause 39 Dictionary, definitions of *accredited course* and *accreditation*

This clause omits these definitions because they are redundant. The Bill will repeal all provisions in the current TaTE Act related to *accredited courses* and *accreditation*.

Clause 40 Dictionary, new definition of *apprentice or trainee*

This clause is a consequential amendment. The Bill replaces the term “trainee” with “apprentice or trainee” in all relevant provisions. See clauses 13 and 14.

Clause 41 Dictionary

This clause is a consequential amendment. Amendments to the main Act will make these definitions redundant.

Clause 42 Dictionary, new definition of *Commonwealth Act*

This clause provides the meaning of the Commonwealth Act. This clause is consequential on the insertion of a number of new signpost definitions making reference to the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

Clause 43 Dictionary

This clause omits definitions made redundant by the repeal, under the Bill, of the Council and its functions and powers.

Clause 44 Dictionary, definition of *employer*

This clause is consequential on the amendment to the term *trainee* under clause 14.

Clause 45 Dictionary

This clause is a consequential amendment. Amendments to the main Act will make these definitions redundant.

Clause 46 Dictionary, new definition of *probationary period*

This clause is consequential on the amendments under clauses 10 and 11.

Clause 47 Dictionary, definition of *prohibition*

This clause omits a definition made redundant by the Bill.

Clause 48 Dictionary, definition of *qualification*

This clause updates the definition in the current TaTE Act by inserting a signpost definition of ***qualification***, linking it to the *National Vocational Education and Training Regulator Act 2011* (Cwlth) which defines this term in detail in both the dictionary and the main part of the Act.

Under the Commonwealth Act a ***VET qualification*** means a testimonial, relating to a VET course, given to a person confirming that the person has achieved learning outcomes and competencies that satisfy the requirements of a qualification. The Commonwealth Act also defines the term ***VET course*** (see clause 23).

Clause 49 Dictionary, definition of *registered*

This clause omits a definition made redundant by the Bill.

Clause 50 Dictionary, definition of *registered training organisation*

This clause updates the definition in the current TaTE Act by inserting a signpost definition of ***registered training organisation***, linking it to the dictionary of the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

The definition of ***registered training organisation*** in the current TaTE Act is obsolete because it is linked to an obsolete definition of ***registered***. In the current TaTE Act ***registered*** means “for a training organisation—registered under Chapter 3”. Chapter 3—which provides for the registration of training organisations by the Council—will be repealed by the Bill.

Section 3 of the Commonwealth Act provides “***registered training organisation*** means a training organisation listed on the National Register as a registered training organisation.” The National Register is published on training.gov.au.

Clause 51 Dictionary

This clause is a consequential amendment. Amendments to the main Act will make these definitions redundant.

Clause 52 Dictionary, definition of *RTO*

This clause is a technical drafting amendment.

Clause 53 Dictionary

This clause is a consequential amendment. Amendments to the main Act will make these definitions redundant.

Clause 54 Dictionary, definition of *statement of attainment*

This clause updates the definition in the current TaTE Act by inserting a signpost definition of ***statement of attainment***, linking it to the *National Vocational Education and Training Regulator Act 2011* (Cwlth) which defines this term in detail in both the dictionary and the main part of the Act.

Section 3 of the *National Vocational Education and Training Regulator Act 2011* (Cwlth) states:

“***VET statement of attainment***, in relation to units of competency or modules of a VET course, means a statement given to a person confirming that the person has satisfied the requirements of units of competency or modules specified in the statement.”

Clause 55 Dictionary

This clause is a consequential amendment. Amendments to the main Act will make these definitions redundant.

Clause 56 Dictionary, definition of *vocational education and training*

This clause updates the definition of *vocational education and training* to include a reference to the definition of the Australian Qualifications Framework (or AQF) in the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

Clause 57 Dictionary, definition of *vocational education and training course*

This clause omits this definition because it is redundant, having been replaced by *VET course* under clause 23.

Clause 58 Act-renumbering

This is a technical clause.

Clause 59 Legislation repealed

This clause repeals a subordinate law, a disallowable instrument and two notifiable instruments made under the current TaTE Act. These legislative instruments refer to accreditation and registration provisions and definitions in the current TaTE Act, which have been made obsolete by Commonwealth legislation and will be repealed by the Bill (see clauses 8, 16 and 50).

Schedule 1 Consequential amendments

This schedule contains amendments to other legislation that are consequential on the changes made in the main part of this Bill.

The majority of these amendments align definitions in the ACT legislation with Commonwealth legislation. These amendments relate to clauses amending the dictionary in the main Act.

Part 1.1 ACT Teacher Quality Institute Regulation 2010

[1.1] Section 7 (1) (c) (i)

This is amendment to section 7 of the *ACT Teacher Quality Institute Regulation 2010*, which deals with eligible teaching qualifications for full registration as a teacher. It amends subsection 7 (1) (c) (i) to update the terminology used in the list of prescribed teaching qualifications. The current list refers to a course of teacher education “provided by a university or higher education provider”. This amendment substitutes “provided by a registered higher education provider”. Under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth) only a registered higher education provider can provide higher education qualifications. Registered higher education providers include universities.

[1.2] Section 7 (2)

This is amendment will update the signpost definitions of *higher education provider* and *university* in subsection 7 (2), which refers the reader to the definitions in the current TaTE Act.

Firstly, this amendment will update the two terms by replacing both with the single term *registered higher education provider*. Secondly, as the Bill will omit the definition of *higher education provider* in the current TaTE Act, this amendment will

update the signpost definition to refer to the Commonwealth Act, which governs the definition of *registered higher education provider*.

Part 1.2 Agents Regulation 2003

[1.3] Section 3, note 1

This is a technical amendment. It replaces the current example (i.e. *statement of attainment*) of a signpost definition with a new example (i.e. *agent*). This amendment is consequential on the change to the definition of *statement of attainment* under amendment 1.5.

[1.4] Dictionary, definition of *registered training organisation*

This is an amendment to the dictionary definition of *registered training organisation* in the *Agents Regulation 2003*. This subordinate law deals with real estate, stock and station, and business agent licences and the registration of real estate salespersons. Use of the term *registered training organisation* in the provisions of this subordinate law relate to the issuing of recognised qualifications and statements of attainment for the purposes of registration and licencing.

This amendment updates the definition of *registered training organisation*. Currently the *Agents Regulation 2003* refers the reader to the definition in the TaTE Act. This amendment will update the signpost definition to refer to the Commonwealth Act instead.

[1.5] Dictionary, definition of *statement of attainment*

This is an amendment to the dictionary definition of *statement of attainment* in the *Agents Regulation 2003*.

Currently the *Agents Regulation 2003* refers the reader to the definition of *statement of attainment* in the TaTE Act. This amendment will update the signpost definition to refer to the Commonwealth Act instead.

Part 1.3 Building and Construction Industry Training Levy Act 1999

[1.6] Section 28 (4), definition of *registered training organisation*

This is an amendment to section 28 of the *Building and Construction Industry Training Levy Act 1999*, which deals with the approval of the expenditure of fund money for the purpose of approved training to be provided by a registered training organisation.

This amendment updates the definition of *registered training organisation*. Currently subsection 28 (4) of the *Building and Construction Industry Training Levy Act 1999* refers the reader to the definition in the TaTE Act. This amendment will update the signpost definition to refer to the Commonwealth Act instead.

Part 1.4 Children and Young People Act 2008

[1.7] Section 25 (3), definition of *ACT education provider*, paragraphs (c) to (e)

This is an amendment to section 25 of the *Children and Young People Act 2008*, which deals with the definition of ACT education providers the director-general may ask to provide assistance, facilities or services relevant to the physical or emotional wellbeing of a child or young person.

Currently subsection 25 (3) (c) of the *Children and Young People Act 2003* refers the reader to the definition of **registered training organisation** in the TaTE Act. This amendment will update the definition to refer to the Commonwealth Act instead.

Currently, subsection 25 (3) (d) of the *Children and Young People Act 2003* refers the reader to the definition of a higher education provider in the TaTE Act. This amendment will update the term to **registered higher education provider** and refer to the definition in the Commonwealth Act instead.

Subsection 25 (3) (e) of the *Children and Young People Act 2003* currently refers to the following definition of an ACT university:

“an ACT university declared to be established or recognised as a university under the Training and Tertiary Education Act 2003, section 88 (Declaration of ACT university).”

The repeal, by the Bill, of Chapter 5 of the current TaTE Act will make this definition obsolete. The term “university” is also redundant because the term **registered higher education provider** includes universities.

Part 1.5 Construction Occupations (Licensing) Act 2004

[1.8] Section 55A (6), definition of registered training organisation

This is an amendment to section 55A of the *Construction Occupations (Licensing) Act 2004*, which deals with skills assessments for construction occupation licensees.

Currently subsection 55 (6) of the *Construction Occupations (Licensing) Act 2004* refers the reader to the definition of **registered training organisation** in the TaTE Act. This amendment will update the definition to refer to the Commonwealth Act instead.

The definition of **registered training organisation** in the current TaTE Act is obsolete because it is linked to an obsolete definition of **registered**. In the current TaTE Act, **registered** means “for a training organisation—registered under Chapter 3”. Chapter 3—which provides for the registration of training organisations by the Council—will be repealed by the Bill.

Section 3 of the Commonwealth Act provides “**registered training organisation** means a training organisation listed on the National Register as a registered training organisation.” The National Register is published on training.gov.au.

Updating the definition of **registered training organisation** in the *Construction Occupations (Licensing) Act 2004* and the *Construction Occupations (Licensing) Regulation 2004* (see amendment 1.9) will align this legislation with the national vocational education and training (VET) system.

The new definition includes all training organisations registered to conduct training and/or assessment in the ACT. It is also broad enough to enable the recognition of training conducted in a non-referring State, by a training organisation registered only by the VET Regulator of that State. That is, the National Register includes all training organisations registered by the National VET Regulator (i.e. the Australian Skills Quality Authority, or ASQA), the Victorian Registration and Qualifications Authority, and the Western Australian Training Accreditation Council.

Part 1.6 Construction Occupations (Licensing) Regulation 2004

[1.9] Section 14 (6), definition of *registered training organisation*

This is an amendment to section 14 of the *Construction Occupations (Licensing) Regulation 2004*, which deals with skills assessments of individuals in relation to license applications.

Currently subsection 14 (6) of the *Construction Occupations (Licensing) Regulation 2004* refers the reader to the definition of *registered training organisation* in the TaTE Act. This amendment will update the definition to refer to the Commonwealth Act instead.

[1.10] Section 35 (3) (c) (iii) and (v)

This is an amendment to section 35 of the *Construction Occupations (Licensing) Regulation 2004*, which deals with the conditions under which an individual without a licence may provide construction services. Subsection 35 (3) applies conditions relating to training arrangements between the trainee's relevant person and the trainee. Subsection 35 (3) (a) provides that an approved training contract (within the meaning of the TaTE Act) is an example of a training arrangement.

Subsection 35 (3) (c) (iii) applies if the relevant person is the provider of the accredited course that the trainee is undertaking. Subsection 35 (3) (c) (v) requires the trainee's relevant person to provide the registrar with the name of the accredited course that the trainee is undertaking and its unique identifying number.

A signpost definition in subsection 35 (4) refers the reader to the TaTE Act for the definition of an accredited course. The current TaTE Act states:

“accredited course means a course that—

(a) leads to a qualification under the AQF; and

(b) for a vocational education and training course—is registered as an accredited course under chapter 3; and

(c) for a higher education course—is registered as an accredited course under chapter 4.”

The changes to Commonwealth legislation make this definition redundant. In addition, this Bill repeals the accreditation and registration provisions under Chapters 3 and 4 of the current TaTE Act. As a consequence, amendment 1.10 replaces the term *accredited course* with the term *VET course* in subsections 35 (3) (c) (iii) and (v).

Arguably the use of the term *accredited course* in section 35 of the *Construction Occupations (Licensing) Regulation 2004* is intended to refer to vocational education and training courses only, and not higher education courses. The explanatory statement for the *Construction Occupations (Licensing) Bill 2003* states:

“It is an offence under Clause 82 for a person to provide a service (as an employee or otherwise) in a construction occupation ... if they are not licensed ... However, no offence is committed where the person provides the service working under the supervision of a licensee.... This would, for example, apply to a person who is undertaking a traineeship that requires “on the job training” under supervision.

...Regulation 34 lists construction services that can be provided by an individual without a licence if done under the supervision of a licensee... They are building

*services, where most occupations do not require a licence, and activities undertaken under supervision as practical experience in connection with an **accredited course** that the person is undertaking as a **trainee** in construction services where a licence is normally necessary: electrical wiring, gasfitting, plumbing, or sanitary drainage services. **Accredited courses** are defined with reference to the legislation that deals with technical education and trainees may be either “new apprentices” or final year high-school students undertaking work experience under formal arrangements.”*

In practice, section 35 of the *Construction Occupations (Licensing) Regulation 2004* is applied to trainees under an approved training contract and not to higher education students.

[1.11] Section 35 (4), definition of accredited course

This amendment omits the redundant signpost definition of **accredited course**, which refers to the TaTE Act.

[1.12] Section 35 (4), definition of relevant person

Subsection 35 (4) of the *Construction Occupations (Licensing) Regulation 2004* currently states:

“relevant person, of a trainee, means—

(a) the trainee’s employer; or

(b) if the trainee does not have an employer—the provider of the accredited course that the trainee is undertaking.”

This amendment replaces the term **accredited course** with **VET course** in the definition of **relevant person**.

[1.13] Section 35 (4), definition of trainee, paragraph (b)

Subsection 35 (4) (b) of the *Construction Occupations (Licensing) Regulation 2004* currently states:

“trainee, for a service, means an individual who—

(b) is undertaking an accredited course that provides instruction in relation to providing the service.”

This amendment replaces the term **accredited course** with **VET course** in the definition of **trainee**.

[1.14] Section 35 (4), new definition of VET course

This amendment inserts a signpost definition of **VET course** referring the reader to the Commonwealth Act, which governs the accreditation of courses and the scope of VET courses a registered training organisation is approved to deliver in the ACT.

Section 3 of the *National Vocational Education and Training Regulator Act 2011* (Cwlth) states:

“VET course means:

(a) the units of competency of a training package that is endorsed by the Ministerial Council; or

(b) the modules of a VET accredited course; or

(c) the modules of a course accredited by a VET Regulator of a non-referring State.”

A training package is a set of nationally endorsed standards and qualifications for

recognising and assessing people's skills in a specific industry, industry sector or enterprise. They are developed by national Industry Skills Councils and endorsed by the Ministerial Council consisting of Ministers from each jurisdiction responsible for industry and skills.

Training packages are a key feature of Australia's national vocational education and training (VET) system. They are used as the basis for most of the programs delivered in the VET system, including Australian Apprenticeships, training courses offered by TAFEs and private training organisations, VET in schools programs, recognition of existing skills, and occupational licensing.

A **VET accredited course** is a non-training package course that has been accredited by ASQA.

The new definition, **VET course**, is also broad enough to include non-training package courses that have been accredited by the VET Regulator of a non-referring State, such as Victoria or Western Australia. This is an important distinction for an industry such as the construction industry that requires its workers to be up-to-date with new technologies. It is not always appropriate to delay updating skills and licencing requirements while waiting for the development and endorsement of training packages updated to include units of competency in working with new technologies.

Part 1.7 Crimes (Child Sex Offenders) Act 2005

[1.15] Section 124 (1) (s)

This is an amendment to subsection 124 (1) (s) of the *Crimes (Child Sex Offenders) Act 2005*, which deals with a definition of child-related employment.

Currently, subsection 124 (1) (s) states:

“(1) Employment is child-related (***child-related employment***) if the employment involves contact with a child in relation to any of the following:

...(s) work-related training contracts under the *Training and Tertiary Education Act 2003*.”

This amendment replaces the phrase “work-related training contracts” with “approved training contracts”, to more precisely reflect the terminology used in the TaTE Act.

[1.16] Section 124 (2), definition of educational institutions for children, paragraph (b)

This is an amendment to subsection 124 (2) of the *Crimes (Child Sex Offenders) Act 2005*, which deals with the definition of educational institutions for the purposes of prohibiting registrable offenders from child-related employment.

Currently subsection 124 (2) (b) states:

“***educational institutions for children*** include the following:

... (b) a registered training organisation, higher education provider or university under the *Training and Tertiary Education Act 2003*.”

This amendment updates the definition to refer to the relevant Commonwealth legislation. It also replaces the two terms “higher education provider” and “university” with the single term “registered higher education provider” to more precisely reflect the terminology used for higher education providers (including

universities) in the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth).

Part 1.8 Education Act 2004

[1.17] Table 9A, items 3 to 7

This is an amendment to Table 9A of the *Education Act 2004*, which defines education course and education provider in the context of compulsory education.

This amendment updates the terms and definitions in items 3 to 7 in the current Table 9A relating to “vocational education and training course”, “registered training organisation”, “higher education course”, “higher education provider” and “university”. It also replaces references to the TaTE Act with references to relevant Commonwealth legislation.

Part 1.9 Electricity Feed-in (Renewable Energy Premium) Act 2008

[1.18] Section 5F (3), definition of *educational institution*

This is an amendment to the section 5F, which deals with the definition of eligible entities for the purposes of the *Electricity Feed-in (Renewable Energy Premium) Act 2008*.

Currently, section 5F (3) of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* states:

“educational institution means—

- (a) a government school or school-related institution established under the Education Act 2004, section 20; or*
- (b) a higher education provider; or*
- (c) a university.”*

This amendment will replace the two terms “higher education provider” and “university” with the single term “registered higher education provider”. This amendment will also refer the reader to the Commonwealth Act, which governs the definition of “registered higher education provider”.

Under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth), registered higher education providers include universities.

[1.19] Section 5F (3), definition of *higher education provider*

This amendment is consequential on the amendment under 1.18.

Part 1.10 Food Act 2001

[1.20] Section 116, definition of *registered training organisation*

This is an amendment to section 116 of the *Food Act 2001*, which deals with the training of food safety supervisors and approved food safety training courses.

This amendment updates the definition of *registered training organisation*. Currently section 116 of the *Food Act 2001* refers the reader to the definition in the TaTE Act. This amendment will update the definition to refer to the Commonwealth Act instead.

[1.21] Section 116, definition of *statement of attainment*

This amendment changes the term “training organisation” to “registered training organisation”. This is a technical drafting amendment to improve the clarity of the meaning of “training organisation” in the definition of *statement of attainment*.

Part 1.11 Liquor Act 2010

[1.22] Section 188, definition of *registered training organisation*

This is an amendment to section 188 of the *Liquor Act 2010*, which deals with approval to provide responsible service of alcohol training courses.

This amendment updates the definition of *registered training organisation*. Currently section 188 of the *Liquor Act 2010* refers the reader to the definition in the TaTE Act. This amendment will update the definition to refer to the Commonwealth Act instead.

Part 1.12 Long Service Leave (Portable Schemes) Act 2009

[1.23] Schedule 1, section 1.1 (2) (e)

This is an amendment to Schedule 1 of the *Long Service Leave (Portable Schemes) Act 2009*, which defines activity related to the building and construction industry for the purposes of long services leave payments.

Currently, Schedule 1, section 1.1 (2) (e) states:

“(1) Also, the *building and construction industry*, in relation to the ACT, includes the following undertaken in relation to an activity mentioned in subsection (1) (a):

...(e) building or construction work undertaken as part of training with a registered training organisation under the *Training and Tertiary Education Act 2003*.”

This amendment replaces the reference to the TaTE Act with a reference to the Commonwealth Act.

Part 1.13 Payroll Tax Act 2011

[1.24] Schedule 2, section 2.16 heading

This is an amendment to Schedule 2 section 2.16 of the *Payroll Tax Act 2011*, which deals with exemptions from payroll tax for apprentices or trainees employed by group training organisations.

This amendment replaces the word “trainees” with the phrase “apprentices or trainees” to reflect the terminology in the approved training contracts under which group training organisations employ apprentices and/or trainees.

[1.25] Schedule 2, section 2.16 (1)

The intent of this amendment is the same as for amendment 1.24.

[1.26] Schedule 2, section 2.16 (1) and (2)

The intent of this amendment is the same as for amendment 1.24.

[1.27] Schedule 2, section 2.16 (3) (b) and (c)

The intent of this amendment is the same as for amendment 1.24.

[1.28] Schedule 2, section 2.16 (4), new definition of *apprentice or trainee*

This amendment is consequential on the amendments to the TaTE Act, under clause 40, and Schedule 2, section 2.16 of the *Payroll Tax Act 2011*, under amendments 1.24 to 1.28.

The note is further amended to refer to “an approved training contract” rather than to a “training contract” to reflect the terminology used in the TaTE Act. This is an important difference because under section 55E of the TaTE Act, an employer commits an offence if there is no approved training contract between the employer and the person.

[1.29] Schedule 2, section 2.16 (4), definition of *trainee* and note

This amendment is consequential on amendment 1.29.

Part 1.14 Planning and Development Regulation 2008

[1.30] Section 108 (1) (a) (iii) and (iv) and note

This is an amendment to subsection 108 of the *Planning and Development Regulation 2008*, which deals with the criteria for the direct sale of a lease for an educational establishment.

Currently, subsections 108 (1) (a) (iii) and (iv) states:

“(1) The criteria for the direct sale of a lease to a person for an educational establishment are—

(a) the person is—

...(iii) registered under the Training and Tertiary Education Act 2003; or

(iv) authorised to operate a university; and

Note Authorised—see s (5).”

This amendment replaces the term “registered” with “registered training organisation” and the phrase “authorised to operate a university” with “registered higher education provider” to reflect the terminology in the related Commonwealth legislation.

[1.31] Section 108 (5), definition of *authorised* and *university*

This amendment is consequential on the changes made under amendment 1.30.

Part 1.15 Road Transport (Driver Licensing) Regulation 2000

[1.32] Section 62 (5), definition of *registered training organisation*

This is an amendment to subsection 65 of the *Road Transport (Driver Licensing) Regulation 2000*, which deals with the issuing of a public vehicle license for a taxi driver.

This amendment updates the signpost definition of *registered training organisation* in subsection 62 (5) to refer to the Commonwealth Act instead of the TaTE Act.

Part 1.16 Security Industry Act 2003

[1.33] Section 26 (5)

This is an amendment to section 26 of the *Security Industry Act 2003*, which deals with the issuing of temporary licences to trainees in the security industry.

This amendment is consequential on amendments to the definition of *trainee* in the main Act.

Currently subsection 26 (5) provides a signpost definition of *trainee* that refers the reader to the dictionary in the TaTE Act. The Bill will replace the definition of *trainee* in the TaTE Act with the term *apprentice or trainee*. This amendment provides a new definition of *trainee* that specifically meets the purposes of the *Security Industry Act 2003*.

Part 1.17 Security Industry Regulation 2003

[1.34] Section 15

This is an amendment to section 15 of the *Security Industry Regulation 2003*, which deals with the accreditation of trainers to deliver training courses for employee licences in the security industry.

Currently, section 15— Accreditation of trainers— of the *Security Industry Regulation 2003* states:

“A licensed trainer may provide a training course mentioned in table 8, column 3 only if the trainer is employed or engaged by a registered training organisation under the Training and Tertiary Education Act 2003.”

This amendment refers the reader to the Commonwealth legislation instead of the TaTE Act.

Proposed new structure of *Training and Tertiary Education Act 2003*

The Bill repeals a substantial amount of the current *Training and Tertiary Education Act 2003* (the TaTE Act). As a result the amended TaTE Act will be much shorter and chapters will not be needed. The Bill provides the opportunity to renumber the remaining provisions and change the chapters to parts.

The following summary is designed to help the reader grasp the new structure of the TaTE Act, as amended by the Bill.

Part 1	Preliminary
Part 2	Vocational education and training
Part 3	Work-related training and training contracts
Part 4	Visits to premises
Part 5	Notification and review of decisions
Part 6	Other provisions
Schedule 1	Reviewable decisions
Dictionary	

History of training and tertiary education related legislation

