



Queensland

Vocational Education, Training and Employment and Other Legislation Amendment Act 2007

Act No. 53 of 2007



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Vocational Education, Training and Employment and Other Legislation Amendment Act 2007

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Queensland

Vocational Education, Training and Employment and Other Legislation Amendment Act 2007

Act No. 53 of 2007

***An Act to amend the Vocational Education, Training and
Employment Act 2000 and other Acts***

[Assented to 9 November 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Vocational Education, Training and Employment and Other Legislation Amendment Act 2007*.

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

2 Act amended in pt 2

This part amends the *Vocational Education, Training and Employment Act 2000*.

3 Insertion of new ch 6A

After chapter 6—

insert—

‘Chapter 6A Statutory TAFE institutes

‘Part 1 Preliminary

‘218 Purpose of ch 6A

‘The purpose of this chapter is to provide a framework for the establishment and operation of statutory TAFE institutes.

‘Part 2 Establishment of statutory TAFE institutes

‘Division 1 Establishment

‘218A Establishing statutory TAFE institutes

- ‘(1) A regulation may establish as a statutory TAFE institute—
- (a) a TAFE institute; or
 - (b) part of a TAFE institute; or
 - (c) a combination of TAFE institutes, parts of TAFE institutes, or both.
- ‘(2) The regulation must state the corporate name of the statutory TAFE institute.

Note—

See part 8 for provisions relating to the transition from a TAFE institute to a statutory TAFE institute.

‘218B Statutory TAFE institute is body corporate

- ‘A statutory TAFE institute—
- (a) is a body corporate; and
 - (b) has a seal; and
 - (c) may sue and be sued in its corporate name.

‘218C Statutory TAFE institute represents the State

- ‘(1) A statutory TAFE institute represents the State.
- ‘(2) Without limiting subsection (1), a statutory TAFE institute has all the State’s privileges and immunities.

‘218D Statutory TAFE institute is not a TAFE institute

‘If a statutory TAFE institute is established under this part—

- (a) the statutory TAFE institute stops being a TAFE institute or part of a TAFE institute; and
- (b) the provisions of chapter 6 do not apply to the statutory TAFE institute.

‘Division 2 Functions and powers

‘218E Functions of a statutory TAFE institute

- ‘(1) A statutory TAFE institute has the following functions—
 - (a) to provide vocational education and training services;
 - (b) to produce and sell vocational education and training products and services and other products and services connected with statutory TAFE institutes;
 - (c) to prepare, publish, distribute or license the use of literary or artistic work, audio or audiovisual material, or computer software;
 - (d) to exploit commercially—
 - (i) statutory TAFE institute resources, including any study, research or knowledge; or
 - (ii) the practical application of any study, research or knowledge;
 - (e) to undertake research and development related to a function of the statutory TAFE institute;
 - (f) to provide adult community education or post compulsory general education;
 - (g) to perform other functions given to the institute under this or another Act.
- ‘(2) Without limiting subsection (1)(a), the reference in that provision to vocational education and training services includes a reference to vocational education and training services for young people in the compulsory participation phase.

- ‘(3) In performing its functions, the key objectives of a statutory TAFE institute are—
- (a) to be commercially successful in carrying on its activities; and
 - (b) to be efficient and effective in providing vocational education and training services, including vocational education and training services provided—
 - (i) under an agreement with the chief executive under section 218S; or
 - (ii) as community service obligations.
- ‘(4) The commercial success, efficiency and effectiveness of a statutory TAFE institute are to be measured against its financial and non-financial performance targets stated in its operational plan.

‘218F Powers of a statutory TAFE institute

- ‘(1) A statutory TAFE institute has all the powers of an individual and may, for example—
- (a) enter into arrangements, agreements and contracts; and
 - (b) acquire, hold, deal with and dispose of property; and
 - (c) appoint agents and attorneys; and
 - (d) engage consultants; and
 - (e) fix charges for services and facilities it supplies and the terms on which they are supplied; and
 - (f) do anything else necessary or convenient to be done for, or in connection with, the performance of its functions under this or another Act.
- ‘(2) A statutory TAFE institute also has the powers conferred on it by this or another Act.
- ‘(3) A statutory TAFE institute may exercise its powers both inside and outside Queensland.
- ‘(4) Without limiting subsection (3), a statutory TAFE institute may exercise its powers outside Australia.

‘218G Statutory TAFE institute may enter into work performance arrangements

- ‘(1) A statutory TAFE institute may enter into, and give effect to, a work performance arrangement with—
 - (a) the chief executive of a department; or
 - (b) the appropriate authority of another government entity.
- ‘(2) A work performance arrangement may make provision for all matters necessary or convenient to be provided under the arrangement.
- ‘(3) For example, a work performance arrangement may provide for—
 - (a) the appointment of a person to an office, and the holding of the office by the person, for the arrangement; and
 - (b) the authorising of a person to exercise powers for the arrangement; and
 - (c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment.
- ‘(4) A person performing work for a statutory TAFE institute under a work performance arrangement entered into under subsection (1)—
 - (a) is not, and can not be, employed by the institute; and
 - (b) remains an employee of the department or other government entity whose appropriate authority is a party to the arrangement.

‘218H Delegation by statutory TAFE institute

- ‘(1) A statutory TAFE institute may, in writing, delegate its powers to—
 - (a) a member of the institute’s board; or
 - (b) the institute’s executive officer; or
 - (c) an appropriately qualified employee of a department or other government entity performing work for the institute under a work performance arrangement; or

(d) an appropriately qualified employee of the institute.

‘(2) In subsection (1)—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person’s seniority in an entity

‘Division 3 Other matters

‘218I Changing corporate name of statutory TAFE institute

- ‘(1) A regulation may change the corporate name of a statutory TAFE institute.
- ‘(2) A regulation under subsection (1) does not affect the legal personality of the institute whose corporate name is changed.
- ‘(3) Unless a contrary intention appears, a reference in an Act or document to the institute by its former corporate name is taken to be a reference to the institute by its new corporate name.

‘218J Statutory TAFE institute is a statutory body

- ‘(1) A statutory TAFE institute is a statutory body under—
- (a) the *Financial Administration and Audit Act 1977*; and
- (b) the *Statutory Bodies Financial Arrangements Act 1982*.
- ‘(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B, sets out the way in which a statutory TAFE institute’s powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

‘Part 3 Accountability of statutory TAFE institutes

‘Division 1 Operational plans

‘218K Purpose of div 1

- ‘(1) The purpose of this division is to provide for requirements for a statutory TAFE institute’s operational plan and for compliance with the plan.
- ‘(2) The requirements stated in this division apply in addition to the requirements for the plan under the *Financial Administration and Audit Act 1977*.
- ‘(3) If there is an inconsistency between a requirement under this division and a requirement under the *Financial Administration and Audit Act 1977*, a requirement under this division prevails to the extent of the inconsistency.

‘218L Requirement to comply with operational plan

‘A statutory TAFE institute must comply with its operational plan for a financial year.

‘218M Content of operational plan

‘A statutory TAFE institute’s operational plan must include, for the financial year to which it relates, the following matters—

- (a) an outline of the institute’s objectives;
- (b) the institute’s financial and non-financial performance targets for its functions;
- (c) performance indicators for the performance targets;
- (d) an outline of the nature and scope of the activities proposed to be undertaken by the institute during the financial year;

- (e) an outline of the major investments and borrowings proposed to be undertaken by the institute;
- (f) an outline of the institute's policies about managing the risk associated with investments or borrowings that may adversely affect the institute's financial position;
- (g) the community service obligations the institute must perform during the financial year;
- (h) an outline of the arrangements for people performing work for the institute whether under work performance arrangements or as employees of the institute;
- (i) the information required to be given to the Minister by the institute during the financial year and when the information is to be given;
- (j) any other matter relevant to the institute's functions and required to be included in the operational plan by the Minister.

'218N Preparation of draft operational plan

- '(1) A statutory TAFE institute must prepare, and give to the Minister for the Minister's agreement, a draft operational plan for each financial year.
- '(2) The draft operational plan must be given to the Minister—
 - (a) for the first draft operational plan—within 1 month after the statutory TAFE institute is established; or
 - (b) for a later draft operational plan—at least 2 months before the start of the financial year to which it relates.
- '(3) The institute and the Minister must try to reach agreement—
 - (a) for the first draft operational plan—as soon as possible; or
 - (b) for a later draft operational plan—not later than 1 month before the start of the financial year to which it relates.
- '(4) In this section—
first draft operational plan, for a statutory TAFE institute, means—

- (a) if the institute is established within 3 months before the end of a financial year—the draft operational plan for the period from the day the institute is established until the end of the following financial year; or
- (b) otherwise—the draft operational plan for the period from the day the institute is established until the end of the financial year in which it is established.

later draft operational plan, for a statutory TAFE institute, means a draft operational plan for a financial year other than a financial year to which the first draft operational plan relates.

‘2180 Special procedures for draft operational plans

- ‘(1) The Minister may return a draft operational plan to a statutory TAFE institute and ask the institute—
 - (a) to consider, or further consider, any matter and deal with the matter in the draft plan; and
 - (b) to revise the draft plan having regard to its consideration or further consideration.
- ‘(2) The institute must immediately comply with the request.
- ‘(3) Subsection (4) applies if a draft plan has not been agreed to by the Minister—
 - (a) for an institute’s first operational plan—within 2 months after the institute is established; or
 - (b) for a later operational plan—by 1 month before the start of the financial year to which it relates.
- ‘(4) The Minister may, by written notice, direct the institute—
 - (a) to take specified steps in relation to the draft plan; or
 - (b) to make specified modifications of the draft plan.
- ‘(5) The institute must immediately comply with the direction.

‘218P When draft operational plan has effect

- ‘(1) When a statutory TAFE institute’s draft operational plan is agreed to by the Minister, the draft operational plan becomes

the institute's operational plan for the financial year to which the plan relates.

- '(2) The Minister's agreement to the plan may be subject to the conditions the Minister considers appropriate.

'218Q Operational plan pending agreement

- '(1) This section applies if a draft operational plan has not been agreed to by the Minister—
- (a) for an institute's first operational plan—within 2 months after the institute is established; or
 - (b) for a later operational plan—by the start of the financial year to which it relates.
- '(2) The draft plan submitted, or last submitted, by the institute to the Minister, with any modifications made by the institute at the direction of the Minister, whether before or after that time, is taken to be the institute's operational plan.
- '(3) Subsection (2) applies until a draft operational plan becomes the institute's operational plan under section 218P.

'218R Amendment of operational plan

- '(1) A statutory TAFE institute may amend its operational plan only with the written agreement of the Minister.
- '(2) The Minister may, by written notice, direct the institute to amend its operational plan.
- '(3) The Minister's agreement to an amendment of the plan may be subject to the conditions the Minister considers appropriate.

'Division 2 Agreements with chief executive

'218S Agreement for each financial year

- '(1) A statutory TAFE institute must, for each financial year, enter into an agreement with the chief executive.

- ‘(2) The agreement and the institute’s operational plan must be consistent.
- ‘(3) The agreement must include the following—
 - (a) arrangements to enable the chief executive to monitor and assess the institute’s progress towards achieving its performance targets;
 - (b) the institute’s obligations to deliver vocational education and training services to the State;
 - (c) arrangements for the institute’s performance of its community service obligations;
 - (d) arrangements for the institute’s participation in the department’s operating, information and data management systems and compliance with public sector policies;
 - (e) the information, including financial information, the institute is required to provide to the chief executive during the financial year and when and how it is to be provided;
 - (f) the way in which the agreement may be varied.
- ‘(4) The agreement, to the extent it deals with matters mentioned in subsection (3)(b) and (d), may cover a period of up to 3 years.

‘218T Preparation of agreement

- ‘(1) A statutory TAFE institute must enter into negotiations with the chief executive for an agreement under section 218S—
 - (a) for the first agreement—within 1 month after the institute is established; or
 - (b) for a later agreement—not later than 2 months before the start of the financial year to which the agreement relates.
- ‘(2) The institute and the chief executive must try to reach agreement—
 - (a) for the first agreement—as soon as possible; or

- (b) for a later agreement—not later than the start of the financial year to which the agreement relates.
- ‘(3) Subsections (4) to (7) apply if agreement has not been reached—
 - (a) for the first agreement—within 2 months after the institute is established; or
 - (b) for a later agreement—by 1 month before the start of the financial year to which the agreement relates.
- ‘(4) The chief executive must immediately inform the Minister that agreement has not been reached.
- ‘(5) The Minister may, by written notice, direct the institute or the chief executive to take specified steps for reaching agreement.
- ‘(6) Without limiting subsection (5), the direction may be about the terms of the agreement.
- ‘(7) The institute and the chief executive must immediately comply with the direction.
- ‘(8) In this section—
 - first agreement***, for a statutory TAFE institute, means—
 - (a) if the institute is established within 3 months before the end of a financial year—the agreement for the period from the day the institute is established until the end of the following financial year; or
 - (b) otherwise—the agreement for the period from the day the institute is established until the end of the financial year in which it is established.

later agreement, for a statutory TAFE institute, means an agreement for a financial year other than a financial year to which the first agreement relates.

‘Division 3 Reporting requirements

‘218U Notice of proposed significant action

- ‘(1) This section applies if a statutory TAFE institute proposes to—
- (a) do anything that may prevent, or have a significant adverse effect on, the institute performing its functions; or
 - (b) do anything that may have a significant adverse effect on—
 - (i) the institute’s ability to meet its obligations under its operational plan; or
 - (ii) something in or done under the institute’s agreement with the chief executive under division 2; or
 - (c) buy or sell property for more than the amount prescribed under a regulation; or
 - (d) enter into an arrangement for the supply of vocational education and training services for more than the amount prescribed under a regulation; or
 - (e) enter into any other arrangement—
 - (i) to generate revenue of more than the amount prescribed under a regulation; or
 - (ii) that commits to spending more than the amount prescribed under a regulation.
- ‘(2) Before doing anything (the *proposed significant action*) mentioned in subsection (1), and as soon as practicable after proposing to do it, the statutory TAFE institute must give the Minister notice of the proposed significant action.
- ‘(3) A statutory TAFE institute is not required to comply with subsection (2) if, before taking the proposed significant action, the institute includes details of the proposed significant action in its operational plan.

‘218V Minister may require information

- ‘(1) The Minister may, by notice given to a statutory TAFE institute, require the institute to give the Minister information about the performance of its functions under this Act.
- ‘(2) The notice must state the day by which the information must be given.
- ‘(3) The institute must give the information to the Minister by the stated day.
- ‘(4) Without limiting subsection (1), a requirement to give information may include a requirement to produce a document for inspection by the Minister.

‘Division 4 Dividends payable by statutory TAFE institutes

‘218W Payment of dividends

- ‘(1) A statutory TAFE institute must advise the Minister of the recommendation the institute is likely to make under subsection (3), having regard to the information available to the institute.
- ‘(2) The institute must comply with subsection (1)—
 - (a) if paragraph (b) does not apply—within 1 month after the end of each financial year; or
 - (b) if, for a particular financial year, the Minister has extended the period to a period not longer than 3 months after the end of the financial year—within the extended period.
- ‘(3) Within 4 months after the end of each financial year, the institute must recommend to the Minister that, for the financial year, the institute—
 - (a) pay a specified dividend to the State; or
 - (b) not pay a dividend.
- ‘(4) The institute must consult with the Minister before making the recommendation.

- ‘(5) Within 1 month after receiving the recommendation, the Minister must either—
 - (a) approve the recommendation; or
 - (b) direct the payment to the State of a specified dividend.
- ‘(6) The dividend for a financial year must not exceed the institute’s profits for the financial year, after—
 - (a) provision has been made for income tax or its equivalent; and
 - (b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.
- ‘(7) The dividend for a financial year must be paid—
 - (a) if paragraph (b) does not apply—within 6 months after the end of the financial year; or
 - (b) if the Minister has allowed a longer period—within the longer period.

‘218X Interim dividends

- ‘(1) The Minister, at any time after 1 January in a financial year, may require a statutory TAFE institute to make a recommendation about the payment of interim amounts to the State, including when the amounts are to be paid, on account of the dividend that may become payable under section 218W for the financial year.
- ‘(2) Within 1 month after receiving notice of the requirement, the institute must make a recommendation to the Minister.
- ‘(3) The Minister must, within 1 month after receiving the recommendation, either—
 - (a) approve the recommendation; or
 - (b) direct the payment, at specified times, of specified amounts, on account of the dividend that may become payable for the financial year.
- ‘(4) A direction under subsection (3)(b) must not direct the payment of an amount that exceeds the institute’s estimated profit for the first 6 months of the financial year, after—

- (a) provision has been made for income tax or its equivalent; and
- (b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.

‘218Y Dividend payment for financial year in which TAFE institute becomes a statutory TAFE institute

‘For applying section 218W to a TAFE institute for the financial year in which it became a statutory TAFE institute, a dividend payable by the institute is payable for, at the discretion of the Minister—

- (a) the whole financial year; or
- (b) the part of the financial year for which it was a statutory TAFE institute.

‘218Z Interim dividend for financial year in which TAFE institute becomes a statutory TAFE institute

- ‘(1) For applying section 218X to a TAFE institute for the financial year in which it becomes a statutory TAFE institute—
 - (a) the period (the *applicable period*) in relation to which an interim dividend is payable is, at the discretion of the Minister—
 - (i) the first 6 months of the financial year; or
 - (ii) the part of the 6 months for which it was a statutory TAFE institute; and
 - (b) the Minister must, when acting under section 218X(1) to require the institute to make a recommendation, also notify the institute of the applicable period.
- ‘(2) An applicable period decided under subsection (1) for payment of an interim dividend does not limit the period that may be decided under section 218Y(a) for payment of a dividend.

‘Division 5 Reserve powers of Minister

‘219 Minister’s power to notify statutory TAFE institute of public sector policies

- ‘(1) The Minister may give a statutory TAFE institute notice of a public sector policy that is to apply to the institute if the Minister is satisfied it is necessary to give the notice in the public interest.
- ‘(2) The institute must comply with the policy.
- ‘(3) Before giving the notice, the Minister must—
 - (a) consult with the institute; and
 - (b) ask the institute to advise whether, in its opinion, complying with the policy would not be in its financial interest.

‘219A Minister’s power to give directions in public interest

- ‘(1) The Minister may give a statutory TAFE institute a written direction if the Minister is satisfied it is necessary to give the direction in the public interest.
- ‘(2) The institute must comply with the direction.
- ‘(3) Before giving the direction, the Minister must—
 - (a) consult with the institute; and
 - (b) ask the institute to advise whether, in its opinion, complying with the direction would not be in its financial interest.

‘219B Notice of suspected insolvency because of notice or direction

- ‘(1) This section applies if—
 - (a) a statutory TAFE institute is given a notice about a public sector policy (a *public sector policy notice*) or direction under this division; and

- (b) the institute suspects that it will or may become insolvent; and
 - (c) in the institute's opinion, the cause or a substantial cause of the suspected insolvency would be compliance with the public sector policy notice or direction.
- '(2) The institute must immediately give the Minister notice of the suspicion and its reasons for the opinion.
- '(3) The notice must state that it is given under this section.
- '(4) The giving of the notice operates to suspend the public sector policy notice or direction until—
- (a) the Minister gives the institute written advice that the Minister is not satisfied that—
 - (i) the institute's suspicion mentioned in subsection (1)(b) is well-founded; or
 - (ii) the institute's opinion mentioned in subsection (1)(c) is justified; or
 - (b) the public sector policy notice or direction is revoked.
- '(5) If the institute was given a public sector policy notice or a direction, and the Minister is satisfied that the institute's suspicion is well-founded, the Minister must immediately—
- (a) if the Minister is also satisfied that the institute's opinion is justified—revoke the public sector policy notice or direction; and
 - (b) in any case—give the institute the written directions the Minister considers necessary or desirable, including any directions necessary or desirable to ensure—
 - (i) the institute does not incur further debts; or
 - (ii) the institute will be able to pay all its debts as and when they become due.
- '(6) Without limiting subsection (5), a direction under this section may require the institute to stop or limit particular activities.
- '(7) The institute must comply with a direction under this section.

‘Part 4 Board of statutory TAFE institute

‘Division 1 Board’s functions

‘219C Board of a statutory TAFE institute

‘A statutory TAFE institute must have a board.

‘219D Functions of a board

- ‘(1) The board of a statutory TAFE institute is the governing body of the institute.
- ‘(2) The board has the following functions—
 - (a) to ensure the institute operates in accordance with its operational plan and its agreement with the chief executive under section 218S and, as far as possible, achieves the performance targets and objectives stated in the operational plan;
 - (b) to account to the Minister and the chief executive for the institute’s performance as required under this or another Act;
 - (c) to ensure the institute otherwise performs its functions and exercises its powers in a proper, effective and efficient way.
- ‘(3) Anything done in the name of, or for, a statutory TAFE institute by the institute’s board is taken to have been done by the institute.

‘Division 2 Appointment etc. of board

‘219E Composition of board

- ‘(1) The board of a statutory TAFE institute consists of not more than 12 persons—

- (a) nominated by the Minister; and
 - (b) appointed by the Governor in Council.
- ‘(2) The Minister’s nominees must have the qualifications, skills, experience or standing the Minister considers appropriate for membership of the board having regard to—
- (a) a statutory TAFE institute’s functions under this Act; and
 - (b) the role of the board as the institute’s governing body.
- ‘(3) The executive officer of a statutory TAFE institute may not be appointed as a member of the institute’s board.

‘219F Conditions of appointment of members of board

- ‘(1) A member of a statutory TAFE institute’s board is to be paid the remuneration and allowances decided by the Governor in Council.
- ‘(2) A member of a board holds office on the conditions not provided for by this Act that are decided by the Governor in Council.

‘219G Term of appointment of members of board

- ‘(1) A member of a statutory TAFE institute’s board is appointed for the term, of not more than 4 years, stated in the member’s instrument of appointment.
- ‘(2) However, the Minister may extend the member’s term of appointment until the earlier of the following—
- (a) the member’s successor is appointed;
 - (b) one year after the member’s term would have expired under the member’s instrument of appointment.
- ‘(3) If a person is appointed to fill a casual vacancy in the office of a member, the person is appointed only for the remainder of the member’s term of office.
- ‘(4) A member of a board is eligible for reappointment to the board.

'219H Administration of statutory TAFE institute

- '(1) The Minister may appoint the chief executive to administer a statutory TAFE institute until the institute's first board is appointed.
- '(2) Subsection (3) applies if—
 - (a) the Governor in Council removes all the members of an institute's board from office; or
 - (b) for another reason, there are no members comprising an institute's board.
- '(3) The Minister may appoint either of the following persons to administer the institute until a board is appointed for the institute—
 - (a) the chief executive;
 - (b) another person the Minister considers has the necessary qualifications and experience to administer the institute.

'219I Chairperson of board

- '(1) The Governor in Council must appoint a member of a statutory TAFE institute's board to be the chairperson of the board.
- '(2) A person may be appointed as the chairperson at the same time as the person is appointed as a member.
- '(3) The chairperson holds office for the term, ending not later than the person's term of appointment as a member, stated in the person's appointment as chairperson.
- '(4) A vacancy occurs in the office of chairperson if the person holding office—
 - (a) resigns from office by giving notice of the resignation to the Minister; or
 - (b) ceases to be a member of the board.
- '(5) However, a person resigning the office of chairperson may continue to be a member of the board.

‘219J Deputy chairperson of board

- ‘(1) The board of a statutory TAFE institute must appoint a member of the board, other than the chairperson, to be the deputy chairperson of the board.
- ‘(2) The deputy chairperson holds office for the term decided by the board.
- ‘(3) A vacancy occurs in the office of deputy chairperson if the person holding office—
 - (a) resigns from office by giving notice of the resignation to the Minister; or
 - (b) ceases to be a member of the board.
- ‘(4) However, a person resigning the office of deputy chairperson may continue to be a member of the board.
- ‘(5) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

‘219K Disqualification from membership of board

- ‘(1) A person can not become, or continue as, a member of a statutory TAFE institute’s board if the person—
 - (a) has a conviction for an indictable offence and the conviction is not a spent conviction, unless the Minister has given a notice or approval under subsection (4) in relation to the conviction; or
 - (b) is an insolvent under administration, unless the Minister has given a notice or approval under subsection (4) in relation to the person being an insolvent under administration; or
 - (c) is not able to manage a corporation because of the Corporations Act, part 2D.6.

- ‘(2) Also, a person can not become a member of the board if the person does not consent to the Minister requesting a report about the person’s criminal history under section 219L.
- ‘(3) The Minister may act under subsection (4) if the Minister considers it would be reasonable to do so having regard to—
 - (a) the circumstances of the indictable offence of which a person has been convicted; or
 - (b) the circumstances under which a person became an insolvent under administration.
- ‘(4) The Minister may—
 - (a) if the person was a member when the person was convicted or became an insolvent under administration, and the term of the person’s appointment as a member of the board has not since ended, give notice to the chairperson and the person that—
 - (i) the person is restored as a member of the board; and
 - (ii) the person may be later reappointed, despite the conviction or being an insolvent under administration; or
 - (b) otherwise—give written approval for the person to become a member of the board despite the conviction or being an insolvent under administration.
- ‘(5) On the day the chairperson receives a notice under subsection (4)(a)—
 - (a) the person is restored as a member; and
 - (b) if another person has been appointed to fill the vacancy—the other person’s appointment ends.
- ‘(6) If a person is restored as a member under subsection (5), the person’s term of appointment as a member ends when it would have ended if the person had not been convicted of the offence or become an insolvent under administration.

‘219L Report about person’s criminal history

- ‘(1) The Minister may make investigations about a person to decide whether a person is disqualified from membership of a statutory TAFE institute’s board under section 219K.
- ‘(2) Without limiting subsection (1), the Minister may ask the commissioner of police for—
 - (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(3) The commissioner of police must comply with the request.
- ‘(4) However, the Minister may make a request under subsection (1) about a person who is not a member of the board only if the person has given the Minister written consent for the request.
- ‘(5) The duty imposed on the commissioner of police to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(6) The Minister must ensure a report given to the Minister under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

‘219M Criminal history is confidential document

- ‘(1) This section applies to a person who possesses a report, or information contained in a report, given under section 219L, because the person is, or was, an officer, employee or agent of the department.
- ‘(2) The person must not, directly or indirectly, disclose the report or information to anyone else, unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- ‘(3) The person may disclose the information to someone else—
 - (a) to the extent necessary to perform the person’s functions under this Act; or

- (b) if the disclosure is authorised under this or another Act;
or
- (c) if the disclosure is otherwise required or permitted by
law; or
- (d) if the person to whom the information relates consents
to the disclosure; or
- (e) if the disclosure is in a form that does not disclose the
identity of the person to whom the information relates;
or
- (f) if the information is, or has been, lawfully accessible to
the public.

‘219N Requirement to disclose changes in criminal history

- ‘(1) If there is a change in the criminal history of a member of a statutory TAFE institute’s board, the member must, unless the member has a reasonable excuse, immediately disclose the change to the Minister.

Maximum penalty—100 penalty units.

- ‘(2) For a member who does not have a criminal history, there is taken to be a change in the member’s criminal history if the member acquires a criminal history.
- ‘(3) To comply with subsection (1), the information disclosed by the member about a conviction for an offence in the member’s criminal history must include the following—
- (a) the existence of the conviction;
 - (b) when the offence was committed;
 - (c) details adequate to identify the offence;
 - (d) whether or not a conviction was recorded;
 - (e) the sentence imposed on the member.

‘219O Vacation of office

- ‘(1) The office of a member of a statutory TAFE institute’s board becomes vacant if the member—

- (a) resigns the member's office by signed notice of resignation given to the Minister; or
 - (b) can not continue as a member under section 219K; or
 - (c) is absent, without the board's permission, from 3 consecutive meetings of which proper notice has been given; or
 - (d) is removed from office by the Governor in Council under subsection (3).
- '(2) Subsection (1)(c) does not apply if the member is absent under a leave of absence approved by the Minister under section 219P.
- '(3) The Governor in Council may remove a member from office if the Minister is satisfied the member—
- (a) is incapable of properly discharging the functions of a member of the board; or
 - (b) is performing the member's duties carelessly, incompetently or inefficiently.

'219P Leave of absence

- '(1) The Minister may approve a leave of absence for a member of a statutory TAFE institute's board (the *approved absent member*).
- '(2) The Minister may appoint someone else to act in the office of the approved absent member while the member is absent on the leave.
- '(3) The Minister's power to appoint a person to act in the office of an approved absent member does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b)(v) to appoint a person to act in the office.

'219Q Disclosure of interests

- '(1) This section applies to a member of a statutory TAFE institute's board if—

- (a) the member has a direct or indirect financial or personal interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the matter.
- '(2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.
Maximum penalty—100 penalty units.
- '(3) The disclosure must be recorded in the board's minutes.
- '(4) Unless the board otherwise decides, the member must not—
- (a) be present when the board considers the matter; or
 - (b) take part in a decision of the board on the matter.
- Maximum penalty—100 penalty units.
- '(5) The member must not be present when the board is considering its decision under subsection (4).
Maximum penalty—100 penalty units.
- '(6) Another member who also has a direct or indirect financial or personal interest in the matter must not—
- (a) be present when the board is considering its decision under subsection (4); or
 - (b) take part in making the decision.
- Maximum penalty—100 penalty units.

'219R Duty to act in statutory TAFE institute's interest

'A member of a statutory TAFE institute's board, in exercising powers and discharging functions as a member, must—

- (a) act honestly and in the best interests of the institute; and
- (b) exercise reasonable skill, care and diligence.

‘Division 3 Board business

‘219S Conduct of business

‘Subject to sections 219T to 219Y, a statutory TAFE institute’s board may conduct its business, including its meetings, in the way it considers appropriate.

‘219T Time and place of meetings

- ‘(1) Meetings of a statutory TAFE institute’s board are to be held at the times and places it decides.
- ‘(2) However, the board must hold at least 4 meetings a year.
- ‘(3) The board chairperson or the Minister may call a board meeting at any time.
- ‘(4) The board chairperson must call a meeting if asked by at least one-half of the members comprising the board plus 1 or, if the one-half is not a whole number, the next highest whole number of members.

‘219U Presiding at meetings

- ‘(1) The chairperson of a statutory TAFE institute’s board must preside at all meetings of the board at which the chairperson is present.
- ‘(2) If the chairperson is absent from a board meeting, but the deputy chairperson of the board is present, the deputy chairperson must preside.
- ‘(3) If both the chairperson and deputy chairperson are absent from a board meeting, a member chosen by the members present must preside.

‘219V Quorum for meetings

‘A quorum for a meeting of a statutory TAFE institute’s board is the number equal to one-half of the number of its members for the time being holding office plus 1 or, if one-half is not a whole number, the next highest whole number.

'219W Attendance of executive officer at board meetings

- '(1) A statutory TAFE institute's executive officer may attend meetings of the institute's board but has no voting rights at a meeting.
- '(2) However, if the board is satisfied the executive officer's attendance at a meeting would be inappropriate because of a matter being considered, or about to be considered, at the meeting, the executive officer must not be present at the meeting.

Example of a matter for subsection (2)—

the executive officer's conditions of employment

- '(3) The chairperson must give the executive officer reasonable notice of the time and place a board meeting is to be held.
- '(4) A meeting of the board is not invalid merely because of a contravention of subsection (3).

'219X Conduct of meetings

- '(1) A question at a meeting of a statutory TAFE institute's board is to be decided by a majority of the votes of the board members present.
- '(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- '(3) A member who abstains from voting is taken to have voted for the negative.
- '(4) The board may hold meetings, or allow members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meetings, including, for example, teleconferencing.
- '(5) A member who takes part in a meeting under subsection (4) is taken to be present at the meeting.
- '(6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

- (a) notice of the resolution is given under procedures approved by the board; and
- (b) a majority of members agrees in writing to the resolution.

'219Y Minutes

A statutory TAFE institute's board must keep minutes of its meetings.

'Division 4 Committees of a board

'219Z Committees for certain purposes

- '(1) A statutory TAFE institute's board must establish the following committees of the board (each a *statutory committee*)—
 - (a) an audit, finance and risk management committee;
 - (b) a staff, student and community voice committee;
 - (c) a remuneration and nominations committee.
- '(2) The function of the audit, finance and risk management committee is to advise and make recommendations to the board about the management of financial and other operating risks for the institute.
- '(3) The function of the staff, student and community voice committee is to advise and make recommendations to the board about—
 - (a) the welfare of students and staff of the institute; and
 - (b) the development and maintenance of the institute's relationships with students, staff, the vocational education and training sector and the general community.
- '(4) The function of the remuneration and nominations committee is to advise and make recommendations to the board about the recruitment, appointment and management of employees of the institute.

- ‘(5) A further function of a statutory committee is to advise and make recommendations to the board about matters relevant to the board’s functions that are referred by the board to the statutory committee.

‘220 Other matters about statutory committees

- ‘(1) A statutory TAFE institute’s board may decide the size and composition of a statutory committee established by the board, having regard to the committee’s function.
- ‘(2) A statutory committee—
- (a) must include at least 1 person who is a member of the board and who is the chairperson of the committee; and
 - (b) may include any other person.
- ‘(3) The board must decide a statutory committee’s procedures including how often the committee must hold a meeting.
- ‘(4) A statutory committee must hold a meeting if required to do so by the board.
- ‘(5) The board must have regard to, but is not bound by, a statutory committee’s advice or recommendations.

‘220A Other committees

- ‘(1) A statutory TAFE institute’s board may establish other committees of the board for effectively and efficiently performing the board’s functions.
- ‘(2) The functions of a committee established under this section are to advise and make recommendations to the board about matters that are—
- (a) relevant to the board’s functions, other than matters for which a statutory committee must be established; and
 - (b) referred by the board to the committee.
- ‘(3) A committee may include any person, whether or not the person is a member of the board.
- ‘(4) The board must decide a committee’s procedures including how often the committee must hold a meeting.

- ‘(5) A committee must hold a meeting if required to do so by the board.
- ‘(6) The board must have regard to, but is not bound by, a committee’s advice or recommendations.

‘220B Remuneration of committee members

‘A member of a statutory committee or another committee of a statutory TAFE institute’s board is entitled to be paid the fees and expenses decided by the Governor in Council.

‘Division 5 Removal of board

‘220C Removal of statutory TAFE institute’s board

- ‘(1) The Governor in Council may remove all the members of a statutory TAFE institute’s board from office if the Minister is satisfied the statutory TAFE institute has not complied with—
 - (a) a public sector policy notified to the institute by the Minister under section 219; or
 - (b) a direction given to the institute by the Minister under part 3; or
 - (c) the institute’s obligations under the *Financial Administration and Audit Act 1977* for the preparation and submission of reports and plans; or
 - (d) the institute’s obligations under this or any other Act, including its obligations—
 - (i) in relation to preparing, submitting and complying with its operational plan or the conditions on which the Minister agreed to the plan; or
 - (ii) under its agreement with the chief executive under part 3, division 2.
- ‘(2) Also, the Governor in Council may remove all the members of a statutory TAFE institute’s board from office if the Minister is satisfied the board—
 - (a) is no longer functioning effectively; or

- (b) is acting in a way that is prejudicial to the best interests of the institute.

‘Part 5 Executive officer of statutory TAFE institute

‘220D Statutory TAFE institute’s executive officer

- ‘(1) A statutory TAFE institute is to have an executive officer.
- ‘(2) The executive officer is to be appointed by the institute’s board with the written approval of the Minister.
- ‘(3) The executive officer holds office on the terms and conditions, not provided for under this Act, that are decided by the board.

‘220E Duties of executive officer

- ‘(1) The executive officer of a statutory TAFE institute—
 - (a) subject to the institute’s board, is responsible for the day to day management of the institute; and
 - (b) is to help the institute in the performance of its functions.
- ‘(2) The executive officer has all the powers necessary for carrying out the executive officer’s duties under this Act.

‘220F Things done by executive officer

‘Anything done in the name of, or for, a statutory TAFE institute by its executive officer is taken to have been done by the institute.

'220G Delegation by executive officer

- '(1) A statutory TAFE institute's executive officer may delegate the officer's powers, including a power delegated to the officer, to—
- (a) an appropriately qualified employee of a department or other government entity performing work for the institute under a work performance arrangement; or
 - (b) an appropriately qualified employee of the institute.

- '(2) In subsection (1)—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's seniority in an entity

'220H Appointment of acting executive officer

'A statutory TAFE institute's board may appoint a person to act as the institute's executive officer—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when the institute's executive officer is absent from duty or is, for another reason, unable to perform the functions of the office.

'220I Resignation of executive officer

'A statutory TAFE institute's executive officer may resign by signed notice given to the chairperson of the institute's board.

'220J Termination of executive officer's appointment

- '(1) A statutory TAFE institute's board may, at any time, terminate the appointment of the institute's executive officer.
- '(2) Termination of the appointment of the executive officer does not affect a right to which the officer is entitled under the terms of the officer's appointment.

‘Part 6 Amalgamating or dissolving statutory TAFE institutes

‘Division 1 Preliminary

‘220K Definitions for pt 6

‘In this part—

changeover day, for a former statutory TAFE institute, means the day the institute is—

- (a) amalgamated under section 220L; or
- (b) dissolved under section 220M.

former statutory TAFE institute means a statutory TAFE institute that is—

- (a) amalgamated under section 220L; or
- (b) dissolved under section 220M.

new entity means—

- (a) for a former statutory TAFE institute that is amalgamated under section 220L—the statutory TAFE institute constituted as a result of the amalgamation; or
- (b) for a former statutory TAFE institute that is dissolved under section 220M—the State.

‘Division 2 Amalgamation or dissolution

‘220L Amalgamating statutory TAFE institutes

- ‘(1) A regulation (an *amalgamation regulation*) may amalgamate 2 or more statutory TAFE institutes to form a new statutory TAFE institute.
- ‘(2) An amalgamation regulation—
 - (a) must—

- (b) if the former statutory TAFE institute is dissolved under section 220M—the entity stated in the dissolution regulation.

‘220P Vesting of assets, rights and liabilities

‘On the changeover day for a former statutory TAFE institute, the assets, rights and liabilities of the institute vest in the new entity.

‘220Q Continuing legal proceedings

‘On the changeover day for a former statutory TAFE institute, a legal proceeding by or against the institute that has not been finished before the changeover day may be continued and finished by or against the new entity.

‘Part 7 Miscellaneous provisions

‘220R Annual report

‘In a statutory TAFE institute’s annual report for a financial year under the *Financial Administration and Audit Act 1977*, the institute must include copies of all directions, including directions about community service obligations to be carried out by the institute, and notices, given to the institute by the Minister under this Act in the financial year to which the report relates.

‘220S Protection from liability

- ‘(1) This section applies to the following persons—
- (a) the Minister;
 - (b) the chief executive;
 - (c) a member of a statutory TAFE institute’s board;

- (d) a member of a statutory committee or other committee of a statutory TAFE institute's board.
- '(2) The person is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- '(3) If subsection (2) prevents a liability attaching to the person, the liability attaches instead to the State.

'220T Review of operation of a statutory TAFE institute

- '(1) The Minister must review the operation of a statutory TAFE institute as soon as practicable after the third anniversary of its establishment.
- '(2) The purpose of the review is to ensure the institute is operating efficiently and effectively.
- '(3) The Minister must, as soon as practicable after finishing the review but in any case within 4 years after the institute is established, table a report about the outcome of the review in the Legislative Assembly.

'220U Delegation by Minister

- '(1) The Minister may delegate the Minister's powers under this chapter to an appropriately qualified officer of the department.
- '(2) In subsection (1)—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

an officer's classification level in the public service

'220V Chief executive's functions for statutory TAFE institutes

'The chief executive has the following functions for statutory TAFE institutes—

- (a) to improve the participation of young people in vocational education and training by attracting young people to, and supporting young people in, vocational

education and training resulting in a qualification or statement of attainment;

- (b) to ensure rural, remote and indigenous communities are given support, advice or other help in developing services in those communities that facilitate better access to education and training for young people in those communities;
- (c) to participate in the development of whole-of-community planning in relation to young people in the compulsory participation phase.

‘220W Preservation of rights in relation to public service employees

- ‘(1) Subsection (2) applies to a person who—
 - (a) is appointed as an employee of a statutory TAFE institute; and
 - (b) was a public service employee immediately before taking up the appointment.
- ‘(2) The person is entitled to retain all existing and accruing rights as if service as an employee of the statutory TAFE institute were a continuation of service as a public service employee.
- ‘(3) If the person was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*, the person keeps all the person’s existing and accruing rights relating to superannuation.
- ‘(4) If a person is appointed as a public service employee and the person was, immediately before taking up the appointment, an employee of a statutory TAFE institute, the person’s service as an employee of the statutory TAFE institute must be regarded as service as a public service employee.

‘220X Secondment as employee of statutory TAFE institute

- ‘(1) A person who is a public service employee may be seconded to a statutory TAFE institute.
- ‘(2) While seconded under this section—

- (a) the person is taken to be an employee of the statutory TAFE institute; and
 - (b) the *Public Service Act 1996* does not apply to the person.
- ‘(3) A person seconded under this section —
- (a) is entitled to the person’s existing and accruing rights as if employment as an employee of the statutory TAFE institute were a continuation of employment as a public service employee; and
 - (b) may apply for positions, and be employed, in the public service as if the person were a public service employee.
- ‘(4) When the secondment ends—
- (a) the person’s employment on secondment as an employee of the statutory TAFE institute is taken to be employment of the same nature in the public service for working out the person’s rights as a public service employee; and
 - (b) if the secondment ended for a reason other than misconduct, the person is entitled to be employed as a public service employee.
- ‘(5) This section has effect despite section 218G.

‘Part 8 Other provisions about change to statutory TAFE institute

‘220Y Definitions for pt 8

‘In this part—

changeover day, for a former TAFE institute, means the day the institute is established as a statutory TAFE institute.

former TAFE institute means a TAFE institute or part of a TAFE institute that is, with or without other institutes or parts, established as a statutory TAFE institute.

‘220Z Transfer of assets, liabilities etc. to statutory TAFE institute

- ‘(1) This section applies if—
- (a) a former TAFE institute is established as a statutory TAFE institute; and
 - (b) a regulation declares that this section applies to the former TAFE institute.
- ‘(2) The regulation may make provision in relation to the following—
- (a) the assets and liabilities that are, or are not, assets and liabilities of the statutory TAFE institute;
 - (b) the consideration for a transfer of assets to the statutory TAFE institute;
 - (c) the transfer of enrolments from the former TAFE institute to the statutory TAFE institute;
 - (d) the legal proceedings by or against the State in relation to the former TAFE institute that may be started or continued by or against the statutory TAFE institute;
 - (e) the entity by whom former TAFE institute employees will be employed;
 - (f) the continuation by a statutory TAFE institute of a former TAFE institute’s registration under chapter 2, part 3, as a training organisation;
 - (g) the continuation by a statutory TAFE institute of a former TAFE institute’s registration of a course as an accredited course under chapter 2, part 4;
 - (h) the continuation by a statutory TAFE institute of a former TAFE institute’s director’s registration as a provider and registration of a course under the *Education (Overseas Students) Act 1996*;
 - (i) the continuation by a statutory TAFE institute of a former TAFE institute’s accreditation of a higher education course under the *Higher Education (General Provisions) Act 2003*;

- (j) the continuation for a statutory TAFE institute of a compliance audit of a former TAFE institute under chapter 2, part 3;
- (k) the continuation for a statutory TAFE institute of a former TAFE institute's status as a supervising registered training organisation under chapter 3, part 2;
- (l) any other matter that is necessary or convenient for establishing a former TAFE institute as a statutory TAFE institute.

'220ZA References to former TAFE institute

'A reference in an Act or document to a former TAFE institute may, to the extent the context permits, be taken to be a reference to the statutory TAFE institute established in its place.

'220ZB Dissolution of TAFE institute council

- '(1) This section applies if the whole of a TAFE institute is established as a statutory TAFE institute.
- '(2) On the changeover day for the former TAFE institute—
 - (a) the institute's council is dissolved; and
 - (b) the members of the council go out of office.
- '(3) No compensation is payable to a member because of subsection (2).

'220ZC Applications made by former TAFE institute

- '(1) An application made by a former TAFE institute before the changeover day for the institute, is taken to be made by the statutory TAFE institute established in its place.
- '(2) In subsection (1)—

application means an application under this Act, the *Education (Overseas Students) Act 1996* or the *Higher Education (General Provisions) Act 2003*.

4 **Amendment of s 282 (Disclosure of interests by member of disclosure body)**

Section 282(4), definition *disclosure body*—

insert—

‘(e) a statutory committee or other committee established by a statutory TAFE institute’s board.’.

5 **Amendment of sch 3 (Dictionary)**

Schedule 3—

insert—

‘amalgamation regulation see section 220L.

commissioner of police means the commissioner of the police service appointed under the *Police Service Administration Act 1990*.

community service obligation, for a statutory TAFE institute, means an obligation on the institute to perform an activity or provide a service that—

- (a) is not in the institute’s commercial interests to perform or provide; and
- (b) is purchased by the State.

criminal history, of a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986* to the extent the criminal history relates to indictable offences, other than spent convictions.

dissolution regulation see section 220M.

government entity see the *Public Service Act 1996*, section 21.

insolvent under administration see the Corporations Act, section 9.

operational plan, of a statutory TAFE institute, means the operational plan the institute is required to develop under the *Financial Administration and Audit Act 1977*.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

statutory committee see section 219Z.

statutory TAFE institute means a statutory TAFE institute established under chapter 6A.

work performance arrangement means an arrangement under which an employee of a government entity performs work for another government entity.’.

Part 3 **Amendment of Libraries Act 1988**

6 **Act amended in pt 3**

This part amends the *Libraries Act 1988*.

7 **Amendment of s 2 (Interpretation)**

- (1) Section 2(1), definition *commencement*—
omit.

- (2) Section 2(1)—

insert—

‘commencement—

- (a) for part 10, division 1, see section 88; or
- (b) for part 10, division 3—see section 95.

current appointment, for part 10, division 3, see section 95.

current conditions, for part 10, division 3, see section 95.

pre-amended Act, for part 10, division 3, see section 95.

present librarian, for part 10, division 3, see section 95.’.

8 Replacement of s 13 (Appointment of State librarian)

Section 13—

omit, insert—

‘13 Appointment of State librarian

- ‘(1) There is to be a State librarian.
- ‘(2) The State librarian is to be appointed by the Governor in Council for the term, and on the conditions, stated in the instrument of appointment.
- ‘(3) The stated term must not be longer than 5 years.

‘13A Minister to obtain board’s approval

‘The Minister must not recommend the Governor in Council act under section 13(2) unless the recommendation has been approved by the board.

‘13B State librarian is employee of the board

‘Despite section 13—

- (a) the State librarian is an employee of the board and not of the State; and
- (b) subject to the conditions of the State librarian’s appointment, the board may enter into a contract of employment with the librarian.’.

9 Insertion of new pt 10, div 3

Part 10—

insert—

‘Division 3 **Transitional provisions for
Vocational Education, Training and
Employment and Other Legislation
Amendment Act 2007**

‘95 **Definitions for div 3**

‘In this division—

commencement means the commencement of the provision in which the term is used.

current appointment, of the present librarian, means the librarian’s appointment by the Governor in Council under the pre-amended Act, section 13(1), on 3 August 2006.

current conditions see section 96(1).

pre-amended Act means this Act as in force before the commencement.

present librarian means the person holding office as the State librarian at the commencement.

‘96 **Conditions on which present librarian holds office**

- ‘(1) Subject to this division, the present librarian continues to hold the office on the conditions (the *current conditions*) applying under the pre-amended Act, section 13(2), immediately before the commencement.
- ‘(2) The present librarian’s current appointment ends and the librarian ceases holding the office—
- (a) if paragraph (b) does not apply, at the end of 15 October 2009; or
 - (b) if the librarian’s term of office is extended past that date under the current conditions, at the end of 14 October 2011.
- ‘(3) Subsection (2) does not prevent the present librarian ceasing to hold the office at an earlier time under the current conditions or those conditions as amended.

‘(4) If the present librarian ceases to hold the office under subsection (3), the librarian’s current appointment also ends.

‘97 Current conditions may be amended

‘(1) The board may, with the Governor in Council’s approval, amend the current conditions.

‘(2) However, subject to section 96(3), the conditions can not be amended in a way that would interfere with the operation of section 96(2).

‘98 No compensation payable

‘Compensation may not be claimed by, and is not payable to, the present librarian, whether under the current conditions, those conditions as amended or otherwise, because of the operation of section 96(2).’.

Part 4 Amendment of Queensland Art Gallery Act 1987

10 Act amended in pt 4

This part amends the *Queensland Art Gallery Act 1987*.

11 Amendment of s 2 (Definitions)

(1) Section 2, definitions *commencement* and *director*—
omit.

(2) Section 2—
insert—

‘commencement—

(a) for part 7, division 1, see section 69; or

(b) for part 7, division 3—see section 76.

current appointment, for part 7, division 3, see section 76.

current conditions, for part 7, division 3, see section 76.

director means the director of the art gallery.

pre-amended Act, for part 7, division 3, see section 76.

present director, for part 7, division 3, see section 76.’.

12 Replacement of s 12 (Appointment of director)

Section 12—

omit, insert—

‘12 Appointment of director

- ‘(1) There is to be a director of the art gallery.
- ‘(2) The director is to be appointed by the Governor in Council for the term, and on the conditions, stated in the instrument of appointment.
- ‘(3) The stated term must not be longer than 5 years.

‘12A Minister to obtain board’s approval

‘The Minister must not recommend the Governor in Council act under section 12(2) unless the recommendation has been approved by the board.

‘12B Director is employee of the board

‘Despite section 12—

- (a) the director is an employee of the board and not of the State; and
- (b) subject to the conditions of the director’s appointment, the board may enter into a contract of employment with the director.’.

13 Insertion of new pt 7, div 3

Part 7—

insert—

**‘Division 3 Transitional provisions for
Vocational Education, Training and
Employment and Other Legislation
Amendment Act 2007**

‘76 Definitions for div 3

‘In this division—

commencement means the commencement of the provision in which the term is used.

current appointment, of the present director, means the director’s appointment by the Governor in Council under the pre-amended Act, section 12(1), on 17 May 2007.

current conditions see section 77(1).

pre-amended Act means this Act as in force before the commencement.

present director means the person holding office as the director at the commencement.

‘77 Conditions on which present director holds office

- ‘(1) Subject to this division, the present director continues to hold the office on the conditions (the *current conditions*) applying under the pre-amended Act, section 12(2), immediately before the commencement.
- ‘(2) The present director’s current appointment ends and the director ceases holding the office at the end of 16 May 2012.
- ‘(3) Subsection (2) does not prevent the present director ceasing to hold the office at an earlier time under the current conditions or those conditions as amended.
- ‘(4) If the present director ceases to hold the office under subsection (3), the director’s current appointment also ends.

‘78 Current conditions may be amended

- ‘(1) The board may, with the Governor in Council’s approval, amend the current conditions.
- ‘(2) However, subject to section 77(3), the conditions can not be amended in a way that would interfere with the operation of section 77(2).

‘79 No compensation payable

‘Compensation may not be claimed by, and is not payable to, the present director, whether under the current conditions, those conditions as amended or otherwise, because of the operation of section 77(2).’.

Part 5 Amendment of Queensland Museum Act 1970

14 Act amended in pt 5

This part amends the *Queensland Museum Act 1970*.

15 Amendment of s 2 (Definitions)

- (1) Section 2, definition *commencement*—
omit.
- (2) Section 2—
insert—
‘commencement—
 - (a) for part 7, division 1, see section 70; or
 - (b) for part 7, division 3—see section 77.
current appointment, for part 7, division 3, see section 77.
current conditions, for part 7, division 3, see section 77.

pre-amended Act, for part 7, division 3, see section 77.

present director, for part 7, division 3, see section 77.’.

16 Replacement of s 35 (Appointment of director)

Section 35—

omit, insert—

‘35 Appointment of director

- ‘(1) There is to be a director of the museum.
- ‘(2) The director is to be appointed by the Governor in Council for the term, and on the conditions, stated in the instrument of appointment.
- ‘(3) The stated term must not be longer than 5 years.

‘35A Minister to obtain board’s approval

‘The Minister must not recommend the Governor in Council act under section 35(2) unless the recommendation has been approved by the board.

‘35B Director is employee of the board

‘Despite section 35—

- (a) the director is an employee of the board and not of the State; and
- (b) subject to the conditions of the director’s appointment, the board may enter into a contract of employment with the director.’.

17 Insertion of new pt 7, div 3

Part 7—

insert—

‘Division 3 **Transitional provisions for
Vocational Education, Training and
Employment and Other Legislation
Amendment Act 2007**

‘77 **Definitions for div 3**

‘In this division—

commencement means the commencement of the provision in which the term is used.

current appointment, of the present director, means the director’s appointment by the Governor in Council under the pre-amended Act, section 35(1), on 10 May 2005.

current conditions see section 78(1).

pre-amended Act means this Act as in force before the commencement.

present director means the person holding office as the director at the commencement.

‘78 **Conditions on which present director holds office**

- ‘(1) Subject to this division, the present director continues to hold office on the conditions (the *current conditions*) applying under the pre-amended Act, section 35(2), immediately before the commencement.
- ‘(2) The present director’s current appointment ends and the director ceases holding the office at the end of 9 May 2010.
- ‘(3) Subsection (2) does not prevent the present director ceasing to hold the office at an earlier time under the current conditions or those conditions as amended.
- ‘(4) If the present director ceases to hold the office under subsection (3), the director’s current appointment also ends.

‘79 Current conditions may be amended

- ‘(1) The board may, with the Governor in Council’s approval, amend the current conditions.
- ‘(2) However, subject to section 78(3), the conditions can not be amended in a way that would interfere with the operation of section 78(2).

‘80 No compensation payable

‘Compensation may not be claimed by, and is not payable to, the present director, whether under the current conditions, those conditions as amended or otherwise, because of the operation of section 78(2).’.

Part 6 Amendment of Queensland Performing Arts Trust Act 1977

18 Act amended in pt 6

This part amends the *Queensland Performing Arts Trust Act 1977*.

19 Amendment of s 2 (Definitions)

Section 2—

insert—

‘commencement—

- (a) for part 8, division 1, see section 67; or
- (b) for part 8, division 2—see section 69.

current appointment, for part 8, division 2, see section 69.

current conditions, for part 8, division 2, see section 69.

pre-amended Act, for part 8, division 2, see section 69.

present director, for part 8, division 2, see section 69.’.

20 Replacement of s 32 (Director)

Section 32—

omit, insert—

‘32 Appointment of director

- ‘(1) There is to be a director of the trust.
- ‘(2) The director is to be appointed by the Governor in Council for the term, and on the conditions, stated in the instrument of appointment.
- ‘(3) The stated term must not be longer than 5 years.

‘32A Minister to obtain trust’s approval

‘The Minister must not recommend the Governor in Council act under section 32(2) unless the recommendation has been approved by the trust.

‘32B Director is employee of the trust

‘Despite section 32—

- (a) the director is an employee of the trust and not of the State; and
- (b) subject to the conditions of the director’s appointment, the trust may enter into a contract of employment with the director.’.

21 Insertion of new pt 8, div 1 hdg

Before section 67—

insert—

**‘Division 1 Transitional provisions for Arts
Legislation Amendment Act 2003’.**

22 Amendment of s 67 (Definition for pt 8)

- (1) Section 67, heading, ‘pt 8’—

omit, insert—

‘div 1’.

(2) Section 67, ‘part’—

omit, insert—

‘division’.

23 Insertion of new pt 8, div 2

After section 68—

insert—

‘Division 2 Transitional provisions for Vocational Education, Training and Employment and Other Legislation Amendment Act 2007

‘69 Definitions for div 2

‘In this division—

commencement means the commencement of the provision in which the term is used.

current appointment, of the present director, means the director’s appointment by the Governor in Council under the pre-amended Act, section 32(1), on 14 February 2002.

current conditions see section 70(1).

pre-amended Act means this Act as in force before the commencement.

present director means the person holding office as the director at the commencement.

‘70 Conditions on which present director holds office

‘(1) Subject to this division, the present director continues to hold the office on the conditions (the *current conditions*) applying under the pre-amended Act, section 32(2), immediately before the commencement.

- ‘(2) The present director’s current appointment ends and the director ceases holding the office at the end of 3 March 2008.
- ‘(3) Subsection (2) does not prevent the present director ceasing to hold the office at an earlier time under the current conditions or those conditions as amended.
- ‘(4) If the present director ceases to hold the office under subsection (3), the director’s current appointment also ends.

‘71 Current conditions may be amended

- ‘(1) The trust may, with the Governor in Council’s approval, amend the current conditions.
- ‘(2) However, subject to section 70(3), the conditions can not be amended in a way that would interfere with the operation of section 70(2).

‘72 No compensation payable

‘Compensation may not be claimed by, and is not payable to, the present director, whether under the current conditions, those conditions as amended or otherwise, because of the operation of section 70(2).’.

Part 7 Amendment of Queensland Theatre Company Act 1970

24 Act amended in pt 7

This part amends the *Queensland Theatre Company Act 1970*.

25 Amendment of s 2 (Definitions)

Section 2—

insert—

‘commencement—

- (a) for part 8, division 1, see section 68; or
- (b) for part 8, division 2—see section 71.

current appointment, for part 8, division 2, see section 71.

current conditions, for part 8, division 2, see section 71.

former name, for part 8, division 1, see section 68.

pre-amended Act, for part 8, division 2, see section 71.

present director, for part 8, division 2, see section 71.’.

26 Replacement of s 31 (Director)

Section 31—

omit, insert—

‘31 Appointment of director

- ‘(1) There is to be a director of the theatre company.
- ‘(2) The director is to be appointed by the Governor in Council for the term, and on the conditions, stated in the instrument of appointment.
- ‘(3) The stated term must not be longer than 5 years.

‘31A Minister to obtain theatre company’s approval

‘The Minister must not recommend the Governor in Council act under section 31(2) unless the recommendation has been approved by the theatre company.

‘31B Director is employee of the theatre company

‘Despite section 31—

- (a) the director is an employee of the theatre company and not of the State; and
- (b) subject to the conditions of the director’s appointment, the theatre company may enter into a contract of employment with the director.’.

27 Insertion of new pt 8, div 1 hdg

Before section 68—

insert—

**‘Division 1 Transitional provisions for Arts
Legislation Amendment Act 2003’.**

28 Amendment of s 68 (Definition for pt 8)

(1) Section 68, heading, ‘pt 8’—

omit, insert—

‘div 1’.

(2) Section 68, ‘part’—

omit, insert—

‘division’.

29 Insertion of new pt 8, div 2

After section 70—

insert—

**‘Division 2 Transitional provisions for
Vocational Education, Training and
Employment and Other Legislation
Amendment Act 2007**

‘71 Definitions for div 2

‘In this division—

commencement means the commencement of the provision in which the term is used.

current appointment, of the present director, means the director’s appointment by the Governor in Council under the pre-amended Act, section 31(1), on 13 May 1999.

current conditions see section 72(1).

pre-amended Act means this Act as in force before the commencement.

present director means the person holding office as the director at the commencement.

‘72 Conditions on which present director holds office

- ‘(1) Subject to this division, the present director continues to hold the office on the conditions (the *current conditions*) applying under the pre-amended Act, section 31(2), immediately before the commencement.
- ‘(2) The present director’s current appointment ends and the director ceases holding the office at the end of 2 August 2010.
- ‘(3) Subsection (2) does not prevent the present director ceasing to hold the office at an earlier time under the current conditions or those conditions as amended.
- ‘(4) If the present director ceases to hold the office under subsection (3), the director’s current appointment also ends.

‘73 Current conditions may be amended

- ‘(1) The theatre company may, with the Governor in Council’s approval, amend the current conditions.
- ‘(2) However, subject to section 72(3), the conditions can not be amended in a way that would interfere with the operation of section 72(2).

‘74 No compensation payable

‘Compensation may not be claimed by, and is not payable to, the present director, whether under the current conditions, those conditions as amended or otherwise, because of the operation of section 72(2).’.

Part 8

Amendment of other Acts

30 Acts amended in schedule

The schedule amends the Acts it mentions.

Schedule **Consequential and minor amendments of other Acts**

section 30

Biodiscovery Act 2004

- 1** **Section 54(4), definition *educational institution*,
paragraph (b), after ‘institute’—**
insert—
‘, a statutory TAFE institute’.

Building Act 1975

- 1** **Section 216(4), definition *educational institution*,
paragraph (c), after ‘institute’—**
insert—
‘or a statutory TAFE institute’.

Charitable and Non-Profit Gaming Act 1999

- 1** **Section 10(5), definition *educational purpose*, paragraph
(a)(i), after ‘institute’—**
insert—
‘or a statutory TAFE institute’.

Schedule (continued)

Criminal Law (Rehabilitation of Offenders) Act 1986

- 1 Section 9A(1), table, column 1, item 7, paragraph (d), after
'institute'—**

insert—

'or a statutory TAFE institute'.

**Education (Accreditation of Non-State Schools) Act
2001**

- 1 Section 6(2)(d)—**

omit, insert—

'(d) a TAFE institute or a statutory TAFE institute within the meaning of the *Vocational Education, Training and Employment Act 2000*;'.

Education (General Provisions) Act 2006

- 1 Section 232, table, 2nd column, 4th item, after
'institute'—**

insert—

', statutory TAFE institute'.

- 2 Section 235(b), example, after 'institute'—**

insert—

'or statutory TAFE institute'.

Schedule (continued)

3 Section 262(1), after ‘institute’—

insert—

‘, statutory TAFE institute’.

4 Schedule 4—

insert—

‘*statutory TAFE institute* means a statutory TAFE institute established under the *Vocational Education, Training and Employment Act 2000*, chapter 6A.’.

Education (Overseas Students) Act 1996

1 Section 17(3), ‘institute of TAFE’—

omit, insert—

‘TAFE institute, statutory TAFE institute’.

2 Schedule—

insert—

‘*statutory TAFE institute* means a statutory TAFE institute established under the *Vocational Education, Training and Employment Act 2000*, chapter 6A.

TAFE institute see the *Vocational Education, Training and Employment Act 2000*, section 191.’.

Schedule (continued)

Education (Queensland Studies Authority) Act 2002

1 Section 15(f)—

insert—

‘(ix) boards of statutory TAFE institutes established under the VETE Act;’.

2 Section 21P(1), after ‘TAFE institute’—

insert—

‘, statutory TAFE institute’.

3 Section 21P(4)—

insert—

‘*statutory TAFE institute* means a statutory TAFE institute established under the VETE Act, chapter 6A.’.

4 Section 21T(5), definition *prescribed agent*, after ‘TAFE institute’—

insert—

‘, statutory TAFE institute’.

Education (Work Experience) Act 1996

1 Section 5(1)(e), after ‘TAFE institute’—

insert—

‘or statutory TAFE institute’.

Schedule (continued)

Plumbing and Drainage Act 2002

1 Section 121(2), definition *designated person*, paragraph (b), after ‘institute’—

insert—

‘or statutory TAFE institute’.

Public Sector Ethics Act 1994

1 Schedule, definition *public sector entity*, paragraph (e), after ‘institute’—

insert—

‘, statutory TAFE institute’.

2 Schedule—

insert—

‘*statutory TAFE institute* means a statutory TAFE institute established under the *Vocational Education, Training and Employment Act 2000*, chapter 6A.’.

Whistleblowers Protection Act 1994

1 Schedule 5, section 2(1)(h), after ‘institute’—

insert—

‘, statutory TAFE institute’.

Schedule (continued)

2 Schedule 6—

insert—

‘statutory TAFE institute means a statutory TAFE institute established under the Vocational Education, Training and Employment Act 2000, chapter 6A.’.