



Queensland

Vocational Education and Training (Commonwealth Powers) Act 2012

Act No. 11 of 2012



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Queensland

Vocational Education and Training (Commonwealth Powers) Act 2012

Act No. 11 of 2012

An Act to adopt the National Vocational Education and Training Regulator Act 2011 (Cwlth) and the National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (Cwlth), and to refer certain matters relating to the regulation of vocational education and training to the Parliament of the Commonwealth, for the purposes of section 51(xxxvii) of the Commonwealth Constitution, and to make amendments of the Building Act 1975, the Gaming Machine Act 1991, the Liquor Act 1992 and the Vocational Education, Training and Employment Act 2000, for particular purposes, and consequential amendments of the Acts mentioned in the schedule

[Assented to 27 June 2012]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Vocational Education and Training (Commonwealth Powers) Act 2012*.

2 Commencement

This Act commences on 29 June 2012.

Part 2 Adoption and reference of matters

3 Definitions for pt 2

In this part—

adoption means the adoption under section 5(1).

amendment reference means a reference under section 5(2).

continuing VET matter has the meaning given in section 4.

national VET instrument means any instrument (whether or not of a legislative character) that is made or issued under the national VET legislation.

national VET legislation means—

- (a) the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*; and
- (b) the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (Cwlth)*;

as in force from time to time.

4 Continuing VET matters

- (1) Each of the following matters is a continuing VET matter to the extent that it is included in the legislative powers of the Parliament of the State—
 - (a) the registration and regulation of vocational education and training organisations;
 - (b) the accreditation or other recognition of vocational education and training courses or programs;
 - (c) the issue and cancellation of vocational education and training qualifications or statements of attainment;
 - (d) the standards to be complied with by a vocational education and training regulator;
 - (e) the collection, publication, provision and sharing of information about vocational education and training;
 - (f) investigative powers, sanctions and enforcement in relation to any of the above.
- (2) However, a continuing VET matter does not include the matter of making a law that excludes or limits the operation of a State law to the extent that the State law makes provision in relation to—
 - (a) primary or secondary education (including the education of children subject to compulsory school education); or
 - (b) tertiary education that is recognised as higher education and not vocational education and training; or
 - (c) the rights and obligations of persons providing or undertaking apprenticeships or traineeships; or
 - (d) the qualifications or other requirements to undertake or carry out any business, occupation or other work (other than that of a vocational education and training organisation); or

[s 5]

- (e) the funding by the State of vocational education and training; or
 - (f) the establishment or management of any agency of the State that provides vocational education and training.
- (3) In this section—

State law means any Act of the State or any instrument made under an Act of the State, whenever enacted or made and as in force from time to time.

5 Adoption and references

- (1) The national VET legislation is adopted, within the meaning of section 51(xxxvii) of the Commonwealth Constitution, to the extent that the matters in the national VET legislation are within the legislative powers of the Parliament of the State.
- (2) Each continuing VET matter is referred to the Parliament of the Commonwealth, but only to the extent of the making of laws with respect to the matter by making express amendments of the national VET legislation.
- (3) The operation of each of subsections (1) and (2) is not affected by the other subsection.
- (4) The reference of a matter under subsection (2) has effect only if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference for the purposes of section 51 (xxxvii) of the Commonwealth Constitution).
- (5) Despite any provision of this Act other than section 8(4), the adoption under subsection (1) or the reference under subsection (2) has effect for a period—
 - (a) beginning when the subsection under which the adoption or reference is made commences; and
 - (b) ending at the end of the day fixed under section 7 as the day on which the adoption or reference is to terminate; but not longer.

6 Amendment of Commonwealth law

- (1) It is the intention of the Parliament of the State that—
 - (a) the national VET legislation may be expressly amended, or have its operation otherwise affected, at any time by provisions of Commonwealth Acts the operation of which is based on legislative powers that the Parliament of the Commonwealth has apart from a reference of any matters, or the adoption of the national VET legislation, for the purposes of section 51 (xxxvii) of the Commonwealth Constitution; and
 - (b) the national VET legislation may have its operation affected, otherwise than by express amendment, at any time by provisions of national VET instruments.
- (2) If the national VET legislation is expressly amended, the Minister must table a copy of the amendment in the Legislative Assembly.
- (3) However, failure to comply with subsection (2) does not affect the operation of subsection (1) or section 5.

7 Termination of adoption or reference

- (1) The Governor may, at any time, by proclamation, fix a day as the day on which—
 - (a) the adoption and the amendment reference are to terminate; or
 - (b) the amendment reference is to terminate; or
 - (c) the adoption is to terminate (if the amendment reference has been previously terminated).
- (2) A day fixed under subsection (1) must be no earlier than the first day after the end of the period of 6 months beginning with the day on which the proclamation is notified in the gazette.
- (3) The Governor may, by proclamation, revoke a proclamation under subsection (1).

[s 8]

- (4) A revoking proclamation has effect only if notified before the day fixed under subsection (1).
- (5) If a revoking proclamation has effect, the revoked proclamation is taken, for the purposes of section 5, never to have been notified but the revocation does not prevent notification of a further proclamation under subsection (1).
- (6) A proclamation under subsection (1) or (3) is subordinate legislation.

8 Effect of termination of amendment reference before termination of adoption

- (1) A reference in this section to provisions referred to in section 6(b) includes a reference to national VET instruments made to carry out or give effect to the national VET legislation as amended by laws made under the amendment reference.
- (2) It is the intention of the Parliament of the State that, if the amendment reference terminates before the adoption terminates, the termination of the amendment reference does not affect—
 - (a) laws made under the amendment reference before the termination; or
 - (b) the continued operation in the State of the existing legislation or of the existing legislation as—
 - (i) amended after the termination by laws referred to in paragraph (a) that come into operation after the termination; or
 - (ii) amended or affected after the termination by provisions referred to in section 6(a) or (b).
- (3) Accordingly, the amendment reference continues to have effect for the purposes of subsection (2) unless the adoption reference is terminated.
- (4) Subsection (2) or (3) does not apply to or in relation to an amendment of the national VET legislation that is excluded from the operation of this section by the proclamation that terminates the amendment reference.

[s 12]

12 Omission of s 246CS (Inspection of documents)

Section 246CS—

omit.

13 Replacement of ch 8, pt 8

Chapter 8, part 8—

omit, insert—

**‘Part 8 Approval of training courses
for pool safety inspectors**

‘246DG PSC may approve course for pool safety inspectors

- ‘(1) PSC may approve a course to enable an individual who is not a building certifier to apply for a licence under part 6.
- ‘(2) PSC may publish a description of the course on the department’s website.’.

14 Amendment of s 246EH (Functions of PSC)

Section 246EH(1)(e) and (f)—

omit, insert—

- ‘(e) to approve training courses under section 246DG for individuals proposing to become pool safety inspectors;’.

15 Amendment of s 246EJ (Delegation by PSC)

Section 246EJ(3)—

omit, insert—

- ‘(3) Also, PSC can not delegate its power to approve a course under section 246DG.’.

16 Amendment of s 259 (Access to guidelines)

Section 259, ‘, 246EC’—

omit.

17 Amendment of s 261 (Regulation-making power)

(1) Section 261(2)(g)—

omit.

(2) Section 261(2)(h) to (k)—

renumber as section 261(2)(g) to (j).

18 Insertion of new ch 11, pt 15

Chapter 11—

insert—

**‘Part 15 Transitional provisions for
Vocational Education and
Training (Commonwealth
Powers) Act 2012**

‘309 Definitions for pt 15

‘In this part—

commencement means the commencement of this part.

former Act means this Act as in force from time to time before the commencement.

**‘310 When approved training course under former Act
taken to be approved training course under this Act**

‘(1) This section applies if an individual has, before the commencement, completed an approved training course under the former Act.

[s 19]

- ‘(2) The approved training course under the former Act is taken to be an approved training course under this Act, for a period of 6 months from the commencement, for the purpose of an application for a licence under chapter 8, part 6.

‘311 Fees may be refunded

- ‘(1) This section applies if, before the commencement—
- (a) an eligible course provider paid a fee under section 246DH of the former Act for the approval of a training course; and
 - (b) the approval is in force at the commencement.
- ‘(2) PSC may refund the proportion of the fee PSC considers appropriate having regard to the period of the approval left to run after the commencement.’.

19 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions, *approved training course*, *assessor*, *certificate of competency*, *compliance audit*, *eligible course provider*, *registered training organisation* and *training course guidelines*—
omit.
- (2) Schedule 2—
insert—
‘approved training course means a training course approved by PSC under section 246DG.
qualification see the *Vocational Education, Training and Employment Act 2000*.
statement of attainment see the *Vocational Education, Training and Employment Act 2000*.’.
- (3) Schedule 2, definition *show cause notice*, paragraph (d)—
omit.

- (4) Schedule 2, definition *show cause period*, paragraph (d)—
omit.

Part 4 Amendment of Gaming Machine Act 1991

20 Act amended

This part amends the *Gaming Machine Act 1991*.

21 Insertion of new pt 10A, div 6

After part 10A, division 5—

insert—

‘Division 6 Other matter

‘3370 VET legislation displacement provision

‘(1) This part is declared to be a VET legislation displacement provision for the purposes of the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*, section 11, in relation to all the provisions of that Act.

‘(2) This division expires 2 years after it commences.’.

Part 5 Amendment of Liquor Act 1992

22 Act amended

This part amends the *Liquor Act 1992*.

[s 23]

23 Insertion of new pt 5A, div 6

After part 5A, division 5—

insert—

‘Division 6 Other matter

‘142MA VET legislation displacement provision

‘(1) This part is declared to be a VET legislation displacement provision for the purposes of the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*, section 11, in relation to all the provisions of that Act.

‘(2) This division expires 2 years after it commences.’.

Part 6 Amendment of Vocational Education, Training and Employment Act 2000

24 Act amended

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

25 Amendment of s 3 (Objectives)

Section 3(a) and (e)—

omit.

26 Replacement of s 14 (What is a *registered training organisation*)

Section 14—

omit, insert—

‘14 What is a *registered training organisation*

‘A registered training organisation is a registered training organisation under the Commonwealth Act.’

27 Omission of ch 2 (Training organisations)

Chapter 2—

omit.

28 Amendment of s 73 (Issuing qualification or statement of attainment on completion of training)

(1) Section 73, heading, ‘Issuing’—

omit, insert—

‘Notice of issue of’.

(2) Section 73(1)(b)(ii), ‘entitled’—

omit, insert—

‘entitled, under the Commonwealth Act,’

(3) Section 73(3)—

omit, insert—

Note—

The registered training organisation issues the qualification or statement of attainment stated in the plan to the apprentice or employee under the Commonwealth Act.’

(4) Section 73(4), ‘the council’—

omit, insert—

‘Skills Queensland’.

(5) Section 73(5), ‘the council’—

omit, insert—

‘Skills Queensland’.

(6) Section 73(6)—

[s 29]

omit, insert—

- ‘(6) The organisation must not give a false or misleading notice.
Maximum penalty for subsection (6)—80 penalty units.’

29 Omission of s 73A (Authorising issue of qualification or statement of attainment)

Section 73A—

omit.

30 Insertion of new ch 4, pt 4

Chapter 4, after section 132—

insert—

‘Part 4 VET legislation displacement provision

‘132A VET legislation displacement provision

- ‘(1) This chapter is declared to be a VET legislation displacement provision for the purposes of the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 11, in relation to all the provisions of that Act.
- ‘(2) This part expires 2 years after it commences.’

31 Amendment of s 149 (Functions)

- (1) Section 149(1)(h)—

omit, insert—

‘(h) to advise the Minister on policy and guidelines for—

- (i) registering and regulating training contracts; and
- (ii) the training requirements for apprentices and trainees; and
- (iii) vocational placements; and

-
- (iv) making decisions about employment exemptions;
 - (i) to register and regulate training contracts;
 - (j) to recognise vocational placement schemes and register and regulate vocational placement agreements;
 - (k) to declare apprenticeships or traineeships;
 - (l) to declare a calling to be a restricted calling;
 - (m) to decide probationary periods and nominal terms for apprenticeships and traineeships;
 - (n) to issue recognition certificates;
 - (o) to grant employment exemptions;
 - (p) to recognise non-departmental employment skills development programs for the purposes of the *Education (General Provisions) Act 2006*, section 240(3);
 - (q) to maintain a register of recognised non-departmental employment skills development programs;
 - (r) to maintain a register of training contracts for apprentices and trainees;
 - (s) to recognise group training organisations and principal employer organisations;
 - (t) any other functions given to it under this or another Act.’.
- (2) Section 149(2)—
insert—
‘(d) the guidelines made by it.’.

32 Amendment of s 152 (Delegation)

Section 152—

insert—

[s 33]

- ‘(2) A person or entity delegated a function or power may subdelegate it only if the delegation permits the subdelegation.’.

33 Insertion of new ss 152A and 152B

After section 152—

insert—

‘152A Guidelines

- ‘(1) Skills Queensland may make guidelines for performing its functions.
- ‘(2) A guideline must be approved in writing by the Minister and published in the gazette and takes effect—
- (a) on its gazettal; or
 - (b) if a later day is stated in the guideline for its commencement, on the later day.
- ‘(3) A guideline may be amended or replaced by a later guideline made under this section.

‘152B Approval of forms

‘Skills Queensland may approve a form (an *approved form*) for use under this Act.’.

34 Omission of ch 5, pt 3, divs 1, 2, 3 and 6

Chapter 5, part 3, divisions 1, 2, 3, and 6—

omit.

35 Amendment of s 220Z (Transfer of assets, liabilities etc. to statutory TAFE institute)

Section 220Z(2)(f), (g) and (j)—

omit.

36 Amendment of s 224 (Review by QCAT)

Section 224(1)(a) and (b)—

omit.

37 Amendment of s 230 (Appeal to industrial commission against council or other decisions)

(1) Section 230, heading, ‘council’—

omit, insert—

‘Skills Queensland’.

(2) Section 230(1)(a) and (b)—

omit.

(3) Section 230(1)(c) to (h), ‘the council’s’—

omit, insert—

‘Skills Queensland’s’.

(4) Section 230(1)(i)—

omit.

(5) Section 230(1)(j) to (m), ‘the council’s’—

omit, insert—

‘Skills Queensland’s’.

38 Amendment of s 279 (Offences about false or misleading statements or documents)

Section 279(2), definition *prescribed provision*, ‘73(6) as applied by section 73A(5),’—

omit.

39 Amendment of s 280 (Executive officers must ensure corporation complies with prescribed provision)

(1) Section 280(5), definition *prescribed provision*, ‘21(1)’ to ‘46(1),’—

[s 40]

omit.

- (2) Section 280(5), definition *prescribed provision*, ‘73(6) as applied by section 73A(5),’—

omit.

40 Amendment of s 291 (Regulation-making power)

Section 291(2)(c) and (d)—

omit.

41 Insertion of new ch 10, pt 7

After chapter 10, part 6—

insert—

‘Part 7 Transitional provisions for the Vocational Education and Training (Commonwealth Powers) Act 2012

‘347 Definitions for pt 7

‘In this part—

commencement means the commencement of this part.

council means the Training and Employment Recognition Council established under the former Act.

former Act means this Act as in force from time to time before the commencement.

‘348 Documents held by council that become documents of Skills Queensland

- ‘(1) This section applies to documents held by the council immediately before the commencement that—

- (a) related to the council's functions under the former Act; and
 - (b) on the commencement, relate to similar functions to be performed by Skills Queensland under this Act.
- '(2) On the commencement, the documents become the documents of Skills Queensland and may be used by Skills Queensland in performing its functions under this Act.

'349 Nominal terms of training contracts for apprenticeships and traineeships

- '(1) This section applies to the nominal terms of training contracts for apprenticeships and traineeships decided by the council under section 49 of the former Act and in force immediately before the commencement.
- '(2) On the commencement, the nominal terms of the contracts continue in force as if they had been decided by Skills Queensland under this Act.

'350 Process to decide whether to shorten or lengthen probationary period

- '(1) This section applies if—
- (a) before the commencement, the council received a written submission under section 50 of the former Act and was undertaking a process to decide whether to shorten or lengthen the probationary period for an apprentice or trainee; and
 - (b) immediately before the commencement, the council had not made its decision.
- '(2) Skills Queensland may continue the process under this Act and decide whether to shorten or lengthen the probationary period for the apprentice or trainee.

[s 41]

‘351 Probationary periods for apprenticeships and traineeships

- ‘(1) This section applies to the probationary periods for apprenticeships and traineeships decided by the council under section 50 of the former Act and in force immediately before the commencement.
- ‘(2) On the commencement, the probationary periods continue in force as if they had been decided by Skills Queensland under this Act.

‘352 Training contracts received by the council but not yet registered

- ‘(1) This section applies if —
 - (a) before the commencement, a training contract was received by the council; and
 - (b) immediately before the commencement, the council had not registered or refused to register the contract under section 54 of the former Act.
- ‘(2) Skills Queensland may register or refuse to register the training contract under this Act.

‘353 Continuation of registration of training contracts

- ‘(1) This section applies to the registration of a training contract by the council under section 54 of the former Act in force immediately before the commencement.
- ‘(2) On the commencement, the registration continues in force as if it had been granted by Skills Queensland under this Act.

‘354 Process to amend or assign registered training contract

- ‘(1) This section applies if—
 - (a) before the commencement, the parties to a registered training contract applied to the council, under section 57

of the former Act, to approve the amendment or assignment of the contract; and

(b) immediately before the commencement, the council had not decided the matter.

‘(2) Skills Queensland may approve or refuse to approve the amendment or assignment under this Act.

‘355 Decision about amendment or assignment of registered training contract

‘(1) This section applies to a decision to approve the amendment or assignment of a registered training contract made under section 57 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘356 Minor amendment of registered training contract

‘(1) This section applies if a registered training contract was taken to be amended under section 58 of the former Act and the amendment continued in force immediately before the commencement.

‘(2) On the commencement, the amendment of the contract continues in force under this Act.

‘357 Application to cancel training contract

‘(1) This section applies if—

(a) before the commencement, an application was made to the council, under section 63 of the former Act, to cancel a training contract; and

(b) immediately before the commencement, the application had not been decided.

‘(2) Skills Queensland may decide the application under this Act.

[s 41]

‘358 Cancellation of training contract

- ‘(1) This section applies to the cancellation of a training contract by the council under section 63 of the former Act in force immediately before the commencement.
- ‘(2) On the commencement, the cancellation continues in force as if the decision to cancel had been made by Skills Queensland under this Act.

‘359 Application to cancel training contract or confirm suspension

- ‘(1) This section applies if—
 - (a) before the commencement, an application was made to the council under section 64 of the former Act—
 - (i) to cancel a training contract; or
 - (ii) to confirm a suspension; and
 - (b) immediately before the commencement, the application had not been decided.
- ‘(2) Skills Queensland may decide the application under this Act.

‘360 Cancellation of training contract or suspension of apprentice or trainee

- ‘(1) Subsection (2) applies to the cancellation of a training contract by the council under section 64 of the former Act in force immediately before the commencement.
- ‘(2) On the commencement, the cancellation continues in force as if the decision to cancel had been made by Skills Queensland under this Act.
- ‘(3) Subsection (4) applies if—
 - (a) before the commencement, the council confirmed the suspension of a contract by an employer under section 64 of the former Act; and
 - (b) immediately before the commencement, the period of suspension had not expired.

- ‘(4) The suspension continues in force under this Act for the balance of the period stated in the suspension notice and is taken to have been confirmed by Skills Queensland.

‘361 Application for cancelled training contract to resume

- ‘(1) This section applies if—
- (a) before the commencement, a party applied to the council under section 65 of the former Act for an order that training be resumed under a training contract that was purportedly cancelled by another party to the contract; and
 - (b) immediately before the commencement, the application had not been decided.
- ‘(2) Skills Queensland may decide the application under this Act.

‘362 Order to resume or undertake training

- ‘(1) This section applies to an order to resume training or to resume undertaking training under a training contract made by the council under section 65 of the former Act and in force immediately before the commencement.
- ‘(2) On the commencement, the order continues in force as if it had been made by Skills Queensland under this Act.

‘363 Process to cancel registration of training contract

- ‘(1) This section applies if, before the commencement, the council was considering whether to cancel the registration of a training contract under section 66 of the former Act—
- (a) either—
 - (i) as a result of an application by a party to the contract; or
 - (ii) on its own initiative; and

[s 41]

(b) immediately before the commencement, the council had not decided whether to cancel the registration.

‘(2) Skills Queensland may decide whether to cancel the registration under this Act.

‘364 Cancellation of registration of training contract

‘(1) This section applies to the cancellation of the registration of a training contract by the council under section 66 of the former Act in force immediately before the commencement.

‘(2) On the commencement, the cancellation continues in force as if the decision to cancel had been made by Skills Queensland under this Act.

‘365 Discipline orders

‘(1) This section applies to an order made by the council under section 71 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the order continues in force as if it had been made by Skills Queensland under this Act.

‘366 Cancellation of completion certificate

‘(1) This section applies to the cancellation by the council of a completion certificate under section 76 of the former Act in force immediately before the commencement.

‘(2) On the commencement, the cancellation of the certificate continues in force as if the decision to cancel had been made by Skills Queensland under this Act.

‘367 Application to extend nominal term of registered training contract

‘(1) This section applies if—

(a) before the commencement, an application was made to the council, under section 77 of the former Act, to

extend the nominal term of a registered training contract; and

- (b) immediately before the commencement, the application had not been decided.

‘(2) Skills Queensland may decide the application under this Act.

‘368 Decision to extend or refuse to extend nominal term of registered training contract

‘(1) This section applies to a decision made by the council to extend or refuse to extend a registered training contract under section 77 of the former Act in force immediately before the commencement.

‘(2) On the commencement, the decision continues in force under this Act and is taken to have been made by Skills Queensland.

‘369 Declaration of employer to be prohibited employer

‘(1) This section applies to a declaration made by the council under section 83 of the former Act that an employer is a prohibited employer and in force immediately before the commencement.

‘(2) On the commencement, the declaration continues in force as if it had been made by Skills Queensland under this Act.

‘370 Request by prohibited employer to revoke declaration

‘(1) This section applies if—

- (a) before the commencement, a request was made by a prohibited employer to the council, under section 84 of the former Act, to revoke the declaration that the employer is a prohibited employer; and

- (b) immediately before the commencement, a decision had not been made on the request.

[s 41]

‘(2) Skills Queensland may make a decision on the request under this Act.

‘371 Decision about declaration that employer is a prohibited employer

‘(1) This section applies to a decision made by the council on a request by a prohibited employer under section 84 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘372 Application by employer to temporarily stand down apprentice or trainee

‘(1) This section applies if—

(a) before the commencement, an employer applied to the council, under section 86 of the former Act, to temporarily stand down an apprentice or trainee; and

(b) immediately before the commencement, the application had not been decided.

‘(2) Skills Queensland may decide the application under this Act.

‘373 Decision about application to stand down apprentice or trainee

‘(1) This section applies to a decision made by the council on an application by an employer, under section 86 of the former Act, to temporarily stand down an apprentice or trainee in force immediately before the commencement.

‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘374 Declaration of calling to be restricted calling

- ‘(1) This section applies to a declaration made by the council, under section 89 of the former Act, that a calling is a restricted calling in force immediately before the commencement.
- ‘(2) On the commencement, the declaration continues in force as if it had been made by Skills Queensland under this Act.

‘375 Application to recognise vocational placement scheme

- ‘(1) This section applies if—
 - (a) before the commencement, an application was made by a registered training organisation to the council, under section 108 of the former Act, to recognise a vocational placement scheme; and
 - (b) immediately before the commencement, the application had not been decided.
- ‘(2) Skills Queensland may decide the application under this Act.

‘376 Decision to recognise or refuse to recognise vocational placement scheme

- ‘(1) This section applies to a decision to recognise, or refuse to recognise, a vocational placement scheme made under section 109 of the former Act and in force immediately before the commencement.
- ‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘377 Vocational placement agreement sent by registered training organisation

- ‘(1) This section applies if—
 - (a) before the commencement, a registered training organisation sent a signed vocational placement

[s 41]

agreement for a long placement to the council for registration, under section 118 of the former Act; and

(b) immediately before the commencement, the council had not decided whether to register or refuse to register the agreement.

‘(2) Skills Queensland may decide whether to register or refuse to register the agreement under this Act.

‘378 Decision to register or refuse to register vocational placement agreement for long placement

‘(1) This section applies to a decision made by the council to register, or refuse to register, a vocational placement agreement for a long placement under section 118 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘379 Application to extend approved time for vocational placement

‘(1) This section applies if—

(a) before the commencement, an application was made to the council, under section 121 of the former Act, to extend the approved time for a vocational placement; and

(b) immediately before the commencement, the application had not been decided.

‘(2) Skills Queensland may decide the application under this Act.

‘380 Decision to extend or refuse to extend vocational placement

‘(1) This section applies to a decision made by the council to extend or refuse to extend the approved time for a vocational

placement under section 121 of the former Act and in force immediately before the commencement.

- ‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘381 Ombudsman to continue to perform functions in relation to things done by council

- ‘(1) This section applies to decisions made, investigations undertaken or anything else done (a *council action*) by the council under the former Act before the commencement.

- ‘(2) On the commencement—

- (a) the council action is taken to have been made, undertaken or done by Skills Queensland; and
- (b) the ombudsman may do anything in relation to Skills Queensland under this Act that the ombudsman could have done but had not done in relation to the council under the former Act.

- ‘(3) Without limiting subsection (2), the ombudsman may do the following in relation to the council action—

- (a) require Skills Queensland to give it information or documents under section 138;
- (b) recommend Skills Queensland take further steps under section 139;
- (c) recommend Skills Queensland exercise a power or perform a function under section 140.

‘382 Application to have skills and knowledge in a calling recognised

- ‘(1) This section applies if—

- (a) before the commencement, a person applied to the council, under section 182 of the former Act, to have the person’s skills and knowledge in a calling recognised; and

[s 41]

(b) immediately before the commencement, the application had not been decided.

‘(2) Skills Queensland may decide the application under this Act.

‘383 Recognition certificate issued by council

‘(1) This section applies to a recognition certificate issued by the council under section 182 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the certificate continues in force as if it had been issued by Skills Queensland under this Act.

‘384 Decision by council to cancel a recognition certificate

‘(1) This section applies to a decision to cancel a recognition certificate made by the council under section 182 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the cancellation continues in force as if the decision to cancel had been made by Skills Queensland under this Act.

‘385 Declaration of training to be apprenticeship or traineeship

‘(1) This section applies to a declaration made by the council that employment based training is an apprenticeship or traineeship under section 183 of the former Act and in force immediately before the commencement.

‘(2) On the commencement, the declaration continues in force as if it had been made by Skills Queensland under this Act.

‘386 Application for employment exemption for young person

‘(1) This section applies if—

- (a) before the commencement, an application was made by a young person or a parent of a young person to the council, under section 183A of the former Act, for an employment exemption for the young person; and
 - (b) immediately before the commencement, the application had not been decided.
- ‘(2) Skills Queensland may decide the application under this Act.

‘387 Decision about employment exemption

- ‘(1) This section applies to a decision made by the council to grant or refuse to grant an employment exemption under section 183B of the former Act and in force immediately before the commencement.
- ‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘388 Application to amend or cancel employment exemption

- ‘(1) This section applies if—
- (a) before the commencement, a young person or a parent of a young person applied to the council, under section 183C of the former Act, to amend or cancel the employment exemption for the young person; and
 - (b) immediately before the commencement, the application had not been decided.
- ‘(2) Skills Queensland may decide the application under this Act.

‘389 Decision to amend or cancel employment exemption

- ‘(1) This section applies to a decision made by the council to amend or cancel an employment exemption under section 183C of the former Act in force immediately before the commencement.

[s 41]

- ‘(2) On the commencement, the decision continues in force as if it had been made by Skills Queensland under this Act.

‘390 Process to recognise non-departmental employment skills development program

- ‘(1) This section applies if—
- (a) before the commencement, the council was undertaking a process to decide whether to recognise a non-departmental employment skills development program under section 183D of the former Act; and
 - (b) immediately before the commencement, the council had not made its decision.
- ‘(2) Skills Queensland may continue the process under this Act and decide whether to recognise the non-departmental employment skills development program.

‘391 Recognition of non-departmental employment skills development program

- ‘(1) This section applies if the council recognised a non-departmental employment skills development program under section 183D of the former Act and the recognition was in force immediately before the commencement.
- ‘(2) On the commencement, the recognition continues in force as if it had been granted by Skills Queensland under this Act.

‘392 Process to recognise corporation as group training organisation

- ‘(1) This section applies if—
- (a) before the commencement, the council was undertaking a process to decide whether to recognise a corporation as a group training organisation under section 221 of the former Act; and
 - (b) immediately before the commencement, the council had not made its decision.

-
- ‘(2) Skills Queensland may continue the process under this Act and decide whether to recognise the corporation as a group training organisation.

‘393 Recognition of corporation as group training organisation

- ‘(1) This section applies if the council recognised a corporation as a group training organisation under section 221 of the former Act and the recognition was in force immediately before the commencement.
- ‘(2) On the commencement, the recognition continues in force as if it had been granted by Skills Queensland under this Act.

‘394 Process to withdraw recognition of corporation as group training organisation

- ‘(1) This section applies if—
- (a) before the commencement, the council was undertaking a process to decide whether to withdraw the recognition of a corporation as a group training organisation under section 223 of the former Act; and
 - (b) immediately before the commencement, the council had not made its decision.
- ‘(2) Skills Queensland may continue the process under this Act and decide whether to withdraw the recognition of the corporation as a group training organisation.

‘395 Withdrawal of recognition of corporation as group training organisation

- ‘(1) This section applies if the council withdrew the recognition of a corporation as a group training organisation under section 223 of the former Act and the withdrawal was in force immediately before the commencement.

[s 41]

- ‘(2) On the commencement, the decision to withdraw the recognition continues in force as if it had been made by Skills Queensland under this Act.

‘396 Process to recognise entity as principal employer organisation

- ‘(1) This section applies if—
- (a) before the commencement, the council was undertaking a process to decide whether to recognise an entity as a principal employer organisation under section 223A of the former Act; and
 - (b) immediately before the commencement, the council had not made its decision.
- ‘(2) Skills Queensland may continue the process under this Act and decide whether to recognise the entity as a principal employer organisation.

‘397 Recognition of entity as principal employer organisation

- ‘(1) This section applies if the council recognised an entity as a principal employer organisation under section 223A of the former Act and the recognition was in force immediately before the commencement.
- ‘(2) On the commencement, the recognition continues in force as if it had been granted by Skills Queensland under this Act.

‘398 Process to withdraw recognition of entity as principal employer organisation

- ‘(1) This section applies if—
- (a) before the commencement, the council was undertaking a process to decide whether to withdraw the recognition of an entity as a principal employer organisation under section 223C of the former Act; and

(b) immediately before the commencement, the council had not made its decision.

‘(2) Skills Queensland may continue the process under this Act and decide whether to withdraw the recognition of the entity as a principal employer organisation.

‘399 Withdrawal of recognition of entity as principal employer organisation

‘(1) This section applies if the council withdrew the recognition of an entity as a principal employer organisation under section 223C of the former Act and the withdrawal was in force immediately before the commencement.

‘(2) On the commencement, the decision to withdraw the recognition continues in force as if it had been made by Skills Queensland under this Act.

‘400 Skills Queensland substituted for council in proceedings in QCAT and Industrial Commission

‘(1) This section applies if—

(a) immediately before the commencement, the council was a party to a proceeding in QCAT or the Industrial Commission in relation to a decision of the council about a matter under the former Act; and

(b) on the commencement, Skills Queensland will make decisions for similar matters under its functions under this Act.

‘(2) On the commencement, Skills Queensland becomes a party to the proceeding instead of the council.

‘401 Appeal in Industrial Commission about decisions of council

‘(1) This section applies if—

(a) before the commencement, the council made a decision about a matter mentioned in section 230; and

[s 41]

- (b) immediately before the commencement, a person aggrieved by the decision had not appealed.
- ‘(2) The person may appeal to the industrial commission under this Act as if the decision about the matter had been made by Skills Queensland.
- ‘(3) Nothing in this section affects —
 - (a) the requirement that the aggrieved person start the appeal within 21 days after receiving an information notice for the decision being appealed; or
 - (b) the industrial commission’s power to extend the time for starting an appeal.

‘402 Skills Queensland to replace council for matter remitted by industrial commission

- ‘(1) This section applies if—
 - (a) before the commencement, the council made a decision about a matter mentioned in section 230; and
 - (b) on the commencement, the decision is the subject of a proceeding; and
 - (c) the industrial commission allows the appeal and remits a matter to the person who made the decision under section 233(2)(d).
- ‘(2) The matter is remitted to Skills Queensland instead of to the council.

‘403 Delegations by council to continue as delegations by Skills Queensland

- ‘(1) This section applies to the following in force immediately before the commencement and relating to a power or function that Skills Queensland has under this Act—
 - (a) a delegation by the council to an entity under section 186(1) of the former Act;

-
- (b) a subdelegation by an entity under section 186(2) of the former Act.
- ‘(2) On the commencement, Skills Queensland is taken to replace the council as delegator and the delegation or subdelegation continues in force until the earlier of the following—
- (a) Skills Queensland makes a new delegation for the matter the subject of the delegation;
 - (b) 6 months after the commencement.

‘404 Guidelines for council to continue as guidelines for Skills Queensland

- ‘(1) This section applies to a guideline for the council in force immediately before the commencement that relates to a power or function that Skills Queensland has under this Act.
- ‘(2) The guideline continues in force under this Act as if it had been made by Skills Queensland until the earlier of the following—
- (a) Skills Queensland makes a new guideline for the matter the subject of the guideline;
 - (b) 6 months after the commencement.

‘405 Council’s approved forms to continue as approved forms of Skills Queensland

- ‘(1) This section applies to an approved form in force immediately before the commencement that relates to a power or function that Skills Queensland has under this Act.
- ‘(2) The approved form continues in force under this Act as if it had been approved by Skills Queensland until the earlier of the following—
- (a) Skills Queensland approves a new form for the matter the subject of the form;
 - (b) 6 months after the commencement.

[s 42]

‘406 Transitional regulation-making power

- ‘(1) A regulation (a *transitional regulation*) may make provision about a matter for which—
- (a) it is necessary to make provision to allow or facilitate Skills Queensland to do either of the following after the commencement—
 - (i) perform functions previously performed by the council under the former Act;
 - (ii) complete matters started by the council under the former Act; and
 - (b) this Act does not make provision or sufficient provision.
- ‘(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- ‘(3) A transitional regulation must declare it is a transitional regulation.
- ‘(4) This section and any transitional regulation expire 1 year after the commencement.’.

42 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions, *accreditation, accredited, amended, another jurisdiction, appropriately qualified, approved form, approved guideline, AQF, AQTF, Commonwealth Act, compliance audit, condition, corresponding law, council, course accrediting body, guideline, jurisdiction, legislative compliance standard, Ministerial Council, nationally endorsed, National Quality Council, national register, national standards, prohibition, qualification, registered, registered training organisation, registering body, registration, restriction, scope of registration, standards for accreditation of courses, standards for registered training organisations, standards for State and Territory registering and course accrediting bodies, statement of attainment, this jurisdiction, training package, unit of competency and vocational education and training—*
- omit.*

(2) Schedule 3—

insert—

‘appropriately qualified, for a person or entity to whom a function or power may be delegated or subdelegated, includes having the qualifications, experience or standing appropriate for the function or power.

approved form see section 152B.

approved guideline means a guideline made by Skills Queensland that is in force under section 152A.

AQF means the Australian Qualifications Framework as defined in the Commonwealth Act, section 3.

Commonwealth Act means the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*.

qualification means a VET qualification as defined in the Commonwealth Act, section 3.

registered training organisation see section 14.

statement of attainment means a VET statement of attainment as defined in the Commonwealth Act, section 3.

unit of competency means a specification of knowledge and skill and their application to a specified standard of performance.

vocational education and training means the education and training and qualifications and statements of attainment under the vocational education and training provisions of the AQF.’.

Part 7 Consequential amendments

43 Legislation amended

The schedule amends the legislation it mentions.

Schedule Legislation amended

section 43

Part 1 Amendment of this Act

- 1 Long title, from ‘Constitution,’—**
omit, insert—
‘Constitution.’.

Part 2 Amendment of other legislation

Agricultural College Act 2005

- 1 Schedule 2, definition *qualification*, ‘section 19’—**
omit, insert—
‘schedule 3’.
- 2 Schedule 2, definition *statement of attainment*, ‘section 19’—**
omit, insert—
‘schedule 3’.

Commission for Children and Young People and Child Guardian Act 2000

- 1 **Schedule 7, definition *education provider*, paragraph (c), ‘, section 19’—**

omit.

Education (General Provisions) Act 2006

- 1 **Section 23(1)(b), ‘an accredited course’—**

omit, insert—

‘a VET course’.

- 2 **Section 23(3)(b), ‘accredited course’—**

omit, insert—

‘VET course’.

- 3 **Section 23(5), definition *accredited course*—**

omit, insert—

‘*VET course* means a VET course under the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*.’.

- 4 **Section 232, table, column 1, ‘a course of vocational education and training provided under the VETE Act’—**

omit, insert—

‘a VET course under the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*’.

5 Schedule 4, definition AQF, ‘section 19’—

omit, insert—

‘schedule 3’.

Education (Queensland Studies Authority) Act 2002

1 Section 14(a)—

omit, insert—

‘(a) to exercise powers delegated to the authority, by the National VET Regulator under the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*, section 224;’.

2 Section 14(b)—

omit, insert—

‘(b) to inform the public about training organisations registered under the delegation.’.

3 Section 15(f)(viii)—

omit, insert—

‘(viii)registered training organisations under the *National Vocational Education and Training Regulator Act 2011 (Cwlth)*;’.

4 Section 74, ‘Training and Employment Recognition Council’—

omit, insert—

‘National VET Regulator’.

5 Section 74, ‘Vocational Education, Training and Employment Act 2000, section 186’—

omit, insert—

‘National Vocational Education and Training Regulator Act 2011 (Cwlth), section 224’.

Education (Work Experience) Act 1996

1 Section 5(1)(f)—

omit, insert—

‘(f) if the student is enrolled in a registered training organisation within the meaning of the Vocational Education, Training and Employment Act 2000—the organisation; or’.

Industrial Relations Act 1999

1 Sections 137(4)(b)(i), 138(3)(b)(i), 138A(5), definition *probationary period*, 138B(3), 139A(1)(c)(i), 140(3)(b)(i), 140A(2)(b)(i), 391(2)(b), ‘the Training and Employment Recognition Council’—

omit, insert—

‘Skills Queensland’.

2 After section 779—

insert—

‘Part 13 **Transitional provision for
Vocational Education and
Training (Commonwealth
Powers) Act 2012**

‘780 **Continuation of decisions made by approving authority**

- ‘(1) This section applies to a decision of the Training and Employment Recognition Council as approving authority that is in force immediately before the commencement of this section.
- ‘(2) The decision is taken, on the commencement to be a decision of Skills Queensland as the approving authority.’.

3 **Schedule 5, definition *approving authority*—**

omit, insert—

‘approving authority means Skills Queensland established under the *Vocational Education, Training and Employment Act 2000*, section 146.’.

4 **Schedule 5, definition *group training organisation*, ‘the Training and Employment Recognition Council’—**

omit, insert—

‘Skills Queensland’.

5 **Schedule 5, definition *Training and Employment Recognition Council*—**

omit.

Pest Management Act 2001

1 Schedule 3, definition *registered training organisation*—

omit, insert—

‘registered training organisation see the *Vocational Education, Training and Employment Act 2000*, schedule 3.’.

Public Health (Infection Control for Personal Appearance Services) Act 2003

1 Schedule 2, definition *registered training organisation*—

omit, insert—

‘registered training organisation see the *Vocational Education, Training and Employment Act 2000*, schedule 3.’.

Vocational Education, Training and Employment Act 2000

- 1 Sections 7, 8, 50(4), 53, 54(4), 54(5), 54(6), 57(1)(a), 57(1A), 58(1), 63(1), 63(3), 63(4), 64(4), 64(5), 64(8), 64(9), 65(2), 65(4), 65(5), 66(1), 66(3), 69(2)(b), 70, 71(1), 76(1), 76(3), 76(4), 76(5), 77(2), 77(2), example, 77(3), 77(4), 82(2), 82(3), 83(1), 83(4), 83(5), 83(6), 84(1), 84(5), 84(6), 84(7), 84(8), 86(2), 86(2A), 86(3), 86(3)(b), example, 86(4), 108(1), 109(3), 111(1), 111(2), 118(1), 118(3), 118(5), 121(2), 121(3), 121(6), definition *approved time*, 122(3), 123(3), 134(1)(a), 134(1)(c), 134(2), 138(1), 139(2), 140(1), 140(2), 141(1)(b), 141(3), 141A(2)(a), 141A(2)(b), 141C, 141D(1)(b), 141D(4), 182(1), 182(2), 182(5), 183A(1), 183A(3), 183B(1), 183B(2) and 183B(3), 183C(3), 183C(4), 221(2), 223(2), 223A(2), 223C(2), 262(1)(e)(ii), 277(2), definition *official*, 289(2)(b), 289(3), 289(4), 289(5), 289(8) and schedule 3, definitions

appropriately qualified, completion certificate, group training organisation, information notice, principal employer organisation, probationary period and restricted calling, ‘the council’—

omit, insert—

‘Skills Queensland’.

- 2 Sections 49(1), 50(1), 54(1), 54(2), 54(3), 63(2), 64(7), 64(8), 65(6), 66(1), 66(2), 71(2), 71(3), 76(2), 77(3), 77(5), 83(1), 83(7), 84(2), 84(3), 84(4), 89(1), 109(1), 109(2), 118(2), 118(4), 121(3), 121(4), 138(2), 141C, 182(4), 183(2), 183C(1), 183D(1), 183D(2), 183E, 221(1), 223(1), 223A(1) and 223C(1), ‘The council’—**

omit, insert—

‘Skills Queensland’.

- 3 Sections 53, heading, 109, heading, 138, heading, 182, heading, ‘council’—**

omit, insert—

‘Skills Queensland’.

- 4 Chapter 5, heading, ‘, Skills Queensland and council’—**

omit, insert—

‘and Skills Queensland’.

- 5 Section 65, heading, ‘Council’s’—**

omit, insert—

‘Skills Queensland’s’.

- 6 Sections 65(7), 66(1), 110, 134(1)(a)(vi), 134(1)(b), 134(1)(d), 138(1)(b), 139(1), 140(1), 141(1) and 141D(1), ‘the council’s’—**

omit, insert—

‘Skills Queensland’s’.

7 Sections 141C, heading, 183D, heading, 183E, heading, ‘Council’—

omit, insert—

‘Skills Queensland’.

8 Section 282(4), definition *disclosure body*, paragraph (a)—

omit.

9 Section 282(4), definition *disclosure body*, paragraph (d), ‘(a),’—

omit.

10 Section 286(3)(c), ‘the council or ombudsman’—

omit, insert—

‘Skills Queensland or the ombudsman’.

11 Section 289(2)(a)(ii)—

omit.

12 Section 289(7), ‘, the council’—

omit.

13 Section 290(3)(c)—

omit.