



Queensland

Queensland Training Assets Management Authority Act 2014

Act No. 23 of 2014



Queensland

Queensland Training Assets Management Authority Act 2014

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
3	Purpose of Act and its achievement	6
4	Definitions	6
Part 2	Queensland Training Assets Management Authority	
Division 1	Establishment	
5	Establishment of QTAMA	7
6	QTAMA represents the State	7
7	Application of other Acts to QTAMA	7
Division 2	Functions and powers	
8	Functions	8
9	Key objective	9
10	Powers	9
11	Extraterritoriality	9
Division 3	Board	
Subdivision 1	Establishment and functions	
12	Establishment	10
13	Functions	10
Subdivision 2	Membership	
14	Appointment	10
15	Conditions of appointment	11
16	Term of appointment	11
17	Chairperson	11
18	Deputy chairperson	12

Contents

Subdivision 3	Other provisions about board	
19	Disqualification from membership	13
20	Vacation of office	13
21	Leave of absence	14
Subdivision 4	Business	
22	Conduct of business	14
23	Meeting of board	14
24	Disclosure of interest	15
Division 4	Chief executive officer	
25	Appointment	16
26	Conditions of appointment	16
27	Term of appointment.	16
28	Disqualification from appointment	17
29	Resignation	17
30	Appointment of acting chief executive officer	17
31	Responsibilities	17
32	Conflict of interest.	18
Division 5	Staff of QTAMA	
33	Employment of staff	18
34	Work performance arrangement.	19
35	Interchange arrangement	19
36	Preservation of rights of public service employee appointed to QTAMA	20
37	Preservation of rights of staff member appointed to public service	20
Part 3	Planning and accountability	
Division 1	Asset management plans	
38	QTAMA must prepare and implement asset management plan	21
39	Preparation of draft plan.	21
40	When plan has effect	22
41	Plan pending agreement	22
42	Amendment of plan	22
43	Relationship of asset management plan with other Acts	23
Division 2	Powers of Minister	
44	Minister may require information	23
45	Minister may give direction in public interest	23

Division 3	Proposed significant action	
46	Proposed significant action	24
Division 4	Payment of returns to the State	
47	Payment of returns	25
48	Interim returns	26
Part 4	Transfer of particular State-owned training assets to QTAMA	
49	Relevant entity	26
50	Transfer of assets, liabilities etc. to relevant entity	27
51	Registering authority to register or record transfer or other dealing	29
52	Rights of transferred employees etc.	30
53	Things done under this part	31
54	Effect on legal relationships	32
Part 5	Control of traffic on training assets land	
Division 1	Interpretation	
55	Definitions for pt 5.	33
Division 2	Authorised persons	
56	Appointment and qualifications	34
57	Appointment conditions and limit on powers	34
58	When office ends	35
59	Resignation	35
60	Identity card	35
61	Production or display of identity card	36
62	Return of identity card	36
Division 3	Traffic control	
63	Authorised person to control traffic on training assets land	36
64	Regulatory notice	37
65	Removal etc. of illegally parked or abandoned vehicle	38
66	Disposal of unclaimed vehicle	39
67	Application of proceeds of sale	40
Part 6	Miscellaneous provisions	
Division 1	Delegations	
68	Delegation by QTAMA	40
69	Delegation by chief executive officer	41
Division 2	Legal proceedings	
70	Summary proceedings for offence	41

Contents

71	Limitation on time for starting proceeding	41
72	Evidentiary aids generally	41
Division 3	Other matters	
73	Annual report	42
74	Report about person's criminal history	42
75	Disclosure of changes in criminal history	43
76	Criminal history is confidential document	43
77	Giving notice or direction	44
78	Regulation-making power	44
Part 7	Transitional provisions	
79	Minister to appoint first chief executive officer	44
80	QTAMA's first asset management plan	45
Schedule 1	Dictionary	46



Queensland

Queensland Training Assets Management Authority Act 2014

Act No. 23 of 2014

An Act about the management of State-owned training assets for the provision of vocational education and training, in accordance with sound commercial principles, and for related purposes

[Assented to 21 May 2014]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Training Assets Management Authority Act 2014*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Purpose of Act and its achievement

- (1) The main purpose of this Act is to provide for the effective and efficient management of State-owned training assets, primarily for the provision of vocational education and training, in accordance with sound commercial principles.
- (2) The main purpose is to be achieved primarily by—
 - (a) establishing QTAMA; and
 - (b) requiring QTAMA to effectively and efficiently manage training assets, primarily for the provision of vocational education and training, in accordance with the commercial objectives outlined in its asset management plan; and
 - (c) transferring State-owned training assets to QTAMA.

4 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

Part 2 Queensland Training Assets Management Authority

Division 1 Establishment

5 Establishment of QTAMA

- (1) The Queensland Training Assets Management Authority (*QTAMA*) is established.
- (2) QTAMA—
 - (a) is a body corporate; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name.

6 QTAMA represents the State

- (1) QTAMA represents the State.
- (2) Without limiting subsection (1), QTAMA has the status, privileges and immunities of the State.

7 Application of other Acts to QTAMA

- (1) QTAMA is—
 - (a) a statutory body under the *Financial Accountability Act 2009*; and
 - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*; and
 - (c) a unit of public administration under the *Crime and Misconduct Act 2001*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way that Act affects QTAMA's powers.

[s 8]

Division 2 Functions and powers

8 Functions

(1) QTAMA has the following functions—

- (a) to provide training assets for vocational education and training, including, for example, by entering into hiring, leasing, licensing and similar arrangements with TAFE Queensland and other registered training organisations for use of the assets;
- (b) to manage training assets, including by—
 - (i) owning, acquiring, developing, maintaining, disposing and valuing the assets; and
 - (ii) commercially exploiting the assets;

Example of commercially exploiting training assets—

hiring training assets to an entity, other than a registered training organisation, if the assets are not being used by a registered training organisation

- (c) to develop an asset management plan for each financial year;
- (d) to prepare advice and recommendations for the Minister about the management of training assets;
- (e) to report to the Minister on the performance of its functions;
- (f) any other functions given to it under an Act.

(2) In this section—

registered training organisation see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

TAFE Queensland see the *TAFE Queensland Act 2013*, section 5(1).

9 Key objective

- (1) The key objective of QTAMA is to effectively and efficiently manage training assets, primarily for the provision of vocational education and training, in accordance with sound commercial principles.
- (2) For each financial year, the effectiveness and efficiency of QTAMA are to be measured against its financial and non-financial performance targets stated in its asset management plan for the financial year.

10 Powers

- (1) QTAMA has all the powers of an individual, and may, for example—
 - (a) enter into contracts, agreements or arrangements; and
 - (b) acquire, hold, deal with and dispose of property; and
 - (c) appoint agents and attorneys; and
 - (d) employ staff; and
 - (e) engage consultants; and
 - (f) charge, and fix terms, for services and other facilities it supplies; and
 - (g) do anything else necessary or convenient to be done in performing its functions.
- (2) Without limiting subsection (1), QTAMA has the powers given to it under this Act or another Act.

11 Extraterritoriality

QTAMA may perform its functions inside and outside Queensland, including outside Australia.

[s 12]

Division 3 Board

Subdivision 1 Establishment and functions

12 Establishment

A board is established as the governing body of QTAMA.

13 Functions

The board has the following functions—

- (a) to ensure QTAMA operates in accordance with its key objective and, as far as possible, for each financial year achieves the commercial objectives and performance targets stated in its asset management plan for the financial year;
- (b) to ensure QTAMA otherwise performs its functions effectively and efficiently and in a proper way.

Subdivision 2 Membership

14 Appointment

- (1) The board consists of at least 4, but not more than 7, members appointed by the Governor in Council.
- (2) In appointing a person as a member, the Governor in Council must have regard to the person's ability to contribute to the effective and efficient performance of QTAMA's functions.
- (3) The Governor in Council can not appoint a person who is disqualified under section 19 from becoming a member.
- (4) The members are appointed under this Act and not the *Public Service Act 2008*.
- (5) To remove any doubt, it is declared that a member is a public officer within the meaning of the Criminal Code.

15 Conditions of appointment

- (1) A member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) For matters not provided for by this Act, a member holds office on the terms and conditions decided by the Governor in Council.

16 Term of appointment

- (1) A member is appointed for the term, of not more than 3 years, stated in the member's instrument of appointment.
- (2) The Minister may extend the term until the earlier of the following—
 - (a) the member's successor is appointed;
 - (b) 1 year after the member's term would have expired under the member's instrument of appointment.
- (3) The Minister may appoint a person to fill a casual vacancy in the office of a member.

Note—

See section 20 for when a person's appointment as a member ends before the person's term of appointment.

- (4) 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 stated in the member's instrument of appointment and any extension under subsection (2).
- (5) Subsections (2) and (3) do not limit any powers of the Governor in Council under the *Acts Interpretation Act 1954*, section 25.

17 Chairperson

- (1) The Governor in Council must appoint a member as 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.

[s 18]

- (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 instrument of appointment as chairperson.
- (4) A vacancy happens in the office of chairperson if—
 - (a) the person holding office resigns from office by notice given to the Minister; or
 - (b) the person's appointment as a member ends.
- (5) However, a person resigning the office of chairperson may continue to be a member.

18 Deputy chairperson

- (1) The Governor in Council must appoint a member, other than the chairperson, as the deputy chairperson of the board.
- (2) A person may be appointed as the deputy chairperson at the same time as the person is appointed as a member.
- (3) A person holds office as the deputy chairperson until the earlier of the following—
 - (a) the term, ending not later than the person's term of appointment as a member, stated in the person's instrument of appointment as deputy chairperson;
 - (b) the person resigns from office by notice given to the Minister;
 - (c) the person's appointment as a member ends.
- (4) However, a person resigning the office of deputy chairperson may continue to be a member.
- (5) The deputy chairperson is to act as chairperson during—
 - (a) any period when no other person is appointed as chairperson; and
 - (b) all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

Subdivision 3 Other provisions about board

19 Disqualification from membership

- (1) A person is disqualified from becoming, or continuing as, a member if the person—
- (a) has a conviction for an indictable offence and the conviction is not a spent conviction; or
 - (b) is an insolvent under administration; or
 - (c) is not able to manage a corporation because of the Corporations Act, part 2D.6; or
 - (d) is a staff member or contractor of QTAMA; or
 - (e) is a member of the Legislative Assembly; or
 - (f) is a councillor of a local government.
- (2) Also, a person can not become a member if the person does not consent to the Minister requesting a report about the person's criminal history under section 74.

20 Vacation of office

The appointment of a person as a member ends if the person—

- (a) completes the member's term of office and is not reappointed; or
- (b) resigns from office by notice given to the Minister; or
- (c) is disqualified from continuing as a member under section 19; or
- (d) is absent from 3 consecutive meetings of which proper notice has been given unless—
 - (i) the board has given permission for the member to be absent from the meetings; or

[s 21]

- (ii) the meetings happened during the period of a leave of absence approved for the member by the Minister under section 21; or
- (e) is removed from office by the Governor in Council.

21 Leave of absence

- (1) The Minister may approve a leave of absence for a member (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 leave.
- (3) Subsection (2) does not limit any powers of the Governor in Council under the *Acts Interpretation Act 1954*, section 25.

Subdivision 4 Business

22 Conduct of business

Subject to this subdivision, the board may conduct its business, including its meetings, in the way it considers appropriate.

23 Meeting of board

- (1) The chairperson may, and if requested by at least 3 members must, convene a meeting of the board.
- (2) At a meeting of the board—
 - (a) 3 members constitute a quorum; and
 - (b) a question is to be decided by a majority of votes of the members present and voting; and
 - (c) each member present has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting has a casting vote.
- (3) The board must keep minutes of its meetings.

-
- (4) The *member presiding at a meeting* is—
- (a) if the chairperson is present—the chairperson; or
 - (b) if the chairperson is not present but the deputy chairperson is present—the deputy chairperson; or
 - (c) if neither the chairperson nor deputy chairperson is present—a member decided by the other members to be the member presiding at the meeting.

24 Disclosure of interest

- (1) This section applies to a member 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.
- (3) The disclosure must be recorded in the board's minutes.
- (4) Unless the board otherwise directs, 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.
- (5) The member must not be present when the board is considering whether to give a direction under subsection (4).
- (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 whether to give a direction under subsection (4) about another member; or
 - (b) take part in making the decision about giving the direction.

[s 25]

- (7) If, because of this section, 1 or more members are not present at a board meeting for considering or deciding a matter, and there would be a quorum if the member or members were present, the remaining members present are a quorum of the board for considering or deciding the matter at the meeting.

Division 4 Chief executive officer

25 Appointment

- (1) QTAMA must have a chief executive officer.
- (2) The chief executive officer must be appointed by the board with the Minister's prior written approval.
- (3) The board can not appoint a person who is disqualified under section 28 from becoming the chief executive officer.
- (4) The chief executive officer is employed under this Act and not the *Public Service Act 2008*.
- (5) To remove any doubt, it is declared that the chief executive officer is a public officer within the meaning of the Criminal Code.

26 Conditions of appointment

For matters not provided for by this Act or stated in the contract of employment, the chief executive officer holds office on the terms of appointment decided by the board with the Minister's prior written approval.

27 Term of appointment

- (1) The chief executive officer is appointed for a term, of not more than 3 years, stated in the chief executive officer's instrument of appointment.
- (2) However, a person's appointment as chief executive officer ends if the person becomes disqualified under section 28 from continuing as the chief executive officer.

-
- (3) Although the board may, at any time, remove a person appointed as chief executive officer with the Minister's prior written approval, the removal does not affect any rights to compensation to which the person is entitled under the person's contract of employment.

28 Disqualification from appointment

- (1) A person is disqualified from becoming, or continuing as, the chief executive officer if the person—
- (a) has a conviction for an indictable offence and the conviction is not a spent conviction; or
 - (b) is an insolvent under administration; or
 - (c) is not able to manage a corporation because of the Corporations Act, part 2D.6; or
 - (d) is a member or contractor of QTAMA.
- (2) Also, a person can not become the chief executive officer if the person does not consent to QTAMA requesting a report about the person's criminal history under section 74.

29 Resignation

The chief executive officer may resign from office by notice given to the chairperson.

30 Appointment of acting chief executive officer

The board may only act under the *Acts Interpretation Act 1954*, section 24B or 25 in appointing a person to act in the office of the chief executive officer with the Minister's prior written approval.

31 Responsibilities

- (1) The chief executive officer is, under the board, responsible for—

[s 32]

- (a) the overall management of QTAMA, including, for example, the training assets; and
 - (b) helping QTAMA perform its functions.
- (2) The chief executive officer has all the powers necessary for carrying out those responsibilities.

32 Conflict of interest

If the chief executive officer has a direct or indirect financial or personal interest that conflicts or may conflict with the discharge of the chief executive officer's responsibilities, the chief executive officer—

- (a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the chief executive officer's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless directed by the board.

Division 5 Staff of QTAMA

33 Employment of staff

- (1) QTAMA may employ persons as staff as it considers appropriate to perform its functions, including, for example, on a temporary basis to meet temporary circumstances.
- (2) The staff are employed under this Act and not the *Public Service Act 2008*.
- (3) To remove any doubt, it is declared that the staff are public officers within the meaning of the Criminal Code.

34 Work performance arrangement

- (1) The chief executive officer may enter into, and give effect to, an arrangement (a *work performance arrangement*) under which—
- (a) a person employed under section 33 performs work for a department or another entity; or
 - (b) a person employed by or within a department or another entity performs work for QTAMA.

Examples of another entity—

- another government entity
 - an entity of the Commonwealth or another State
 - a private or public company
- (2) A work performance arrangement must be made with the chief executive of the department or the appropriate authority of the other entity.
- (3) A work performance arrangement may make provision for all matters necessary or convenient to be provided under the arrangement, including, for example—
- (a) the appointment of a public service employee or someone else to, or the holding by a public service employee or someone else of, any office for the arrangement; and
 - (b) the authorising of a public service employee or someone else to perform any functions 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.

35 Interchange arrangement

- (1) The chief executive officer may enter into, and give effect to, an arrangement (an *interchange arrangement*) under which—

[s 36]

- (a) a person employed under section 33 performs functions in another entity; or
- (b) a person employed by or within another entity performs functions in QTAMA.

Note—

For examples of another entity, see section 34(1).

- (2) An interchange arrangement must be made with the appropriate authority of the other entity.
- (3) An interchange arrangement may make provision for all matters necessary or convenient to be provided under the arrangement.

36 Preservation of rights of public service employee appointed to QTAMA

- (1) This section applies to a person who—
 - (a) is a staff member; and
 - (b) immediately before becoming a staff member, was a public service employee.
- (2) The person is entitled to retain all existing and accruing rights as if service as a staff member 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.

37 Preservation of rights of staff member appointed to public service

- (1) This section applies to a person who—
 - (a) is appointed as a public service employee; and
 - (b) immediately before taking up the appointment, was a staff member.

-
- (2) The person's service as a staff member must be regarded as service as a public service employee.

Part 3 Planning and accountability

Division 1 Asset management plans

38 QTAMA must prepare and implement asset management plan

- (1) QTAMA must prepare and implement an asset management plan for each financial year.
- (2) The asset management plan for a financial year must include the following matters about QTAMA—
- (a) an outline of its commercial objectives and the strategies for achieving the objectives;
 - (b) details of proposed changes to the composition of training assets to achieve the objectives;
Examples of changes to training assets composition—
sale, refurbishment, acquisition
 - (c) an outline of the nature and scope of activities proposed to be carried out during the financial year;
 - (d) its financial and non-financial performance targets.

39 Preparation of draft plan

- (1) Before 1 May in each financial year, QTAMA must give the Minister, for the Minister's agreement, a draft asset management plan for the next financial year.
- (2) QTAMA and the Minister must endeavour to reach agreement on the draft plan at least 1 month before the start of the next financial year.

[s 40]

40 When plan has effect

- (1) When the Minister agrees to QTAMA's draft asset management plan, the draft plan, subject to any conditions imposed on the agreement by the Minister, becomes its asset management plan for the financial year to which it relates.
- (2) After agreeing to the draft plan, the Minister must give notice to QTAMA about—
 - (a) the agreement; and
 - (b) any conditions imposed on the agreement.

41 Plan pending agreement

- (1) This section applies if a draft asset management plan has not been agreed to by the Minister by the start of the financial year to which it relates.
- (2) At the start of the financial year, the draft plan submitted, or last submitted, by QTAMA to the Minister, with any changes directed by the Minister, whether before or after that time, is taken to be its asset management plan.
- (3) Subsection (2) applies until a draft plan becomes QTAMA's asset management plan under section 40.

42 Amendment of plan

- (1) QTAMA may amend its asset management plan only with the Minister's further written agreement.
- (2) The Minister may impose conditions on the further agreement.
- (3) Also, the Minister may, by notice given to QTAMA, direct QTAMA to amend its asset management plan.
- (4) If an asset management plan for a financial year is amended under this section, the asset management plan for the financial year is the plan as amended.

43 Relationship of asset management plan with other Acts

The asset management plan is in addition to other plans or systems QTAMA is required or permitted to keep under an Act.

Example of an Act requiring or permitting QTAMA to keep other plans or systems—

Financial Accountability Act 2009

Division 2 Powers of Minister

44 Minister may require information

- (1) The Minister may, by notice given to QTAMA, require QTAMA 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) QTAMA 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.

45 Minister may give direction in public interest

- (1) The Minister may give QTAMA a written direction about any matter relating to the performance of its functions if the Minister reasonably believes it is in the public interest to do so.
- (2) Before giving the direction, the Minister must—
 - (a) consult with QTAMA about the proposed direction; and
 - (b) ask QTAMA to advise whether, in its opinion, QTAMA's financial viability could be seriously compromised if it is required to comply with the direction.

[s 46]

- (3) After considering QTAMA's advice, the Minister may—
 - (a) give QTAMA a written direction as mentioned in subsection (1); or
 - (b) decide not to give QTAMA a written direction and give notice to QTAMA about the decision.
- (4) QTAMA must comply with a direction given under this section.

Division 3 Proposed significant action

46 Proposed significant action

- (1) This section applies if QTAMA proposes to sell or buy an asset of a class prescribed by regulation for more than the amount prescribed by regulation for an asset of that class (the *proposed significant action*).
- (2) However, this section does not apply if the proposed significant action is in accordance with a direction from the Minister under section 45.
- (3) Before taking the action, QTAMA must give notice to the Minister about the proposed significant action.
- (4) After receiving the notice, the Minister must—
 - (a) consult with the Treasurer and the Minister administering the *Further Education and Training Act 2014* about the proposed significant action; and
 - (b) decide whether to agree to QTAMA taking the action.
- (5) The Minister must give notice to QTAMA of the Minister's decision.
- (6) QTAMA must not take the action unless the Minister agrees to QTAMA taking the action under this section.

Division 4 Payment of returns to the State

47 Payment of returns

- (1) QTAMA must advise the Minister of the recommendation QTAMA is likely to make under subsection (2), having regard to the information available to QTAMA, within the later of the following periods—
 - (a) 1 month after the end of a financial year; or
 - (b) if, for a particular financial year, the Minister has allowed a longer period of not more than 3 months after the end of the financial year—the longer period.
- (2) Within 4 months after the end of a financial year, QTAMA must recommend to the Minister that, for the previous financial year, QTAMA—
 - (a) pay a stated return to the State; or
 - (b) not pay a return.
- (3) QTAMA must consult with the Minister before making the recommendation.
- (4) Within 1 month after receiving the recommendation, the Minister must either—
 - (a) approve the recommendation; or
 - (b) direct QTAMA to make a payment to the State of a stated return.
- (5) The return for a financial year must not be more than QTAMA's surplus 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.
- (6) The return for a financial year must be paid within 6 months after the end of the financial year, or within the longer period the Minister allows.

[s 48]

48 Interim returns

- (1) At any time after 1 January in a financial year, the Minister may, by notice given to QTAMA, require QTAMA to make a recommendation about the payment of amounts to the State, including when the amounts are to be paid, because of the return that may become payable under section 47 for the financial year.
- (2) Within 1 month after receiving notice of the requirement, QTAMA must make a recommendation to the Minister.
- (3) Within 1 month after receiving the recommendation, the Minister must either—
 - (a) approve the recommendation; or
 - (b) direct the payment of stated amounts, at stated times, because of the return that may become payable under section 47 for the financial year.
- (4) A direction under subsection (3)(b) must not direct the payment of an amount that is more than QTAMA's estimated surplus 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.

Part 4 Transfer of particular State-owned training assets to QTAMA

49 Relevant entity

- (1) Each of the following entities is a *relevant entity*—
 - (a) the department administering the *TAFE Queensland Act 2013*;

-
- (b) QTAMA;
 - (c) an entity prescribed by regulation for this section.
- (2) However, the regulation may only prescribe—
- (a) a department, including the department administering this Act; or
 - (b) an entity established under an Act; or
 - (c) an entity ultimately owned by a relevant entity or the State.

50 Transfer of assets, liabilities etc. to relevant entity

- (1) A regulation (a *transfer regulation*) may make provision about all or any of the following for a relevant entity—
- (a) the transfer of an asset or liability of the relevant entity to another relevant entity;
 - (b) the consideration for an asset or liability transferred under paragraph (a);
 - (c) the grant of a lease, easement or other right from the relevant entity to another relevant entity;
 - (d) the variation or extinguishment of a lease, easement or other right held by the relevant entity;
 - (e) for a lease held under the *Land Act 1994* by the relevant entity—
 - (i) transferring the lease; or
 - (ii) changing a purpose for which the lease is issued; or
 - (iii) changing a condition imposed on the lease; or
 - (iv) granting a sublease;
 - (f) for trust land for which the relevant entity is the trustee—
 - (i) removing the relevant entity as trustee; or
 - (ii) appointing another relevant entity as trustee; or

[s 50]

- (iii) changing the purpose for which the trust land was reserved or granted in trust, including to a purpose other than a community purpose;
- (g) whether and, if so, the extent to which the relevant entity is the successor in law of another relevant entity;
- (h) a legal proceeding that is being, or may be, taken by or against the relevant entity to be continued or taken by or against another relevant entity;
- (i) the transfer or application of an instrument to the relevant entity, including, for example, whether—
 - (i) the relevant entity is a party to an instrument; and
 - (ii) an instrument, or a benefit or right provided by an instrument, is taken to have been given to, by or in favour of the relevant entity; and
- (iii) a reference to an entity in an instrument is a reference to the relevant entity; and
- (iv) under an instrument—
 - (A) an amount is, or may become, payable to or by the relevant entity; or
 - (B) other property is, or may be, transferred to or by the relevant entity; and
- (v) a right or entitlement under an instrument is held by the relevant entity;
- (j) the transfer of an employee of the relevant entity to another relevant entity;
- (k) the employees of the relevant entity transferred under paragraph (j), and their terms and conditions of employment, rights and entitlements;
- (l) the application of a particular industrial instrument to—
 - (i) the employees mentioned in paragraph (k); or
 - (ii) the relevant entity to which the employees mentioned in paragraph (k) are transferred; or

-
- (iii) other employees of the relevant entity mentioned in subparagraph (ii);
 - (m) the records of the relevant entity;
 - (n) anything incidental, consequential or supplemental to transferring State-owned training assets to QTAMA to achieve the purpose of this Act.
- (2) A transfer regulation—
- (a) may transfer an asset attached to land without transferring the land, even though the asset would otherwise be a part of the land; and
 - (b) has effect despite any other law or instrument; and
 - (c) may provide for a matter by reference to a document held by an entity.
- (3) To remove any doubt it is declared that a transfer regulation applies despite—
- (a) the *Industrial Relations Act 1999*; and
 - (b) any industrial instrument.
- (4) A transfer regulation may make provision about an accounting treatment in relation to a matter mentioned in subsection (1).
- (5) In this section—
- record* includes any document.

51 Registering authority to register or record transfer or other dealing

- (1) A registering authority must, on written application by a relevant entity and without charge, register or record in the appropriate way a transfer of, or other dealing affecting, an asset, liability or instrument provided for under a transfer regulation.
- (2) The relevant entity must comply with any relevant procedures required by the registering authority for the purpose of registering or recording the transfer or other dealing.

[s 52]

Example—

The registering authority may require the relevant entity to complete and submit a particular form.

(3) In this section—

registering authority means the registrar of titles or another entity required or authorised by law to register or record transactions affecting assets, liabilities or instruments.

52 Rights of transferred employees etc.

- (1) This section applies if there is a transfer of an employee (a ***transferred employee***) from a relevant entity (the ***transferor***) to another relevant entity (the ***transferee***) under a transfer regulation.
- (2) The transfer does not—
 - (a) reduce the transferred employee's total remuneration; or
 - (b) prejudice the transferred employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) affect a right or entitlement of the transferred employee to be employed as a public service employee accrued—
 - (i) immediately before 1 July 2013 under former section 220X(4); or
 - (ii) before, on or after the commencement of this section under the *TAFE Queensland Act 2013*; or
 - (iii) before, on or after the commencement of this section under the *Public Service Act 2008*, section 123; or
 - (d) interrupt continuity of service, including continuity of service under former section 220W(4), except that the transferred employee is not entitled to claim the benefit of a right or entitlement more than once for the same period of service; or

-
- (e) constitute a termination, retrenchment or redundancy of the transferred employee's employment by the transferor; or
 - (f) entitle the transferred employee to a payment or other benefit merely because he or she is no longer employed by the transferor; or
 - (g) require the transferor to make any payment to the transferred employee for the transferred employee's accrued rights to recreation, sick, long service or other leave irrespective of any arrangement between the transferor and the transferred employee.
- (3) The transfer has effect despite any other contract, law or instrument.
 - (4) If the transfer regulation provides for the application of a particular industrial instrument to an employee of the transferee (other than a transferred employee), the provision does not reduce the employee's total remuneration.
 - (5) In this section—

former section 220W(4) means the *Vocational Education Training and Employment Act 2000*, section 220W(4) as in force immediately before 1 July 2013.

former section 220X(4) means the *Vocational Education Training and Employment Act 2000*, section 220X(4) as in force immediately before 1 July 2013.

53 Things done under this part

- (1) A thing may be done under this part despite any other law or instrument.
- (2) To remove any doubt, it is declared that a thing is taken to be done under this part if it is done by, or in compliance with, a transfer regulation, even if the thing includes taking steps under another Act.

[s 54]

54 Effect on legal relationships

- (1) A thing done under this part—
 - (a) does not make a relevant State entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or
 - (b) does not make a relevant State entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (c) except as provided for under a transfer regulation, does not fulfil a condition that—
 - (i) terminates, or allows a person to terminate, an instrument or obligation; or
 - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
 - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iv) requires any money to be paid before its stated maturity; or
 - (d) does not release a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this part, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this Act, giving notice to a person would be necessary to do something under this part, the notice is taken to have been given.
- (4) In this section—

relevant State entity means—

- (a) the State or an employee or agent of the State; or
- (b) a relevant entity, a member of the relevant entity or the relevant entity's board (however described), or an employee or agent of the relevant entity.

Part 5 Control of traffic on training assets land

Division 1 Interpretation

55 Definitions for pt 5

In this part—

authorised person means a person appointed as an authorised person under section 56.

identity card, for a provision about authorised persons, means an identity card issued under section 60.

owner, of a vehicle, includes the person registered as the owner of the vehicle under—

- (a) the *Transport Operations (Road Use Management) Act 1995*; or
- (b) a law of a State that wholly or partially corresponds to the Act mentioned in paragraph (a).

person in control, of a vehicle, includes the person driving or in charge of the vehicle.

regulatory notice see section 64.

training assets land means any land that is a training asset but does not include land merely because a training asset is situated on the land.

[s 56]

Examples—

- 1 If a building and the land on which the building is situated are training assets, the land is training assets land.
- 2 If a building is a training asset but the land on which the building is situated is not a training asset, the land is not training assets land.
- 3 If a building is situated on land that is a training asset but the building is not a training asset, the land is training assets land.

vehicle includes—

- (a) a vehicle under the *Transport Operations (Road Use Management) Act 1995*, schedule 4; and
- (b) a part of the vehicle and anything attached to, or contained in, the vehicle.

Division 2 Authorised persons

56 Appointment and qualifications

- (1) The chief executive officer may, by instrument in writing, appoint a person as an authorised person.
- (2) However, the chief executive officer may appoint a person as an authorised person only if the chief executive officer is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

57 Appointment conditions and limit on powers

- (1) An authorised person holds office on any conditions stated in—
 - (a) the authorised person’s instrument of appointment; or
 - (b) a signed notice given to the authorised person; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person’s powers.

(3) In this section—

signed notice means a notice signed by the chief executive officer.

58 When office ends

(1) The office of a person as authorised person ends if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the office ends;
- (c) the authorised person's resignation under section 59 takes effect.

(2) Subsection (1) does not limit the ways the office of a person as an authorised person ends.

(3) In this section—

condition of office means a condition under which the authorised person holds office.

59 Resignation

(1) An authorised person may resign by notice given to the chief executive officer.

(2) However, if holding office as an authorised person is a condition of the authorised person holding another office, the authorised person may not resign as an authorised person without resigning from the other office.

60 Identity card

(1) The chief executive officer must issue an identity card to each authorised person.

(2) The identity card must—

- (a) contain a recent photo of the authorised person; and
- (b) contain a copy of the authorised person's signature; and

[s 61]

- (c) identify the person as an authorised person under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

61 Production or display of identity card

- (1) In exercising a power in relation to a person in the person's presence, an authorised person must—
- (a) produce the authorised person's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person's inspection at the first reasonable opportunity.

62 Return of identity card

If the office of a person as an authorised person ends, the person must return the person's identity card to the chief executive officer within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 3 Traffic control

63 Authorised person to control traffic on training assets land

- (1) An authorised person may control traffic on training assets land.
- (2) For controlling traffic on training assets land, the authorised person may give a written direction to—

-
- (a) a person whom the authorised person reasonably believes is the owner or person in control of a vehicle; or
 - (b) a person who is a pedestrian near a vehicle.
- (3) The authorised person may only give a direction under this section if the authorised person reasonably believes it is necessary to give the direction for the safety or convenience of persons and traffic on training assets land.
 - (4) If the authorised person reasonably believes it is not practicable to give a direction in writing as mentioned in subsection (2), the authorised person—
 - (a) may give the direction orally; and
 - (b) must confirm it by also giving it in writing as soon as practicable after giving it orally.
 - (5) A person given a direction must comply with the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

64 Regulatory notice

- (1) The chief executive officer may erect near any vehicular entrance to training assets land a notice (a **regulatory notice**) regulating the driving, parking or standing of vehicles on the land, including, for example—
 - (a) fixing a maximum speed limit; or
 - (b) indicating a pedestrian crossing; or
 - (c) indicating a place where the driving, parking or standing of a vehicle is restricted or prohibited.
- (2) A person on training assets land must comply with a regulatory notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

- (3) A regulatory notice must state—

[s 65]

- (a) the limits of the area to which the notice applies; and
 - (b) that a contravention of the notice is an offence against this Act and the penalty for the offence.
- (4) Without limiting subsection (1), the chief executive officer may erect or display regulatory notices in the form of official traffic signs.
- (5) Evidence that a regulatory notice was erected near a vehicular entrance is evidence that the notice was erected by the chief executive officer.
- (6) A regulatory notice erected under this section must be easily visible to passers-by.
- (7) In this section—
- erect* includes display.
- near*, in relation to a vehicular entrance, includes on or at the vehicular entrance.
- official traffic sign* see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

65 Removal etc. of illegally parked or abandoned vehicle

- (1) An authorised person may seize and remove a vehicle the authorised person reasonably believes—
- (a) is parked in contravention of a regulatory notice; or
 - (b) is abandoned.
- (2) The vehicle must be held at a safe place.
- (3) An authorised person may exercise the powers on the grounds mentioned in subsection (1)(a) only if—
- (a) the authorised person reasonably believes it is necessary or desirable to seize and remove the vehicle having regard to the safety or convenience of persons and traffic on training assets land; and
 - (b) the authorised person—

-
- (i) can not immediately locate the person whom the authorised person reasonably believes is the owner or person in control of the vehicle; or
 - (ii) reasonably believes a person mentioned in subparagraph (i) is not willing or able to remove the vehicle immediately.
- (4) As soon as is practicable and no later than 14 days after the vehicle is seized, the chief executive officer must give the owner of the vehicle a notice stating how the owner may recover the vehicle.
 - (5) If the owner can not be ascertained or located within 14 days after the vehicle is seized, the notice may be given by publishing it in a newspaper circulating generally in the State.
 - (6) If the vehicle was parked in contravention of a regulatory notice, the owner of the vehicle must pay to the chief executive officer the cost of seizing, removing, holding and returning the vehicle.

66 Disposal of unclaimed vehicle

- (1) This section applies if the owner of a seized vehicle has not recovered the vehicle within 2 months after notice is given to the owner under section 65(4) or (5).
- (2) The chief executive officer must publish a notice in a newspaper circulating generally in the State that—
 - (a) identifies the vehicle; and
 - (b) states the vehicle is to be sold by auction; and
 - (c) states how the owner may recover the vehicle before the auction; and
 - (d) states the time and place of the auction.
- (3) Not earlier than 1 month after the day the notice under subsection (2) is published, the chief executive officer may sell the vehicle at public auction.
- (4) Compensation is not recoverable against the chief executive officer for the sale of a vehicle under this section.

[s 67]

67 Application of proceeds of sale

- (1) The proceeds of the sale of a vehicle under section 66 must be applied in the following order—
 - (a) in payment of the reasonable expenses incurred in the sale, including the cost of giving notices under sections 65 and 66;
 - (b) in payment of the reasonable cost of seizing, removing and holding the vehicle;
 - (c) if there is an amount owing to a person under a security interest registered for the vehicle under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing to the holder of the security interest;
 - (d) in payment of any balance to the owner.
- (2) A secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (1)(a) or (b).
- (3) Compensation is not recoverable against the chief executive officer for a payment under this section.
- (4) In this section—
secured party see the *Personal Property Securities Act 2009* (Cwlth), section 10.

Part 6 Miscellaneous provisions

Division 1 Delegations

68 Delegation by QTAMA

QTAMA may delegate a function of QTAMA to—

- (a) an appropriately qualified member; or
- (b) an appropriately qualified staff member; or

- (c) an appropriately qualified person performing work for QTAMA.

69 Delegation by chief executive officer

- (1) The chief executive officer may delegate a function of the chief executive officer, including a function of QTAMA delegated to the chief executive officer under section 68, to—
 - (a) an appropriately qualified staff member; or
 - (b) an appropriately qualified person performing work for QTAMA.
- (2) Subsection (1) does not apply to a function of QTAMA delegated to the chief executive officer if the delegation provides it can not be subdelegated.

Division 2 Legal proceedings

70 Summary proceedings for offence

Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.

71 Limitation on time for starting proceeding

A proceeding for an offence against this Act must start within the later of—

- (a) 1 year after the commission of the offence; or
- (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

72 Evidentiary aids generally

A certificate purporting to be signed by QTAMA stating any of the following matters is evidence of the matter—

[s 73]

- (a) on a stated day, or during a stated period, a stated person was an authorised person;
- (b) on a stated day, a stated person was given a direction under part 5.

Division 3 Other matters

73 Annual report

QTAMA's annual report for a financial year under the *Financial Accountability Act 2009* must include copies of all directions given to QTAMA by the Minister under this Act in the financial year to which the report relates.

Note—

Directions about different matters may be given under sections 41, 42, 45, 47 and 48.

74 Report about person's criminal history

- (1) This section applies in relation to the following persons—
 - (a) a person who is being considered for appointment as a member (a *prospective member*);
 - (b) a person who is being considered for employment as a staff member (a *prospective staff member*).
- (2) The requesting authority may ask the commissioner of the police service for—
 - (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history.
- (3) However, the requesting authority may make the request only if the person has given the requesting authority written consent for the request.
- (4) The commissioner of the police service must comply with the request.

-
- (5) However, subsection (4) applies only to information in the commissioner's possession or to which the commissioner has access.
 - (6) The requesting authority must ensure a report given under this section is only used for the purpose for which it was requested and is destroyed as soon as practicable after it is no longer needed for that purpose.

75 Disclosure of changes in criminal history

- (1) This section applies to the following persons—
 - (a) a member;
 - (b) a staff member.
- (2) If there is a change in the criminal history of the person, the person must, unless the person has a reasonable excuse, immediately disclose the change to the requesting authority.
Maximum penalty—100 penalty units.
- (3) If the person does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires one.
- (4) To comply with subsection (2), the information disclosed by the person about a conviction for an offence in the person'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) the sentence imposed on the person.

76 Criminal history is confidential document

- (1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 74.
Maximum penalty—100 penalty units.

[s 77]

- (2) However, the person does not contravene subsection (1) if—
- (a) the disclosure of the report or information is for the purpose of performing a function under this Act; or
 - (b) the disclosure of the report or information is otherwise required or permitted by law.

77 Giving notice or direction

- (1) The Minister may give a notice or direction to QTAMA by giving it to the chairperson.
- (2) A notice that may be given by QTAMA under this Act need only be signed by the chairperson.

78 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 7 Transitional provisions

79 Minister to appoint first chief executive officer

- (1) Despite section 25(2), the Minister may appoint the first chief executive officer of QTAMA.
- (2) For the application of section 74 to the appointment of the first chief executive officer, the Minister is the requesting authority.
- (3) Despite section 26, for matters not provided for by this Act or stated in the contract of employment, the first chief executive officer holds office on the terms of appointment decided by the Minister.
- (4) This Act applies to the first chief executive officer as if he or she had been appointed under section 25.

80 QTAMA's first asset management plan

Despite sections 39 to 41—

- (a) QTAMA's first draft asset management plan must be—
 - (i) for the period starting on the commencement of this section and ending on 30 June 2015; and
 - (ii) given to the Minister within 4 months after the commencement; and
- (b) QTAMA and the Minister must endeavour to reach agreement on the first draft asset management plan as soon as possible after the commencement; and
- (c) if QTAMA and the Minister have not reached agreement within 5 months after the commencement, the first draft asset management plan submitted, or last submitted, by QTAMA to the Minister, with any changes directed by the Minister, whether before or after that time, is taken to be its first asset management plan.

Schedule 1 Dictionary

section 4

asset management plan, for a financial year, means an asset management plan for the financial year under section 38 that has been agreed to by the Minister under section 40.

authorised person, for part 5, see section 55.

board means the board of QTAMA established under section 12.

chairperson means the chairperson of the board appointed under section 17.

chief executive officer means the chief executive officer of QTAMA holding office under section 25.

conviction, for an indictable offence, does not include a finding of guilt, or the acceptance of a plea of guilty, by a court, in relation to the offence, without recording a conviction for the offence.

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

deputy chairperson means the deputy chairperson of the board appointed under section 18.

function includes a power.

identity card, for part 5, see section 55.

insolvent under administration has the meaning given by the Corporations Act, section 9.

interchange arrangement see section 35(1).

member means a member of the board.

notice means a signed, written notice.

owner, of a vehicle, for part 5, see section 55.

perform a function includes exercise a power.

person in control, of a vehicle, for part 5, see section 55.

prospective member see section 74(1).

prospective staff member see section 74(1).

QTAMA see section 5(1).

reasonably believes means believes on grounds that are reasonable in the circumstances.

regulatory notice, for part 5, see section 64.

relevant entity see section 49(1).

requesting authority means—

- (a) for a member or a prospective member—the Minister; or
- (b) for a staff member or a prospective staff member—QTAMA.

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.

staff member means—

- (a) the chief executive officer; and
- (b) a person employed under section 33; and
- (c) a person performing work for QTAMA under a work performance arrangement; and
- (d) a person performing functions in QTAMA under an interchange arrangement.

State-owned training assets means State-owned assets related to the provision of vocational education and training.

training assets means assets held by QTAMA that are related to the provision of vocational education and training.

training assets land, for part 5, see section 55.

transfer regulation see section 50.

vehicle, for part 5, see section 55.

work performance arrangement see section 34(1).

© State of Queensland 2014
Authorised by the Parliamentary Counsel