

VOCATIONAL EDUCATION AND TRAINING (INDUSTRY PLACEMENT) BILL

EXPLANATORY NOTES

PART 1—PRELIMINARY

Clause 1—Short Title. The short title of the Act is *Vocational Education and Training (Industry Placement) Act 1992*.

Clause 2—Commencement. The Act will commence on a day to be fixed by proclamation.

Clause 3—Object of Act. This Clause specifies that the Act provides for industry placement of students in structured vocational education and training programs.

Clause 4—Definitions. This Clause provides the definitions necessary under the Act.

“approved training scheme”—the definition of “approved training scheme” is given in section 7.

“authorised person”—has the same meaning as in the Vocational Education, Training and Employment Act 1991 which is:

- “(a) an industrial organisation; or
- (b) an organisation or body with an interest in an apprenticeship calling or training scheme; or
- (c) the State Training Council.”.

“college”—this definition is self explanatory and provides an encompassing definition of “college” ranging from high schools and TAFE colleges to approved training organisations and other persons.

“Commissioner for Training”—has the same meaning as in the Vocational Education, Training and Employment Act 1991 which is “the chairperson for the time being of the State Training Council”. The chairperson is also required to be a member of the Vocational Education, Training and Employment Commission.

“Council”—refers to the State Training Council constituted under the Vocational Education, Training and Employment Act 1991.

“director”—is the person in charge of a college.

“disability”—has the same meaning as defined in the Disability Services Act 1992, which is:

“Persons with disabilities” is defined as a person or persons with a disability or disabilities that:

- are attributable to an intellectual, psychiatric, sensory, neurological, cognitive or physical impairment or a combination of such impairments;
- are permanent or likely to be permanent; and
- results in:
 - a substantially reduced capacity of the person for communication, social interaction, learning or mobility; and
 - the need for ongoing support services.

This includes a person with a disability of a chronic episodic nature.

“industry placement”—the definition of “industry placement” is given in section 8.

“industry placement person”—the definition of “industry placement person” is given in section 9.

“industry placement student”—the definition of “industry placement student” is given in section 10.

“law”—includes awards, industrial agreements or determinations made under the Industrial Relations Act 1990.

“student”—refers to any person who is enrolled in a college, and who is either 15 years of age or more or 14 years of age and approved by the State Training Council.

“vocational placement agreement”—the definition of “vocational placement agreement” is given in section 11.

“vocational training agreement”—the definition of “vocational training agreement” is given in section 12.

Clause 5—Act binds Crown. This is the usual Clause that binds the Crown. The Crown or its agencies will need to be able to participate in the industry placement of students and in this will be an industry placement person.

Clause 6(1)—Certain laws not to apply to students obtaining industry placement. This Clause negates the provisions of any other Act or law except the Queensland Anti-Discrimination Act, that prohibits or regulates the employment of persons under the age of 21 years, when those persons are provided with industry placement under this Act.

Clause 6(2)—This Clause specifies that Clause 6.1) does not allow any person below or above a specified age, any person of a particular sex or any person who does not hold required qualifications, to do anything contrary to any Act or law that prohibits the employment or regulates the working conditions of those persons. An example is the requirement to hold a licence in order to operate certain equipment.

Clause 6(3)—This Clause stipulates that the provisions of the Workplace Health and Safety Act 1989 applies to all industry placements made under this Act.

Clause 6(4)—This Clause states that Section 3.10 of the Vocational Education, Training and Employment Act 1991, which restricts the employment of persons under 21 years of age in apprenticeship callings unless they are apprentices or have completed an apprenticeship, does not apply to the industry placement of a student in an apprenticeship calling.

PART 2—BASIC CONCEPTS

Clause 7—Meaning of “approved training scheme”. Specifies that an approved training scheme is a training scheme approved by the State Training Council that provides the practical training and experience requirements of a vocational course being undertaken by a student.

Clause 8—Meaning of “industry placement”. This definition is central to the Act and specifies that placement of a student with an industry placement person must form part of the student’s studies.

Clause 9—Meaning of “industry placement person”. This Clause defines an “industry placement person” as a person, State or Commonwealth department or a statutory authority or other body (whether or not it is incorporated), that, in the opinion of a director of a college is able to provide industry placement for a student. This definition includes private sector enterprises.

Clause 10—Meaning of “industry placement student”. This Clause defines an “industry placement student” as a student who is undertaking an industry placement under an approved training scheme.

Clause 11—Meaning of “vocational placement agreement”. This Clause defines “vocational placement agreement” as the written agreement between a college director and an industry placement person that is required for an industry placement under an approved training scheme that is for 240 hours or less.

Clause 12(1)—Meaning of “vocational training agreement”. This Clause defines a “vocational training agreement” as the written agreement of training between an industry placement student and an industry placement person for an industry placement under an approved training scheme that is for more than 240 hours.

Clause 12(2)—This Clause stipulates that a vocational training agreement must contain prescribed particulars and be approved by the State Training Council.

PART 3—INDUSTRY PLACEMENT

Clause 13—Restriction on industry placement for more than 240 hours. This Clause prohibits an industry placement under an approved training scheme that is for more than 240 hours unless the Industrial Relations Commission has made an Order with respect to the rate of wage payable to the industry placement student and a training agreement has been entered into between the student and the industry placement person.

Clause 14(1)—Fixing of rates of pay and conditions for industry placement. This Clause specifies that the Industrial Relations Commission, on application by an authorised person, may fix an appropriate rate of wage and employment conditions for an industry placement student undertaking

an industry placement under an approved training scheme of more than 240 hours.

Clause 14(2)—This Clause permits an authorised person to include, in an application to the Industrial Relations Commission, other approved training schemes in addition to the approved training scheme in which that authorised person has an interest.

Clause 14(3)—This Clause authorises the State Training Council or any other authorised person to make submissions to the Industrial Relations Commission with respect to applications made under this section.

Clause 14(4)—This Clause gives the Industrial Relations Commission the authority to fix a wage rate by reference to any one or more of the following:

- a relevant industrial award or agreement;
- a percentage of an industrial award or industrial agreement wage rate;
- the stage of training of an industry place student or group of industry placement students;
- any other appropriate factors, including factors submitted by the State Training Council.

Clause 14(5)—This Clause gives the Industrial Relations Commission the authority to fix employment conditions other than a wage rate by reference to any one or more of the following:

- conditions in a relevant industrial award or agreement;
- conditions prescribed by the Industrial Relations Act 1990;
- other appropriate factors including factors submitted by the State Training Council.

Clause 14(6)—This Clause provides that the wage rate or employment conditions fixed by the Industrial Relations Commission for an industry placement student or group of industry placement students shall be the minimum wage rate or minimum employment conditions for those students.

Clause 15(1)—Conditions of industry placement. This Clause specifies the conditions that apply to industry placements.

Clause 15(1)(a)—This Clause requires a parent’s or guardian’s written consent to undertake an industry placement if a student is under 18 years of age.

Clause 15(1)(b)—This Clause stipulates that an unpaid industry placement in any one approved training scheme cannot exceed 240 hours.

Clause 15(1)(c)—This Clause specifies that industry placements of 240 hours or less must fall within a college’s academic year.

Clause 15(1)(d)—This Clause prevents an industry placement person from providing more industry places than permitted. The purpose of this Clause is to allow appropriate supervision.

Clause 15(1)(e)—This Clause prevents a student on an unpaid industry placement from working contrary to the conditions of the relevant award or industrial agreement.

Clause 15(2)(a)—This Clause specifies that “the permitted number of students” is equal to the maximum number of relevantly qualified individuals who are usually employed by the industry placement person in the particular area covered by the industry placement.

Clause 15(2)(b)—This Clause gives the chairperson of the State Training Council the authority to set “the permitted number of students” in special circumstances.

Clause 16—Students with a disability. This Clause gives the State Training Council the authority to suspend the requirements in section 13 and the conditions in Clauses 15 (1)(b),(c),(d), and (e) in relation to students with a disability, only if the Council’s actions are not inconsistent with the Anti-Discrimination Act.

Clause 17(1)(a)—Amendment and cancellation of agreements. This Clause provides for the variation or amendment of a vocational placement agreement by a further vocational placement agreement.

Clause 17(1)(b)—This Clause provides for the cancellation of a vocational placement agreement by written notice from the industry placement person to the college director or from the college director to the industry placement person.

Clause 17(2)(a)—This Clause provides for the variation or amendment of a vocational training agreement by a further vocational training agreement.

Clause 17(2)(b)—This Clause provides for the cancellation of a vocational training agreement by the State Training Council on its own initiative or on application from the director of a college, an industry placement person or the industry placement student.

Clause 17(3)—This Clause specifies that notice of the cancellation of a vocational training agreement must be given in writing to the industry placement student and the industry placement person.

Clause 18—Party to an unpaid industry placement not an employer. This Clause stipulates that an industry placement person providing an unpaid industry placement is not taken to be the employer of the student undertaking the industry placement.

Clause 19—Workers' compensation. This Clause requires a college to provide worker's compensation cover in accordance with the Workers' Compensation Act 1990 for students undertaking an unpaid industry placement.

Clause 20(1)—Protection from liability. This Clause requires a college to provide indemnity insurance with respect to an industry placement. The insurance is to provide protection for:

- the industry placement person against injury to the student or damage to either the student or the industry placement person's property, and
- the industry placement student against an action for damages brought by the industry placement person, an employee of the industry placement person or a third party.

Clause 20(2)—This Clause limits the maximum amount payable under the policy referred to in Clause 20.(1) to \$2 000 000. This is consistent with the Education (Student Work Experience) Act 1978.

PART 4—MISCELLANEOUS

Clause 21—Delegation. This Clause permits the State Training Council to delegate its powers under this Act to the Commissioner for Training or a college director.

Clause 22—Regulations. This is a standard Clause authorising the Governor in Council to make regulations for the purposes of this Act.

Clause 23—Amendment of Anti-Discrimination Act 1991. This Clause explains the amendment to the Anti-Discrimination Act 1991.

