

YOUTH PARTICIPATION IN EDUCATION AND TRAINING BILL 2003

EXPLANATORY NOTES

Short Title of the Bill

The short title of the Bill is the *Youth Participation in Education and Training Bill 2003*.

Policy Objectives of the Bill

The primary policy objective of the Bill is to make necessary legislative changes to support the implementation of the *Education and Training Reforms for the Future*.

These reforms were announced in the *Education and Training Reforms for the Future – A White Paper* in November 2002. The reforms are aimed at ensuring that young people leave the education and training system better equipped for future success. The reforms will raise the school leaving age from 15 to 16 or when the young person has completed Year 10, whichever comes first. Young people will then be required to continue to participate in education or training, or work, for another 2 years, or until they have achieved a senior certificate or a certificate III vocational education qualification. The requirement will cease once the young person turns 17.

Reason that the proposed legislation is necessary

The compulsory schooling obligation is currently legislated in the *Education (General Provisions) Act 1989*. For the requirement for young people to stay at school until they complete Year 10 or turn 16 to be meaningful, the age of compulsory attendance within the meaning of the *Education (General Provisions) Act 1989* must be changed.

Legislation for the continued participation of young people in learning post Year 10 or 16 years, is required because the government cannot place a meaningful obligation on people without a legislative basis. Legislating for

the obligation sends a powerful message to the public about the seriousness of the obligation. In addition, the legislation will set out a framework for which participation options are considered to be worthwhile for young people to maximise their chance for success. Also, the legislation will provide a regime for monitoring and enforcement of the obligation.

The legislation is enabling legislation, designed to provide a broad framework for the implementation of the reforms, and to facilitate the development of a range of policies and practices that will provide opportunities for young people to be involved in education and training. With the substantive parts of the Bill not proposed to commence until 2006, it is anticipated that policies and guidelines can be developed and informed by the trials, which commenced in second semester this year in seven areas of the State.

How the Policy Objectives will be Achieved

The Youth Participation in Education and Training Bill 2003 will create an Act by that name, as well as amending other pieces of legislation.

The compulsory participation requirement

The proposed Youth Participation in Education and Training Act 2003 will introduce the concept of the “compulsory participation phase”, which commences when a young person stops being of compulsory school age, and finishes when the young person either gains a senior certificate or certificate III, has participated for 2 years beyond the compulsory school age, or turns 17.

The Bill creates an obligation for parents of young people in the compulsory participation phase to ensure that the young person participates in defined education and training options or employment skills options. In addition, the Bill includes provisions to enable young people to comply by working in paid employment for at least 25 hours a week. Young people will also be able to apply for an employment exemption if they want to participate by working, but cannot gain employment for the full 25 hours a week, or want to engage in unpaid employment. Further, the Bill sets out a process for gaining a dispensation from the obligation.

It will be an offence for parents to fail to ensure the young person participates, unless the parent has a reasonable excuse. Prosecution cannot occur until the parent has been issued with a warning notice about the parent’s obligation, at least one meeting has been held, or attempted to be held, with the parent, and the chief executive has consented to prosecution

being commenced. Policy and procedures will be developed to ensure parents are adequately helped and supported in meeting their obligation and that appropriate options are available for the young person. The provisions coupled with the underpinning policies should facilitate participation while minimising the number of prosecutions.

The student accounts

The Bill will also introduce the concept of student accounts in which young people can bank learning credits. The student account has two purposes. The first purpose is to support the Queensland Studies Authority's certification function in the sense that the student account will form the basis for the young person to bank enough learning credits to earn a senior certificate. The senior certificate issued under the *Education (Queensland Studies Authority) Regulation 2002* is currently under review, and it is anticipated that any reforms to the certificates will accommodate a greater range of accredited learning. The student account will be a repository of young people's learning credits, and a young person will be able to bank their learning credits from a variety of learning providers accumulated in one place.

Secondly, the student account will enable the Queensland Studies Authority to provide statistical information to the chief executive (and other relevant authorities) about the choices of young people and the rate at which young people disengage from learning. This statistical information will support the chief executive in performing the planning for more effective participation by the cohort. As well as providing aggregated information to the chief executive, the Queensland Studies Authority will also be able to identify those young people who disengage and provide their details to the chief executive for the purpose of re-engagement. This information will be critical in assisting the chief executive to carry on reengagement activities. The chief executive will rely on localised strategies to reengage young people. Districts work collaboratively to identify, at the local level, the resources available in the community to support young people. Therefore, the Bill gives chief executive power to share with relevant entities the personal information about young people for the purpose of reengaging those young people in education and training.

To safeguard the information collected and possibly shared with other agencies and entities, the Bill includes a confidentiality provision, creating an offence for use or disclosure of the student account information, as well as other personal information collected under the Bill, such as information about dispensation applications.

In addition, the Bill will amend the *Freedom of Information Act 1992* to exempt the student account information from the purview of legally enforceable access by the public to information from the student account system. This is in effect an extension of exemptions currently applying under the *Freedom of Information Regulation 1992* to information about student achievement, including test results and certification results collated by the Queensland Studies Authority. The policy objective behind this exemption is to avoid damaging comparisons of schools based on simplistic conclusions about student participation or performance which does not take into account other information which impacts on the performance of students.

The compulsory schooling amendments

The Bill will amend the *Education (General Provisions) Act 1989* in a number of ways to facilitate the reforms. The most significant of these changes is the definition of compulsory school age, which will change the school leaving age from the current 15 years of age to 16 years of age or when the young person has completed Year 10. This amendment will not take effect until 1 January 2006. However, other amendments to the concept of schooling will commence by proclamation. These amendments relate to what does it mean to attend school and be involved in an educational program.

Section 114 of the *Education (General Provisions) Act 1989* will be amended so that the obligation is met if a child is enrolled in a state educational institution (as opposed to the more narrow class of state educational institutions that are state schools) or non-state schools, and the child attends the institution or school on every school day for the educational program for which the child is enrolled. The meaning of “attend” is then defined to include participation in the educational programs of the institution or school in a way other than physically attending the institution or school.

In addition, amendments have been included about the obligation where a child is suspended or excluded from school, to clarify that where the child is not attending a school because of a school disciplinary absence, the parent is nevertheless meeting their obligation, and is not in breach of the law. In this context, an amendment is included to clarify that the principal’s supervisor cannot exclude from all state educational institutions across the State, but only from those state educational institutions within the principal’s supervisor’s district.

Instead, the chief executive is given original jurisdiction to exclude a student from all state educational institutions where the student's attendance at school would pose a risk of harm to other students and staff. In addition, to coincide with the repeal of principals' power to cancel a post compulsory student's enrolment, the chief executive is also given original jurisdiction to exclude a student where the student has persistently engaged in gross misbehaviour that adversely affects the education of other students. The cancellation power can currently be exercised where the student's behaviour amounts to a refusal to participate, or where the student's persistently disruptive behaviour adversely affects other students. The former ground is simply inconsistent with the compulsory participation requirement and is therefore repealed, and the latter ground will be able to be dealt with under the suspension and exclusion provisions.

A provision is included to legitimise existing practice where the child cannot attend school because of a short-term illness. Technically, such absences would require a ministerial dispensation to avoid a parental breach of the obligation. The new provision will excuse non-attendance for up to ten days, where a parent has complied with obligations prescribed by regulation.

The flexible arrangements

Flexible arrangements is a new concept, which in essence will provide flexibility to organise a program for a child or young person whose needs cannot be met through the ordinary educational program. Flexible arrangements are to be made with the consent of the young person or child and where relevant the parent. The decision-maker is required to consider an assessment by a registered teacher about the needs of the child or young person, the learning outcomes that might flow from a proposed program and the suitability of the provider of the program, as well as how the young person or child's participation in the program will be monitored and how the program and the providers will be monitored and evaluated. Flexible arrangements must be appropriate to the student's individual needs and circumstances and should be most likely to achieve the best learning outcomes for the child or young person. In addition, the flexible arrangement should be a full-time equivalent program, unless this level of participation would be inappropriate.

The Bill will amend the *Education (General Provisions) Act 1989* to include two separate powers, one for students enrolled in a non-state school and one for students enrolled in a state school. These powers will be available to schools for students of compulsory school age as well as students in the compulsory participation phase to ensure that students not

attending the school for the educational program do not cause their parents to be in breach of their obligation during either phase. The power may be relevant where a child or young person's needs are simply not met by the educational programs able to be delivered by the school. The program could, for example, be a life skills program, or an anger management program.

For non-state schools the power to make the decision will rest with the school's governing body. A new provision in the *Education (General Provisions) Act 1989* will give the governing body power to make such arrangements to modify the parental obligation to have the child attend school for an educational program. The provision will set out a procedure and require the governing body to consider a range of factors, and be satisfied that the arrangements are appropriate having regard to the needs of the student, among other things. The making of flexible arrangements is intended to be an aspect of the accreditation criteria relating to the educational program, and as such it is proposed that a regulation be made to be inserted into the *Education (Accreditation of Non-State Schools) Regulation 2001* which requires schools, if making flexible arrangements, to comply with the authorising provision in the *Education (General Provisions) Act 1989*. As such, the Accreditation of Non-State Schools Board will be able to consider whether non-state schools who are making flexible arrangements for their students are doing so in accordance with the authorising provision as an aspect of the school's accreditation.

For state schools, the power vests in the chief executive. It is intended that the power be delegated to the principal's supervisor to enable localised decision-making.

The ministerial grants power

The Bill will insert into the *Education (General Provisions) Act 1989* a ministerial power to give grants to entities for the purpose of helping children achieve their best learning outcomes, or promoting reengagement of children in education or training. Under the reforms, money will be available to local areas to achieve the purposes of the reforms. In keeping with the intention of the *Education and Training Reforms for the Future* and to encourage flexibility, the grants may be paid for a broad range of social and educational outcomes linked to improving the participation of young people in education and training.

Alternative Method of Achieving the Policy Objectives

There are no appropriate or reasonable alternative ways of achieving the policy objectives. However, the legislation will not be the whole of the picture. Essential to the reforms is the localised District Youth Achievement Plan which will guide how local areas best ensure the optimum outcomes for young people in their area. In addition a range of policies and procedures will need to be developed about how the department best meets the needs of young people, which are not matters for the legislation. The legislation sets the broad parameters, but the important detail will be a matter for policies and practices supporting the legislative obligation.

Estimated Cost for Government Implementation

Implementation of the proposed amendments will not result in any additional costs to the Department of Education that cannot be met from within the existing budget.

Consistency with Fundamental Legislative Principles

Aspects of the Bill that raise possible fundamental legislative principles are outlined below.

Raising the age of compulsory schooling and imposing an additional requirement on parents to ensure that young people participate for a further period

The Bill will raise the compulsory school age from 15 to 16 or completion of Year 10. This means that parents must ensure that their child is enrolled at and attends a school until the child is 16 or has completed Year 10, and that failure to do so is an offence. In addition, the Bill will impose an additional obligation on parents to ensure that the young person who is no longer of compulsory school age continues to participate in education or training for either a further 2 years, until the young person gains a senior certificate or certificate III, or until the young person turns 17. An offence is attached to a breach of this obligation as well.

It is arguable that increasing the school leaving age and imposing the additional participation requirement on parents is a restriction on their liberties, and the liberties of the young people who will have to continue to stay at school until 16, and participate for a further period. However, it is considered that the aim of maximising young people's opportunities for

learning in this period is beneficial not only to the young person, but also to society as a whole. This is so because young people who have achieved better learning outcomes are likely to have better chances for future success and better social outcomes generally. These outcomes justify the restriction on people's liberties.

In addition, attaching an offence to the obligation is justified because it sits within a tightly controlled framework for when a proceeding against a parent may be commenced, and includes a reasonable excuse defence for parents. Attaching the obligation to parents recognises the role and responsibilities of parents in young people's lives, and the reasonable excuse defence recognises that in some cases parents are simply not able to comply with the obligation for reasons beyond their control.

Linking the cessation of the obligation on achieving a Certificate III which is defined by reference to the non-legislatively based Australian Qualification Framework

The obligation will cease to exist if the young person achieves a Certificate III. "Certificate III" is defined by the Dictionary in Schedule 2 as a qualification by that name under the AQF. AQF is in turn defined by reference to section 19 of the *Vocational Education, Training and Employment Act 2000*. Section 19 (which will be inserted into that Act by the Training Reform Bill 2003) defines the AQF to mean the policy framework entitled 'Australian Qualifications Framework' that defines all qualifications recognised nationally in education and training within Australia. It has been endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs ("MCEETYA") so as to commence on 1 January 1995, and that policy framework may be amended from time to time by MCEETYA.

The fact that the Bill incorporates not only external documents, but documents that can be amended by a body other than Parliament raises the fundamental legislative principle relating to the Bill having sufficient regard to the institution of Parliament. Where an Act incorporates external documents in ambulatory form, Parliament effectively delegates the making of Queensland Law to outside bodies.

The AQF is the nationally recognised policy framework for training qualifications. It provides for the mutual recognition of qualifications across all Australian jurisdictions, therefore ensuring a consistent national scheme. The maintenance and development of the AQF is the responsibility of MCEETYA. Both the Minister for Education and the Minister for

Employment and Training are members of MCEETYA, along with counterparts from other Australian jurisdictions. Although the AQF is subject to change as new qualifications are listed or withdrawn, or the attributes of existing qualifications are amended, the Queensland Ministers will remain accountable to Parliament for decisions made regarding the AQF. Consequently, Parliament is afforded its due respect and can enact the law enabling the policy as it sees fit.^{edu}

One of the key aims of the Bill is to ensure that young people are engaged in learning that is worthwhile. Working towards a Certificate III is one of the ways of ensuring that the learning activities undertaken will lead to positive learning outcomes for the young person. Linking the obligation to the AQF as amended from time to time ensures maximum flexibility in what young people can do, which is linked to a consistent national approach to training.

It should also be noted that the AQF is publicly accessible both via the internet and in hard copy publication, so readers of the Bill will be in a position to know which courses will lead to a Certificate III.

Consultation

An exposure draft of the Bill was posted on the ETRF website and on the Generate website on 9 July 2003 with an invitation to the public to provide feedback. In addition a range of consultation meetings were held with key stakeholders during June and July across the State.

Among others, youth peak organisations, non-state schools authorities, TAFEs and registered training organisations, private training providers peak organisations, principals associations and parent groups have been consulted in the process.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Division 1—Introduction

Clause 1 sets out the short title of the Act.

Clause 2 provides for the commencement of the Act and certain amendments to other legislation on 1 January 2006. Other provisions will commence by proclamation. These provisions comprise:

- amendments to the *Education (General Provisions) Act 1989* set out in Part 7, divisions 1 and 2 and Schedule 1 (consequential amendments);
- amendments to the *Education (Accreditation of Non-State Schools) Act 2001* set out in Part 8, division 1; and
- amendments to the *Education (Teacher Registration) Act 1988* set out in Part 8, division 3.

The provisions that will commence by proclamation relate to the compulsory school age obligation, flexible arrangements for school students and associated consequential amendments. However, the change to the compulsory school age from 6 to 15 to 6 to 16 or completion of Year 10 and repeal of the cancellation of enrolment provisions will not commence until 1 January 2006 (Part 7, division 3).

Division 2—Application, objects and guiding principles

Clause 3 provides that the Act will bind all persons, including the State, the Commonwealth and the other States. The Commonwealth and the other States will only be bound so far as the legislative power of the Parliament permits. Subclause 2 provides that the State, the Commonwealth and another State will not be liable to be prosecuted for an offence. The offence provisions are the parental obligation set out in clause 19, and the confidentiality provision in clause 60 of the Bill.

Clause 4 explains how the Act interacts with other legislation.

Subclause 1 explains that provisions requiring young people to continue their schooling until they are 16 years or have completed Year 10, whichever happens first, is provided for in the *Education (General Provisions) Act 1989*.

Subclause 2 explains that the Act includes provisions requiring young people to continue in education and training for a further period for the purpose of achieving a senior certificate or certificate III. “Senior certificate” is defined by the dictionary in Schedule 2 at the end of the Bill to mean a certificate of achievement of that type issued under the *Education (Queensland Studies Authority) Act 2002*. “Certificate III” is defined by the dictionary to mean a qualification by that name under the Australian Qualifications Framework. This framework defines all qualifications recognised nationally in education and training within Australia. The Australian Qualifications Framework was endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs and commenced on 1 January 1995.

Subclause 3 explains that the *Vocational Education, Training and Employment Act 2000* includes provisions about some of the eligible options available to young people during this further period of learning. “Eligible options” are defined by clause 12 of the Bill, and include a course of vocational education and training provided by a TAFE institute or a registered training organization under that Act, a departmental employment skills development program, and an apprenticeship or traineeship under that Act. The *Vocational Education, Training and Employment Act 2000* includes provisions about these options.

Subclause 4 explains that the *Education (Queensland Studies Authority) Act 2002* includes provisions about the maintenance of student accounts to record young people’s participation in education and training. In particular, by inserting a new section 14A into that Act, the Queensland Studies Authority will have a new participation function which enables the Authority to keep a student account for young people in the student account phase under the *Youth Participation in Education and Training Act 2003* and to deal with the information in the way required by that Act. In addition, a new section 18A is inserted to oblige learning providers to bank young people’s learning credits with the Queensland Studies Authority.

Clause 5 provides for a definition of the term “ministerial declaration”. The ministerial declaration is the declaration of commitment to young people of Australia by Ministers for Education, Employment, Training, Youth Affairs and Community Services endorsed in July 2002 by the

Ministerial Council on Education, Employment, Training and Youth Affairs. The declaration is otherwise known as “Ministerial Declaration ‘Stepping Forward’: Improving Pathways for all Young People”. Subclause 2 explains that this declaration is attached as an attachment to the Act, and subclause 3 provides that the attachment is not part of the Act. It has been included to reaffirm the government’s commitment to young people.

Clause 6 provides for the main objects of the Act.

The first main object is to implement initiatives, consistent with the ministerial declaration, to ensure that young people participate in education and training for a period after turning 16 years of age or completing Year 10. This is done through providing a range of eligible options in which a young person may chose to participate, and building in sufficient flexibility for young people. For example, this may involve young people undertaking employment or participating in flexible arrangements determined by the school in which the young person is enrolled. In addition, young people may be granted a dispensation from the obligation.

The second main object is to outline a range of education and training options for young people during this period. These options are set out in clause 12 of the Bill, and include educational programs at school, higher education courses at university or non-university providers, vocational education and training at TAFE or a registered training organisation, an apprenticeship or traineeship or a departmental employment skills development program.

The third main object is to provide for young people’s participation and learning achievements during this period to be recorded. This is done through the student account system established by Part 4. The student account system will enable providers to bank learning credits into one central repository. This will enable young people to access their learning credits through their account no matter which provider they have been enrolled with and no matter which provider has granted them the learning credits.

Clause 7 provides for activities that the chief executive of the Department of Education may carry on to achieve the objects of the Bill. Firstly, subclause 7(a) sets out planning activities in terms of monitoring the operation and effectiveness of the Act, by carrying out planning relating to the matters dealt with under the Act and developing strategies to better achieve the objects of the Act.

In performing these activities the chief executive may request statistical information about the success of the reforms under the provisions relating

to the student account (see Part 4, subclause 46(3)). Information aggregated from the student account system will enable the chief executive to monitor the pathways of young people across the range of education and training options. Such information is critical for the government to assess whether or not the reforms are effective in achieving the goals of the *Education and Training Reforms for the Future* and to assist the development of better options for young people to give them better chances for future success.

Secondly, subclause 7(b) set out re-engagement activities in terms of re-engaging young people who are not participating in education or training during the compulsory participation phase.

The first re-engagement activity is about identifying young people in the compulsory participation phase who are not participating full-time in an eligible option. “Compulsory participation phase” is defined by clause 11 to start when the young person stops being of compulsory school age, and end when the young person either gains a senior certificate or certificate III, has participated in eligible options for 2 years or turns 17. “Eligible options” are set out in clause 12 of the Bill, and include educational programs at school, higher education courses at university or non-university providers, vocational education and training at TAFE or a registered training organisation, an apprenticeship or traineeship or a departmental employment skills development program. “Full-time” is defined by the Dictionary to mean participation that is full-time either under clause 15 (for a program or course) or clause 18 (for an apprentice or trainee). Clause 15 sets out that “full-time” is a reference to participation in an eligible option at a level that is full-time under the requirements of the option, and includes part-time participation in 2 or more eligible options to the extent that is at least equivalent to full-time participation in 1 option. Clause 18 provides that participation in apprenticeships and traineeships is taken to be full-time where the young person is an apprentice or trainee under the *Vocational Education, Training and Employment Act 2000*. In essence, this activity is about identifying young people who are not participating and are in breach of the requirements of the legislation, or who are not in breach, but are participating through employment or non-departmental employment skills development programs.

The second re-engagement activity is about giving these young people information about the options available to them. The third activity is to encourage the young people to participate in a way that achieves the best learning outcomes for them, and the fourth activity is about encouraging and helping their parents play a role in the matters stated in the first to third activity.

The student account provisions in Part 4 are critical to the chief executive's reengagement activities. Under subclause 46(5) the chief executive may ask for personal information from the Queensland Studies Authority about young people who are not engaged in an eligible option, and have not been engaged for a period of three months. The information that is to be provided is limited to the young person's name, address, date of birth and the details of the last eligible option in which the young person has participated, including the last provider. Once the chief executive has received this information, clause 47 will enable the chief executive to provide the information, at the local level, to appropriate entities to help the chief executive carry out the other reengagement functions. The strategies for reengagement will depend on the local community and the strategies set out in the District Youth Achievement Plan for the local area. The effectiveness of the reengagement functions will depend on the ability of the local community to galvanise resources to make appropriate options available to young people and ensure that those options are relevant to the needs of the young people of that local community.

It should be noted that it is not intended that the provisions create an enforceable duty on the chief executive, which may expose the chief executive to a legal liability for failure to follow up a young person in a particular way. The provision is intended as merely enabling for the chief executive to carry out these activities if it is appropriate to do so.

Clause 8 provides guiding principles for the administration of the Act. In administering the Act, sufficient regard should be had to these guiding principles.

Subclause (a) provides that the State should develop practical ways to improve the social, educational and employment outcomes of young people, and, in particular, for young people who are at risk of disengaging from education and training.

Subclause (b) provides that the State should foster a community commitment to young people by involving members of the community and community organisations in:

- developing education and training opportunities for young people; and
- reengaging young people in education and training; and
- developing ways to improve the social outcomes of young people.

This guiding principle seeks to capture the community commitment necessary to be developed for the reforms to be effective. In a policy sense, the District Youth Achievement Plans will be the vehicle for capturing this community commitment.

Subclause (c) provides that the State should work with parents to achieve the best outcomes for young people.

Subclause (d) provides that the State should work in consultation with non-government entities to achieve the objects of the Act. For the *Education and Training Reforms for the Future* to be successful it is critical that government and non-government entities work together to provide the best learning outcomes for young people. The Bill reinforces this guiding principle in relation to the involvement of certain non-state school entities in Part 6, Division 1 of the Bill. While consultation with certain entities is expressly provided for in this Part, ongoing consultation with all key stakeholders is critical to the success of the reforms.

Division 3—Interpretation

Clause 9 provides that particular words used in the Act are defined in the dictionary in Schedule 2 of the Bill.

Clause 10 clarifies that a note in the text of the Act is part of the Act. The Bill makes use of notes for user-friendly reading of the Bill and to aid understanding.

PART 2—COMPULSORY PARTICIPATION IN EDUCATION OR TRAINING

Division 1—Key terms

Clause 11 defines the key term “compulsory participation phase”. This phase commences when a young person stops being of compulsory school age; that is when the young person turns 16 years of age or completes Year 10, whichever comes first. The dictionary in Schedule 2 refers the reader to the definition in the new section 4A of the *Education (General Provisions)*

Act 1989, inserted into that Act by clause 85. This new section defines “compulsory school age” in this way.

The compulsory participation phase will conclude when the young person either gains a senior certificate or a certificate III, has participated for 2 years in education or training options after the phase commences, or turns 17 years of age. “Senior certificate” is defined by the dictionary in Schedule 2 to mean a certificate of achievement of that type issued under the *Education (Queensland Studies Authority) Act 2002*. “Certificate III” is defined by the dictionary to mean a qualification by that name under the Australian Qualifications Framework. This framework defines all qualifications recognised nationally in education and training within Australia. The Ministerial Council on Education, Employment, Training and Youth Affairs endorsed the Australian Qualifications Framework to commence on 1 January 1995.

This term is key to the obligation placed on young people through their parents in clause 19 of the Bill. When a young person is no longer in the compulsory participation phase, the obligations will cease.

Clause 12 defines the terms “eligible option” and “provider” for each option. These terms are key terms setting out the types of options in which a young person can chose to participate to meet the obligation, and the providers who are able to provide each option. Each of the options is an eligible option for the purpose of the obligation in clause 19. In addition, a young person may participate across a number of these options, provided the participation amounts to a full-time program. This is further explained in clause 15.

Clause 12 sets out a table with each eligible option in the left hand column, and the provider for the option in the right hand column.

The first education or training option is an educational program provided by a state educational institution under the *Education (General Provisions) Act 1989*. That Act sets out the framework for provision of state education. State educational institutions are institutions established under sections 16, 17 or 18 of that Act. The term includes state schools (see section 16), other ways of educational instruction, for example schools of distance education (see section 17), and other state educational institutions (see section 18). The educational programs delivered by state educational institutions are also provided for in this Act. Section 19A provides for a curriculum framework to be issued by the Minister which is to apply to state educational institutions. Section 19B provides that state educational institutions, in providing education may only implement syllabuses approved or accredited by the Queensland Studies Authority under the

Education (Queensland Studies Authority) Act 2002. In addition, section 14 of the *Education (General Provisions) Act 1989* provides for the provision of an educational program to students attending a state educational institution, as the Minister approves. Note that the terminology of “educational program” will substitute the existing language of “program of instruction” by the amendment to section 14 included in this Bill in clause 66.

Enrolment in a state educational institution and participation in the educational program provided for the student is one option.

The second option is an educational program provided by a non-state school under the *Education (Accreditation of Non-State Schools) Act 2001*. Under that Act, non-state schools must be accredited or provisionally accredited to operate as a school (see section 10). Furthermore, to be accredited, a school must meet accreditation criteria prescribed under section 9 of that Act in a regulation. One of these accreditation criteria (subsection (c)) relates to a school’s educational program. Sections 6 to 9 of the *Education (Accreditation of Non-State Schools) Regulation 2001* set out the criteria for the educational program.

Enrolment in a non-state school and participation in the educational program provided is another option.

The third option is a course of higher education under the *Higher Education (General Provisions) Act 1993*. Under that Act a course of higher education may be provided by universities as self-accrediting institutions (see section 9) or by non-university provider where the Minister has accredited the course (see section 10). This option is included to enable young people to continue a practice that occurs now, where the young person is enrolled with a school part-time, and also enrolled with a university in one or more first year subjects. In addition, the option will enable the academically brilliant young person to attend university full-time, even though the young person is still in the compulsory participation phase, and may not have achieved a senior certificate.

Enrolment at a higher education institution, including a university, and participation in a higher education course is the third option.

The fourth option is to participate in a course of vocational education and training by enrolling either with a TAFE institute or a registered training organisation. This option arises out of the framework established by the *Training and Employment Act 2000*. The concurrent Training Reform Bill 2003 will amend the name of the existing *Training and Employment Act 2000* to the *Vocational Education, Training and*

Employment Act 2000. This Act sets out the framework for the registration of training organisations and the accreditation of vocational education and training courses delivered by registered training organisations, including TAFE institutes. “Registered training organisations” are defined by the Dictionary in Schedule 2 by reference to section 14 of the *Vocational Education, Training and Employment Act 2000*. The definition notes that an agricultural college under the *Agricultural Colleges Act 1994*, section 3 is a registered training organisation.

Chapter 2, Part 2 of the *Vocational Education, Training and Employment Act 2000* provides a scheme for the registration of training organisations, the accreditation of vocational education and training courses, and the issuing of nationally recognised qualifications and statements of attainment. Accredited courses ensure that the young person is issued with a vocational education and training qualification or statement of attainment provided for under the Australian Qualifications Framework.

Enrolment with a TAFE institute or registered training organisation (including an agricultural college) and participation in an accredited vocational education and training course is the fourth option.

The fifth option contains two options, namely an apprenticeship or a traineeship under the *Vocational Education, Training and Employment Act 2000*. Apprenticeships and traineeships are administered under Chapter 3 of that Act. The vocational education and training component of an apprenticeship and traineeship is provided by a training organisation registered under that Act.

The final option is a departmental employment skills development program delivered by the chief executive of the department that administers the *Vocational Education, Training and Employment Act 2000*. Under a new section 106C to be inserted by the Training Reform Bill 2003 into the *Vocational Education, Training and Employment Act 2000*. This new section will oblige the chief executive to ensure that employment skills development programs are developed to meet the diverse needs of young people in the compulsory participation phase, and that these programs are accessible by those young people. In addition, the chief executive may deliver departmental employment skills development programs under section 106C. The definition of “departmental employment skills development programs” in the Dictionary of the Bill makes reference to section 106C(2) of the *Vocational Education, Training and Employment Act 2000*. If an employment skills development program is provided by the chief executive under that section, it is an eligible option for participation.

Division 2—Participation in a program or course

Clause 13 explains that the division contains relevant definitions about what it means to participate in an eligible option, other than an apprenticeship or traineeship under the *Vocational Education, Training and Employment Act 2000*. Participation in an apprenticeship or traineeship is dealt with in Division 3, clause 18 of the Bill. The definitional provisions in Division 2 apply to participation in any program or course and are essential to determine whether or not a parent is meeting their obligation under clause 19.

Clause 14 provides a definition of “participation” in a program or course. Subclause 1 provides that a young person is participating in an eligible option only if the young person is enrolled with the provider in the relevant program or course, and complying with the provider’s attendance requirements for the program or course. Subclause 2 clarifies that a provider’s attendance requirements are the requirements about physically attending, at particular times, the provider’s premises or another place. This means that a young person is participating in an eligible option, for example, if the young person is enrolled at a school for an educational program, and is physically attending the school or other place as directed by the school for the educational program.

Subclause 3 makes special provision for programs delivered in ways other than face-to-face. Despite subclause 2, where the program is a program of distance education, the requirement for attendance is to complete and return assigned work for the program. School of distance education is defined by the Dictionary in Schedule 2 by reference to the definition section in the *Education (General Provisions) Act 1989* (section 2(1)). Clause 65 will insert into that section a definition of the term “school of distance education” to mean either a state educational institution (other than a state school) offering distance education, or a non-state school accredited or provisionally accredited under the *Education (Accreditation of Non-State Schools) Act 2001* to provide distance education.

Subclause 3 also provides that despite subclause 2 where the program is another external program, the provider’s attendance requirements are its requirements about communicating with or contacting the provider for the purpose of participating in the program or course. “External program” is defined by the Dictionary in Schedule 2 to include an alternative educational program under section 30 of the *Education (General Provisions) Act 1989*, a flexible arrangement made under section 114A or 114B of the *Education (General Provisions) Act 1989* (to be inserted into

that Act by clause 73) or another program or course for which the provider's requirements do not include physically attending, at particular times, the provider's premises or another place.

Clause 15 provides a definition of what it means to be participating full-time in an eligible option. The obligation on parents in clause 19 is to ensure that the young person is participating full-time. A reference to full-time participation is a reference to participation in an eligible option at a level that is full-time under the requirements of the option, and "full-time participation" includes part-time participation in two or more options to an extent that is at least equivalent to full-time participation in one option.

For example, a full-time state school program for a Year 11 student may consist of study of five subjects, requiring attendance at the school for 25 hours. Where a young person chooses to study only two subjects at the school (40% of a full-time load), the young person must fill the remaining 60% of another full-time program which is an eligible option, for example a 60% full-time program at a TAFE. Another example may be a student engaged in one university subject worth 25% of a full-time load. This student would have to participate in one or more education or training options for the remaining 75% of a load. This may mean participation in four school subjects.

Note that this provision does not cater for the situation where a young person might want to study a part-time load, and part-time work. For the young person to do this, a decision would be required to be made, either by the Training Employment and Recognition Council under the *Vocational Education, and Training and Employment Act 2000*, or as a flexible arrangement under either this Act or the *Education (General Provisions) Act 1989*, where the young person is enrolled in a school.

Where a young person wants to participate in a way that is less than full-time, the young person may apply for a dispensation under Part 3 of the Bill.

Clause 16 provides that participation is taken to continue during an absence allowed by the requirements of the education or training option chosen by the young person. For example, where a young person is enrolled at a learning provider who requires written notice in case of absences caused by an illness, the young person will continue to be participating, even if the young person is not attending the program or course during the illness. The clause allows for the flexibility required across the range of settings and gives a great deal of autonomy to each learning provider in determining its administrative requirements.

Clause 17 makes provision for the situation where a young person is suspended or excluded from a provider. Subclause 1 provides that if a young person stops attending the provider because the person has been suspended from the provider, the person's participation is taken to continue during the period of the suspension.

Subclause 2 provides that subclause 1 does not apply where a young person is enrolled at a state educational institution, and has been placed in an alternative educational program under section 30 of the *Education (General Provisions) Act 1989*. This provision comes into play where a student has been suspended from school for more than 5 days under either section 29 or 34 of the *Education (General Provisions) Act 1989*. In those circumstances, the principal is obliged under section 30 to coordinate arrangements for placing the student in an alternative educational program that allows the student to continue with the student's education. The effect of subclause 2 is that the young person must be participating in the alternative educational program in accordance with the requirements of that program, to meet the parental obligation in clause 19.

Subclause 3 provides that if a young person stops attending a provider because the young person has been excluded from the provider, the person is taken to be continuing to participate in an eligible option at the same level as before the exclusion for the time reasonably required to resume participation in an eligible option. This means that a parent of a young person excluded from a provider will not be in breach of their obligation in clause 19 for the reasonable time required to enrol and commence attending with another provider.

Clause 17 presupposes a system of suspension or exclusion with all the relevant providers of a program or course. These systems are diverse and determined differently for each type of provider. For example, suspensions and exclusions from state educational institutions are governed by the provisions of Part 4 of the *Education (General Provisions) Act 1989*. For non-state schools, rules about suspension and exclusions do not have any statutory basis, but may form part of the contractual relationship with the parent of the student.

Division 3—Participation in an apprenticeship or traineeship

Clause 18 provides for participation in an apprenticeship or traineeship under the *Vocational Education, Training and Employment Act 2000*. Where a young person is an apprentice or trainee under that Act, the young

person is taken to be participating full-time. This means that so long as the young person remains an apprentice or trainee, their parent will be meeting the obligation in clause 19.

Division 4—Parents’ obligation

Division 4 creates a parental obligation with an offence attached to ensure that young people in the compulsory participation phase participate full-time in an eligible option. While the legislative policy is clear that there is to be an obligation on parents which may lead to the commission of an offence if contravened, it must be emphasised that it is the intention that prosecutions should only occur as a last resort. It is intended that a range of steps be taken before proceedings are commenced. For example, it is anticipated that the department and youth agencies work extensively with the parent and the young person to find a suitable option for the young person and counsel the young person to participate. Some of these steps to be taken before prosecution are expressly provided for in clause 22 which limits when proceedings may be taken against a parent. However, many more, locally suitable strategies may be devised through the District Youth Achievement Plan, and implemented at the local level. It is intended that policies and procedures will be in place to guide the chief executive’s decision to consent to a prosecution, which is also required under clause 22.

Clause 19 provides for an obligation placed on parents of a young person in the compulsory participation phase to ensure that the young person is participating full-time in an eligible option, unless the parent has a reasonable excuse. Subclause 1 provides that it is an offence for parents to fail to ensure the young person’s participation. The maximum penalty for the first offence is 5 penalty units, which currently would equate to a maximum fine of \$375, and the maximum penalty for the second and subsequent offences is 10 penalty units, which would equate to \$750. The key terms in this provision are defined in Division 1 and Division 2 of Part 2. “Compulsory Participation Phase” is defined in clause 11. “Eligible option” is defined in clause 12, and clauses 14 to 18 to clarify what it means to participate in an option. “Full-time” is defined in clause 15.

Subclause 2 provides a non-exhaustive list of reasonable excuses for parents. Firstly, it is a reasonable excuse if the young person lives with another parent and the first parent believes, on reasonable grounds, that the other parent is ensuring the young person’s participation. This excuse is to

cater for the situation where the young person lives with one parent, and the other parent believes that the first parent is meeting the obligation. Secondly, it is a reasonable excuse if in all the circumstances, the parent is not reasonably able to control the young person's behaviour to the extent necessary to ensure the young person participates. This may be the situation where the parent has no say in the young person's life, perhaps because the young person has moved away from home. It may also be a reasonable excuse if the parent is suffering some illness or disability and is unable to ensure the young person's participation because of the illness or disability. It is important to note that these two reasonable excuses are simply examples and are not intended to limit the scope of reasonable excuses in any way. Other situations may exist where the parent should be reasonably excused for reasons that are very different from those set out in subclause 2.

Clause 20 provides for exceptions to the obligation. These exceptions recognise that young people may want to chose employment or a non-departmental employment program, but highlights the fact that the underpinning policy of the legislation is that it is preferable that young people are participating in an eligible option. Employment and non-departmental employment programs have been included in the legislation as exceptions in recognition that a young person's learning opportunities may be diminished by undertaking one of these exceptions and that the primary objective is for young people to be participating in education or training.

Subclause 1 provides that the obligation in subclause 19(1) does not apply to the extent provided under a dispensation in force under Part 3. Part 3 sets out the grounds for granting an application, the process for applying for a dispensation, and the rights of review.

Subclause 2 provides that the obligation in subclause 19(1) does not apply where the young person is in paid employment for at least 25 hours each week. Subclause 2 further provides that the obligation does not apply where the young person has an employment exemption and is in paid employment for less than 25 hours each week, or unpaid employment. "Employment exemption" is defined in the Dictionary in Schedule 2 to mean an employment exemption in force under Chapter 5, Part 3, Division 5A of the *Vocational Education, Training and Employment Act 2000*. The concept of an employment exemption is to be introduced into that Act by the Training Reform Bill 2003. The Training and Employment Recognition Council will have power to grant an employment exemption to young people who wish to participate through employment for less than 25 hours.

Subclause 3 provides that the obligation in subclause 19(1) does not apply if the young person is enrolled with an entity providing a non-departmental employment skills development program, and attending the entity for the program. The Training Reform Bill 2003 will insert provisions into the *Vocational Education, Training and Employment Act 2000* which will enable the Training and Employment Recognition Council to recognise employment skills development programs that are not provided by the department within which the Act is administered (the Department of Employment and Training). The Council must keep a register about recognised non-departmental employment skills development programs. These programs may be provided by the Commonwealth or by community organisations, but need to be recognised and included on the register before a young person's participation in the program will excuse a parent from the obligation under subclause 19(1).

Subclause 4 clarifies that the obligation in clause 19 does not apply to the extent of any inconsistency with a law of the Commonwealth under which the young person in the compulsory participation phase may carry on an activity other than participation in an education or training option. For example, where a young person is job-seeking as an eligible activity under the Youth Allowance scheme.

Clause 21 provides for the giving of an information notice to, and the holding of a meeting with a parent who is in breach of the obligation. Subclause 1 clarifies that the clause applies if an authorised officer reasonably suspects that a young person is in the compulsory participation phase and is not participating full-time in an eligible option. "Authorised officer" is defined by subclause 6 to mean the chief executive or an officer of the department authorised by the chief executive for clause 21. Before the processes in clause 21 can take place, the authorised officer must firstly reasonably suspect that the young person is in the compulsory participation phase, and secondly reasonably suspect that the young person is not participating full-time in an eligible option.

Subclause 2 provides that the officer may give a parent of the young person a notice in the approved form about the parent's obligation under clause 19. The form is to be approved by the chief executive under clause 62. The notice will inform the parent of their legal obligation to ensure the young person's full-time participation in an eligible option. In addition, the notice may include information about specific eligible options available in the particular area.

Subclause 3 provides that the officer may also meet with the parent to discuss the obligation. This is an important step that must be fulfilled

before the commencement of a proceeding against the parent (see clause 22).

Subclause 4 provides that if the officer has taken reasonable steps to meet with the parent, but no meeting is held, the officer may give the parent a warning notice in the approved form. This second notice is an alternative to holding the meeting under clause 22, which sets out the steps that must be taken before a proceeding can be commenced against a parent. While this step represents the final step in the official process undertaken by an authorised officer prior to commencing a proceeding for the offence, it should be noted that in practice several notices may be issued to a parent, and several meetings may be held with a parent over a period of time to ensure compliance with the requirements. It is intended that policy guidelines will be developed to ensure greater consistency across the State in the application of these powers.

Subclause 5 clarifies that an authorised officer under this clause is a public official performing a function authorised by this Act for the purpose of section 14 of the *Police Powers and Responsibilities Act 2000*. This will enable an authorised officer to seek help from a police officer in giving the warning notice to the parent or hold the meeting with the parent.

Subclause 6 provides the definition of an authorised officer for clause 21. The authorised officer is either the chief executive, or an officer of the department authorised by the chief executive to undertake these roles.

Clause 22 provides for the limits on proceedings against a parent. Firstly, proceedings for an offence may only be brought by the chief executive or with the chief executive's consent. It is intended that the chief executive develop guidelines to guide when consent to prosecution should be given. These guidelines may set out the steps, over and above those required by this clause, that should be taken with the parent and young person before the chief executive consents to prosecution. Secondly, a proceeding is not to be brought unless the parent has been given a notice under subclause 21(2), and at least one meeting has been held under subclause 21(3) or the parent has been given a warning notice under subclause 21(4).

Subclause 2 provides that the chief executive of the department in which the *Child Protection Act 1999* is administered is not liable to be prosecuted for an offence in relation to a young person of whom the chief executive has been granted guardianship under the *Child Protection Act 1999*.

PART 3—DISPENSATIONS

Division 1—Bases for granting a dispensation

Clause 23 explains that the division provides for the bases on which the chief executive may grant a dispensation to a young person. If the chief executive grants a dispensation, the parent will not have to comply with section 19(1) to the extent of the dispensation.

Clause 24 provides that the chief executive may grant a dispensation in two circumstances. Firstly, the chief executive may grant the dispensation if satisfied the young person cannot participate in any education or training option. For example, a young person may not be able to participate in any education or training option because of a long-term illness. The second basis for granting a dispensation is when the chief executive is satisfied that it would be unreasonable in all the circumstances to require the young person to participate in any education or training option. For example, it may be unreasonable to require a young person whose parent is terminally ill, or a young person who has just become a parent, to participate full-time.

Clause 25 provides the chief executive with power to approve a dispensation on the basis that the young person will be home schooled by a registered teacher in compliance with the requirements prescribed under a regulation. It is anticipated that the regulation may provide for matters about the educational program, the place of delivery of the program, and the resources available for the young person to learn. This dispensation caters for so-called “own program home schoolers”, where the young person is not enrolled with a school of distance education. Home schoolers enrolled with a school of distance education will not need a dispensation under this clause. Clause 14 provides for what participation is, and subclause 14(3)(a) clarifies that a young person enrolled in a school of distance education “attends” by completing and returning the assigned work for the program. This means that a young person enrolled with a state school of distance education, or an accredited or provisionally accredited non-state school of distance education will be meeting the participation requirements if they are returning completed work assigned for the program.

Division 2—Application process

Clause 26 provides for the process of applying for a dispensation. An application is made to the chief executive. Subclause 2 sets out the requirements for the application:

- it must be made in the approved form;
- it must state whether it is sought under clause 24 (because the young person cannot participate, or it is unreasonable in all the circumstances to require participation) or clause 25 (own program home schooling dispensation);
- it must state the period for which the dispensation is sought; and
- it must include the signed consent of a parent of the young person.

Subclause 3 deals with the requirement for the application to include the parent's signed consent. If the chief executive is satisfied that it would be appropriate in all the circumstances, the chief executive may accept the application which does not include parental consent. This may be relevant where the young person lives independently, or where the young person's parent is simply not interested in the young person's participation, or relevant in the young person's life. In addition, the chief executive may also accept an application made by the parent, where the young person is not capable of making their own application.

Subclause 4 provides that the young person, or parent, applying for dispensation must provide any other relevant information reasonably required by the chief executive. For example, the chief executive may require further information about the educational program to be taught for a home schooling application, or evidence of the young person's medical condition if a dispensation is sought on the ground that it would be unreasonable to require participation because of the young person's health. This subclause should be read in conjunction with clause 27, which sets out the way in which the chief executive makes such a request.

Subclause 5 provides that the chief executive must make the decision on the application as soon as practicable. This subclause should be read in conjunction with clause 28 which provides that once a young person, or parent, has applied to the chief executive for a dispensation, the young person does not have to participate while the chief executive is making the decision. This will ensure that the young person, or parent, is not disadvantaged by a delay in decision-making.

Clause 27 provides for circumstances where the application may lapse where an applicant has not complied with a request for further information (see subclause 5). If the chief executive wishes to make a requirement under subclause 26(4) for further information this may be done by giving the applicant notice stating the information which is required, the time by which the information is to be provided and that, if the information is not provided by that time, the application will lapse. The time within which the information is to be given must be reasonable, and must be at least 14 days after the requirement is made. Subclause 3 provides that the chief executive may withdraw the request or part of the request at any time. Also, subclause 4 provides that the chief executive may give the applicant a further notice extending the time stated, where the chief executive is satisfied that it would be reasonable in all the circumstances to extend the time. This clause serves to prevent a situation where a person is excused from participating under clause 28 only because they have applied for a dispensation without providing sufficient information for the application to be decided. The provision enables the application to lapse if the person fails to provide further information requested and once the application has lapsed the obligation is again on the parent to ensure the young person participates.

Clause 28 provides for a temporary dispensation for the time after an application has been lodged and before a decision is made. Subclause 1 removes the obligation on the parent to ensure the young person participates (see clause 19(1)) until the application has been decided or until it lapses. If the decision is not to approve the application, the parent has 14 days to comply after the chief executive has given notice (see clause 32).

Subclause 2 makes clear that if an application is made while an existing dispensation is in force, the existing dispensation continues to apply until the application is decided, or until it lapses.

Clause 29 provides for the contents of a dispensation where the chief executive has decided to grant the dispensation. The dispensation is required to state the day on which it is granted, the name of the young person to whom it relates, and whether it is full or partial. If it is partial, the dispensation must also state the extent to which the person is excused from participation. For example, a dispensation may be approved for the young person to participate only part-time at school or TAFE. In addition, the dispensation must also state whether it applies until the end of the person's compulsory participation phase or only until a stated earlier time. For example, the dispensation may be for one term only, or may be until the young person turns 17, in which case the participation requirement no

longer applies. Finally, the dispensation must include any conditions on which the application is granted. For example, the dispensation may be granted on the basis that the young person is travelling overseas for a stated period. The dispensation may be granted on the condition that the young person is overseas, and that it falls away if the young person returns home before anticipated.

Clause 30 provides that the chief executive must give the applicant notice of the decision about the application. Subclause 2 provides that where the chief executive decides the application in a way stated in clause 31 (refuses to grant the dispensation, grants the dispensation on stated conditions, or grants the dispensation for a lesser period than the period applied for) the chief executive must include in the notice certain information. The notice must state the decision, the reasons for the decision, the applicant's rights of review and how the applicant may apply for review.

Division 3—Review of decision by chief executive

Clause 31 provides that the review division applies where the chief executive has decided to refuse to grant the dispensation, to grant the dispensation on stated conditions, or has granted the dispensation for a lesser period than the period applied for. Such a decision is known in the remainder of the division as the “original decision”, and gives rise to rights to seek a review of the decision in accordance with the division.

Clause 32 provides that an applicant may apply to the chief executive for a review of the original decision, that is a decision to refuse to grant the dispensation, to grant the dispensation on stated conditions, or grant the dispensation for a lesser period than the period applied for. The review is an “internal review” of the decision. Clause 33 makes provision for the way in which an application for review must be made.

Subclause 2 provides for the timeframe within which an application for review may be made. In essence, the applicant has 28 days to apply for an internal review whether or not the chief executive has given a notice under clause 30. If notice has been given, the applicant has 28 days from the notice being given to apply for internal review. If a notice has not been given, but the applicant has become aware of the decision in some other way, the applicant has 28 days to apply for internal review. Subclause 3 provides the chief executive with discretion to extend the time for making a review application.

Subclause 4 provides that the application must be in the approved form, and must be supported by enough information to enable the chief executive to decide the application. Clause 62 provides that the chief executive approves forms under this Act.

Clause 33 provides for the making of an internal review decision. Subclause 1 provides for the circumstances where the chief executive has delegated the power to make the initial decision under clauses 24 or 25, and the power to make the internal review decision under clause 34. Where the initial decision has been made by a delegated officer, the internal review application must not be dealt with by that delegated officer, or by an officer who is in a less senior office than the original decision-maker. This ensures that the review decision is not made by the same delegated officer who made the initial decision, and that it is made by an officer who is either at the same level or at a more senior level than the initial decision-maker. For example, if the initial decision-maker is an AO8 level officer, the review decision-maker must either be an AO8 officer or an officer at a higher level. Where the initial decision-maker is the chief executive, the chief executive must also make the review decision.

Subclause 2 provides that the review decision must be made within 28 days after receiving the application for review. To make the internal review decision, the decision-maker must review the initial decision, and make a review decision either confirming or amending the original decision, or substituting another decision for the original decision. For example, if the initial decision was to grant the dispensation only for one school term on the condition that the young person would meet with district office staff one month before the expiration of the term, the review decision could be to confirm this decision or amend the decision by extending the period of the dispensation to two terms, or substituting the decision with a decision to grant the dispensation unconditionally until the end of the young person's compulsory participation phase. Alternatively, the decision could be substituted with a decision not to grant the dispensation at all.

Subclause 3 provides that the decision-maker must make the internal review decision on the material that led to the original decision, and any other material the decision-maker considers relevant. For example, the chief executive may obtain further information from the young person about a medical condition, which was not provided to the initial decision-maker.

Subclause 4 provides that the decision-maker must provide the applicant with a notice of the review decision.

Subclause 5 provides that if the review decision is made in a way mentioned in clause 31(a) to (c), the notice must state the decision, the reasons for the decision and the appeals mechanism available to the applicant.

It should be noted that the existence within this Bill of a review procedure for dispensation decisions is not intended to exclude the operation of section 24AA of the *Acts Interpretation Act 1954*. This section provides that if an Act authorises the making of a decision, the power includes a power to amend or repeal the decision. Where an initial decision-maker has made a decision, it is intended that the initial decision-maker continue to have the power to repeal or amend that decision, until such time when a review decision has been made. This means that a young person aggrieved by a decision made by the local decision-maker could appeal to the decision-maker with further evidence about the reasons for dispensation. For example the young person may have sought the dispensation to care for her baby, due to be born during the next school term and the dispensation may have been granted partially so as to enable the young mother to continue participation in a part-time capacity, but when the baby is born it has severe disabilities and needs constant and special care. The young person could ask the initial decision-maker to consider this new information and amend the initial decision, without requiring the young person to appeal under the internal review provisions.

Division 4—Appeal to Magistrates Court

Clause 34 explains that division 4 applies where an internal review decision has been made under clause 33, in a way mentioned in clause 31 (a), (b) or (c), ie. the internal review decision was to refuse to grant the dispensation, to grant the dispensation on stated conditions or grant the dispensation for a lesser period than the period applied for.

Clause 35 provides that an applicant may appeal against a review decision to the Magistrates Court. Subclause 2 provides for the time within which an appeal must be started, that is within 28 days of receiving the notice of the decision under subclause 33(4), or if no notice has been provided, within 28 days of becoming aware of the review decision. Subclause 3 provides the court with discretion to extend the time for making the appeal.

Clause 36 provides for the conduct of the appeal. The appeal is to be started by filing a notice of appeal in the court. Subclause 2 provides that

the court is to conduct the appeal by rehearing the material before the chief executive, unaffected by the review decision, and any further evidence allowed by the court. Subclause 3 provides that the court may allow the appeal and make any order it considers appropriate or dismiss the appeal.

PART 4—STUDENT ACCOUNTS

Division 1—Preliminary

Clause 37 explains the purposes for keeping a student account for every young person in the compulsory participation phase. The purposes are: to support the Queensland Studies Authority in performing its certification function and to enable the chief executive to carry on planning and re-engagement activities, as set out in clause 7. The requirements regarding student accounts in this division are underpinned by the purposes set out in this clause.

Division 2—Opening student accounts for young persons of compulsory school age

Clause 38 requires that a student account be opened within one year before the end of a young person's compulsory attendance phase before the start of their compulsory participation phase. For most young people, it is anticipated that a student account will be opened when the young person is in Year 10.

Clause 39 requires that the account be opened either by the principal of a State educational institution or non-State school if the young person is enrolled at a school, or by the chief executive. To ensure that a young person who has received a dispensation has an account with the Queensland Studies Authority, the chief executive may open the account for this young person in the absence of a school principal undertaking this function.

Clause 40 explains the process for opening a student account. This involves a provider giving notice to the Queensland Studies Authority in the approved form (this may be lodged electronically). The chief executive

may approve the form under clause 62. To open the account, the following information about the young person must be provided to the Queensland Studies Authority: name and any previous names, address, date of birth, other information prescribed under a regulation, and the eligible option that the young person proposes to participate in when they start the compulsory participation phase.

Subclause (d) allows for a regulation to be made to prescribe that other information be collected as part of the student account. This has been included to allow for greater flexibility in including appropriate information in this collection, should it be necessary at some time in the future. Importantly, any additional information that is collected as part of the student account will need to be consistent with the purposes of the student account and will be subject to consultation with key stakeholders including the Queensland Catholic Education Commission and the Association of Independent Schools Queensland (as required under clause 58).

Division 3—Student account phase

Clause 41 defines the student account phase for the purpose of the requirements of this division. The student account phase is the period when a young person is in the compulsory participation phase or when they are not yet in that phase but a student account has been opened for them, for example, to ensure that changes to enrolment details are captured for a young person that changes their enrolment with a provider before completing Year 10 or turning 16.

Clause 42 requires that a provider responsible for enrolling a young person in the student account phase notify the Queensland Studies Authority of that young person's enrolment in the approved form (this may be lodged electronically).

Clause 43 requires that if a young person in the compulsory participation phase does not have a student account with the Queensland Studies Authority it is the responsibility of that provider to open an account for the young person with the Queensland Studies Authority. In opening the account the provider must give the Queensland Studies Authority the following information about the young person: name and any previous names, address, date of birth, other information prescribed under a regulation, and any eligible options that the young person is participating in or has participated in since the start of the compulsory participation phase.

The Queensland Studies Authority must open the student account after receiving the request in the approved form from the provider (this may be lodged electronically).

Clause 44 requires that the provider, where a young person is enrolled, notify the Queensland Studies Authority if they become aware, that student account information changes or is incorrect or the young person stops being enrolled. There is a requirement for the provider to forward this information to the Queensland Studies Authority in the approved form (this may be lodged electronically) and at the times prescribed under a regulation.

Clause 45 allows the chief executive of the Department of Employment and Training to provide information required as part of the student account to the Queensland Studies Authority on behalf of TAFE institutes, registered training organisations and any entity registered as an approved employment skills development program with that Department. This must occur with the written agreement of the chief executive of the Department of Employment and Training through a notice from the provider. Where the Department of Employment and Training provides this information to the Queensland Studies Authority the provider will be taken to comply with the requirements of providers under Part 4.

Division 4—Use and disclosure of information

Clause 46 sets out the requirements for the use and disclosure of information contained in the student account. Under subclause 1, the Queensland Studies Authority will be able to utilise student account information for the purpose of its certification function. Subclause 2 provides that the Queensland Studies Authority may disclose student account information to providers to verify the accuracy of the information.

Subclause 3 provides that the Queensland Studies Authority must provide the chief executive with aggregated information to enable the chief executive to carry on planning activities as set out in clause 7(a). Under subclause 4 each request for aggregated information made by the chief executive must be detailed in the Queensland Studies Authority's annual report. "Aggregated information" is defined in subclause 6.

Subclause 5 provides that the Queensland Studies Authority must give the chief executive any of the "prescribed information" (name and any previous names, address, date of birth and details of last eligible option in which, according to the person's student account, the person was enrolled,

including the last provider) which the chief executive asks for to carry out the chief executive's re-engagement activities as set out in clause 7(b). In particular, information about a young person who has stopped being enrolled with a provider and not re-enrolled with another provider within a three month period.

Subclause 6 defines aggregated information, prescribed information and student account information for the purpose of this clause.

Clause 47 provides for the chief executive to disclose information about a young person in the compulsory participation phase for the purpose of carrying out the chief executive's re-engagement activities. Only the following information can be provided: name and any previous names, address, date of birth, the last eligible option in which the young person has participated or the chief executive is aware that they have participated. The chief executive may only disclose this information to an entity that the chief executive considers appropriate. In practice, the chief executive or chief executive's delegate should only be providing this information as necessary to a particular entity that is directly assisting with the re-engagement of a particular young person.

It is envisaged that at a local level this may be a provider of education or training, a youth support organisation or a Commonwealth, State or local government entity which provides services or support to young people in the areas of education, family support, health or housing. This clause recognises the importance of working collaboratively with other entities who may already be case-managing a young person or who would be an important stakeholder in the young person's re-engagement. Whilst the clause does not name all potential entities and set out the exact process for disclosure by the chief executive, it is intended that protocols at a local level will govern the way in which information is shared and ensure that young people's privacy is protected. Importantly, clause 60 also serves to safeguard young people's information by attaching a penalty to the misuse of information by these entities.

Division 5—Miscellaneous

Clause 48 applies to division 2 which relates to opening student accounts for young people of compulsory school age and division 3 which relates to the student account phase requirements. The clause removes overseas students from any requirements regarding the student account unless the overseas student provides their written agreement to have a student account

opened and information stored with the Queensland Studies Authority. Subclause 3 defines an overseas student as a person who holds a student visa issued under the *Migration Act 1958* (Cwlth).

PART 5—LEGAL PROCEEDINGS

Division 1—Evidence

Clause 49 explains that Division 1 applies to a proceeding under the Act, for example a proceeding against a parent for an offence under clause 19, or an appeals proceeding under Part 3, Division 4 against an internal review decision pertaining to an application for dispensation.

Clause 50 provides that in a proceeding against a parent it is not necessary to prove the appointment of the chief executive or an authorised officer. It is also not necessary to provide the authority of the chief executive or an authorised officer to do anything under the Act. However, a party may, by reasonable notice, require proof of the appointment or the authority.

Clause 51 provides that a signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

Clause 52 provides for other evidentiary aids where the chief executive has signed a certificate, the certificate becomes evidence of the matter stated. The clause provides that a stated document which purports to be an approval, decision or requirement made under the Act or a notice given under the Act is evidence of such approval, decision or requirement. The clause further provides that a stated document which purports to be a copy of a document is evidence of the approval, decision or requirement. Subclause (c) provides that where the certificate states that on a day, or during a period, the appointment of an authorised officer was, or was not, in force for a stated person it is evidence of the person's status. Subclause (d) provides that where the certificate states that on a day a person was given a notice under the Act is evidence of such notice. Subclause (e) provides that a certificate stating that on a day a requirement was made of a person is evidence of that requirement being made.

Division 2—Offence proceedings

Clause 53 provides that proceedings for an offence under clause 19 or clause 60 must be taken as summary proceedings, that is in a summary way under the *Justices Act 1886*. In addition, subclause 2 provides for timelines for commencement of proceedings for the offence. The proceedings must start either within one year after the commission of the offence, or within six months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

Clause 54 provides that where the complaint that starts the proceeding states that the matter of the complaint came to the complainant's knowledge on a stated day, this statement is evidence of when the matter came to the complainant's knowledge. As such this provision supports the time requirements in clause 53.

Clause 55 provides that where the chief executive has signed a certificate stating that the chief executive consents to the bringing of the proceedings for an offence against clause 19, the certificate is evidence of the consent. Under clause 22 a proceeding cannot commence unless the chief executive has consented to the commencement of the proceeding, or the chief executive is commencing the proceeding. Clause 22 also imposes other limitations on commencement of proceedings, namely a warning notice must have been given to the parent, and at least one meeting must have been held with the parent.

PART 6—MISCELLANEOUS

Division 1—Involvement of certain non-State school entities

Clause 56 explains that Division 1 applies to the Association of Independent Schools of Queensland Inc (the "AISQ") and the Queensland Catholic Education Commission (the "QCEC"). The Division is about the involvement of these bodies in relation to the chief executive's planning activities, making of certain Regulations under the Act and the provision by the Queensland Studies Authority of aggregated information to those entities. The Division recognises the special role played by AISQ and QCEC in the delivery of senior secondary education in Queensland.

Clause 57 provides that in carrying on the planning activities provided for in subclause 7(a) the chief executive must consult regularly with the AISQ and QCEC.

Clause 58 provides that before recommending to the Governor in Council about making a regulation under clause 40(d), 44(2) or 59, the Minister must consult with the AISQ and QCEC. The regulation that may be made under clause 40(d) relates to other information which may be required to be provided for the purpose of opening a student account. The regulation to be made under clause 44(2) is to provide for the times when the provider must give notice to the Queensland Studies Authority about any change to student account information or the day when the young person stops being enrolled with the provider. The regulation to be made under clause 59 will govern the times when aggregated information is to be provided by the Queensland Studies Authority to the AISQ and QCEC as well as the type of aggregated information that is to be provided.

The requirement that the Minister must consult with those bodies will ensure that their views are taken into account before the regulations are made. This will not preclude the Minister from consulting with other bodies who will be affected by the making of a regulation, such as, for example, other learning providers.

Clause 59 provides that the Queensland Studies Authority must give the AISQ and QCEC the aggregated information prescribed by regulation, at the times prescribed by regulation. “Aggregated information” is defined in subclause 2 to have the same meaning as subclause 48(6), that is information about young people in the student account phase that comprises or includes, or is derived from, information given to the Queensland Studies Authority under Part 5, and could not reasonably be expected to result in the identification of any of the individuals to whom it relates. Information which may be provided under this clause could be statistical information about the intended learning options of young people in schools affiliated with AISQ or QCEC respectively, or statistical information about the number of young people disengaging from learning from those schools.

Division 2—Other matters

Clause 60 is a confidentiality provision, which protects personal information collected about a student in the student account phase under the Bill. “Student account phase” is defined by clause 41.

Subclause 1 provides that the confidentiality provision applies to a person who, in connection with administration of the Act, has gained or has access to personal information about a young person in the student account phase. It applies to the chief executive or a public service employee of the Department of Education (note that teachers in state educational institutions are public service employees). It applies to employees of providers and the Queensland Studies Authority, and it applies to an entity or its employees to whom the chief executive has provided information under clause 47. Clause 47 provides that the chief executive may disclose certain personal information about a young person who has disengaged from education or training to another entity to help carry on reengagement activities. The reengagement activities are set out in subclause 7(b). The range of persons covered by the section thus is very wide. "Employee" is defined for this section by subclause 4. It should be noted that the provision captures employees who have since left the department, the Queensland Studies Authority, a provider or entity (see subclause 3).

Subclause 2 makes it an offence for the person to make a record of the information, disclose the information to anyone else, or give access to the information to anyone else, except in certain circumstances. A person may disclose the information for a purpose of the Act. This exception enables the Queensland Studies Authority to provide the chief executive with personal information about young people who have disengaged from education or training, and it enables the chief executive to provide the information to another entity for the purpose of carrying on the reengagement activities. However, it does not enable that other entity to disclose the personal information to another entity, even if it is for the purpose of following up with the young person, unless the entity has the consent of the young person. The second exception listed in subclause 2 is where the person to whom the information relates has consented to the recording, disclosure or access to the information by someone else. The third exception is where the disclosure occurs in compliance with lawful processes requiring production of documents or giving of evidence before a court or tribunal. This would enable the information to be, for example, subpoenaed for production in court. The final exception is where the use or disclosure is permitted or required by another Act, such as for example a disclosure made under the *Evidence Act 1977*.

A maximum penalty of 50 penalty units applies to recording, disclosure or giving access to someone else in contravention of subclause 2.

Subclause 3 provides that subclause 2 continues to apply to personal information about a young person in the student account phase after the phase ends.

Subclause 4 defines key terms for clause 60 only.

“Disclose” is defined to include giving access to the information.

“Employee” of a provider, the Queensland Studies Authority or another entity is defined inclusively to include a person appointed to a position with the entity, a person engaged by the entity under a contract for services and an unpaid employee of the entity. For example, a parent volunteer helping at a school may be an employee of a provider captured by the confidentiality provision.

“Personal information” is defined to mean information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. This definition is intended to capture the same information that is intended to be covered by Information Standard 42: Information Privacy. Any information collected or come into contact with as a result of an opportunity provided as a result of this Act, which is capable of identifying an individual young person, will be captured by the confidentiality provision, subject to the stated exceptions.

Clause 61 provides for delegation of the chief executive’s powers. Under subclause 1 the chief executive may delegate the chief executive’s powers under the Act to an appropriately qualified officer or employee of the Department of Education or the Department of Employment and Training. “Appropriately qualified” is defined by subclause 3 as including having qualifications, experience or standing appropriate to exercise the power. Subclause 3 uses the example of standing of a person’s classification level within the public service.

Subclause 2 provides for the possibility of subdelegation. The chief executive may delegate the power to an appropriately qualified officer with the permission for that officer to subdelegate the power to another appropriately qualified officer. Subdelegation may be relevant where the circumstances are such that the delegated officer could not effectively perform the decision-making function, but another appropriately qualified officer may be better placed, perhaps because of a better local understanding of the issues surrounding the decision-making.

Clause 62 provides that the chief executive may approve forms for use under the Act. Forms are required in relation to the following clauses:

- clause 21 (information notice to be given to parents about their obligation is to be an approved form and warning notice to be given to parents following attempts to set up a meeting is to be an approved form)

- clause 26 (application for dispensation to be in the approved form)
- clause 32 (application for internal review of a dispensation decision to be in the approved form)
- clause 40 (notice to be given by schools and the chief executive to the Queensland Studies Authority to open the account is to be in the approved form)
- clause 42 (notice to be given by providers to the Queensland Studies Authority about a young person's enrolment with the provider is to be in the approved form)
- clause 43 (notice to be given by providers where Queensland Studies Authority has asked the provider to open an account for a young person is to be in the approved form)

Clause 63 provides that regulations may be made by the Governor in Council. Provision for the making of regulations is made under

- clause 25 (about home schooling dispensations);
- clause 40 (other information to be provided for a student account to be opened);
- clause 44 (the times when the provider must notify the Queensland Studies Authority of a change in student account information); and
- clause 59 (the times when the Queensland Studies Authority must provide aggregated information to the Association of Independent Schools Queensland Inc and Queensland Catholic Education Commission).

PART 7—AMENDMENT OF EDUCATION (GENERAL PROVISIONS) ACT 1989

Division 1—Preliminary

Clause 64 provides that amendments made under this part and schedule 1 will amend the *Education (General Provisions) Act 1989*.

Division 2—Amendments commencing on proclamation

Clause 65 provides for the amendment of terms and definitions in the interpretation section of the *Education (General Provisions) Act 1989*.

The term and definition of “age of compulsory attendance” is replaced with the more contemporary and representative term “compulsory school age” and a simplified definition of the current requirement.

The term “excluded person” is now also cited in section 36E(3) in addition to section 36.

The term “registered teacher” is defined for the purposes of the requirements for flexible arrangements in section 114A.

The term “school of distance education” is defined in the interpretation section to mean either a State educational institution offering distance education or a non-State school accredited or provisionally accredited to provide distance education.

The definition of “teacher” is amended to clarify that a teacher is a registered teacher.

Clause 66 provides for the replacement of the term “a program of instruction” with the contemporary term “educational program” in section 14 of the *Education (General Provisions) Act 1989*.

Clause 67 amends section 19B of the *Education (General Provisions) Act 1989* which deals with the implementation of syllabus or preschool guideline at a State educational institution. The provision currently allows for the implementation of an approved syllabus for an area of learning. The amendment will allow schools to implement an accredited course if the school is a registered training organisation. The amendment includes definitions of “accredited course” and “registered training organisation” which are referenced to the *Vocational Education, Training and Employment Act 2000*.

Clause 68 amends the division heading for Part 4, Division 3. The amendment will add the words “by supervisor”, so that the heading will read “Exclusion of students by supervisor”. This is to distinguish the new division to be inserted by clause 71 of the Bill.

Clause 69 amends the heading of section 33 to reflect the distinction between exclusions by supervisor and exclusions by chief executive. The heading will read “Grounds for exclusion of student by supervisor”.

Clause 70 amends section 36 to reflect the distinction mentioned above. The heading will read “Exclusion of student by supervisor”. In addition, the new subsection 6 clarifies that the supervisor’s power to exclude a student only applies if the supervisor is the supervisor of the principal of the institution in which the young person is in attendance. This power now will vest only in the chief executive under the division inserted by clause 71.

Clause 71 inserts a new division 3A after section 36. This division will set out the powers of the chief executive to exclude a student. The division allows the chief executive to exclude a student from a stated State educational institution or from all State educational institutions in circumstances where the chief executive is satisfied that a ground exists for exclusion. These amendments remove the power for exclusion of a student from all state educational institutions from the supervisor of a principal of a state educational institution and places it with the chief executive. This is in recognition of the seriousness of such a decision. It is anticipated that the power to exclude a young person from all state educational institutions would be used very infrequently but is necessary should there be a serious risk to staff and students.

The new section 36A provides for the chief executive with the power to exclude a student if satisfied that the grounds exist for the exclusion. The grounds are provided for in the new section 36B. Subsection 2 clarifies that the chief executive may act under this division whether or not the student has already been suspended or excluded under this part. This power may be needed if there is a concern that the risk to safety may apply across all State educational institutions or in the absence of a decision made under section 36.

The new section 36B provides for the grounds for exclusion which relate to the student’s attendance presenting an unreasonable risk to the safety of staff and students or the student being persistently engaged in gross misbehaviour which affects the education of other students.

The new section 36C provides for suspension pending final decision about exclusion. Subsection 1 allows for the chief executive to immediately suspend a student if the student is not already suspended or excluded until such time as a final decision is made about the exclusion. This recognises that there may be an immediate threat to the safety of staff and students which necessitates an immediate suspension.

Subsection 2 requires that the chief executive give the student a notice informing the student of the suspension or if the student is already suspended, inform the student that the current suspension or exclusion will continue until such time as a final decision is made about the proposed

exclusion. In addition, the notice must provide information to the student about the scope of the proposed exclusion, the reasons for the proposed exclusion, whether the proposed exclusion is permanent and how a student can make a submission to the chief executive against the proposed exclusion.

Subsection 3 requires that the chief executive give copies of the notice to the principal of the student's institution and the principal's supervisor.

The new section 36D provides for submission by the student against the proposed exclusion. Subsection 1 permits a student who has been given notice under section 36C to make a submission against the proposed exclusion as specified in the notice. Subsection 2 requires that the student make the submission no later than 5 school days after the notice is given and state the grounds and facts relied upon in relation to the proposed exclusion in the submission. Subsection 3 allows the student to request an extension of the time allowed to make submissions provided this request is made within 5 school days of the notice being given.

The new section 36E provides for the exclusion by the chief executive. Subsection 1 requires that following consideration of any submissions received within the stated time, the chief executive must decide whether to exclude a student and if so, the period of the exclusion. Subsection 2 allows the chief executive to make a decision to only exclude the student for the period stated in the initial notice. The chief executive must not exclude the student for a period longer than that proposed in the notice given to the student under section 36C.

Subsection 3 requires that the chief executive give the excluded young person a notice stating the following information: the institution/s the student is excluded from, the reason for exclusion, the period of the exclusion and information about the student's ability to request a review of the decision and how this request is to be made.

Subsection 4 requires that where the chief executive decides not to exclude a student the chief executive must give the student a notice outlining the decision not to exclude the student and advise the student that the suspension has ended and that they may return to the stated institution.

Subsection 5 clarifies that the effect of a notice given to advise a student that a chief executive has decided not to exclude that student causes any suspension or exclusion given under this part to end.

Subsection 6 requires that the chief executive inform the principal of the stated institution and the principal's supervisor of the decision regarding an exclusion of a student enrolled at that institution through a notice.

Finally, clause 71 inserts a new division heading for division 3B, which caters for review of decisions about exclusion. The existing provisions relating to appeal against an exclusion made by the supervisor are in the following clauses extended to a decision made by the chief executive.

Clause 72 includes a reference in section 37 to the new power for exclusion by the chief executive under section 36A in addition to the existing power for exclusion in section 36.

Clause 73 makes consequential amendments to section 38 of the *Education (General Provisions) Act 1989* as a result of the new section 36A included in clause 71. Subclause 1 inserts a time period within which the decision must be made. Currently, a decision must be made promptly. However, experience shows that decisions can take a long time to be made. Therefore, section 38(1) will be amended to require the chief executive to make the decision within business 40 days after receiving the submission.

Subclause 2 includes a reference to the chief executive's original decision (in addition to a supervisor's decision) in relation to the requirement to inform an excluded person and the principal of a chief executive's decision to affirm, vary or set aside a decision. Under this requirement, the chief executive needs to let the excluded person know when the person can return to school if it is a time earlier than if the supervisor's decision or chief executive's original decision had been affirmed.

Subclause 3 includes a new requirement for the chief executive to ensure that a submission against an exclusion made under the new Division 3A is not dealt with by the person who made the original decision or by a person in a less senior office than the original decision-maker.

Clause 74 inserts a new section 38A which sets out requirements for the chief executive to periodically review a decision made about the exclusion of a student made under division 3A.

Subsection 2 requires that the review by the chief executive must be commenced within 1 month before the end of each school year in the form of a notice given to the excluded student. The notice must: inform the student that they can make a submission to the chief executive to determine whether the exclusion decision should be revoked; and provide information to the student about how the submission can be made, including the timeframe for making the submission.

Subsection 3 provides a power for the chief executive to extend the timeframe for receiving a submission from the student provided it is before a decision is made about whether to revoke the exclusion.

Subsection 4 clarifies that the student is able to make the submission either in the way stated in the notice from the chief executive or in accordance with the extended timeframe determined by the chief executive.

Subsection 5 requires that following consideration of any submissions from the student, the chief executive must decide whether to revoke the exclusion, provide a written notice of the decision and reasons for the decision, to the student, to the principal (of the school where the student was excluded) and to the principal's supervisor.

Subsection 6 requires that the chief executive must revoke the exclusion decision if the chief executive is satisfied that the student's attendance no longer presents an unreasonable risk to the safety of other students or staff or the student's persistent and gross misbehaviour is unlikely to continue. These are the grounds for the original decision under section 36B.

Subsection 7 provides that otherwise the chief executive must not revoke the exclusion.

Subsection 8 clarifies that a decision to revoke an exclusion may relate to either one or more institutions as stated in the original exclusion decision. This allows the chief executive to partially revoke the exclusion if appropriate, thereby only restricting attendance at particular institutions mentioned in the original decision.

Clause 75 replaces section 114 of the *Education (General Provisions) Act 1989* with a new compulsory schooling provision. The new section broadens the definition of attendance to account for modes of delivery which may not involve physical attendance on every school day.

Subsection 1 requires that the parent of a child of compulsory school age ensure that the child is enrolled and attending the State educational institution or non-State school on every school day for the educational program in which the child is enrolled.

Subsection 2 clarifies that a child attends only if complying with the institution or school's requirements about physically attending, at particular times, its premises or another place. This takes account of the different requirements of schools in relation to physical attendance and serves to remove any doubt about how a parent can ensure that they meet these requirements.

Subsection 3 sets out the requirements for attendance at a school of distance education, that is, to complete and return assigned work for the program. In addition, subsection (b) clarifies that a child enrolled in another program without physical attendance requirements can comply

with this requirement by meeting the communication or contact requirements of that institution or school.

Subsection 4 states that the requirements of subclause (1) apply subject to this part.

The insertion of section 114A sets out a framework for the approval of flexible arrangements for a child enrolled in a non-State school. Flexible arrangements are able to be approved for a young person on a case-by-case basis in circumstances where the young person would benefit from participating in a program other than the school's educational programs. For example, an arrangement may be approved which allows a young person to participate part-time in school and part-time in a life-skills program offered by a community organisation. To ensure the accountability of these decisions, it is proposed that compliance with this provision become an accreditation criterion through an amendment to the *Education (Accreditation of Non-State Schools) Regulation 2001*.

Subsection 1 provides for an authorised entity for a non-State school to approve arrangements for a student enrolled with the school. These arrangements are to apply instead of participation in the school's usual educational programs. "Authorised entity" is defined by subsection 6.

Subsection 2 sets out requirements for the approval of these arrangements. It is anticipated that detailed guidelines will be developed to support the legislative requirements and to provide further guidance to authorised entities in making decision regarding flexible arrangements.

Subsection (a) requires that a registered teacher prepare written assessments of the child's educational and other needs, the learning outcomes intended by the arrangements and the suitability of the provider in delivering the program. It has been determined that a registered teacher is in the most informed position to make these subjective assessments of the child and to determine the appropriateness of the arrangement, having regard for the particular needs of that child. Further, the requirement for a registered teacher to make these written assessments provides additional safeguards for these arrangements, ensuring that they are appropriate, in the best interests of the child and outcome focused.

Subsection (b) requires that the authorised entity give consideration to the written assessments prepared by the registered teacher and how and by whom the child's participation will be monitored and how and by whom the provider's involvement and effectiveness will be monitored. Importantly, the authorised entity can only approve the arrangements if

there is a mechanism in place to oversee and monitor the effectiveness of these arrangements.

Subsection (c) requires that the authorised entity is satisfied that the arrangements are appropriate, having regard to the child's individual needs and circumstances, the best learning outcomes for the child and where appropriate, whether the arrangements are equivalent to full-time participation in the school's educational programs. It is intended that where possible, a child should be participating full-time either in the usual way a child participates under the compulsory schooling requirements or for an equivalent period as part of a flexible arrangement. In addition, the entity must have regard to any other matter prescribed under a regulation.

Subsection 3 requires that the non-State school keep the written assessments prepared by a registered teacher, the written agreements and a record of the authorised entity's consideration of the matters in (2)(b) for at least 5 years.

Subsection 4 provides that where it is impracticable or inappropriate in the circumstances, an authorised entity is not required to obtain a parent's written consent to the arrangements for a young person of compulsory school age. For example, where a young person is living independently from their parents it may not be appropriate to discuss these arrangements with the child's parents.

Subsection 5 defines "authorised entity" for the purpose of this part as being a school's governing body or a staff member of the school who is given written authorisation by the governing body. This enables the governing body to delegate the decision-making power to, for example, the principal of a non-State school. "Provider" is defined as an entity directly involved in providing a program to the student under the arrangements. "Student" is defined as a student of compulsory school age.

The insertion of section 114B provides a power for the chief executive to approve flexible arrangements for a child enrolled in a State educational institution in the same way that an authorised entity can approve arrangements for a child enrolled in a non-State school in the previous section.

Subsection 2 places the same requirements for approval of flexible arrangements in State educational institutions as for non-State schools. These include requirements relating to the approval process, requirements relating to what must be considered before approving an arrangement and a requirement to obtain written agreement from parents and discuss the arrangements with the child. The only difference between the requirements

for State and non-State schools in relation to flexible arrangements is that the chief executive is not subject to the requirement under section 114A (4) relating to record keeping given that State is subject to requirements under the *Public Records Act 2002*.

Clause 76 provides for amendments to section 115 of the *Education (General Provisions) Act 1989*. Section 115 deals with the granting of a dispensation from the compulsory schooling requirement.

Subclause 1 replaces the term “the age of compulsory attendance” with “compulsory school age”.

Subclause 2 removes the power to make decisions regarding dispensations from the Minister and provides this power to the chief executive. Given the administrative nature of these decisions it is determined to be more appropriate to provide this power to the chief executive, given the chief executive’s functions.

The references to approval of a dispensation being approved on the basis of a child’s home being a particular distance from a State educational institution have been removed. This is in recognition that these matters no longer represent specific grounds for the approval of a dispensation given that the meaning of “attend” under section 114 has been widely defined so that a child may attend through returning completed work to the school of distance education. It should also be noted that the dispensation provisions contain a power for the chief executive to approve a dispensation for any reason the chief executive considers to be valid.

Subclause 3 clarifies that the compulsory schooling requirement does not apply to a child who has a dispensation or provisional dispensation, to the extent outlined in the dispensation.

Clause 77 creates new provisions (section 116A and section 116B) which serve to clarify that the compulsory schooling requirement does not apply to a child who is suspended or excluded or is temporarily ill. This is to ensure that a parent is not in technical breach of their obligations during this period.

Section 116A clarifies that the compulsory schooling requirement does not apply for a child who has been permanently excluded from all State educational institutions.

Subsection 2 provides that the compulsory schooling requirement as set out in section 114(1)(b) does not apply for the period while a child is excluded from all state educational institutions or for the period while a

child is suspended and not in an alternative program or for the period while a child is suspended from a non-State school.

Subsection 3 defines what it means to be suspended and excluded with reference to part 4 of the *Education (General Provisions) Act 1989*.

Section 116B clarifies that the compulsory schooling requirement does not apply for a child who is ill for not more than 10 consecutive school days.

Subsection 1 specifies that the absence must not be for more than 10 consecutive days during which time the child is too ill to attend the State educational institution or non-State school in which they are enrolled. This provision has been included to avoid the parent of the child having to apply for a dispensation for short-term absences.

Subsection 2 allows for a regulation to provide for obligations on parents in relation to a child's absence due to illness. For example, a regulation may require a parent to notify the school in writing of the child's absence after a particular period.

Clause 78 omits section 117 of the *Education (General Provisions) Act 1989* which provides an alternative obligation on parents who are geographically isolated to enrol their children in distance education. This clause omits section 117 because the new meaning of attend has made special treatment of distance education enrolments superfluous. Instead a new section 117 is inserted regarding the information notice and meeting framework used prior to prosecuting a parent for non-compliance with the compulsory schooling requirement.

Subsection 1 provides that the clause applies when an authorised officer reasonably suspects that a child of compulsory school age is not enrolled or not attending a State educational institution or non-State school on every school day for the program in which the child is enrolled.

Subsection 2 provides for an authorised officer to give a parent of a child a notice in the approved form about the compulsory schooling requirement and the offence attached to non-compliance. This is intended to be the first step in making contact with a parent and informing them of their obligations under the legislation.

Subsection 3 provides that an authorised officer may also meet with the parent to discuss the compulsory schooling requirement and the offence attached to non-compliance. In addition, the purpose of the meeting with a parent is to work with the parent to develop practical strategies to remedy the contravention.

Subsection 4 provides that despite the fact that the authorised officer tried to hold a meeting and a meeting could not be held, the officer may give the parent a warning notice. This step represents the final step in the official process undertaken by an authorised officer prior to commencing a proceeding for the offence. However, it should be noted, that in practice, several notices may be issued to a parent and several meetings may be held with a parents over a period of time to ensure compliance with the requirements. It is intended that policy guidelines will be developed to ensure greater consistency across the State in the application of these powers.

Subsection 5 clarifies that an authorised officer under this clause is a public official performing a function authorised by this Act for the purpose of section 14 of the *Police Powers and Responsibilities Act 2000*. This will enable an authorised officer to seek help from a police officer in issuing notices and holding meetings with parents.

Subsection 6 defines authorised officer to mean the chief executive or an officer of the department authorised by the chief executive. The delegation of this power will be clearly outlined in policy guidelines to ensure that those officers authorised to carry out this function are aware of their responsibilities.

Clause 79 amends section 118 of the *Education (General Provisions) Act 1989* which deals with a penalty for non-compliance with compulsory education provisions.

Subsection 1 replaces the existing obligation with essentially the same requirement except that it uses the new terminology of “compulsory school age” and includes the concept of a reasonable excuse. Subsection 1 also sets out that the maximum penalty for a first offence is 5 penalty units (\$375) and for a second or subsequent offence the penalty is 10 penalty units (\$750).

Subsection 2 provides for a reasonable excuse for a parent who has contravened the requirements in particular circumstances. These excuses relate to a parent being unable to ensure enrolment or attendance because the child was not living with them, or because the parent is unable to control the child’s behaviour in order to ensure compliance or because the child has been excluded and the parent has not yet organised the child’s new enrolment (the parent has a reasonable time to do this). The reasonable excuses have been included in the framework to recognise that there are particular circumstances in which it is unreasonable to expect that a parent could meet their obligations.

Subsection 2A provides for the process to be followed in commencing a proceeding for the offence. A proceeding is to be brought either by the chief executive, or with the chief executive's consent. In addition, a proceeding may only be brought against a parent who is alleged to have committed the offence following the issuing of a notice to the parent explaining their obligations and at least one meeting has been held or a warning notice has been issued in the absence of a meeting being held. It is intended that these steps will at least ensure that consideration is given to the parents' circumstances and the factors which may be contributing to the contravention and provide a mechanism, through the meeting to work with parents to remedy the contravention.

Subclause (2) replaces section 118(3)(b) which included wide-ranging evidentiary provisions about a parent's failure to comply with a simplified provision clarifying that in a complaint, a statement that a child was of compulsory school age at the time of the offence is taken to be evidence of that fact.

Subclause (3) replaces the role of the Minister in issuing dispensation certificates for the purpose of evidence of a dispensation with the Director-General. This is consistent with the delegation of other administrative decisions.

Subclause (4) replaces the term "the age of compulsory attendance" with "compulsory school age".

Subclause (5) provides further evidentiary provisions to be inserted into subsection 118(3).

Clause 80 amends section 119 of the *Education (General Provisions) Act 1989* which deals with restrictions in relation to employing children of school age.

Subclause (1) inserts "compulsory" into the heading for consistency in terminology.

Subclause (2) replaces the term "the age of compulsory attendance" with "compulsory school age".

Subclause (3) inserts new subsections into section 119 which have the effect of recognising that employment approved as part of a flexible arrangement or as a consequence of a law of the Commonwealth are not subject to the restrictions against employing child who is subject to the compulsory schooling requirements.

Clause 81 amends section 123 of the *Education (General Provisions) Act 1989* which relates to the calculation of a student's allocation of

semesters where the student does not begin schooling at a State educational institution. The clause replaces the term “a program of education or instruction” with “an educational program”.

Clause 82 inserts a new section into the *Education (General Provisions) Act 1989* (section 142B) which provides for a new power for the Minister to approve grants to entities for the purposes of helping children to achieve their best learning outcomes or to promote the re-engagement of children in education or training. This power has been included to recognise that by virtue of the reforms the Minister may be approving grants to entities that are not strictly education based and for purposes which are more focused on supporting young people to achieve learning outcomes rather than for the provision of education. To remove doubt about the Minister’s power to approve funding for these broader purposes this provision has been included.

Clause 83 provides for the inclusion of transitional provisions as a result of the Youth Participation in Education and Training Act 2003. Clause 83 inserts a new Division 4 into Part 11 of the *Education (General Provisions) Act 1989*. The insertion of section 166A provides for a definition of “commencement day” to mean the day the provision commences and for “dispensation” to include a provisional dispensation.

The insertion of section 166B provides that where a dispensation was in force immediately before the commencement day it continues to be in force until it expires or otherwise ends under the Act.

The insertion of section 166C provides that the chief executive can continue to deal with making a decision regarding a dispensation which was applied for to the Minister before the commencement day.

The insertion of section 166D provides that the requirements for starting a proceeding under section 118(2A) only apply to those proceedings started on or after the commencement day. In addition, a certificate issued by the Minister before the commencement day is taken to be evidence of the matters stated.

Division 3—Amendments commencing on 1 January 2006

Clause 84 amends section 2(1) which is the definition section for the *Education (General Provisions) Act 1989*.

Firstly, clause 84 removes the definition of “cancel” and “person under a cancellation”. These definitions are no longer required as a result of the

omission of Part 4, Division 4 which deals with cancellation of enrolment of post-compulsory students (see clause 86).

Secondly, clause 84 omits the definition of “compulsory school age” from section 2(1). The definition of “compulsory school age” is to be inserted into section 2(1) by clause 65 to commence on proclamation. This definition is to be omitted on 1 January 2006 when clause 85 inserts a new definition of that term in a new section 4A.

Clause 85 inserts a new section 4A after the existing section 4. This new section defines “compulsory school age” in a way that implements the new school leaving age announced by the *Education and Training Reforms for the Future*. The new subsection 4A(1) provides that a child is of “compulsory school age” if the child is at least 6 years and less than 16 years. The new subsection 4A(2) provides that a child will no longer be of compulsory school age, if the child has completed Year 10. This gives effect to the requirement that children and young people should be at school until they turn 16 or have completed Year 10, whichever comes first.

Clause 86 omits Part 4, Division 4 of the *Education (General Provisions) Act 1989*. Part 4, Division 4 provides for the cancellation of enrolment of students above the compulsory school age. Under the Division a principal of a state educational institution can cancel a student’s enrolment in circumstances where the student’s persistently disruptive behaviour is adversely affecting the education of other students at the institution, or where the student’s behaviour amounts to a refusal to participate in the educational program provided at the institution. In addition, Division 4 provides for mechanisms for review by the principal’s supervisor of a decision to cancel a students enrolment.

The fundamental premise of the cancellation power is that schools should not have to cater for students who are no longer compelled to be at school where they are not interested in continuing their schooling. The cancellation process is comparatively simple when considered in the context of its alternative, ie an exclusion from school. However, the net effect of a cancellation is the same as the effect of an exclusion – the student can no longer receive an educational program at the school. However, a cancellation decision is made by the principal with a review to the principal’s supervisor, whereas the process for exclusion involves more safeguards for the student: a principal makes a recommendation to the supervisor, and the student may make submissions to the supervisor, who makes the decision to exclude. There are review rights to the chief executive (see Part 4 Division 3 of the *Education (General Provisions) Act 1989*).

There are two aspects to the grounds for cancellation. The ground that the student is disrupting other students can be amply dealt with under the grounds for exclusion (see section 33), or, if sufficiently serious, under the new power vested in the chief executive by clause 71. The ground that the student is not participating appears to be inconsistent with the very intent of the *Education and Training Reforms for the Future*, that is that young people must continue to participate in education or training after Year 10 or after they have turned 16. The reforms are about working with young people to ensure they participate, not to alienate them from the school because they do not participate.

Clause 87 amends the division heading for Part 4, Division 5. Division 5 contains miscellaneous provisions about suspensions, exclusions and cancellations, and clauses 87 to 89 makes amendments that are consequential upon the removal of the cancellation division. Clause 87 replaces the words “suspensions, exclusions and cancellations” with the words “suspensions and exclusions” so that the division heading reads “Miscellaneous provisions about suspensions and exclusions”.

Clause 88 amends section 43. Section 43 defines “student” for Division 5, and subsection (c) defines a student to mean a person under a cancellation. As a result of the removal of the cancellation division, this definition of student is no longer required, and subsection (c) is removed.

Clause 89 amends section 45. Section 45 provides for submissions to be made about suspensions, exclusions and cancellations where the student is under 18 years. In that case, the parent or adult who has the care and control of the student may also make the submissions against the suspension, exclusion or cancellation. Subclause 89(1) removes the reference to cancellation in the heading, so that the heading will read “Submissions about suspensions and exclusions”. Subclause 89(2) will remove the reference to cancellation in the text of the section.

Clause 90 amends section 114A (that has been included by clause 75 of the Bill to commence by proclamation). The amendment by clause 90 will coincide with the commencement of the compulsory participation phase requirement and will enable schools to enter into flexible arrangements for students of compulsory school age as well as students in the compulsory participation phase. While schools in the interim can chose to follow the process for flexible arrangements for students who are not of compulsory school age—they are not compelled to do so in a legislative sense.

Clause 90 will omit subsection 114A(2)(d) and (e) and instead insert a new subsection 2A. Subsection 2A will distinguish between students of compulsory school age and students in the compulsory participation phase.

If the student is of compulsory school age, then the parents' written agreement to the arrangements is required. In addition, a discussion must be held with the student about the proposed arrangements. The detail of this discussion with the child will depend on the student's age, and other relevant circumstances, such as the student's maturity and understanding of what the arrangements will mean.

For students in the compulsory participation phase, the decision-maker must ensure that they have the student's written agreement to the arrangements and ensure that the arrangements are discussed with the student's parents, to the extent to which this is appropriate and possible. For example, where a young person is living independently from their parents it may not be appropriate to discuss these arrangements with the child's parents.

Subclauses 3 and 4 make amendments to subsections 114A(3)(c) and 114A(4) consequential upon the insertion of the new subsection 2A.

Subclause 5 replaces the definition of "student" for the section to include a student who is of compulsory school age or in the compulsory participation phase.

Clause 91 amends subsection 114B(2). This amendment is consequential upon the insertion of the new subsection 114A(2A).

Clause 92 amends section 115. Section 115 deals with dispensation from compliance with compulsory enrolment and attendance provisions. Subsection 115(1) provides that the chief executive may grant a parent a dispensation from the obligation to have their child enrolled and attend a school. Subsection 115(2) sets out the grounds that are deemed to be valid for a decision to grant a dispensation. Subsection 115(2)(d) was omitted by clause 76, to commence by proclamation. This subsection related to geographically isolated children, and is no longer relevant because of the definition to the meaning of "attend" in the new section 114 inserted by clause 75, also to commence by proclamation.

Clause 92 inserts a new subsection 115(2)(d) which makes it a deemed valid reason for granting a dispensation where the child is, or has arranged to become, an apprentice or trainee under the *Vocational Education, Training and Employment Act 2000*. This amendment will commence at the same time as the school leaving age is raised to 16 years or completion of Year 10 (see the amendment in clause 85). At present, parents of some young people seek dispensation for their child to enter into the workforce when the child is still of compulsory school age. Such dispensations are granted for approximately 70 students a year. When the school leaving age

is raised, more young people may be in the situation of wanting or needing to earn a wage. Ideally, this is done by the young person becoming an apprentice or trainee, rather than entering into employment without any structured training attached. The amendment will recognise that a young person securing an apprenticeship or traineeship is engaging in a valid alternative to schooling. The chief executive of education will still need to grant the dispensation, but if the young person has signed the apprenticeship or traineeship contract, or has arranged to do so, this will be a valid reason for granting a dispensation.

Clause 93 inserts a new section 116C. This section provides that section 114(1) (the obligation on parents to have their compulsory school age child enrolled in, and attending, school) does not apply to the extent of any inconsistency with a law of the Commonwealth under which a person of compulsory school age may carry on an activity other than attending a state educational institution or non-state school. For example, a young person may, with parental consent, enlist for service in the Air Force as an airman apprentice upon reaching 15 years of age (see s93B of the *Airforce Regulation 1927* (Cth)). If the young person becomes an airman apprentice while still of compulsory school age, the obligation on parents in 114 will not apply to the parent.

PART 8—AMENDMENT OF OTHER ACTS

Division 1—Education (Accreditation of Non-State Schools) Act 2001

Clause 94 explains that this division amends the *Education (Accreditation of Non-State Schools) Act 2001* (the “Non-State Schools Act”).

Clause 95 amends section 39 of the Non-State Schools Act. Section 39 is included in Part 2, Division 4 about the investigation of suitability of the school’s governing body. Under the Non-State Schools Act, the governing body must at all times be suitable, and the Non-State Schools Accreditation Board is empowered to investigate the suitability of the governing body.

Subclause 1 amends subsection 39(2). Subsection 39(2) requires the Non-State Schools Accreditation Board to decide that a school’s governing body is “not suitable to be, suitable to continue to be, or would be suitable

to be” the school’s governing body where a director of the school’s governing body does not have a current positive notice under the *Commission for Children and Young People Act 2000*. Subclause 1 omits the words “suitable to continue to be, or would be suitable” and inserts instead the words “not suitable to continue to be, or would not be suitable” to better reflect the underpinning policy intention of the provision.

Subclause 2 clarifies that the specific provisions in subsections 39(2) and 39(3) are not intended to limit the matters to which the board may have regard in making a decision about the suitability of the school’s governing body under subsection 39(1). As noted above subsection 39(2) directs the Non-State Schools Accreditation Board to decide that a governing body is not suitable if a director does not have a positive notice. Subsection 39(3) provides for matters that the Non-State Schools Accreditation Board may have regard to when making a decision about the suitability of the governing body, which relate to situations where the director of a governing body has been convicted of an offence. The amendment in subclause 2 will insert a new subsection 39(4) which will clarify that subsection (2) and subsection (3) are not intended to limit the matters that the Non-State Schools Accreditation Board may have regard to when deciding the suitability of a governing body.

Division 3—Education (Queensland Studies Authority) Act 2002

Clause 96 explains that this division amends the *Education (Queensland Studies Authority) Act 2002*.

Clause 97 amends section 3 by inserting subsections 3(1)(d) and (3)(2)(b). Section 3(1) provides for the objects of the *Education (Queensland Studies Authority) Act 2002*, and currently includes three objects, namely to help schools achieve quality learning outcomes for their students, to facilitate the transition of students through the sectors of education, and to maintain public confidence in certificates of achievement. Subclause 1 inserts a new object, namely to help achieve the objects of the *Youth Participation in Education and Training Act 2003*. The Queensland Studies Authority will help achieve the objects through their central role in the student account system. This system will be critical to enable providers to bank young people’s learning credits, and to support the planning and reengagement activities of the chief executive.

Section 3(2) explains how the objects of the Act will be mainly achieved, namely through the establishment of the Queensland Studies Authority,

conferring certain functions on the authority and establishing the Office of the Queensland Studies Authority to help the authority to perform its functions. Subclause 2 will include another way in which the objects of the Act will be achieved by including in the list of functions of the authority the participation of young people in education and training.

These amendments are linked with the following amendments in clause 98, 99 and 100.

Clause 98 inserts a new section 14A after section 14. Section 14A will confer participation functions on the Queensland Studies Authority. The participation functions involve the Queensland Studies Authority keeping a student account for each young person in the student account phase under Part 4 of this Bill. A young person in the “student account phase” is defined by clause 41 as a young person who is in the compulsory participation phase or who is not yet in the compulsory participation phase, but for whom an account has been opened. In addition, the participation functions involve the Queensland Studies Authority dealing with the information recorded in the account in a way permitted or required by Part 4 of this Bill.

Clause 99 amends the heading of Part 2, Division 4 of the *Education (Queensland Studies Authority) Act 2002*. Division 4 is currently about tests and notification of syllabuses and preschool guidelines. The insertion of an additional provision by clause 100 will expand the scope of Division 4 to also include results. Therefore, the division heading is amended to reflect this.

Clause 100 inserts a new section 18A, before the existing section 19 to impose an obligation on a provider to provide result information to the Queensland Studies Authority. The new subsection 18A(1) provides that a provider must give to the authority results information prescribed under a regulation. The new subsection 2 provides that the results information must be given at the times and in the ways prescribed by regulation. “Result information” is defined by the new subsection 3 to mean:

- the results of the assessment of a person for an area of learning that may be recorded on a certificate of achievement; and
- qualifications conferred on the person; and
- other related information including, for example, when the results were achieved or qualifications conferred.

“Provider” is defined by the new subsection 3 by referring to the definition in the *Youth Participation in Education and Training Act 2003*. This definition refers to clause 12 of the Bill and includes a state

educational institution, a non-state school, a university or non-university provider, a TAFE institute or registered training organisation and the chief executive of the department within which the *Vocational Education, Training and Employment Act 2000* is administered.

The new subsection 18A(1) will require the providers to bank learning credits, that is provide result information, of young people who have a student account to the Queensland Studies Authority. This information will be included in the young person's student account, and be made accessible to the young person so that the young person can access a comprehensive statement of their achievements in one place. Ultimately, the Queensland Studies Authority will be able to use the learning credits banked in the student account to issue a certificate of achievement.

The regulation will provide which learning credits can be banked, and the times and ways in which learning credits are to be banked.

Division 4—Education (Teacher Registration) Act 1988

Clause 101 explains that Division 4 amends the *Education (Teacher Registration) Act 1988*.

Clause 102 makes definitional amendments to the *Education (Teacher Registration) Act 1988* which are consequential upon the change in terminology from “age of compulsory attendance at school” to “compulsory school age” in the *Education (General Provisions) Act 1989*.

Subclause 1 inserts into section 2 a new definition of “compulsory school age” by referring to the amended definition in section 2(1) of the *Education (General Provisions) Act 1989*. The definition of compulsory school age in that Act means at least 6 years and less than 15 years, and this definition will change on commencement of the new definition to be inserted by clause 85.

Subclause 2 amends the definition of “tertiary education” in section 2 of the *Education (Teacher Registration) Act 1988* to reflect the change in language from “age of compulsory attendance” to “compulsory school age”.

Division 5—Freedom of Information Act 1992

Clause 103 explains that division 5 amends the *Freedom of Information Act 1992*.

Clause 104 amends the definition section (section 7) of the *Freedom of Information Act 1992* by inserting a new definition for “education entity”. This term is used in the amendment to section 11 inserted by clause 105. “Education entity” is defined to mean the department within which the *Youth Participation in Education and Training Act 2003* is administered (that is, the Department of Education), or the Queensland Studies Authority established under the *Education (Queensland Studies Authority) Act 2002*, section 6.

Clause 105 amends the existing section 11(1) by inserting an additional subsection 11(1)(pb). Section 11 currently provides that the *Freedom of Information Act 1992* does not apply to a range of bodies, including the Governor, the Legislative Assembly, judicial functions of courts, and committees declared to be an approved quality assurance committee under the *Health Services Act 1991*. Clause 105 will amend section 11 by adding to the list of bodies exempt from the operation of the *Freedom of Information Act 1992* an education entity, in relation to aggregated information under the *Youth Participation in Education and Training Act 2003*, Part 4, Division 4. This is intended to exempt from the operation of the freedom of information regime aggregated student account information.

SCHEDULE 1

Schedule 1 makes consequential amendments to the *Education (General Provisions) Act 1989* relating to the change in terminology pertaining to the compulsory school age.

SCHEDULE 2

Schedule 2 sets out the dictionary terms used in this Act.

ATTACHMENT

The attachment is referred to in clause 5 and sets out the Ministerial declaration 'Stepping forward: improving pathways for all young people'.