

Education Legislation Amendment Bill 2006

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the Education Legislation Amendment Bill 2006 (the Bill).

Policy Objectives of the Legislation

The primary objective of the Bill is to facilitate the introduction of new certification arrangements in Queensland and the administration of student accounts that support the certification arrangements.

The Bill also amends the *Education (Queensland College of Teachers) Act 2005* (the QCT Act) to preclude a person from becoming, or continuing as, a member of the Teachers Disciplinary Committee if the person is, or has been, convicted of an indictable offence and the conviction is not a spent conviction.

The Bill also amends the *Higher Education (General Provisions) Act 2003* to align the procedure for the collection and provision of course survey data to the Minister, by a non-university provider offering an accredited course, with national practice.

Reasons for the Bill

Reforms to certification in Queensland

The Queensland Studies Authority (the Authority) is established under the *Education (Queensland Studies Authority) Act 2002* (the QSA Act). The Authority has the function to issue certificates of the type prescribed under a regulation. The *Education (Queensland Studies Authority) Regulation 2002* (the QSA Regulation) currently provides for the issuing of the senior certificate and the certificate of post compulsory school education.

On 1 April 2005, the Queensland Government announced reforms proposed for senior school certification in Queensland designed to equip all young people with vital skills and knowledge for life and work.

The Queensland Government's new certification arrangements include the introduction of a new senior certificate, the Queensland Certificate of Education (the QCE) and statements of results.

The QCE is a broad based school qualification awarded to young people, usually at the completion of Year 12, who achieve a significant amount of learning at a set standard and meet certain literacy and numeracy requirements. It is anticipated that the QCE will assist a student to transition from school to further education, training and work, by certifying to employers, TAFE and universities that students have attained a set standard in their studies and training.

Statements of results, including the senior statement and records of results, are transcripts of a person's results in studies undertaken in senior secondary education. A statement of results will be issued to a person with their QCE, upon completion of Year 12 and, in relation to the records of results, upon request to the Authority.

The QSA Act needs to be amended to enable the issue of the QCE and the statements of results.

The legislation implementing the QCE will establish the quality and quantity of education and training that students must achieve to receive a senior qualification, including learning that takes place outside of school; and will allow the Authority to record achievement in a broader range of learning, including learning in school and vocational education and training that will count towards a senior qualification.

On 1 January 2006 the *Youth Participation in Education and Training Act 2003* (YPET) came into effect. This legislation required compulsory participation in education and training for all young people for a further two years after they turn 16 or complete Year 10, or until they gain a Senior Certificate or a Certificate III or IV vocational qualification, or turn 17 years of age, unless they work full-time (the compulsory participation phase of schooling).

On 30 October 2006, YPET was subsumed within the new *Education (General Provisions) Act 2006* (the EGPA). The EGPA enables the Authority to open a student account for a young person to record information about the person's achievements in education or training programs during the compulsory participation phase. The EGPA enables the Authority to use student account information for its certification

functions, and to assist the Director-General, Department of Education, Training and the Arts (DETA) to perform planning and re-engagement activities.

The Bill consolidates the student account provisions in the EGPA and incorporates new provisions to enable the use of student accounts to be extended for the purposes of certification generally, and to enable the Authority to obtain enrolment and results information for all students striving for a senior schooling certificate in Queensland, whether or not they are in the compulsory participation phase.

Membership of the Teachers Disciplinary Committee

The QCT Act establishes the Queensland College of Teachers (the College); confers on the College functions and powers about the granting of registration or permissions to teach and taking disciplinary action against approved teachers. The Teachers Disciplinary Committee (the Committee) is established under the QCT Act to hear and determine serious disciplinary matters.

Currently the QCT Act does not provide for a proposed or existing member of the Committee to be disqualified from membership if convicted of an indictable offence. The QCT Act must be amended to ensure that a person should not be able to become, or continue as, a member of the Committee if the person is, or has been, convicted of an indictable offence and the conviction is not a spent conviction under the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Course survey data provided to the Minister by non-university providers

Part 4 of the *Higher Education (General Provisions) Act 2003* (the HEGP Act) sets out certain requirements for the accreditation of higher education courses proposed to be offered by higher education institutions that are not universities. Section 59 of the HEGP Act requires a non-university provider offering an accredited course to give the Minister course survey data, for the course, relating to the day prescribed under a regulation.

The way the course survey data is collected and provided to the Minister is to be altered to align the collection procedure with national practice. Rather than requiring providers to give the Minister course survey data that is current as at a point in time, providers will be required to give the Minister course survey data for the previous year. The providers will be required to give the Minister the data by the day prescribed under a regulation. The HEGP Act must be amended to ensure that the new procedure can be implemented.

Achieving the Objectives

Reforms to certification in Queensland

The Bill will give the Authority the functions to issue the QCE and statements of results. The rules for eligibility and procedures for issuing the QCE and statements will be prescribed in the QSA Regulation.

The Bill will extend the use of student accounts for the purposes of certification generally. It will enable the Authority to obtain enrolment and results information for all students striving for a senior schooling certificate in Queensland, whether or not they are in the compulsory participation phase.

Membership of the Teachers Disciplinary Committee

The Bill will disqualify a person from becoming, or continuing as a member of the Committee if convicted of an indictable offence and the conviction is not a spent conviction under the *Criminal Law (Rehabilitation of Offenders) Act 1986*. This is consistent with the level of criminal history the Minister may seek on a proposed or existing member of the Queensland College of Teachers Board (the QCT Board).

To support the implementation of this policy, the Bill will also provide:

- a specific power for the Minister to seek from the Commissioner of Police a written report about a person's criminal history and a brief description of the circumstances of a conviction mentioned in the criminal history;
- that consent from a proposed member is required before a criminal history is sought; and
- that if there is a change in the criminal history of a member of the Committee, the member must, unless the member has a reasonable excuse, immediately disclose the change to the Minister.

Course survey data provided to the Minister by non-university providers

The Bill will require a non-university provider offering an accredited course to give the Minister course survey data, for the course, relating to the most recently ended year (i.e. the previous calendar year), by the day prescribed under a regulation.

Administrative costs

It is anticipated that administrative costs for state and non-state schools will be similar to the costs associated with the Senior Certificate.

Fundamental Legislative Principles

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation must have sufficient regard to the rights and liberties of individuals and the institution of Parliament. Aspects of the Bill that raise fundamental legislative principles in this regard are outlined below.

Parent's access to student accounts

Granting a parent access to a young person's account will assist them to comply with their obligation under the EGPA to ensure that their child is meeting compulsory participation requirements under that Act. Parent's access to student accounts after the student completes their compulsory participation phase enables parents to assist their children through senior secondary education and to monitor their achievements and progress towards a senior school certificate.

The Bill provides for the Authority to provide parental access to their child's student account if the name and address of the parent have been recorded in the child's student account. The Bill provides that when opening a student account for a person under 18 years of age, the person opening the account (the provider or Director-General, DETA) must notify the Authority about parent's details unless it is inappropriate in the circumstances to do so. Accordingly, it is a decision for the person opening an account about whether or not to provide a parent's details, which consequently determines whether the Authority provides the parent access to the student account.

If, after an account is opened, the parental arrangements or family circumstances change in a way that will impact on parent's access to their child's account, a provider must notify the Authority that the parent's details are to be included in or removed from the student's account. This will result in the parent's access being provided or ceasing respectively.

To protect the rights of individuals, administrative guidelines are being developed to assist schools and other providers in identifying circumstances in which it is not appropriate to provide parental information to the Authority and in monitoring subsequent changes in the student's family circumstances. An example where access may be withheld would be where the student lives independently from their parent.

The guidelines will require providers to explain to both students and parents why parents are getting access to the student account. The guidelines support the privacy principle of providing adequate notification to a young person about what may happen to their personal information and provides for administrative arrangements to allow students to prevent their parent's access to their records in appropriate circumstances. This kind of decision is made at school level in relation to a range of records and it may lead to inconsistencies if another entity, such as the Authority, were given this role.

In relation to students enrolled at a school, the proposal will not give parents access to information that they cannot already access by other means (e.g. through school reports, parent-teacher interviews, discussions with their child and communication with the learning provider).

With the safeguards, any breach of fundamental legislative principles is considered justified.

Obligations prescribed by the QSA Regulation

The Bill enables a number of matters affecting obligations under the Bill to be prescribed under a regulation.

The Bill enables the QSA Regulation to prescribe the types of certificates of achievement and statements of results for which the Authority has the function to issue. "Certification studies" are defined to mean studies prescribed under a regulation to be contributing studies for a certificate of achievement. "Statements of results" are also defined to be a statement that records that information prescribed under a regulation for the statement.

This is in accordance with the certification arrangements under the current QSA Act, which provide a broad head of power for the Authority to issue certificates of achievement. The majority of provisions about eligibility for and issuing of certificates of achievement and statements of results will sit within the QSA Regulation because of the complexity and level of detail required to explain the relevant rules and procedures. To ensure the public has access to information about certification requirements in Queensland, the Authority will continue to publish relevant policy guidelines and notify all providers about the making of a guideline.

The Bill also enables the following types of information to be prescribed under a regulation:

- (a) further information to be supplied in the notice to the Authority to open a student account;

- (b) further information the Authority is to include in a notice to a person advising them about the opening of a student account;
- (c) the type of results information and when and how the results information is to be supplied to the Authority;
- (d) when a provider is to notify the Authority about a change or correction to a person's information, change of enrolment details or, in relation to a person in the student account phase, if the person dies;
- (e) the times in which the Authority must give aggregated information to the Association of Independent Schools Queensland Inc. (the AISQ), the Queensland Catholic Education Commission (the QCEC) and the chief executive of the department responsible for vocational education and training; and
- (f) circumstances in which results information given to the Authority other than by a provider is to be recorded by the Authority in the person's account, for example, results supplied by a student directly, results in a workplace community and self directed learning project and results of a person in a senior external examination.

As the administration of the student account system is implemented and refined by practice, it may become apparent that further information about a student is required when opening an account or that the timeframes set for giving a notice or providing information may need to be reconsidered to meet stakeholder needs. Accordingly, it is considered appropriate for these matters to be prescribed under a regulation to facilitate any required changes in an efficient and timely manner.

To protect the interests of stakeholders, the Bill requires the Minister to consult with the AISQ and QCEC if a regulation is to be made about matters referred to in (a), (d) and (e) above to ensure that stakeholders are informed in a timely way about substantive matters that may affect them.

Transitional regulation-making power

The Bill confers the power to make transitional regulations to allow for the transition from the operation of the repealed chapter 11 of the EGPA (Student Accounts) to the Bill. Any transitional regulations made under the section, as well as the section itself, will expire after one year.

This power is considered necessary in view of the complexity of the matters dealt with in the Bill regarding the administration of student accounts and it is in the public interest that there are no gaps in the legislative scheme. Therefore any potential breach is considered justified.

Membership of the Teachers Disciplinary Committee

The proposed amendment to the QCT Act regarding eligibility for membership of the Committee may potentially affect the rights and liberties of a person who is, or may become, a member of the Committee. This potential breach of fundamental legislative principles is justified on the grounds that the role of a Committee member will be to assess serious disciplinary matters, including serious criminal offences and offences involving conduct against children, to determine whether the teacher is suitable to continue to be a registered teacher. The Committee member must be suitable to undertake such serious determinations and therefore it is considered necessary to consider the criminal history of a person who is, or may become, a member of the Committee.

There will be a number of protections in place, namely:

- The *Criminal Law (Rehabilitation of Offenders) Act 1986* will not be overridden. Only convictions for indictable offences that have not been rehabilitated will be able to be requested or disclosed. Charges and investigative information will not be able to be requested or disclosed.
- The Minister will have discretion to allow the person to be or continue as a member, despite the conviction for an indictable offence.
- A request by the Minister for a criminal history of a potential member requires the consent of the person. Therefore, a person who does not wish to be checked can opt out of the process.

The level of information that can be requested and disclosed about a potential or existing Committee member is consistent with the level of criminal history information that the Minister may seek on a proposed or existing member of the QCT Board.

Consultation

Consultation was undertaken with the following non-Government entities, in relation to the student account provisions of the Bill: Queensland Catholic Education Commission; Queensland Council of Parents and Friends Associations; Anglican Schools Office; Lutheran Education Queensland; Presbyterian and Methodist Schools Association; Queensland Adventist Schools; The Grammar Schools of Queensland Association; Christian Schools Australia Ltd; The Association of Independent Schools of Queensland; Australian Council for Private Education and Training; Federation of Parents and Friends Association of Catholic Schools

Queensland; Isolated Children's Parents Association; Queensland Independent Schools Parents Council; Queensland Secondary Principals' Association; Queensland P10-12 State School Administrators Association; Queensland Independent Education Union and Queensland Teachers' Union.

Consultation on these provisions was also conducted with the following Government agencies: the Department of the Premier and Cabinet; Department of Justice and the Attorney-General, the former Department of Employment and Training; Department of Child Safety; Department of Communities; Department of Aboriginal and Torres Strait Islander Policy and Queensland Studies Authority.

Consultation on the amendments to the QCT Act was undertaken with the Queensland College of Teachers and the Queensland Police Service.

With respect to the amendments to the *Higher Education (General Provisions) Act 2003*, all 23 non-university providers operating in Queensland have been consulted. Some of the major institutions consulted were: The Australian College of Natural Medicine; the Queensland Institute of Business & Technology; The Australian College of Theology; and Shafston Institute of Technology.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 establishes the short title of the Act as the *Education Legislation Amendment Act 2006*.

Commencement

Clause 2 provides for the commencement of the Act.

Part 2 Amendment of Education (General Provisions) Act 2006

Act amended in Pt 2

Clause 3 provides that part 2 amends the *Education (General Provisions) Act 2006* (the EGPA).

Amendment of s 4 (Interaction with other legislation)

Clause 4 amends section 4(1)(b) of the EGPA to replace the reference to senior certificate with “certificate of achievement, senior statement”.

Section 4(1)(b) indicates that the EGPA has provisions relating to people continuing in education and training to achieve a senior certificate or Certificate III or IV in vocational education and training. This clause changes the reference to senior certificate to any certificate of achievement and senior statement issued by the Authority.

Amendment of s 5 (Objects of Act)

Clause 5 amends section 5 of the EGPA to remove the reference to chapter 11 of that Act regarding student accounts. The Bill will transfer the majority of the provisions from chapter 11 of the EGPA to the QSA Act. The remaining provisions will be renumbered and relocated to chapter 10 of the EGPA.

This clause also removes section 5(1)(c) of the EGPA as it will no longer be an object of the EGPA to provide for participation and learning achievements during the compulsory participation phase to be recorded in student accounts. Those provisions regarding student accounts will now be in the QSA Act.

Amendment of s 6 (Activities to achieve objects of chs 10 and 11)

Clause 6 removes references to chapter 11 from section 6 of the EGPA. This clause also inserts a note after section 6 stating that part 2A of the QSA Act provides for the provision of information from student accounts to the chief executive of DETA to assist in planning and re-engagement activities.

Amendment of s 7 (Guiding principles)

Clause 7 removes references to chapter 11 from section 7 of the EGPA.

Amendment of s 22 (Development and revision of 1–12 syllabuses and preschool guidelines)

Section 22 of the EGPA gives the Minister the power to develop 1-12 syllabuses and preschool guidelines. “1-12 syllabuses” is currently defined to be for areas of learning for one or more of the 1-12 years of schooling. Clause 8 amends section 22(2) of the EGPA to change the reference to “areas of learning” to “school studies”. “School studies” is defined to mean the eight key learning areas and school subjects.

Amendment of s 23 (Implementation of syllabus, course or preschool guideline at State instructional institutions)

Section 23 of the EGPA provides for the implementation of syllabuses, courses and preschool guidelines in all State instructional institutions. Clause 9 amends section 23 of the EGPA to remove references to “areas of learning” and replaces them with the updated terminology “school studies”.

Amendment of s 231 (Compulsory participation phase)

Section 231 of the EGPA prescribes when a person’s compulsory participation ends. It currently ends when a person turns 17 years of age, has participated in two years of eligible options, or has gained a senior certificate or Certificate III or IV.

Clause 10 amends section 231 to replace references to “senior certificate” with “certificate of achievement, senior statement”. This means that a person’s compulsory participation phase ends if the person is awarded a QCE, certificate of post-compulsory school education or a senior statement.

Amendment of s 239 (Obligation to ensure participation)

Section 239 of the EGPA prescribes obligations on a parent to ensure their children participate in education, training or work while in the compulsory participation phase. Clause 11 inserts a note after section 239 of the EGPA about the proposed section 21V of the QSA Act, which enables parental access to information in a student account, in certain circumstances.

Insertion of new ch 10, pt 6 hdg

Clause 12 inserts a new part in chapter 10 (Part 6 Miscellaneous). This part will house the provisions from the former chapter 11 that are being retained in the EGPA.

Relocation and renumbering of s 264 (Disclosure by chief executive to appropriate entities)

Clause 13 relocates and renumbers section 264 as section 251A.

Amendment, relocation and renumbering of s 266 (Consultation about planning)

Clause 14 makes minor consequential amendments to section 266 and relocates and renumbers section 266 as section 251B.

Relocation and renumbering of s 271 (Transitional)

Clause 15 relocates and renumbers section 271 as section 251C.

Amendment, relocation and renumbering of s 272 (Confidentiality)

Clause 16 amends section 272 and relocates and renumbers the section as section 251D. Section 272 ensures that certain people who gain access to student account information through the administration of the accounts keep the information confidential. This clause removes employees of a provider and the QSA from the operation of the confidentiality provision. These people will be covered by the confidentiality provision proposed for the QSA Act as section 21ZA.

Amendment, relocation and renumbering of s 273 (Delegation by chief executive)

Clause 17 makes minor consequential amendments to section 273 and relocates and renumbers the section as section 251E.

Omission of ch 11 (Student accounts)

Clause 18 removes chapter 11 from the EGPA.

Amendment of s 384 (Meaning of *transfer note*)

Clause 19 changes references in section 384 of the EGPA from “area of learning” to “school studies”.

Amendment of sch 2 (Amendments commencing on 1 January 2007)

Clause 20 makes a minor technical amendment to amendment 3 to the QSA Act in schedule 2 of the EGPA.

Amendment of sch 4 (Dictionary)

Clause 21 amends the dictionary in schedule 4 of the EGPA. The clause removes the definition of “aggregated information”, “senior certificate”, “student account” and “student account phase” from the EGPA, as these terms will only appear in the QSA Act. The clause inserts definitions for “certificate of achievement”, “school studies” and “senior statement”. The clause also removes a reference to chapter 11 from the definition of provider in the EGPA.

**Part 3 Amendment of Education
(Queensland College of
Teachers) Act 2005****Act amended in Pt 3**

Clause 22 provides that part 3 amends the *Education (Queensland College of Teachers) Act 2005* (the QCT Act).

Amendment of s 125 (Members of Teachers Disciplinary Committee)

Clause 23 amends section 125 of the QCT Act to remove subsection (3) and insert a new subsection (4)(d). The new subsection will provide that a person ceases to be a member of the Teachers Disciplinary Committee (the committee) if they can not continue as a member under section 126A, which will specify when a person is disqualified from membership of the committee. The content of subsection (3) will be relocated to the new section 126A(1)(a).

Insertion of new ss 126A-126C

Clause 24 inserts new sections 126A, 126B and 126C into the QCT Act. The new sections provide as follows:

Section 126A (Disqualification from membership)

Section 126A provides that a person cannot become, or continue as, a member of the committee if the person:

- (a) is, or becomes, a member of the board; or
- (b) is, or has been, convicted of an indictable offence and the conviction is not a spent conviction, unless the Minister has given a notice or approval under subsection (4) in relation to the conviction.

A person cannot become a member of the committee if the person refuses to consent to the Minister requesting a report about the person's criminal history under section 126B.

The Minister may act under section 126A(4) if the Minister considers it would be reasonable to do so having regard to, primarily, the welfare and best interests of children and the circumstances of the indictable offence of which a person has been convicted.

Section 126A(4) provides that the Minister may, if the person was a member when convicted and the term of the person's appointment as a member of the committee has not since ended – give notice to that person and the committee chairperson, that the person is restored as a member of the committee, and may be later reappointed, despite the conviction. Otherwise, the Minister may, if the person was not a member when convicted, give written approval for them to become a member of the committee despite the conviction.

On the day the committee chairperson receives notice under subsection 4 about a person being restored, the person is restored as a member of the committee. If another person had been appointed to fill the vacancy, then that other person's appointment ends. If a person is restored as a member, the person's term of appointment as a member ends when it would have ended if the person had not been convicted of the offence.

Section 126B (Report about person's criminal history)

Section 126B states that to decide whether a person is disqualified from membership of the committee under section 126A(1)(b), the Minister may ask the commissioner of police for a written report about the person's

criminal history and a brief description of the circumstances of a conviction mentioned in the criminal history. The commissioner of police must comply with the request.

The Minister may only make a request about a person who is not a member of the committee, if that person has given the Minister their written consent for the request.

The duty imposed on the commissioner of police to comply with the Minister's request only applies to information in the commissioner's possession or to which the commissioner has access.

The Minister must ensure that the criminal history report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

Section 126A provides that a person can not become, or continue as, a member of the committee if they have been convicted of an *indictable* offence and the conviction is not a spent conviction. Therefore, for section 126B, the term *criminal history* means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986* to the extent the criminal history relates to indictable offences, other than spent convictions.

Section 126C (Requirement for committee members to disclose changes in criminal history)

Section 126C provides that a member of the committee must immediately disclose to the Minister any change in the person's criminal history, unless the person has a reasonable excuse. A maximum penalty of 100 penalty units attaches to this provision.

Under this section, for a member who does not have a criminal history, there is taken to be a change in a member's criminal history if the member acquires a criminal history.

To comply with this section, the information that a member of the committee must disclose to the Minister about a conviction for an offence in the member's criminal history must include the existence of the conviction; when the offence was committed; details adequate to identify the offence; whether or not a conviction was recorded; and the sentence imposed on the member.

Section 126A provides that a person can not become, or continue as, a member of the committee if they have been convicted of an *indictable* offence and the conviction is not a spent conviction. Therefore, for section

126C, the term *criminal history* means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986* to the extent the criminal history relates to indictable offences, other than spent convictions.

Amendment of s 136 (Committee may require health assessment)

Clause 25 amends section 136(4) of the QCT Act to correct a grammatical error that was overlooked during the drafting of the QCT Act, by inserting the words “of the” after the word “each”.

Amendment of s 246 (Disqualification from membership)

Clause 26 amends section 246(1)(a) and (b) of the QCT Act so that a person can not become, or continue as, a member of the QCT board if the person:

- (a) is, or has been, convicted of an indictable offence and the conviction is not a spent conviction, unless the Minister has given a notice or approval under subsection (4) in relation to the conviction; or
- (b) is an insolvent under administration within the meaning of the Corporations Act, section 9 (an *insolvent under administration*), unless the Minister has given a notice or approval under subsection (4) in relation to the person being an insolvent under administration.

These amendments are to clarify that disqualification from membership of the QCT board does not apply if the Minister has given a notice under subsection (4).

This clause also amends section 246(2) of the QCT Act so that a person is disqualified from board membership if the person does not consent to the Minister requesting a report about the person's criminal history, rather than if the person refuses to give their consent. This is a slight drafting change to cover the circumstance where a person does not send back the consent forms, rather than actively refusing to give their consent. This drafting change also maintains consistency with the new provisions about when a person is disqualified from membership of the committee (see clause 24 which inserts the new section 126A(2) into the QCT Act).

This clause also amends section 246(4)(a) of the QCT Act to clarify that the Minister would only give a notice under this subsection if the person's term of appointment as a member of the QCT board had not since ended.

Amendment of s 247 (Report about person's criminal history)

Clause 27 amends the definition of *criminal history* in section 247(6) of the QCT Act so that it means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986* to the extent the criminal history relates to indictable offences, other than spent convictions. This is to clarify that the Minister's request for the commissioner of police to provide a written report about a person's criminal history only relates to *indictable* offences, other than spent convictions. Section 246(1)(a) of the QCT Act provides that a person can not become, or continue as, a member of the board if they have been convicted of an *indictable* offence and the conviction is not a spent conviction.

Amendment of s 249 (Requirement for board members to disclose changes in criminal history)

Clause 28 amends the definition of *criminal history* in section 249(4) of the QCT Act so that it means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, to the extent the criminal history relates to indictable offences, other than spent convictions. This is to clarify that the requirement for board members to disclose changes in their criminal history only relates to *indictable* offences, other than spent convictions. Section 246(1)(a) of the QCT Act provides that a person can not become, or continue as, a member of the board if they have been convicted of an *indictable* offence and the conviction is not a spent conviction.

Amendment of s 285 (College may give information about teachers to commissioner for children in particular circumstances)

Clause 29 makes a minor amendment to section 285(1)(a) of the QCT Act to clarify that section 285 applies if the Queensland College of Teachers decides to suspend an approved teacher's registration or permission to teach. This is a technical amendment to reflect the fact that the college may make a decision about suspending an approved teacher.

This clause also makes minor technical amendments to sections 285(3)(d) and (e) of the QCT Act. The amendment to section 285(3)(d) ensures that the notice given by the Queensland College of Teachers to the commissioner for children in relation to a decision about disciplinary proceedings against a relevant teacher (see sections 285(1)(b) and 285(2) of the QCT Act), must state when the grounds for disciplinary action

against the teacher arose. For completeness, this clause also amends section 285(3)(e) of the QCT Act so that such a notice must also state the grounds for the disciplinary action.

Part 4 Amendment of Education (Queensland Studies Authority) Act 2002

Act amended in pt 4

Clause 30 provides that part 4 amends the *Education (Queensland Studies Authority) Act 2002* (the QSA Act).

Amendment of long title

Clause 31 amends the long title of the QSA Act to clarify that the Authority has the function to purchase 1-12 syllabuses and preschool guidelines.

Amendment of s 3 (Objects of Act)

Clause 32 amends section 3 of the QSA Act to provide that the objects of the Act include maintaining public confidence in statements of results. The clause also amends section 3 to provide that the objects are achieved by conferring functions on the Authority to purchase 1-12 syllabuses and preschool guidelines and to issue statements of results.

Amendment of s 8 (Development functions)

Clause 33 amends section 8 of the QSA Act to provide that the Authority has the function to purchase and, if permitted by the terms of the purchase, revise 1-12 syllabuses and preschool guidelines developed by entities other than the Authority. The clause defines purchase to include entering into an agreement allowing the Authority to approve the syllabus or guideline for implementation at schools.

Amendment of s 11 (Assessment functions)

Clause 34 amends section 11(1) of the QSA Act to change the reference to “an area of learning” for which the results may be recorded on a certificate of achievement to “school subjects that are certification studies”.

Replacement of s 13 (Certification functions)

Clause 35 amends section 13 of the QSA Act to provide that the Authority has functions to issue the QCE and other certificates of achievement of the types provided for under a regulation; and statements of results of the types provided for under a regulation. The Authority's functions include functions to review and make recommendations to the Minister about, the requirements for issuing the certificates and statements and to inform the public about the certificates and statements.

The clause also amends sections 13(2) and (3) of the QSA Act to bring the sections in line with the new terminology around "areas of learning". Section 13(2) is amended to provide that the Authority has the function to approve work programs, for use by the schools that developed the work programs, for school subjects that are certification studies. Section 13(3) is amended to provide that the Authority has the function to recognise the results of a person in certification studies other than school subjects for which there is an approved syllabus or an approved work program.

Replacement of s 14A (Participation functions)

Clause 36 omits section 14A of the QSA Act and inserts a new function about student accounts. The clause gives the Authority the function to keep student accounts for people in the student account phase and other people for whom an account has been opened under the new part 2A, division 2, subdivision 2. The "student account phase" is defined in proposed section 21C.

The clause expands the Authority's functions to enable a student account to be kept for a person who is not in, or entering into, the compulsory participation phase. This will ensure that the Authority can obtain and record relevant enrolment and results information in relation to anyone who is striving for a QCE or other certificate of achievement or statement of results.

Amendment of s 17 (Other functions)

Clause 37 amends section 17(b) of the QSA Act to clarify that the Authority has the function to give a person a copy of a certificate issued under the *Education Act 1964* or the *Education (Senior Secondary School Studies) Act 1988*; a certificate of achievement issued under the QSA Act, including the QCE and the senior certificate; and a statement of results issued under the QSA Act, of a type prescribed under a regulation.

Amendment of pt 2, div 4 hdg (Results, tests and notifications of syllabuses and preschool guidelines)

Clause 38 removes the reference to “Results” from the heading to part 2, division 4 because the Bill removes sections 18A and B from this division and inserts the renumbered sections into division 3 of the QSA Act (Provision of account information to the Authority). Sections 18A and B relate to the provision of results information to the Authority to be recorded in student accounts.

Omission of ss 18A and 18B

Clause 39 removes sections 18A and B from part 2, division 4 of the QSA Act.

Amendment of s 20 (Notification of approved or accredited syllabus or preschool guideline)

Section 20(1)(a) of the QSA Act requires the Authority to notify the Minister and the governing body of each non-State school when the Authority either approves a 1-12 syllabus or preschool guideline developed, or revised, by the Authority, or accredits a 1-12 syllabus or preschool guideline. Clause 40 amends section 20(1)(a) to provide that the Authority is also required to notify these entities if the Authority approves a 1-12 syllabus or preschool guideline that has been purchased by the Authority.

Insertion of new pt 2A

Clause 41 inserts the new part 2A (Student Accounts) into the Act. Part 2A consolidates provisions about student accounts that have been transferred from the EGPA, and includes additional provisions to enable the use of student accounts for the certification arrangements. Part 2A is comprised of the following provisions.

Division 1 Preliminary**21A Explanation and purposes**

Section 21A provides that part 2A provides for the keeping of a student account for a person, recording the person’s participation in eligible

options during the compulsory participation phase and the person's results in certification studies.

Section 21A provides that the purposes for which student accounts are kept are to:

- support the Authority's certification functions under section 13;
- make information available to the chief executive to enable the chief executive to carry on planning activities; and
- for student accounts kept for young persons in the compulsory participation phase - making information available to the chief executive to enable the chief executive to carry on re-engagement activities.

21B Definitions for pt 2A

Section 21B provides for definitions of terms used in part 2A.

The section broadens the definition of *planning activities* to allow the chief executive to use aggregated information from student accounts for monitoring the effectiveness of education provided in Queensland in enabling people to achieve a certificate of achievement, as well as to plan for participation in the compulsory participation phase and monitoring the effectiveness of student accounts.

The section broadens the definition of *provider* to cater for the fact that student accounts will not only be used for recording participation in the compulsory participation phase, but also to record results relevant for certification.

The section includes a definition of *exempt provider* that will be exempt from the obligation to open an account under section 21I and to provide enrolment information under section 21L.

21C Meaning of student account phase

Section 21C defines the term *student account phase* for the purposes of this part. 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, this enables changes to enrolment details to be recorded in a student account for a young person who changes their enrolment with a provider before completing Year 10 or turning 16.

Division 2 Opening student accounts

Subdivision 1 Accounts for young persons about to enter, or in, the compulsory participation phase

Subdivision 1 provides for the opening of student accounts for people who are in, or entering into, the compulsory participation phase (young people).

21D When an account must be opened

Section 21D provides that a student account must be opened for a young person within one year before the start of the person's 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.

21E Who must open an account

Section 21E requires that a student account be opened for a young person, either by the principal of a State school or non-State school, if the young person is enrolled at a school, or by the chief executive. To ensure a young person who has received an exemption from compliance with compulsory participation requirements has a student account, the chief executive may open the account in circumstances where they young person is not enrolled with a school.

21F How an account is opened

Section 21F prescribes the process for opening a student account for a young person. To open an account for a young person, the responsible person under section 21F must give notice to the Authority of the following information: the person's name and any previous names, sex, date of birth, address, phone number, their parent's name and address, if the person consents to it being given; if the person is an Aboriginal person or Torres Strait Islander or from a non-English speaking background; the eligible option in which the young person proposes to participate when they start the compulsory participation phase; whether their participation in the eligible option will be full-time; whether the student is a student visa holder; if the person is enrolled with a school, which year of schooling the person is in; and other information prescribed under a regulation.

Section 21F(2) provides that the name and address of a parent of the person is not required to be given in the notice to open an account if the person opening the account is satisfied it would be inappropriate in the

circumstances to give notice of the name and address of a parent. An example is provided where a student is living independently of his or her parents. This terminology is similar to that used in various instances in the EGPA. The section ensures that where it is inappropriate for the details of a student's parents to be provided those details are not provided to open the account. Consequently, access to the student account is not provided to the parent under section 21V.

21G Obligation to open an account for young persons in other circumstances

Section 21G(1) provides for the process for opening a student account for a young person in the compulsory participation phase where the Authority receives a notice under section 21K (Obligation to notify enrolment – eligible option) and the young person does not have a student account.

Subsection 2 provides that the Authority must give the provider a notice asking it to open a student account for the young person.

Subsection 3 provides that on receiving the request, the provider must open a student account for the young person by giving the Authority the following information: the information mentioned in section 21F(a) to (h), (k) and (m); the eligible option of the provider in which the person is participating or proposes to participate; whether the person's participation is or will be full-time and any other eligible options in which person is participating, or has participated in since starting the compulsory participation phase of which the provider is aware.

Subsection 4 provides for the same exemption to providing a parent's name and address as provided under section 21F. This subsection ensures that where it is inappropriate for a parent's details to be provided, those details are not provided when an account is being opened on request of the Authority under this section. Consequently, access to the student account is not provided to the parent under section 21V.

Subdivision 2 Accounts for other persons

Subdivision 2 provides for a student account to be opened for a person who is not in, or entering into the compulsory participation phase.

21H Who may have an account opened under sdiv 2

Section 21H provides that any person may have a student account opened under this subdivision, other than a person who is in the student account phase or is of compulsory school age or younger. If a person is in the compulsory participation phase, or they are in the year before the compulsory participation phase, their student account should be opened under subdivision 1.

21I How an account is opened

Section 21I provides the process for opening a student account for a person who wishes to have a student account opened under subdivision 2. The person may give a provider, with which they are enrolled in certification studies, apart from an exempt provider, required information and ask that provider to open the account for the person. Alternatively, the person may give the chief executive the required information and ask the chief executive to open the account for the person. Subsection 2 then requires the provider or chief executive to open the account by giving notice to the Authority of the required information.

Subsection 3 prescribes the *required information*. Required information is the information mentioned in section 21F(1)(a) to (e), (g), (h) and (k); if the person is under 18 years and has a parent, the parent's name and address; details of each of the certification studies in which the person is enrolled when the required information is given to the provider or chief executive, including the name, and type, of the provider for the studies, of which the provider or chief executive is aware; and other information prescribed under a regulation.

As provided by sections 21F(2) and G(4), subsection 4 provides for an exemption for providing the name and address of a person's parent, when it is considered by the provider or chief executive that it is inappropriate in the circumstances to do so. Consequently access to the student account is not provided to the parent under section 21V.

Subdivision 3 Account numbers for student accounts

21J Authority to assign account number etc.

Section 21J requires that after a student account is opened for a person, the Authority must assign a number to the account (the account number) and:

- give a notice to the person stating: that the account has been opened; the account number; and other information prescribed under a regulation;
- if the name and address of a parent of the person are recorded in the account, give a notice to the parent stating: that an account has been opened and the account number; and
- give notice to the person who opened the account stating: that a student account has been opened for the person and the account number.

This section ensures that a student is aware that their account has been opened, and has been provided with their account number. This is necessary given some provider obligations to give notices under the Act are dependent upon the provider having the person's student account number, for instance, a provider is only under an obligation to notify the Authority about the enrolment of a person who is not in the compulsory participation phase under section 21M.

Subsection 2 provides that the Authority complies with the requirement to give a notice if an agent of the Authority gives the notice on the Authority's behalf. This enables the Authority to arrange for notices to students to be passed on through schools on its behalf.

Division 3 Provision of account information to the authority

Subdivision 1 Providers' obligations to give information

21K Obligation to notify enrolment—eligible option

Section 21K ensures that the Authority is notified when a person in the student account phase enrolls in an eligible option.

Section 21K provides that if a young person in the student account phase enrolls with a provider in a program or course that is a component of an eligible option, the provider must give a notice to the Authority of: the person's name and any previous names of the person, address and date of birth; if a student account is open for the person and the provider has the account number for the account - the account number; the eligible option in which the person is participating or proposes to participate by enrolling in the program or course; the components of the eligible option being undertaken or proposed to be undertaken; the date of enrolment in the program or course; the date the person started, or proposes to start, to comply with the provider's attendance requirements for the program or course; whether the person's participation in the eligible option is, or will be, full-time; and the name and type of the provider.

21L Obligation to notify enrolment—certification studies

Section 21L ensures that the Authority is notified when a person with a student account enrolls in certification studies.

Section 21L requires providers, other than exempt providers, to give a notice to the Authority if a person enrolls with a provider in certification studies; a student account is open for the person; the provider has the person's account number; and the provider is not required to notify the authority about the enrolment under section 21K.

The notice is to contain: the person's name, account number, address and date of birth; the certification studies in which the person is enrolled; the date of the person's enrolment in the studies; and the name, and type, of the provider.

21M Obligation to notify results—certification studies

Section 21M imposes an obligation on providers, as defined by section 21B, to give the Authority results information.

Subsection 1 requires a provider to give the Authority the result information about a person who is in the student account phase and a person who is not in the student account phase, if a student account is open for the person and the provider has the account number for the person's student account.

Subsection 2 provides that the information must be given at the times, and in the ways, prescribed under a regulation.

Subsection 3 defines *results information* to mean the results of the assessment, carried out by the provider, of a person for certification studies; when the results were achieved; qualifications conferred on the person by the provider; and when the qualifications were conferred.

21N Obligation to notify other matters

Section 21N requires providers to give notice to the Authority about matters in certain circumstances.

Subsection 1 provides that the section applies to a provider with which a following person is or was enrolled:

- a young person who is in the student account phase; or
- a person, other than a young person who is in the student account phase, if the person is or was enrolled in certification studies; a student account is kept for the person; and the provider has the account number for the person's student account.

Subsection 2 prescribes the matters about which providers must give the Authority a notice under this section, including:

- if the provider becomes satisfied it is inappropriate in the circumstances for the name and address of the parent to be recorded in the account—that the name and address of the parent must be removed from the account;
- if the provider becomes satisfied it is appropriate in the circumstances for the name and address of the parent to be recorded in the account—the name and address of the parent;

These provisions ensure that if a person's family circumstances change after their account has been opened the provider can notify the authority

that the parent's details should be removed or added, and consequently parental access will cease or be provided under s 21V.

Subsection 2 also provides that a provider for a person must give notice to the Authority about the following matters:

- if the provider is aware that *prescribed information* has changed or is incorrect—the new or correct information;
- if the provider is aware that information about the person's enrolment or results in certification studies, previously notified by the provider to the Authority under this part, has changed, is incorrect or is incorrectly recorded in the person's student account—the new or correct information; and
- if the person stops being enrolled with the provider—the date the person stopped being enrolled with the provider.

Subsection 3 clarifies that the obligation to notify the Authority about changes to family circumstances, affecting parental access to an account, does not apply to a person who is 18 years or older.

Subsection 4 provides that in relation to a young person in the student account phase, if the person dies and the provider is aware of the death, the provider must give notice of the death to the Authority.

Subsection 5 provides that notices required to be given under this section must be given at the times prescribed under a regulation.

Subsection 6 defines the term *prescribed information* to mean any of the following recorded in the person's student account: the person's name; the person's sex; the person's date of birth; the person's phone number; whether the person is an Aboriginal person or Torres Strait Islander; whether the person is from a non-English speaking background; and whether the person is a student visa holder.

210 Authority to record information in account

Section 210 requires the Authority to ensure that information recorded in student accounts accords with the information provided to the Authority under division 2 (Opening student accounts) and division 3, subdivision 1 (Providers' obligations to give information).

This section will ensure, for instance, that:

- when the Authority receives a notice to open an account, all the details in the notice about the student are recorded in the person's account;

- all enrolment and results information relevant to a person that is notified to the Authority by a provider is recorded in the person's account; and
- if the Authority receives a notice under section 21N to change or correct information, the changed or corrected information is reflected in a person's account.

Subdivision 2 Persons who may give information on behalf of providers

21P VETE chief executive

Section 21P provides that a provider that is a TAFE institute or registered training organisation complies with a requirement under this part to give notice to the Authority if, with the written agreement of the VETE chief executive, it gives the relevant information to the VETE chief executive and asks the VETE chief executive to give the notice on its behalf. The section provides that a notice given by the VETE chief executive on behalf of the provider is taken to have been given by the provider.

The section provides definitions for "registered training organisation" and "TAFE institute", by reference to the VETE Act definitions for those terms. The "VETE Act" is defined in the dictionary to mean the *Vocational Education, Training and Employment Act 2000*. The "VETE chief executive" is also defined in the dictionary to mean the chief executive of the vocational education and training department.

21Q Authorised agent

Section 21Q enables a provider to enter into a written agreement with an entity (an authorised agent) authorising the entity to act as the provider's agent for complying with the provider's obligations to give notices under part 2A.

However subsection 1 provides that this section applies to a provider to which section 21P does not apply. This means registered training organisations and TAFE institutes are restricted to using the VETE chief executive as their agent to assist them to comply with their obligations to give notices under part 2A.

Subsection 3 ensures that if a provider uses an authorised agent to give a notice to the Authority under part 2A, the provider only complies with the

requirement to give notice to the Authority if the authorised agent for the provider gives the notice to the authority on the provider's behalf.

Subsection 4 provides that a notice given by an authorised agent on behalf of a provider is taken to have been given by the provider.

Subdivision 3 Information not given by a provider under sdiv 1

21R Circumstances in which information must be recorded in account

Section 21R provides that in the circumstances prescribed under a regulation, the Authority must record, in a person's student account, information about a person for whom a student account is open, held or obtained by the Authority, other than information obtained from a provider under subdivision 1.

The QSA Regulation will prescribe which certification studies will contribute to the QCE and other certificates of achievement and statements of results. In some instances, the QSA Regulation may provide for results in some certification studies to be given to the Authority other than by a provider, for example, by the student themselves. This section ensures that when a regulation provides for results in certification studies to be obtained by the Authority other than from a provider, the Authority can record that information in a person's student account.

It is anticipated that students will provide results directly to the Authority in relation to studies that can contribute to their QCE that were undertaken in Queensland prior to their account being opened; studies undertaken in other States or overseas that may contribute to the QCE; and for workplace community and self directed learning projects approved for the person by the Authority for contributing to their QCE.

Other results recorded in a person's account by the Authority under the QSA Regulation will include results of a person in an external senior examination and results of a person in the Queensland Core Skills Test. There are no providers for these studies. Assessments for external senior examinations and the Queensland Core Skills Test are carried out by the Authority and results will be recorded by the Authority into student accounts.

Division 4 Use and disclosure of account information by authority

21S Use by authority and disclosure to providers for verification

Section 21S prescribes the requirements for the use and disclosure of information contained in the student account.

Subsection 1 provides that the Authority may use information recorded in a student account to perform its certification functions under section 13.

Subsection 2 enables the Authority to disclose *prescribed information* to a *relevant provider* to the extent necessary to confirm the accuracy of the information. This section enables the Authority to disclose information from student accounts for the purpose of confirming the accuracy of the information.

Prescribed information for a person is defined in subsection 6 to mean:

- (a) if the student account is kept for a young person in the student account phase—the account number for the account and any of the information recorded in the account; or
- (b) otherwise—the account number for the student account and the person's name; the person's address; and information about the person's enrolment or results in certification studies.

The section limits the type of information the QSA may disclose in relation to a person who is not in the compulsory participation phase to information necessary for the purposes of carrying out its certification functions. However, for re-engagement purposes, the Authority may need to confirm the accuracy of any information in a person's account, including demographic information for the person.

A *relevant provider* is defined in subsection (6) to mean a provider the Authority reasonably believes will be able to confirm the accuracy of the information.

Subsection 3 clarifies that when disclosing information under subsection 2 about the enrolment or results of a person in certification studies, the Authority may only disclose the information to the provider for the studies.

Subsection 4 provides that if the Authority discloses information under subsection 2, the provider must, as soon as practicable, give notice to the

Authority stating whether the disclosed information is correct and if the disclosed information is incorrect, stating the correct information.

Subsection 5 provides that if the Authority is notified under subsection 4 that the disclosed information is incorrect, the Authority must ensure the information is corrected or removed from the account and give the person notice of the changes made to information recorded in the account. The person about whom the information relates does not have a right of review with the Authority about a decision to change the information. This is a matter that the person needs to address directly with their provider, as the Authority is not in a position to confirm the accuracy of the provider's advice about the information.

21T Disclosure to providers, or their agents, for other purposes

Section 21T provides the information from student accounts (accessible information) the Authority must give a provider and their agent access and the purpose for which that access is required. Levels of access differ between providers to ensure that information is only disclosed to the extent necessary for the provider to comply with its obligations.

Subsection 2 provides that if a *relevant provider* is a school, the Authority must give the school access to all of the information recorded in the person's student account to help the school comply with section 21N and to manage the educational program provided to the person.

Subsection 3 provides that the Authority must give a relevant provider for a person, other than a school, access to identifying information about the person and information about certification studies in which the person is or was enrolled with the provider. The purpose of the access is enable the provider to verify identifying information about the person held by the provider for ensuring information notified by the provider to the Authority under division 3 relates to the correct person and to help the provider comply with section 21N.

Subsection 4 provides that the Authority must give a *prescribed agent* for a relevant provider for the person access to identifying information about the person. The purpose of the access is to enable the agent to verify identifying information about the person given to the agent by the provider for ensuring information notified by the agent to the Authority under division 3 relates to the correct person.

Subsection 5 provides definitions of the terms *identifying information*, *prescribed agent* and *relevant provider* for this section. *Identifying information*, about a person, is defined to mean the person's name; sex;

account number and date of birth. *Prescribed agent*, for a provider, is defined to mean the VETE chief executive for a TAFE institute or registered training organisation, or an authorised agent for any other provider. *Relevant provider*, for a person, means a provider with whom the person is enrolled in certification studies.

21U Disclosure to the chief executive

Section 21U provides for the provision of certain information to the chief executive.

Subsection 1 provides that to enable the chief executive to carry on planning activities, as defined in section 21B, the Authority must give the chief executive the aggregated information the chief executive asks for.

Subsection 2 provides that the authority must include, in its annual report for a financial year under the *Financial Administration and Audit Act 1977*, the details of each request under subsection 1 received during the financial year.

Subsection 3 provides that, to enable the chief executive to carry on re-engagement activities as defined in section 6 of the EGPA, the Authority must give the chief executive any of the prescribed information the chief executive asks for about a stated young person or all young persons who, according to the person's student account or the persons' student accounts: is or are in the compulsory participation phase; has or have stopped being enrolled with a provider in a course or program that is a component of an eligible option and after a period of at least three months, has or have not re-enrolled with a provider in a course or program that is a component of an eligible option.

Subsection 4 provides that *prescribed information* about a young person mentioned in subsection 3, means the person's student account number and the following information recorded in the person's student account: the person's name and any previous names, address and telephone number and date of birth; the date the person stopped being enrolled with the provider in the course or program; any eligible option in which the person was participating immediately before the person stopped being enrolled with the provider in the course or program and the components of the eligible option that were being undertaken by the person; any eligible option in which the person is participating and the components of the eligible option being undertaken by the person and the name, and type, of the provider for the eligible option.

21V Disclosure to person for whom account is kept and the person's parents

Section 21V provides for access to student account information for the person for whom the account is kept, and in certain instances, for the person's parents.

Subsection 1 provides that if a student account is kept for a person, the Authority must give the person access to information recorded in the account.

Subsection 2 provides that subsection 3 applies if a student account is kept for a young person in the compulsory participation phase or a person who is under 18 years and is not in the compulsory participation phase and the name and address of a parent of the person are recorded in the account.

Subsection 3 provides that the Authority must give the parent access to information recorded in the account to help the parent support their child's progress towards obtaining a certificate of achievement or statement of results and to comply with section 239 of the EGPA, if their child is in the compulsory participation phase.

Subsection 4 provides that section 75 does not apply to the Authority giving access to information under this section to a person for whom the account is kept, or their parents. Section 75 requires when giving an entity information under its functions, the Authority must be satisfied that the entity has arrangements in place sufficient to ensure the privacy of individuals is protected.

21W Disclosure of aggregated information to relevant entities

Section 21W requires the Authority to give each of the *relevant entities*, at the times prescribed under a regulation, the aggregated information prescribed under a regulation relating to the entity. *Relevant entities* is defined in the dictionary to mean the AISQ, the QCEC and the chief executive of the department responsible for vocational education and training.

Division 6 Miscellaneous

21X Disclosure to VETE chief executive

Section 21X enables the Authority to provide the chief executive responsible for vocational education and training, information from student

accounts that is required by the department in order to comply with its Commonwealth reporting obligations regarding vocational education in schools activity in Queensland.

Subsection 1 provides that to enable the vocational education and training department to comply with its reporting obligations under the *Commonwealth agreements*, the Authority must give the VETE chief executive, at the time and in the way prescribed under a regulation, the relevant information for a year.

Subsection 2 provides definitions of terms used in this section.

Commonwealth agreements is defined to mean:

- (a) the Commonwealth-State Agreement for Skilling Australia's Workforce, within the meaning of the *Skilling Australia's Workforce Act 2005* (Cwlth), section 7(1), in force between the Commonwealth and Queensland; and
- (b) any agreement made between the Commonwealth and Queensland for the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004* (Cwlth), section 14(1)(b).

Relevant information is defined to mean the following information recorded in the student account kept for a relevant student: the student's name; the account number for the student account; the student's sex; the student's date of birth; the student's address; whether the student is an Aboriginal person or Torres Strait Islander; whether the student is from a non-English speaking background; each VET course, and, if recorded in the account, each unit of competency that is a component of the course, in which the student was enrolled during the year to which the relevant information relates; the date of the student's enrolment in the VET course; the name, and type, of the provider for the VET course; if the student stopped being enrolled in the VET course during the year and the date the student stopped being enrolled is recorded in the account—the date the student stopped being enrolled in the course; and any results of the student for the VET course or a unit of competency that is a component of the course.

Relevant student is defined to mean a person for whom a student account is kept who was, at any time during the year to which the relevant information relates enrolled with a school; undertaking the year 11 or 12 year of schooling; and enrolled in a VET course.

Unit of competency has the meaning given under the VETE Act, section 19.

VET course means a course of vocational education and training provided under the VETE Act that is certification studies.

Division 5 Miscellaneous

21Y Student visa holder

Section 21Y provides that an entity must not open a student account for a student visa holder, or give notice to the Authority of the enrolment of a student visa holder, without the holder's written agreement.

21Z Closing student account

Section 21Z provides that if a student account is opened for a person and a provider notifies the Authority, under section 21N(4), of the person's death, the Authority must close the account.

21ZA Consultation about proposed regulations

Section 21ZA provides that before recommending to the Governor in Council the making of a regulation under section 21F(1)(m), 21N(5) or 21W the Minister must consult the relevant entities.

21ZB Confidentiality

Section 21ZB is a confidentiality provision, which protects information recorded in a person's student account.

Subsection 1 provides that this section applies to a person who in the course of the administration of this part, or because of opportunity provided by the administration, has gained or has access to information recorded in a student account. It applies to a person who is or has been the chief executive or a public service employee in the department; a provider or an employee of a provider; an authorised agent of a provider or an employee of an authorised agent; or an employee of the Authority.

Subsection 2 makes it an offence for the person to make a record of the information or disclose the information to anyone else, other than: for a purpose of this Act; with the consent of the person to whom the information relates; in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal or

as permitted or required by another Act. There is a maximum penalty of 50 penalty units (\$3,750) set for breach of this subsection.

Subsection 3 defines the terms *disclose* and *employee* for the purpose of the confidentiality provision.

21ZC Delegation by chief executive

Section 21ZC enables the chief executive to delegate their functions under this part to an appropriately qualified officer or employee of the department or the vocational education and training department.

Subsection 2 provides that a delegation of a function may permit the subdelegation of the function to an appropriately qualified officer or employee of the department or the vocational education and training department.

Subsection 3 clarifies that for this section “appropriately qualified” includes having qualifications, experience or standing appropriate for the function and that the term “functions” includes powers. The subsection also notes that an example of standing is a person’s classification level in the public service.

Amendment of s 23 (Minister’s power to give directions in the public interest)

Clause 42 amends section 23 of the QSA Act to incorporate new terminology resulting from this Bill. Subclause 1 enables the Minister to give the Authority a direction to purchase a 1-12 syllabus or preschool guideline. However, subclause 3 ensures that the Minister cannot give the Authority a direction to approve a purchased 1-12 syllabus or preschool guideline.

Subclause 2 substitutes the term “school studies” for “area of learning” in section 23(2).

Subclause 4 substitutes the term “school subject” for “area of learning” in section 23(5)(d), which prevents the Minister from giving a direction about the approval of a work program. With the revised wording for section 13(2) of the QSA Act (clause 35) work programs are approved for school subjects that are prescribed certification studies.

Subclause 5 amends section 23(5)(e) to reflect the new certification terminology introduced into the QSA Act by the Bill, including *QCE*, *certification studies* and *statements of results*.

Amendment of s 25 (Membership of authority)

Section 25(2)(e) of the QSA Act provides for the appointment of two parents or guardians of students enrolled at a Queensland school as members to the Authority. The definition of *parent*, introduced into the QSA Act by the Bill, includes a person who is granted guardianship of a child under the *Child Protection Act 1999*. Accordingly it is no longer necessary to refer to *guardians* in section 25(2)(e). Clause 43 omits this term.

Amendment of s 54 (Change in requirements for certification)

Section 54 of the QSA Act requires that if the Authority changes any requirements for the issue of a certificate of achievement, the Authority must ensure any person subject to the requirements is not disadvantaged by the change. Clause 44 amends section 54 to apply the same provision to changes to requirements for issuing a statement of results.

Amendment of s 69A (Employment of casual staff to help authority to perform its functions under s 10, 11 or 12)

Section 69A of the QSA Act enables the Authority to employ causal staff to assist in the performance of its functions under sections 10 (Testing), 11 (Assessment) and 12 (Moderation). Clause 45 amends section 69A to enable the Authority to also employ casual staff to assist in the performance of its certification functions under section 13. This will be necessary for implementation of processes for approving a person's participation in workplace, community and self directed learning projects and tailored training programs. These are new types of certification studies proposed by the Authority, that will be prescribed by regulation.

Insertion of new s 72A

Clause 46 inserts section 72A (Chief executive may carry on education planning activities) into the QSA Act. Section 72A incorporates provisions from the EGPA enabling the chief executive to monitor the operation and effectiveness of part 2A, about student accounts, for helping to ensure a person who is in the compulsory participation phase participates in education or training as required under the EGPA, chapter 10; and for recording the person's participation and learning achievements.

The clause inserts a new provision to allow the chief executive to monitor the effectiveness of education provided in Queensland for enabling people to obtain a certificate of achievement.

Amendment of s 78 (Guidelines)

Clause 47 amends section 78 of the QSA Act to enable the making of a regulation to provide that the Authority may make a guideline only with the approval of the Minister. This will ensure that the Minister is made aware of proposed changes to some of the rules regarding eligibility for the QCE, such as what studies will contribute to the certificate.

Amendment of s 79 (Regulation-making power)

Clause 48 amends the regulation making power in the QSA Act to provide that a regulation may be made about the following matters:

- the approval by the Authority of work programs for school subjects;
- the recognition of a person's results in certification studies, other than school subjects for which there is an approved syllabus or for which a work program has been approved under section 13(2); and
- the issuing of the QCE and other certificates of achievement and statements of results, including eligibility requirements for the issue of the certificates and statements.

Subclause 2 amends section 79(2)(k) of the QSA Act to provide that a regulation may be made about verification of information on a certificate of achievement issued by the Authority, other than a QCE, or information on a statement of results issued by the Authority. It will not be necessary for a person to seek verification of information on the QCE as that certificate will only record that a person is eligible for the certificate. A person's results and studies completed will be recorded on the statement of results accompanying the QCE.

Amendment of s 88 (Work program)

Clause 49 inserts a note after section 88 of the QSA Act that states: "See also section 93 in relation to work programs approved for an area of learning before the commencement of the *Education Legislation Amendment Act 2006*, section 35.". Section 93 is inserted into the QSA Act to transition work programs approved for an area of learning across to the terminology introduced by this Bill around school subjects.

Insertion of new pt 7, div 4

Clause 50 inserts division 4 (Transitional provisions for Education Legislation Amendment Act 2006) into part 7 of the QSA Act. Division 4

is comprised of the following transitional provisions, which cater for the introduction of new terminology into the QSA Act in place of the term *area of learning*.

Division 4 Transitional provisions for Education Legislation Amendment Act 2006

91 Definitions for div 4

Section 91 defines the terms *area of learning*, *commencement*, *pre-amended Act* and *repealed chapter 11* [of the EGPA] for the purposes of division 4. Of note, *commencement* is defined to mean commencement of clause 35 of this Bill, which amends section 13 (Certification functions) of the QSA Act.

92 Approved and accredited syllabuses

Section 92 provides that on commencement, a 1–12 syllabus that is immediately before the commencement an approved syllabus or accredited syllabus for an area of learning is taken to be an approved syllabus or accredited syllabus for the corresponding school studies.

93 Work programs

Section 93 provides that a work program for an area of learning that immediately before the commencement, is approved by the Authority under section 13(2) of the QSA Act, is on the commencement, taken to have been approved by the Authority for the corresponding school subject.

94 Student accounts

Section 94(1) provides that a student account opened under the repealed chapter 11 of the EGPA, immediately before the commencement, is taken to be a student account opened under part 2A of the QSA Act. This ensures all student account provisions introduced by the Bill are applicable to accounts opened under the EGPA.

Subsection 2 provides that for the definition of *aggregated information*, information recorded in a student account that was given to the Authority under repealed chapter 11 of the EGPA is taken to have been given to the Authority under part 2A of the QSA Act. This ensures that information given to the Authority prior to the commencement that is recorded in a student account can be included in aggregated information given to relevant entities under part 2A.

Subsections 3 and 4 ensure that information notified to the Authority under section 42 of YPET or section 258 of the EGPA about a person's enrolment in a course or program, that is a certification study under part 2A, is taken to have been notified to the Authority under part 2A.

Subsections 5 and 6 provide that if a provider becomes aware, after the commencement, that the provider was required under a repealed provision, to give notice to the Authority before the commencement but did not give notice, the provider must give the notice as soon as practicable after becoming aware the notice was not given. Subsection 7 provides that for subsection 6, the repealed provision continues to apply to the extent it provided for the information to be included in the notice.

Subsection 8 provides that section 21ZB(2) is taken to apply to a person mentioned in section 21ZB(1)(a) and to a person who, in the course of the administration of the E(GP) Act, repealed chapter 11, or because of the opportunity provided by the administration, had gained or had access to information recorded in a student account opened under the repealed chapter.

Subsection 9 defines the terms *provider* and *repealed provision* for section 94. Of note, *repealed provision* means part 4 of the repealed YPET Act or the repealed chapter 11 of the EGPA.

95 Transitional regulation-making power

Section 95 provides that a transitional regulation may make provision for any matter for which:

- it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of repealed chapter 11 of the EGPA, to the operation of the QSA Act as amended by the Bill; and
- this Act does not make provision or sufficient provision.

Subsection 2 provides that a transitional regulation may have retrospective operation to a day not earlier than the commencement.

Subsection 3 provides that a transitional regulation must declare that it is a transitional regulation.

Subsection 4 provides that this section and any transitional regulation made under this section expire one year after the commencement.

Amendment of sch 2 (Dictionary)

Clause 51 amends the dictionary in the QSA Act.

Subclause 1 removes definitions from the QSA Act that have either changed or are redundant as a result of the introduction of the QCE, statements of results and new terms such as school studies and certification studies. Definitions of the following terms are removed: *1–12 syllabus*; *area of learning*; *certificate of achievement*; *guardian, non-authority area of learning*; *parent* and *vocational education and training department*.

Subclause 2 inserts a number of new definitions in the QSA Act, including the following key new terms:

- *1–12 syllabus* means a syllabus for school studies in one or more of the years 1 to 12 years of schooling.
- *Certificate of achievement* means the QCE or another certificate issuable under this Act to a person who meets the eligibility requirements provided for under this Act for the issue of the certificate.
- *Certification studies* means studies prescribed under a regulation to be contributing studies for a certificate of achievement.
- *Parent* see the EGPA, section 10.
- *Queensland certificate of education* means a certificate issuable under this Act to a person who meets the eligibility requirements provided for under this Act for the issue of the certificate.
- *School studies* mean the eight key learning areas provided for under the Adelaide Declaration on National Goals for Schooling in the Twenty-first Century or school subjects.
- *Statement of results* means a statement, issuable under this Act, recording information that is recorded in a person's student account and prescribed under a regulation for the statement.

Subclause 3 replaces references to “an area of learning” in definitions of “accredited syllabus” and “approved syllabus” with the term “school studies”.

Subclause 4 replaces references to “the area of learning” in definitions of “accredited syllabus” and “approved syllabus” with the term “the studies”.

Subclause 5 amends the definitions of “approved preschool guideline” and “approved syllabus” to include approved syllabuses and guidelines that have been purchased by the Authority.

Amendment 14 to the QSA Act in schedule 2 of the EGPA commences on 1 January 2007. The section removes the definition of *preschool guideline* from the QSA Act and replaces it with a definition of *preparatory*

guideline. However, the new section does not reflect the fact that the Authority will be able to purchase preparatory guidelines. Subclause 6 amends the definition of *preparatory guideline* to include preparatory guidelines that have been purchased by the Authority.

Subclause 7 replaces references to an *area of learning* in definitions of *assessment data*, *student* and *syllabus* with the term *school studies*.

Part 5 Minor and consequential amendments of Acts

Acts amended in schedule

Clause 52 provides that the schedule amends the Acts mentioned in it.

Schedule Minor and Consequential Amendments

Education (Accreditation of Non-State Schools) Act 2001

The schedule amends the *Education (Accreditation of Non-State Schools) Act 2001* to correct minor drafting errors.

Education (Queensland Studies Authority) Act 2002

The schedule amends the *Education (Queensland Studies Authority) Act 2002* to change references to the “Vocational Education, Training and Employment Act 2000” to the “VETE Act”, which is defined in the dictionary.

Freedom of Information Act 1992

The schedule amends section 11 of the *Freedom of Information Act 1992*. Section 11 exempts certain information from release under that Act, including information on a certificate of achievement issued by the Authority and aggregated information as defined under the *Education (General Provisions) Act 2006*. The Bill ensures that information contained in a statement of results, as well as aggregated information

defined under the QSA Act, are also exempted from release under the FOI Act.

Higher Education (General Provisions) Act 2003

The schedule amends section 59 of the *Higher Education (General Provisions) Act 2003*, to require a non-university provider offering an accredited course to give the Minister course survey data, for the course, relating to the most recently ended year (i.e. the previous calendar year). The course survey data must be given to the Minister by the day prescribed under a regulation. The amendments will enable the collection procedure for the course survey data to align with national practice.

The schedule also amends the definition of *course survey data* in section 59(3) of the *Higher Education (General Provisions) Act 2003* to omit paragraph (g) “the number of students who have reached each identifiable level of study of the course”. This data is no longer required to be collected by non-university providers.