

# Queensland Training Assets Management Authority Repeal Bill 2015

## Explanatory Notes

### Short title

The short title of the Bill is the Queensland Training Assets Management Authority Repeal Bill 2015.

### Policy objectives and the reasons for them

In July 2014, the Queensland Training Assets Management Authority (QTAMA) was established as a statutory body under the *Queensland Training Assets Management Authority Act 2014* (QTAMA Act). The training assets and liabilities held by the then Department of Education, Training and Employment were transferred to QTAMA. QTAMA's functions include owning, managing and providing state training assets for vocational education and training (VET) to TAFE Queensland and other training organisations.

QTAMA's purpose under the existing legislation is to manage the state's training assets on a commercial basis. There is no requirement under the QTAMA Act for QTAMA to prioritise the interests of TAFE Queensland as the primary public provider of VET in Queensland. TAFE Queensland is treated as another provider operating in a contestable VET market.

The Queensland Government's election commitment 'Rescuing TAFE' commits to the repeal of the QTAMA Act, returning control of Queensland's training assets to the relevant government department and investing \$34 million over three years to restore TAFE Queensland as the State's premier provider of VET.

The Government's intent is that TAFE Queensland will have priority access to state-owned training assets. This will support TAFE Queensland in its planning and delivery of quality training to the community, and reinforce TAFE Queensland's leading role in the VET market.

To implement this election commitment the objectives of the Bill are to:

- repeal the QTAMA Act and abolish QTAMA;
- transfer the assets, liabilities and records of QTAMA to the Department of Education and Training (the department); and
- provide for other transitional and savings arrangements as a result of the repeal of the QTAMA Act.

### Achievement of policy objectives

To achieve its objectives, the Bill amends the *Further Education and Training Act 2014* to insert a new chapter 9, part 3 in that Act to provide for the repeal of the QTAMA Act and to provide for transitional and savings provisions.

The Bill achieves its objectives by providing that upon commencement:

- QTAMA and its board are dissolved;
- the chief executive officer and the board members go out of office;
- the State is the successor in law of QTAMA;
- the assets and liabilities of QTAMA immediately before commencement are to become the assets and liabilities of the State held in the department;
- the State will become a party to contracts (or other instruments) to which QTAMA was a party immediately before commencement, including all employment contracts and goods and services contracts; and
- the records and other documents held by QTAMA immediately before commencement become the records and other documents of the State held in the department.

The Bill also provides transitional and savings arrangements for legal proceedings, legal relationships and the annual report.

## **Alternative ways of achieving policy objectives**

There is no alternative way of achieving the policy objectives to abolish the QTAMA.

## **Estimated cost for government implementation**

The implementation of the Bill will not result in any additional costs to Government.

## **Consistency with fundamental legislative principles**

### **Legislation should have sufficient regard to the rights and liberties of individuals - *Legislative Standards Act 1992, sections 4(2)(a)***

Under section 4(2)(a) of the *Legislative Standards Act 1992*, legislation must have regard to the rights and liberties of individuals. The proposed Bill will dissolve QTAMA and the QTAMA board members and chief executive officer are not to be compensated beyond that permitted under the terms and conditions of their appointment.

Parliamentary Committees have raised these types of provisions as a potential breach of fundamental legislative principles. However, the Government's position is that officers appointed to statutory bodies do not have a right to expect to remain in office, nor to expect compensation beyond those in their terms and conditions of employment for termination of their position.

In this instance, the terms and conditions of appointment of the board members do not allow for compensation on termination of office. The current chief executive officer's term of appointment will cease on 30 June 2015, prior to the abolition of QTAMA. In addition, the QTAMA board and the current chief executive officer have been given notice of the Government's intention to repeal QTAMA. Therefore, it is not considered that the Bill breaches fundamental legislative principles.

## **Consultation**

No consultation external to Government has occurred in relation to the Bill.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland and does not introduce uniform or complementary legislation.

## Notes on provisions

*Clause 1* provides that the short title of the Act is the *Queensland Training Assets Management Authority Repeal Act 2015*.

*Clause 2* provides that the Act commences on a day to be fixed by proclamation.

*Clause 3* provides that the Act amends the *Further Education and Training Act 2014* (FET Act).

*Clause 4* inserts a new part 3 into chapter 9 of the FET Act. New sections 223 to 237 provide for repeal of the QTAMA Act and the transitional and savings provisions for the Bill.

The new section 223 repeals the *Queensland Training Assets Management Authority Act 2014* (QTAMA Act).

The new section 224 provides definitions for terms used in the new chapter 9, part 3, division 2 of the FET Act.

The new section 225 provides that on commencement the Queensland Training Assets Management Authority (QTAMA) and its board are dissolved and the chief executive officer and each board member go out of office. No compensation is payable as a result. Subsection (3) clarifies that this does not limit or otherwise affect a person's right to a benefit or entitlement that had accrued before commencement.

The new section 226 provides that the State is the successor in law of QTAMA.

The new section 227 provides that on commencement, the assets and liabilities of QTAMA immediately before the commencement becomes the assets and liabilities of the State held in the department.

The new section 228 provides that on commencement, QTAMA's records and other documents held by QTAMA immediately before commencement become the records and other documents of the State held in the department.

The new section 229 provides that the State is a party to current instruments in place of QTAMA. Current instruments are contracts and other instruments to which QTAMA was a party immediately before the commencement or that otherwise applied to QTAMA immediately before the commencement. These include employment contracts, goods and services contracts and lease arrangements for the hire of training facilities.

The new section 230 provides that a reference to QTAMA in an Act or document is taken to be a reference to the State, if the context permits.

The new section 231 provides that in relation to a proceeding that immediately before commencement had not ended and to which QTAMA was a party - the State becomes a party to the proceeding in place of QTAMA.

The new section 232 provides that if immediately before commencement a proceeding could have been started by or against QTAMA, the proceeding can be started by or against the State.

The new section 233 provides for the registering authority to register or record the transfer of, or other dealing affecting, an asset, liability or instrument under division 2, without charge.

The new section 234(1) provides that section 229 applies to a contract of employment that was in force under section 33 of the QTAMA Act immediately before commencement. The effect of this provision is the State is a party to the contract of employment in the place of QTAMA.

Section 234(2) clarifies that staff employed by the State under a contract mentioned in subsection (1) are not employed under the *Public Service Act 2008*. The effect of this provision is that their employment continues under the terms of their contract.

Section 234(3) provides that section 37 of the QTAMA Act, which preserves the rights of a staff member who is appointed to public service, applies to a staff member under a contract mentioned in section 234(1). This ensures that, if a person mentioned in section 234(1) is employed in the public service after commencement, their rights under section 37 of the QTAMA Act continue to apply.

Section 234(4) provides that on commencement a work performance arrangement or an interchange arrangement under the QTAMA Act ends.

The new section 235 provides for the effect on legal relationships of a thing done under division 2.

The new section 236 provides the section 73 of the QTAMA Act applies in relation to an annual report of QTAMA under the *Financial Accountability Act 2009* prepared after commencement. Section 73 of the QTAMA Act requires the annual report to include copies of all directions given to QTAMA by the Minister under the QTAMA Act in the financial year to which the report relates.

The new section 237 ensures that the confidentiality of criminal history information obtained under the QTAMA Act continues.