

Queensland



TAFE INSTITUTES BILL 1998

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TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
2	Commencement	6
3	Objectives of Act	6
4	Definitions—the dictionary	6
PART 2—TAFE INSTITUTES		
5	What is a TAFE institute	6
6	Power to establish TAFE institutes	7
PART 3—TAFE INSTITUTE BUSINESS BOARDS		
<i>Division 1—Application</i>		
7	Application	7
<i>Division 2—The board</i>		
8	TAFE institute business boards	7
9	Board's functions	8
10	Board subject to Minister's directions	9
<i>Division 3—Board membership</i>		
11	Composition of board	9
12	Duration of appointment	10
13	Conditions of appointment	10
14	Vacancy in membership	10
<i>Division 4—Board meetings</i>		
15	Times and places of meetings	11
16	Conducting meetings	11
17	Disclosure of interests by member of board	12

18	Voting etc. by interested member of board	12
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Division 5—Other provisions about the board

19	Committees	13
20	Institute to help board	13
21	Report on board's activities	13

PART 4—COLLEGE COUNCILS

22	Application	13
23	Appointment of college councils	13
24	College council's functions	14
25	Duration and conditions of appointment	15
26	Conducting council meetings	15
27	Institute to help council	15

PART 5—ADMINISTRATION

28	Development of corporate plan for TAFE institutes	15
29	Chief executive's functions for TAFE institutes	16
30	Chief executive's powers for TAFE institutes	16
31	Delegations	17
32	Committees	18
33	Membership of other bodies	18
34	Returns to be given as required	19
35	Use of facilities and staff	19

PART 6—MISCELLANEOUS

36	Protection from liability	19
37	Duty to act honestly	20
38	Protection of confidentiality	20
39	Regulating vehicles on institute land	21
40	Notices at entrances	21
41	Trespass on TAFE institutes	21
42	Proceeding for offences	22
43	Evidentiary provisions	22
44	Regulation-making power	23

PART 7—TRANSITIONAL AND SAVINGS PROVISIONS

45	Existing State colleges	23
46	Dissolution of State college councils	24
47	Continuation of college councils	24
48	Provisions made by chief executive	24
49	References	24

SCHEDULE	25
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DICTIONARY

1998

A BILL

FOR

An Act to provide for TAFE institutes

The Parliament of Queensland enacts—

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PART 1—PRELIMINARY

2

Short title

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1. This Act may be cited as the *TAFE Institutes Act 1998*.

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Commencement

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

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Objectives of Act

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3. The objectives of this Act are—

8

(a) to establish TAFE institutes; and

9

(b) to provide for the management of TAFE institutes; and

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(c) to provide a way by which industry and the community can have input into the strategic direction of TAFE institutes.

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Definitions—the dictionary

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4. The dictionary in the schedule defines particular words used in this Act.

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PART 2—TAFE INSTITUTES

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What is a TAFE institute

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- 5.(1) A “**TAFE institute**” is a State institute that provides vocational education and training.

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(2) It may also provide—	1
(a) adult community education; or	2
(b) post compulsory general education.	3
(3) A TAFE institute may also include colleges or campuses as part of it.	4
Power to establish TAFE institutes	5
6.(1) The Minister may establish—	6
(a) TAFE institutes; or	7
(b) colleges or campuses of TAFE institutes.	8
(2) The Minister may—	9
(a) amalgamate an institute, or part of an institute with another institute or part of an institute; or	10
(b) abolish or close an institute or part of an institute.	12
 PART 3—TAFE INSTITUTE BUSINESS BOARDS	13
 <i>Division 1—Application</i>	14
 Application	15
7. This part applies to each TAFE institute.	16
 <i>Division 2—The board</i>	17
 TAFE institute business boards	18
8. There is a TAFE institute business board (the “ board ”) for the TAFE institute.	19
	20

Board's functions**9.(1)** The board has the following functions—

- (a) to approve the institute's business plan and ensure that it is consistent with the TAFE institutes corporate plan;
- (b) to monitor the implementation of—
 - (i) the institute's business plan and the institute's budget through periodic reports from the institute's director; and
 - (ii) policy guidelines and directions issued by the chief executive related to the business performance of a TAFE institute;
- (c) to advise the institute's director on business improvement and service delivery strategies;
- (d) to advise the institute's director about industry, business and market trends;
- (e) to contribute to vocational education and training system planning processes;
- (f) to consult and collaborate with college councils, other institute boards, the Queensland Training Authority, other appropriate bodies and the department as far as the board considers it necessary to perform its functions;
- (g) to help the institute through representation on institute committees when appropriate;
- (h) to monitor the outcomes of institute courses, programs and services to individuals, industry and the community and to advise the institute's director accordingly;
- (i) to foster cooperation with other institutes to enhance the quality and consistency of services;
- (j) to promote the institute and its services;
- (k) to report to the Minister on—
 - (i) the board's activities; and
 - (ii) the effectiveness of the board's advice and decisions; and

(iii) anything else connected with the performance of the institute, either on the board's own initiative or at the Minister's request.	1 2 3
(2) The board has the power to do all things necessary or desirable to be done for the performance of its functions.	4 5
Board subject to Minister's directions	6
10.(1) The board is subject to the Minister and must comply with the Minister's written directions about—	7 8
(a) policy; or	9
(b) the performance of its functions; or	10
(c) the exercise of its powers.	11
(2) The board must disclose directions given to it by the Minister in a financial year in the department's annual report for the financial year.	12 13
<i>Division 3—Board membership</i>	14
Composition of board	15
11.(1) The board consists of—	16
(a) at least 7 but not more than 10 persons appointed by the Minister (“appointed members”); and	17 18
(b) the institute's director without further appointment.	19
(2) An appointed member must—	20
(a) have knowledge of, or experience in—	21
(i) business or commerce; and	22
(ii) vocational education and training, industry or community affairs; and	23 24
(b) be able to contribute to the strategic direction of the institute.	25
(3) The Minister—	26
(a) is to appoint an appointed member as chairperson; and	27

(b) may appoint an appointed member as deputy chairperson.	1
(4) If the institute includes 1 or more colleges for which there is a college council, the appointed members must include at least 1 college council chairperson.	2 3 4
Duration of appointment	5
12. An appointed member is to be appointed for not longer than 3 years.	6
Conditions of appointment	7
13. An appointed member holds office on the conditions decided by the Minister.	8 9
Vacancy in membership	10
14.(1) An appointed member's office becomes vacant if the member—	11
(a) dies; or	12
(b) resigns by signed notice given to the Minister; or	13
(c) is absent from 3 consecutive meetings of the board without a reasonable excuse and the board's leave; or	14 15
(d) is removed from office by the Minister under subsection (2).	16
(2) The Minister may remove an appointed member from office if the member—	17 18
(a) engages in misbehaviour; or	19
(b) becomes incapable of performing the duties of a member because of a physical or mental incapacity; or	20 21
(c) is incompetent; or	22
(d) is convicted of an indictable offence or an offence against this Act.	23 24

Division 4—Board meetings**Times and places of meetings**

15.(1) Meetings of the board are to be held at the times and places it decides.

(2) However, the chairperson or Minister may call a meeting at any time.

(3) The quorum for a meeting is a simple majority of the members of the board.

(4) The board may hold meetings, or allow members to take part in meetings, by telephone, closed-circuit television or another form of communication allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

(5) A member who takes part in a meeting as allowed under subsection (4) is taken to be present at the meeting.

Conducting meetings

16.(1) The chairperson must preside at each meeting at which the chairperson is present.

(2) If the chairperson is absent from a meeting, the deputy chairperson, if present, must preside.

(3) If the chairperson and deputy chairperson are absent from a meeting a member chosen by the members present at the meeting must preside.

(4) A question at a meeting must be decided by a majority of votes of the members present at the meeting.

(5) The chairperson or other member presiding at a meeting is to have a vote, and if the votes are equal, a second or casting vote.

(6) The board must keep a record of the minutes of its meetings and its decisions.

(7) Otherwise, the board may conduct its meetings in the way it considers appropriate.

Disclosure of interests by member of board

17.(1) If a member of the board has a direct or indirect interest in a matter being considered, or about to be considered, by the board, the member must disclose the nature of the interest to a meeting of the board as soon as practicable after the relevant facts come to the member's knowledge.

Maximum penalty—40 penalty units.

(2) The disclosure must be recorded in the minutes of the meeting of the board.

Voting etc. by interested member of board

18.(1) A member of the board who has a material personal interest in a matter that is being considered by the board must not—

- (a) vote on the matter; or
- (b) vote on a proposed resolution (a “**related resolution**”) under subsection (2)(a) in relation to the matter, whether in relation to the member or another member; or
- (c) be present while the matter, or a related resolution, is being considered by the board; or
- (d) otherwise take part in a decision of the board in relation to the matter or a related resolution.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to the matter if—

- (a) the board has passed a resolution that states—
 - (i) the member, the interest and the matter; and
 - (ii) the members voting for the resolution are satisfied the interest should not disqualify the member from considering or voting on the matter; or
- (b) a quorum of the board can not be formed because of subsection (1) and the Minister has given a written direction to that effect for the matter.

<i>Division 5—Other provisions about the board</i>	1
Committees	2
19.(1) The board, with the Minister’s earlier written approval, may establish committees to help it to perform its functions.	3 4
(2) A person may not be appointed to a committee without the Minister’s earlier written approval.	5 6
(3) Subsections (1) and (2) do not limit the board in establishing committees of its members.	7 8
Institute to help board	9
20. The institute is to give the board reasonable help to perform its functions.	10 11
Report on board’s activities	12
21. The board must, within 3 months after the end of each financial year, prepare and give the Minister a report on the board’s activities for the year.	13 14
 PART 4—COLLEGE COUNCILS	 15
Application	16
22. This part applies if—	17
(a) an institute includes 1 or more colleges; and	18
(b) the Minister declares by gazette notice that there is to be a council for the college.	19 20
Appointment of college councils	21
23.(1) The council consists of at least 7, but not more than 12 members appointed by the Minister.	22 23

(2) One of the members has to be an officer of the department employed at the institute and nominated by the chief executive (the “**departmental member**”).

(3) A member, other than the departmental member, must—

- (a) be a member of the community served by the college (the “**local community**”); and
- (b) have knowledge of, or experience in—
 - (i) vocational education and training; or
 - (ii) industry; or
 - (iii) community affairs.

(4) The Minister must appoint 1 of the members, other than the departmental member, as chairperson.

College council’s functions

24.(1) The functions of the college council are to—

- (a) identify ongoing and emerging needs in vocational education and training in the local community and report the needs to the board; and
- (b) advise the board on vocational education and training priorities in the local community; and
- (c) report to the board on—
 - (i) the effectiveness of the college’s service delivery in the local community; or
 - (ii) matters of strategic business importance to the board; and
- (d) develop and maintain effective relationships in the local community with business, relevant advisory bodies and community groups.

(2) In performing its functions, the college council is to have regard to its position as part of the institute.

Duration and conditions of appointment

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25. A member of the college council is appointed for the term and on the conditions decided by the Minister.

2

3

Conducting council meetings

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26. The college council may conduct its meetings in the way it considers appropriate.

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Institute to help council

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27. The institute is to give the council reasonable help to perform its functions.

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PART 5—ADMINISTRATION

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Development of corporate plan for TAFE institutes

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28.(1) The chief executive must develop for the Minister's approval a plan (a "**TAFE institutes corporate plan**") to provide a framework for strategic planning and management of TAFE institutes.

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(2) A TAFE institutes corporate plan applies for the term stated in the plan, but the chief executive may, if it is appropriate in the circumstances, develop a new TAFE institutes corporate plan for the Minister's approval even though the period has not ended.

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(3) The Minister may, at any time, direct the chief executive to prepare a new TAFE institutes corporate plan for the Minister's approval or to amend the current TAFE institutes corporate plan in the way the Minister directs.

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(4) The Minister may approve a TAFE institutes corporate plan that is submitted for approval or require the chief executive to amend the plan in the way the Minister directs.

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(5) The Minister may direct the chief executive to include in the TAFE institutes corporate plan, the services that a TAFE institute must provide.

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Chief executive's functions for TAFE institutes

29. The functions of the chief executive for TAFE institutes are as follows—

- (a) to ensure the provision of vocational education and training services;
- (b) to produce and sell products and services;
- (c) to prepare, publish, distribute or licence the use of literary or artistic work, audio or audiovisual material, or computer software;
- (d) to exploit commercially—
 - (i) TAFE institute resources, including any study, research or knowledge; or
 - (ii) the practical application of any study, research or knowledge;
- (e) to enter into contracts with any entity for the purposes of vocational education and training;
- (f) to undertake research and development related to a function of the chief executive.

Chief executive's powers for TAFE institutes

30.(1) The chief executive has, under the Minister and as agent of the State, all the powers of the State that are necessary or desirable for performing the chief executive's functions.

(2) Anything the chief executive does in the name of, or for the State, in performing the chief executive's functions is taken to be done for, and binds the State.

(3) Without limiting subsection (1), the chief executive may, for example, in performing the chief executive's functions—

- (a) enter into arrangements, agreements, contracts and deeds; and
- (b) acquire, hold, deal with, and dispose of property; and
- (c) appoint agents and attorneys; and

(d) form or establish, or participate in forming or establishing, an association, corporation, trust or other arrangement for a purpose calculated to further in any way the objects of this Act; and	1 2 3
(e) compound or prove in a court of competent jurisdiction all debts or amounts owing to the State; and	4 5
(f) accept gifts, grants, bequests or devises and create and administer trust funds; and	6 7
(g) charge, and fix terms, for goods, services, facilities and information supplied; and	8 9
(h) seal a document; and	10
(i) with the Minister's approval, authorise a person to carry out functions on the chief executive's behalf; and	11 12
(j) issue guidelines and directions for the performance of a function in relation to a TAFE institute; and	13 14
(k) do other things necessary or desirable to be done in connection with the functions.	15 16
(4) Without limiting subsection (1), the chief executive has the powers given to the chief executive under this or another Act or at common law.	17 18
(5) However, the chief executive's powers are subject to any restriction expressly imposed on the chief executive under this or another Act.	19 20
(6) In this section—	21
“ function ” includes responsibility.	22
“ law ” includes a common law rule.	23
“ restriction ” includes prohibition.	24
Delegations	25
31.(1) The chief executive may delegate the chief executive's powers to an appropriately qualified officer of the department.	26 27
(2) In this section—	28

“appropriately qualified”, for an officer of the department to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to the exercise of the power.

Example of ‘standing’—

An officer’s classification level in the public service.

Committees

32. The chief executive may establish committees to help the chief executive to perform his or her functions.

Membership of other bodies

33.(1) The chief executive—

(a) may become and be a member or manager of an entity that—

(i) has among its objects—

(A) vocational education and training, adult community education or post compulsory general education; or

(B) research relevant to vocational education and training, adult community education or post compulsory general education; or

(ii) the chief executive considers, is engaged in furthering vocational education and training, adult community education or post compulsory general education; and

(b) may enter into agreements with an entity for any of those objects.

(2) However, the chief executive may not be a member or manager of an entity unless its governing body agrees.

(3) The chief executive may be a member of the governing body of an entity of which the chief executive is a member or manager.

(4) The chief executive may incur expenditure for contributions or other liability that membership of an entity entails.

(5) In this section, except for subsections (1)(a)(ii) and (4)—	1
“ chief executive ” includes a person authorised in writing by the chief executive.	2 3
Returns to be given as required	4
34.(1) A corporation in whose formation the chief executive has participated, and an entity of which the chief executive is a member or manager must give to the Minister reports, returns and information as to its affairs required by the Minister.	5 6 7 8
(2) In this section—	9
“ chief executive ” includes a person authorised in writing by the chief executive.	10 11
Use of facilities and staff	12
35. The chief executive may contract, or enter into an arrangement, with an entity for the use by the entity of the facilities and staff available to the chief executive.	13 14 15

PART 6—MISCELLANEOUS 16

Protection from liability	17
36.(1) A member of a board or a college council or an official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.	18 19 20
(2) If subsection (1) prevents civil liability attaching to the member, or official the liability attaches instead to the State.	21 22
(3) In this section—	23
“ official ” means—	24
(a) the Minister; or	25

- (b) the chief executive; or 1
- (c) an officer or employee of the department. 2

Duty to act honestly 3

37.(1) This section applies to a person who exercises a power or performs a function under this Act. 4
5

(2) The person must at all times act honestly in exercising the power or performing the function. 6
7

Maximum penalty—40 penalty units. 8

(3) A person to whom this section applies, or at any time applied, must not use information acquired in exercising the power or performing the function to, directly or indirectly— 9
10
11

- (a) gain a benefit for the person or someone else; or 12

- (b) cause a detriment to someone else. 13

Maximum penalty—40 penalty units. 14

Protection of confidentiality 15

38.(1) This section applies to a person who exercises a power or performs a function under this Act. 16
17

(2) The person must not disclose to anyone information that comes to the person's knowledge in exercising the power or performing the function or because of an opportunity provided by the exercise of the power or the performance of the function. 18
19
20
21

Maximum penalty—40 penalty units. 22

(3) However, subsection (2) does not apply to disclosure of information— 23
24

- (a) under this Act; or 25

- (b) with the chief executive's authorisation; or 26

- (c) ordered by a court or tribunal to be disclosed for a proceedings before it; or 27
28

- (d) otherwise required by law to be disclosed. 29

Regulating vehicles on institute land

39. A regulation may—

- (a) allow a board to regulate the driving, parking or standing of vehicles on institute land by erecting notices on the land; and
- (b) provide that a contravention of a notice mentioned in paragraph (a) is an offence.

Notices at entrances

40. If—

- (a) a board erects or displays a notice at each entrance commonly used by persons to gain access to a TAFE institute; and
- (b) the notice contains information about the institute indicating that a contravention of requirements generally or particularly described in the notice are offences and indicating generally or particularly the penalties;

a person who gains access to the institute in any way is taken to be aware of the information for the purposes of a proceeding against the person for any of the offences.

Trespass on TAFE institutes

41.(1) A person must not enter, or be on, a TAFE institute's premises unless the person has a lawful authority or excuse for the entry or for being there.

Maximum penalty—40 penalty units.

(2) Subsection (3) applies if a person—

- (a) is found on premises in contravention of subsection (1); and
- (b) fails to comply with a request from an authorised officer to leave the premises.

(3) The authorised officer may remove the person from the premises using reasonable force.

(4) The authorised officer may require a person found contravening subsection (1) to—	1 2
(a) state the person's name and address; and	3
(b) if the authorised officer reasonably suspects that a name or address stated is not correct—produce evidence of the correctness of the person's name or address.	4 5 6
(5) A person must not contravene a requirement under subsection (4) unless the person has a reasonable excuse.	7 8
Maximum penalty—40 penalty units.	9
(6) A person does not contravene subsection (5) if—	10
(a) the person was required to state the person's name and address by an authorised officer who suspected the person had committed an offence against subsection (1); and	11 12 13
(b) the person is not proved to have committed the offence.	14
(7) In this section—	15
“authorised officer” means—	16
(a) the director or a person authorised by the director; or	17
(b) a police officer.	18
Proceeding for offences	19
42. A proceeding for an offence against this Act is to be taken in a summary way under the <i>Justices Act 1886</i> .	20 21
Evidentiary provisions	22
43.(1) This section applies to a proceeding under this Act.	23
(2) It is not necessary to prove the appointment of the chief executive.	24
(3) A signature purporting to be that of the chief executive is evidence of the signature it purports to be.	25 26
(4) A certificate signed by the chief executive and stating any of the following is evidence of the matter—	27 28

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- | | |
|---|---|
| (a) on a stated day or during a stated period a person was a member of a board; | 1 |
| | 2 |
| (b) on a stated day or during a stated period stated land was institute land; | 3 |
| | 4 |
| (c) on a stated day or during a stated period stated premises comprised a TAFE institute. | 5 |
| | 6 |

Regulation-making power

- | | |
|---|----|
| 44.(1) The Governor in Council may make regulations under this Act. | 7 |
| | 8 |
| (2) A regulation may be made— | 9 |
| (a) setting fees; and | 10 |
| (b) creating an offence under a regulation; and | 11 |
| (c) fixing a penalty for an offence under a regulation of not more than 20 penalty units. | 12 |
| | 13 |

PART 7—TRANSITIONAL AND SAVINGS PROVISIONS

Existing State colleges

- | | |
|---|----|
| 45.(1) A State college called a TAFE institute in existence immediately before the commencement, continues as a TAFE institute under this Act. ¹ | 14 |
| | 15 |
| (2) To remove doubt, it is declared that if a State college mentioned in subsection (1) comprised separate colleges and campuses, those colleges and campuses continue in existence as colleges and campuses of the appropriate TAFE institute and are part of it. | 16 |
| | 17 |
| | 18 |
| | 19 |
| | 20 |
| | 21 |
| | 22 |

¹ See also the consequential amendments to the *Agricultural Colleges Act 1994* in the *Vocational Education and Training Act 1998*, schedule 3 (Consequential amendments) for provisions for State colleges declared to be agricultural colleges under the *Agricultural Colleges Act 1994*.

Dissolution of State college councils

46. A State college council called a TAFE institute council in existence immediately before the commencement is dissolved and its members go out of office.

Continuation of college councils

47.(1) A college council, other than a State college council mentioned in section 46, in existence immediately before the commencement continues as a college council under this Act.

(2) The term of office of a college council member expires on the day that it would have expired under the former Act.

Provisions made by chief executive

48. A provision made for a State college by the chief executive under section 38² of the former Act in force immediately before the commencement continues in force for the appropriate TAFE institute, subject to this Act, as if it were made by the chief executive under this Act.

References

49. In an Act or document, a reference to—

- (a) the former Act, may if the reference is in relation to a State college and the context permits, be taken to be a reference to this Act; or
- (b) the Vocational Education, Training and Employment Corporation may if the reference is in relation to a State college and the context permits, be taken to be a reference to the chief executive.

² The repealed *Vocational Education, Training and Employment Act 1991*, section 38 (Powers incident to maintaining State colleges).

SCHEDULE	1
DICTIONARY	2
section 4	3
“appointed member” means a person appointed under section 11 as a member of a TAFE institute business board.	4 5
“board” see section 8.	6
“convicted” means being found guilty, or the acceptance of a plea of guilt, by a court whether or not a conviction is recorded.	7 8
“former Act” means the repealed <i>Vocational Education, Training and Employment Act 1991</i> .	9 10
“local community” see section 23.	11
“notice” means a notice, sign or pictograph of any type or material and whether fixed or moveable.	12 13
“premises” means—	14
(a) land; or	15
(b) a building, structure or erection of any kind, whether wholly or partly constructed or erected or in the course of construction or erection; or	16 17 18
(c) a part of a building, structure or erection; or	19
(d) an aircraft, vehicle or vessel.	20
“Queensland Training Authority” see <i>Vocational Education and Training Act 1998</i> .	21 22
“reasonably suspects” means suspects on grounds that are reasonable in the circumstances.	23 24
“TAFE institute” see section 5.	25
“TAFE institutes corporate plan” see section 28.	26 27

