

Vocational Education and Training (Commonwealth Powers) Bill 2012

Explanatory Notes

Short title

The Short title of the Bill is the *Vocational Education and Training (Commonwealth Powers) Bill 2012*.

Policy objectives and the reasons for them

The objectives of the Bill are to:

1. refer legislative power to the Commonwealth Parliament to regulate registered training organisations and vocational education and training courses by adopting the *National Vocational Education and Training Regulator Act 2011 (Cwlth)* and the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (Cwlth)* and making an amendment reference;
2. abolish the Training and Employment Recognition Council and transfer its remaining functions, mostly in relation to apprenticeships and traineeships, to Skills Queensland;
3. repeal Chapter 2 of the *Vocational Education, Training and Employment Act 2000* that provides for regulation of registered training organisations and the accreditation of vocational education and training courses;
4. amend the *Building Act 1975* to remove potential inconsistency with the *National Vocational Education and Training Regulator Act 2011 (Cwlth)* and provide for the Pool Safety Council to approve a training course to be completed for the purpose of obtaining a licence as a pool safety inspector;
5. insert displacement provisions in Part 5A *Liquor Act 1992* and Part 10A *Gaming Machine Act 1991* to allow Queensland to continue to apply the provisions of those Acts in relation to registered training organisations after the referral of power; and

6. make consequential amendments to the *Vocational Education, Training and Employment Act 2000* and other Acts.

On 7 December 2009, the Council of Australian Governments (COAG) agreed to national reforms to the regulation of vocational education and training (VET), including establishment of a national VET regulator responsible for the registration and regulation of registered training organisations (RTOs) and accreditation of VET courses. COAG also approved that a National Skills Standards Council be established to provide advice to the Ministerial Council for Tertiary Education and Employment about the development of national standards for the registration, quality assurance, performance monitoring, reporting, risk, audit, review and renewal of providers, and accreditation of VET qualifications.

The National VET Regulator, the Australian Skills Quality Authority (ASQA), was established by the Commonwealth Government when it enacted the *National Vocational Education and Training Regulator Act 2011* and the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011* (national VET legislation) in March 2011. ASQA commenced operations on 1 July 2011, regulating training providers in New South Wales, the Australian Capital Territory, the Northern Territory and providers from Victoria and Western Australia that operate in a referring jurisdiction or which train overseas students. ASQA became the regulatory body for the VET sector in Tasmania on 15 February 2012 and for South Australia on 26 March 2012, after both States passed referral of power legislation. Victoria and Western Australia are not referring power to the Commonwealth to regulate all of their RTOs.

The establishment of ASQA is expected to deliver the following benefits:

- improved employer and consumer confidence in the quality and consistency of assessment of VET qualifications;
- consistent application of standards for RTOs across jurisdictions and consistent application of sanctions against RTOs which do not meet the high standards expected in the VET sector; and
- a coordinated national response to emerging issues in the VET sector.

On 1 July 2011, the Minister for Tertiary Education, Skills, Jobs and Workplace Relations made a determination under section 7 *National Vocational Education and Training Regulator Act 2011* (Cwlth) that Queensland would not become a non-referring jurisdiction. This determination gives Queensland until 30 June 2012 to refer power or it will

become a non-referring jurisdiction. If Queensland becomes a non-referring jurisdiction there would be two regulators operating in Queensland applying different standards. This Bill will ensure that there is a single regulator setting standards for RTOs and VET courses in Queensland.

The Training and Employment Recognition Council (TERC) currently performs the function of regulating RTOs in Queensland under the *Vocational Education, Training and Employment Act 2000* (VETE Act). The Bill will abolish TERC and transfer TERC's remaining functions, mainly associated with apprenticeships and traineeships, to Skills Queensland. The VETE Act was amended in October 2010 to establish Skills Queensland and gave Skills Queensland the function of advising the Queensland Government on skills and workforce development priorities.

The provisions in Chapter 8, Part 8 *Building Act 1975* dealing with pool safety inspector training would become invalid because they would be inconsistent with the *National Vocational Education and Training Regulator Act 2011* (Cwlth) (NVR Act) after the referral of power. These provisions regulate RTOs and under the terms of the NVR Act RTOs in Queensland would be exempt from complying with these provisions in the *Building Act 1975*. To overcome this potential inconsistency the Bill includes an amendment to change the way the training courses for pool safety inspectors are approved. Rather than the Pool Safety Council approving a course under guidelines issued by the chief executive of the Department of Housing and Public Works, the Pool Safety Council will approve a course accredited under the VET system. The course will be a nationally recognised course entered on the register maintained by ASQA. Only RTOs would be able to deliver the course and they would be subject to the regulation of ASQA when delivering the course.

Similarly, the provisions in relation to responsible service of alcohol (RSA) and responsible management of licensed venues (RMLV) under Part 5A *Liquor Act 1992* and responsible service of gambling (RSG) training under Part 10A *Gaming Machine Act 1991* would also become invalid because of inconsistency with the NVR Act after referral. These provisions regulate RTOs. Under the provisions, RTOs must be approved to deliver RSA, RMLV or RSG training and then must deliver that training in a way decided by the Office of Liquor and Gaming Regulation (OLGR). These forms of training have been in place for several years and OLGR and RTOs have incurred significant costs to implement this scheme.

To allow OLGR and RTOs time to transition to the new national regulatory framework for VET the Bill includes a displacement provision. This displacement provision will allow OLGR to continue applying its legislation in relation to RSA, RSG and RMLV training so that RTOs will continue to be subject to the current requirements. RTOs will not be exempt from these requirements. The provision will expire two years after the commencement of these amendments. During this time OLGR will consider alternative options for regulating these industries that are consistent with the national VET legislation.

The Bill also makes consequential amendments to the VETE Act and other legislation to reflect that regulation of RTOs is a Commonwealth matter and to update definitions and terminology. The Bill also provides for the transition of TERC's functions to Skills Queensland.

Achievement of policy objectives

Referral of Power

The Bill will achieve the referral of power by:

- adopting the national VET legislation to the extent that the matters in the national VET legislation are within the legislative powers of the Queensland Parliament; and
- referring to the Commonwealth Parliament the continuing VET matters listed in Clause 4.

As Queensland is referring power after the national VET legislation has been enacted Queensland adopts that legislation. Queensland refers its legislative power to the Commonwealth on the matters included in the national VET legislation: the regulation of RTOs and accreditation of VET courses. The Bill then makes an amendment reference to allow the Commonwealth to make amendments to the national VET legislation in relation to continuing VET matters. The continuing VET matters are described in the way agreed by all jurisdictions for the referral of power and are consistent with New South Wales' *Vocational Education and Training (Commonwealth Powers) Act 2010*. The Minister will be required to table any express amendments to the national VET legislation in the Parliament.

To ensure that the referral of power does not have any unintended consequences the Bill clarifies that certain matters are not included in continuing VET matters:

- (a) primary and secondary education;
- (b) higher education;
- (c) apprenticeships and traineeships;
- (d) the qualifications to undertake or carry on a business, occupation or other work;
- (e) state funding of VET; and
- (f) establishment of public training providers, such as TAFE institutes.

These exclusions are necessary because RTOs and VET are closely related to other education and training activities which will remain the responsibility of Queensland.

The referral of power, and establishment of a single national VET regulator, will reduce the number of regulators in Australia and establish a consistent national approach to regulation. This reform therefore contributes to a reduction of the regulatory burden on business.

Pool Safety Inspector Training under the *Building Act 1975*

The Bill repeals Chapter 8, Part 8 *Building Act 1975* which deals with approval of training courses and the regulation of eligible course providers as this part is inconsistent with the NVR Act. Part 8 provides for the approval of a training course, specifies the content of the course and provides for eligible course providers to be approved to deliver a course which leads to a pool safety inspector licence.

The new part 8 inserted by the Bill contains a new section 246DG allowing the Pool Safety Council to stipulate the training course which will enable a person to apply for a license as a pool safety inspector.

Displacement provisions for *Liquor Act 1992* and *Gaming Machine Act 1991*

The Bill includes provisions declaring that Part 5A *Liquor Act 1992* and Part 10A *Gaming Machine Act 1991* are displacement provisions for the purposes of section 11 NVR Act. These provisions will ensure that the relevant parts of these acts will continue to apply to RTOs after the referral of power. To reflect that this is a temporary measure each displacement provision will expire two years after it commences.

Alternative ways of achieving policy objectives

There is no alternative way of achieving the policy objective of creating a single national regulator for RTOs and accredited courses. The Commonwealth does not have the legislative power to regulate all RTOs. A referral of power is required to allow Queensland RTOs and accredited courses to be regulated by the national VET regulator under the national VET legislation.

Estimated cost for government implementation

The costs of preparing for the referral of power will be met from within existing resources. The significant costs involved in establishing ASQA have been met by the Commonwealth Government. Once Queensland refers power the Government will make some savings on the cost of regulating RTOs and accrediting VET courses as it will no longer perform these functions.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Sufficient regard to the institution of Parliament

Section 4(2) *Legislative Standards Act 1992* requires that legislation have sufficient regard to the institution of Parliament.

The former Scrutiny of Legislation Committee has noted that Bills which refer legislative power need to be carefully considered to ensure they have sufficient regard to the institute of Parliament. The issue has been considered by the Committee in the context of the *Water (Commonwealth Powers) Act 2008* and the *Credit (Commonwealth Powers) Act 2010*.

This Bill refers power to the Commonwealth by adopting the national VET legislation in Clause 5 and making an amendment reference by allowing the Commonwealth to amend the national VET legislation in relation to the continuing VET matters listed in Clause 4. The amendment reference allows the Commonwealth to amend the operation of the national VET legislation expressly or through the making of legislative instruments under the national VET legislation.

To ensure that the Queensland Parliament is informed of changes to the national VET legislation, the Minister will be required to table any express amendments.

The referral of power in this Bill provides for the termination of the amendment referral or the adoption and amendment referrals. The Governor in Council may fix a day by proclamation published in the Government Gazette when the termination takes effect. The termination cannot take effect any earlier than the first day after the end of the period of six months beginning with the day on which the proclamation is published.

The Bill provides for the effect of termination of the adoption or amendment references.

The Bill adequately protects the State's interests in the event that Queensland no longer wishes the Commonwealth to have the power to legislate in relation to the continuing VET matters. The approach taken in the Bill is consistent with previous referral of power Bills and allows Queensland to terminate the adoption or amendment references at any time.

Amendment of Act other than by another Act

Section 4(4)(c) *Legislative Standards Act 1992* provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill authorises the amendment of an Act only by another Act.

Clause 7 of the Bill allows a proclamation, subordinate legislation, to revoke the referral of State legislative power. This is commonly referred to as an 'Henry VIII' clause as it allows an Act passed by Parliament to be amended by the Executive. It is envisaged that the power to terminate the referral of power would only be exercised in extraordinary circumstances such as the Commonwealth amending the national VET legislation in a way that was not agreed to by the referring jurisdictions. In such a situation, it is suggested that it is necessary for Queensland to be able to take prompt action to terminate the reference and prevent the amendments from taking effect. The proclamation will be subordinate legislation and must be tabled in Parliament after it is made as required by the *Statutory Instruments Act 1992*.

Clause 40 of the Bill inserts a new Chapter 10, Part 7 for the VETE Act, which includes transitional provisions for the Bill. The new section 406 allows a transitional regulation to be made to facilitate the transfer of

functions from TERC to Skills Queensland where the Bill does not make provision or sufficient provision for this. The provision is strictly limited in its scope and can only be used for the purpose of facilitating the transfer of functions or processes from TERC to Skills Queensland. The regulation making power is limited by the sunset clause in new section 406(3) which provides that section 406 and any regulation made under the section expire within one year of the commencement of the Act.

The transitional regulation making power allows a regulation to amend an Act and is another example of an ‘Henry VIII’ clause. The Bill includes detailed transitional provisions but this regulation making power will ensure that if the Bill omits to do anything to facilitate the transfer of functions that a regulation can be made to address the issue. It is considered that the strict limits on the use of this power ensure that the Bill has sufficient regard to the institution of Parliament.

Consultation

The Commonwealth Government conducted public consultation on the impact of the fees to be charged by ASQA when it released a Cost Recovery Impact Statement (CRIS) in May 2011. The Commonwealth Government received over 140 submissions in response to the CRIS and adjusted the fee schedules to take into account stakeholder feedback. The Queensland Government did not conduct any additional community consultation on the referral of power bill.

Consistency with legislation of other jurisdictions

New South Wales was the first jurisdiction to refer power and enacted its *National Vocational Education and Training Regulator (Commonwealth Powers) Act 2010* in November 2010. The referral of power provisions in this Bill are based on the New South Wales provisions with minor variations to allow for Queensland drafting and legislative practice.

In February 2011, COAG reached in principle agreement on an intergovernmental agreement for states to refer legislative power to the Commonwealth to establish a national regulator. Queensland, South Australia and Tasmania agreed to introduce referral of power legislation in the same terms as the New South Wales’ Act. The Parliaments of South Australia and Tasmania have already referred their legislative power to the Commonwealth Parliament.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the short title of the Act is the *Vocational Education and Training (Commonwealth Powers) Act 2012*.

Clause 2 provides that the Act will commence on a day to be fixed by proclamation.

Part 2 Adoption and reference of matters

This part deals with the adoption of the national VET legislation and referral of powers to the Commonwealth.

Clause 3 defines some of the terms used in Part 2 of the Bill. The national VET legislation is defined to mean the *National Vocational Education and Training Regulator Act 2011 (Cwlth)* and *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (Cwlth)* as in force from time to time.

Clause 4 sets out the definition of continuing VET matters. This defines the scope of the referral of legislative power to the Parliament of the Commonwealth.

Subclause (1) provides that each of the following is a continuing VET matter to the extent that it is included in the legislative powers of the Queensland Parliament:

- (a) the registration and regulation of vocational education and training organisations;
- (b) the accreditation or other recognition of vocational education and training courses or programs;
- (c) the issue and cancellation of vocational education and training qualifications or statements of attainment;

- (d) the standards to be complied with by a vocational education and training regulator;
- (e) the collection, publication, provision and sharing of information about vocational education and training; and
- (f) investigative powers, sanctions and enforcement in relation to any of the above.

Subclause (2) clarifies the meaning of continuing VET matters by providing that a continuing VET matter does not include the matter of making a law that excludes or limits the operation of a State law to the extent that the State law makes provision in relation to:

- (a) primary or secondary education (including the education of children subject to compulsory school education);
- (b) tertiary education that is recognised as higher education and not vocational education and training;
- (c) the rights and obligations of persons providing or undertaking apprenticeships or traineeships;
- (d) the qualifications or other requirements to undertake or carry out any business, occupation or other work (other than that of a vocational education and training organisation);
- (e) the funding by the State of vocational education and training; or
- (f) the establishment or management of any agency of the State that provides vocational education and training.

Clause 5 provides for the adoption of the national VET legislation and the referral of continuing VET matters to the Parliament of the Commonwealth.

Subclause (1) provides that the national VET legislation is adopted, within the meaning of section 51 (xxxvii) of the Commonwealth Constitution, to the extent that the matters in the national VET legislation are within the legislative powers of the Parliament of the State.

Subclause (2) provides that each continuing VET matter is referred to the Parliament of the Commonwealth, but only to the extent of the making of laws with respect to the matter by making express amendments of the national VET legislation.

Subclause (3) provides that the operation of each of subsections (1) and (2) is not affected by the other subsection.

Subclause (4) provides that the reference of a matter under subsection (2) only has effect to the extent that the matter is not included in the legislative powers of the Commonwealth.

Subclause (5) prescribes the period for which the adoption and amendment reference have effect.

Clause 6 provides for the effect of amendments to the national VET legislation.

Subclause (1) clarifies the intention of the Parliament in relation to how the Commonwealth may amend the national VET legislation. The Commonwealth may expressly amend the national VET legislation by using its legislative powers other than the power it will have as a result of the amendment reference or adoption of the national VET legislation. The national VET legislation may also have its operation affected by the provisions of instruments made under the national VET legislation, for example Standards for VET Accredited Courses.

Subclause (2) provides that if the national VET legislation is expressly amended the Minister must table a copy of the amendment in the Legislative Assembly.

Subclause (3) provides that a failure to comply with the tabling requirement in subclause (2) does not affect the operation of subclause (1) or clause 5.

Clause 7 provides for the termination of the adoption or amendment reference. The clause allows for the termination of

- (a) the adoption and amendment reference;
- (b) the amendment reference; or
- (c) the adoption (if the amendment reference has previously been terminated).

Subclause (1) provides for the Governor to make the termination by a proclamation published in the Gazette which fixes the day on which termination takes effect.

Subclause (2) provides that the termination cannot take effect until six months after the day the proclamation is published.

Subclauses (3) to (5) provide for the revocation of a proclamation made under subclause (1).

Subclause (6) provides that a proclamation under subclause (1) or (3) is subordinate legislation. The requirements of the *Statutory Instruments Act 1992* in relation to the making of subordinate legislation will apply to a proclamation made under this clause.

Clause 8 deals with the effect of a termination of the amendment reference before the termination of the adoption. Subclause (2) clarifies that it is the intention of Parliament that if the amendment reference terminates before the initial reference terminates, the termination of the amendment reference does not affect the operation of laws already in place. Subclause (3) provides that the amendment reference continues to have effect for the purposes of subclause (2) unless the initial reference is also terminated. However under subclause (4), subclauses (2) and (3) do not apply to an amendment of the national VET legislation that is excluded from the operation of clause 8 by the proclamation that terminates the amendment reference.

Part 3 Amendment of the Building Act 1975

Clause 9 provides that this part amends the *Building Act 1975*.

Clause 10 amends the requirements in section 246BH(2) for obtaining a licence as a pool safety inspector, by replacing a reference to a certificate of competency for an approved training course with a reference to a qualification or statement of attainment for an approved training course. The approved training course will be an accredited course in the VET system and the outcome of that course will be a qualification or statement of attainment, rather than a certificate of competency.

Clause 11 amends the requirements for an application for a licence as a pool safety inspector in section 246BI. The clause removes the term 'certificate of competency' and replaces it with 'qualification or statement of attainment'.

Clause 12 repeals section 246CS which gives an investigator appointed by the Pool Safety Council the power to inspect documents provided by an eligible course provider during a compliance audit. This provision is no longer required as the Pool Safety Council will not be performing audits of eligible course providers.

Clause 13 omits Chapter 8, Part 8 and inserts a new Part 8. The new section 246DG provides that the Pool Safety Council may approve a course to enable a person who is not a building certifier to apply for a licence under Part 6 of the Act. This will enable the Pool Safety Council to approve a course that has been accredited as a VET course. The new section provides that a description of the course may be published on the Department of Housing and Public Work's website.

Clause 14 amends the functions of the Pool Safety Council in s 246EH. The function in section 246EH(1)(e) is being amended to remove reference to eligible course providers as this concept will no longer be included in the Act. The function in section 246EH(1)(f) is being removed as the Pool Safety Council will no longer be auditing eligible course providers.

Clause 15 amends section 246EJ to provide that the Pool Safety Council cannot delegate its power to approve a training course under the new section 246DG.

Clause 16 amends section 259 to remove reference to training course guidelines issued under section 246EC. Clause 13 of this Bill omits Chapter 8, Part 8 and repeals section 246EC.

Clause 17 amends section 261 to remove the power to make regulations in relation to training courses conducted by eligible course providers.

Clause 18 inserts a new Chapter 11, Part 15 Transitional provisions for Vocational Education and Training (Commonwealth Powers) Act 2012.

The new section 309 defines the terms 'commencement' and 'former Act'. The term 'commencement' is defined to mean the commencement of this part, while the term 'former act' is defined to mean the *Building Act 1975* as in force from time to time before the commencement.

The new section 310 provides for individuals who complete an approved training course, under the former Act, to rely upon that course when applying for a licence under Part 6. An approved training course completed under the former Act (before commencement) will be taken to be an approved training course under this Act for a period of six months from the commencement. This will allow individuals who completed an approved training course offered by an eligible course provider to use that course when applying for a licence under Part 6, even though the definition of approved training course has changed.

The new section 311 provides a power for the Pool Safety Council to refund fees to eligible course providers in certain circumstances. This

section applies where an eligible course provider paid a fee under section 246DH of the former Act for approval of a training course and the approval is in force at the commencement. The Pool Safety Council may refund the proportion of the fee it considers appropriate having regard to the period of the approval left to run after the commencement.

Clause 19 amends the dictionary in Schedule 2 of the Act. Definitions for ‘approved training course’, ‘assessor’, ‘certificate of competency’, ‘compliance audit’, ‘eligible course provider’, ‘registered training organisation’ and ‘training course guidelines’ are omitted as they are no longer relevant. The clause inserts definitions for ‘qualification’ and ‘statement of attainment’. A new definition for ‘approved training course’ is inserted to reflect the new process for approving a course. The definitions of ‘show cause notice’ and ‘show cause period’ are amended to remove elements which are no longer relevant.

Part 4 Amendment of Gaming Machine Act 1991

Clause 20 provides that this part amends the *Gaming Machine Act 1991*.

Clause 21 inserts a new Part 10A Division 6 Other matter. The new section 337O is a displacement provision. It declares that part 10A is a VET legislation displacement provision for the purposes of section 11 of the NVR Act in relation to all the provisions of that Act. Part 10A of the Act deals with the approval of a training course for the responsible service of gambling. This provision will ensure that Part 10A of the Act continues to apply to RTOs after the referral of power to the Commonwealth. This division expires 2 years after it commences.

Part 5 Amendment of Liquor Act 1992

Clause 22 provides that this part amends the *Liquor Act 1992*.

Clause 23 inserts a new Part 5A Division 6 Other matter. New section 142MA is a displacement provision. It declares that part 5A is a VET

legislation displacement provision for the purposes of section 11 of the NVR Act in relation to all the provisions of that Act. Part 5A of the Act deals with the approval of trainers for the licensee's course (responsible management of licensed venues) and an approved training course for the responsible service of alcohol. This provision will ensure that Part 5A of the Act continues to apply to RTOs after the referral of power to the Commonwealth. This division expires 2 years after it commences.

Part 6 **Amendment of Vocational Education, Training and Employment Act 2000**

Clause 24 provides that this part amends the VETE Act.

Clause 25 amends the objectives in section 3 of the Act. The objectives in section 3(a) and (e) are being repealed because the VETE Act will no longer achieve these objectives after the referral of power to the Commonwealth.

Clause 26 inserts a new definition of registered training organisation which refers to the Commonwealth Act. The definition of registered training organisation under the Commonwealth Act includes registered training organisations registered by the National VET Regulator and registered training organisations registered by regulators in non referring jurisdictions.

Clause 27 omits Chapter 2 of the Act (Training Organisations). This Chapter regulates RTOs and is being repealed as this Bill refers the power to regulate RTOs to the Commonwealth Parliament.

Clause 28 amends section 73 to remove references to issuing a qualification as this is a matter which is being referred to the Commonwealth Parliament. This clause also replaces references to the 'council,' that is TERC, with Skills Queensland.

Clause 29 omits section 73A which allowed the TERC to authorise the issue of qualifications or statements of attainment.

Clause 30 amends the functions of Skills Queensland in section 149 to insert new functions. Functions currently performed by TERC, that will be

performed by Skills Queensland after the commencement, are taken from section 168 and inserted into section 149. Clause 30 inserts functions:

- to advise the Minister on policy and guidelines for—
 - (i) registering and regulating training contracts; and
 - (ii) the training requirements for apprentices and trainees; and
 - (iii) vocational placements; and
 - (iv) making decisions about employment exemptions;
- to register and regulate training contracts;
- to recognise vocational placement schemes and register and regulate vocational placement agreements;
- to declare apprenticeships or traineeships;
- to declare a calling to be a restricted calling;
- to decide probationary periods and nominal terms for apprenticeships and traineeships;
- to issue recognition certificates;
- to grant employment exemptions;
- to recognise non-departmental employment skills development programs for the purposes of the *Education (General Provisions) Act 2006*, section 240(3);
- to maintain a register of recognised non-departmental employment skills development programs;
- to maintain a register of training contracts for apprentices and trainees; and
- to recognise group training organisations and principal employer organisations.

The function currently in section 149(1)(h), to perform any other functions given to it under this or another Act, is moved to section 149(1)(t).

Subclause (2) amends section 149(2) to insert a requirement that Skills Queensland have regard to guidelines it has made when performing its functions. TERC is subject to a similar requirement in section 189(3) VETE Act.

Clause 31 amends section 152 to give Skills Queensland the power to authorise subdelegation by a person or entity delegated a function by Skills Queensland. TERC currently has the ability to authorise subdelegation so this amendment will give Skills Queensland the same powers in relation to delegation as TERC.

Clause 32 inserts new sections 152A and 152B. Section 152A gives Skills Queensland the power to make guidelines for performing its functions. TERC currently has the ability to issue guidelines and this amendment will give Skills Queensland the same ability to issue guidelines. Section 152B gives Skills Queensland the power to approve a form for use under this Act.

Clause 33 omits Chapter 5, Part 3, Divisions 1, 2, 3 and 6 from the Act. This amendment is being made to abolish TERC. This Bill transfers TERC's remaining functions to Skills Queensland by amending section 149 of the Act.

Clause 34 amends the regulation making power for the establishment of TAFE Institutes as statutory TAFE institutes in section 220Z to remove reference to matters covered in Chapter 2. Clause 27 of this Bill repeals Chapter 2 which deals with registered training organisations.

Clause 35 omits section 224(1)(a) and (b) which provide for a review by the Queensland Civil and Administrative Tribunal (QCAT) of a decision about the registration of an RTO or accreditation of a course. This Bill will result in these decisions being made by the Commonwealth under the national VET legislation.

Clause 36 amends section 230 which deals with appeals to the Industrial Commission to remove reference to appeals about the cancellation of a qualification or statement of attainment as Queensland will no longer be responsible for these functions.

Clause 37 amends section 279 to remove reference to the offence in section 73(6) as applied by section 73A(5) as a prescribed provision for an offence about false or misleading statements or documents. Section 73A is repealed by this Bill.

Clause 38 amends section 280 to remove reference to offences in Chapter 2 and section 73A for the purposes of establishing liability of executive officers for offences committed by corporations. Chapter 2 and section 73A are being repealed by this Bill.

Clause 39 amends section 291 to remove the power to make regulations in relation to matters included in Chapter 2 which is being repealed by this Bill.

Clause 40 inserts a new Chapter 10, Part 7 Transitional provisions for the *Vocational Education and Training (Commonwealth Powers) Act 2012*.

The purpose of this part is to:

- provide for decisions made by TERC to continue to have effect after TERC is abolished, the relevant provisions state that Skills Queensland is taken to have made the decision;
- provide for any action taken by parties to a training contract to continue to have effect after the amendments in this Bill commence;
- ensure that any decision making processes or applications pending at the time of commencement transfer to Skills Queensland, allowing Skills Queensland to continue considering the matter or application after TERC is abolished; and
- ensure that any approved forms, delegations or guidelines issued by TERC continue to have effect to the extent that they relate to functions being performed by Skills Queensland.

The provisions will also provide for the substitution of Skills Queensland as a party to proceedings before QCAT or the Industrial Commission for proceedings pending at the time of commencement or for proceedings initiated after commencement in relation to decisions made before commencement. Skills Queensland will only be substituted as a party where Skills Queensland can make decisions for similar matters under its functions. The national VET legislation includes transitional arrangements for proceedings in relation to decisions about registered training organisations and vocational education and training courses.

Clause 40 also includes a new section 406 transitional regulation making power. This section and any transitional regulation made under it will expire 1 year after the commencement of this Act. This transitional regulation making power may only be used to provide for the transfer of functions or processes from TERC to Skills Queensland.

Clause 41 amends Schedule 3 dictionary by removing definitions which are no longer relevant, removing references to TERC and updating other definitions to reflect the terminology used in the Commonwealth Act. The Commonwealth Act is now defined as the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

Part 4 Consequential amendments

Clause 42 provides that the schedule amends the legislation it mentions.

Part 2 of the schedule includes consequential amendments to the VETE Act and other Acts to remove references to TERC and replace them with Skills Queensland. It also includes amendments to other legislation to update references to terms such as registered training organisation and Australian Qualifications Framework.

This part also includes amendments to the *Education (Queensland Studies Authority) Act 2002* in relation to the Queensland Studies Authority's (QSA) ability to exercise powers delegated to it. After the commencement of this Act the QSA will only exercise functions in relation to VET delegated by ASQA under the NVR Act. The functions of the QSA in section 14 are amended to refer to the National VET Regulator and the NVR Act.