

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.



Legislative Assembly Chamber,
Brisbane,

M. Harris
The Clerk of the Parliament.
29 October 2013

In the name and on behalf of the Queen, I assent to this Bill.

Penelope Wensley
Government House,
Brisbane, *29th October,* 2013



Queensland

No. *49* of 2013
A BILL for

An Act to amend the Vocational Education, Training and Employment Act 2000 for particular purposes, and to make consequential amendments of the Industrial Relations Act 1999 and other Acts as stated in schedule 1 for purposes related to those particular purposes, and to amend the TAFE Queensland Act 2013 for particular purposes



Queensland

Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Bill 2013

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Vocational Education, Training and Employment Act 2000	
3	Act amended	6
4	Insertion of new s 54A	6
	54A Chief executive may keep register	7
5	Insertion of new ch 3, pt 1A	7
	Part 1A Declaring apprenticeships or traineeships	
	47 Declaring apprenticeships or traineeships	7
6	Amendment of s 53 (Employer to give training contract to Skills Queensland for registration)	7
7	Omission of ch 5 (Skills Queensland)	8
8	Amendment of s 230 (Appeal to industrial commission against Skills Queensland or other decisions)	8
9	Insertion of new ch 9, pt 1, div 1, sdiv 1, hdg.	9
10	Amendment of s 245 (Chief executive's powers)	9
11	Insertion of new s 245A	9
	245A Guidelines	9
12	Replacement of s 246 (Delegations)	10
	246 Delegations	10
13	Insertion of new ch 9, pt 1, div 1, sdivs 2–4	11
	Subdivision 2 Recognition certificates	
	250A Recognition of work or training	11

Contents

	Subdivision 3	Deciding employment exemptions	
	250B	Application for employment exemption	12
	250C	Decision about employment exemption	12
	250D	Amending or cancelling employment exemption	13
	Subdivision 4	Recognising non-departmental employment skills development programs	
	250E	Chief executive may recognise program.	15
	250F	Chief executive must maintain register.	15
14		Amendment of s 262 (Power to enter places)	15
15		Amendment of s 277 (False or misleading statements to official)	16
16		Amendment of s 282 (Disclosure of interests by member of disclosure body)	16
17		Amendment of s 284 (Other disclosure of interests)	16
18		Amendment of s 289 (Evidentiary provisions)	16
19		Amendment of s 290 (Protection from liability).	17
20		Insertion of new s 290A	17
	290A	Approved forms	18
21		Insertion of new ch 10, pt 9	18
	Part 9	Transitional provisions for Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013	
	411	Definitions for pt 9.	18
	412	Dissolution of Skills Queensland	19
	413	Chief executive is legal successor	20
	414	Documents held by Skills Queensland that become documents of chief executive	20
	415	Continuation of registration of training contracts and vocational placement agreements for long placement	20
	416	Obligation to return cancelled recognition certificate .	21
	417	Applications made to Skills Queensland taken to be made to chief executive	21
	418	Decisions etc. of Skills Queensland taken to be decisions etc. of chief executive	21
	419	Right of review or appeal	23
	420	Chief executive substituted for Skills Queensland in proceedings in QCAT and industrial commission.	23
	421	Chief executive to replace Skills Queensland for matter remitted by industrial commission.	23

	422	Delegations by Skills Queensland to continue as delegations by chief executive	24
	423	Guidelines for Skills Queensland to continue as guidelines of chief executive.	24
	424	Approved forms continue as approved forms of chief executive.	25
	425	References in documents.	25
22		Amendment of sch 3 (Dictionary)	26
Part 3		Amendment of Industrial Relations Act 1999	
23		Act amended	26
24		Insertion of new ch 20, pt 17	26
	Part 17	Transitional provision for Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013	
	806	Continuation of decisions made by approving authority	27
25		Amendment of sch 5 (Dictionary)	27
Part 4		Amendment of TAFE Queensland Act 2013	
26		Act amended	28
27		Amendment of s 29 (Other staff)	28
Part 5		Consequential amendments	
28		Acts amended	28
Schedule 1		Acts amended	29
		Education (General Provisions) Act 2006.	29
		Industrial Relations Act 1999	29
		Public Service Act 2008	30
		Vocational Education, Training and Employment Act 2000	30

2013

A Bill

for

An Act to amend the *Vocational Education, Training and Employment Act 2000* for particular purposes, and to make consequential amendments of the *Industrial Relations Act 1999* and other Acts as stated in schedule 1 for purposes related to those particular purposes, and to amend the *TAFE Queensland Act 2013* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013*.

2 Commencement

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

Part 2 Amendment of Vocational Education, Training and Employment Act 2000

3 Act amended

This part amends the *Vocational Education, Training and Employment Act 2000*.

Note—

See also the amendments in schedule 1.

4 Insertion of new s 54A

After section 54—

insert—

54A Chief executive may keep register

The chief executive may keep a register of training contracts for apprentices and trainees.

5 Insertion of new ch 3, pt 1A

Chapter 3, before part 1—

insert—

Part 1A Declaring apprenticeships or traineeships

47 Declaring apprenticeships or traineeships

- (1) This section applies if a person can obtain a qualification or statement of attainment by completing employment based training with an employer.
- (2) The chief executive may declare the employment based training leading to the qualification or statement of attainment to be an apprenticeship or traineeship.
- (3) A declaration under subsection (2) does not prevent the qualification or statement of attainment from being attained in a way other than by completing an apprenticeship or traineeship.

6 Amendment of s 53 (Employer to give training contract to Skills Queensland for registration)

- (1) Section 53, heading, ‘Skills Queensland’—

omit, insert—

chief executive

- (2) Section 53, ‘Skills Queensland’—

omit, insert—

the chief executive

7 Omission of ch 5 (Skills Queensland)

Chapter 5—

omit.

8 Amendment of s 230 (Appeal to industrial commission against Skills Queensland or other decisions)

- (1) Section 230, heading, ‘Skills Queensland or other decisions’—

omit, insert—

particular decisions of chief executive

- (2) Section 230(1)—

omit, insert—

- (1) A person aggrieved by any of the following decisions of the chief executive may appeal to the industrial commission—
- (a) a refusal to register a training contract under section 54;
 - (b) a refusal to approve an amendment or assignment of a registered training contract under section 57;
 - (c) a cancellation of, or refusal to cancel, a registered training contract under section 63, 64 or 66;
 - (d) a confirmation of, or refusal to confirm, the suspension of an apprentice or trainee under section 64;
 - (e) an order under section 65(4) or (5);
 - (f) an order, or refusal to make an order, under section 71;

- (g) a cancellation, or refusal to cancel, a completion certificate under section 76;
- (h) a refusal to extend the nominal term of a registered training contract under section 77;
- (i) a declaration, variation of a declaration, or refusal to vary a declaration, of a prohibited employer under section 83 or 84;
- (j) an approval, or refusal to approve, the temporary stand down of an apprentice or trainee under section 86.

9 Insertion of new ch 9, pt 1, div 1, sdiv 1, hdg

Chapter 9, part 1, division 1—

insert—

**Subdivision 1 Functions and powers
generally**

10 Amendment of s 245 (Chief executive's powers)

Section 245(3)(i), 'issue guidelines and'—

omit, insert—

make

11 Insertion of new s 245A

After section 245—

insert—

245A Guidelines

- (1) The chief executive may make guidelines for the performance of a function of the chief executive under this Act.
- (2) The chief executive must—

- (a) publish the guidelines on the department's website; and

Editor's note—

The department's website is
<www.dete.qld.gov.au>.

- (b) keep a copy of the guidelines available for inspection, free of charge, at an office of the department during ordinary office hours on business days.
- (3) A guideline takes effect—
 - (a) on the day it is published on the department's website; or
 - (b) if a later day is stated in the guideline—on the later day.
 - (4) If the chief executive makes a guideline for performing a function, the chief executive must have regard to the guideline in performing the function.

12 Replacement of s 246 (Delegations)

Section 246—

omit, insert—

246 Delegations

- (1) The chief executive may delegate the chief executive's functions and powers to an appropriately qualified person.
- (2) A person delegated a function or power may subdelegate it only—
 - (a) if the delegation permits the subdelegation; and
 - (b) to an appropriately qualified person.

13 Insertion of new ch 9, pt 1, div 1, sdivs 2–4

Chapter 9, part 1, division 1—

insert—

Subdivision 2 Recognition certificates

250A Recognition of work or training

- (1) A person who has worked, or undertaken training, in a calling may apply to the chief executive to have the person's skills and knowledge in the calling recognised.
- (2) If the chief executive is satisfied the person has necessary skills and knowledge in the calling, the chief executive may issue the person with a certificate (a *recognition certificate*).
- (3) To remove doubt, it is declared that a recognition certificate is not a qualification or a statement of attainment.
- (4) The chief executive may cancel a recognition certificate by fair procedures prescribed under a regulation if the recognition certificate was issued—
 - (a) in error; or
 - (b) because of a document or representation that—
 - (i) is false or misleading; or
 - (ii) was obtained or made in another improper way.
- (5) If the recognition certificate is cancelled, the person to whom it was issued must return it to the chief executive within 7 days after the chief executive gives notice of the cancellation to the person, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—40 penalty units.

Subdivision 3 Deciding employment exemptions

250B Application for employment exemption

- (1) A young person in the compulsory participation phase or a parent of the young person may apply to the chief executive for an employment exemption for the young person.
- (2) The application must be in the approved form.
- (3) The applicant must give any information required by the chief executive to decide the application.

250C Decision about employment exemption

- (1) On an application for an employment exemption, the chief executive may grant the employment exemption for the young person, or refuse to do so.
- (2) If the chief executive decides to grant the application, the chief executive must immediately give the applicant a notice of the decision (an *exemption notice*).
- (3) If the chief executive decides to refuse the application, the chief executive must immediately give the applicant a notice of the decision (an *information notice*).
- (4) An information notice must state the following—
 - (a) the decision;
 - (b) the reasons for the decision;
 - (c) the day the decision has effect;

- (d) that the young person or parent of the young person may apply, as provided under the QCAT Act, to QCAT for a review of the decision;
- (e) how to apply for a review;
- (f) any right the young person or parent of the young person has to have the operation of the decision stayed.

250D Amending or cancelling employment exemption

- (1) The chief executive may amend or cancel the employment exemption for a young person—
 - (a) on application by the young person or a parent of the young person; or
 - (b) on the chief executive's own initiative.
- (2) The application must be in the approved form.
- (3) If the chief executive decides to amend the employment exemption—
 - (a) the chief executive must immediately give a notice of the decision (an *exemption notice*)—
 - (i) if the decision is made on application—to the applicant and an interested person; or
 - (ii) otherwise—to the young person and a parent of the young person; and
 - (b) the amended employment exemption replaces any earlier employment exemption for the young person.
- (4) If the chief executive decides to cancel the employment exemption, the chief executive must immediately give a notice of the decision (an *information notice*)—

- (a) if the decision is made on application—to the applicant and an interested person; or
 - (b) otherwise—to the young person and a parent of the young person.
- (5) An exemption notice or information notice given under this section must include appropriate information about the following—
- (a) the decision;
 - (b) the reasons for the decision;
 - (c) the day the decision has effect;
 - (d) that the young person or parent of the young person may apply, as provided under the QCAT Act, to QCAT for a review of the decision;
 - (e) how to apply for a review;
 - (f) any right the young person or parent of the young person has to have the operation of the decision stayed.
- (6) In this section—
- interested person* means—
- (a) if the applicant is the young person—a parent of the young person; or
 - (b) if the applicant is a parent of the young person—the young person.

Subdivision 4 Recognising non-departmental employment skills development programs

250E Chief executive may recognise program

- (1) The chief executive may recognise a non-departmental employment skills development program for the purposes of the *Education (General Provisions) Act 2006*, section 240(3).
- (2) The chief executive may withdraw a recognition by fair procedures prescribed under a regulation.
- (3) In this section—

non-departmental employment skills development program means an employment skills development program other than a departmental employment skills development program.

250F Chief executive must maintain register

The chief executive must maintain a register of non-departmental employment skills development programs recognised under section 250E.

Editor's note—

The register is available for inspection during office hours at Level 4, Education House, 30 Mary Street, Brisbane or on the department's website <www.training.qld.gov.au/training-organisations/education-reforms/employment-skills.html>.

14 Amendment of s 262 (Power to enter places)

Section 262(1)(e)(ii)—

omit, insert—

- (ii) a delegate of the chief executive, other than an officer of the department, is exercising a power delegated to the delegate by the chief executive;

15 Amendment of s 277 (False or misleading statements to official)

Section 277(2), definition *official*—

omit, insert—

official means the chief executive or an inspector.

16 Amendment of s 282 (Disclosure of interests by member of disclosure body)

Section 282(4), definition *disclosure body*, paragraphs (b) to (d)—

omit, insert—

- (b) a committee established by a TAFE institute council;
- (c) a committee established by the chief executive.

17 Amendment of s 284 (Other disclosure of interests)

(1) Section 284(2)—

omit, insert—

- (2) The person must disclose the interest to the chief executive.

Maximum penalty—50 penalty units.

(2) Section 284(3), ‘, chairperson’—

omit.

18 Amendment of s 289 (Evidentiary provisions)

(1) Section 289(2)—

omit, insert—

- (2) It is not necessary to prove the appointment of the chief executive or an inspector, or the authority of the chief executive or an inspector to do anything under this Act, unless a party, by reasonable notice of at least 7 days, requires proof of the appointment or authority.

- (2) Section 289(3), ‘a person authorised to sign the document for Skills Queensland,’—

omit.

- (3) Section 289(4)—

omit, insert—

- (4) An entry in a register kept under this Act, or a copy or extract from a register kept under this Act, certified to be a true copy or extract by the chief executive is evidence of the matters contained in the register.

- (4) Section 289(5) and (8), ‘a person authorised to sign a document for Skills Queensland,’—

omit.

- (5) Section 289(7), ‘, Skills Queensland’—

omit.

19 Amendment of s 290 (Protection from liability)

Section 290(3), definition *indemnified person*, paragraph (g)—

omit.

20 Insertion of new s 290A

After section 290—

insert—

290A Approved forms

The chief executive may approve forms for use under this Act.

21 Insertion of new ch 10, pt 9

Chapter 10—

insert—

Part 9 Transitional provisions for Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013

411 Definitions for pt 9

In this part—

commencement means the commencement of this part.

former Act means this Act as in force from time to time before the commencement.

former provision means the following sections of the former Act repealed by the *Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Act 2013*—

- (a) section 182;
- (b) section 183;
- (c) section 183A;
- (d) section 183B;

- (e) section 183C;
- (f) section 183D;
- (g) section 183E.

new provision, for a former provision, means the following sections—

- (a) for section 182 of the former Act—section 250A;
- (b) for section 183 of the former Act—section 47;
- (c) for section 183A of the former Act—section 250B;
- (d) for section 183B of the former Act—section 250C;
- (e) for section 183C of the former Act—section 250D;
- (f) for section 183D of the former Act—section 250E;
- (g) for section 183E of the former Act—section 250F.

412 Dissolution of Skills Queensland

- (1) On the commencement—
 - (a) Skills Queensland is dissolved; and
 - (b) the members of Skills Queensland go out of office; and
 - (c) the chief executive officer of Skills Queensland goes out of office.
- (2) No compensation is payable to a member or the chief executive officer because of subsection (1).

413 Chief executive is legal successor

- (1) The chief executive is the successor in law of Skills Queensland.
- (2) Subsection (1) is not limited by another provision of this part.

414 Documents held by Skills Queensland that become documents of chief executive

- (1) This section applies to documents held by Skills Queensland immediately before the commencement that—
 - (a) related to Skills Queensland's functions under the former Act; and
 - (b) on the commencement, relate to similar functions to be performed by the chief executive under this Act.
- (2) On the commencement, the documents become the documents of the chief executive and may be used by the chief executive in performing the chief executive's functions under this Act.

415 Continuation of registration of training contracts and vocational placement agreements for long placement

- (1) This section applies to the registration of a training contract or vocational placement agreement for a long placement by Skills Queensland under the former Act and in force immediately before the commencement.
- (2) On the commencement, the contract or agreement continues as if it had been registered by the chief executive under this Act.

416 Obligation to return cancelled recognition certificate

An obligation to return a cancelled recognition certificate under section 182(5) of the former Act that had not ended before the commencement is taken to be an obligation to return the certificate to the chief executive under section 250A(5).

417 Applications made to Skills Queensland taken to be made to chief executive

- (1) This section applies if—
 - (a) before the commencement, a person made an application under the former Act to Skills Queensland; and
 - (b) immediately before the commencement, the application had not been finally dealt with.
- (2) On the commencement—
 - (a) the application is taken to have been made to the chief executive; and
 - (b) the chief executive may deal or continue to deal with the application under this Act.

418 Decisions etc. of Skills Queensland taken to be decisions etc. of chief executive

- (1) This section applies to—
 - (a) an approval, certificate, consent, decision, declaration, notice, order, requirement or thing given, issued, made or done before the commencement by, or in relation to, Skills Queensland under the former Act that is current immediately before the commencement; and

- (b) a recognition by Skills Queensland that is current immediately before the commencement.
- (2) On the commencement—
 - (a) the approval, certificate, consent, decision, declaration, notice, order, requirement or thing is taken to have been given, issued, made or done by, or in relation to, the chief executive; and
 - (b) the recognition is taken to be a recognition by the chief executive.
- (3) The chief executive may deal or continue to deal with the matter the subject of the approval, certificate, consent, decision, declaration, notice, order, requirement, thing or recognition.

Examples—

- 1 If, before the commencement, Skills Queensland was deciding whether to cancel a completion certificate and it had given the affected person a show cause notice under the regulation, on the commencement, the chief executive is taken to have given the show cause notice and the chief executive may continue to undertake the process and decide whether to cancel the completion certificate.
 - 2 A recognition of a group training organisation by Skills Queensland that is in force immediately before the commencement is, on the commencement, taken to be a recognition of the group training organisation by the chief executive.
 - 3 A declaration by Skills Queensland of an employer as a prohibited employer that has not ended before the commencement is, on the commencement, taken to be a declaration by the chief executive.
- (4) A thing done by Skills Queensland under a former provision before the commencement is taken to have been done by the chief executive under the new provision for the former provision.

- (5) In this section—
current includes in force.

419 Right of review or appeal

- (1) Without limiting section 418, if a person had a right of review or appeal against a decision mentioned in that section that had not ended immediately before the commencement, the person may apply for a review of, or appeal against, the decision as if it were a decision of the chief executive.
- (2) Also, without limiting subsection (1), if the decision was made under a former provision, the person may apply for a review of the decision under the new provision for the former provision.

420 Chief executive substituted for Skills Queensland in proceedings in QCAT and industrial commission

- (1) This section applies if immediately before the commencement, Skills Queensland was a party to a proceeding in QCAT or the industrial commission in relation to a decision of Skills Queensland about a matter under the former Act.
- (2) On the commencement, the chief executive becomes a party to the proceeding instead of Skills Queensland.

421 Chief executive to replace Skills Queensland for matter remitted by industrial commission

- (1) This section applies if—
- (a) before the commencement, Skills Queensland made a decision about a matter mentioned in section 230; and

- (b) on the commencement—
 - (i) the decision is the subject of a proceeding; and
 - (ii) the industrial commission allows the appeal and remits a matter to the person who made the decision under section 233(2)(d).
- (2) The matter is remitted instead to the chief executive.

422 Delegations by Skills Queensland to continue as delegations by chief executive

- (1) This section applies to the following in force immediately before the commencement and relating to a function or power that the chief executive has under this Act—
 - (a) a delegation by Skills Queensland to an appropriately qualified entity under section 152(1)(e) of the former Act;
 - (b) a subdelegation by an entity under section 152(2) of the former Act.
- (2) On the commencement, the chief executive is taken to replace Skills Queensland as delegator and the delegation or subdelegation continues in force until the earlier of the following—
 - (a) the chief executive ends the delegation or subdelegation;
 - (b) 1 year after the commencement.

423 Guidelines for Skills Queensland to continue as guidelines of chief executive

- (1) This section applies to a guideline for Skills Queensland under section 152A of the former Act in force immediately before the

commencement that relates to a power or function that the chief executive has under this Act.

- (2) On the commencement, the guideline continues in force under this Act as if it had been made by the chief executive under section 245A until the earlier of the following—
 - (a) the chief executive repeals the guideline;
 - (b) 1 year after the commencement.
- (3) The chief executive must publish the guideline on the department's website.

424 Approved forms continue as approved forms of chief executive

- (1) This section applies to a form approved by Skills Queensland under section 152B of the former Act in force immediately before the commencement that relates to a power or function that the chief executive has under this Act.
- (2) On the commencement, the form continues in force under this Act as if it had been approved by the chief executive under section 290A until the earlier of the following—
 - (a) the chief executive repeals the approval of the form;
 - (b) 1 year after the commencement.

425 References in documents

A reference in a document to Skills Queensland may, if the context permits, be taken to be a reference to the chief executive.

22 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *appointed members*, *approved form*, *approved guideline*, *chief executive officer*, *non-departmental employment skills development program* and *recognition certificate*—

omit.

- (2) Schedule 3—

insert—

appointed members, for chapter 6, part 2, division 2, see section 196.

approved form see section 290A.

approved guideline, for a requirement for a matter, means the guideline for the matter made under section 245A.

non-departmental employment skills development program see section 250E(3).

recognition certificate see section 250A.

Part 3 Amendment of Industrial Relations Act 1999

23 Act amended

This part amends the *Industrial Relations Act 1999*.

Note—

See also the amendments in schedule 1.

24 Insertion of new ch 20, pt 17

After section 805—

insert—

Part 17 **Transitional provision
for Vocational
Education, Training and
Employment (Skills
Queensland) and
Another Act
Amendment Act 2013**

**806 Continuation of decisions made by approving
authority**

- (1) This section applies to a decision of Skills Queensland as the approving authority that is in force immediately before the commencement of this section.
- (2) On the commencement, the decision is taken to be a decision of the chief executive (VETE) as the approving authority.

25 Amendment of sch 5 (Dictionary)

- (1) Schedule 5, definition *approving authority*—
omit.
- (2) Schedule 5—
insert—

approving authority means the chief executive (VETE).

chief executive (VETE) means the chief executive of the department in which the *Vocational Education, Training and Employment Act 2000* is administered.

Part 4 **Amendment of TAFE Queensland Act 2013**

26 Act amended

This part amends the *TAFE Queensland Act 2013*.

27 Amendment of s 29 (Other staff)

Section 29(1), after ‘functions’—

insert—

, including, for example, on a temporary basis to meet
temporary circumstances

Part 5 **Consequential amendments**

28 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1 Acts amended

section 28

Education (General Provisions) Act 2006

- 1 **Section 240(6), definition *employment exemption*, ‘chapter 5, part 3, division 5A’—**
omit, insert—
chapter 9, part 1, division 1, subdivision 3
- 2 **Schedule 4, definition *employment exemption*—**
omit.
- 3 **Schedule 4, definition *non-departmental employment skills development program*, ‘section 183E’—**
omit, insert—
section 250F

Industrial Relations Act 1999

- 1 **Sections 137(4)(b)(i), 138(3)(b)(i), 138A(5), definition *probationary period*, 138B(3), 139A(1)(c)(i), 140(3)(b)(i), 140A(2)(b)(i) and 391(2)(b) and schedule 5, definition *group training organisation*, ‘Skills Queensland’—**
omit, insert—
the chief executive (VETE)

Public Service Act 2008

- 1** Schedule 1, entry for Skills Queensland under the *Vocational Education, Training and Employment Act 2000*—

omit.

Vocational Education, Training and Employment Act 2000

- 1** Sections 7, 8, 50(4), 54(4), (5) and (6), 57(1)(a) and (1A), 58(1), 63(1), (3) and (4), 64(4), (5), (8)(b) and (9), 65(2), (4) and (5), 66(3), 69(2)(b), 70, definition *misconduct*, paragraph (a)(i), 71(1), 73(4) and (5), 76(1), (3), (4) and (5), 77(2) and (4), 82(2) and (3), 83(4), (5) and (6), 84(1), (5), (6), (7) and (8), 86(3) and (4), 108(1), 109(3), 111, 118(1), (3) and (5), 121(2), 121(6), definition *approved time*, 122(3), 123(3), 221(2), 223(2), 223A(2), 223C(2) and 286(3)(c), and schedule 3, definitions *completion certificate*, *group training organisation*, *information notice*, *principal employer organisation*, *probationary period* and *restricted calling*, ‘Skills Queensland’—

omit, insert—

the chief executive

- 2** Sections 7 and 8, note 1, ‘section 183’—

omit, insert—

section 47

-
- 3 Sections 49(1), 50(1), 54(1), (2) and (3), 63(2), 64(7), 65(6), 66(2), 71(2) and (3), 76(2), 83(7), 84(2), (3) and (4), 89(1), 109(1) and (2), 118(2) and (4), 221(1), 223(1), 223A(1) and 223C(1), ‘Skills Queensland’—**
omit, insert—
The chief executive
- 4 Sections 63(2), 64(7)(b), 66(2), 83(5) and (6) and 84(5) and (6), ‘its decision’—**
omit, insert—
the decision
- 5 Sections 64(8), 66(1), 77(3) and 83(1), ‘Skills Queensland may’—**
omit, insert—
The chief executive may
- 6 Section 65, heading, ‘Skills Queensland’s’—**
omit, insert—
Chief executive’s
- 7 Section 65(5), ‘it may’—**
omit, insert—
the chief executive may
- 8 Section 65(6), ‘on its decision for’—**
omit, insert—
for the decision on

9 Sections 65(7), 66(1) and 110, ‘Skills Queensland’s’—

omit, insert—

the chief executive’s

10 Sections 66(1), 77(3) and 83(1), ‘if Skills Queensland’—

omit, insert—

if the chief executive

11 Section 71(3)(b), ‘of its decision’—

omit, insert—

for the decision

12 Section 76(3), from ‘it must’—

omit, insert—

the chief executive must immediately give the holder of the certificate an information notice for the decision.

13 Section 77(5)—

omit, insert—

(5) The chief executive must—

- (a) if the chief executive extends the nominal term, give the parties signed notice of the extension; or
- (b) if the chief executive refuses to extend the nominal term, promptly give the parties an information notice.

14 Section 78(3), ‘Editor’s note’—

omit, insert—

Note

- 15 Section 84(1), ‘request it’—**
omit, insert—
request the chief executive
- 16 Section 84(3) and (4), ‘only if it is’—**
omit, insert—
only if
- 17 Section 84(7), ‘it must’—**
omit, insert—
, the chief executive must
- 18 Section 86(2), ‘Skills Queensland for its’—**
omit, insert—
the chief executive for
- 19 Section 86(2A)—**
omit, insert—
(2A) When the chief executive decides the application, the chief executive must promptly give the employer and the apprentice or trainee an information notice for the decision.
- 20 Section 109, heading, ‘Skills Queensland’—**
omit, insert—
chief executive
- 21 Section 118(4) and (5), ‘of its’—**
omit, insert—
of the chief executive’s

22 Section 121(3), from ‘Skills Queensland may’ to ‘Skills Queensland is’—

omit, insert—

The chief executive may approve the extension only if

23 Section 121(4)—

omit, insert—

- (4) The chief executive must notify the organisation in writing immediately after deciding the application.

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Authorised by the Parliamentary Counsel