

**Department of Education, Training and Employment response to public submissions received by the Further Education and Training Bill 2014 (the Bill).**

	Submission	Support	Issues Raised	Departmental response
1	Queensland Tourism Industry Council (QTIC)	Yes	QTIC provides full support for the objectives of the Bill.	Noted.
2	Central Queensland University Australia	Yes	Queries whether there is a distinction between Certificates, Traineeships and Apprenticeships in the Bill.	<p>The Department considers that the Bill does distinguish between apprenticeships, traineeships and certificates of achievement.</p> <p>The Bill provides for both apprenticeships and traineeships to be declared. The department provides a list that identifies whether a calling is an apprenticeship or traineeship.</p> <p>Certificates of achievement are a new concept included in the Bill that provide for alternative training pathways to be recognised. Certificates of achievement will be available in areas where there are currently apprenticeships and traineeships. These alternative pathways will still enable a rigorous work based skill formation experience underpinned by quality training, but allow for a more flexible work pattern.</p>
			Considers that there are potential risks to licenced trades and complex trades regarding experience on-the-job and sign-off if employers are permitted to “provide certificates rather than a	The Bill does not change the current process for signing off on completion of an apprenticeship or traineeship. Apprenticeships and traineeships will remain employment based skill formation where an apprentice or trainee develops skills by working in a particular calling. Apprenticeships and traineeships can be contrasted to gaining skills through studying a vocational education and training course in an

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			registered trade’s person.”	<p>institutional setting without being employed in a calling.</p> <p>The Bill will ensure that apprenticeships and traineeships continue to provide quality training outcomes. The training plan will continue to be part of the apprenticeship/traineeship system. Employers and Supervising RTOs will be required to comply with the plan to ensure that the apprentice/trainee gains the necessary skills to qualify for the issue of a completion certificate.</p> <p>The Bill creates the concept of a certificate of achievement. The certificate of achievement will be administered by the Department of Education, Training and Employment. Certificates of achievement will recognise training and more flexible employment arrangements undertaken outside the traditional apprenticeship pathway. They will receive access to government funded training and support to enable them to complete a qualification and build a portfolio of relevant work experience. A range of qualifications and pathways will be offered under the proposed Registered Trade Skills Pathway (RTSP) program.</p> <p>Further alternative pathway arrangements are also being considered and developed by industry in consultation with Government for possible implementation.</p>
3	Independent Education Union – Queensland and Northern	In principle	Queries why reference to ‘community commitment to supporting young people in the compulsory participation phase’ has not been included in the	The Queensland Government has detailed its commitment to creating a more competitive, responsive and innovative VET sector to meet the needs of individuals, communities, industry and employers around the State in the five year VET action plan— <i>Great skills. Real opportunities</i> , which was launched in June 2013. It is based on the recommendations of

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	Territory Branch		<p>Objects of the Act (Part 2), when it was included in the current <i>Vocational Education, Training and Employment Act 2000</i> (VETE Act).</p>	<p>the industry-led Queensland Skills and Training Taskforce. The actions in the plan aim to foster economic growth by making sure Queenslanders, including young people in the compulsory participation phase, have access to quality training linked to employment.</p> <p>The transformation of Queensland’s VET sector rests on three foundations: making sure all Queenslanders can access training; ensuring the sector delivers high quality training linked to employment; and effective Government engagement with industry and employers.</p> <p>A key initiative within the reforms is the Certificate 3 Guarantee, which gives eligible Queenslanders the opportunity to attain their first post-school certificate III level qualification in a priority training area.</p> <p>The <i>Education (General Provisions) Act 2006</i> establishes the compulsory participation phase concept and outlines how a young person complies with the requirements of compulsory participation. This Bill is about the regulation of apprenticeship, traineeships and other training related matters and it is not necessary to refer to the declaration currently referred to in Chapter 3A VETE Act.</p>
			<p>Asks why explicit reference has not been made to vocational placement schemes, and ‘training contract’ has not been defined, when it was in the current VETE Act.</p> <p>Also, asks why the Bill does not</p>	<p>Queensland referred power to regulate registered training organisations (RTOs) on 29 June 2012 in the <i>Vocational Education and Training (Commonwealth Powers) Act 2012</i>. After the referral, Queensland could no longer regulate vocational placements. As a transitional measure the <i>Vocational Education and Training (Commonwealth Powers) Act 2012</i> provided for Queensland to continue to regulate vocational placements for 2 years from 29 June 2012. That period has now expired and</p>

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			<p>specify minimum hours for work placement.</p>	<p>Queensland will no longer regulate vocational placements.</p> <p>Employers and RTOs can still organise these placements and RTOs will still be able to apply for WorkCover insurance eligible for vocational placement students under the <i>Workers' Compensation and Rehabilitation Act 2003</i>.</p> <p>A Training Contract is defined in the Dictionary of the Bill, and only relates to apprenticeships and traineeships.</p> <p>Work placements, such as vocational placements or work experience under the <i>Education (Work Experience) Act 1996</i>, do not specify minimum hours of work, rather they set maximum periods. As noted above, vocational placements will no longer be regulated by Queensland so it will not be possible to specify any requirements for such placements. The amount of work experience required to gain a particular qualification will be determined by the RTO in accordance with the requirements of the relevant training package.</p> <p>RTOs are regulated by the Australian Skills Quality Authority (ASQA) under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwth).</p>
			<p>Queries why the chief executive is no longer required to 'promptly' give parties notice of registration or refusal of a training contract, when it was included in the current</p>	<p>The timeframes relating to the signing of a training contract and the submission of the training contract to the chief executive for a registration decision have been greatly reduced from up to 121 days to 28 days.</p> <p>The Bill requires the chief executive to notify parties of the decision on</p>

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			VETE Act.	registration of a training contract. This notification will be given as soon as possible.
			Asks why apprentices who commence during school and finish after school are not required to have training contracts with conditions of continuation, rather than it being possible for the chief executive to amend their contract without application.	<p>The training contract for a particular apprenticeship or traineeship must be accurate at the time of registration. The contract is in a standard form used by all jurisdictions and it is not appropriate for Queensland to alter how that form is used. The intention with school based apprenticeships or traineeships is the apprenticeship or traineeship continues until the requirements of the training contract are completed, or the parties decide to cancel.</p> <p>While an apprentice and trainee is still at school there are a number of specific requirements that apply to the training contract. These requirements ensure that they get a head start in their career, such as ensuring that the apprenticeship/traineeship training and work fits within the school calendar. Once the apprentice or trainee leaves school it is no longer necessary to manage these issues so the training contract converts to another non-school based category to give the apprentice or trainee the chance to complete the apprenticeship/traineeship. As employment matters are separate from the training contract if the apprentice/trainee decides to leave employment before completing the apprenticeship/traineeship then that will cause the apprenticeship or traineeship to come to an end.</p> <p>When an apprentice/trainee leaves school there will usually be a need for the RTO to negotiate a change to the training plan with the apprentice/trainee and employer, as the apprentice/trainee will now have more time available for training and work which will enable them to</p>

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				<p>complete the remaining requirements of the training plan. The apprentice/trainee will therefore be aware of the changes being made to their apprenticeship or traineeship.</p> <p>The other examples given in the Bill for the chief executive's power to amend the training contract are amendments which are not of any concern to the parties. For example, the name of a qualification may change affecting hundreds of apprentices and trainees. For administrative efficiency the chief executive will amend the contract but will not notify the parties of this amendment. The parties will, however, be aware of the change because the training plan will also need to be amended.</p>
			<p>Queries why the chief executive is permitted to amend a training contract without consultation or notification.</p>	<p>The purpose of allowing the chief executive to amend a training contract under clause 22 of the Bill is to assist the parties by allowing for limited amendments to be made without the need for an application.</p> <p>This reduces red tape for the parties to a training contract in situations where circumstances change and the details in the training contract require updating. Clause 22 gives examples of situations in which this power would be used. Clause 22 will not allow the chief executive to fundamentally alter the training contract.</p> <p>Further, the training contract is a national template with limited scope for meaningful amendment beyond reference to training matters, so amendments made by the chief executive will be limited and not associated with employment related matters.</p>

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			<p>Believes that the freedom given to the parties to temporarily transfer a training contract in Division 4 may be used in conjunction with the power of the chief executive to amend a training contract without application or consultation.</p>	<p>Division 4 does not operate in conjunction with clause 22. The decision under clause 24 to temporarily transfer a training contract from one employer to another to ensure continuity of training can only be exercised by the parties to the training contract. The chief executive does not have the power to order transfers of training contracts.</p>
			<p>Believes that the freedom given to parties to suspend a training contract in Division 5 may be used in conjunction with the power of the chief executive to amend a training contract without application or consultation.</p>	<p>Division 5 does not operate in conjunction with clause 22. The power to suspend a training contract can only be exercised by the parties to the training contract.</p>
			<p>Queries what will happen to the parties to a training contract in the event that an employer or training organisation ceases to operate.</p>	<p>Clause 36 provides for the cancellation of a training contract by the chief executive if the employer ceases business. Other provisions in the Bill deal with the recognition of prior training and the issue of statements of attainment so that an apprentice or trainee is not disadvantaged when their employer ceases business.</p> <p>When deciding the nominal term of a particular training contract the chief executive can take into account previous training experience of the apprentice under clause 10. An apprentice who previously completed two years of a four year apprenticeship could be given a reduced nominal term when they register a new contract with a new employer.</p>

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				Supervising RTOs are regulated by the Australian Skills Quality Authority as RTOs under the <i>National Vocational Education and Training Regulation Act 2011</i> (Cwlth). That legislation sets standards for RTOs including the requirement to issue a statement of attainment after training ends.
			The Bill does not include an equivalent provision to s 65 VETE Act	Section 65 of the VETE Act dealt with reinstatement after cancellation of a training contract. This provision was a remedy that related to employment of an apprentice or trainee. This Bill takes the approach of leaving employment related matters to the relevant industrial relations legislation. Section 65 is therefore not included in the Bill because these matters are more appropriately dealt with as employment matters under the <i>Industrial Relations Act 1999</i> or <i>Fair Work Act 2009</i> (Cwlth).
			Asks why no time limits have been imposed during which the chief executive can decide to cancel a completion certificate.	The Bill removes the current 6 month time limit on cancelling a completion certificate. This ensures that if the chief executive discovers that a completion certificate was issued inappropriately, action can be taken.  Before cancelling a completion certificate the chief executive must first give the person a show cause notice, which allows the person to make a submission in relation to the proposed cancellation (clause 52 of the Bill).
			Queries why the existing flexibility for students to extend their training contracts if they require extra time to complete training has been removed.	The Bill does include a provision allowing for the extension of the nominal term of the training contract. Clause 23 allows for an application to be made to extend the nominal term of a training contract if the training contract is scheduled to end before the training contract will be successfully completed.



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			<p>Queries why employers are given a right of reply before they are prohibited under Division 10, while students are not given similar protections against cancellation of a training contract for failure to complete training within a specified time.</p>	<p>Before a decision to declare an employer a prohibited employer is made the chief executive must provide natural justice to the employer under clause 60 of the Bill. This is appropriate because of the seriousness of prohibited employer declaration.</p> <p>This division does not relate to apprentices and trainees only employers who may be prohibited from employing apprentices or trainees. However it should be noted that clause 23 allows for an application to be made to extend the nominal term of a training contract if the training contract is scheduled to end before the training contract will be successfully completed.</p>
			<p>Believes that the meaning of 'restricted callings' is unclear.</p>	<p>The power to declare restricted callings in clause 64 of the Bill is in similar terms to the current power in the VETE Act. The VETE Act allows the chief executive to declare restricted callings and the Bill continues this approach. The declaration of a restricted calling prevents employers from engaging an employee under the age of 18 in that calling unless the employee is an apprentice or trainee.</p>
			<p>Believes that Part 3 of the Bill fails to acknowledge the role of schools and government-supported TAFE programs in further education and training programs, and believes that withdrawal of government-supported TAFE programs is reducing the number of school-based students accessing further</p>	<p>The purpose of the Bill is to provide for the regulation of apprenticeships, traineeships and other related training matters. The Bill does not regulate RTOs and it cannot do so because Queensland referred power to regulate RTOs to the Australian Government in 2012.</p> <p>Schools provide valuable training opportunities to students through the delivery of VET and will continue to do so. The role of schools in this area is recognised through funding programs and other administrative arrangements. It is not necessary for the Bill to provide for these matters.</p>

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			education and training programs.	The focus of the Bill is on the parties and organisations that have obligations and responsibilities for apprenticeships and traineeships outlined in the Bill. The Bill recognises the needs of school based apprentices and trainees and ensures that only training contracts supported by the student's school can be registered.
			Believes that requiring an inspector to obtain a warrant before entering premises without consent has potentially serious ramifications if the safety and welfare of students may be at risk.	<p>The Bill includes provisions for the appointment of inspectors and the exercise of their powers. These provisions are similar to the current provisions in the VETE Act but have been updated to reflect modern drafting practice.</p> <p>The Bill includes appropriate limits on the powers of inspectors such as the requirement to enter with consent or obtain a warrant (clause 124). The role of inspectors is to ensure compliance with the Bill's provisions regulating apprenticeships and traineeships. Matters of public safety and the welfare of children are outside of the scope of this Bill.</p>
			Believes that students may have their training contract cancelled under clause 22, and not be notified of this cancellation with sufficient time to lodge an appeal under Chapter 6.	Training contracts cannot be cancelled under clause 22 as that clause only permits minor amendments to the training contract. The purpose of clause 22 is to reduce red tape for employers and apprentices/trainees. It is therefore not necessary to give an appeal right in relation to amendments made under clause 22.
			Believes that clause 183 intends to allow the redistribution of TAFE assets/resources to private providers, and that this will have a	Clause 183 provides for the chief executive to deal with property given to the department on trust for training purposes. For example, a person may leave land or other property to the department in their will with the property to be held by the department on trust for the advancement of

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			<p>significant impact on the ability of schools to provide students with access to further education and training programs.</p>	<p>apprentices or trainees in the local area. In some cases the terms of the trust may no longer be practicable so it may be necessary to vary the terms of that trust so that it may be used for the general objects of this Bill.</p> <p>The Bill does not provide for the distribution of public assets to private training providers.</p>
			<p>Believes that the Bill should make explicit mention that the <i>Work Health and Safety Act 2011</i> applies to students on placement.</p>	<p><i>Work Health and Safety Act 2011</i> makes it clear that any person conducting a business or undertaking must ensure the health and safety of workers. ‘Worker’ is defined in that Act as including ‘a student undertaking work experience’, which would cover a student on a placement. From 29 June 2014, Queensland no longer has the power to regulate vocational placement arrangements, and the appropriate place for Work Health and Safety provisions is in the <i>Work Health and Safety Act 2011</i>.</p>
			<p>Raises concern about the increasingly commercial approach taken to TAFE-based and general further education and training courses, and believes that this is having a significant impact on student engagement.</p>	<p>Chapter 6 of the VETE Act is being repealed because TAFE Queensland will operate under the <i>TAFE Queensland Act 2013</i> and Chapter 6 will no longer be necessary. The <i>TAFE Queensland Act 2013</i> does provide for a more commercially focussed delivery of VET by TAFE Queensland. This will ensure that TAFE Queensland is more competitive, responsive, innovative and flexible and will ensure a better return on Government’s investment in VET.</p> <p>The funding arrangements for VET are not contained in this Bill or the <i>TAFE Queensland Act 2013</i>.</p>

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4	Queensland Council of Unions	In principle	Believes that the Bill is pursuing an agenda of privatisation and outsourcing for the delivery of VET, and recommends that the Bill be redrafted to specify that the chief executive cannot outsource powers.	The Bill does not provide for the outsourcing of powers. The Bill includes a provision that allows delegation of the chief executive's functions and powers (clause 193), which has the same effect as the equivalent provision in the VETE Act.
			Believes that the Ministerial Industry Commission has inordinate influence over decision-making in respect to VET in Queensland, but its powers and functions are not outlined in the Bill.	The Bill does not give the Commission any decision making powers in relation to apprenticeships and traineeships. As the Commission is an advisory body, which does not exercise any statutory functions, it is not necessary that it be established in legislation.
			Believes that the Bill is devoid of appeal rights for individuals, apprentices, and trainees, and recommends that the Bill be redrafted to provide for an affordable right of appeal to individuals.	<p>The Bill does include appeal and review rights for particular decisions. Appeals are not provided for where seeking a review is unlikely to be practical or necessary, due to other natural justice mechanisms in place or the lesser significance of some decisions.</p> <p>The Bill takes the approach of removing employment related matters from the regulation of apprenticeships and traineeships and allows those matters to be dealt with under relevant industrial relations legislation. This removes the need for a number of review and appeal processes currently included in the VETE Act.</p>

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			Believes that the Bill erodes the rights and responsibilities of apprentices and trainees in relation to suspension and cancellation of indentures and transfers, which impacts of the welfare of apprentices and trainees.	The Bill continues to provide for the regulation of apprenticeships and traineeships. The Bill, however, recognises the nature of the modern workplace and reflects current practices. The process for suspension and cancellation is simplified and places the onus on the parties to resolve issues in relation to the training contract.
			Believes that there is no protection for the ongoing training of an apprentice or trainee who has had their employment wrongfully terminated.	The Bill removes duplication between the current regulatory framework and the industrial relations legislation, meaning that apprentices and employees can continue to pursue employment-related remedies under appropriate employment laws (rather than under the Bill).
			Believes that some employers may use an ongoing stream of apprentices or trainees as 'cheap labour' without appeal or recourse.	Apprentices and trainees will have recourse to the relevant industrial relations tribunal for employment related matters in the same way as other employees in their workplace.  Also, clause 60 provides for the chief executive to declare an employer to be a prohibited employer, which requires the chief executive to consider amongst other matters 'the employer's record in delivering training to apprentices or trainees'.
			Believes that the Queensland Industrial Relations Commission should hear appeals relating to the termination of training contracts.	Administrative review rights to the Queensland Industrial Relations Commission are in place for certain decisions under clause 36 (cancellation of a training contract). Other employment related matters frustrating the training contract can be addressed directly through proceedings in the relevant industrial relations tribunal, which is the

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				same for other employees in their workplace.
			States that clause 17 should be amended to state that registration of training contracts cannot be outsourced and that apprentices should be tested prior to registration.	<p>Clause 17 requires the chief executive to make the decisions in relation to registration of training contracts. The chief executive has a power of delegation but that power is in the same terms as the current delegation power under the VETE Act.</p> <p>Employers make decisions about the suitability of employing apprentices and trainees taking into account the requirements of the calling. The Supervising RTO develops a training plan with the parties and monitors the apprentice's or trainee's progress against the training plan. This is an established process that meets the needs of employers and apprentices/trainees. It is therefore not necessary to create a new process of testing apprentices/trainees as this would impose additional red tape.</p>
			Is concerned that training arrangements may not be required to ensure the provision of proper facilities and supervision, meaningful work and value-adding skills.	<p>Clause 17 enhances the chief executive's powers in relation to registration of training contracts. Clause 17 includes a number of matters that are currently stated in guidelines or departmental policies and clarifies the chief executive's powers to take into account these matters when registering training contracts.</p> <p>Employers who do not provide proper facilities and supervision are unlikely to have their training contracts registered as they must obtain the consent of a Supervising RTO before the contract will be registered (clause 17(5)(f)).</p> <p>In addition, the Bill includes penalties for failure to provide adequate facilities in clause 56 and allows for an employer to be prohibited under</p>

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				clause 59. It is considered that all of these protections will ensure that employers provide proper facilities and supervision and employers who fail to do so will be at risk of prosecution or being prohibited from employing apprentices.
			Is concerned that the chief executive has unfettered power to cease a calling as a 'restricted calling'.	The power to declare restricted callings in clause 64 of the Bill is in similar terms to the current power in the VETE Act. The VETE Act allows the chief executive to declare restricted callings and the Bill continues this approach. The declaration of a restricted calling prevents employers from engaging an employer under the age of 18 in that calling unless the employee is an apprentice or trainee. As there are no changes to the declaration process, the Chief Executive will continue to take advice from key stakeholders when declaring a restricted calling.