



Speech by


Hon. Stirling Hinchliffe

MEMBER FOR STAFFORD

Hansard Tuesday, 11 October 2011

VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) AND OTHER ACTS AMENDMENT BILL

Introduction and Referral to the Industry, Education, Training and Industrial Relations Committee

 **Hon. SJ HINCHLIFFE** (Stafford—ALP) (Minister for Employment, Skills and Mining) (12.32 pm): I present a bill for an act to adopt the National Vocational Education and Training Regulator Act 2011 (Cwlth) and the National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (Cwlth), and to refer certain matters relating to the regulation of vocational education and training to the Parliament of the Commonwealth, for the purposes of section 51 (xxxvii) of the Commonwealth Constitution, and to make amendments to the Building Act 1975, the Gaming Machine Act 1991, the Liquor Act 1992 and the Vocational Education, Training and Employment Act 2000, for particular purposes, and consequential amendments of the acts mentioned in the schedule. I table the bill and the explanatory notes. I nominate the Industry, Education, Training and Industrial Relations Committee to consider the bill.

Tabled paper: Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011 [\[5586\]](#).

Tabled paper: Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011, explanatory notes [\[5587\]](#).

I am pleased to introduce to the House the Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011. The introduction of this bill initiates a major reform of the vocational education and training sector—the VET sector—in Queensland, which will have a significant impact for students, employers and industry. The bill will refer legislative power to regulate registered training organisations—RTOs—and VET courses to the Commonwealth parliament. The bill will also abolish the Training and Employment Recognition Council—TERC—and transfer its remaining functions to Skills Queensland.

In December 2009, the Council of Australian Governments—COAG—agreed on national reforms to the regulation of vocational education and training. Reforms agreed to included the establishment of a national VET regulator responsible for the registration and regulation of registered training organisations and accreditation of VET courses and a national skills standards council to provide advice to the Ministerial Council for Tertiary Education and Employment about the development of national standards for VET. To date, all states except for Victoria and Western Australia have agreed to this reform. The passage of this bill will enshrine Queensland's commitment to the new national regulator, the Australian Skills Quality Authority—ASQA.

Currently, TERC regulates the provision of VET by RTOs in Queensland. TERC is responsible for over 1,500 RTOs delivering training in Queensland and other states. Upon commencement of the referral, regulation of RTOs and VET courses will be performed by ASQA. Referral of powers to the Commonwealth is not a decision that this government has taken lightly. Queensland has a very high standard of regulation which other states can only aspire to.

Under the previous system of state regulation a training provider could register in one state and then be able to provide training in other states. Whilst this gave training providers the ability to operate in any jurisdiction, the system lacked consistency in the enforcement of training standards. For example, Queensland has limited capacity to take action against RTOs registered in other states that breach registration standards when delivering training in Queensland. The establishment of a national regulator will ensure that this can no longer occur. All RTOs that operate in Queensland will be registered with ASQA. If an RTO in Queensland fails to comply with the standards, ASQA will be able to take action against that RTO.

The establishment of ASQA will also improve confidence in the VET sector generally. As the national regulator, ASQA will be able to ensure that standards are applied consistently across the country. ASQA will also be able to quickly respond to emerging issues that affect the VET sector across Australia. The referral of power to a single national regulator will reduce the number of regulators thus contributing to this government's policy to reduce the regulatory burden on local businesses.

The New South Wales parliament referred power in November 2010. The Queensland government believes the benefits to students, employers and industry from a strong national regulator of VET outweigh concerns voiced by Western Australia and Victoria. Our government supports this significant reform of the VET sector.

The referral of legislative power to regulate RTOs and accredit VET courses to the Commonwealth parliament is necessary to facilitate national regulation. Without referral, the Commonwealth parliament only has the power to legislate with respect to RTOs that deliver training to overseas students and RTOs that operate in a referring jurisdiction. To be clear, if Queensland does not refer, ASQA would take over the regulation of approximately one-third of Queensland's RTOs—those delivering training to overseas students or operating in other referring states, such as New South Wales—creating a system of dual regulation in Queensland. A dual system would not be in the best interests of consumers, RTOs or industry.

The bill refers power by adopting the national VET legislation—the National Vocational Education and Training Regulator Act 2011 and the National Vocational Education and Training Regulator (Transitional Provisions) Act 2011. The adoption of the national VET legislation makes a referral of Queensland's legislative power based on the provisions of the national VET legislation.

The bill includes an amendment referral, which allows the Commonwealth parliament to amend the national VET legislation with respect to prescribed VET matters in the bill, including: the registration and regulation of VET organisations; the accreditation or other recognition of VET courses or programs; the issue and cancellation of VET qualifications or statements of attainment; the standards to be complied with by the VET regulator; the collection, publication, provision and sharing of information about VET; and investigative powers, sanctions and enforcement in relation to these matters.

To clarify the scope of the amendment referral, the bill provides that the Commonwealth cannot make a law that excludes or limits the operation of a state law where the state law relates to: primary or secondary education, including the education of children subject to compulsory school education; tertiary education that is recognised as higher education and not VET; the rights and obligations of persons providing or undertaking apprenticeships or traineeships; the qualifications or other requirements to undertake or carry out any business, occupation or other work, other than that of a VET organisation; the funding by the state of VET; or the establishment or management of any agency of the state that provides VET—for instance, TAFE colleges.

This will ensure that the scope of the referral is limited to the regulation of RTOs and accreditation of VET courses. It is important to note that apprenticeships and traineeships, which are closely linked to the provision of VET, will remain a state responsibility.

Queensland will also retain control over the requirements to enter trades and occupations. The bill preserves Queensland's right to withdraw from the national scheme. Section 7 provides for the termination of the amendment reference or the adoption. The Governor may proclaim by notice published in the *Government Gazette* that the amendment reference and/or adoption of the amendment reference are terminated.

The power to terminate the amendment reference or adoption would only be used in extraordinary circumstances—for example, if Queensland lost confidence in the national regulator or the Commonwealth made amendments to the national VET legislation which radically altered the nature of the regulator's operations. The power to terminate the adoption or amendment reference protects Queensland's interests. To ensure that action can be taken quickly, the bill provides for termination by the Governor publishing a proclamation in the *Government Gazette*.

The bill also provides for the abolition of the TERC and the transfer of its remaining functions to Skills Queensland. TERC has made a significant contribution to this state as the regulator of RTOs and the body responsible for overseeing the delivery of apprenticeships and traineeships. I want to pay credit to its chairman, Mr Barry Nutter. With the transfer of its main regulatory functions to the Commonwealth, it is appropriate to transfer TERC's remaining functions to Skills Queensland and to abolish TERC.

Skills Queensland is responsible for advising the Queensland government on skills and workforce development priorities. Skills Queensland is the most suitable body for assuming TERC's remaining functions. The bill amends the functions of Skills Queensland to incorporate its new functions and to give it the appropriate powers to make guidelines about those new functions.

The bill includes extensive transitional provisions to ensure that the decisions of TERC continue to have effect and that matters pending on the day of transition can be dealt with by Skills Queensland. For example, applications for a training contract to be registered that are lodged with TERC but not decided on the date of transition can be considered by Skills Queensland.

Finally, the bill includes amendments to the Building Act 1975, the Liquor Act 1992 and the Gaming Machine Act 1991 to remove the potential for an inconsistency between these acts and the national VET legislation after the referral of power. The Building Act 1975 is being amended to change the process for approving a training course for pool safety inspectors. Instead of the Pool Safety Council approving a course and course providers, there will be an accredited course in the VET system dealing with pool safety inspector training. The Pool Safety Council will then be able to approve this course for licensing of pool safety inspectors. The Department of Local Government and Planning will own this course and license RTOs to deliver the course. The delivery of the course will be regulated by ASQA according to the usual standards that apply to VET courses and RTOs.


The bill inserts a displacement provision into part 5A of the Liquor Act 1992 and part 10A of the Gaming Machine Act 1991. Section 11 of the NVR Act provides for referring jurisdictions to declare that a particular state law will apply to RTOs notwithstanding that it relates to a referred VET matter. By inserting a displacement provision the bill will ensure that the current regulation of RTOs in relation to responsible service of alcohol, responsible management of licensed venue and responsible service of gambling can continue. The displacement provisions will expire two years after they commence. A new regulatory scheme for these forms of training will be developed and implemented prior to the expiry of the provisions.

This is an important reform which will improve the quality of vocational education and training and increase public confidence in the sector. The Commonwealth minister made a determination under section 7 of the Commonwealth National Vocational Education and Training Regulator Act 2011, which gives Queensland until 30 June 2012 to refer power before it is deemed a non-referring jurisdiction. The Bligh government has strongly supported the establishment of a national regulator and the referral of power necessary to achieve this. Queensland is currently working closely with the Commonwealth government to ensure that, subject to passage of this bill, ASQA is able to assume responsibility for Queensland RTOs by mid-2012.

In good news for Queensland, our state will have the equal largest regional office for ASQA and will also be responsible for a number of important national functions. To this end, the Department of Education and Training is working closely with ASQA to arrange for the transfer of skilled staff so that ASQA is able to effectively perform its role as regulator in Queensland. I would like to assure this House that Queensland government employees who transfer to ASQA will not be disadvantaged and will have their entitlements preserved under the terms of a bilateral agreement between the Queensland government and ASQA.

Referring power to the Commonwealth to regulate Queensland RTOs by 30 June 2012 will deliver on our COAG commitment and put Queensland RTOs in the best position to transition under the new national arrangements.

First Reading

 **Hon. SJ HINCHLIFFE** (Stafford—ALP) (Minister for Employment, Skills and Mining) (12.45 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Madam DEPUTY SPEAKER (Ms van Litsenburg): Order! In accordance with standing order 131, the bill is now referred to the Industry, Education Training and Industrial Relations Committee.