

Vocational Education and Training (Commonwealth Powers) Bill 2012

Report No. 3
Education and Innovation Committee
June 2012

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Acknowledgements

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Abbreviations

EIC	Education and Innovation Committee
DETE	Department of Education, Training and Employment
VET Bill	Vocational Education and Training (Commonwealth Powers) Bill 2012
IETIRC	The former Industry, Education, Training and Industrial Relations Committee of the 53 rd Parliament

Chair's foreword

On behalf of the Education and Innovation Committee of the 54th Parliament of Queensland (the Committee), I am pleased to present the Committee's report on the Vocational Education and Training (Commonwealth Powers) Bill 2012 (the Bill).

The Bill was introduced to the Parliament and referred to the Committee by the Hon John Paul Langbroek MP, Minister for Education, Training and Employment on 29 May 2012. The Committee was set a reporting date of 12 June 2012.

I would like to acknowledge the work of the previous Parliament's Industry, Education, Training and Industrial Relations Committee (IETIRC), who examined an earlier version of the Bill and tabled a report on that Bill at the end of 2011. That the IETIRC had run a public consultation process, completed a report and made recommendations that were accepted by the new Government and reflected in the Bill we have before us now, meant that the Committee was able to understand and develop a position on this Bill in the given timeframe.

I would like to thank the Department of Education, Training and Employment for the assistance it has given the Committee, and in particular for the briefing it provided to this Committee – its second briefing to a Parliamentary committee on the same matter. This greatly assisted us, as a new Committee, to understand the Bill; and increased our understanding of the portfolio.

The Committee's recommendations in respect of this Bill are unanimous.

I commend the report to the House.

A handwritten signature in black ink, reading "Rosemary Menkens". The signature is written in a cursive style with a large, looping initial 'R'.

Mrs Rosemary Menkens MP
Chair

June, 2012

Executive summary

The Vocational Education and Training (Commonwealth Powers) Bill 2012 would refer power from the Queensland government to the Commonwealth government to regulate the Vocational Education and Training (VET) sector, facilitating a national regulatory framework to improve the quality of VET services and increase consumer and employer confidence in the sector.

Excluded from the referral are school education, tertiary education (non-VET), apprenticeships and traineeships, non-VET qualifications, state funding of VET, or the establishment or management of any agency of the state that provides VET (such as Technical and Further Education (TAFE) colleges).

The Bill would abolish Queensland's Training and Employment Recognition Council (TERC), as a consequence of the referral. The remaining functions of the TERC (ie. those in respect of the exclusions outlined above) will move to Skills Queensland.

The Committee endorses the report and the recommendations of the previous Industry, Education, Training and Industrial Relations Committee (IETIRC) on the Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011 – as tabled in the Queensland Parliament on 23 December 2011 – noting that the Government has adopted the recommendation of the former IETIRC that amendments to the national law be required to be tabled in the Queensland Parliament; and on introduction of the 2012 version of the Bill, accepted the invitation to table a copy of the national law.

It is noted that the extent of the fee increases to RTOs that will result from the ASQA fee regime has altered since the IETIRC considered this matter, and a revised table is attached to this report (Appendix B).

The Committee shares the concerns of the previous IETIRC, as raised by Independent Schools Queensland,¹ about the impact of fees on schools providing VET services. It also has concerns about the cost implications for smaller registered training organisations (RTOs). However, the Department has advised that Queensland fees for RTOs have been subsidised for some time and that ongoing subsidisation would by no means be certain in the event that referral did not proceed.² This means that a fee increase for RTOs could occur irrespective of the referral to the Commonwealth.

Two recommendations are made by the Committee in respect of monitoring the effects of the referral in terms of costs to those two sectors.

¹ Submission 2, Independent Schools Queensland, November 2011, p4

² Queensland Parliament, *Record of proceedings (Hansard)*, Education and Innovation Committee, public briefing, 6 June 2012

Recommendations

Recommendation 1

2

The Committee recommends that the Vocational Education and Training (Commonwealth Powers) Bill 2012 be passed.

Recommendation 2

4

That the Department of Education, Training and Employment annually monitor and report on the impact of registered training organisation fees on small registered training organisations.

Recommendation 3

4

That the Department of Education, Training and Employment annually monitor and report on the impact of registered training organisation fees on schools.

1 Introduction

1.1 Role of the Committee

The Education and Innovation Committee was established by resolution of the Legislative Assembly on 17 May 2012. It consists of government and non-government members.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

The Vocational Education and Training (Commonwealth Powers) Bill 2012 was introduced by the Hon John-Paul Langbroek, Minister for Education, Training and Employment and referred to the Committee on 29 May 2012. The Committee was required to report to the Legislative Assembly by 12 June 2012.

1.2 Inquiry process

A previous version of the Bill was introduced to the 53rd Parliament on 11 October 2011, and referred to the Parliament's former Industry, Education, Training and Industrial Relations Committee (IETIRC). The IETIRC considered the Bill and reported to the Legislative Assembly on 23 December 2011. The Bill lapsed when Parliament was dissolved on 19 February 2012, prior to the second reading debate taking place.

An additional clause has been inserted in response to a recommendation made by the IETIRC. As well, there are minor administrative differences between the Vocational Education and Training (Commonwealth Powers) Bill 2012 and the version introduced to Parliament in 2011.

The Education and Innovation Committee did not call for submissions during its consideration of the Bill in the context of the previous IETIRC report and associated consultation process, and a limited timeframe for reporting back to Parliament.

The Committee was briefed on the Bill by the Department of Education, Training and Employment on 6 June 2012. The transcript of the briefing is published on the Committee's webpage at www.parliament.qld.gov.au/eic.

Following the briefing, the Committee deliberated on the Bill.

1.3 Policy objectives of the Vocational Education and Training (Commonwealth Powers) Bill 2012

The policy objectives of the VET Bill are provided in the explanatory notes, and remain the same as those of the Bill introduced in 2011. They are to:

- 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.
- abolish Queensland's Training and Employment Recognition Council and transfer its remaining functions to Skills Queensland. The remaining functions mainly relate to apprenticeships and traineeships.
- repeal Chapter 2 of the [Vocational Education, Training and Employment Act 2000](#).

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

Recommendation 1

The Committee recommends that the Vocational Education and Training (Commonwealth Powers) Bill 2012 be passed.

2 Examination of the Vocational Education and Training (Commonwealth Powers) Bill 2012

The Committee has considered the former IETIRC's report and endorses the issues raised and recommendations made.

2.1 Policy issues

Tabling national legislation

The former IETIRC invited the Minister for Education, Training and Employment to table the national *Vocational Education and Training Regulator Act 2011* and the *Vocational Education and Training Regulator (Transitional Provisions) Act 2011*.³ On 29 May 2012, the Minister tabled the national legislation when he introduced the Vocational Education and Training (Commonwealth Powers) Bill 2012.

The former IETIRC identified that the 2011 version of the VET Bill did not contain a requirement for amendments to the national legislation to be tabled in the Queensland Parliament.⁴ This recommendation has been addressed in the Bill through insertion of a new clause in section 6 which states "[I]f the national VET legislation is expressly amended, the Minister must table a copy of the amendment in the Legislative Assembly."⁵

Committee comment

The Committee commends the Minister for Education, Training and Employment for supporting the recommendations of the former IETIRC, through tabling the national legislation and amending the Bill at section 6. This ensures that matters referred to the Commonwealth by Queensland are formally open to the scrutiny of the Queensland Parliament.

Fees for RTOs generally

Currently, registration and course accreditation fees for Queensland Registered Training Organisations (RTOs) are subsidised by the state. Under the Bill, the Australian Skills Quality Authority (ASQA) will become the single national VET regulator and charge fees reflecting full cost-recovery. This will result in an increase in fees under the national legislation. A comparison of the current fees in Queensland with the fees charged by ASQA after the transition period is provided at Appendix B. Fee increases range from \$65 per year for a medium RTO to \$8,800 per year for a large RTO. The potential impact on small RTOs was noted by the Committee, in respect of the relative capacity of smaller organisations to pay.

The Department of Education, Training and Employment (DETE) advised that RTO fees could increase whether Queensland referred power to the Commonwealth or not.⁶ DETE advised that the current model of Government subsidised fees may not be sustainable given the State's financial position and that state fees in Queensland may need to be revised to better reflect the regulatory effort required. If power was not referred to the Commonwealth "[T]he Government may ... need to consider moving to a full cost-recovery model with fees similar to those charged by ASQA."⁷

³ Industry, Education, Training and Industrial Relations Committee, Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011, Report No. 7, December 2011, p8

⁴ Ibid

⁵ Vocational Education and Training (Commonwealth Powers) Bill 2012 (Qld), s6(2)

⁶ Queensland Parliament, *Record of proceedings (Hansard)*, Education and Innovation Committee, public briefing, 6 June 2012

⁷ Queensland Parliament, *Record of proceedings (Hansard)*, Education and Innovation Committee, public briefing, 6 June 2012

Benefits of having a single regulatory framework in Queensland identified by DETE include reducing the regulatory burden on RTOs through having one regulator and regulatory frameworks, improved employer certainty and greater assurance of the quality of training provided through RTOs.

Committee comment

The Committee agrees with the view of the former IETIRC, that on balance, benefits to the sector outweigh the increased cost of a national regulator. It also notes support for the Bill from the Australian Council for Private Education and Training, the peak body for RTOs.⁸ However, to ensure any impact on small RTOs is managed appropriately, the Committee recommends that DETE monitor and report on the impact of fee increases for these organisations.

Recommendation 2

That the Department of Education, Training and Employment annually monitor and report on the impact of registered training organisation fees on small registered training organisations.

RTO fees for schools

The Committee notes the potential impact of increased fees on VET services provided by schools, as considered by the former IETIRC.⁹ Taking up the former Committee's invitation to comment on how Queensland will support schools to minimise the impact of RTO fees, in his introductory speech for this current Bill the Minister for Education, Training and Employment stated that the Government will ensure "... that schools are not adversely affected by the move to national regulation of VET."¹⁰ Specifically, he confirmed that DETE will:

- review existing funding arrangements for the delivery of VET in schools to ensure that schools receive sufficient funding to meet the cost of RTO fees.
- work with school sectors to develop alternative registration models that reduce the RTO fees payable to ASQA.
- implement these strategies, if ASQA does not continue the delegation to the Queensland Studies Authority.

Committee comment

The Committee strongly agrees that schools should not be adversely affected by the move to national regulation of vocational education and training. Steps taken by DETE to manage the transition with regard to the potential increase in RTO fees on schools are acknowledged by the Committee. The Committee recommends that DETE annually monitor and report on the impact of fees on schools.

Recommendation 3

That the Department of Education, Training and Employment annually monitor and report on the impact of registered training organisation fees on schools.

⁸ Submission 1, Australian Council for Private Education and Training, November 2011, p1

⁹ Industry, Education, Training and Industrial Relations Committee, Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011, Report No. 7, December 2011, p9-10

¹⁰ Queensland Parliament, *Record of proceedings (Hansard)*, Legislative Assembly, 29 May 2012 (Mr John-Paul Langbroek, Minister for Education, Training and Employment) p194

3 Fundamental legislative principles

The former IETIRC considered the consistency of the previous Bill with the fundamental legislative principles contained in the *Legislative Standards Act 1992*, and concluded that although national legislation has some associated costs in terms of these principles, it was satisfied with the explanations provided in the explanatory notes.¹¹ The fundamental legislative principles considered were:

1. A Henry VIII clause, which allows subordinate legislation to amend the Act.
2. New penalty for failure of an organisation to give a true and non-misleading notice.

Committee comment

The Committee has examined the application of fundamental legislative principles to the Bill and considers the Henry VIII clause as necessary to facilitate the transition to the new national legislative scheme. The new penalty introduced by the legislation is considered as having sufficient regard to the rights and liberties of individuals, being commensurate with the nature of the offence and important to ensure the reputation of the sector.

¹¹ Industry, Education, Training and Industrial Relations Committee, Vocational Education and Training (Commonwealth Powers) and Other Acts Amendment Bill 2011, Report No. 7, December 2011, p10

Appendices

Appendix A – Witnesses at public briefing – 6 June 2012

Witnesses
Ms Julie Grantham, Director-General, Department of Education, Training and Employment
Mr Michael Bopf, Executive Director, Training and International Quality, Department of Education, Training and Employment
Mr Christopher Roney, Principal Adviser, Policy and Legislation, Department of Education, Training and Employment

Appendix B – DETE comparison of RTO fees**Comparison of RTO fees charged by Queensland (current) and ASQA (post transition period)**

	Queensland (subsidised fees)	ASQA	Difference
<p>Small RTO</p> <p>For example an organisation offering specialised training in a niche market (eg maritime licensing). Typically these organisations have a small number of employees (often only one) and one delivery location (for example, from their home).</p> <p>Mostly not government funded and deliver only to domestic students.</p>	\$5,432.62	\$8,690.00	<p>\$3,257.38</p> <p>(approx \$650.00 per year increase 60%)</p>
<p>Medium RTO</p> <p>For example an organisation delivering training across a limited range of qualifications (ie hospitality, business & child care). Could be in receipt of government funding. May deliver to overseas students.</p>	\$8,820.65	\$9,140.00	<p>\$319.35</p> <p>(approx \$65.00 per year increase 4%)</p>
<p>Large RTO</p> <p>For example, a large private provider.</p> <p>(eg many employees, delivering a wide range of training across multiple sites in more than one State to both domestic and overseas students).</p> <p>Typically in receipt of substantial government funding.</p>	\$27,958.50	\$72,140.00	<p>\$44,181.50</p> <p>(approx \$8,800.00 per year increase 158%)</p>