

FACT SHEET

VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) BILL 2011

PURPOSE OF THE BILL

This Bill provides for Commonwealth legislation to be adopted so that a new vocational education and training (VET) regulatory body – the Australian Skills Quality Authority - can operate in Tasmania. The new body will subsume the VET regulatory functions and powers of the Tasmanian Qualifications Authority.

The Bill also provides for the Commonwealth Parliament to amend the Commonwealth law within a strictly limited scope.

The effect of the Act, once proclaimed, will be to transfer state VET regulatory powers, as circumscribed in the legislation, to the Commonwealth.

This purpose and the making of consequential amendments will be achieved by amending the *Vocational Education and Training Act 1994* (VET ACT) and the *Tasmanian Qualifications Authority Act 2003* (TQA Act), and the making of minor amendments to other state legislation.

Provisions for the regulation of VET providers and courses are currently contained in the VET Act. These provisions will be repealed. The TQA undertakes the VET regulation functions as provided in the VET Act through a reference contained in the TQA Act. This reference will be withdrawn.

BACKGROUND

On 7 December 2009 the Council of Australian Governments (COAG) agreed to establish a new approach to national regulation for the vocational education and training system. Tasmania was party to this decision.

This has culminated in the establishment of a national VET regulator - the Australian Skills Quality Authority (ASQA) - to register and audit training organisations and accredit courses (where training package qualifications do not exist) and to exercise related functions. The new Authority has been established as a statutory authority under Commonwealth legislation.

It was also agreed that the Commonwealth should manage other aspects of VET that are or were managed by the States and Territories. The broad range of matters involved is listed at Clause 4 of the Bill.

The Commonwealth does not have Constitutional powers in these areas, so referral of relevant State powers is required. New South Wales passed legislation providing the

necessary initial 'text-based' referral of powers. Tasmania and other 'referring states' will need to now pass legislation adopting the Commonwealth law if the new regime is to operate within their borders. The Commonwealth will use its existing constitutional powers with respect to territories to operate within the Territories.

Regulatory functions operate subject to nationally agreed standards. Standards for registration and accreditation and other functions are currently in place. Amendments and new standards may be proposed from time to time by a new National Standards Council for approval by State/Territory and Commonwealth ministers.

Victoria and Western Australia have declined to refer state powers and in lieu will enact 'mirror' legislation so that there is a uniform national approach to VET regulation.

Intergovernmental agreement to the new regulatory regime is codified in an Intergovernmental Agreement for Regulatory Reform in Vocational Education and Training which has been signed by the Tasmanian Premier.

The Bill provides for Tasmania to, in effect, refer State powers to the Commonwealth Parliament to enable the new regime to operate in Tasmania, by adopting the *National Vocational Education and Training Regulator Act 2010* of the Commonwealth and the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2010* of the Commonwealth and making consequential amendments to other State Acts and Regulations.

MAIN PROVISIONS OF THE BILL

Clauses 1 to 3 are standard legislative provisions

Clauses 4 to 7:

- provide for the adoption of the national VET legislation
- list those matters that are and are not the subject of the adoption
- contain provisions for the Commonwealth to amend the national law within prescribed limits.

Clauses 8 and 9 make provisions for the termination of the adoption of the national law and the Commonwealth's power to amend the national law.

Clause 10 empowers the Tasmanian Qualifications Authority to provide documents, other information and assistance to the national regulator to assist the regulator in the performance of its functions and powers.

Clause 11 provides for the Act to be administered by the Minister for Education and Skills and for the Department of Education to be the agency responsible to the Minister for the administration of the Act.

Clause 12 and Schedule 1 make consequential amendments to the VET Act, the TQA Act and other legislation, required or convenient to give effect to the purposes of the Bill.