



Education and Training Reform Bill

Exposure Draft

CHAPTER 1—GENERAL

PART 1.1—PRELIMINARY

1.1.1 Purpose

- (1) The main purpose of this Act is to reform the law relating to education and training in Victoria by providing for a high standard of education and training for all Victorians.
- (2) In particular this Act makes provision for or with respect to—
 - (a) the years of compulsory schooling and the options available;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

- (b) vocational education and training, technical and further education, adult community and further education, and other post-compulsory education and training;
- (c) the establishment and regulation of Government schools and the regulation of non-Government schools and home schooling;
- (d) the establishment and regulation of post-compulsory education institutions and providers;
- (e) the development and accreditation of courses and the issuing of recognised qualifications;
- (f) the recognition, regulation and promotion of the teaching profession;
- (g) the employment in the Teaching Service of Government school teachers and other persons;
- (h) the monitoring, planning and development of the provision of education and training;
- (i) the repeal and re-enactment of various Acts relating to education and training.

1.1.2 Commencement

- (1) Subject to sub-section (2) this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision referred to in sub-section (1) does not come into operation before 31 December 2007, it comes into operation on that day.

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

1.1.3 Definitions

(1) In this Act—

"accredited" means—

- (a) in relation to a vocational education and training or further education course, registered on the State Register and National Register;
- (b) in relation to any other course, registered as accredited on the State Register as being suitable for the purposes of a qualification;

"adult, community and further education"
means—

- (a) further education; or
- (b) secondary education for adults; or
- (c) that part of education and training which is directed towards the development of skills and knowledge in relation to work when it is provided by an adult education institution established by or under this Act or a community based organisation which is not a TAFE institute, a commercial provider or an industry provider;

"adult education institution" means AMES or the Centre for Adult Education or an adult education institution established under Part 3.3;

"AMES" means the adult education institution known as Adult Multicultural Education Services established under Part 3.3;

"apprentice" means a person whom an employer has undertaken to train under a training contract;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

"AQF" means the framework known as the "Australian Qualifications Framework" endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs to commence on 1 January 1995, as amended from time to time by that Ministerial Council;

"Authority" means the Victorian Registration and Qualifications Authority established under Chapter 4;

"autonomous college" means a post-secondary education institution established under Part 3.2 and specified in Schedule 1;

"Centre for Adult Education" means the adult education institution known as the Centre for Adult Education established under Part 3.3;

"Commission" means the Victorian Skills Commission renamed and continued in operation under Part 3.1;

"Department" means the Department of Education and Training;

"further education" means those education programs that lead to the development of knowledge and skills that are not specific to any particular occupation and are not provided or offered by a university (other than in the TAFE division of a university) or an autonomous college;

"Government school" means a school established by the Minister and conducted under Part 2.2;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

"higher education award" means a qualification described as a higher education award in the AQF but does not include a graduate certificate if the course of study relating to that certificate is included in the State Register;

"industry training board" means an industry training board established or declared by the Minister under Part 3.1;

"Institute" means the Victorian Institute of Teaching continued in operation under Part 2.6;

"learning outcome", in relation to a course, means a written statement of what a student will know and be able to do as a result of successfully undertaking the course;

"Ministerial Order" means an Order made by the Minister under this Act;

"national standards" means standards agreed to from time to time by the governments of the Commonwealth, States and Territories;

"non-Government school" means a school, other than a Government school, that is registered or required to be registered under Part 4.3;

"overseas student" means a person holding a visa under the Migration Act 1958 of the Commonwealth which allows the person, whether expressly or otherwise, to study in Victoria;

"parent", in relation to a child, includes a guardian and every person who has parental responsibility for the child including parental responsibility under the Family Law Act of the Commonwealth and any person with whom a child normally or regularly resides;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

"post-compulsory education" means education of persons 16 years of age or over;

"post-secondary education" means education of persons—

- (a) who are beyond the age of compulsory school attendance; and
- (b) who are not undergoing a course of secondary education at a registered school;

"post-secondary education institution" means an institution which is supported directly or indirectly by Government funds providing post-secondary education including but not limited to a TAFE institute, an autonomous college and a university;

"post-secondary education provider" means a post-secondary education institution or other institution or person or body providing or offering to provide post-secondary education;

"principal" means a person appointed to a designated position as principal of a registered school or a person in charge of a registered school;

"Regional Council" means a Regional Council of Adult, Community and Further Education established under Part 3.3;

"registered school" means a school registered under Part 4.3;

"registered teacher" means a person registered under Part 2.6 as a teacher or a person who is granted permission to teach under Part 2.6;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

"registered education and training organisation" means a person or body registered under Part 4.3 to deliver an accredited course or issue a recognised qualification;

"registration" includes permission to teach under Part 2.6;

"school" means a place at or from which education is provided to children of school age during normal school hours, but does not include—

- (a) a place at which registered home schooling takes place;
- (b) a TAFE institute;
- (c) an education service exempted by Ministerial Order;
- (d) any other body exempted by the regulations;

"school age" means not less than 6 nor more than 16 years of age;

"school attendance officer" means a person appointed by the Minister to be a school attendance officer under Part 2.1;

"school council" means the council of a Government school or group of schools that is constituted under Part 2.3;

"school day" means day on which a school is open;

"Secretary" means Secretary to the Department;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

"sexual offence" means—

- (a) an offence against section 44(2), 45, 47, 47A, 48, 49, 49A, 54, 56, 58, 60, 68, 69 or 70 of the **Crimes Act 1958**; or
- (b) an offence against section 45(1) (sexual penetration of child under the age of 10) (as amended) of the **Crimes Act 1958** inserted in the **Crimes Act 1958** on 5 August 1991 by section 3 of the **Crimes (Sexual Offences) Act 1991** and repealed by section 5 of the **Crimes (Amendment) Act 2000**; or
- (c) an offence against section 46(1) (sexual penetration of child aged between 10 and 16) (as amended) of the **Crimes Act 1958** inserted in the **Crimes Act 1958** on 5 August 1991 by section 3 of the **Crimes (Sexual Offences) Act 1991** and repealed by section 5 of the **Crimes (Amendment) Act 2000**; or
- (d) an offence against section 38, 39, 40, 44(1), 53, 55, 57 or 59 of the **Crimes Act 1958** involving a person under the age of 18; or
- (e) an offence of attempting to commit any offence referred to in paragraph (a), (b), (c) or (d); or
- (f) any other offence, whether committed in Victoria or elsewhere, the necessary elements of which consist of or include elements which constitute an offence referred to in paragraph (a), (b), (c), (d) or (e);

"State Register" means the State Register maintained under Part 4.6;

"TAFE" means technical and further education;

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

"TAFE institute" means an institution specified in Schedule 2 and includes the TAFE division of a university with a TAFE division;

"technical and further education" means post-secondary education wherever provided or offered which is not directed towards—

- (a) the award of a degree or diploma at an autonomous college or university; or
- (b) a higher education award;

"training" means training whether by way of course, instruction or practical training in the knowledge and skills required for a vocation;

"training contract" means an apprenticeship training contract or a traineeship training contract;

"university" means a University established by an Act of the Parliament of Victoria or the Australian Catholic University Limited;

"university with a TAFE division" means the University of Ballarat, Royal Melbourne Institute of Technology, Swinburne University of Technology or Victoria University;

"VCAL" means the Victorian Certificate of Applied Learning;

"VCE" means the Victorian Certificate of Education;

"vocational education and training" means—

- (a) the education and training and qualifications and statements of attainment under the vocational education and training provisions under the AQF; and
-

Education and Training Reform Bill
Exposure Draft

Part 1.1—Preliminary

- (b) that part of education and training which is directed towards the development of skills and knowledge in relation to work when it is provided by an adult education institution established by or under this Act or a community based organisation which is not a TAFE institute, a commercial provider or industry provider.
- (2) If under the **Public Administration Act 2004** the name of the Department of Education and Training is changed, a reference in the definition of "Department" in sub-section (1) to that Department must, from the date when the name is changed, be treated as a reference to the Department by its new name.
- (3) Unless the context otherwise requires, a reference in this Act to a Part by a number must be construed as a reference to the Part, designated by that number, of this Act.

1.1.4 Binding of Crown

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

1.1.5 Extra-territorial operation of this Act

- (1) This Act operates both within and outside Victoria.
 - (2) This Act operates outside Victoria to the extent that the legislative power of the Parliament permits.
-

Education and Training Reform Bill
Exposure Draft

Part 1.2—Principles

PART 1.2—PRINCIPLES

1.2.1 Principles underlying the enactment of this Act

Parliament has had regard to the following principles in enacting this Act—

- (a) all providers of education and training, both Government and non-Government, must ensure that their programs and teaching are delivered in a manner that supports and promotes the principles and practice of Australian democracy, including a commitment to—
 - (i) elected Government;
 - (ii) the rule of law;
 - (iii) equal rights for all before the law;
 - (iv) freedom of religion;
 - (v) freedom of speech and association;
 - (vi) the values of openness and tolerance;
- (b) all Victorians should have access to—
 - (i) multiple education and training pathways;
 - (ii) an innovative education and training system, irrespective of the school, training, higher or further education provided;
- (c) information concerning the performance of education and training providers should be publicly available;
- (d) parents have the right to choose an appropriate education for their child;

Education and Training Reform Bill
Exposure Draft

Part 1.2—Principles

- (e) a school community has a right to information concerning the performance of its school;
- (f) a parent of a student and the student has a right to access information about the student's achievement.

1.2.2 Principles underlying the Government education and training system

- (1) The State provides universal access to education and training through the establishment and maintenance of a Government education and training system.
- (2) All persons employed or engaged in the provision of Government education and training by the State or in the administration of government education and training by the State must apply or have regard to the following principles—
 - (a) Government schools—
 - (i) will provide a secular education and will not promote any particular religious practice, denomination or sect; and
 - (ii) are open to adherents of any philosophy, religion or faith;
 - (b) instruction in the learning areas in Schedule 3 is to be provided free of charge for all students (except overseas students) attending a Government school to the completion of year 12 if the student is under 20 years of age on 1 January in the year that the person undertakes instruction;

Education and Training Reform Bill
Exposure Draft

Part 1.2—Principles

- (c) every student has the right to attend a designated neighbourhood Government school with the exception of selective Government schools that are determined by the Minister;
- (d) a student has a guaranteed place at a TAFE institute or other public training provider to the completion of year 12 of schooling or its equivalent if the student is under 20 years of age on 1 January in the year that the person undertakes study at the TAFE institute or other public training provider.

1.2.3 Principles not to give rise to civil cause of action

Nothing in sections 1.2.1 or 1.2.2 gives rise to, or can be taken into account in, any civil cause of action.
