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The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

(a) to amend the Education and Training Reform Act 2006—

(i) to clarify that TAFE institute boards and governing boards of adult education institutions are able to operate outside Victoria and to provide
for the validation of past operations outside Victoria; and

(ii) to ensure that students of all training organisations, including those who are still of compulsory school age, may be placed with an employer under a practical placement agreement and to provide for the validation of certain practical placement agreements made in the past; and

(iii) to provide that students of all persons or bodies registered in respect of accredited senior secondary courses, in addition to registered schools, who are participating in courses of study leading to an accredited senior secondary course may be placed with an employer under a work experience arrangement or a structured workplace learning arrangement and to provide for the validation of past arrangements; and

(b) to amend the Accident Compensation Act 1985 in relation to certain agreements and arrangements for providing workplace experience or training for students.

2 Commencement

(1) This Act (except sections 10, 11, 15 and 17 and Part 3) comes into operation on the day after the day on which this Act receives the Royal Assent.

(2) Sections 10 and 11 are taken to have come into operation on 1 April 2011.

(3) Part 3 and section 17 come into operation on a day to be proclaimed.
(4) Section 15 is taken to have come into operation on 1 July 2011.
PART 2—AMENDMENTS TO THE EDUCATION AND TRAINING REFORM ACT 2006

3 Functions of TAFE institute boards

After section 3.1.13(2) of the Education and Training Reform Act 2006 insert—

"(2A) The board of a TAFE institute may carry out any function conferred on the board by or under this Act or any Order made under section 3.1.12 within and outside Victoria, whether within or outside Australia.".

4 Powers of TAFE institute boards

For section 3.1.14(3) of the Education and Training Reform Act 2006 substitute—

"(3) A board, in the performance of its functions, may exercise its powers within and outside Victoria, whether within or outside Australia.".

5 Functions of governing boards

(1) In section 3.3.30(1)(g) of the Education and Training Reform Act 2006 omit "within Victoria and outside Victoria, whether in or outside Australia".

(2) After section 3.3.30(2) of the Education and Training Reform Act 2006 insert—

"(3) A governing board, may carry out any function conferred on the board by or under this Act or any Order made under section 3.3.29 within and outside Victoria, whether within or outside Australia.".
6 Powers of governing boards

After section 3.3.31(2) of the Education and Training Reform Act 2006 insert—

"(3) A governing board, in the performance of its functions, may exercise its powers within and outside Victoria, whether within or outside Australia.".

7 Minister's general powers

(1) In section 5.2.1(2)(e) of the Education and Training Reform Act 2006 for "Victoria." substitute "Victoria;".

(2) After section 5.2.1(2)(e) of the Education and Training Reform Act 2006 insert—

"(f) to require any TAFE institute or adult education institution to supply the Minister with any information that he or she may reasonably require in relation to the exercise of any powers and the performance of any functions of that body outside Victoria.".

8 Substitution of section 5.4.2

For section 5.4.2 of the Education and Training Reform Act 2006 substitute—

"5.4.2 Application of Division in relation to work experience and structured workplace learning arrangements

(1) The provisions of this Division relating to work experience arrangements also apply to a student in an accredited senior secondary course (within the meaning of section 4.1.1)—

(a) at a TAFE institute; or
(b) provided by a person or body registered under section 4.3.10 with respect to that course—

as if—

(c) the student were a student at a registered school; and

(d) the chief executive officer (however described) of the TAFE institute, person or body were the principal of the school; and

(e) a member of staff of the TAFE institute, person or body were a teacher of the school.

(2) The provisions of this Division relating to structured workplace learning arrangements also apply to a student in an accredited senior secondary course (within the meaning of section 4.1.1) provided by a person or body registered under section 4.3.10 with respect to that course as if—

(a) the student were a student at a registered school; and

(b) the chief executive officer (however described) of the person or body were the principal of the school; and

(c) a member of staff of the person or body were a teacher of the school."

9 Definition of post-secondary student

In section 5.4.13 of the Education and Training Reform Act 2006—

(a) in the definition of post-secondary student, after "provider" insert "including a person who is not beyond the age of compulsory school attendance";
Education and Training Reform Amendment (Skills) Act 2011
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Part 2—Amendments to the Education and Training Reform Act 2006

(b) at the foot of the definition of post-secondary student insert the following example—

"Example

A person may, in certain circumstances, cease his or her secondary education and enrol in a post-secondary education course despite not being over compulsory school age. In these circumstances the person will be a post-secondary student.”.

10 Definition of TAFE provider substituted

In section 5.4.13 of the Education and Training Reform Act 2006 for the definition of TAFE provider substitute—

"TAFE provider means—

(a) a vocational education and training organisation or further education organisation registered under section 4.3.16; or

(b) a training organisation that is treated as being registered on the National Register under section 4.3.14.”.

11 New sections 6.1.20 and 6.1.21 inserted

After section 6.1.19 of the Education and Training Reform Act 2006 insert—

"6.1.20 Transitional—Education and Training Reform Amendment (Skills) Act 2010

A person, body or school that was registered under section 4.3.10 with respect to an accredited course or registered qualification relating to the provision of vocational education and training or further education immediately before the commencement of section 8 of the Education and Training Reform Amendment (Skills) Act 2010 is taken to be registered under section 4.3.16 as
a training organisation with respect to that course or qualification.

6.1.21 Validation of practical placement agreements by certain training organisations

(1) This section applies to an agreement—

(a) that, before the commencement day, was entered into or purported to have been entered into under Division 2 of Part 5.4 for the placement of a student of a training organisation that at that time was treated as being registered on the National Register under section 4.3.14; and

(b) that would have been validly entered into if section 10 of the 2011 Act had been in operation at the time at which the agreement was entered into or purported to have been entered into.

(2) The agreement has, and is taken always to have had, the same force and effect as it would have had if section 10 of the 2011 Act had been in operation at the time at which the agreement was entered into or purported to have been entered into.

(3) In this section—

2011 Act means the Education and Training Reform Amendment (Skills) Act 2011;

commencement day means the day on which section 10 of the 2011 Act comes into operation.".
12 New sections 6.1.22, 6.1.23, 6.1.24 and 6.1.25 inserted

After section 6.1.21 of the Education and Training Reform Act 2006 insert—

"6.1.22 Validation of actions of boards of TAFE institutes and adult education institutions outside of Victoria

(1) Any thing done or purported to have been done under this Act outside of Victoria by the board of a TAFE institute before the commencement of sections 3 and 4 of the 2011 Act that would have been validly done if sections 3 and 4 had been in operation at the time at which the thing was done or purported to have been done has, and is taken always to have had, the same force and effect as it would have had if sections 3 and 4 had been in operation at the time at which the thing was done or purported to have been done.

(2) Any thing done or purported to have been done under this Act outside of Victoria by the governing board of an adult education institution before the commencement of sections 5 and 6 of the 2011 Act that would have been validly done if sections 5 and 6 had been in operation at the time at which the thing was done or purported to have been done has, and is taken always to have had, the same force and effect as it would have had if sections 5 and 6 had been in operation at the time at which the thing was done or purported to have been done.

(3) In this section 2011 Act means the Education and Training Reform Amendment (Skills) Act 2011.
6.1.23 Validation of work experience arrangements—student in accredited senior secondary course

(1) This section applies to a work experience arrangement—

(a) that was entered into or purported to have been entered into before the commencement day under Division 1 of Part 5.4 for the placement of a student who before the commencement day was in an accredited senior secondary course (within the meaning of section 4.1.1)—

(i) at a TAFE institute or a university with a TAFE division; or

(ii) provided by a person or body registered under section 4.3.10 with respect to that course; and

(b) that would have been validly entered into if section 8 of the 2011 Act had been in operation at the time at which the arrangement was entered into or purported to have been entered into.

(2) The work experience arrangement has, and is taken always to have had, the same force and effect as it would have had if section 8 of the 2011 Act had been in operation at the time at which the arrangement was entered into or purported to have been entered into.

(3) In this section—

2011 Act means the Education and Training Reform Amendment (Skills) Act 2011;
commencement day means the day on which section 8 of the 2011 Act comes into operation.

6.1.24 Validation of structured workplace learning arrangements

(1) This section applies to a structured workplace learning arrangement—

(a) that was entered into or purported to have been entered into before the commencement day under Division 1 of Part 5.4 for the placement of a student who before the commencement day was in an accredited senior secondary course (within the meaning of section 4.1.1) provided by a person or body registered under section 4.3.10 with respect to that course; and

(b) that would have been validly entered into if section 8 of the 2011 Act had been in operation at the time at which the arrangement was entered into or purported to have been entered into.

(2) The structured workplace learning arrangement has, and is taken always to have had, the same force and effect as it would have had if section 8 of the 2011 Act had been in operation at the time at which the arrangement was entered into or purported to have been entered into.

(3) In this section—

2011 Act means the Education and Training Reform Amendment (Skills) Act 2011;

commencement day means the day on which section 8 of the 2011 Act comes into operation.
6.1.25 Validation of practical placement agreements involving students not above compulsory school age

(1) This section applies to an agreement—

(a) that was entered into or purported to have been entered into before the commencement day under Division 2 of Part 5.4 for the placement of a student who at the time of the placement was not above the compulsory school age; and

(b) that would have been validly entered into if section 9 of the 2011 Act had been in operation at the time at which the agreement was entered into or purported to have been entered into.

(2) The agreement has, and is taken always to have had, the same force and effect as it would have had if section 9 had been in operation at the time at which the agreement was entered into or purported to have been entered into.

(3) In this section—

2011 Act means the Education and Training Reform Amendment (Skills) Act 2011;

commencement day means the day on which section 9 of the 2011 Act comes into operation."
PART 3—FURTHER AMENDMENTS TO THE EDUCATION AND TRAINING REFORM ACT 2006

13 Definition of TAFE provider substituted

In section 5.4.13 of the Education and Training Reform Act 2006 for the definition of TAFE provider substitute—

"TAFE provider means—

(a) a vocational education and training organisation or further education organisation registered under section 4.3.16; or

(b) a training organisation that is treated as being registered on the National Register under section 4.3.14; or

(c) a vocational education and training organisation registered under section 17 of the National Vocational Education and Training Regulator Act 2011 of the Commonwealth."

14 New section 6.1.26 inserted

After section 6.1.25 of the Education and Training Reform Act 2006 insert—

"6.1.26 Validation of practical placement agreements entered into by certain organisations

(1) This section applies to an agreement—

(a) that was entered into or purported to have been entered into before the commencement day under Division 2 of Part 5.4 for the placement of a student of a vocational education and training organisation registered under section 17 of the National Vocational
Education and Training Reform Amendment (Skills) Act 2011
No. 76 of 2011

Part 3—Further amendments to the Education and Training Reform Act 2006

s. 14

Education and Training Regulator Act 2011 of the Commonwealth; and

(b) that would have been validly entered into if section 13 of the Victorian 2011 Act had been in operation at the time at which the agreement was entered into or purported to have been entered into.

(2) The agreement has, and is taken always to have had, the same force and effect as it would have had if section 13 of the Victorian 2011 Act had been in operation at the time at which the agreement was entered into or purported to have been entered into.

(3) In this section—

commencement day means the day on which section 13 of the Victorian 2011 Act comes into operation;

Victorian 2011 Act means the Education and Training Reform Amendment (Skills) Act 2011.".
PART 4—AMENDMENTS TO THE ACCIDENT COMPENSATION ACT 1985

15 Amendment of section 5F of the Accident Compensation Act 1985

(1) In section 5F(1)(a) of the Accident Compensation Act 1985, after "arrangement" insert "or a structured workplace learning arrangement".

(2) After section 5F(1)(a) of the Accident Compensation Act 1985 insert—

"(ab) a student who is in an accredited senior secondary course (within the meaning of section 4.1.1 of the Education and Training Reform Act 2006)—

(i) at a TAFE institute or a university with a TAFE division; or

(ii) provided by a person or body registered under section 4.3.10 with respect to that course—

while employed under a work experience arrangement or a structured workplace learning arrangement under Part 5.4 of that Act;

(ac) a student employed under an agreement or arrangement referred to in section 6.1.21 of the Education and Training Reform Act 2006, while so employed;".

(3) For section 5F(2)(a) of the Accident Compensation Act 1985 substitute—

"(a) in relation to a student who under, subsection (1)(a), (ab), (ac) or (b), is deemed to be a worker—

See:
Act No. 10191.
Reprint No. 18 as at 1 July 2011 and amending Act Nos 107/1997 and 80/2010.
LawToday: www.legislation.vic.gov.au
(i) the Department of Education and Early Childhood Development is deemed to be and always to have been the employer of that student in respect of the employment under the arrangement or agreement; and

(ii) the amount paid or payable to the student for services rendered under the agreement or arrangement is deemed to be and always to have been remuneration;".

16 Further amendment of section 5F of the Accident Compensation Act 1985—general

(1) After section 5F(1)(b) of the Accident Compensation Act 1985 insert—

"(ba) a student employed under an agreement or arrangement referred to in section 6.1.23, 6.1.24 or 6.1.25 of the Education and Training Reform Act 2006, while so employed.".

(2) In section 5F(2)(a) of the Accident Compensation Act 1985 for "or (b)" substitute ", (b) or (ba)".

17 Further amendment of section 5F of the Accident Compensation Act 1985—practical placements

(1) Before section 5F(1)(c) of the Accident Compensation Act 1985 insert—

"(bb) a student employed under an agreement referred to in section 6.1.26 of the Education and Training Reform Act 2006, while so employed;".

(2) In section 5F(2)(a) of the Accident Compensation Act 1985 for "or (ba)" substitute ", (ba) or (bb)".
PART 5—REPEAL OF AMENDING ACT

18 Repeal of amending Act

This Act is repealed on the first anniversary of the first day on which all of its provisions are in operation.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 10 November 2011
Legislative Council: 24 November 2011

The long title for the Bill for this Act was "A Bill for an Act to amend the Education and Training Reform Act 2006 in relation to vocational education and training and to make related amendments to the Accident Compensation Act 1985 and for other purposes."