

VOCATIONAL EDUCATION AND TRAINING AMENDMENT BILL 2023

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Pierre Yang (Parliamentary Secretary)**, read a first time.

Second Reading

HON PIERRE YANG (North Metropolitan — Parliamentary Secretary) [6.56 pm]: I move —

That the bill be now read a second time.

The bill seeks to amend the Vocational Education and Training Act 1996. The VET act and associated regulations provide the framework for the administration and regulation of the state’s training system and matters arising from decisions made by state government institutions that are part of the training system. The proposed amendments will provide for an effective appeal mechanism for persons affected by decisions made by the Training Accreditation Council and provide for the proper delegation of the Department of Training and Workforce Development chief executive’s functions under part 7 of the VET act and the associated regulations made for the purposes of part 7 of the act.

These amendments were also supported by recommendations from the last statutory review of the VET act. A report from the review was tabled in Parliament in March 2019. The first proposed amendment relates to the scope of appeals against decisions of the council, as outlined in section 58G(2) of the VET act. The council, in making decisions in relation to the registration of providers, takes into consideration the national Standards for Registered Training Organisations 2015. A judgement made by the Western Australian Supreme Court of Appeal in 2021 ruled that the word “standards” is not in the scope of the existing section 58G(2). This means that the vast majority of the council’s decisions will not be appealable, which essentially denies a person’s right to appeal and does not align with the principles of natural justice.

Clause 4 of the bill will amend the wording of section 58G(2) to enable a person to be able to appeal against a decision of the council if the council made an error in applying, or failed to apply, guidelines issued by the minister under section 13; or criteria, including standards and guidelines, that the council is required to apply. Clause 5 of the bill will make a consequential amendment to section 58(c). This amendment is a result of the new wording proposed for section 58G(2). Section 58(c) is currently limited to council decisions made as a result of processing an application made to the council. The amended section 58(c) will extend the application of this section to decisions made by the council on its own initiative. The amended section 58(c) will also provide for criteria to be prescribed in relation to what the council must “apply” when making a decision. This is in addition to the existing provision of prescribing criteria that the council may or must “take into account”.

Clause 7 of the bill outlines the transitional provision for appeals that have not been determined at the time of the commencement of the amendment act. Amended sections 58G(2) and 58(c) will apply to an appeal that commenced on or after the commencement day of the amendment act, or an appeal that commenced before the commencement day but was not determined before that day.

The second proposed amendment relates to the proper delegation of functions of the chief executive of the Department of Training and Workforce Development in relation to the registration and administration of training contracts under part 7 of the VET act. These functions are largely administrative in nature and performed in high volume. For this reason, it is not practical for the chief executive to personally carry out these administrative functions, and they are typically delegated to DTWD officers. Regulation 35 of the Vocational Education and Training (General) Regulations 2009 currently provides for the chief executive to delegate functions; however, there is no provision in the VET act to support such delegations. Clause 6 of the bill proposes to insert section 60J at the beginning of part 7, division 4 of the VET act to provide for delegation of the chief executive’s functions under part 7 of the VET act or regulations made for the purposes of this part. Proposed section 60J will come into effect after regulation 35 is removed from the VET regulations through a regulatory amendment process after the passing of the amendment bill.

These amendments are needed to enable a person’s right to appeal and provide for the effective administration of the apprenticeship system. The associated explanatory memorandum contains further details on the amendments.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [2871](#).]

Debate adjourned, pursuant to standing orders.