

# APPENDIX B

## **SCHEDULE A -“Compliance with Governing Bodies & Audit Requirements”.**

Australian Institute of Advanced Studies is governed by multiple agencies and must comply with their rules, regulations, guidelines and audit requirements. AIAS ensures compliance with the following agencies in regards to all conduct, training and assessment provided, as well as our general business practices:

- Australian Skills Quality Authority (ASQA);
- The VET Quality Framework (also known as the NVR VET Quality Framework);
- The Standards for NVR Registered Training Organisations 2012;
  - Australian Qualifications Training Framework (AQTF);
  - The Fit and Proper Person Requirements 2011;
  - The Financial Viability Risk Assessment Requirements;
  - The Data Provision Requirements;
- Standing Council on Tertiary Education, Skills and Employment (SCOTESE);
- National Skills Standards Council (NSSC);
- Industry Skills Council (ISC);
- National Centre for Vocational Education Research (NCVER);
- AVETMISS;
- Department of Education and Training (DET);
- Assessment Audit Requirements;
- Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).

### **Australian Skills Quality Authority (ASQA)**

As the national regulator for the Vocational Education and Training (VET) sector, the Australian Skills Quality Authority (ASQA) seeks to make sure that the sector's quality is maintained through the effective regulation of:

- Vocational education and training providers (RTOs);
- Accredited vocational education and training courses; and
- Providers of intensive English-language courses for overseas students.

ASQA's functions under the *National Vocational Education and Training Regulator Act 2011* also include accrediting courses that may be offered or provided by registered training organisations. ASQA makes sure that the quality and

reputation of Australia's VET system is maintained through effective national regulation. ASQA regulates according to a risk assessment model. This model:

- Ensures risks to quality vocational education are well managed;
- Employs a strong compliance auditing and monitoring regime and a range of escalating sanctions;
- Recognises the need for innovation and flexibility in VET;
- Is risk-based;
- Ensures training meets the needs of industry;
- Ensures that providers with a proven track record as high performers (e.g. those that consistently demonstrate quality and compliance) receive less intervention from the regulator, reducing the burden of regulation for those providers.

In its regulatory approach, ASQA works to achieve a balance between the wider interest of Australian industry and Australian employers and the specific interests of the vocational education industry.

Australian businesses need a skilled workforce. Through the work of Industry Skills Councils in developing training packages, industry defines the skills required by the labour market. ASQA ensures that registered training organisations are meeting the requirements of these industry-developed training packages, so that VET graduates have the required skills and competencies for employment.

Australian Institute of Advanced Studies (AIAS) ensures all of their courses, training product and teachers comply with ASQA requirements. AIAS exceeds the requirements of industry-developed training packages to ensure their graduates have the exceptional knowledge and skills for successful employment entry. AIAS will not teach any courses or units of competency without being approved to do so by ASQA. All courses must be formally registered on AIAS scope of delivery by ASQA prior to being delivered.

### **The VET Quality Framework (also known as the NVR VET Quality Framework)**

The VET Quality Framework is a set of standards and conditions that the Australian Skills Quality Authority uses to assess whether an RTO meets the requirements for registration.

The VET Quality Framework comprises of:

1. *The Standards for NVR Registered Training Organisations 2012*;
2. The Australian Qualifications Training Framework (AQF or AQTF) ;
3. The Fit and Proper Person Requirements;
4. The Financial Viability Risk Assessment Requirements ;
5. The Data Provision Requirements.

Full legislative standards are available at: <http://www.asqa.gov.au/about-asqa/national-vet-regulation/vet-quality-framework.html>

Other requirements include:

- Cooperation with ASQA—including compliance with general directions and cooperation with compliance monitoring activity;
- Payment of fees and charges associated with registration;
- Additional requirements for providers seeking registration on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) to offer courses to overseas students; and
- Additional requirements for providers offering VET courses with additional licensing requirements

## **1. The Standards for NVR Registered Training Organisations 2012**

The *Standards for NVR Registered Training Organisations 2012* are the standards ASQA uses to ensure nationally consistent, high-quality training and assessment across Australia's vocational education and training (VET) system. Compliance with the standards is a requirement for all ASQA registered training organisations (RTOs) and for applicants seeking registration. The standards were developed by the former National Skills Standards Council (NSSC), which was dissolved in April 2014. The NSSC's ongoing functions will be delegated to industry representatives and selected senior officials through the **Industry** and Skills Council Advisory Committee. While the Advisory Committee is being established, current VET standards and policies, including the *Standards for NVR Registered Training Organisations 2012*, remain in place for the purposes of regulation. The standards are used by ASQA as an instrument in protecting the interests of all students undertaking vocational education and training in Australia. The standards guide nationally consistent, high-quality training and assessment services in the vocational education and training system.

**Standards review-** Objectives for reform of the Vocational Education and Training (VET) system and key priorities for action, include:

- Examin[ing] the standards for providers and regulators to ensure they better recognise the different level of risk posed by different providers;
- Enable the regulators to deal more effectively with poor quality in the sector to improve confidence;
- Meet the Australian Government's deregulation objectives.

ASQA will communicate further information on developments with the standards as these become available. Current VET standards and policies, including the *Standards for NVR Registered Training Organisations 2012*, remain in place for the purposes of regulation.

## **2. Australian Qualifications Training Framework (AQTF)**

The AQF is the national policy for regulated qualifications in Australian education and training. That is; it establishes the quality of Australian qualifications. The AQF incorporates the qualifications from each education and training sector into a single comprehensive national qualifications framework. The AQF was first

introduced in 1995 to underpin the national system of qualifications in Australia encompassing higher education, vocational education and training and schools.

The many AQF stakeholders include: industry and its representative bodies, unions, professional associations, licensing authorities and governments. Ultimately students, graduate and employers (both Australian and international) benefit from the excellent qualifications that are built on the requirements of the AQF. In Australia, education and training is a shared responsibility of all Commonwealth, State and Territory governments. Education, training and employment ministers collectively own and are responsible for the AQF.

The AQF provides the standards for Australian qualifications. It is an integrated policy that comprises:

- The learning outcomes for each AQF level and qualification type
- The specifications for the application of the AQF in the accreditation and development of qualifications
- The policy requirements for issuing AQF qualifications
- The policy requirements for qualification linkages and student pathways
- The policy requirements for the registers of:
  - Organisations authorised to accredit AQF qualifications;
  - Organisations authorised to issue AQF qualifications;
  - AQF qualifications and qualification pathways.
- The policy requirements for the addition or removal of qualification types in the AQF, and
- The definitions of the terminology used in the policy.

One of the key objectives of the Australian Qualifications Framework is to facilitate pathways to, and through, formal qualifications. AQF qualifications link with each other in a range of learning pathways between schools, VET and higher education and education and work as an individual's learning and career ambitions require. The AQF provides for flexible, transparent and systematic learning pathways and to the removal of boundaries between educational sectors.

**The objectives of the AQF are to provide a contemporary and flexible framework that:**

- Accommodates the diversity of purposes of Australian education and training now and into the future;
- Contributes to national economic performance by supporting contemporary, relevant and nationally consistent qualification outcomes which build confidence in qualifications;
- Supports the development and maintenance of pathways which provide access to qualifications and assist people to move easily and readily between different education and training sectors and between those sectors and the labour market;

- Supports individuals' lifelong learning goals by providing the basis for individuals to progress through education and training and gain recognition for their prior learning and experiences;
- Underpins national regulatory and quality assurance arrangements for education and training;
- Supports and enhances the national and international mobility of graduates and workers through increased recognition of the value and comparability of Australian qualifications; and
- Enables the alignment of the AQF with international qualifications frameworks.

Verification of AQF qualifications and the organisations authorised to issue them is through the AQF Register.

AIAS maintains the highest teaching standards in compliance with Australian Qualifications Training Framework (AQTF). All Statements of Attainment issued to course participants by AIAS are recognised and validated due to the company's strict adherence to AQTF compliance.

### **3. The Fit and Proper Person Requirements 2011**

Are legislative standards developed by Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations, under subsection 186(1) of the *National Vocational Education and Training Regulator Act 2011*.

#### **Fit and Proper Person Requirements- Criteria for suitability for registration (FPPR 4)**

In assessing whether a person, who is an applicant for registration as an NVR registered training organisation, an applicant for renewal of registration as an NVR registered training organisation or who is an NVR registered training organisation, meets the Fit and Proper Person Requirements, the National VET Regulator must have regard to the following considerations:

- a) Whether the person has been convicted of an offence against a law of the Commonwealth or of a State or Territory and if so, the seriousness of the offence;
- b) Whether the person has ever had his, her or its registration on the National Register cancelled or suspended;
- c) Whether the person has ever had a condition imposed on his, her or its registration on the National Register;
- d) Whether the person has ever breached a condition of registration in Subdivision B of Division 1 of Part 2 of the Act;
- e) Whether the person has ever become bankrupt, applied to take the benefit of a law for the benefit of bankrupt or insolvent debtors, compounded with his or her creditors or assigned his or her remuneration for the benefit of creditors;
- f) Whether the person has ever been disqualified from managing corporations under Part 2D.6 of the Corporations Act 2001;
- g) Whether the person was involved in the business of the provision of courses by another provider who is covered by any of the above paragraphs at the time of any of the events that gave rise to the relevant prosecution or other action;

- h) Whether the person has ever provided a State or Territory registering body and/or the National VET Regulator with false or misleading information or made a false or misleading statement to a State or Territory registering body or the National VET Regulator, and whether the person knew that the statement made or information provided to the State or Territory registering body or VET Regulator was false or misleading;
- i) Whether the person has ever been found not to be a fit and proper person for the purposes of the Education Services for Overseas Students Act 2000;
- j) Whether the public is likely to have confidence in the person's suitability to be involved in an organisation that provides or assesses national qualifications; and
- k) Any other relevant matter.

#### **Persons subject to Fit and Proper Person Requirements (FPPR 5)**

A person mentioned in FPPR 4 does not meet the Fit and Proper Person Requirements if the National VET Regulator is satisfied that, having regard to the matters provided in paragraph FPPR 4 (a) to (k), one or more of the following people do not meet the Fit and Proper Person Requirements:

- a) An executive officer of the person referred to in FPPR 4;
- b) A high managerial agent of the person referred to in FPPR 4; or
- c) Any person or entity which exercises a degree of control or influence over the management or direction of the registered training organisation.

#### **4. The Financial Viability Risk Assessment Requirements**

The Australian Skills Quality Authority (ASQA) developed this legislative instrument under subsection 158(1) of the National Vocational Education and Training Regulator Act 2011.

**Financially viable** means the ability of an organisation to generate sufficient income to meet operating payments, debt commitments and, where applicable, to allow growth while delivering quality training and assessment services and outcomes.

**Financial viability risk** is the assessed financial performance, operations, and capacity of an organisation as an ongoing concern to deliver quality training and assessment services and outcomes for the duration of its registration, and the potential of its losing this capacity.

#### **The requirements of this legislative instrument apply to:**

- a) All organisations seeking registration under the Act; and
- b) All training organisations registered under the Act.

The National VET Regulator requires a NVR registered training organisation to demonstrate its financial viability at any point in time, upon request.

The **assessment of an organisation's financial viability risk** is directed at evaluating the likelihood of its business continuity, and its capacity to achieve quality outcomes. In particular, the assessment informs a judgement about whether the organisation has the financial resources necessary to:

- a) Acquire the requisite assets and physical resources to deliver all qualifications on its scope of registration;

- b) Employ sufficient appropriately qualified staff to cover the courses for which it takes enrolments;
- c) Provide appropriate levels of student services to students;
- d) Remain in business to ensure that each student can achieve completion; and
- e) Meet the above requirements, even in an unsure environment.

## **5. The Data Provision Requirements**

### **Standing Council on Tertiary Education, Skills and Employment (SCOTESE) - National VET Provider Collection Data Requirements Policy**

Australian, state and territory governments are pursuing a number of reforms to support better information about vocational education and training (VET) so that:

- Employers and individuals can make informed choices about training options;
- Individuals can get records of the training they undertake into the future regardless of where it occurred;
- Industry can know the skills being developed in the training sector; and
- Governments can develop more targeted policies and better direct funding to training priorities.

Knowing what training is occurring across the entire VET sector is key to achieving these aims.

This Policy outlines the requirements on all registered training organisations (RTOs) to report their nationally recognised training to the National VET Provider Collection managed by the National Centre for Vocational Education Research. Comprehensive and timely information about the training being undertaken across all RTOs will:

- Be used by VET regulators to inform risk-based regulation of registered training organisations (RTOs) and establish benchmarks for continuous improvement in the VET sector;
- Enable individuals to access transcripts that show any nationally recognised training undertaken through links with the Unique Student Identifier;
- Provide details about RTOs and courses on the My Skills website to assist students and businesses to make informed training choices;
- Improve government, industry and business understanding of where and when skills are being developed to assist workforce planning;
- Provide governments with a better understanding of training efforts across Australia – assisting with the development of policy and assessing interventions; and
- Enhance understanding of the training market and assist RTOs with planning training delivery.

## **National VET Provider Collection Data Requirements Policy Page 2 of 9 Version 1 – June 2013**

Registered training organisations will still need to fulfil legislative and contractual reporting obligations including the **student learner and employer satisfaction surveys** and reporting **obligations required as a result of receiving government funding**. This standard and policy does not alter the rights of VET regulators to seek information from registered training organisations, outside of the National VET Provider Collection.

Data reported under this Policy must be provided according to the Australian VET Management Information Statistical Standard (AVETMISS), which details the requirements for providing nationally consistent data on VET students and courses, apprenticeships and trainees and VET in schools.

### **Standing Council on Tertiary Education, Skills and Employment (SCOTESE)**

The Council of Australian Governments (COAG) Standing Council on Tertiary Education, Skills and Employment (SCOTESE) was established in September 2011. SCOTESE has high-level policy responsibility for the national tertiary education, skills and employment system, including strategic policy, priority setting, planning and performance, and key cross-sectoral issues.

On 13 February 2011, COAG agreed to a new Council System consisting of Standing Councils, Select Councils and Legislative and Governance. SCOTESE is one of 12 Standing Councils to be established as part of the new COAG Council System to support COAG.

#### **Responsibilities and Functions**

The purpose of SCOTESE is to ensure that Australia's current and future workforce needs are met through increased participation, educational attainment, skills development and skills use to achieve greater productivity. The Council has high-level policy responsibility for:

- Higher education;
- Vocational education and training (VET), including skills and workforce development;
- International education;
- Adult and community education; and
- Employment.

#### **The SCOTESE Council's priority issues are:**

1. Ensuring high quality tertiary education and training through strengthening of regulatory arrangements in the tertiary education and training sectors and promoting a sustainable and competitive international education sector;

2. Establishing a national tertiary education and training framework that drives responsiveness to labour market needs;
3. Developing a coordinated approach to meet the needs of disadvantaged and equity groups including through alignment of employment, skills and support services;
4. Developing leading workforce development strategies that are cognisant of and coherent with skills utilisation and skilled migration policy in order to meet current and future critical skills needs; and
5. Enhancing national research, analysis, data and information provision on tertiary education and training.

In addition, the SCOTESE Council will pursue the following COAG strategic themes as its major focus areas:

1. Long-Term Strategy for Participation
2. A National Economy driven by our Competitive Advantages
3. Closing the Gap for Indigenous Australians.

### **National Skills Standards Council (NSSC)**

The National Skills Standards Council (NSSC) replaced the National Quality Control (NQC) in 2011; however, the NSSC dissolved in April 2014.

The ongoing NSSC functions will be delegated by the Industry and Skills Council Advisory Committee (ISAC) from the Industry Skills Council (ISC).

### **Industry Skills Council (ISC)**

ISC brings together industry educators and government; and unites them on a common industry led agenda for action on skills and workforce development. ISC support development and implementation and continued improvement of training and workforce development products and services including industry Training Packages.

#### **Industry Skills Councils are:**

- Recognised and funded by the Australian Government;
- Governed by independent, industry led boards; and
- Not-for-profit companies limited by guarantee.

#### **The formal roles of Industry Skills Councils involve:**

- Providing integrated industry intelligence and advice to the Australian Workforce and Productivity Agency, government and enterprises on workforce development and skills needs;
- Actively supporting the development, implementation and continuous improvement of high quality training and workforce development products and services including Industry Training Packages;
- Providing independent skills and training advice to enterprises, including matching identified training needs with appropriate training solutions; working with enterprises, employment service providers, Registered Training

Organisations and government to allocate training places under the Enterprise Based Productivity Places Program;

- Engaging with State and Territory Governments, State and Territory industry advisory bodies and peak representative bodies in their area of industry coverage.
- Industry Skills Councils also play a central coordination role in the National Workforce Development Fund

### **National Centre for Vocational Education Research (NCVER)**

The National Centre for Vocational Education Research (NCVER) is a not-for-profit company owned by the Commonwealth and state and territory ministers responsible for vocational education and training.

It is a professional and independent body responsible for collecting, managing, analysing, evaluating and communicating research and statistics about vocational education and training (VET) nationally.

NCVER's vision is to inform and influence vocational education and training in Australia through credible, reliable and responsive research and statistical services.

Its mission is to be Australia's authoritative source of high-quality independent information on vocational education and training.

A board of nine directors, with experience across state, territory, and Commonwealth governments, industry, unions, and training authorities, manage NCVER.

#### **NCVER's areas of activity:**

- Undertaking a strategic program of education and training research, including the management of national competitive grants programs and the analytical program of the Longitudinal Surveys of Australian Youth (LSAY), and collect and analyse national VET statistics and survey data.
- Collecting and publishing research findings on VET and higher education from across the world through the VOCEDplus research database.
- Disseminating the results of research and data analysis.
- Building links with similar international organisations to foster comparative analysis and collaborate on issues of mutual interest.
- Undertaking commercial consultancies.

#### **NCVER provides research and statistical information to a wide range of stakeholders, including:**

- Ministers;
- Commonwealth and state and territory education and training authorities;
- Registered training organisations;
- VET practitioners and providers;
- Educational institutions;
- Australian businesses;
- Researchers;
- International agencies;
- Industry skills councils;
- Employer- and employee-based associations or organisations; and
- Community organisations.

## **AVETMISS**

Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS), details the requirements for providing nationally consistent data on VET students and courses, apprenticeships and trainees and VET in schools. It is a national data standard that ensures consistent and accurate capture and reporting of Vocational Education and Training (VET) information about students.

### **AVETMISS covers three national data collections:**

- The National VET Provider Collection - contains data collected from public and private training providers who offer VET to domestic and international students at onshore and offshore locations.
- The National Apprentice and Trainee Collection- consists of data collected from State and Territory Training Authorities (STAs) on Apprenticeship/Traineeship training contracts.
- The National Financial Data Collection- **contains data collected from STAs on the use of public funds in the financing of VET activities.**

As the AVETMISS custodian, NCVET collects AVETMISS information under the authority of the regulatory bodies for RTOs.

For RTOs registered by the Australian Skills Quality Authority (ASQA), the reporting requirement is part of the Data Provision Requirements that are established by agreement of Training Ministers across Australia under the National Vocational Education and Training Regulator Act 2011.

## **Department of Education and Training (DET)**

The Department of Education, Training and Employment is committed to ensuring Queenslanders have the education and skills they need to contribute to the economic and social development of Queensland.

The department delivers world-class education and training services for people at every stage of their personal and professional development. We are also committed to ensuring our education and training systems are aligned to the state's employment, skills and economic priorities.

AIAS hold the approved licence agreement with the DET via the Centre of Training Material (CTM) to all courses where it is necessary to do so. For example: 30942QLD Community Justice Services.

## **Assessment Audit Requirements**

AIAS complies with all requests for assessment audits. Audit compliance ensures content, assessment and teaching standards are met and maintained.

For example: as part of the licensing agreement to teach 30942QLD Community Justice Services; AIAS are mandated to submit 10% of the completed Justice Assessment items, biannually to the JPB. This audit is conducted by the Justice of the Peace Branch (JPB) Audit division.

### **Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)**

The Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) is a register of Australian education institutions that recruit, enrol and teach overseas students. Registration on CRICOS allows providers to offer courses to overseas students studying in Australia on student visas.

Education providers who wish to offer courses to international students on a student visa must be registered on the Commonwealth Register of Institutions and Courses for Overseas Students.

Regulation of the international student industry in Australia is founded on a State and Commonwealth legislative framework, which serves first and foremost to protect the interests and welfare of overseas students and the reputation of Australia's education export industry as a whole.

CRICOS lists all Australian education providers approved to offer courses to these overseas students, and details the courses offered by these providers.

#### **The register:**

- Is managed by the Australian Government Department of Education
- Is publicly available, and
- Can be searched by course or provider name/number.

#### **ASQA can register the following providers on CRICOS:**

Registered training organisations (RTOs) seeking to offer vocational education and training courses, and

providers seeking to offer English Language Intensive Courses for Overseas Students (ELICOS) courses except where the ELICOS course is delivered:

- By the provider in its capacity as a school
- By the provider in its capacity as a higher education provider, or
- Under an 'entry arrangement' with at least one higher education provider.

#### **For courses to be registered on CRICOS the provider must:**

- Be registered as an RTO for the delivery of vocational education and training (VET) courses
- Demonstrate they meet the ELICOS National Standards for ELICOS courses
- Demonstrate they meet the requirements of the ESOS Act and the National Code.

#### **Legislation**

The regulation of the international education industry in Australia is founded on a State and Commonwealth legislative framework, which for Queensland includes:

- *The Commonwealth Education Services for Overseas Students Act 2000 ("the ESOS Act")*

- *The Commonwealth National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 ("the National Code")*
- *Queensland's Education (Overseas Students) Act 1996 ("the EOS Act")*
- *Queensland's Education (Overseas Students) Regulation 1998 ("the EOS Reg")*

Providers must meet the requirements of both State and Commonwealth legislation in order to become registered and maintain registration on CRICOS in Queensland.

For further information refer to:

<http://education.qld.gov.au/schools/cricos/cricos.html>

## **SCHEDULE B - "Compliance with State and Commonwealth Legislative Requirements".**

**\*\*\* These Acts, Regulations or Codes of Practice are explained in detail below their relevant legislative sections.**

### **EDUCATION AND TRAINING LEGISLATION**

- **\*\*\*** *The Standards for NVR Registered Training Organisations 2012 (Qld)*
- **\*\*\*** *National Vocational Education and Training (NVER) Regulator Act 2011(CWth)*
- **\*\*\*** *Vocational Education & Training (Commonwealth Powers) Act 2012(CWth)*
- **\*\*\*** *Vocational Education, Training and Employment Act 2000 (Qld)*
- **\*\*\*** *Education (Queensland Studies Authority) Act 2002 (Qld)*
- **\*\*\*** *Education (General Provisions) Act 2006 (Qld)*
- **\*\*\*** *Further Education and Training Act 2014(Qld)*
- *Further Education and Training Regulations 2014(Qld)*
- *Higher Education Support Act 2003 (CWth)*
- *Immigration (Education) Act 1971(CWth)*
- *Indigenous Education (Targeted Assistance) Act 2000(CWth)*
- *Education Services for Overseas Students Act 2000 (see also National & Vocational)*
- *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (CWth)*

- *The Commonwealth Education Services for Overseas Students Act 2000 (CWth) ("The ESOS Act")*
- *The Commonwealth National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007(CWth) ("The National Code")*
- *Queensland's Education (Overseas Students) Act 1996(Qld) ("the EOS Act")*
- *Queensland's Education (Overseas Students) Regulation 1998(Qld) ("the EOS Reg")*

### **The Standards for NVR Registered Training Organisations 2012 (Qld)**

The *Standards for NVR Registered Training Organisations 2012* are the standards ASQA uses to ensure nationally consistent, high-quality training and assessment across Australia's vocational education and training (VET) system.

Compliance with the standards is a requirement for all ASQA registered training organisations (RTOs) and for applicants seeking registration.

The standards were developed by the former National Skills Standards Council (NSSC), which was dissolved in April 2014. The NSSC's ongoing functions will be delegated to industry representatives and selected senior officials through the **Industry** and Skills Council Advisory Committee. While the Advisory Committee is being established, current VET standards and policies, including the *Standards for NVR Registered Training Organisations 2012*, remain in place for the purposes of regulation.

The standards are used by ASQA as an instrument in protecting the interests of all students undertaking vocational education and training in Australia. The standards guide nationally consistent, high-quality training and assessment services in the vocational education and training system.

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- Examin[ing] the standards for providers and regulators to ensure they better recognise the different level of risk posed by different providers;
- Enable the regulators to deal more effectively with poor quality in the sector to improve confidence;
- Meet the Australian Government's deregulation objectives.

ASQA will communicate further information on developments with the standards as these become available.

Current VET standards and policies, including the *Standards for NVR Registered Training Organisations 2012*, remain in place for the purposes of regulation.

### **National Vocational Education and Training Regulator Act 2011 (CWth)**

This Act establishes the National Vocational Education and Training Regulator: The Australian Skills Quality Authority (ASQA). It also provides a range of sanctions of increasing severity, escalating from enforceable undertakings and additional conditions on registration through to suspending or cancelling the registration of an RTO.

ASQA will apply these powers and sanctions with proportion, rigor, fairness and consistency.

**The objectives of this Act are:**

- To provide for national consistency in the regulation of vocational education and training (VET); and
- To regulate VET using:
  - A standards-based quality framework; and
  - Risk assessments, where appropriate; and
- To protect and enhance:
  - Quality, flexibility and innovation in VET; and
  - Australia's reputation for VET nationally and internationally; and
- To provide a regulatory framework that encourages and promotes a VET system that is appropriate to meet Australia's social and economic needs for a highly educated and skilled population; and
- To protect students undertaking, or proposing to undertake, Australian VET by ensuring the provision of quality VET; and
- To facilitate access to accurate information relating to the quality of VET.

**Vocational Education & Training (Commonwealth Powers) Act 2012(CWth)**

The objectives of this Act/ Bill are to:

- Refer legislative power to the Commonwealth Parliament to regulate registered training organisations (RTOs) and vocational education and training (VET) courses by adopting the National Vocational Education and Training Regulator Act 2011 (CWth) and the National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (CWth) and making an amendment reference;
- Abolish the Training and Employment Recognition Council and transfer its remaining functions, mostly in relation to apprenticeships and traineeships, to Skills Queensland;
- Repeal Chapter 2 of the Vocational Education, Training and Employment Act 2000 that provides for regulation of registered training organisations and the accreditation of vocational education and training courses;
- Amend the Building Act 1975 to remove potential inconsistency with the National Vocational Education and Training Regulator Act 2011(Cwth) 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; and Vocational Education and Training (Commonwealth Powers) Bill 2012;
- Make consequential amendments to the Vocational Education, Training and Employment Act 2000 and other Acts.

In 2009, the Council of Australian Governments (COAG) agreed to national reforms to the regulation of vocational education and training (VET), including establishment of a national VET regulator responsible for the registration and regulation of registered training organisations (RTOs) and accreditation of VET courses. COAG also approved that a National Skills Standards Council (NSSC) be established to provide advice to the Ministerial Council for Tertiary Education and Employment (TEE) about the development of national standards for the registration, quality assurance, performance monitoring, reporting, risk, audit, review and renewal of providers, and accreditation of VET qualifications. The National VET Regulator, the Australian Skills Quality Authority (ASQA), was established by the Commonwealth Government when it enacted the National Vocational Education and Training Regulator Act 2011 and the National Vocational Education and Training Regulator (Transitional Provisions) Act 2011 (national VET legislation) in 2011.

ASQA commenced operations in 2011, regulating training providers. The establishment of ASQA is expected to deliver the following benefits:

- Improved employer and consumer confidence in the quality and consistency of assessment of VET qualifications;
- Consistent application of standards for RTOs across jurisdictions and consistent application of sanctions against RTOs which do not meet the high standards expected in the VET sector; and
- A coordinated national response to emerging issues in the VET sector.

### **Vocational Education, Training and Employment Act 2000 (Qld)**

The objectives of this Act are:

- To provide mechanisms for employees, employers, associations of employees or employers, industry and the community to advise government on vocational education and training needs and priorities to meet those needs; and
- To support the continued development of high quality training by and within industry; and
- To facilitate the provision of vocational education and training that is relevant to employment, encourages the generation of employment opportunities and is responsive to the future workforce development and skills requirements of industry;
- To further the commitment by the States, the Territories and the Commonwealth, in partnership with industry, to work together to increase the participation of Australians in an integrated national vocational education and training system that allows for local diversity; and
- To promote a community commitment towards supporting young people in the compulsory participation phase; and
- To implement initiatives that are consistent with the ministerial declaration 'Stepping forward: improving pathways for all young people'; and
- To strengthen Queensland's economic base by providing a skilled workforce that meets the current and future needs of industry, Government and the community.

*The Vocational Education, Training and Employment Act 2000 (Qld)* also discusses:

- Apprentices and trainees;
- Vocational placement;
- TAFE institutes;
- Group training organisations;
- Reviews and appeals; and
- Repeals and transitional provisions.

### **Education (Queensland Studies Authority) Act 2002 (Qld)**

This Act establishes the Queensland Studies Authority (QSA), to confer functions on the authority including functions about developing and accrediting 1–12 syllabuses and preschool guidelines, testing, assessment, moderation, certification, vocational education and training and tertiary entrance, to establish the Office of the Queensland Studies Authority.

#### **Vocational education and training functions**

The authority has the following functions:

- To exercise powers delegated to the authority, by the Training Recognition Council, under the Training and Employment Act 2000, section 186; 2
- To inform the public about:
  - Vocational education and training courses accredited under the delegation;
  - Vocational placement schemes recognised under the delegation; and
  - Training organisations registered under the delegation;
- To advise the Minister administering the vocational education and training department about vocational education and training matters relevant to the authority's functions.

#### **Tertiary entrance functions**

The authority has the following functions:

- After consulting with the Minister, to decide the authority's tertiary entrance procedures and requirements;
- To rank persons as a basis for tertiary entrance as provided for under the authority's tertiary entrance procedures and requirements;
- To issue tertiary entrance statements;
- To monitor, review, and recommend to the Minister changes to, the tertiary entrance requirements of tertiary institutions established in the State;
- To inform the public about tertiary entrance procedures and requirements;
- To confer and collaborate about tertiary entrance with the following, and other, entities having an interest in tertiary education:
  - Universities;
  - TAFE institute councils of TAFE institutes established under the Training and Employment Act 2000;
  - Queensland Tertiary Admissions Centre Ltd ACN 050 542 633;
  - The department in which the *Education (General Provisions) Act 1989* is administered;

- AISQ and QCEC;
- The principals of schools;
- The vocational education and training department;
- Industry training advisory bodies, and group training organisations, recognised under the *Training and Employment Act 2000*;
- To review, and to make recommendations to the Minister about, tertiary entrance.

### **Education (General Provisions) Act 2006 (Qld)**

This is an Act about the education of children and the participation of young people in education and training.

#### **The objectives of this Act are:**

- To make available to each Queensland child or young person a high-quality education that will:
  - Help maximise his or her educational potential; and
  - Enable him or her to become an effective and informed member of the community; and
- To provide universal access to high quality State education; and
- For chapter 10:
  - To implement initiatives to ensure young people participate in a period of education or training after they turn 16 years or complete year 10; and
  - To outline a range of education and training options for them during this period.

#### **The objectives are to be achieved mainly by:**

- Placing responsibilities on parents and the State in relation to the education of children and young people; and
- Providing for the establishment of State educational institutions, and facilitating their operation as safe and supportive learning environments; and
- Ensuring education programs are responsive to the individual needs of children and young people; and
- Encouraging a parent's involvement in his or her child's education; and
- Encouraging parental and community involvement in the operation of State educational institutions by enabling:
  - The establishment of school councils for State schools; and
  - The formation of parents and citizens associations for State instructional institutions.

#### **Chapters relevant to RTOs:**

Chapter 10- Compulsory participation in education or training

Chapter 18- International educational institutions

### **Further Education and Training Act/ Bill 2014(Qld)**

This Bill for the *Further Education and Training Act 2014(Qld)* is to streamline the regulation of apprenticeships and traineeships, to establish a robust and modern legislative framework for training and to make minor and consequential amendments to other legislation as stated in schedule 1.

#### **The objectives of this Act are:**

- To strengthen Queensland's economic base by providing a skilled workforce that meets the current and future needs of industry, Government and the community;
- To facilitate the provision of vocational education and training that is linked to employment and is responsive to the future workforce development and skills requirements of industry; and
- To support the continued development of high-quality training by and within industry; To support Queenslanders to access and complete the skills training they need to get a job and contribute to the State's economy and their own prosperity;
- To establish a simple, streamlined apprenticeship and traineeship system featuring flexible, industry-endorsed approaches to trade training; and
- To support industry and employers to take on, train and retain apprentices and trainees.

**The *Further Education and Training Act 2014(Qld)* also discusses:**

Chapter 2 Apprentices and trainees;

Chapter 3 Group training organisations and principal employer organisations;

Chapter 4 Other training-related matters i.e. Part 1 Certificates of achievement;

Chapter 5 Monitoring and enforcement;

Chapter 6 Reviews and appeals;

Chapter 7 Legal proceedings

## **EMPLOYMENT, WORKPLACE, ENVIRONMENT AND INDUSTRIAL RELATIONS LEGISLATION**

- **\*\*\****Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Act 2005 (CWth) (Replaces the Workplace Relations Act 1996)*
- **\*\*\****Industrial Relations Act 1999 (Qld)*
- **\*\*\****Queensland Building Fire Safety Regulation 2008(Qld)*
- *Professional Standards Act 2004(Qld)*
- *Environmental Protection Act 1994(Qld)*
- *Environmental Protection Regulation 2008(Qld)*
- *Building Act 1975 (Qld)*
- *Building Regulations 2006(Qld)*
- *Queensland Fire & Rescue Service Act 1990(Qld)*

### **EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (Welfare to Work and Other Measures) ACT 2005 (Formerly The Workplace Relations Act 1996)**

This Act (popularly known as WorkChoices) came into effect in March 2006 which involved many controversial amendments to the Workplace Relations Act 1996, the main federal statute which regulated industrial relations in Australia.

WorkChoices mandated in *the Workplace Relations Act 1996*, dispensed unfair dismissal laws for companies under a certain size; required workers to submit certified agreements directly to Workplace Authority rather than going through the Australian Industrial Relations Commission; made adjustments to a workforce's ability to legally go on strike, enabled workers to bargain for conditions without collectivise representation; and significantly restricted radical trade union activity and violence on the work site.

This Act was strongly opposed, particularly by the trade union movement. It was argued that the laws stripped away basic employee rights and were fundamentally unfair. When the Australian Labor Party (ALP) came into power in 2007 they repealed the entirety of the WorkChoices legislation.

*The Employment and Workplace Relations Legislation Amendment Act 2005* implemented:

- The formation of a single national industrial relations system in relation to incorporated corporations, to replace the separate State and federal systems;
- Establishment of a body to be known as the Australian Fair Pay Commission, to decide minimum wages, in place of National Wage Cases at the Australian Industrial Relations Commission (AIRC);
- Streamlining of Certified Agreement and Australian Workplace Agreement making, including increasing the maximum life of agreements from three years to five years;
- A reduction in the number of "allowable matters", which could be covered by awards
- Creation of five minimum workplace conditions;
- Exemption of companies with fewer than 101 employees from unfair dismissal laws;
- Exemption of all companies from unfair dismissal laws, where a dismissal is for a bona fide operational reason;
- Increased restrictions on allowable industrial action;
- Mandating secret ballots for industrial action;
- Outlawing pattern bargaining and industry-wide industrial action.

Other areas this amendment Act developed or changed were to the: Disability support pension; Carers payment; Parenting payment; Youth allowance; Austudy payment; Newstart allowance; Employment entry payment; Sickness allowance; Special benefits; Mobility allowance; Advance payments of benefit PP (partnered); Pensioner education supplement; Telephone allowance; Concession cards; Overpayments and debt recovery; and Pension Rate, Youth Allowance, Austudy Payment, Benefit Rate and Parenting Payment Rate Calculators.

### **Industrial Relations Act 1999 (Qld)**

The *Industrial Relations Act 1999* is an Act relating to industrial relations in Queensland.

**The principal objectives of this Act** are to provide a framework for industrial relations that supports economic prosperity and social justice by:

- Providing for rights and responsibilities that ensure economic advancement and social justice for all employees and employers; and
- Providing for an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness; and
- Preventing and eliminating discrimination in employment; and
- Ensuring equal remuneration for men and women employees for work of equal or comparable value; and
- Helping balance work and family life; and
- Promoting the effective and efficient operation of enterprises and industries; and
- Ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community; and
- Promoting participation in industrial relations by employees and employers; and
- Encouraging responsible representation of employees and employers by democratically run organisations and associations; and
- Meeting the needs of emerging labour markets and work patterns; and
- Promoting and facilitating jobs growth, skills acquisition and vocational training through apprenticeships, traineeships and labour market programs; and
- Providing for effective, responsive and accessible support for negotiations and resolution of industrial disputes; and
- Assisting in giving effect to Australia's international obligations in relation to labour standards; and
- Ensuring that, when wages and employment conditions are determined by arbitration, the following are taken into account—
  - For a matter involving the public sector—the financial position of the State and the relevant public sector entity, and the State's fiscal strategy;
  - For another matter—the employer's financial position.

### **Queensland Building Fire Safety Regulations 2008**

The Queensland Building Fire Safety Regulations 2008 superseded the 1991 Regulation.

If you are the owner, or a business or person, that is occupying a building in Queensland, you now have a legal obligation to ensure the safety of any person in that building in the event of a fire or hazardous material emergency. The Queensland Building Fire Safety Regulations detail the legal requirements. Organisations must be aware of and comply with the new Queensland Building Fire Safety Regulations.

#### **The objective of the Building Fire Safety Regulations is to:**

- Ensure the safe evacuation of persons from buildings; and
- Ensure the prescribed fire safety equipment within a building is being maintained.
- Ensure new building fire services be tested and maintained in accordance with AS1851: 2005 requirements (Maintenance Requirements for Fire Safety Systems).

This means in Queensland there is a statutory requirement to service and maintain fire systems to the new AS1851: 2005 regime for new buildings. For

buildings built prior to 2005, the fire systems are to be maintained to the relevant Australian Standard applicable on the day the building was approved.

**The following are particular requirements of the Building Fire Safety Regulation:**

- The evacuation routes are required to be free from obstruction and evacuation plans to be in a specified form with relevant data;
- It requires the occupiers of the building to ensure the number of persons accessing the building are limited to a number which is safe for access and egress from the building;
- It requires an evacuation diagram, which is a plan of the building in an understandable form, showing the fire safety reference points and indicating the exit routes;
- There is a requirement for fire and evacuation instructions for buildings used for temporary events;
- The requirement for Fire Safety Advisers for the high occupancy buildings;
- The need for practice evacuations and a specific section on budget accommodation buildings;
- Detailed record keeping;
- Specific obligations of owners of accommodation units;
- Prescribed fire safety installation maintenance requirements and keeping records of the maintenance undertaken of the fire safety installations as well as documentation of fire safety
- Installations installed within the building.

**FINANCE, CORPORATE, FAIR TRADING, CONTRACTS, TAX AND SUPERANNUATION LEGISLATION**

- **\*\*\****Australian Securities and Investments Commission Act (ASIC), 2001 (CWth)*
- **\*\*\****Fair Trading (Australian Consumer Law) Amendment Act 2010 (CWth) (Replaces the Fair Trading Act 1989 and Security Providers Act 1993)*
- *Australian Consumer Law and Fair Trading Regulations 2012(CWth)*
- *Corporations Act, 2001 (CWth)*
- *Insurance Contracts Act, 1984 (CWth)*
- *National Consumer Credit Protection Act, 2009 (CWth)*
- *Superannuation (Public Employees Portability) Act 1985(Qld)*
- *Superannuation (Public Employees Portability) Amendments & Regulations 2005(Qld)*
- *Superannuation Legislation Amendment Act 2012(CWth)*
- *Tax Laws Amendment (Income Tax Rates) Act 2012(CWth)*
- *Tax Laws Amendment (Small Business) Act 2007(CWth)*

**The Australian Securities & Investments Commission (ASIC) Act 2001 (CWth)**

The Australian Securities & Investments Commission (ASIC) is an independent Australian government body that acts as Australia's corporate regulator. ASIC's role is to enforce and regulate company and financial services laws to protect Australian consumers, investors and creditors. ASIC was established on 1 July 1998 following recommendations from the Wallis Inquiry. ASIC's authority and scope is determined pursuant to the *Australian Securities and Investments Commission Act, 2001* (Cth).

ASIC is responsible for the administration of all or parts of the following legislation:

- *Corporations Act, 2001* (Cth)
- *Insurance Contracts Act, 1984* (Cth)
- *National Consumer Credit Protection Act, 2009* (Cth)

ASIC was originally formed as the Australian Securities Commission (ASC), which came into being on 1 January 1991 in accordance with the (then) ASC Act 1989. The purpose of the ASC was to unify corporate regulators around Australia by replacing the National Companies and Securities Commission and the Corporate Affairs offices of the states and territories.

**ASIC's areas of responsibility include:**

- corporate governance\*\*
- financial services
- securities and derivatives
- insurance
- consumer protection
- financial literacy.

ASIC's consumer website [www.moneysmart.gov.au](http://www.moneysmart.gov.au) was launched on 15 March 2011. MoneySmart replaced ASIC's two previous consumer websites, FIDO and Understanding Money. MoneySmart aims to help people make good financial decisions by providing free, independent and unbiased information, tools and resources.

**Fair Trading (Australian Consumer Law) Amendment Act 2010**

The objective of this Act is to improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly. *Fair Trading (Australian Consumer Law) Amendment Act 2010* replaces the *Fair Trading Act 1989* and *Security Providers Act 1993*.

**The Objective is supported by six operational objectives:**

- To ensure that consumers are sufficiently well-informed to benefit from and stimulate effective competition;
- To ensure that goods and services are safe and fit for the purposes for which they were sold;

- To prevent practices that are unfair;
- To meet the needs of those consumers who are most vulnerable or are at the greatest disadvantage;
- To provide accessible and timely redress where consumer detriment has occurred;
- To promote proportionate, risk-based enforcement.

## **WORKPLACE HEALTH AND SAFETY LEGISLATION**

- **\*\*\*** *Work Health And Safety Act 2011(CWth)*
- **\*\*\*** *Queensland Workplace Health and Safety Act 2011(Qld) (Reprint 2014)*
- **\*\*\*** *Queensland Workplace Health and Safety Regulations 2011(Qld)*
- **\*\*\*** *Safe Work Australia Act 2008(CWth)*
- **\*\*\*** *Workplace Health and Safety (Codes of Practice) Notice 2011(Qld)*
- **\*\*\*** *Environment & Facilities-Managing the Work Environment and Facilities Code of Practice 2011(Qld WH&S)*
- **\*\*\*** *Workplace Health and Safety - How to Manage Work Health and Safety Risks Code of Practice 2011(Qld)*
- **\*\*\*** *Workplace Health and Safety Consultation, Co-operation and Co-ordination Code of Practice 2011(Qld)*
- *Plant-Managing Risks of Plant in the Workplace Code of Practice (Qld WH&S)*
- *Noise-Managing Noise and Preventing Hearing Loss at Work Code of Practice 2011(Qld)*
- *Safety, Rehabilitation and Compensation Act 1988 & Amendment Act 2001(CWth)*
- *Public Safety Preservation Act 1986 (Qld)*
- *Manual handling – Hazardous Manual Tasks Code of Practice 2011(Qld)*
- *Chemicals- Managing Risks of Hazardous Chemicals in the Workplace Code of Practice 2013(Qld)*
- *Chemicals MSDS-Preparation of Safety Data Sheets for Hazardous Chemicals Code of Practice 2011(Qld) (Qld)*
- *Electrical Safety Act 2002*
- *Electrical Safety Regulation & Code of Practice 2003(Qld)*

### **Work Health and Safety Act 2011(CWth)**

The main object of this Act is to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces by:

- Protecting workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work;
- Providing for fair and effective workplace representation, consultation, co-operation and issue resolution in relation to work health and safety;
- Encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and assisting persons conducting businesses or undertakings and workers to achieve a healthier and safer working environment;

- Promoting the provision of advice, information, education and training in relation to work health and safety;
- Securing compliance with this Act through effective and appropriate compliance and enforcement measures;
- Ensuring appropriate scrutiny and review of actions taken by persons exercising powers and performing functions under this Act;
- Providing a framework for continuous improvement and progressively higher standards of work health and safety; and
- Maintaining and strengthening the national harmonisation of laws relating to work health and safety and to facilitate a consistent national approach to work health and safety in this jurisdiction.
- In furthering subsection (1)(a), regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety and welfare from hazards and risks arising from work as is reasonably practicable.

**Queensland Work Health and Safety Act 2011 (Reprint 2014)**

The main objectives of this Act are to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces by:

- Protecting workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work; and
- Providing for fair and effective workplace representation, consultation, co-operation and issue resolution in relation to work health and safety; and
- Encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and assisting persons conducting businesses or undertakings and workers to achieve a healthier and safer working environment; and
- Promoting the provision of advice, information, education and training in relation to work health and safety; and
- Securing compliance with this Act through effective and appropriate compliance and enforcement measures; and
- Ensuring appropriate scrutiny and review of actions taken by persons exercising powers and performing functions under this Act; and
- Providing a framework for continuous improvement and progressively higher standards of work health and safety; and

- Maintaining and strengthening the national harmonisation of laws relating to work health and safety and to facilitate a consistent national approach to work health and safety in Queensland
- Regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety and welfare from hazards and risks arising from work as is reasonably practicable.

### **Safe Work Australia Act 2008 (CWth)**

This Act creates a body called Safe Work Australia to improve occupational health and safety outcomes and workers' compensation arrangements in Australia.

**Safe Work Australia** is an Australian Government statutory agency established in 2009 under the Safe Work Australia Act 2008. Their primary responsibility is to improve work health and safety and workers' compensation arrangements across Australia.

They represent a genuine partnership between governments, unions and industry, working together towards the goal of reducing death, injury and disease in the workplace.

Safe Work Australia is jointly funded by the Commonwealth, state and territory governments. Safe Work Australia comprises 15 Members who work with agency staff to deliver the objectives of the strategic and operational plans. These members include an independent Chair, nine members representing the Commonwealth and each state and territory, two members representing the interests of workers, two representing the interests of employers and the Chief Executive Officer. Safe Work Australia Members meet at least three times a year.

**Role of Safe Work Australia:** Safe Work Australia works to:

- Raise awareness of work health and safety as a key issue in the community;
- Improve work health and safety, by understanding what influences Australian workplace cultures and then putting in place mechanisms to effect change;
- Harmonise work health and safety laws throughout Australia;
- Develop national work health and safety and workers' compensation policy; and
- Identify opportunities for improvement in workers' compensation arrangements.

### **Workplace Health and Safety (Codes of Practice) Notice 2011**

Workplace Health and Safety (Codes of Practice) Notice 2011 lists 38 Workplace Health & Safety Codes of Practice. AIAS complies with all Codes of Practice relevant to our core business, courses and activities conducted on site. The 23 relevant Codes of Practice are listed below.

- 3) Children and Young Workers Code of Practice 2006
- 5) Confined Spaces Code of Practice 2011
- 6) Demolition Work Code of Practice 2013
- 8) First Aid in the Workplace Code of Practice 2014
- 12) Hazardous Manual Tasks Code of Practice 2011
- 13) How to Manage and Control Asbestos in the Workplace Code of Practice 2011
- 14) How to Manage Work Health and Safety Risks Code of Practice 2011
- 15) How to Prevent Falls at Workplaces Code of Practice 2011
- 18) Labelling of Workplace Hazardous Chemicals Code of Practice 2011
- 19) Managing Noise and Preventing Hearing Loss at Work Code of Practice 2011
- 20) Managing Risks of Hazardous Chemicals in the Workplace Code of Practice 2013
- 21) Managing Risks of Plant in the Workplace Code of Practice 2013
- 22) Managing the Work Environment and Facilities Code of Practice 2011
- 23) Manual Tasks Involving the Handling of People Advisory Standard 2001
- 24) Mobile Crane Code of Practice 2006
- 26) Preparation of Safety Data Sheets for Hazardous Chemicals Code of Practice 2011
- 29) Safe Design of Structures Code of Practice 2013
- 30) Scaffolding Code of Practice 2009
- 31) Spray Painting and Powder Coating Code of Practice 2013
- 32) Steel Construction Advisory Standard 2004
- 34) Tilt-up and Pre-cast Construction Industry Code of Practice 2003
- 37) Welding Processes Code of Practice 2013
- 38) Work Health and Safety Consultation, Co-operation and Co-ordination Code of Practice 2011

### **Workplace Health & Safety- Codes of Practice- General information**

An approved code of practice is a practical guide to achieving the standards of health, safety and welfare required under the WHS Act and the Work Health and Safety Regulations (the WHS Regulations).

A code of practice applies to anyone who has a duty of care in the circumstances described in the code. In most cases, following an approved code of practice would achieve compliance with the health and safety duties in the WHS Act, in relation to the subject matter of the code. Like regulations, codes of practice deal with particular issues and do not cover all hazards or risks that may arise. The health and safety duties require duty holders to consider all risks associated with work, not only those for which regulations and codes of practice exist.

Codes of practice are admissible in court proceedings under the WHS Act and Regulations. Courts may regard a code of practice as evidence of what is known about a hazard, risk or control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates.

Compliance with the WHS Act and Regulations may be achieved by following another method, such as a technical or an industry standard, if it provides an equivalent or higher standard of work health and safety than the code.

An inspector may refer to an approved code of practice when issuing an improvement or prohibition notice.

This Code of Practice has been developed by Safe Work Australia as a model code of practice under the Council of Australian Governments' Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety for adoption by the Commonwealth, state and territory governments.

### **Workplace Health and Safety- Environment & Facilities-Managing the Work Environment and Facilities Code of Practice 2011(Qld WH&S)**

This Code applies to all types of work and all workplaces covered by the WH&S Act, including workplaces that are mobile, temporary and remote.

It provides practical guidance for persons conducting a business or undertaking on how to provide and maintain a physical work environment that is without risks to health and safety.

This Code covers:

- The physical work environment, such as workspace, lighting and ventilation
- The facilities for workers, including toilets, drinking water, washing and dining areas, change rooms, personal storage and shelter
- Remote and isolated work
- Emergency plans.

This Code takes into account that new buildings and major renovations must also comply with the National Construction Code of Australia which specifies certain requirements, for example the number of toilets that need to be provided in buildings used as workplaces.

### **Workplace Health and Safety Queensland - How to Manage Work Health and Safety Risks Code of Practice 2011**

This Code of Practice on how to manage work health and safety risks is an approved code of practice under section 274 of the Work Health and Safety Act (the WHS Act).

This Code provides practical guidance for persons who have duties under the WHS Act and Regulations to manage risks to health and safety. The duty is placed on persons conducting a business or undertaking, including employers, self-employed, principal contractors, persons with management or control of a workplace, designers, manufacturers, importers and suppliers of plant, substances or structures that are used for work.

This Code applies to all types of work and all workplaces covered by the WHS Act. Other approved codes of practice should be referenced for guidance on managing the risk of specific hazards.

**This Code of Practice discusses issues such as:**

- Who carries the responsibility for managing work health and safety risks
- Relevant definitions: i.e. Hazard, Risk, Risk Control
- What is involved in managing risks
- Management commitment
- **Risk Management- The 5 steps**
  1. Identify hazards – find out what could cause harm
  2. Assess risks if necessary – understand the nature of the harm that could be caused by the hazard, how serious the harm could be and the likelihood of it happening
  3. Control risks – implement the most effective control measure that is reasonably practicable in the circumstances review control measures to ensure they are working as planned.
    - Level 1 Control measures-
      - Eliminating the hazard and associated risk
    - Level 2 Control measures-
      - Substitute the hazard with something safer
      - Isolate the hazard from people
      - Use engineering controls
    - Level 3 Control measures-
      - Use administrative controls
      - Use personal protective equipment (PPE) (note- WH&S Regs 44-47)
  4. Consultation- continuous process (S47, S48)
  5. Review control measures to ensure they are working as planned.
- Consulting, co-operating and co-ordinating activities with other duty holders (S46)
- When should a risk management approach be used

<http://www.deir.qld.gov.au/workplace/resources/pdfs/manage-whs-risks-cop-2011.pdf>

**Workplace Health and Safety Consultation, Co-operation and Co-ordination Code of Practice 2011**

Section 46: The WHS Act requires that you consult, co-operate and co-ordinate activities with all other persons who have a work health or safety duty in relation to the same matter, so far as is reasonably practicable.

Sometimes you may share responsibility for a health and safety matter with other business operators who are involved in the same activities or who share the same workplace. For example, if you engage on-hire workers as part of your workforce you share a duty of care to these workers with the business that provides them. In these situations, you must discuss the hazards and risks associated with the work and what precautions will be taken with the on-hire firm.

Never assume that someone else is taking care of a health and safety matter. Find out who is doing what and work together with other duty holders in a co-

operative and co-ordinated way so that all risks are eliminated or minimised as far as reasonably practicable.

When entering into contracts you should communicate your safety requirements and policies, review the job to be undertaken, discuss any safety issues that may arise and how they will be dealt with. Remember that you cannot transfer your responsibilities to another person.

Website address for all Codes of Practice-

<http://www.deir.qld.gov.au/workplace/law/codes/index.htm#.VBeZZvmSz0E>

## **WORKERS' COMPENSATION AND REHABILITATION LEGISLATION**

- **\*\*\****Workers' Compensation and Rehabilitation and Other Amendment Bill 2013 (Qld) (amends the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2003)*
- **\*\*\****Workers' Compensation and Rehabilitation Regulations 2014(Qld)*
- *Safety, Rehabilitation and Compensation Act 1988 & Amendment Act 2001(CWth)*

### **Workers' Compensation and Rehabilitation Act 2003 (Amendment 2013) or the Workers Compensation and Rehabilitation and other Legislation and Amendment Bill 2013**

This 2013 'Amendment Bill' is an Act which amends the *Workers' Compensation and Rehabilitation Act 2003* and the *Workers' Compensation and Rehabilitation Regulation 2003*. This Act also amends the relevant sections of the *Civil Liability Act 2003*, the *Motor Accident Insurance Act 1994*, the *Personal Injuries Proceedings Act 2002*.

This Act, the corresponding Regulations and Amendment Bill govern Queensland **WorkCover and the Rehabilitation process.**

WorkCover is a 'no fault' workers' compensation scheme, which means that Queensland workers have the right to apply for statutory benefits, no matter who or what caused their workplace injury. If a 'worker' has been injured at work, or because of their work, they may be eligible to claim benefits from WorkCover Queensland.

An injury is 'a personal injury arising out of, or in the course of, employment if the employment is a significant contributing factor to the injury.' Injuries can happen at work, travelling to and from work or while on a break from work. Injuries can also take place if you are travelling for work, or visiting other workplaces or sites for the purposes of your job.

Examples of different types of injuries covered:

- Physical injuries—such as lacerations, fractures, burns, industrial deafness
- Psychiatric or psychological disorders—such as stress or depression
- Diseases—such as asbestosis or Q-fever
- Aggravation of a pre-existing condition
- Death from an injury or disease.

**The WorkCover Rehabilitation process may include:**

- Return to Work programs- Returning your old job or another job.
- Suitable Duties Programs -working reduced hours or lighter duties
- Vocational placement- If the worker is unable to return to their pre-injury role, WorkCover utilises a host employer

**WorkCover may provide:**

- Weekly compensation (for lost wages)
- Medical, surgical and hospital expenses and medicines
- Rehabilitation treatment and equipment or services
- Travelling expenses
- Death benefits and funeral expenses.

**Making a claim:** Under the Act, workers are required to cooperate with WorkCover, their employer and their doctors. This helps WorkCover make a decision on the claim and also helps workers receive appropriate medical treatment and rehabilitation as quickly as possible.

**During the claim:** Under the Act, workers must ensure that:

- All information provided to WorkCover is true and not misleading. For example you must inform us if you're receiving Centrelink payments.
- Participate in suitable duties and rehabilitation programs if required to.
- Tell WorkCover if you are returning to work of any kind. This includes self-employment or working for another person. This applies whether or not you are paid for performing the activity.

**The Workers' Compensation and Rehabilitation Regulation 2014**

*The Workers' Compensation and Rehabilitation Regulation 2014* (the 2014 Regulation) replaces the 2003 Regulation. The 2014 Regulation essentially remakes the 2003 Regulation in a form that retains current policy intent, protects injured workers' rights and entitlements, provides for efficient processes for insurers and employers, and removes any obsolete processes, requirements and unnecessary duplication. The amendments do not trigger any additional cost to employers, and nor are there any increases to entitlements.

<http://www.workcoverqld.com.au/forms-and-resources/acts-and-regulations>

**HEALTH INCLUDING FIRST AID LEGISLATION**

- \*\*\**First Aid in the Workplace Code of Practice 2014 (WH&S Act 2011(CWth))*

- \*\*\**Tobacco and Other Smoking Products Regulations 2010(Qld)*
- \*\*\**Queensland Health-Communicable Disease Control guidelines (Qld)*
- \*\*\**Queensland Public Health Act 2005(Qld) (Replaced the Health Act 1937)*

### **Work Health and Safety Queensland -First Aid in the Workplace Code of Practice 2014 (replaces the First Aid Code of Practice 2004)**

On 30 May 2014, the new First Aid in the Workplace Code of Practice 2014 was approved under section 274 of the the Work Health and Safety Act 2011. This replaces the First Aid Code of Practice 2004 which was revoked on 29 May 2014. The First Aid in the Workplace Code of Practice 2014 is based on the national model first aid code of practice with some minor variations to address issues raised by stakeholders during the review of the WHS laws in Queensland.

This Code provides practical guidance for persons conducting a business or undertaking on how to comply with duties under the WHS Act and Regulations to provide adequate first aid facilities in the workplace. It includes information on first aid kits, procedures, facilities and training for first aiders.

This Code applies to all types of work and all workplaces covered by the WHS Act, including workplaces that are outdoors, mobile or remote.

Providing immediate and effective first aid to workers or others who have been injured or become ill at the workplace may reduce the severity of the injury or illness and promote recovery. In some cases it could mean the difference between life and death.

#### **This Code of Practice discusses issues such as:**

- Who has health and safety duties in relation to first aid;
- What is required in providing first aid (WH&S ACT 2011, sections 47, 48 & 46);
- How to determine first aid requirements for the workplace (S42);
- First aid equipment, signage, facilities and training, procedures and record keeping;
- Reviewing your first aid requirements;
- First aid and the risk management process; and
- Standard precautions for infection control.

### **Tobacco and Other Smoking Products Regulations 2010**

AIAS complies with these regulations in accordance with:

- S12 Format of No smoking signs;
- S13 Display of No smoking signs;
- S15 Smoke free outdoor places.

### **Queensland Health-Communicable Disease Control guidelines**

The communicable disease control guidelines are intended to assist with the public health management of communicable diseases in Queensland.

These guidelines have been made available online to give health professionals a 'one stop shop' to current clinical information and to enable the best possible public health interventions. The guidelines aim to standardise the approach to the control of communicable diseases in Queensland, based on best practice approaches from national and international sources. The guidelines are regularly reviewed and updated over a three year cycle, and on an as-needs basis.

The control of communicable diseases in the local community is predominantly the responsibility of public health physicians, public health nurses and environmental health officers. To control the transmission of communicable disease these officers, at various times, need assistance and collaboration from colleagues in hospitals, laboratories, community health centres, private medical practice, local government and other areas of Queensland Health.

<http://www.health.qld.gov.au/cdcg/index/default.asp>

### **Public Health Act 2005**

The aim of this Act is to protect and promote the health of the Queensland public. The Act provides the basic safeguards necessary to protect public health through cooperation between the State Government, local governments, health care providers and the community.

This is achieved by:

- Preventing, controlling and reducing risks to public health;
- Providing for the identification of, and response to, notifiable conditions;
- Defining obligations on persons and particular health care facilities involved in the provision of declared health services to minimise infection risks;
- Providing for the notification by doctors and registered nurses of child abuse and neglect, and protecting children who have been harmed or are at risk of harm when they present at health service facilities;
- Collecting and managing particular health information, and establishing mechanisms for health information held by the department to be accessed for appropriate research;
- Inquiring into serious public health matters;
- Responding to public health emergencies; and
- Providing for compliance with this Act to be monitored and enforced.

The Public Health Regulation 2005 supports the Act and includes specific measures for the handling and removal of asbestos and the control of mosquitoes, rats and mice. It also designates the childhood contagious conditions and notifiable conditions, and sets out details for perinatal statistics, health information, cancer notifications and the pap smear register.

The *Public Health Act 2005* replaced the *Health Act 1937*

## **INFORMATION, RECORDS, PRIVACY, CONFIDENTIALITY, COPYRIGHT LEGISLATION**

- **\*\*\****Privacy Amendment (Enhancing Privacy Protection) Act 2012(CWth)* (Replaces the *Privacy Act 1988 (CWth)*)
- *The Privacy Regulations 2013(CWth)*
- **\*\*\****The Australian Privacy Principles 2012 (CWth)* (Replaces the *National Privacy Principles 2001(CWth)*)
- **\*\*\****Information Privacy Act 2009 (Qld)* (Replaces the *Privacy and Personal Information Protection Act 1998*)
- *Information Privacy Regulations 2009(Qld)*
- **\*\*\****Right to Information Act 2009(Qld)*
- *Right to Information Regulations 2009(Qld)*
- *Freedom of Information Act 1982(CWth)*
- **\*\*\****Copyright Amendment Act 2006 (CWth)* (Replaces *Copyright Act 1968*)
- **\*\*\****Intellectual Property Laws Amendment (Raising the Bar) Act 2012(CWth)*

### **Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Replaces the Privacy Act 1988)**

This Act amends the *Privacy Act 1988* to implement the Government's first stage response to the Australian Law Reform Commission's (ALRC).

This Act amends the Privacy Act to:

- Create the Australian Privacy Principles (APPs), a single set of privacy principles applying to both Commonwealth agencies and private sector organisations (referred to as APP entities). The APPs replace the Information Privacy Principles (IPPs) for the public sector and the National Privacy Principles (NPPs) for the private sector.
- Introduce more comprehensive credit reporting with improved privacy protections, at the same time rewriting the credit reporting provisions to achieve greater logical consistency, simplicity and clarity and updating the provisions to more effectively address the significant developments in the operation of the credit reporting system since the provisions were first enacted in 1990.
- Introduce new provisions on privacy codes and the credit reporting code (called the CR code), including powers for the Commissioner to develop and register codes in the public interest that are binding on specified agencies and organisations; and
- Clarify the functions and powers of the Commissioner and improve the Commissioner's ability to resolve complaints, recognise and encourage the use of external dispute resolution services, conduct investigations and promote compliance with privacy obligations.

This new Act or Bill introduces a number of additional safeguards for the protection of privacy, including enhanced notification, quality, correction, and dispute resolution mechanisms for individuals.

### ***The Australian Privacy Principles (2012) (CWth) (Formerly the National Privacy Principles 2001)***

The APPs set out standards, rights and obligations in relation to the handling and maintenance of personal information by APP entities, including dealing with privacy policies and the collection, storage, use, disclosure, quality and security of personal information, and access and correction rights of individuals in relation to their personal information. As recommended by the ALRC, the APPs and credit reporting provisions are structured to more accurately reflect the 'life cycle' of personal information.

The ten Australian Privacy Principles (APPs) contained in Privacy Amendment (Enhancing Privacy Protection) Act 2012 (which amends the Privacy Act 1988) regulate how large businesses, all health service providers and some small businesses and non-government organisations handle individuals' personal information.

Australians have a right to know why such information about them is being acquired, and who will see the information. Those in charge of storing the information have obligations to ensure such information is neither lost nor exploited. An Australian will also have the right to access the information unless this is specifically prohibited by law.

#### **APP 1: Collection**

Describes what an organisation should do when collecting personal information, including what they can collect, collecting from third parties and, generally, what they should tell individuals about the collection.

#### **APP 2: Use and Disclosure**

Outlines how organisations may use and disclose individuals' personal information. If certain conditions are met, an organisation does not always need an individual's consent to use and disclose personal information. There are also rules about direct marketing.

#### **APPs 3–4: Information quality and Security**

An organisation must take steps to ensure the personal information it holds is accurate and up-to-date, and is kept secure from unauthorised use or access.

#### **APP 5: Openness**

An organisation must have a policy on how it manages personal information, and make it available to anyone who asks for it.

#### **APP 6: Access and Correction**

Gives individuals a general right of access to their personal information, and the right to have that information corrected if it is inaccurate, incomplete or out-of-date.

#### **APP 7: Identifiers**

Generally prevents an organisation from adopting an Australian Government identifier for an individual (eg Medicare numbers) as its own.

#### **APP 8: Anonymity**

Where possible, organisations must give individuals the opportunity to do business with them without the individual having to identify themselves.

**APP 9: Transborder data flows**

Outlines how organisations should protect personal information that they transfer outside Australia.

**APP 10: Sensitive information**

Sensitive information includes information relating to health, racial or ethnic background, or criminal records. Higher standards apply to the handling of sensitive information.

**Information Privacy Act 2009 (Replaces Privacy and Personal Information Protection Act 1998)**

This Act provides safeguards for the handling of personal information in the public sector environment, and allows access to and amendment of personal information

**The primary object of this Act is to provide for—**

- (a) The fair collection and handling in the public sector environment of personal information; and
- (b) A right of access to, and amendment of, personal information in the government's possession or under the government's control unless, on balance, it is contrary to the public interest to give the access or allow the information to be amended.

This Act applies to the collection of personal information, regardless of when it came into existence, and to the storage, handling, accessing, amendment, management, transfer, use and disclosure of personal information regardless of when it was collected.

Personal information is information or an opinion, including information or an opinion forming part of a database, whether true or not; and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Right to Information Act 2009**

The Right to Information Act 2009 (RTI) is the Queensland Government's approach to giving the community greater access to information. The Queensland Government has made a commitment to provide access to information held by the government, unless on balance it is contrary to the public interest to provide that information.

RTI is a whole-of-government approach. This approach is detailed in both the Right to Information Act 2009 and the Information Privacy Act 2009.

**Relationship with Information Privacy Act 2009**

*The Information Privacy Act 2009* also provides for applications for access and amendments to documents of an agency or Minister but only to the extent the documents contain the applicants' personal information.

**This Act aims to:**

- Make more information available

- Provide equal access to information across all community sectors
- Provide appropriate protection for individuals' privacy.

### **Copyright Amendment Act 2006 (replaced the Copyright Act 1968)**

This Act was developed to give to the author of a creative work their just reward for the benefit he has bestowed on the community and also to encourage the making of further creative works. This Act also safeguards against copyright monopolies by ensuring that the rights conferred are not abused and that study, research and education are not unduly hampered. The Copyright Amendment Act 2006 made changes required by the US-Australia Free Trade Agreement. In particular, it strengthened anti-circumvention laws, for the first time making it illegal in Australia to circumvent technical measures used by copyright owners to protect access to their works.

The Act also introduced a series of new exceptions into Australian copyright law. The most well-known are the **private copying exceptions**, which allow people to record most television or radio program at home to watch at a later time with family or friends, and to format-shift their music (make copies from CDs onto personal computers and portable music players such as iPods). However, these laws do not allow making copies for friends or family. The Act also introduced a copyright exception allowing parody and satire, and an exception to allow certain non-commercial use by public sector institutions like universities, schools, art galleries, and archives.

The other notable change made by the Act was to expand the provisions concerning **criminal copyright infringement**. The Act introduced strict liability offences for some copyright infringements, and a system of 'Infringement Notices' (on the spot fines). The stated aim of these provisions is to make copyright easier to enforce, particularly against commercial infringers.

In late 2006, Australia added several 'private copying' exceptions. It is no longer an infringement of copyright to record a broadcast to watch or listen at a more convenient time (s 111), or to make a copy of a sound recording for private and domestic use (e.g., copy onto an iPod) (s 109A), or make a copy of a literary work, magazine, or newspaper article for private use (43C).

#### **Australia also has:**

- A special division of exceptions applying to computer programs (for interoperability, security testing, normal use);
- A special division of exceptions applying to artworks in public places (to allow photography, incidental filming etc.);
- Statutory (i.e. compulsory) licenses that allow use by schools, universities, and others on payment of a license fee set either by agreement or by the Copyright Tribunal.

Because Australian copyright law recognises temporary copies stored in computer memory as 'reproductions' falling within the copyright owner's exclusive rights, there are also various exceptions for temporary copies made in the ordinary course of use or communication of digital copies of works.

Copyright is free and automatic upon creation of the work. In general, the first owner of copyright will be the author (for literary, musical, dramatic and artistic works) or producer (for sound recordings and films) or broadcaster (for broadcasts). Under Australian law, where an employee is the author, the first owner of copyright is the employer. In Australia, duration of copyright is still measured by the lifetime of the employee author.

A **copyright notice (©)** is not required on a work to gain copyright, but only the copyright owner is entitled to place a notice. It is useful in publishing the date of first publication and the owner. Where a copyright notice is used, the onus in infringement proceedings is on the defendant to show that copyright does not subsist or is not owned by the person stated in the notice.

### **Example of Creative Commons**

Except for the Safe Work Australia logo, this copyright work is licensed under a Creative Commons

Attribution-Noncommercial 3.0 Australia licence. To view a copy of this licence, visit

<http://creativecommons.org/licenses/by-nc/3.0/au/>

In essence, you are free to copy, communicate and adapt the work for non commercial purposes, as long as you attribute the work to Safe Work Australia and abide by the other licence terms.

### **Intellectual Property Laws Amendment (Raising the Bar) Act 2012 (CWth)**

The *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* is Australia's biggest intellectual property (IP) system overhaul in twenty years. These changes have included updates to the following legislative instruments:

- Patents Act 1990;
- Patents Regulations 1991;
- Trade Marks Act 1995;
- Trade Marks Regulations 1995;
- Designs Act 2003;
- Designs Regulations 2004;
- Plant Breeder's Rights Act 1994;
- Copyright Act 1968.

Intellectual property advice means advice in relation to:

- Patents; or
- Trade marks; or
- Designs; or
- Plant breeder's rights; or
- Any related matters.

The changes affect all IP rights and the legislation addresses the following key areas:

- Raising the quality of granted patents;
- Free access to patented inventions for regulatory approvals and research;
- Reducing delays in resolution of patent and trade mark applications;
- Assisting the operations of the IP profession;

- Improving mechanisms for trade mark and copyright enforcement;
- Simplifying the IP system.

## ANTI- DISCRIMINATION, DISABILITY, EQUAL OPPORTUNITY AND HUMAN RIGHTS LEGISLATION

- \*\*\**Disability Discrimination and other Human Rights Legislation Amendment Act 2009 (CWth)*
- \*\*\**Age Discrimination Act 2004 (CWth)*
- \*\*\**Disability Discrimination Act 1992 (CWth)*
- \*\*\**Australian Human Rights Commission Act 1986 (CWth)*
- \*\*\**Racial Discrimination Act 1975 (CWth)*
- \*\*\**Sex Discrimination Act 1984 (CWth)*
- \*\*\**Sex Discrimination Amendment (Pregnancy And Work) Act 2003 (CWth)*
- \*\*\**Workplace Gender Equality Act 2012 (CWth)*
- \*\*\**Queensland Antidiscrimination Act 1991 (Qld)* (Replaces the *Queensland Anti-Discrimination Act 1977*)
- *National Disability Insurance Scheme Act 2013 (CWth)*

## A GUIDE TO AUSTRALIA'S COMMONWEALTH ANTI-DISCRIMINATION LAWS

Over the past 30 years the Commonwealth Government and the state and territory governments have introduced anti-discrimination law to help protect people from discrimination and harassment.

The following laws operate at a federal level and the Australian Human Rights Commission has statutory responsibilities under them:

- *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 (CWth);*
- *Age Discrimination Act 2004 (CWth);*
- *Disability Discrimination Act 1992(CWth);*
- *Australian Human Rights Commission Act 1986(CWth);*
- *Racial Discrimination Act 1975(CWth); and*
- *Sex Discrimination Act 1984(CWth).*

Commonwealth laws and the state/territory laws generally cover the same grounds and areas of discrimination. However, there are some 'gaps' in the protection that is offered between different states and territories and at a Commonwealth level.

In addition, there are circumstances where only the Commonwealth law would apply or where only the state law would apply.

The '**Areas covered**' within each Act refer to the following:

- **Employment** - e.g. when seeking employment, training, promotion, equal pay or conditions of employment;
- **Land, housing or accommodation** - e.g. when buying a house or when renting;
- **Provision of goods and services** - e.g. when buying something, applying for credit, using banks, seeking assistance from government departments, lawyers, doctors and hospitals, or attending restaurants, pubs, entertainment venues;
- **Access to places and facilities for use by the public** - e.g. when trying to use parks, libraries, government offices, hotels, places of worship, entertainment centres, hire cars;
- **Advertising** - e.g. advertising for a job stating that people from a certain ethnic group cannot apply;
- **Joining a trade union.**

**Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 (CWth)**

This Act amends the *Disability Discrimination Act 1992* and other laws relating to human rights, and for related purposes.

**Schedule 1:** Age discrimination- *Age Discrimination Act 2004*

**Schedule 2:** Disability discrimination- *Disability Discrimination Act 1992(CWth)*

**Schedule 3:** Australian Human Rights Commission- *Human Rights and Equal Opportunity Commission Act 1986*

**Schedule 4:** Racial Discrimination- *Racial Discrimination Act 1975*; and Sex Discrimination- *Sex Discrimination Act 1984*

**Age Discrimination Act 2004 (CWth)**

**The objectives of this Act are:**

- To eliminate, as far as possible, discrimination against persons on the ground of age in the areas of work, education, access to premises, the provision of goods, services and facilities, accommodation, the disposal of land, the administration of Commonwealth laws and programs and requests for information; and
- To ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community; and
- To allow appropriate benefits and other assistance to be given to people of a certain age, particularly younger and older persons, in recognition of their particular circumstances; and
- To promote recognition and acceptance within the community of the principle that people of all ages have the same fundamental rights; and
- To respond to demographic change by:
  - Removing barriers to older people participating in society, particularly in the workforce;
  - Changing negative stereotypes about older people;

**Grounds of discrimination:** Age; protects both younger and older Australians.

**Areas covered:** Employment; education; access to premises; provision of goods, services and facilities; renting or buying a house or flat; administration of Commonwealth laws and programs; and requests for information.

**The Act does not apply to:** a number of areas including Commonwealth laws that govern taxation, social security (including pensions), migration and citizenship; superannuation; state laws; certain health programmes; youth wages; direct compliance with workplace agreements and awards; charities, and religious and voluntary bodies.

**Process for decision making:** Complaints must be in writing. It is then assessed and if within jurisdiction is investigated. The complaint is then reviewed to see if it should be terminated or if it is suitable for conciliation. If the complaint cannot be conciliated, it will be terminated by the President of the Commission. A complainant may then take the matter to the Federal Court of Australia or the Federal Magistrates Court.

### **Disability Discrimination Act 1992**

**The objective of this Act:** is to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.

**Grounds of unlawful discrimination:** Physical, intellectual, psychiatric, sensory, neurological or learning disabilities; physical disfigurement; disorders, illness or diseases that affect thought processes, perceptions of reality, emotions or judgement, or results in disturbed behaviours; presence in body of organisms causing disease or illness (eg HIV virus).

**Areas covered:** Employment; education; access to premises; accommodation; buying or selling land; activities of clubs; sport; administration of Commonwealth laws and programs; provision of goods; and services and facilities.

**Process for decision making:** Complaints must be in writing. It is then assessed and if within jurisdiction is investigated. The complaint is then reviewed to see if it should be terminated or if it is suitable for conciliation. If the complaint cannot be conciliated, it will be terminated by the President of the Commission. A complainant may then take the matter to the Federal Court of Australia or the Federal Magistrates Court

### **Australian Human Rights Commission Act 1986 (CWth)**

**The objective of this Act:** is to establish the Australian Human Rights and Equal Opportunity Commission (HREOC) to make provision in relation to human rights and in relation to equal opportunity in employment, and for related purposes.

The Commission has the responsibility for investigating alleged infringements under Australia's anti-discrimination legislation.

**Matters that can be investigated include:** "discrimination on the grounds of race or nationality, religious, colour or ethnic origin, racial vilification, age, sex

or gender, sexual harassment, marital or relationship status, sexual orientation, gender identity, intersex status, actual or potential pregnancy, breastfeeding, trade union activity, criminal record, medical record, impairment or physical disability".

The Act establishes the HREOC and sets out its duties, functions and powers. The Commission's duty is to ensure that its functions under the Act are carried out with regard for 'the principle that every person is free and equal in dignity and rights'. The Act also sets out the Commission's functions relating to human rights and equal opportunity, powers to obtain information and documents, and administrative provisions.

**Grounds of discrimination:** Breaches of human rights by any Commonwealth body or agency and discrimination in employment on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, age, medical record, criminal record, marital status, impairment, disability, nationality, sexual preference, trade union activity.

**Areas covered:** Commonwealth body or agency; employment and occupation.

**Process for decision making:** Complaint must be in writing. It is then assessed and if within jurisdiction is investigated. If complaint is not declined, conciliation is attempted. If it cannot be conciliated, the Commission prepares a report to the federal Attorney-General who then tables the report in Parliament.

### **Racial Discrimination Act 1975 (CWth)**

**The outline of this Act:** Racial discrimination occurs under the RDA when someone is treated less fairly than someone else in a similar situation because of their race, colour, descent or national or ethnic origin. Racial discrimination can also occur when a policy or rule appears to treat everyone in the same way but actually has an unfair effect on more people of a particular race, colour, descent or national or ethnic origin than others.

Certain offensive behaviour will also be found discriminatory if it is likely to offend, insult, humiliate or intimidate people of a certain race, colour or national or ethnic origin.

**Grounds of unlawful discrimination:** Race, colour, descent or national or ethnic origin.

**Other unlawful conduct:** Racial hatred and certain offensive behaviour.

**Areas covered:** Employment; provision of goods and services; right to join trade unions; access to places and facilities; land, housing and other accommodation.

**Process for decision making:** Complaints must be in writing. It is then assessed and if within jurisdiction is investigated. The complaint is then reviewed to see if it should be terminated or if it is suitable for conciliation. If the complaint cannot be conciliated, it will be terminated by the President of the Commission. A complainant may then take the matter to the Federal Court of Australia or the Federal Magistrates Court.

### **Sex Discrimination Act 1984 (CWth)**

**The objective of this Act:** seeks to create recognition and acceptance within the community of the principle of the equality of men and women. This Act ensures people are not discriminated against under certain grounds.

**Grounds of unlawful discrimination-** Sex, marital status, relationship status, actual or potential pregnancy, sexual orientation, gender identity, intersex status or breastfeeding; in a range of areas of public life.

**Other unlawful conduct-** Sexual harassment; and discrimination involving dismissal of employees with family responsibilities.

**Areas covered-** Employment; partnerships; qualifying bodies; registered organisations; employment agencies, education; the provision of goods, services and facilities; accommodation; land; the activities of clubs; awards; superannuation, enterprise agreements and the administration of Commonwealth laws and programs.

**Process for decision making-** Complaints must be in writing. It is then assessed and if within jurisdiction is investigated. The complaint is then reviewed to see if it should be terminated or if it is suitable for conciliation. If the complaint cannot be conciliated, it will be terminated by the President of the Commission. A complainant may then take the matter to the Federal Court of Australia or the Federal Magistrates Court.

The rights and responsibilities of pregnant and potentially pregnant workers in the workplace were clarified by the ***Sex Discrimination Amendment (Pregnancy and Work) Act 2003 (CWth)***.

### ***Sex Discrimination Amendment (Pregnancy and Work) Act 2003 (CWth)***

This Act amends the Sex Discrimination Act 1984, and for related purposes.  
Schedule 1—Sex Discrimination Act 1984

Example: Under section 14 of Division 1, it is unlawful to determine not to offer employment to a woman because she is pregnant or might become pregnant. Under this section, it is therefore also unlawful to ask a woman during a job interview whether she is pregnant or intends to become pregnant if that information is requested in connection with determining whether to offer her employment.

### ***Workplace Gender Equality Act 2012 (CWth)***

This Act requires certain employers to promote gender equality in the workplace, to establish the Workplace Gender Equality Agency and the office of the Director of Workplace Gender Equality, and for related purposes.

#### **Objectives of this Act:**

- To promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace; and
- To support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters; and
- To promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities); and
- To foster workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace; and

- To improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace.

**Functions of the Workplace Gender Equality Agency:** include advising and assisting employers in promoting and improving gender equality in the workplace and undertaking research and programs for the purpose of promoting and improving gender equality in the workplace.

This Act requires various employers (relevant employers) to lodge reports each year containing information relating to various gender equality indicators (for example, equal remuneration between women and men).

### **Queensland Anti-Discrimination Act 1991**

**Grounds of unlawful discrimination-** Sex, relationship status, pregnancy, parental status, breast feeding (goods and services only), race, age, physical impairment, religion, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality, family responsibilities, or association with a person who has any of these attributes.

**Other unlawful conduct-** Sexual harassment

**Areas covered-** Work and work related; education; goods and services; superannuation and insurance; disposal of land; accommodation; club membership; administration of state laws and programs; local government; existing partnership and in pre-partnership.

**Process for decision making-** Complaint must be in writing to Anti Discrimination Commission. It is then assessed and if within jurisdiction is investigated and conciliation may be attempted. If unsuccessful, the matter may be referred to the Anti-Discrimination Tribunal for hearing and legally enforceable determination.

## **WORKING WITH YOUTH LEGISLATION**

- \*\*\**Child Employment Act 2006 (Qld)*
- *Working with Children (Risk Management and Screening) Act 2000 (Qld)*
- *Working with Children (Risk Management and Screening) Regulations 2011(Qld)*

### **Child Employment Act 2006 (Qld)**

The purpose of the *Child Employment Act 2006* is to safeguard children working in Queensland.

This is to be achieved by:

- Ensuring that work does not interfere with children's schooling; and
- Preventing children performing work that may be harmful to their health or safety or physical, mental, moral or social development.

This Act requires an employer of a child (person under 18 years) to provide employment terms and conditions at least equivalent to those applying under a comparable award and industrial legislation for any agreement or other arrangement made under the *Workplace Relations Act 1996 (CWth)* entered into after 26 March 2006 and the *Industrial Relations Act 1999*.

## LEGISLATION RELEVANT TO COURSES DELIVERED AND QUALIFICATIONS

- *Professional Engineers Act 2002(Qld)*
- *Professional Engineers Regulations 2003(Qld)*
- *Justice of the Peace and Commissioners for Declaration Act 1991(Qld)*
- *Justice of the Peace and Commissioners for Declaration Regulation 2007(Qld)*
- *Design-Safe Design of Structures Code of Practice 2013(Qld)*
- *Welding Processes Code of Practice 2013(Qld)*

