

INDUSTRIAL TRAINING AMENDMENT BILL 2006

EXPLANATORY MEMORANDUM

The purpose of this Bill is to introduce part-time apprenticeships. The introduction of part-time apprenticeships will allow people to participate in an apprenticeship on a less than full-time basis and also enable 'school-based apprenticeships' for school students wishing to commence an apprenticeship while still at school.

The Industrial Training Act 1975 (the Act) is the legislation governing apprenticeship training. The Act only allows for full-time apprenticeships and therefore requires amendment to accommodate part-time apprenticeships. The need to amend the Act has been confirmed by the State Solicitor's Office.

Under the auspices of the State Training Board, the Skills Formation Taskforce was established to recommend the reforms needed to address skills shortages and to strengthen the apprenticeship and traineeship system. Some of the industry working groups of the Skills Formation Taskforce identified the non-availability of part-time and school-based apprenticeships as an impediment to apprenticeship growth. Additionally, the introduction of part-time apprenticeship arrangements was a key theme that came out of the state wide Taskforce consultations.

At the February 2006 Council of Australian Governments (COAG) meeting, it was agreed that all governments would remove legislative, regulatory and educational barriers to participation in school-based apprenticeships in collaboration with industry. This outcome is to be achieved by 31 December 2006.

The Bill provides for part-time apprenticeships to be undertaken in a class approved by the Minister as being available for part-time apprenticeship arrangements. This is to ensure that part-time (and school-based) apprenticeships will be available in sectors where there is demonstrated support.

PART 1 – GENERAL

Clause 1 - Short title

This part contains the title of the Bill.

Clause 2 – Commencement

Provides for the Act to come into operation on a day to be fixed by proclamation.

Clause 3 – The Act amended

This clause specifies that the amendments are to the *Industrial Training Act 1975*.

PART 4 – EMPLOYMENT AND TRAINING OF APPRENTICES AND INDUSTRIAL TRAINEES

Clause 4 – Section 28A inserted - Ministerial approval of part-time employment

This clause provides for the Minister to approve of a 'class' of apprenticeship or industrial traineeship as being a class suitable to employ an apprentice or industrial trainee on a part-time basis. The term 'of a class' will apply to trades that are approved for part-time apprenticeships, and could also apply to 'a class' of apprentices such as school students undertaking apprenticeship or non-school students.

For example, the Minister may approve that the Cooking 'class of trade' is approved for the employment of school-based apprentices as a 'class of apprentice'. This example would enable school students to enter into an apprenticeship agreement in the trade of Cooking.

The Minister's approval will be published in the *Gazette*.

Clause 5 – 29A amended

Subclause (4) states that the Director of Industrial Training must not approve of the employment of a probationer who desires to be an apprentice or industrial trainee on a part-time basis, unless the Director is satisfied that an apprenticeship agreement or industrial training agreement of the probationer would meet the requirements of Section 29B regarding the part-time employment of apprentices and industrial trainees.

To approve a part-time apprenticeship or industrial training agreement, the Director must consider if the Minister has approved for an apprentice or industrial trainee of that class (ie a particular trade or a school-based apprenticeship for example) being employed on a part-time basis.

The Director must also be satisfied that an apprenticeship or industrial training agreement of that probationer will be able to achieve a successful outcome within term of the agreement and that the apprentice or industrial trainee will be employed for at least the prescribed minimum hours, before approving part-time employment for the probationer.

Clause 6 - Section 29B inserted – Part-time employment of apprentices and industrial trainees

Subclause (1) provides that an apprenticeship or industrial training agreement must not be registered if the employment of an apprentice or industrial trainee is to be on a part-time basis, unless the Minister has approved of an apprentice or industrial trainee of that class (for example in a particular trade) being employed on a part-time basis.

This clause also specifies that an apprenticeship agreement or industrial training agreement must not be registered unless the Director is satisfied that certain

matters can be met in regard to the agreement. These matters have been specified to ensure that a part-time apprenticeship arrangement for a person will provide for that person to achieve a successful outcome. The matters for the Director to consider are:

- (i) that the training of the apprentice or industrial trainee can be completed within the term of the agreement;
- (ii) that the employer will provide the apprentice or industrial trainee with adequate training during the term; and
- (iii) the apprentice or industrial trainee will be employed for at least the prescribed minimum hours. The prescribed minimum hours will be contained in Regulations.

Subclause (2)(a) and (b) of the Bill provide for a description of what constitutes part-time employment for an apprenticeship or industrial training agreement.

Subclause (3) provides a definition for “industrial instrument” which is terminology used in Subclause (2)(a). The definition provides for apprentices and industrial trainees employed under both state and federal industrial arrangements.

Clause 7 – Section 30 amended

This clause provides for an apprenticeship or industrial training agreement to be up to 50% longer than the term prescribed in Regulations. This provision will be utilised when the term prescribed in Regulations may not provide adequate time for a part-time apprentice to successfully complete all their training requirements.

PART VI – MISCELLANEOUS

Clause 8 – Section 42 amended

This clause allows for Regulations to be prescribed to provide for the minimum paid hours of employment of a probationer, apprentice or industrial trainee. The minimum number of hours of employment in Regulations may differ for school students undertaking an apprenticeship, to those undertaking part-time apprenticeships who are not a full-time school student.