



Queensland

# **Education and Industrial Relations (Ensuring Workplace Education) Youth Act 2021**

**Act No. 8 of 2021**

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**An Act to ensure adequate Workplace Education for individuals entering into and in the workforce, and to establish the Queensland Workplace Education Committee and the Worker's Rights Committee.**

**[Assented to 13 October 2021]**





Queensland

# Education and Industrial Relations (Ensuring Workplace Education) Youth Act 2021

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**The Youth Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Youth Act may be cited as the *Education and Industrial Relations (Ensuring Workplace Education) Youth Act 2021*.

### **2 Commencement**

This Youth Act commences on a day to be fixed by proclamation.

### **3 Main purposes of Youth Act**

The main purposes of this Youth Act are—

- (a) to ensure Queenslanders have crucial workplace education and knowledge of their rights in the workplace; and
- (b) to provide quality workplace education to both those in schools and in the workforce; and
- (c) to ensure that the deliverance of workplace education is fair and equitable for all Queenslanders.

### **4 Definitions**

In this Youth Act—

*Approved mobile application stores* includes any of the following mobile platforms for application purchases: *Google Play Store, Apple App Store, Samsung Galaxy Apps, Huawei App Store, Sony Apps, Amazon Appstore*.

*Business* means

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- (a) An organisation or enterprising entity who engages in commercial, industrial, or professional activities unless otherwise stated.

***Contracted workers' agreement*** means a document that includes—

- (a) the contractor's type of employment, including:
- (i) full-time employed contractors;
  - (ii) part-time employed contractors
  - (iii) fixed-term contractors; and
  - (iv) independent contractors;
- (b) contractor obligations, including:
- (i) taxation;
  - (ii) superannuation self-contributions;
  - (iii) financial obligations undertaken; and
  - (iv) insurance;
- (c) liability of the contractor;
- (d) leave and compensation; and
- (e) details of Fair Work Australia.

***Discrimination*** means the unjust or prejudicial treatment of different categories of people, on the grounds of race, age, sexuality, culture, disability, or gender identity, and other determining factors.

***Eligible course of study*** means either—

- (a) a certificate of workplace education the Queensland Workplace Education Committee is responsible for; or
- (b) a workers' rights education course the Workers' Rights Committee is responsible for.

***Employee*** means—

- (a) The person being paid to work within a given organisation, business or company unless otherwise stated.

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**Employer** means—

- (a) A person, business or organisation who employs people, meaning they pay employees for work, unless otherwise stated.

**My Working Rights Agreement** means a document that includes—

- (a) the employees type of employment being—
- (i) full-time;
  - (ii) part-time;
  - (iii) casual;
  - (iv) fixed term;
  - (v) probation; or
  - (vi) apprenticeship and traineeship.

**QCAA** means the Queensland Curriculum and Assessment Authority.

**Small Business** means a business that has less than 20 employees.

**Superannuation** means a regular payment made into a fund by an employer towards a future pension.

**Tax File Number Declaration form** means so your payer can work out how much tax to withhold from payments they make to you and must be submitted with the My Working Rights Agreement form.

**Unfair practices** means an employer or supervisor at the time using power to influence employees' wellbeing, safety, or income.

**Workplace education** means education that relates to, one or more of—

- (a) The rights, entitlements and pay of employees;
- (b) The responsibilities and obligations of employees;
- (c) The responsibilities and obligations of employers;

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- (d) Industrial Relations legislation, both State and Commonwealth;
- (e) Workplace bullying and harassment;
- (f) Dispute resolution in the workplace;
- (g) Providers of workers' rights services;
- (h) The creation and maintaining of a healthy workplace environment;
- (i) correct hours for job title and age; and
- (j) superannuation contribution requirements of the employer.

***Workplace mistreatment*** means any behaviour which causes another employee to feel distressed or uncomfortable in the workplace environment.

***Workplace negligence*** means the failure of an employer or supervisor at the time to adhere to laws and regulations mandated to ensure the safety of others, leading to injury or distress.

## **Part 2                      Workplace Education**

### **Division 1                      Amendment of Education (Queensland Curriculum and Assessment Authority) Act 2014 (Qld)**

#### **5                      Act Amended**

- (1) Act amended—
  - (a) This part amends the *Education (Queensland Curriculum and Assessment Authority) Act 2014* (Qld).



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## 6 Insertion of s 11A Workplace Education for Years 10-12

(1) Part 2, Division 2, section 11

*insert—*

### 11A Workplace Education for Years 10-12

The authority has the following functions relating to workplace education for years 10-12—

- (a) developing and revising guidelines;
- (b) purchasing and revising guidelines developed by another entity; and
- (c) accrediting, for implementation in schools, guidelines developed by another entity.

## 7 Amendment of s 12 (Supporting schools and approved providers of education and care services)

(1) Part 2, Division 2, section 12(1)

*insert—*

- (d) a workplace education guideline that the authority accredits, develops, purchases or substantially revises.

## 8 Amendment of Schedule 1 (Dictionary)

(1) Schedule 1 (Dictionary)

*insert—*

***workplace education*** means education that relates to, one or more of—

- (a) the rights, entitlements and pay of employees;
- (b) the responsibilities and obligations of employees;
- (c) the responsibilities and obligations of employers;

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- (d) industrial relations legislation, both State and Commonwealth;
- (e) workplace bullying and harassment;
- (f) dispute resolution in the workplace;
- (g) providers of workers' rights services;
- (h) the creation and maintaining of a healthy workplace environment; or
- (i) another topic decided by the Minister of Education, the Minister of Employment, Small Business and Training, or one of the bodies created in this Act.

## **Division 2                      Amendment of Education (General Provisions) Act 2006 (Qld)**

### **9            Act Amended**

- (1) Act amended—
  - (a) This part amends the *Education (General Provisions) Act 2006* (Qld).

### **10          Insertion of s 21A Workplace Education**

Chapter 2, Part 4, section 21

*insert—*

#### **21A Workplace Education**

- (1) All State and non-State schools are required to provide one period of workplace education per semester for years 10-12.
- (2) Workplace education is to be taught—
  - (a) by a teacher; and
  - (b) according to guidelines developed by the QCAA.



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- (b) that the topics under the agreement can be discussed at any time to ensure both parties are adhering to the agreement, without hesitation; and
  - (c) if the conditions of the agreement are not adhered to by the employer, they may be subjected to penalties, see Section 56.
- (6) The Signed document must be lodged by the employer to Fair Work Australia within 30 days of the employee's start date.
- (7) Failure to lodge the document without reasonable excuse may result in the employer being subjected to penalties, see Section 56.
  - (a) If the signing and lodgement of *My Working Rights Agreement* is delayed by the employee for over 30 days, they are not to continue working until the document is signed and lodged.

## 12 Contract-Based Workers

- (1) The contracted workers' agreement must be given to all new contractors prior to signing of their contract.
- (2) The employer must explain the *contracted workers' rights agreement* to the contractee and be reasonably satisfied the contractee understands the document.
- (3) The contracted workers' rights agreement must be signed by—
  - (a) the contractors, being—
    - (i) the company facilitating the contracting.
- (4) Upon signing the document, the parties agree—
  - (a) the contractor understands the terms of the contract;
  - (b) that the topics under the agreement can be discussed at any time to ensure both parties are following the agreement, without hesitation; and

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- (c) that if the conditions of the agreement are not followed by the employer, they may be subjected to penalties, see Section 56.
  - (5) The signed document must be lodged by the employer to Fair Work Australia within 30 days of the employee's start date.
  - (6) Failure to lodge the document without reasonable excuse, may result in the employer being subject to penalties, see Section 56.

### **13 Penalties**

- (1) The employer may be issued a fine if—
  - (a) they violate the My Workers' Rights Agreement they have signed with their employee; or
  - (b) they fail to lodge the document without reasonable excuse to Fair Work Australia within 30 days of the employees' start date.
- (2) The contractor may be issued a fine if—
  - (a) they violate the Contract Workers' Rights Agreement they have signed; or
  - (b) they fail to lodge the document without reasonable excuse to Fair Work Australia within 30 days of the worker's start date.
- (3) Employers or contractors may be fined according to the following criteria—
  - (a) Small businesses can be fined a maximum 5 penalty units;
  - (b) Medium-sized businesses can be fined a maximum 350 penalty units;
  - (c) Large businesses can be fined a maximum 550 penalty units; and
  - (d) Multinational corporations can be fined a maximum of 10,000 penalty units.

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## **Part 4                      Equitable Accessibility For All Students**

### **Division 1                      Preliminary**

#### **14      Application of part C**

This part applies in relation to providing equitable accessibilities to all Queensland students learning workers rights at either secondary school or in their workplace.

### **Division 2                      Entitlement to grant**

#### **15      When grant is payable**

- (1) A *Learning Barriers* grant is payable on an application under this Act if—
  - (a) the applicant has a Learning Barrier as outlined in section 62; or
  - (b) the applicant is enrolled in an eligible course of study
  - (c) the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a *Learning Barriers* grant.
- (2) A *Technology Accessibility* grant is payable on an application under this Act if—
  - (a) the applicant receives low income (below \$45,000 per annum);
  - (b) the applicant is enrolled in the eligible course of study;
  - (c) the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a *Technology Accessibility* grant.

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- (3) A *Small Business Owners* grant is payable on an application under this Act if—
- (a) the applicant is a small business owner that cannot afford the full cost of the eligible course for their employee; or
  - (b) the course would be financially detrimental to the small business;
  - (c) the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a *Small Business Owners* grant.

### **Division 3                      Eligibility criteria—applicants**

#### **16            Criterion 1—**

- (1) An applicant for a *Learning Barriers* grant must be—
- (a) from migrant background; and
  - (b) has language barriers; or
  - (c) a student with a learning disability.

#### **17            Criterion 2—**

- (1) An applicant for a *Technology Accessibility* grant must be—
- (a) a student enrolled in a eligible course of study; or
  - (b) is an employee enrolled in the eligible course of study; and
  - (c) must attend training via online systems; but
  - (d) cannot afford the costs of the required technological device.

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### **18 Criterion 3—**

- (1) An applicant for a *Small Business Owners* grant must be—
  - (a) is a registered Queensland small business; and
  - (b) has an Australian Business Number (ABN); and
  - (c) has one or more employees enrolled in the eligible course of study at the commencement of the application.

## **Division 4 Application for grant**

### **19 Application for grants**

- (1) An application for a *Learning Barrier* grant must be made to the commissioner or an agent of the commissioner.
- (2) The application must be—
  - (a) in the approved form; and
  - (b) supported by the information required by the commissioner.
- (3) The application may only be made within a period (the *application period*)—
  - (a) starting on the commencement date of the eligible transaction of the eligible course to which the application relates; and
  - (b) ending after the completion of the eligible course to which the application relates.
- (4) However, the commissioner may allow an application to be made before or after the application period.
- (5) An application for a *Technology Accessibility* grant must be made to the commissioner or an agent of the commissioner.
- (6) The application must be—
  - (a) in the approved form; and
  - (b) supported by the information required by the commissioner.



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- (7) The application may only be made within a period (the *application period*)—
    - (a) starting 1 week before the commencement date of the eligible transaction of the eligible course to which the application relates; and
    - (b) ending after the eligible transaction of the required technological device to which the application relates.
  - (8) However, the commissioner may allow an application to be made before or after the application period.
  - (9) An application for a *Small Business Owners* grant must be made to the commissioner or an agent of the commissioner.
  - (10) The application must be—
    - (a) in the approved form; and
    - (b) supported by the information required by the commissioner;
    - (c) for an individual (one application per employee).
  - (11) The application may only be made within a period (the *application period*)—
    - (a) starting on the commencement date of the eligible transaction of the eligible course to which the application relates; and
    - (b) ending after the completion of the eligible transaction of the eligible course for their employee to which the application relates.
  - (12) However, the commissioner may allow an application to be made before or after the application period.

## **20 Application on behalf of person under legal disability**

- (1) An application may be made on behalf of a person under a legal disability by a guardian.
- (2) For deciding eligibility, the person under the legal disability must be regarded as the applicant.

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## **Division 5                      Decision on application**

### **21            Commissioner to decide applications**

- (1) If the *Minister of Training* is satisfied, a *Learning Barriers* grant is payable on an application, the *Minister of Training* must authorise the payment of the grant.
- (2) If the *Minister of Training* is satisfied, a *Technology Accessibility* grant is payable on an application, the *Minister of Training* must authorise the payment of the grant.
- (3) If the *Minister of Training* is satisfied, a *Small Business Owners* grant is payable on an application, the *Minister of Training* must authorise the payment of the grant.

### **22            Amount of grant**

- (1) The amount of all grants, including—
  - (a) Learning Barriers grants;
  - (b) Technology Accessibility grants;
  - (c) Small Business Owners grants is determined by the following—
    - (i) assessments of financial statements provided as part of application; and
    - (ii) other circumstances included in the application which indicate that the applicant may require additional funding in order to complete the program.

### **23            Payment of grant**

- (1) A *Learning Barriers, Technology Accessibility and Small Business Owners* grant must be paid by electronic funds transfer, cheque or in any other way the commissioner considers appropriate.

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- (2) A *Learning Barriers, Technology Accessibility or Small Business Owners* grant must be paid to—
- (a) the applicant; or
  - (b) someone else to whom the applicant directs in writing the grant be paid.

## 24 Conditions generally

- (1) The *Minister of Training* may authorise the payment of a *Learning Barriers, Technology Accessibility or Small Business Owners* owner grant on the reasonable conditions the commissioner considers appropriate.
- (2) A condition imposed by the *Minister of Training*, under this section or another provision of this Act, may require a person on whose application the *Learning Barriers, Technology Accessibility or Small Business Owners* owner grant is paid—
- (a) to give notice of non-compliance with the condition within a period stated in the condition; and
  - (b) to repay the grant within a period stated in the condition.
  - (c) a person must not, without reasonable excuse, fail to comply with a condition imposed by the commissioner, under this section or another provision of this Act.

Maximum penalty— xx penalty units.

## 25 Notice of decision

- (1) If the *Minister of Training* decides an application, or decides to vary or reverse an earlier decision on an application, the *Minister of Training* must give the applicant written notice of the decision.
- (2) If the decision authorises the payment of a *Learning Barriers, Technology Accessibility or Small Business Owners* grant without conditions, payment of the grant is sufficient notice of the decision.

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- (3) If the decision is to refuse an application, or to vary or reverse an earlier decision on an application, the notice must state the following—
  - (a) the reasons for the decision;
  - (b) the person may, within 60 days after receiving the notice, object to the decision;
  - (c) how to object.

*Note—*

See division 5.

## **Division 6                      Objections**

### **26            Lodging objection**

- (1) This section applies to an applicant or former applicant for a *Learning Barriers, Technology Accessibility or Small Business Owners* who is dissatisfied with a decision of the *Minister of Training* on the applicant's or former applicant's application for the grant.
- (2) The applicant or former applicant may lodge a written objection for the decision with the commissioner.
- (3) The grounds of objection must be stated fully and in detail in the notice.
- (4) The objection must be lodged within 60 days after the objector receives notice of the decision.
- (5) If the commissioner is satisfied an objector has a reasonable excuse for failing to lodge an objection within the 60 day period, the commissioner may extend the time for lodging the objection.

### **27            Deciding objection**

- (1) After considering the objection, the *Minister of Training* may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision.

## 28 Notice of decision

- (1) The *Minister of Training* must give written notice to the objector of the *Minister of Training's* decision on the objection.
- (2) The notice must comply with the QCAT Act, section 157(2).

# Part 5 WorkSmart application

## Division 1 Establishment

### 29 Establishment

- (1) The *WorkSmart mobile* application ('Application') must be—
  - (a) maintained and managed by the Office of Industrial Relations in the Queensland Government;
  - (b) funded as part of the annual budget for the Queensland Government Department of Education;
  - (c) published on any of the list of **approved mobile application stores**; and
  - (d) free to download.

## Division 2 Functions

### 30 General Purpose

The Application is established as a mechanism to provide any worker across Queensland with a platform on their phone containing contacts related to workplace health, safety, and security.

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### **31 Anonymous tips and complaints for workplace relations**

- (1) The application has the following functions in relation to tips and complaints anonymously in relation to the workplace—
  - (a) An anonymous complaints hotline to the Fair Work Ombudsman for alleged workplace negligence, mistreatment, wage theft, or unfair practices in the form of a phone number; and
  - (b) A text form to anonymously send in tips of possible workplace negligence, mistreatment, or unfair practices of others or against the individual using the app, to the Fair Work Ombudsman.

### **32 Contacts to relevant services**

The application must provide a list of recommended workplace services, related to the general purpose.

### **33 Workers compensation and insurance**

The application must provide a speed-dial contact for WorkCover, providing workers an option to seek workers compensation for any incidents in the workplace.

### **34 Bullying and discrimination in the workplace**

- (1) The application must provide the following functions in relation to bullying and discrimination in the workplace—
  - (a) Phone numbers and an online form to WorkSafe Queensland and the Fair Work Commission to raise a complaint about bullying in the workplace; and
  - (b) Phone numbers and an online form to the Queensland Human Rights Commission to raise a complaint about discrimination in the workplace.

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### **35 Workplace sexual harassment**

- (1) The application must provide the following functions in relation to workplace sexual harassment—
  - (a) A Police referral form for sexual assault and other criminal acts related to workplace sexual harassment; and
  - (b) Contact details for mental health hotlines.

### **36 Counselling services**

- (1) The application must provide the following functions in relation to counselling services—
  - (a) A link to all mental health and counselling services that receive funding from the Queensland Government; and
  - (b) A dedicated chat room for users of the app to discuss workplace related mental health issues, moderated and monitored by a mental health professional.

### **37 Unfair dismissal**

- (1) The application must provide the following functions in relation to unfair dismissal—
  - (a) Information about the grounds for unfair dismissal; and
  - (b) A referral link to the Fair Work Commission if the user believes they have been subject to unfair dismissal.

### **38 Dispute resolution in the workplace**

The application must provide a redirection link to the fact sheet on dispute resolution provided by the Fair Work Ombudsman.

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## **Division 3                      Development and implementation**

### **39            Development process**

- (1) The application must be developed by the Queensland Government.
- (2) The application must be developed in conjunction with the Australian Government and local government bodies across the State of Queensland.
- (3) The application must be developed following a phase of community consultation, in which members of the public may lodge suggestions.
- (4) The application must be developed following a phase of consultation with the mental health sector, trade unions, and businesses.
- (5) A draft application must be created following community consultation.
- (6) The draft application must be available for the public's viewing and trial for a period of no more than 6 months.
- (7) Objections to the draft application from the public and relevant stakeholders must be permitted.
- (8) Objections must be examined by the developers and may be taken into consideration.
- (9) A final application must then be published and uploaded to approved mobile application stores.

### **40            Implementation**

- (1) Once uploaded to approved mobile application stores, all state government employees must be informed of the application.
- (2) A letter will be sent home to all students at state-owned schools in Queensland notifying families of the application.
- (3) All private sector employees, including small business employees, must receive notice from their employer about the



application within 30 days of its upload to approved mobile application stores.

- (4) The application will be consistently monitored and updated as necessary.