

LEGISLATIVE ASSEMBLY

Read 1° 30 October 1984

(Brought in by Mr Fordham and Mr Simmonds)

A BILL

To amend the *Post-Secondary Education Act 1978* and the *Workers Compensation Act 1958* to make provision for the practical placement of students undergoing certain technical and further education programmes and for other purposes.

5 BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

Short title.

1. This Act may be cited as the *Post-Secondary Education (Practical Placements) Act 1984*.

Commencement.

10 2. This Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

Principal Act.

3. In this Act the *Post-Secondary Education Act 1978* is called the Principal Act.

No. 9145.
Subsequently
amended by Nos.
9424, 9549,
9678, 9711,
9933, 10029,
10044, G.G.
15.2.84 p. 500.

New Division 5A inserted in Part III.

4. In Part III. of the Principal Act, after Division 5 there shall be inserted the following Division:

“Division 5A—Practical Placement”

Interpretation.

5

‘129A. In this Division unless inconsistent with the context or subject-matter—

“**Arrangement**” means an arrangement in writing made by the governing body of a college with an employer with a view to providing a student with practical placement.

10

“**College**” means a technical and further education college.

“**College year**”, in respect of any college, means that portion of the year beginning with the first day on which the college is open in that year and ending with the last day on which the college is open in that year.

15

“**Disabled student**” means a student who is suffering from an impairment.

“**Impairment**” means—

(a) total or partial loss of a bodily function;

(b) total or partial loss of a part of the body; or

(c) malfunction of a part of the body.

20

“**Law**” includes a determination of a wages board and of the Industrial Court made pursuant to the *Labour and Industry Act 1958* and any provision which restricts the employment of persons who are not apprentices in apprenticeship trades.

25

“**Malfunction of a part of the body**” means—

(a) a mental or psychological disease or disorder; or

(b) a condition or malfunction as a result of which a person learns more slowly than persons who do not have that condition or malfunction.

30

“**Practical placement**” means the placement of a student with an employer for the purpose of providing work experience.

“**Prescribed**” means prescribed by regulations made under this Part.

“**Student**” means a person enrolled at a college in a course of study which is equivalent to the eleventh or twelfth year of education.

35

“**Trade**” includes process, trade, business and occupation and any branch or branches thereof.

“**Young person**” means a person of or over the age of 15 years and under the age of 21 years.’

40

Exemption of practical placement from laws prohibiting or regulating employment of young persons.

5 '129B. (1) Subject to this Division any Act or law relating to the prohibition or regulation of the employment of young persons shall not apply to the employment of a young person who is a student at a college and—

(a) who is in a course of study which is equivalent to the eleventh or twelfth year of education; and

(b) who is employed pursuant to an arrangement.

10 (2) Where any Act or law prohibits the employment or regulates the working conditions in any specified trade—

(a) of persons of less than or not more than a specified age expressed as a number of years; or

(b) of females—

15 then sub-section (1) shall not be taken to permit the employment of any person contrary to that Act or law.'

Conditions of employment.

'129C. (1) The employment of students pursuant to arrangements shall be subject to the following conditions:

20 (a) A student shall not be employed pursuant to the provisions of this Division for more than 30 days during any college year nor more than ten days during any college term;

25 (b) A student shall not in any college year be employed more than once by the same employer in respect of the same type of employment;

(c) An employer shall not at any time employ more than the permitted number of students;

(d) The period of employment in respect of any arrangement shall not exceed a total of ten consecutive days; and

30 (e) The full period in respect of the employment shall be a period falling within the college year.

(2) An arrangement—

(a) may be varied or amended by a further arrangement; and

35 (b) may be cancelled at any time by notice in writing—

(i) given by the employer to the governing body of the college; or

(ii) given by the governing body of the college to the employer.

40 (3) In paragraph (c) of sub-section (1) "the permitted number of students" means, in respect of any employer, the number of students which he is permitted to employ as prescribed.

(4) The Chairman of the Board with the authority of the Minister may suspend the operation of all or any of the conditions of employment set forth in paragraphs (a), (b), (d) and (e) of sub-section (1) with respect to any disabled student.

(5) A suspension made under sub-section (4)—

(a) shall be in writing signed by the Chairman of the Board;

(b) may be given with respect to any specified disabled student or any specified group or class of disabled students;

(c) may operate for a specified time or indefinitely; and

(d) may be varied or revoked by the Chairman of the Board.'

5

10

Duty of care.

'129D. The governing body of a college or a teacher (including the principal of a college) shall not have or be deemed to have cast upon that governing body or teacher any duty as such relating to the care or control of a student while that student is employed pursuant to an arrangement, and no action shall lie against any such governing body or teacher on the ground of a breach of such a duty.'

15

Payment.

'129E. (1) The minimum rate of payment to a student employed pursuant to the arrangement shall, notwithstanding anything to the contrary in any Act or law, be the minimum rate of payment as prescribed.

20

(2) Where the arrangement is for employment with an organization which is engaged wholly or mainly in an educational, charitable, or community welfare service not conducted for profit, then, where the student determines that the whole of the payment will be donated back to the organization, the determination of the student to donate back the payment may be stated in the arrangement.'

25

Federal awards.

'129F. An arrangement authorizing a student to be employed in an employment which is affected by an award or industrial agreement made under the Commonwealth *Conciliation and Arbitration Act* 1904, as amended from time to time, shall not be made until the secretary of the Victorian Trades Hall Council has first been consulted.'

30

Amendments to the *Workers Compensation Act 1958* in relation to practical placements.

5. Section 3 of the *Workers Compensation Act 1958* shall be amended as follows:

- 5 (a) After sub-section (7D) there shall be inserted the following sub-sections:

10 “(7DA) A student at a technical and further education college specified in Schedule 3 to the *Post-Secondary Education Act 1978* who is employed pursuant to an arrangement within the meaning of Division 5A of Part III. of that Act shall for the purposes of this Act be deemed to be a worker whilst that student is employed pursuant to the arrangement.

15 (7DB) The employer of a student employed pursuant to an arrangement referred to in sub-section (7DA) shall in respect of—

- 20 (a) any liability to pay compensation under this Act in respect of an injury caused to the student; and
(b) any other liability to pay damages with respect to the death of or the personal injury to the student in circumstances arising out of the employment of that student pursuant to that arrangement—

25 be deemed to hold a policy of insurance with the State Insurance Office for the full amount of that liability but otherwise having the same provisions as policies issued by it to employers obtaining policies from it in accordance with section 72 (1) (a).”; and

- (b) In sub-section (7E) after the expression “(7D)” there shall be inserted the expression “or (7DB)”.

