

INDUSTRIAL AND COMMERCIAL TRAINING ACT 1985

No. 107 of 1985

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1984



INDUSTRIAL AND COMMERCIAL TRAINING ACT 1985

—————
 No. 107 of 1985
 —————

AN ACT to provide for industrial and commercial training and to provide for related and other matters, to repeal the Apprentices Act 1942, and to amend the Tasmanian State Service Act 1984.

[Royal Assent 21 November 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—This Act may be cited as the *Industrial and Commercial Training Act 1985*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsections (1) and (3), this Act shall commence on such day as may be fixed by proclamation.

(3) Where the day fixed under subsection (2) occurs before the day fixed under section 2 (2) of the *Tasmanian State Service Act 1984*, sections 7 (8) (d), 8, and 48 of, and clause 6 (2) (c) of Schedule 1 and Schedule 3 to, this Act shall commence on that last-mentioned day.

Interpretation.

3—In this Act, unless the contrary intention appears—

“ apprentice ” means a person whom another person has agreed to train in a trade in pursuance of a contract of training;

“ Authority ” means the Training Authority of Tasmania constituted under this Act;

“ contract of training ” means a contract (including an indenture of apprenticeship) under Division 3 of Part III in respect of training in a trade or other declared vocation;

“ declared vocation ” means—

(a) a trade; or

(b) an occupation declared by proclamation to be a declared vocation for the purposes of this Act;

“ occupation ” includes any form of work in industry or commerce or in any government service;

“ pre-vocational training ” means training designed as preparation for training in a trade or other declared vocation;

“ T.A.F.E. ” means the Division of Technical and Further Education of the Education Department;

“ trade ” means an occupation declared by proclamation to be a trade;

“ trainee ” means a person whom another person has agreed to train in a declared vocation, other than a trade, in pursuance of a contract of training;

“ training ” means training (including courses of instruction, on-the-job training, and off-the-job training) in the knowledge and skills required in industry or commerce or in any government service.

Act to bind
Crown.

4—This Act binds the Crown not only in the right of this State but also, so far as the legislative power of Parliament permits, binds the Crown in all of its other capacities.

PART II

ADMINISTRATION

*Division 1—Training Authority of Tasmania*Constitution
of Authority.

5—There is constituted by this Act an Authority to be known as the Training Authority of Tasmania.

6—(1) Subject to this section, the Authority shall consist of ^{Membership of Authority.} 14 members appointed by the Governor of whom—

- (a) one shall be the person appointed as chairman of the Authority under section 7;
- (b) one shall be a person nominated by the Executive Director, T.A.F.E.;
- (c) 5 shall be persons nominated by the Minister, after consultation with the Tasmanian Chamber of Industries, from a list of names submitted to the Minister by the Tasmanian Chamber of Industries;
- (d) one person shall be nominated by the Minister, after consultation with the Master Builders Association of Tasmania, from a list of names submitted to the Minister by the Master Builders Association of Tasmania; and
- (e) 6 persons shall be nominated by the Minister, after consultation with the Tasmanian Trades and Labor Council, from a list of names submitted to the Minister by the Tasmanian Trades and Labor Council.

(2) Subsection (1) (b) does not preclude the Executive Director, T.A.F.E. from nominating himself as a member of the Authority.

(3) In making a nomination for the purposes of subsection (1) (c), (d), or (e), the Minister shall take into account the desirability of having as members of the Authority persons actively engaged in such trade, technical, commercial, and professional areas as he considers necessary.

(4) If an organization referred to in paragraph (c), (d), or (e) of subsection (1) does not furnish the Minister with a list within 30 days after the date on which that organization is required by the Minister to furnish him with the list, the Minister may nominate suitably qualified persons to represent the interests of that organization for appointment under paragraph (c), (d), or (e) of subsection (1), as the case may be.

(5) If an organization referred to in paragraph (c), (d), or (e) of subsection (1) changes its name to another name or ceases to exist under the name referred to in the relevant paragraph, the Governor may, by order, amend that paragraph—

(a) by substituting for the name of the organization that other name; or

(b) by substituting for the name of that organization the name of some other organization which he is satisfied represents substantially the same interests as those represented by the first-mentioned organization.

(6) Schedule 1 has effect with respect to the membership of the Authority.

(7) Schedule 2 has effect with respect to the meetings of the Authority.

The chairman
of the
Authority.

7—(1) The Governor may appoint a suitable person to be the chairman of the Authority.

(2) The chairman of the Authority shall hold office for such term, not exceeding 5 years, as may be specified in the instrument of his appointment.

(3) A person who has attained the age of 65 years is not eligible to be appointed or reappointed as chairman of the Authority and the chairman ceases to hold that office on attaining that age.

(4) The chairman of the Authority shall not, without the permission of the Governor, hold any other office of profit or engage in any occupation for reward outside the duties of his office.

(5) The chairman of the Authority is entitled to such salary, allowances, and expenses as the Governor determines, and holds office subject to such terms and conditions (if any) with respect to matters not provided for in this Act as are specified in the instrument of his appointment.

(6) The chairman of the Authority shall be deemed to be an employee for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

(7) The chairman of the Authority shall be deemed to be an employee within the meaning of the *Retirement Benefits Act 1982* unless, within one month from the date of his appointment, he notifies the Retirement Benefits Fund Board that he does not wish the provisions of that Act to apply to him.

(8) The Governor may remove the chairman of the Authority from office if he is satisfied that—

- (a) except by reason of temporary illness, the chairman is incapable of performing, or is inadequately performing, the functions of that office;
- (b) the chairman has become bankrupt, applied to take or has taken advantage of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors, or made an assignment of any part of his estate for their benefit;
- (c) the chairman has failed to take reasonable steps to secure compliance by the Authority with any direction lawfully given by the Minister to the Authority, or has participated in or connived at any act that is or would be a contravention of any such direction;
- (d) the chairman has wilfully and without good cause failed to comply with any Employment Instructions or Administrative Instructions, within the meaning of the *Tasmanian State Service Act 1984*, that relate to him or the Agency of which he is the Head, within the meaning of that Act, or any directions given to him by the Commissioner for Public Employment under section 35 (3) or 36 (5) of that Act or given to him by the Commissioner for Review under section 68 (17) of that Act;
- (e) the chairman has participated in or connived at any act that resulted in the Authority not being managed in an effective, efficient, or economical manner;
- (f) the chairman has been convicted of a crime or an offence in this State which is punishable by imprisonment for a term of 6 months or more, or has been convicted elsewhere than in this State of a crime or an offence which, if committed in this State, would be a crime or an offence so punishable; or
- (g) the chairman has contravened subsection (4).

(9) The chairman of the Authority may at any time resign his office by notice in writing delivered to the Governor.

Requirement to comply with Employment Instructions, &c.

8—The chairman of the Authority shall comply with—

- (a) any Employment Instructions or Administrative Instructions, within the meaning of the *Tasmanian State Service Act* 1984, that relate to him or the Agency of which he is the Head, within the meaning of that Act; and
- (b) any directions given to him by the Commissioner for Public Employment under section 35 (3) or 36 (5) of that Act or given to him by the Commissioner for Review under section 68 (17) of that Act.

Authority subject to control of Minister.

9—(1) In the exercise of the powers conferred, and the performance of the functions imposed, on the Authority by or under this Act the Authority shall be subject to the control of the Minister.

(2) The Minister may, for the purpose of enabling him to exercise the control referred to in subsection (1), from time to time give a direction in writing to the Authority and the Authority shall, subject to this section, exercise the powers conferred, and perform the functions imposed, on it by or under this Act in accordance with any such direction.

(3) The Authority is not bound by a direction given under subsection (2) unless the direction is in writing and signed by the Minister.

(4) The power conferred on the Minister by subsection (2) shall not be exercised so as—

- (a) to require the Authority to do anything that it is not empowered to do by this Act;
- (b) to prevent the Authority from performing any function that it is expressly required by this Act to perform, whether conditionally or unconditionally; or
- (c) to interfere with the formation by the Authority of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the performance or exercise by the Authority of any of its functions or powers under this Act.

10—(1) The Authority may, by instrument in writing, delegate Delegation.
to—

- (a) the chairman or any other member of the Authority;
- (b) a training advisory committee;
- (c) any other committee appointed by the Authority; or
- (d) an employee employed in the Authority,

the performance of such of its functions and the exercise of such of its powers under this Act (other than this power of delegation) as are specified in the instrument of delegation.

(2) The Authority may, by instrument in writing, revoke wholly or in part or vary a delegation made under this section.

(3) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(4) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument of delegation.

(5) Notwithstanding any delegation under this section, the Authority may continue to perform or exercise all or any of the functions or powers delegated.

(6) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Authority and shall be deemed to have been done by or to the Authority.

(7) An instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Authority and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority under this section.

Division 2—Functions and powers of the Authority

11—(1) The functions of the Authority are—

- (a) to inquire into, and keep under review, the training that is being, or should be, provided;

Functions and powers of the Authority.

- (b) to inquire into, and keep under review, the systems and methods of training in declared vocations and in other training programmes and to report to the Minister on those systems and methods and on the numbers of apprentices or trainees for the time being in training in the various declared vocations and in the other training programmes;
- (c) to determine the objectives, nature, and duration of training programmes for occupational groups in industry and commerce and arrange with any persons, institutions, or bodies, including T.A.F.E., who provide, or might provide, training for the preparation and implementation of those training programmes;
- (d) to determine matters relating to the entry into (including the educational standards and the age of the persons desiring to undertake training in pursuance of contracts of training), observance, discharge, assignment, transfer, variation, suspension, or cancellation, of contracts of training;
- (e) to determine matters relating to the training to be provided by employers to persons undertaking training in pursuance of a contract of training;
- (f) to keep under review facilities provided at any institution for the purposes of implementing training programmes;
- (g) to exercise a general supervision over the theoretical and practical training of persons participating in training programmes;
- (h) to assess by such means as the Authority thinks fit at the conclusion of the period of training the competency of persons who have participated in training programmes;
- (i) to grant, or arrange for the granting, of certificates to persons completing training programmes determined by the Authority;
- (j) to determine credits to be allowed in respect of the training required under this Act on the basis of training previously undertaken, or on any other basis;
- (k) to enter into reciprocal arrangements with appropriate bodies with respect to the recognition of industrial or commercial training qualifications;

(l) to collect data and statistics in relation to industrial and commercial training;

(m) to promote and encourage—

(i) the implementation of training programmes and the participation by persons, government departments, institutions, associations, and other bodies in such programmes; and

(ii) the establishment of off-the-job training centres by employers or groups of employers;

(n) to advise the Minister—

(i) on matters referred by the Minister to the Authority for advice; and

(ii) generally in relation to the administration of this Act; and

(o) to carry out any other functions and duties assigned to the Authority by or under this Act.

(2) The granting of a certificate pursuant to subsection (1) (i) does not prevent the granting of a certificate by T.A.F.E. to any person in respect of any course of education or training conducted by T.A.F.E.

(3) The Authority shall, wherever practicable, consult any government authorities (local, State, and Commonwealth), institutions, employer and employee associations, and other persons or bodies that may be affected by recommendations that it may make or actions that it may take in the performance of its functions under this Act.

(4) The Authority may establish such committees as it thinks necessary to advise it on any aspect of its functions under this Act.

(5) The Authority may award scholarships, bursaries, and prizes to apprentices and other trainees.

(6) For the purposes of this section, “training programme” means a programme of training in—

(a) a trade or other declared vocation;

(b) a trainee scheme; or

(c) a scheme of pre-vocational training.

Division 3—Training advisory committees

Establishment
of training
advisory
committees.

12—(1) The Minister may, upon the recommendation of the Authority, establish a training advisory committee in respect of any part of industry or commerce.

(2) A training advisory committee established under subsection (1) shall consist of not less than 6 persons appointed by the Minister, of whom—

- (a) one shall be a person nominated by the chairman of the Authority who shall be the chairman of the committee;
- (b) one shall be a person nominated by the Executive Director, T.A.F.E.; and
- (c) the remainder shall comprise persons engaged in that part of industry or commerce for which the committee is being or has been established, being an equal number of persons appointed, on the nomination of the employer bodies and employee bodies represented on the Authority and engaged in that part of industry or commerce for which the committee is being or has been established, to represent employers and employees, respectively, engaged in that part of industry or commerce.

(3) Subsection (2) (a) does not preclude the chairman of the Authority from nominating himself as a member of a training advisory committee.

(4) Subsection (2) (b) does not preclude the Executive Director, T.A.F.E. from nominating himself as a member of a training advisory committee.

(5) A training advisory committee may, with the approval of the Authority, co-opt such additional members as it thinks fit but a co-opted member shall not be entitled to vote on any matter for decision by the committee.

(6) The terms and conditions of office of a member of a training advisory committee, with respect to matters not provided for in this section, are as determined by the Minister on the recommendation of the Authority.

(7) A member of a training advisory committee—

(a) shall—

- (i) be appointed for such period as the Minister thinks fit; and

- (ii) hold and vacate office in accordance with the terms of his appointment or reappointment;
- (b) may be removed from office by the Minister by notice in writing addressed and delivered to that member; and
- (c) may at any time resign his office by notice in writing addressed and delivered to the Minister.

(8) A member of a training advisory committee other than a person who is an officer of the Public Service is entitled to receive such remuneration and allowances as may be determined by the Minister, and a member of a training advisory committee who is an officer of the Public Service is entitled to be paid such travelling and subsistence allowances as the Minister may from time to time determine.

(9) A member of a training advisory committee shall not, in his capacity as such a member, be subject to the provisions of the *Public Service Act 1973*.

(10) If a member of a training advisory committee is unable for any reason to carry out his duties as such a member for any period, the Minister may appoint a person who, in his opinion, is suitably qualified to act in place of that member during that period, and that person shall, for that period, be deemed to be a member of that advisory body.

(11) Four members of a training advisory committee, of whom at least one shall be a member appointed to represent the interests of employers and at least one shall be a member appointed to represent the interests of employees, shall constitute a quorum of a training advisory committee.

(12) The chairman of a training advisory committee shall preside at all meetings of the committee at which he is present.

(13) If the chairman of a training advisory committee is not present at a meeting of the committee, a member of the committee elected by the members present shall preside at that meeting.

(14) A decision carried by a majority of the votes of members present at a meeting of a training advisory committee shall be a decision of the committee.

(15) Each member present at a meeting of a training advisory committee shall be entitled to one vote on any matter arising for decision by the committee at that meeting and, in the event of an equality of votes, the matter shall be deemed to have been passed in the negative.

(16) Subject to this section, the procedure for the calling of meetings of a training advisory committee and for the conduct of business at those meetings shall be as determined by the committee.

Function of
training
advisory
committee.

13—The function of a training advisory committee established in respect of any part of industry or commerce is to advise and make recommendations to the Authority, either of its own motion or at the request of the Authority, on—

- (a) apprenticeship in that part of industry or commerce;
- (b) any other aspect of training that is being provided for trades or occupations in that part of industry or commerce; or
- (c) any new forms of training that should be introduced in order to develop knowledge or skills required in that part of industry or commerce.

Division 4—Staff of the Authority

Appointment of
employees, &c.

14—(1) Subject to and in accordance with the *Public Service Act 1973*, there may be appointed or employed such persons as are required for the proper administration of this Act.

(2) The chairman of the Authority may make arrangements with the permanent head of a Department, within the meaning of the *Public Service Act 1973*, for officers of the Public Service employed in that department to be made available to the Authority to enable it to perform its functions and such officers may, in conjunction with their offices in the Public Service, serve the Authority in any capacity.

PART III

FORMS OF TRAINING

Division 1—Declaration of trades and other declared vocations

Declaration
of trades
and other
declared
vocations.

15—(1) The Governor may, on the recommendation of the Authority, by proclamation, declare—

- (a) an occupation to be a trade for the purposes of this Act; and
- (b) an occupation to be a declared vocation for the purposes of this Act.

(2) The Authority, before making a recommendation that any occupation be declared by proclamation to be a trade or a declared vocation for the purposes of this Act, shall give notice of its intention to make such a recommendation and that notice shall—

- (a) be published in the *Gazette* and in all daily newspapers published and circulating in this State;
- (b) contain a list of all occupations that are to be included in the recommendation; and
- (c) specify the period, being a period of not less than 28 days following the publication of the notice, within which any employers or employees, or any person acting for or on behalf of any employers or employees, engaged in any occupation mentioned in the notice may make representations to the Authority supporting or objecting to the making of the recommendation.

(3) The Authority shall—

- (a) send a copy of a notice referred to in subsection (2) to every organized body representing employers and every organized body representing employees engaged in any occupation mentioned in the notice; and
- (b) do such other things as it thinks desirable to publicize the contents of the notice.

(4) The Authority, before making a recommendation that any occupation be declared by proclamation to be a trade or declared vocation for the purposes of this Act, shall consider any representations made to it pursuant to subsection (2) (c).

Division 2—Conditions of training

16—(1) Subject to this Act, an employer in any declared vocation shall not undertake to train a person (as an apprentice or otherwise) except in pursuance of a contract of training. Conditions of training.

Penalty: \$400.

(2) Subsection (1) does not apply in relation to the further training or re-training of a person who has completed the training required under a contract of training in the declared vocation in which he is undertaking further training or re-training, or who has a trade or vocational qualification determined by the Authority to be the equivalent of the qualification awarded on successfully completing training under a contract of training in that declared vocation.

(3) An employer in any declared vocation shall not undertake to train a person in pursuance of a contract of training if the number of persons being trained in pursuance of contracts of training in the employer's business would exceed the maximum number of persons approved by the Authority for training in pursuance of a contract of training in that declared vocation in that business.

Penalty: \$400.

(4) An employer in any declared vocation shall not undertake to train a person in pursuance of a contract of training unless—

(a) the place in which that person is to be employed;

(b) the equipment and methods to be used in training; and

(c) the persons who are to supervise the work of that person, have been approved by the Authority.

Penalty: \$400.

(5) A person who desires to undertake training in pursuance of a contract of training may be employed on probation for a period—

(a) not exceeding 3 months; or

(b) where, upon the application in writing of an employer made before the expiration of the period specified in paragraph (a), the Authority is satisfied that a further period of probation is desirable, not exceeding 6 months,

in order to determine his fitness or otherwise to undertake training in pursuance of a contract of training.

(6) An employer who employs a person on probation under subsection (5) shall, within 2 weeks of employing that person, furnish the Authority with such particulars as it may require.

(7) A person who is employed on probation under subsection (5) shall be deemed to be undertaking training in pursuance of a contract of training for the purposes of—

(a) section 11 (1) (e) and (g);

(b) subsections (3) and (4) of this section;

(c) section 18;

(d) section 26 (1) and (3);

(e) section 27;

(f) section 28;

(g) section 29;

- (b) section 33;
- (i) section 35;
- (j) section 36;
- (k) section 37; and
- (l) section 38.

(8) If at the expiration of his period of probation a person enters into or executes a contract of training, the period of probation shall be counted as part of the training required to be undertaken by that person in pursuance of that contract of training.

17—(1) The Authority may enter into a contract of training, assuming the rights and obligations of an employer under the contract.

Power of Authority to enter into contracts of training.

(2) The Authority shall not exercise its powers under subsection (1) except—

- (a) on a temporary basis; and
- (b) where it is not reasonably practicable for some other employer to enter into the contract of training.

18—(1) A person who desires to undertake training in a declared vocation in pursuance of a contract of training shall make application to the Authority in a form approved by the Authority for approval to undertake training in that declared vocation.

Applications for approval to enter into contracts of training.

(2) The Authority may grant approval to a person referred to in subsection (1) on such conditions, if any, as the Authority thinks necessary.

(3) A person shall not enter into or execute a contract of training unless the person who desires to undertake training in pursuance of the contract has obtained the approval of the Authority referred to in subsection (1).

Penalty: \$400.

Division 3—Contracts of training

19—(1) A contract of training shall—

- (a) be in a form approved by the Authority that is relevant to the declared vocation to which the contract relates;
- (b) contain the conditions determined by the Authority that are relevant to the declared vocation to which the contract relates;

Form and effect of contract of training.

- (c) be executed in triplicate; and
 - (d) be for the term determined by the Authority that is relevant to the declared vocation to which the contract relates.
- (2) Subject to subsection (3), a contract of training—
- (a) in the case of a person who desires to undertake training in pursuance of the contract and who has not attained the age of 18 years, shall be executed by the employer, that person, and the parent or guardian of that person; and
 - (b) in the case of a person who desires to undertake training in pursuance of the contract and who has attained the age of 18 years, shall be executed by the employer and that person and may, if that person so desires, be executed by the parent or guardian of that person.
- (3) Where a person who desires to undertake training in pursuance of a contract of training has not attained the age of 18 years, the Authority may—
- (a) if it is satisfied that it is in the interests of the employer and that person to do so, approve the execution of a contract of training by the employer and that person without the execution of that contract by the parent or guardian of that person or
 - (b) where that person has no parent or guardian ordinarily resident in this State or has a parent or guardian who is incapable of acting as parent or guardian, as the case may be, approve the execution of a contract of training by the employer, that person, and a person approved by the Authority for that purpose in the place and capacity of a guardian,
- and that contract shall be deemed to be validly executed.
- (4) Except as provided in subsection (5), all persons who have entered into or executed a contract of training are bound by that contract during its currency.
- (5) A contract of training ceases to be binding—
- (a) on all persons who executed that contract on the cancellation of that contract;

- (b) on the employer who executed the contract where the contract has been transferred or assigned to another employer; and
- (c) on the parent or guardian of an apprentice or a trainee where the Authority has, on the application of the apprentice or trainee made pursuant to subsection (6), agreed that the contract shall cease to be binding on the parent or guardian.

(6) An apprentice or a trainee who has attained the age of 18 years may apply, in writing, to the Authority to have his contract of training cease to be binding on his parent or guardian.

(7) Any person who has executed a contract of training who fails to carry out or comply with the terms and conditions of that contract is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$400.

20—(1) A contract of training may be transferred or assigned to some other employer in the declared vocation to which that contract relates, by order, or with the approval, of the Authority—

Transfer or assignment of contract of training.

- (a) on the application of the employer, or of the apprentice or trainee, and with the consent of the parent or guardian, if any; or
- (b) if the employer, owing to financial difficulties or lack of business, is unable to provide sufficient employment and training for the apprentice or trainee,

and any such transfer or assignment may be temporary or permanent as the Authority may direct.

(2) Where the employer sells his business or any part of that business, a contract of training relating to any apprentice or trainee in any declared vocation which forms part of the business so sold shall be deemed to be transferred or assigned to the purchaser who shall be bound by the contract of training as if he had entered into or executed the contract unless the Authority otherwise orders.

(3) Where one or more partners in a business are bound by a contract of training, the contract shall—

- (a) be binding on all partners in the business;
- (b) not be terminated by the death, resignation, or removal from office of a partner in the business, or by the addition of a new partner to the business; and

(c) be deemed to be transferred or assigned to, and binding on, all continuing, surviving, or new partners in the business, as the case may be.

(4) A transfer or assignment of a contract of training shall be of no effect unless the transfer or assignment is made in accordance with this section.

Temporary release of apprentice or trainee from contract of training.

21—(1) The Authority may arrange for an apprentice or a trainee undertaking training in pursuance of a contract of training and his employer under that contract to be released from such of their obligations under that contract as the Authority determines to enable the apprentice or trainee to undertake training with an employer not being a party to that contract for such period as the Authority determines for the purposes of obtaining wider experience and additional skills in the declared vocation to which that contract relates.

(2) An apprentice or a trainee and an employer may not be released from any of their obligations under a contract of training under subsection (1) unless all parties to that contract have agreed to the release.

(3) The period during which an apprentice or a trainee is released from any of his obligations under a contract of training under subsection (1) shall be treated as part of the term of that contract.

Cancellation of contracts of training.

22—(1) A contract of training may be cancelled—

(a) by the mutual consent of the parties to the contract and with the approval of the Authority; and

(b) by the Authority—

(i) if in the opinion of the Authority there are circumstances which render such cancellation desirable;

(ii) if the contract has been entered into contrary to the provisions of this Act or does not comply with the provisions of this Act; or

(iii) as provided by section 23 or 26.

(2) A contract of training may be suspended for such period as the parties to the contract, with the approval of the Authority, may agree.

(3) A contract of training shall be suspended for such period as the Authority may, by order, direct if, in the opinion of the Authority, there are circumstances which render that suspension desirable.

(4) An order of the Authority under subsection (3) may be revoked or varied by a subsequent order of the Authority.

(5) Where a contract of training is suspended under this section the parties to the contract shall not, during the period for which the contract is suspended, be bound by the contract except in so far as may otherwise be agreed between them or as the Authority may direct.

(6) Where a contract of training is suspended under this section, the term of the contract shall be deemed to be extended by the period for which it was so suspended.

23—(1) For the purpose of carrying out the objects of this Act a contract of training shall contain a condition that any question or difference, arising between the employer and the apprentice or trainee, relating to or affecting the contract, or anything contained in the contract, or the interpretation or operation of the contract, or any rights, duties, or liabilities of the employer or the apprentice or trainee under the contract, shall be determined by the Authority.

Special condition in contract of training for determination of disputes, &c.

(2) The Authority may inquire into and determine any question or difference referred to in subsection (1) and may make such orders as it thinks fit.

(3) Without limiting the generality of subsection (2), where the Authority determines pursuant to an inquiry referred to in that subsection that any terms or conditions of a contract of training were contravened or not complied with by the employer, the Authority may—

- (a) order that the contract be cancelled or transferred or assigned to another employer;
- (b) where it has ordered that the contract be transferred or assigned to another employer, arrange for the transfer or assignment of the contract to another employer; and
- (c) where it has made an order under paragraph (a), order that the employer shall not execute another contract of training for such period as is specified in the order.

(4) Any question or difference arising between any of the parties to a contract of training for which no provision is made in this section may be heard and determined as if this Act had not been enacted.

Powers of Authority in relation to period of contracts of training.

24—(1) Where an apprentice or a trainee has completed at least three-quarters of the term of his contract of training or such other period of his contract of training as the Authority approves, and the Authority is satisfied of the competence of the apprentice or trainee in the declared vocation to which the contract of training relates, the Authority may, of its own motion, or on the application of all parties to the contract, release the apprentice or trainee from his obligations under the contract, and on being so released the apprentice or trainee shall be deemed to have completed the training required of him under the contract.

(2) The Authority may, by notice in writing served on all parties to a contract of training, increase or reduce the term of the contract.

Effect of contracts of training not complying with Act.

25—(1) A person shall not enter into or execute—

(a) a contract of training contrary to the provisions of this Act; or

(b) a contract of training that does not comply with the provisions of this Act.

Penalty: \$400.

(2) Subject to section 22, nothing in this Part or section 38 invalidates a contract of training that is entered into or executed in contravention of, or does not comply with, this Part or section 38.

Division 4—Duties of apprentices, trainees, and employers

Apprentices and trainees to attain prescribed standards of proficiency.

26—(1) Subject to this Act, an apprentice or a trainee undertaking training in pursuance of a contract of training shall be entitled to be paid at the rate specified in the award or industrial agreement relating to persons engaged in the declared vocation to which the contract of training relates, in respect of each year of his training under that contract, together with such increased rate, if any, as may be prescribed for proficiency attained.

(2) No increased rate for proficiency shall be payable to an apprentice or a trainee in any year of training under a contract of training unless the apprentice or trainee in the immediately preceding year of his training in pursuance of that contract attained the prescribed standard of proficiency.

(3) The Authority may, where it is satisfied that a person who desires to undertake training in pursuance of a contract of training has attained a standard of proficiency determined by the Authority to be equivalent to the prescribed standard of proficiency for a particular year of that contract of training, allow that person to commence training in pursuance of a contract of training in a year other than a year that is determined by the Authority to be the first year of the period that is relevant to the declared vocation to which the contract relates.

(4) Notwithstanding subsection (2)—

- (a) where an apprentice or a trainee has commenced training in pursuance of a contract of training in a year other than a year that is determined by the Authority to be the first year of the term that is relevant to the declared vocation to which that contract relates, the Authority shall determine whether or not he shall be paid any increased rate for proficiency during the first year of his training in pursuance of that contract; and
- (b) where an apprentice or a trainee has, before commencing his training under a contract of training, attained a standard of learning determined by the Authority to be equivalent to a prescribed standard of proficiency, he shall be paid during his first year of training under that contract such increased rate as may be prescribed for proficiency.

(5) If in any year of his training under a contract of training an apprentice or a trainee fails to attain the prescribed standard of proficiency for that year, the Authority, on the application in writing of the apprentice or trainee, may—

- (a) grant further opportunity to the apprentice or trainee to attain that standard within a period specified by it;
- (b) where the Authority considers it appropriate, extend the period specified by it under paragraph (a) for a further period or further periods or cancel that contract of training; and
- (c) where the Authority has extended, under paragraph (b), the period specified by it under paragraph (a), cancel that contract of training if, at the expiration of the extended period the apprentice or trainee has not attained that standard.

(6) Where a contract of training has been cancelled under this section, the Authority may permit the person who was the apprentice or trainee undertaking training in pursuance of that contract—

- (a) to undertake training in pursuance of a contract of training in a declared vocation other than a declared vocation to which the contract relates; and
- (b) if it is satisfied that he has sufficient theoretical and practical knowledge, to commence his training under the contract referred to in paragraph (a) in a year other than a year that is determined by the Authority to be the first year of the term that is relevant to the declared vocation to which that contract relates.

Apprentices
and trainees
to attend
classes, &c.

27—(1) An apprentice or a trainee undertaking training in pursuance of a contract of training—

- (a) shall attend, as directed by the Authority, such classes or courses of training approved by the Authority whether in this State or in another State or a Territory of the Commonwealth; and
- (b) in addition to attending the classes or courses of training referred to in paragraph (a), if directed by the Authority, attend remedial instruction classes in this State at such times and for such period as it may determine.

(2) Where an apprentice or a trainee attends a class or course of training at a place more than 30 kilometres from his place of employment or residence pursuant to a direction of the Authority, the Authority may pay to him or on his behalf such allowances for maintenance and transportation as the Authority, with the approval of the Minister, determines.

(3) Where an apprentice or a trainee attends a class or a course of training for a full day at a place more than 20 kilometres from his place of employment or residence pursuant to a direction of the Authority and there is no suitable public transport available to the apprentice or trainee, the Authority may, with the approval of the Minister, arrange transportation for the apprentice or trainee and meet the cost of that transportation or such part of the cost of that transportation as the Authority, with the approval of the Minister, determines.

(4) The period during which an apprentice or a trainee attended compulsory military, naval, or air force training shall be deemed to be part of the term of his contract of training unless the military,

naval, or air force training was imposed through the failure of the apprentice or trainee to attend compulsory military, naval, or air force parades.

(5) Where an apprentice or a trainee undertaking training in pursuance of a contract of training is absent from work without the consent of his employer, the employer shall be entitled to deduct from the wages of the apprentice or trainee an amount proportionate to the time during which he was absent.

28—(1) Where the Authority is satisfied that an apprentice or a trainee undertaking training in pursuance of a contract of training has failed to attend any class that he has been directed to attend under section 27, the Authority may impose on him a penalty not exceeding \$50.

Penalty
for failure
to attend
classes, &c.

(2) Where the Authority has imposed a penalty on an apprentice or a trainee under subsection (1), the Authority shall, by notice in writing served on the apprentice or trainee, notify him of the imposition of the penalty.

(3) An apprentice or a trainee who is aggrieved by the imposition on him of a penalty under subsection (1) may, within 28 days after the service of a notice under subsection (2), appeal to the President of the Tasmanian Industrial Commission.

(4) On the hearing of an appeal under this section the President of the Tasmanian Industrial Commission (unless he dismisses the appeal) may decrease, or increase, to a sum not exceeding \$50, the amount of the penalty or may make such other order as he thinks fit.

(5) After the expiration of the time within which an appeal against the imposition of a penalty under this section may be made and, if an appeal is made, after the final determination or abandonment of the appeal, the Authority may, by notice in writing, direct the employer of the apprentice or trainee to deduct the amount of the penalty imposed on the apprentice or trainee, either in one sum or in such instalments as the Authority may direct, from the wages of the apprentice or trainee.

(6) An employer who is required by a direction given under subsection (5) to deduct any amount from the wages payable to an apprentice or a trainee shall comply with that direction and

shall, within 14 days after those wages fall due to be paid, pay to the Authority a sum equivalent to the amount so required to be deducted.

(7) Any sum required to be paid to the Authority under subsection (6) that is not so paid may be recovered in a court of competent jurisdiction as a debt due to it from the employer.

(8) A payment made by an employer under subsection (6) is a valid discharge to him as against the apprentice or trainee to the extent of the amount paid.

(9) Any sums paid to or recovered by the Authority under this section shall be paid into the Consolidated Revenue.

Taking of
premiums
prohibited.

29—(1) A person shall not directly or indirectly demand, receive, or take any premium, fee, gift, or reward for—

(a) undertaking to train an apprentice or a trainee in pursuance of a contract of training; or

(b) procuring any other person to undertake to train an apprentice or a trainee in pursuance of a contract of training.

Penalty: \$800.

(2) A subsidy payable by the Commonwealth or the State in respect of the undertaking to train an apprentice or trainee in pursuance of a contract of training and approved by the Authority does not constitute a premium, fee, gift, or reward for the purposes of subsection (1).

Division 5—Schemes of training

Schemes of
training.

30—(1) The Authority may determine and approve such schemes of training as it considers necessary or desirable to advance knowledge and skills required in industry and commerce.

(2) A scheme of training referred to in subsection (1) shall provide for such courses of instruction, on-the-job training, and off-the-job training as the Authority considers necessary.

(3) The Authority may issue, or arrange for the issue of, an appropriate certificate to a person who successfully completes a scheme of training referred to in subsection (1).

(4) This section does not apply to training in declared vocations.

Division 6—Schemes of pre-vocational training

31—(1) The Authority may determine and approve schemes of pre-vocational training. Schemes of pre-vocational training.

(2) An employer may undertake to train a person in accordance with a scheme of pre-vocational training approved by the Authority under subsection (1).

(3) A person who successfully completes a scheme of pre-vocational training shall be entitled to such credits in respect of the training required for the relevant declared vocation as may be determined by the Authority.

PART IV

MISCELLANEOUS

32—(1) A person may apply to the Authority to have any work and training or any work or training previously performed or undertaken by him recognized by the Authority. Power of Authority to issue certificate in respect of recognized work or training.

(2) A person referred to in subsection (1) shall supply to the Authority full details of—

(a) the type of work performed, the period during which that work was performed, and the name and address of the person by whom he was employed, if any, at the time he performed that work; and

(b) the type of training undertaken, the period during which that training was undertaken, and the name and address of the person or institution responsible for that training.

(3) The Authority shall cause to be made an investigation into the work or training or both performed or undertaken and the level of skill achieved by the person referred to in subsection (1) and if, as a result of the investigation the Authority is of the opinion that that person has had experience and has expertise in a particular occupation not being a trade sufficient to qualify him as the holder of a status in relation to that occupation, the Authority may recognize his work or training or both and the level of skill achieved by him and issue to him a certificate to the effect that he is qualified to hold that status.

(4) Where the work or training performed or undertaken by a person referred to in subsection (1) is in a trade, the Authority shall not issue a certificate under subsection (1) unless the person has worked in that trade for at least 6 years.

(5) A person to whom a certificate is issued under subsection (3) shall be deemed to hold the status referred to in the certificate.

(6) This section does not apply to work or training in a declared vocation to which the *Tradesmen's Rights Regulation Act 1946* of the Commonwealth applies.

Powers of
entry and
inspection.

33—(1) For the purposes of this Act, a member of the Authority, or a person authorized by the Authority to exercise the powers conferred by this subsection may—

- (a) subject to subsection (2), enter at any reasonable time any place or premises in which the industrial or commercial training is provided;
- (b) subject to subsection (3), question any person found in a place or premises referred to in paragraph (a) with regard to any matters arising under this Act;
- (c) subject to subsection (3), question any person whom he has reasonable cause to believe is undertaking, or within the preceding 2 months has undertaken, training in pursuance of a contract of training or under a scheme of training referred to in section 30;
- (d) inspect a place or premises referred to in paragraph (a), anything in that place or those premises, and work in progress in that place or those premises; and
- (e) require the production of any record or document required to be kept by or under this Act and inspect, examine, and copy that record or document.

(2) A member of the Authority or person authorized by the Authority to exercise the powers conferred by subsection (1) shall not enter a tertiary institution without first obtaining the approval of the principal officer of that institution or a person apparently in charge of that institution.

(3) Where a person undertaking training in pursuance of a contract of training or under a scheme of training referred to in section 30 is questioned pursuant to subsection (1) (b) or (c), he may request that his employer or a representative of his employer or a representative from the trade union of which he is a member or both his employer or a representative of his employer and a representative from the trade union of which he is a member, be present and he may refuse to answer any question put to him until his request has been complied with.

(4) A person shall not—

- (a) hinder or obstruct a member of the Authority or other person in the exercise of a power conferred by this section; or
- (b) without lawful excuse, fail to comply with a requirement made under subsection (1) (e).

Penalty: \$100.

(5) A person—

- (a) referred to in subsection (3) who has not made a request pursuant to that subsection or who has made a request pursuant to that subsection and that request has been complied with; or

(b) other than a person referred to in subsection (3), shall not refuse to answer any question lawfully put to him pursuant to subsection (1).

Penalty: \$100.

34—(1) The Authority shall keep a register of apprentices and trainees in such form as it may determine, and shall enter in that register the names of all apprentices and trainees undertaking training in pursuance of contracts of training.

Register of
apprentices
and trainees.

(2) Production of the register, or an extract from any entry in the register certified under the hand of the chairman of the Authority or a person authorized by him for the purpose, shall be evidence of the facts contained in the register or in the extract, as the case may be, and the absence of the name of any person from the register shall be evidence that at the relevant date that person was not registered as an apprentice or a trainee.

(3) A certificate under the hand of the chairman of the Authority or a person authorized by the Authority for the purpose that any person at any specified date was, or was not, registered as an apprentice or a trainee shall be evidence of that fact.

35—(1) An employer who undertakes to train a person in pursuance of a contract of training shall keep such records as may be required by the Authority.

Making and
retention of
records.

(2) An employer shall retain a record kept by him under subsection (1) for at least 2 years after the date on which the record was made.

(3) An employer who fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$100.

Notice of existing indentures to be given by employer.

36—(1) Within one month after any occupation is declared pursuant to section 15 to be a trade or other declared vocation, every employer engaged in that trade or other declared vocation shall give to the Authority notice in writing of all indentures of apprenticeship or other contracts in relation to the training in that trade or other declared vocation in pursuance of which any person was bound to such an employer at the date of the declaration and that notice shall include full particulars of the indentures or contracts.

Penalty: \$400.

(2) Any indenture or other contract relating to an occupation which is declared pursuant to section 15 to be a trade or other declared vocation and which was in force immediately before the date on which the occupation is declared to be a trade or other declared vocation—

(a) may be treated by the Authority as a contract of training under this Act and where so treated shall, on notice in writing served on the parties to the indenture or contract, be deemed to be a contract of training under this Act; or

(b) may, by notice in writing served on the parties to the indenture or contract, be revoked by the Authority.

(3) Where the Authority revokes an indenture or contract under subsection (2), the persons who were the parties to the indenture or contract shall enter into a contract of training under this Act.

Penalty: \$400.

Rates of payments and conditions applicable to apprentices and trainees.

37—(1) The rates of payments to be made, and the conditions applicable, to apprentices or trainees undertaking training in pursuance of contracts of training in each declared vocation shall be in accordance with the award or industrial agreement relating to persons employed in the declared vocation to which the contract relates and, where there is no such award or industrial agreement in existence, regulations under this Act may prescribe those rates of payments and conditions by reference to an award, determination, or order of an authority empowered to fix, determine, or decide wages under any Act or Commonwealth Act.

(2) Where any regulations are made prescribing the rates of payments to be made to an apprentice or trainee undertaking training in pursuance of a contract of training, those regulations may specify that the payments are to commence at the beginning of any pay period current when the relevant regulations are notified in the *Gazette*.

38—(1) A person shall not directly or indirectly or under any pretence employ, or permit to be employed, any person as an apprentice or a trainee in pursuance of a contract of training at a lower rate of pay than the rate to which he is entitled by virtue of this Act, including the increased rate, if any, for proficiency. Offences.

Penalty: \$200.

(2) All offences against this Act shall be reported to the Minister, who may direct whether or not proceedings shall be taken in respect of the offence.

(3) All proceedings in respect of offences against this Act shall be taken by a person authorized by the Minister in that behalf generally, or in any particular case, but in any such proceedings it shall not be necessary to allege or prove that—

(a) the proceedings were directed by the Minister; or

(b) the complainant was authorized by the Minister,

unless the contrary is shown.

(4) In any proceedings in respect of an offence under this Act the court before which any defendant is convicted may order him to pay, in addition to any penalty imposed, any sum of money which the court finds to be payable by him under this Act to any apprentice or trainee in relation to whom the proceedings arose.

39—The Authority shall have and may exercise, in relation to any inquiry made by it in pursuance of this Act, the like powers and authority as are conferred upon boards of inquiry, appointed by the Governor, by Division 2 of Part II of the *Evidence Act 1910*. Powers of Authority in respect of inquiries.

40—(1) The Authority shall, on or before 31st October in each year, submit to the Minister a report on the performance of its functions and other work undertaken by it during the period of 12 months ending on 30th June in that year. Annual report.

(2) The Minister shall cause a copy of the report referred to in subsection (1) to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the report is received by him.

Service of
documents, &c.

41—(1) Where under this Act a document or a notice is required to be served on a person, the document or notice may be served—

(a) in the case of a person who is neither a body corporate nor a firm—

(i) by delivering it to him personally;

(ii) by leaving it at that person's place of residence last known to the person required to serve the document or notice with someone who apparently resides there, or at that person's place of business or employment last known to the person required to serve the document or notice with someone who is apparently employed there, being in either case a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to that person's place of residence, business, or employment last known to the person required to serve the document or notice;

(b) in the case of a body corporate—

(i) by delivering it to the secretary of the body corporate personally;

(ii) by leaving it at the registered office of the body corporate or at the place or principal place of business of the body corporate in Tasmania with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to the registered office of the body corporate or to the place or principal place of business of the body corporate; or

(c) in the case of a firm—

(i) by delivering it to a member of the firm personally;

- (ii) by leaving it at the place or principal place of business of the firm in Tasmania last known to the person required to serve the document or notice with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or
- (iii) by sending it by post to the place or principal place of business of the firm in Tasmania last known to the person required to serve the document or notice.

(2) A reference in subsection (1) to the registered office of a body corporate includes a reference to a registered office that is outside Tasmania.

(3) The provisions of this section are in addition to the provisions of section 528 of the *Companies (Tasmania) Code*.

42—(1) All expenses incurred in the administration of this Act shall be paid out of money to be provided by Parliament for that purpose. Administration.

(2) All fees and penalties received under this Act shall be paid into the Consolidated Revenue.

43—(1) In addition to establishing training advisory committees under section 12, the Minister may, upon the recommendation of the Authority, appoint a body or organization established for the purposes of training in any part of industry or commerce (not being a body or organization established under this Act) as a training advisory committee in respect of any part of industry or commerce. Appointment of existing bodies, &c., as training advisory committees.

(2) Where the Minister exercises his discretion under subsection (1), he shall appoint the chairman of the Authority or his nominee, the Executive Director, T.A.F.E. or his nominee, and such members as may be necessary to ensure equal employer and equal employee representation as additional members of a training advisory committee appointed by him under that subsection.

44—(1) The Governor may, on the recommendation of the Authority, make regulations for the purposes of this Act. Regulations.

(2) Without limiting the generality of subsection (1), the Governor may make regulations for or in respect of the following matters:—

- (a) the conduct of an apprentice or a trainee undertaking training in pursuance of a contract of training at and while going to and from a course of training;
- (b) increased rates to be paid to apprentices or trainees where a prescribed standard of proficiency or learning is attained.

(3) Regulations made under this section may be made subject to such conditions, or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$100 and, in the case of a continuing offence, a further penalty not exceeding \$10 for each day during which the offence continues.

(5) A regulation under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in the regulation.

Repeal.

45—The *Apprentices Act* 1942 and the *Apprentices Amendment Act* 1979 are repealed.

Savings and transitional provisions.

46—(1) Any indentures of apprenticeship in force under the repealed Act shall, subject to this Act, on the day fixed under section 2 (2) continue in force as if they were contracts of training.

(2) A determination, approval, or decision of the Apprenticeship Commission in force under the repealed Act immediately before the day fixed under section 2 (2) shall, subject to variation or revocation by the Authority under this Act, remain in force under this Act as if it were a determination, approval, or decision of the Authority under this Act.

(3) Any trade or branch of a trade declared by proclamation to be a trade under the repealed Act shall be deemed to have been declared as a trade under this Act.

(4) In this section “repealed Act” means the *Apprentices Act* 1942.

47—Schedule 1 to the *Tasmanian State Service Act 1984* is amended by inserting in Part II, after the item relating to the “Tasmanian Racing Directorate”, the following item:—

Amendment of Schedule 1 to *Tasmanian State Service Act 1984*.

Training Authority of Tasmania	The Chairman of the Training Authority of Tasmania
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48—This Act is amended as set out in Schedule 3.

Amendments to this Act consequential upon enactment of *Tasmanian State Service Act 1984*.

SCHEDULE 1

Section 6 (6)

PROVISIONS WITH RESPECT TO MEMBERSHIP OF AUTHORITY

Interpretation. 1—In this Schedule, unless the contrary intention appears, “member of the Authority” does not include the chairman of the Authority.

Term of office. 2—(1) A member of the Authority shall hold office for such term, not exceeding 3 years, as may be specified in the instrument of his appointment.

(2) A person who has attained the age of 65 years is not eligible to be appointed or reappointed as a member of the Authority.

Public Service Act 1973 not to apply. 3—The provisions of the *Public Service Act 1973* do not apply to or in respect of the appointment of a member of the Authority, or to or in respect of a member of the Authority in his capacity as such, during his term of office but an officer of the Public Service may hold office as a member of the Authority in conjunction with his office in the Public Service.

Allowances payable to members of Authority. 4—(1) A member of the Authority (other than a person who is an officer of the Public Service) is entitled to be paid such remuneration, expenses, and allowances as the Minister may from time to time determine in respect of him.

(2) A member of the Authority who is an officer of the Public Service is entitled to be paid such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Appointment of substitute to act during absence of member of Authority. 5—(1) Subject to subclauses (2) and (3), the Minister may appoint any person to act in the office of a member of the Authority while that member of the Authority is absent from his office through illness or any other cause.

(2) A person appointed under subclause (1) to act in the office of a member of the Authority appointed under section 6 (1) (b), not being the Executive Director, T.A.F.E., shall be a person suitably qualified and selected by the Minister after consultation with the Executive Director, T.A.F.E.

(3) A person appointed under subclause (1) to act in the office of a member of the Authority appointed under section 6 (1) (c), (d), or (e) shall be a person suitably qualified and selected by the Minister after consultation with the organization referred to in section 6 (1) (c), (d), or (e), as the case may require.

(4) A member of the Authority shall, for the purposes of subclause (1), be deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 7.

(5) A person shall not be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member of the Authority, and all things done or omitted to be done by that person while so acting shall be as valid, and shall have the same consequences, as if they had been done or omitted to be done by that member.

- 6—(1) The office of a member of the Authority becomes vacant— Vacation
of office.
- (a) when the term for which he was appointed to hold office expires;
 - (b) when he attains the age of 65 years;
 - (c) when he dies;
 - (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;
 - (e) if absent from 3 consecutive meetings of the Authority of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Authority or, unless, before the expiration of 3 weeks after the last of those meetings, he is excused by the Authority for his absence from those meetings;
 - (f) if he becomes liable to be detained under the *Mental Health Act* 1963 in a hospital, being a hospital within the meaning of section 3 (1) of that Act;
 - (g) if he is convicted of a crime or an offence in this State which is punishable by imprisonment for a term of 6 months or more, or has been convicted elsewhere than in this State of a crime or an offence which, if committed in this State, would be a crime or an offence so punishable;
 - (h) if he resigns his office by writing under his hand addressed to the Governor; or
 - (i) if he is removed from office by the Governor under subclause (2) or (3).
- (2) The Governor may remove a member of the Authority from office—
- (a) for misbehaviour or incompetence;
 - (b) where he is satisfied that the member has failed to take reasonable steps to secure compliance by the Authority with any direction lawfully given by the Minister to the Authority, or has participated in or connived at any act that is or would be a contravention of any such direction;
 - (c) where he is satisfied that a member of the Authority has voted at a meeting of the Authority or has otherwise acted to prevent the chairman of the Authority from complying with any Employment Instructions or Administrative Instructions, within the meaning of the *Tasmanian State Service Act* 1984 that relate to the chairman or to the Authority or a direction given to the chairman by the Commissioner for Public Employment under section 35 (3) or section 36 (5) of that Act or given to the chairman by the Commissioner for Review under section 68 (17) of that Act; or
 - (d) where he is satisfied that the member has participated in or connived at any act that resulted in the Authority not being managed in an effective, efficient, or economical manner.

(3) The Governor may remove a member of the Authority from office if he is satisfied, having regard to the information supplied by the person making the nomination for the purposes of section 6 (1) (b) or the organization that submitted the list from which that member was nominated for the purposes of section 6 (1) (c), (d), or (e), that the member is no longer qualified to be appointed to the Authority.

Filling of vacancies.

7—(1) On the occurrence of a vacancy, otherwise than by the expiration of the term for which he was appointed in the office of a member of the Authority appointed under section 6 (1) (b), not being the Executive Director, T.A.F.E., the Governor may appoint a person for the residue of his predecessor's term of office, being a person suitably qualified and selected by the Minister after consultation with the Executive Director, T.A.F.E.

(2) On the occurrence of a vacancy in the office of a member of the Authority appointed under section 6 (1) (c), (d), or (e), otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to the vacant office for the residue of his predecessor's term of office, being a person suitably qualified and selected by the Minister after consultation with the organization referred to in section 6 (1) (c), (d), or (e), as the case may require.

Validity of proceedings, &c.

8—(1) No act or proceeding of the Authority or of any person acting pursuant to any direction of the Authority is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the membership of the Authority.

(2) All acts and proceedings of the Authority or of any person acting pursuant to any direction of the Authority are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Authority or that any person was disqualified from acting as, or incapable of being, a member of the Authority, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Authority had been fully constituted.

Presumptions.

9—In any proceedings by or against the Authority, unless evidence is given to the contrary, no proof shall be required of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member of the Authority; or
- (d) the presence of a quorum at any meeting of the Authority.

SCHEDULE 2

Section 6 (7)

PROVISIONS WITH RESPECT TO MEETINGS OF THE AUTHORITY

1—Meetings of the Authority may be convened by the chairman of the Authority or by any 2 or more members of the Authority.

Convening of meetings of Authority.

2—(1) Seven members of the Authority of whom—

Procedure at meetings.

(a) at least one shall be a member appointed under section 6 (1) (c) or (d); and

(b) at least one shall be a member appointed under section 6 (1) (e), shall form a quorum at any duly convened meeting of the Authority.

(2) Any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority.

(3) A question arising at a meeting of the Authority shall be determined by a majority of votes of the members of the Authority present and voting and, in the event of an equality of votes, the matter shall be deemed to have been passed in the negative.

3—(1) The chairman of the Authority shall preside at all meetings of the Authority at which he is present.

Chairman.

(2) If the chairman of the Authority is not present at a meeting of the Authority, a member of the Authority elected by the members present shall preside at that meeting.

4—The Authority shall cause full and accurate minutes to be kept at meetings.

Minutes.

5—The procedure for the calling of, and for the conduct of business at, meetings of the Authority shall, subject to any procedure that is specified in this Schedule, be as determined by the Authority.

General procedure.

6—The Minister may direct the Authority to allow a person to be present at any specified meeting of the Authority and that person may take part in the Authority's deliberations but may not vote on any question before a meeting of the Authority.

Attendance at meeting of person at the direction of Minister.

SCHEDULE 3

Section 48

AMENDMENTS CONSEQUENTIAL UPON ENACTMENT OF TASMANIAN STATE SERVICE ACT 1984

Section 12 of this Act is amended as follows:—

- (a) by omitting from subsection (8) “ officer of the Public Service ” (twice occurring) and substituting “ employee employed in the State Service ”;
- (b) by omitting from subsection (9) “ *Public Service Act 1973* ” and substituting “ *Tasmanian State Service Act 1984* ”.

Section 14 of this Act is amended as follows:—

- (a) by omitting from subsection (1) “ *Public Service Act 1973* ” and substituting “ *Tasmanian State Service Act 1984* ”;
- (b) by omitting subsection (2) and substituting the following subsection:—

(2) The chairman of the Authority may make arrangements with the Head of an Agency, within the meaning of the *Tasmanian State Service Act 1984*, for employees employed in that Agency to be made available to the Authority to enable it to perform its functions, and any such employees may, in conjunction with their positions in the State Service, serve the Board in any capacity.

Schedule 1 to this Act is amended as follows:—

- (a) by omitting from clause 3 “ *Public Service Act 1973* ” and substituting “ *Tasmanian State Service Act 1984* ”;
- (b) by omitting from that clause “ officer of the Public Service may hold office as a member of the Authority in conjunction with his office in the Public Service ” and substituting “ employee, within the meaning of the *Tasmanian State Service Act 1984*, may hold office as a member of the Authority in conjunction with his position in the State Service ”;
- (c) by omitting from clause 4 “ officer of the Public Service ” (twice occurring) and substituting “ employee, within the meaning of the *Tasmanian State Service Act 1984* ”.