



VOCATIONAL EDUCATION AND TRAINING ACT 1994

No. 88 of 1994

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VOCATIONAL EDUCATION AND TRAINING ACT 1994

No. 88 of 1994

AN ACT to provide for the administration of a vocational education and training system

[Royal Assent 16 December 1994]

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 1

PRELIMINARY

Short title

1—This Act may be cited as the *Vocational Education and Training Act 1994*.

Commencement

2—This Act commences on a day to be proclaimed.

Interpretation

3—In this Act—

“**Accreditation and Recognition Committee**” means the Tasmanian Accreditation and Recognition Committee continued under section 17;

“**accredited course**” means a training course accredited or recognized by the Accreditation and Recognition Committee;

“**ANTA**” means the Australian National Training Authority established under the *Australian National Training Authority Act 1992* of the Commonwealth;

“**award**” means a certificate certifying that a person specified in the certificate has successfully completed an accredited course;

“**competency**” means the ability to apply specified knowledge and skill to the standard of performance required in employment;

“**Director**” means a person appointed as such under section 54;

“**employer**” includes a group of employers;

“**industry training advisory body**” means a body declared as such under section 21;

“**institute**” means an educational training establishment or other institution established under section 53;

“**institute council**” means a council established under section 56;

“**Ministerial Council**” means the Ministerial Council consisting of Ministers from each State and Territory of the Commonwealth and from the Commonwealth responsible for vocational education and training;

“**National Strategic Plan**” means the plan agreed to by the Commonwealth and the States to provide national direction for the development of vocational education and training;

“**registered training provider**” means a training provider registered under section 25;

- “**Secretary**” means the Secretary of the Department;
- “**State Training Profile**” means a profile for the provision of vocational education and training;
- “**State training system**” means a system relating to the planning, implementation and evaluation of vocational education and training in this State;
- “**trainee**” means a person undergoing—
- (a) a training course under a training agreement or vocational placement agreement; or
 - (b) an apprenticeship;
- “**training agreement**” means an agreement or a contract between an employer and a trainee in force under Division 1 of Part 6;
- “**Training Agreements Committee**” means the Tasmanian Training Agreements Committee continued under section 14;
- “**Training Authority**” means the Tasmanian State Training Authority continued under section 6;
- “**training course**” means a course or programme relating to vocational education and training;
- “**training provider**” means a person or body providing training courses;
- “**vocation**” includes an occupation or trade;
- “**vocational education and training**” means post-compulsory education and training, excluding secondary education or University education, as specified in section 4;
- “**vocational placement**” means a placement in a vocation which provides paid or unpaid employment at the work place as part of an accredited course for a period of less than 240 hours;
- “**vocational placement agreement**” means an agreement in force under Division 2 of Part 6.

Vocational education and training

- 4—(1) Vocational education and training is to be—
- (a) directed to the development of vocational competencies; and

- (b) in preparation for, or directed to, the enhancement of opportunities to undertake vocational education and training; and
 - (c) structured to incorporate principles of equal opportunity and fairness.
- (2) Vocational education and training includes—
- (a) training courses provided by the State; and
 - (b) accredited courses provided by private training providers; and
 - (c) accredited courses provided by employers in the workplace; and
 - (d) accredited training courses required under a training agreement and provided by training providers in another State or in a Territory of the Commonwealth; and
 - (e) adult and community education; and
 - (f) literacy, language and numeracy; and
 - (g) basic education related to the workplace.

State Training Profiles

5—(1) The Training Authority is to submit to the Minister a State Training Profile at least once a year.

(2) If the Minister approves the State Training Profile, the Training Authority is to submit it to ANTA.

(3) If the Minister does not approve the State Training Profile, the Minister may require the Training Authority to amend it according to any directions the Minister determines.

(4) The Minister is to refer any unresolved dispute between the Training Authority and ANTA relating to a State Training Profile to the Ministerial Council.

PART 2**TASMANIAN STATE TRAINING AUTHORITY*****Division 1—Continuation of Tasmanian State Training Authority*****Tasmanian State Training Authority**

6—(1) The Tasmanian State Training Authority established under the *Tasmanian State Training Authority Act 1994* is continued.

(2) The Training Authority consists of 9 members appointed by the Minister of whom—

- (a) 2 are persons selected from nominations submitted by organizations representing employers; and
- (b) 2 are persons selected from nominations submitted by organizations representing employees; and
- (c) 4 are persons who collectively have—
 - (i) experience in vocational education, commercial training or industrial training; and
 - (ii) knowledge of a range of industries; and
 - (iii) knowledge of industry training needs in the State; and
- (d) one is the Secretary.

(3) The Minister is to advertise in daily newspapers for expressions of interest for membership of the Training Authority.

(4) In appointing the members of the Training Authority, the Minister is to take into account, as far as practicable, representation from—

- (a) all regions of the State; and
- (b) males and females; and
- (c) a wide range of industries.

(5) The Minister is to appoint one of the members as chairperson of the Training Authority.

(6) If a nomination is not made as required, the Minister may appoint a suitable person without a nomination.

(7) Schedule 1 has effect with respect to membership and meetings of the Training Authority.

Functions and powers of Training Authority

7—(1) The Training Authority has the following functions:—

- (a) to advise the Minister on matters relating to the State training system;
- (b) to advise the Minister on capital works planning in relation to the State training system;
- (c) to inquire into and undertake research and make reports on the development of vocational education and training policies, programmes and services;
- (d) to develop and recommend to the Minister policies relating to vocational education and training;
- (e) to oversee the implementation of national policy agreements;
- (f) to develop State Training Profiles consistent with the National Strategic Plan;
- (g) to promote and encourage the provision of vocational education and training by industry and private training providers;
- (h) to establish and maintain a consultative process with relevant bodies and associations and other interested persons;
- (i) any other function the Minister, by notice in writing, directs.

(2) The Training Authority may do anything necessary or convenient to perform its functions.

Delegation by Training Authority

8—(1) The Training Authority, with the approval of the Minister, may, in writing, delegate any of its functions or powers, other than its power of delegation, to any person or body.

(2) The terms and conditions of a delegation are to be approved by the Minister.

Assistance to Training Authority

9—The Secretary may make arrangements for persons employed in the Department to assist the Training Authority in its functions and powers under this Act.

Division 2—Financial and reporting provisions**Payment of funds to ANTA**

10—The Minister may make payments to ANTA in accordance with any arrangements the Ministerial Council approves.

Payment of funds from ANTA

11—The Minister is to ensure that any payment made by ANTA to the State in respect of State Training Profiles is applied for expenditure relating to vocational education and training, including national programmes and national projects and capital works.

Acceptance on behalf of Training Authority

12—The Minister may accept anything from any source on behalf of the Training Authority.

Annual report

13—(1) The Training Authority is to submit to the Minister by 31 March in each year a report of its activities during the 12 months ending on 31 December in the previous year.

(2) On receipt of a report, the Minister is to forward a copy of the report to ANTA.

PART 3**COMMITTEES*****Division 1—Tasmanian Training Agreements Committee*****Establishment of Tasmanian Training Agreements Committee**

14—(1) The Tasmanian Training Agreements Committee established under the *Tasmanian State Training Authority Act 1994* is continued.

(2) The Training Agreements Committee consists of 6 members appointed by the Minister of whom—

- (a) one is a member of the Training Authority; and
- (b) 2 are persons selected from nominations submitted by organizations representing employers; and
- (c) 2 are persons selected from nominations submitted by organizations representing employees; and
- (d) one is a person selected from nominations submitted by the Secretary.

(3) The Minister is to appoint one of the members as chairperson of the Training Agreements Committee.

(4) The Minister may require a nomination to be provided within a specified period.

(5) If a nomination is not made as required, the Minister may appoint a suitable person without a nomination.

(6) If a member of the Training Agreements Committee is absent from office for any cause, the Minister, after consultation with the relevant person or body, may appoint a person to act in the office of that member during that absence.

(7) Schedule 2 has effect with respect to membership and meetings of the Training Agreements Committee.

Functions and powers of Training Agreements Committee

15—(1) The Training Agreements Committee has the following functions:—

- (a) to advise the Training Authority on matters relating to vocational placements and training agreements;
- (b) to administer vocational placements and training agreements;
- (c) to issue guidelines for the operation of vocational placements and training agreements;
- (d) to establish procedures and systems in respect of its functions as required and approved by the Training Authority;
- (e) any other function the Training Authority, with the approval of the Minister, by notice in writing directs.

- (2) The Training Agreements Committee—
- (a) with the approval of the Training Authority, may enter into reciprocal arrangements with other training bodies; and
 - (b) may do anything necessary or convenient to perform its functions.

Delegation by Training Agreements Committee

16—(1) The Training Agreements Committee, with the approval of the Training Authority, may, in writing, delegate any of its functions or powers, other than its power of delegation, to any person or body.

(2) The Training Agreements Committee, when required by the Training Authority, must delegate any of its functions or powers, other than its power of delegation, to any person or body specified by the Training Authority.

(3) The terms and conditions of a delegation are to be approved by the Training Authority.

Division 2—Tasmanian Accreditation and Recognition Committee

Establishment of Tasmanian Accreditation and Recognition Committee

17—(1) The Tasmanian Accreditation and Recognition Committee established under the *Tasmanian State Training Authority Act 1994* is continued.

(2) The Accreditation and Recognition Committee consists of 9 persons appointed by the Minister of whom—

- (a) one is a member of the Training Authority; and
- (b) one is a person with qualifications or expertise in the area of curriculum selected from nominations submitted by the Secretary; and
- (c) one is a person selected from nominations submitted by the Schools Board of Tasmania; and
- (d) one is a person selected from nominations submitted by the University of Tasmania; and
- (e) 2 are persons selected from nominations submitted by organizations representing employers; and
- (f) 2 are persons selected from nominations submitted by organizations representing employees; and
- (g) one is a person with an understanding of the goals and needs of industry training advisory bodies.

(3) If a nomination is not made as required, the Minister may appoint a suitable person without a nomination.

(4) The Minister is to appoint one of the members as chairperson of the Accreditation and Recognition Committee.

(5) If a member of the Accreditation and Recognition Committee is absent from office for any cause, the Minister, after consultation with the relevant person or body, may appoint a person to act in the office of that member during that absence.

(6) Schedule 2 has effect with respect to membership and meetings of the Accreditation and Recognition Committee.

Functions and powers of Accreditation and Recognition Committee

18—(1) The Accreditation and Recognition Committee has the following functions:—

- (a) to accredit training courses;
- (b) to liaise with authorities and bodies in respect of the accreditation of courses and the registration of training providers;
- (c) to establish a system of recognition of accredited courses;
- (d) to establish a system of recognition of competencies;
- (e) to approve awards to be issued for accredited training courses;
- (f) to ensure consistency in the naming of such awards;
- (g) to advise the Training Authority on matters relating to the functions of the Accreditation and Recognition Committee;
- (h) to establish procedures and systems in respect of its functions as required and approved by the Training Authority;
- (i) any other function the Training Authority, with the approval of the Minister, by notice in writing directs.

- (2) The Accreditation and Recognition Committee—
- (a) with the approval of the Training Authority, may enter into reciprocal arrangements with other accreditation, recognition and registration bodies; and
 - (b) may do anything necessary or convenient to perform its functions.

Delegation by Accreditation and Recognition Committee

19—(1) The Accreditation and Recognition Committee, with the approval of the Training Authority, may, in writing, delegate any of its functions or powers, other than its power of delegation, to any person or body.

(2) The Accreditation and Recognition Committee, when required by the Training Authority, must delegate any of its functions or powers, other than its power of delegation, to any person or body specified by the Training Authority.

(3) The terms and conditions of a delegation are to be approved by the Training Authority.

Division 3—Advisory committees

Advisory committees

20—(1) The Minister, on the recommendation of the Training Authority, may—

- (a) establish an advisory committee to assist the Training Authority, the Accreditation and Recognition Committee or the Training Agreements Committee in the performance of any functions and exercise of any powers under this Act; or
- (b) declare that a body is an advisory committee for the purpose of paragraph (a).

(2) The Minister may appoint persons as members of an advisory committee established under subsection (1) (a) on any terms and conditions the Minister considers appropriate.

(3) The Minister may—

- (a) abolish an advisory committee established under subsection (1) (a); or
- (b) revoke a declaration made under subsection (1) (b).

Industry training advisory bodies

21—(1) The Minister, on the recommendation of the Training Authority, may declare that a body corporate is a training advisory body in respect of an industry or industries if—

- (a) that body submits its constitution to the Minister; and
- (b) the Minister approves its constitution.

(2) A declaration—

- (a) is to be notified in the *Gazette*; and
- (b) takes effect on or after that notification.

Functions and powers of industry training advisory bodies

22—(1) The functions of an industry training advisory body are—

- (a) to advise the Training Authority on issues relating to vocational education and training in respect to the industry or industries it represents; and
- (b) to provide information and reports as required by the Training Authority.

(2) An industry training advisory body may do anything necessary or convenient to perform its functions.

Notification of alterations of constitution

23—An industry training advisory body is to notify the Minister of any proposed alteration to its constitution.

Revocation of declaration

24—The Minister may revoke a declaration made under section 21 if—

- (a) the industry training advisory body has altered its constitution without notifying the Minister; or

- (b) the Minister does not approve of any proposed alteration to its constitution; or
 - (c) the Minister is satisfied that it is in the best interest of vocational education and training to do so.
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PART 4

REGISTERED TRAINING PROVIDERS

Registration of providers

25—(1) A person or body must not issue an award in respect of an accredited course unless registered under this section.

Penalty: Fine not exceeding 10 penalty units.

(2) A person or body may apply to the Accreditation and Recognition Committee to be a registered training provider.

(3) An application is to be—

- (a) in a form approved by the Accreditation and Recognition Committee; and
- (b) accompanied by the prescribed fee.

(4) The Accreditation and Recognition Committee may—

- (a) grant an application, with or without conditions; or
- (b) refuse to grant an application.

(5) In determining whether or not to grant an application for registration, the Accreditation and Recognition Committee is to have regard to the following:—

- (a) the legal and financial status of the applicant;
- (b) the qualifications of the staff employed by the applicant;
- (c) the premises and equipment to be used;
- (d) any code of practice used by the applicant;
- (e) the accredited course proposed to be provided.

(6) The Accreditation and Recognition Committee, by notice in writing, is to notify the applicant of—

- (a) the grant of the application; or
- (b) the refusal to grant the application and the reasons for the refusal.

Certificate of registration

26—(1) On the grant of an application under section 25, the Accreditation and Recognition Committee is to issue the person or body with a certificate of registration.

(2) A certificate of registration remains in force for the period specified in the certificate unless it sooner ceases to have effect under section 28.

Courses, assessments and awards

27—A registered training provider may—

- (a) provide any accredited course as authorized by the Accreditation and Recognition Committee; and
- (b) conduct assessments for that course; and
- (c) issue any award approved by the Accreditation and Recognition Committee for the successful completion of that course.

Revocation of registration

28—(1) The Accreditation and Recognition Committee, by notice served on a training provider, may revoke the registration of the training provider if satisfied that—

- (a) any matter referred to in section 25 (5) is no longer adequate or sufficient to permit the training provider to continue to be registered; or
- (b) the training provider has not complied with any condition of the registration.

(2) A notice of revocation must state that a person may apply to the Training Authority to carry out an inquiry under section 67.

(3) A revocation of registration takes effect—

- (a) if an application has not been lodged under section 67, 14 days after the date of service of a notice under subsection (1); or
- (b) if an application has been lodged under section 67, on whichever of the following occurs first:—
 - (i) the expiration of 3 months after the application was lodged;

- (ii) the completion of the inquiry if the Training Authority decides under that section to confirm the revocation.

(4) On the revocation of the registration of a training provider—

- (a) the certificate of registration ceases to have effect; and
- (b) the training provider is to return the certificate to the Accreditation and Recognition Committee.

(5) The Accreditation and Recognition Committee is to publish in the *Gazette* and in all daily newspapers circulating in the State notification of—

- (a) the revocation of the registration of a training provider; and
- (b) the date on which the revocation takes effect.

PART 5

ACCREDITED COURSES AND AWARDS

Application for accreditation of courses

29—(1) A person or body may apply to the Accreditation and Recognition Committee for the accreditation of a training course.

(2) An application is to be—

- (a) in a form approved by the Accreditation and Recognition Committee; and
- (b) accompanied by the prescribed fee.

(3) The Accreditation and Recognition Committee may—

- (a) grant an application, with or without conditions; or
- (b) refuse to grant an application.

(4) In determining whether or not to grant an application for accreditation of a training course, the Accreditation and Recognition Committee may have regard to the following:—

- (a) any relevant competency standards endorsed by national or State standard bodies;

- (b) the purpose and level of the course;
- (c) the curriculum and assessment methods of the course;
- (d) the award proposed to be provided for successful completion of the course;
- (e) the views of relevant industry bodies;
- (f) the likelihood of the course achieving the purpose for which it was introduced.

(5) The Accreditation and Recognition Committee, by notice in writing, is to notify the applicant of—

- (a) the grant of the application; or
- (b) the refusal to grant the application and the reasons for the refusal.

Certificate of accreditation

30—(1) On the grant of an application under section 29, the Accreditation and Recognition Committee is to issue the person or body with a certificate of accreditation.

(2) A certificate of accreditation—

- (a) is to specify the course or courses to which the accreditation applies; and
- (b) remains in force for the period specified in the certificate unless it sooner ceases to have effect under section 31.

Revocation of accreditation

31—(1) The Accreditation and Recognition Committee, by notice served on a person or body, may revoke the accreditation of a training course if satisfied that any matter referred to in section 29 (4) is no longer adequate or sufficient to justify the course being accredited.

(2) A notice of revocation must state that a person may apply to the Training Authority to carry out an inquiry under section 67.

(3) A revocation of accreditation takes effect—

- (a) if an application has not been lodged under section 67, 14 days after the date of service of a notice under subsection (1); or

- (b) if an application has been lodged under section 67, on whichever of the following occurs first:—
- (i) at the expiration of 3 months after the application was lodged;
 - (ii) the completion of the inquiry if the Training Authority decides under that section to confirm the revocation.

(4) On the revocation of the accreditation of a training course—

- (a) the certificate of accreditation ceases to have effect; and
- (b) the person or body providing the course is to return the certificate to the Accreditation and Recognition Committee; and
- (c) approval to deliver the course is withdrawn.

(5) The Accreditation and Recognition Committee is to publish in the *Gazette* and in all daily newspapers circulating in the State notification of—

- (a) the revocation of the accreditation of a training course; and
- (b) the date on which the revocation takes effect.

Approval of awards

32—(1) The Accreditation and Recognition Committee may determine and approve the types of awards to be given to persons completing accredited courses.

(2) A person must not give an award determined and approved by the Accreditation and Recognition Committee in respect of any course that is not accredited by that Committee.

Penalty: Fine not exceeding 10 penalty units.

PART 6**TRAINING COURSES*****Division 1—Training Agreements*****Declared vocations for training agreements**

33—The Minister, by order and on the recommendation of the Training Authority, may declare that a vocation is a vocation in respect of which a training agreement must be made before an employer may provide a training course for a person.

Training courses in vocations

34—(1) An employer must not undertake to train a person in respect of a vocation declared under section 33 without entering into a training agreement with that person approved by the Training Agreements Committee.

Penalty: Fine not exceeding 10 penalty units.

(2) Subsection (1) does not apply in relation to a person who—

- (a) is undertaking further training or re-training after having completed an accredited training course in the declared vocation; or
- (b) has a qualification or achieved competence in the declared vocation which the Accreditation and Recognition Committee determines to be equivalent to the qualification or competence achieved on the completion of an accredited training course in that vocation.

Training agreements

35—(1) A training agreement must be in writing and contain provisions relating to the following matters:—

- (a) the accredited course covered by the agreement;
- (b) the award to be attained;
- (c) the duration of the agreement;
- (d) the rights and duties of the parties to the agreement;
- (e) any other matter the Training Agreements Committee determines.

(2) The employer must forward the training agreement to the Training Agreements Committee for its approval within 14 days of making the agreement.

(3) The duration of a training agreement may be expressed—

- (a) in terms of years and months; and
- (b) in terms of achievement of competencies.

(4) A training agreement must not contain any provision which is inconsistent with any applicable industrial award.

Approval of training agreement

36—(1) The Training Agreements Committee may—

- (a) approve a training agreement with or without changes and conditions; or
- (b) refuse to approve the agreement.

(2) A training agreement is of no effect unless it is approved by the Training Agreements Committee.

(3) The Training Agreements Committee may only approve a training agreement if satisfied that—

- (a) the matters referred to in section 35 (1) have been provided for in the agreement; and
- (b) the place of work meets the requirements specified in any other Act; and
- (c) the number of trainees employed by the employer does not exceed the maximum number as determined by the Training Agreements Committee.

Transfer of training agreement

37—(1) Any party, with the approval of, and subject to any conditions determined by, the Training Agreements Committee, may transfer a training agreement to another employer in the vocation to which the agreement relates.

(2) If the employer sells the business or any part of the business, a training agreement in respect of any vocation which forms part of the business sold is transferred to the purchaser.

(3) If a partner in the business dies, resigns or is removed from office, a training agreement is transferred to all the surviving, continuing or new partners in the business.

(4) A transfer is for—

(a) the period specified by the parties to the agreement; or

(b) if the parties do not specify the period, the remainder of the term of the agreement.

Compliance with training agreement

38—(1) The parties to a training agreement must comply with the terms of the agreement.

Penalty: Fine not exceeding 10 penalty units.

(2) A training agreement that is transferred under section 37 is binding on the person to whom it is transferred.

Temporary release

39—(1) A party to a training agreement may apply to the Training Agreements Committee for approval to be released for a specified period from the obligations of a training agreement.

(2) The Training Agreements Committee may—

(a) approve a temporary release from the obligations of a training agreement subject to any conditions it considers appropriate; or

(b) refuse to approve the temporary release.

(3) The period during which a trainee is released from the obligations of a training agreement is part of the term of that agreement.

Amendment of training agreement

40—(1) A training agreement may be amended—

(a) by parties to the agreement with the approval of the Training Agreements Committee; or

(b) by the Training Agreements Committee if it is satisfied that it is desirable to do so.

(2) The Training Agreements Committee, by notice in writing, must notify each party to a training agreement of its intention to amend the agreement.

Suspension of training agreement

41—(1) A training agreement may be suspended—

(a) by the parties to the agreement with the approval of the Training Agreements Committee; or

(b) by the Training Agreements Committee if it is satisfied that it is desirable to do so.

(2) The parties to a training agreement which is suspended are not bound by the terms of the agreement during that suspension except—

(a) as may be agreed between them; or

(b) if the Training Agreements Committee otherwise determines.

(3) A training agreement which is suspended is extended by the period of suspension unless the Training Agreements Committee determines otherwise.

(4) The Training Agreements Committee, by notice in writing, must notify each party to a training agreement of its intention to suspend the agreement.

Cancellation of training agreement

42—(1) A training agreement may be cancelled—

(a) by the parties to the agreement with the approval of the Training Agreements Committee; or

(b) by the Training Agreements Committee if it is satisfied that—

(i) it is desirable to do so; or

(ii) the agreement does not comply with this Act.

(2) The Training Agreements Committee, by notice in writing, must notify each party to a training agreement of its intention to cancel the agreement.

Attendances at classes and courses

43—(1) A trainee must attend—

- (a) any class or accredited course covered by the training agreement; and
- (b) any other class or accredited course the Training Agreements Committee directs.

(2) A trainee required to attend classes or accredited courses is entitled to receive prescribed allowances at the prescribed rates.

Awards for completion

44—The Training Authority may issue any award approved by the Accreditation and Recognition Committee for the successful completion of a training course required under a training agreement.

Division 2—Vocational placements**Declared vocations for vocational placement agreements**

45—The Minister, by order and on the recommendation of the Training Authority, may declare that a vocation is a vocation in respect of which a vocational placement agreement must be made before an employer may provide a vocational placement.

Vocational placements

46—An employer must not provide a vocational placement in respect of a vocation declared under section 45 without entering into a vocational placement agreement with a training provider.

Penalty: Fine not exceeding 10 penalty units.

Vocational placement agreements

47—(1) A vocational placement agreement must be in writing and contain provisions relating to the following matters:—

- (a) the accredited course to be provided;
- (b) the duration of the agreement;
- (c) the rights and duties of the parties to the agreement;
- (d) the rights and duties of the trainee;
- (e) any other matter the Training Agreements Committee determines.

(2) The training provider must forward to the Training Agreements Committee—

- (a) the vocational placement agreement for its approval within 14 days of making the agreement; and
- (b) the approval of any relevant trade union in respect of that agreement.

Approval of vocational placement agreement

48—(1) The Training Agreements Committee may—

- (a) approve a vocational placement agreement with or without changes and conditions; or
- (b) refuse to approve the agreement.

(2) In approving a vocational placement agreement, the Training Agreements Committee may determine—

- (a) the rights and duties of the parties to the agreement; and
- (b) the rights and duties of the trainee; and
- (c) any other terms of the agreement.

(3) A vocational placement agreement is of no effect unless it is approved by the Training Agreements Committee.

(4) The Training Agreements Committee may only approve a vocational placement agreement if satisfied that—

- (a) the place of work meets the requirements specified in any other Act; and

- (b) the training provider is able to provide adequate supervision; and
- (c) the employer is able to provide the training and required supervision.

Amendment of vocational placement agreements

49—(1) A vocational placement agreement may be amended—

- (a) by the parties to the agreement with the approval of the Training Agreements Committee; and
- (b) by the Training Agreements Committee if satisfied that it is desirable to do so.

(2) The Training Agreements Committee, by notice in writing, must notify each party to a vocational placement agreement of its intention to amend the agreement.

Cancellation of vocational placement agreements

50—(1) A vocational placement agreement may be cancelled—

- (a) by the parties to the agreement with the approval of the Training Agreements Committee; or
- (b) by the Training Agreements Committee if it is satisfied that—
 - (i) it is desirable to do so; or
 - (ii) the agreement does not comply with this Act.

(2) The Training Agreements Committee, by notice in writing, must notify each party to a vocational placement agreement of its intention to cancel the agreement.

Workers compensation

51—An employer must provide any person who is undergoing paid training under a vocational placement agreement with workers compensation under the *Workers Compensation Act 1988*.

Indemnity insurance

52—(1) A training provider must obtain indemnity insurance to cover—

- (a) the training provider against—
 - (i) proceedings for damages for injury to the trainee or loss of, or damage to, the trainee's property arising out of unpaid training under a vocational placement; and
 - (ii) loss or damage to the employer's property caused by the trainee during unpaid training under a vocational placement; and
- (b) the trainee against proceedings for damages for injury to a person, or loss or damage to property, arising out of training under a vocational placement.

(2) The maximum amount payable in respect of a single claim or action is \$5 000 000.

PART 7**VOCATIONAL EDUCATION AND TRAINING INSTITUTES*****Division 1—Institutes*****Establishment of institutes**

53—(1) The Minister, by order, may—

- (a) establish any institute to provide vocational education and training; and
- (b) give a name to the institute so established.

(2) The Minister, by order, may—

- (a) abolish an institute; and
- (b) amalgamate 2 or more institutes; and
- (c) change the name of an institute.

Directors of institutes

54—(1) The Minister may appoint a person as Director of an institute subject to and in accordance with the *Tasmanian State Service Act 1984*.

(2) A Director is to administer the institute in accordance with any instructions issued by the Secretary.

Instructions

55—The Secretary may issue instructions relating to—

- (a) enrolments; and
- (b) courses, assessments and examinations; and
- (c) any other matter the Secretary thinks fit.

Division 2—Institute councils**Institute councils**

56—(1) The Minister may establish a council or interim council for an institute or an interim council for a proposed institute if—

- (a) the Director of the institute concerned submits a draft constitution of the proposed institute council to the Minister; and
- (b) the Minister approves the draft constitution.

(2) The Minister may abolish a council or interim council for an institute.

Membership of institute council

57—(1) An institute council consists of at least 10 and not more than 15 persons appointed by the Minister of whom—

- (a) not more than 10 are persons selected by the Minister with knowledge and experience in—
 - (i) industry or commerce; or
 - (ii) local government; or
 - (iii) professional organizations; or

- (iv) education or training; or
 - (v) adult education; or
 - (vi) community interests; and
- (b) one is a person selected by the Minister from nominations submitted by organizations representing employers; and
 - (c) one is a person selected by the Minister from nominations submitted by organizations representing employees; and
 - (d) one is a student of the institute elected by the other students of the institute; and
 - (e) one is a member of the staff of the institute elected by the other staff members of the institute; and
 - (f) one is the Director of the institute.

(2) In appointing members of an institute council, the Minister is to ensure, as far as practicable, that the membership of the institute council—

- (a) has an equal number of female and male members; and
- (b) has appropriate regional representation; and
- (c) reflects the type of vocational education and training provided at the institute.

(3) The Minister may require a nomination to be provided within a specified period.

(4) If a nomination is not made as required, the Minister may appoint a suitable person without a nomination.

(5) The Minister is to appoint one of the members as chairperson of an institute council.

(6) Schedule 3 has effect with respect to membership and meetings of an institute council.

Functions of institute councils

58—An institute council has the following functions:—

- (a) to advise the Minister on any matter relating to the policies and activities of the institute;
- (b) to advise the Secretary on any matter relating to any policy proposed by the Training Authority which may affect the institute;

- (c) to assist the Director in the development of the policies and activities of the institute;
- (d) to establish committees to assist the Director in relation to the operation and activities of the institute; and
- (e) to advise the Secretary on any matter relating to regional or State training needs;
- (f) to provide a means of communication, information and co-operation between the institute and the community;
- (g) to participate in the selection panel in respect of an advertized permanent vacancy for the position of Director;
- (h) any other function the Minister directs.

Powers of institute councils

59—An institute council may—

- (a) accept anything on behalf of the institute; and
- (b) establish committees to assist it in the performance of its functions; and
- (c) do anything necessary or convenient to perform its functions.

Institute council constitution

60—(1) An institute council must not make alterations to its constitution without the approval of the Minister.

(2) An institute council is to refer any dispute relating to the interpretation of any provision of its constitution to the Minister.

(3) The Minister's decision in relation to any dispute is final.

Annual Report

61—An institute council is to provide the Minister once in every 12 months with a report stating its activities for the year to which the report relates.

Division 3—Discipline

Unacceptable behaviour

62—(1) A student at an institute is to behave in an acceptable manner while present at the institute.

(2) Behaviour which is not acceptable includes behaviour which—

- (a)* constitutes disobedience of instructions which regulate the conduct of students; or
- (b)* is likely to be of detriment to the health, safety and welfare of the staff or other students; or
- (c)* is discriminatory or constitutes harassment of staff or other students; or
- (d)* is likely to cause harm and distress to staff or other students; or
- (e)* is likely to undermine the learning and work environment of staff and other students; or
- (f)* threatens the academic and career prospects of staff and other students; or
- (g)* causes or is likely to cause damage to property of the institute.

Suspension

63—The Director, if satisfied that a student has behaved in an unacceptable manner while undertaking a training course conducted by the institute, may suspend the student from that institute for a period not exceeding 10 attendance days.

Exclusion or termination of enrolment

64—(1) The Director of an institute, if of the opinion that the behaviour of a student justifies a suspension of more than 10 attendance days, may refer the matter to the institute council.

(2) The institute council, if satisfied that the behaviour of a student justifies a suspension of more than 10 attendance days, may—

- (a)* exclude the student from attending the institute for a period exceeding 10 attendance days; or
- (b)* terminate the enrolment of the student.

(3) The institute council may refer a matter to the Secretary if—

- (a) it is of the opinion that the behaviour of the student justifies a prohibition from attending any institute; or
- (b) it does not wish to deal with the matter.

(4) The Secretary, if satisfied that it is justified to do so in the circumstances, may—

- (a) exclude the student from attending the institute for a period exceeding 10 attendance days; or
- (b) terminate the enrolment of the student; or
- (c) prohibit the student from attending the institute or any other institute.

(5) If satisfied that the student is willing to behave in an acceptable manner—

- (a) the institute council may revoke an exclusion or termination; or
- (b) the Secretary may revoke any exclusion, termination or prohibition.

Infectious diseases

65—The Director may require a student not to attend the institute during any day or days on which the student has an infestation or is suffering from an infectious disease which, on advice from the Director of Public Health, the Secretary considers may be infectious, contagious or harmful to the health of other persons at the institute.

Appeals

66—(1) A student may appeal to the Secretary against—

- (a) the decision of the Director under section 63 to suspend the student from the institute; and
- (b) the decision of the institute council under section 64 (2).

(2) A student may appeal to the Minister against a decision of the Secretary under section 64 (4).

(3) The Minister is to establish procedures for hearing and determining appeals.

PART 8**INQUIRIES, INSPECTIONS AND DISPUTES****Inquiries**

67—(1) Any person may apply to the Training Authority to carry out an inquiry into—

- (a) the decision of the Accreditation and Recognition Committee in relation to—
 - (i) the accreditation or failure to accredit any vocational education and training course; or
 - (ii) the registration or refusal to register a person as a training provider; or
 - (iii) the revocation of accreditation or registration; or
- (b) the decision of the Training Agreements Committee in relation to—
 - (i) the approval of a training agreement or vocational placement agreement; or
 - (ii) the amendment, transfer, suspension or cancellation of a training agreement; or
 - (iii) the temporary release from the obligations of a training agreement; or
 - (iv) the amendment or cancellation of a vocational placement agreement; or
 - (v) entering or not entering into any reciprocal agreement in relation to training agreements.

(2) An application is to be—

- (a) in writing; and
- (b) lodged with the Training Authority within 14 days after the decision is notified or made known to the person; and
- (c) accompanied by the prescribed fee.

(3) The Training Authority, on its own motion, may carry out an inquiry into—

- (a) any matter referred to in subsection (1); or

(b) any contravention or failure to comply with—

(i) any provisions of this Act; or

(ii) any provisions of a training agreement or vocational placement agreement.

(4) The Training Authority is to carry out an inquiry within 2 months after an application under this section is lodged.

(5) In carrying out an inquiry, the Training Authority has the same powers as if it were a board of inquiry appointed under Division 2 of Part II of the *Evidence Act 1910*.

(6) After carrying out an inquiry, the Training Authority may make any decision it considers appropriate.

Disputes relating to training and vocational placement agreements

68—(1) A party to a training agreement or vocational placement agreement may apply to the Training Agreements Committee to hear and determine any dispute arising from the terms, conditions or operation of the training agreement.

(2) An application is to state—

(a) full details of the dispute; and

(b) details of any action taken by any party to resolve the dispute; and

(c) any other matter the Training Agreements Committee may require.

(3) In hearing and determining a dispute, the Training Agreements Committee, by notice in writing, may require any person to attend a conference.

(4) A notice is to—

(a) state the date on which, and the place and time at which, the conference is to be held; and

(b) state the matter to be discussed at the conference; and

(c) be served on the person at least 7 days before the date of the conference.

(5) A person must attend a conference.

Penalty: Fine not exceeding 5 penalty units.

(6) After hearing a dispute, the Training Agreements Committee may—

- (a) amend the training agreement or vocational placement agreement; or
- (b) transfer the training agreement; or
- (c) suspend the training agreement; or
- (d) cancel the training agreement or vocational placement agreement.

Inspections

69—(1) The Training Authority, by certificate of authority, may authorize a person at any reasonable time—

- (a) to require any person to produce any records or documents relating to the provision of an accredited course; and
- (b) to make copies of, or take extracts from, any such records or documents; and
- (c) to seize any such records or documents; and
- (d) to require any person to answer any question or provide any information with respect to such records or documents; and
- (e) to require any person to give any assistance reasonably necessary to carry out any of the powers referred to in this subsection.

(2) A person authorized under subsection (1) may only exercise a power on the production of the certificate of authority.

(3) A requirement to produce records or documents includes a requirement to—

- (a) produce, in a written form, records or documents which are recorded or stored by any mechanical, electronic or other means; or
- (b) provide a document containing a clear reproduction in writing of the matters in the records or documents.

(4) A person must not—

- (a) delay, hinder, prevent or obstruct a person from lawfully exercising any powers in this section; or

(b) without reasonable excuse, fail to comply with a requirement made under this section.

Penalty: Fine not exceeding 10 penalty units.

Search warrants

70—(1) A person authorized under section 69, with the consent of the Training Authority, may apply to a justice for the issue of a search warrant if the person believes on reasonable grounds that the provisions of this Act are being contravened.

(2) The grounds of an application for a warrant must be verified by affidavit.

(3) The justice, if satisfied that there are reasonable grounds, may issue a search warrant authorizing the person named in the warrant and any assistants to enter the premises specified in the warrant for the purpose of searching for any records or documents relating to the provision of accredited courses.

(4) A person who executes a warrant must, as soon as practicable after the execution of the warrant—

(a) prepare a notice containing—

(i) his or her name and a statement that he or she is authorized by the Training Authority under section 69; and

(ii) the name of the justice who issued the warrant and the date and time of its issue; and

(iii) a description of the premises to which the warrant relates and of the authority conferred by the warrant; and

(b) give the notice to the occupier or person apparently in charge of the premises in respect of which the warrant was issued or leave it in a prominent position on the premises.

(5) A warrant expires if it has not been executed by the end of one month after the day on which it was issued.

PART 9**MISCELLANEOUS****Declaration of interest**

71—(1) A member of the Training Authority or any committee who has any direct or indirect pecuniary interest in any matter being considered by the Training Authority or that committee—

- (a) must declare that interest to the Training Authority; and
- (b) must not participate at any meeting while the matter is being considered.

(2) A member has an interest in a matter if the person or a member of that person's family would receive, or would have a reasonable expectation of receiving, a direct or indirect pecuniary benefit or detriment if the matter were decided in a particular manner.

(3) In this section—

“**committee**” means—

- (a) the Training Agreements Committee; and
- (b) the Accreditation and Recognition Committee; and
- (c) any advisory committee established under section 20;

“**member of a person's family**” means—

- (a) spouse, de facto spouse, parent, stepparent, grandparent, child, stepchild or grandchild; or
- (b) brother, sister, half-brother or half-sister.

Powers of Minister

72—For the purposes of this Act, the Minister may—

- (a) make grants or payments; and
- (b) enter into any agreement.

Fees and charges

73—The Secretary, with the approval of the Minister, may impose any fees and charges the Secretary considers appropriate in respect of any goods or services provided in relation to the operation of this Act.

Exemptions from payment of fees

74—The Secretary, with the approval of the Minister, may exempt any person from the payment of all or part of any fee or charge if satisfied that it is equitable or appropriate to do so in the circumstances.

Register

75—The Training Agreements Committee is to keep a register specifying—

- (a) the names and addresses of each party to a training agreement or vocational placement agreement; and
- (b) the starting and finishing date of each training agreement or vocational placement agreement; and
- (c) any other prescribed matter.

Collection of records, statistics and information

76—(1) The Secretary may require a registered training provider, an employer or trainee to—

- (a) collect and keep records, statistics and information in relation to vocational education and training; and
- (b) make available those records, statistics and information.

(2) The Secretary may give directions as to the manner in which records, statistics and information are to be collected, kept and made available.

Records

77—The Training Agreements Committee, the Accreditation and Recognition Committee and advisory committees are to—

- (a) keep full and accurate records of their activities; and
- (b) provide the Training Authority by 31 January in each year with a report of their activities during the 12 months ending on 31 December in the previous year.

Scholarships, bursaries and prizes

78—The Training Authority may award scholarships, bursaries and prizes.

Immunity from liability

79—The following persons are not personally liable for an honest act or omission done or made in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act:—

- (a) a member of the Training Authority;
- (b) a member of the Accreditation and Recognition Committee;
- (c) a member of the Training Agreements Committee;
- (d) a member of an advisory committee established under section 20;
- (e) a member of an institute council;
- (f) a member of a committee of an institute council.

Evidence

80—(1) The production of the register or a copy of the register or an extract or copy of an extract from an entry in the register certified by the chairperson of the Training Agreements Committee is evidence of the facts contained in the register or the extract.

(2) A certificate of the chairperson of the Training Agreements Committee stating that any person at any specified date was, or was not, registered is evidence of that fact.

Student organizations

81—(1) An institute council may declare that a body corporate is a student organization if—

(a) that body submits its constitution to the institute council; and

(b) the institute council approves the constitution.

(2) A student organization must advise the institute council of any proposed alteration to its constitution.

(3) An institute council may revoke a declaration if—

(a) the student organization has altered its constitution without notifying it; or

(b) it does not approve of any proposed alteration to its constitution.

False and misleading statements

82—A person, in giving any information under this Act, must not—

(a) make a statement knowing it to be false or misleading; or

(b) omit any matter from a statement knowing that without that matter the statement is misleading.

Penalty: Fine not exceeding 50 penalty units.

Regulations

83—(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may—

(a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

(3) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

Expenses of Act

84—(1) The expenses incurred in the administration of this Act are to be paid out of money to be provided by Parliament for that purpose.

(2) All fees and penalties received under this Act are to be paid into the Consolidated Fund.

Savings and transitional provisions

85—Schedule 4 has effect in respect of savings and transitional provisions.

Repeal

86—The following Acts are repealed:—

- (a) *Industrial and Commercial Training Act 1985*;
- (b) *Industrial and Commercial Training Amendment Act 1988*;
- (c) *Industrial and Commercial Training Amendment Act 1994*;
- (d) *Tasmanian State Training Authority Act 1994*.

Administration of Act

87—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Industrial Relations and Training; and

- (b) the Department responsible to the Minister for Industrial Relations and Training in relation to the administration of this Act is the Department of Industrial Relations, Vocational Education and Training.
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SCHEDULE 1

Section 6 (7)

MEMBERSHIP AND MEETINGS OF TRAINING AUTHORITY**Interpretation**

1—In this Schedule, “member” means a member of the Training Authority.

Term of office

2—A member, other than the Secretary, is to be appointed for the period, not exceeding 3 years, specified in the member’s instrument of appointment.

Holding other office

3—The holder of an office who is required under any Act to devote the whole of his or her time to the duties of that office is not disqualified from—

- (a) holding that office and also the office of a member;
or
- (b) accepting any remuneration payable to a member.

Remuneration of members

4—A member is entitled to be paid any remuneration (including travelling and subsistence allowances) the Minister determines.

Vacation of office

5—(1) A member, other than the Secretary, vacates office if the member—

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under subclause (2) or (3).

SCHEDULE 1—*continued*

(2) The Minister may remove a member from office if the member—

- (a) is absent from 3 consecutive meetings of the Training Authority without the permission of the Training Authority; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of any remuneration or estate for their benefit; or
- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

Filling of vacancies

6—(1) If the office of a member referred to in paragraph (a) or (b) of section 6 (2) becomes vacant, the Minister may appoint a person selected from nominations received under those paragraphs to the vacant office for the remainder of that member's term of office.

(2) If the office of a member referred to in section 6 (2) (c) becomes vacant, the Minister may appoint a suitable person to the vacant office for the remainder of that member's term of office.

Convening of meetings

7—The chairperson of the Training Authority—

- (a) may convene a meeting of the Training Authority at any time; and

SCHEDULE 1—*continued*

- (b) if requested in writing by 4 other members or directed by the Minister, must convene a meeting within 14 days of the request.

Procedure at meetings

8—(1) The quorum at any duly convened meeting of the Training Authority is 5 members.

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

(3) A question arising at a meeting of the Training Authority is to be determined by a majority of votes of the members present and voting.

(4) A telephone or video conference between members is a meeting of the Training Authority at which the members participating in the conference are present.

Chairperson

9—(1) The chairperson of the Training Authority is to preside at all meetings of the Training Authority.

(2) If the chairperson of the Training Authority is not present at a meeting of the Training Authority a member elected by the members present is to preside at that meeting.

Minutes

10—The Training Authority is to cause full and accurate minutes to be kept of its proceedings at meetings.

General procedure

11—Subject to this Schedule, the procedure for the calling of, and for the conduct of business at, meetings of the Training Authority is as determined by the Training Authority.

SCHEDULE 1—*continued***Validity of proceedings**

12—(1) An act or proceeding of the Training Authority or of a person acting under the direction of the Training Authority is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the membership of the Training Authority.

(2) An act or proceeding of the Training Authority or of a person acting under the direction of the Training Authority is valid even if—

- (a) the appointment of a member of the Training Authority was defective; or
- (b) a person appointed as a member of the Training Authority was disqualified from acting as, or incapable of being, such a member.

Presumptions

13—In any proceedings by or against the Training Authority, unless evidence is given to the contrary, proof is not required of—

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

SCHEDULE 2

Sections 14 (7) and 17 (6)

MEMBERSHIP AND MEETINGS OF COMMITTEES**Interpretation****1**—In this Schedule—“**Committee**” means—

(a) the Training Agreements Committee; and

(b) the Accreditation and Recognition Committee;

“**member**” means a member of either Committee.**Term of office****2**—A member is to be appointed for the period, not exceeding 3 years, specified in the member’s instrument of appointment.**Holding other office****3**—The holder of an office who is required under any Act to devote the whole of his or her time to the duties of that office is not disqualified from—(a) holding that office and also the office of a member;
or

(b) accepting any remuneration payable to a member.

Remuneration of members**4**—A member is entitled to be paid any remuneration (including travelling and subsistence allowances) the Minister determines.

SCHEDULE 2—continued

Vacation of office

5—(1) A member vacates office if the member—

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under subclause (2) or (3).

(2) The Minister may remove a member from office if the member—

- (a) is absent from 3 consecutive meetings of a Committee without the permission of that Committee; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of any remuneration or estate for their benefit; or
- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

Filling of vacancies

6—(1) If the office of a member referred to in paragraph (b), (c) or (d) of section 14 (2) or paragraph (b), (c), (d), (e) or (f) of section 17 (2) becomes vacant, the Minister may appoint a person selected from nominations received under those paragraphs to the vacant office for the remainder of that member's term of office.

(2) If the office of a member referred to in section 17 (2) (g) becomes vacant, the Minister may appoint a suitable person to the vacant office for the remainder of that member's term of office.

SCHEDULE 2—*continued***Convening of meetings**

7—The chairperson of a Committee—

- (a) may convene a meeting of that Committee at any time; and
- (b) must convene a meeting if—
 - (i) directed by the Minister; or
 - (ii) requested in writing by 2 members of the Training Agreements Committee or 4 members of the Accreditation and Recognition Committee.

Procedure at meetings

8—(1) The quorum at any duly convened meeting of—

- (a) the Training Agreements Committee is 4 members; and
- (b) the Accreditation and Recognition Committee is 5 members.

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

(3) A question arising at a meeting of a Committee is to be determined by a majority of votes of the members present and voting.

(4) A telephone or video conference between members is a meeting of a Committee at which members participating in the conference are present.

Chairperson

9—(1) The chairperson of a Committee is to preside at all meetings of that Committee.

(2) If the chairperson of a Committee is not present at a meeting of that Committee a member elected by the members present is to preside at that meeting.

SCHEDULE 2—*continued***Minutes**

10—A Committee is to cause full and accurate minutes to be kept of its proceedings at meetings .

General procedure

11—Subject to this Schedule, the procedure for the calling of, and for the conduct of business at, meetings of a Committee is as determined by that Committee.

Validity of proceedings

12—(1) An act or proceeding of a Committee or of a person acting under the direction of a Committee is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the membership of the Committee.

(2) An act or proceeding of a Committee or of a person acting under the direction of a Committee is valid even if—

- (a) the appointment of a member of that Committee was defective; or
- (b) a person appointed as a member of that Committee was disqualified from acting as, or incapable of being, such a member.

Presumptions

13—In any proceedings by or against a Committee, unless evidence is given to the contrary, proof is not required of—

- (a) the constitution of the Committee; or
 - (b) any resolution of the Committee; or
 - (c) the appointment of any member; or
 - (d) the presence of a quorum at any meeting of the Committee.
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SCHEDULE 3

Section 57 (6)

MEMBERSHIP AND MEETINGS OF INSTITUTE COUNCIL**Interpretation**

1—In this Schedule, “**member**” means a member of an institute council.

Term of office

2—A member is to be appointed for the period, not exceeding 3 years, specified in the member’s instrument of appointment.

Holding other office

3—The holder of an office who is required under any Act to devote the whole of his or her time to the duties of that office is not disqualified from—

- (a) holding that office and also the office of a member;
or
- (b) accepting any remuneration payable to a member.

Remuneration of members

4—A member is entitled to be paid subsistence and travelling allowances as the Minister determines.

Vacation of office

5—(1) A member vacates office if the member—

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under subclause (2) or (3).

SCHEDULE 3—*continued*

(2) The Minister may remove a member from office if the member—

- (a) is absent from 3 consecutive meetings of the institute council without the permission of the other members of the institute council; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of any remuneration or estate for their benefit; or
- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer; or
- (d) is convicted of an offence against this Act.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

Filling of vacancies

6—If the office of a member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that member's term of office.

Convening of meetings

7—A meeting of an institute council may be convened by the chairperson of the institute council or by any 4 members.

Procedure at meetings

8—(1) The quorum at any duly convened meeting of an institute council is 6 members.

(2) Any duly convened meeting of an institute council at which a quorum is present is competent to transact any business of the institute council.

SCHEDULE 3—continued

(3) A question arising at a meeting of an institute council is to be determined by a majority of votes of the members present and voting.

(4) A telephone or video conference between members is a meeting of a committee at which members participating in the conference are present.

Chairperson

9—(1) The chairperson of an institute council is to preside at all meetings of the institute council.

(2) If the chairperson of an institute council is not present at a meeting of the institute council a member elected by the members present is to preside at that meeting.

Minutes

10—An institute council is to cause full and accurate minutes to be kept of its proceedings at meetings and must submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

General procedure

11—Subject to this Schedule, the procedure for the calling of, and for the conduct of business at, meetings of an institute council is as determined by the institute council.

Validity of proceedings, &c.

12—(1) An act or proceeding of an institute council or of a person acting under the direction of the institute council is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the membership of the institute council.

SCHEDULE 3—*continued*

(2) An act or proceeding of an institute council or of a person acting under the direction of the institute council is valid even if—

- (a) the appointment of a member of the institute council was defective; or
- (b) a person appointed as a member of the institute council was disqualified from acting as, or incapable of being, such a member.

Presumptions

13—In any proceedings by or against an institute council, unless evidence is given to the contrary, proof is not required of—

- (a) the constitution of the institute council; or
 - (b) any resolution of the institute council; or
 - (c) the appointment of any member; or
 - (d) the presence of a quorum at any meeting of the institute council.
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SCHEDULE 4

Section 85

SAVINGS AND TRANSITIONAL PROVISIONS**Interpretation**

1—In this Schedule—

“**commencement day**” means the day on which this Act commences;

“**former Act**” means the *Tasmanian State Training Authority Act 1994*;

“**repealed Act**” means the *Industrial and Commercial Training Act 1985*.

Advisory committees

2—Any advisory committee established under section 21 of the former Act and in existence immediately before the commencement day is, on that day, an advisory committee established under section 20 of this Act.

Occupations

3—Any occupation declared as a trade or vocation by a proclamation in force under the repealed Act immediately before the commencement day is, on that day, a vocation declared under section 33 of this Act.

Contracts of training

4—Any contract of training made under section 16 of the repealed Act and in force immediately before the commencement day is, on that day, a training agreement under this Act.

SCHEDULE 4—continued**Releases from contracts of training**

5—Any release from a contract of training arranged under section 21 of the repealed Act and in force immediately before the commencement day continues, on that day, as if it were a release under section 39 of this Act.

Suspensions of contracts of training

6—Any suspension of a contract of training under section 22 of the repealed Act and in force immediately before the commencement day continues, on that day, as if it were a suspension under section 41 of this Act.

Questions or differences about contracts of training

7—Any question or difference in respect of a contract of training not heard or determined under section 23 of the repealed Act before the commencement day is, on or after that day, to be heard and determined by the Training Agreements Committee under section 68 of this Act.

Training agreements for schemes of training

8—Any training agreement issued under section 30 of the repealed Act in respect of a scheme of training and in force immediately before the commencement day is, on that day, a training agreement under this Act.

Accredited courses

9—(1) Any application made under section 26 of the former Act and not granted or refused before the commencement day for the accreditation of a course is, on that day, an application under section 29 of this Act.

(2) Any course accredited under the former Act before the commencement day is, on that day, an accredited course under this Act.

SCHEDULE 4—*continued***Registered training providers**

10—(1) Any application made under section 22 of the former Act for registration as a training provider and not granted or refused before the commencement day is, on that day, an application under section 25 of this Act.

(2) Any person or body registered as a training provider under the former Act whose registration was not revoked before the commencement day is, on that day, a registered training provider under this Act.

Inquiries

11—(1) Any application made under section 30 of the former Act to carry out an inquiry and not granted or refused before the commencement day is, on that day, an application to carry out an inquiry under this Act.

(2) Any inquiry under the former Act not completed before the commencement day is, on that day, to be completed under this Act.

*[Second reading presentation speech made in:—
House of Assembly on 19 October 1994
Legislative Council on 21 November 1994]*

