



AUSTRALIAN CAPITAL TERRITORY

Vocational Training Act 1989

No. 2 of 1989

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SCHEDULE**ACTS REPEALED**



AUSTRALIAN CAPITAL TERRITORY

Vocational Training Act 1989

No. 2 of 1989

An Act relating to vocational training

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Vocational Training Act 1989*.

Commencement

2. This Act commences on the date fixed by the Minister by notice in the *Gazette*.

Repeal

3. The Acts specified in the Schedule are repealed.

Position of Crown

4. (1) This Act binds the Crown.

(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

Matters covered by federal awards

5. (1) Nothing in this Act shall be read as applying in relation to any matter with respect to which a federal award applies.

(2) Subsection (1) shall not be taken to prevent the operation of this Act to the extent to which it is capable of operating concurrently with a federal award.

Interpretation

6. (1) In this Act, unless the contrary intention appears—

“Administrative Appeals Tribunal” means the Australian Capital Territory Administrative Appeals Tribunal;

“apprentice” means a person whom an employer has undertaken to train under a contract of training in a trade;

“appropriate form” means a form in writing approved by the Chief Executive for the purposes of the provision in which the expression occurs;

“approved training program” means a training program determined by the Authority under section 40;

“Authority” means the Vocational Training Authority established by section 7;

“certificate of recognition” means a certificate issued under section 89;

“Chief Executive” means the Chief Executive of the Authority appointed under section 24;

“commencement date” means the date of commencement of this Act;

“contract of training” means a contract in writing—

- (a) in accordance with terms determined by the Authority under section 46; or
- (b) where, under section 48, the Authority approves a variation of the terms so determined—in accordance with those terms as varied in accordance with the approval;

“declared vocation” means a vocation, other than a trade, that is, under the regulations, a declared vocation for the purposes of this definition;

“federal award” means—

- (a) an award within the meaning of the *Industrial Relations Act 1988* of the Commonwealth; or
- (b) an award or order continued in force by subsection 7 (1) of the *Industrial Relations (Consequential Provisions) Act 1988* of the Commonwealth as if it were an award under the *Industrial Relations Act 1988* of the Commonwealth;

“government service” includes service for an authority or body, whether incorporated or not, established for a public purpose by or under a law of the Territory, the Commonwealth, a State or another Territory;

“Grievances Committee” means the Grievances Committee of the Authority established under section 34;

“industrial award” means—

- (a) a federal award; or
- (b) an award, determination or order made by a prescribed person, tribunal or body under a prescribed law of the Territory;

“inspector” means an inspector appointed under section 26;

“Institute” means the A.C.T. Institute of Technical and Further Education;

“occupier”, in relation to premises, includes a person who is, or is reasonably believed to be, in charge of the premises;

“premises” includes—

- (a) a structure, building, aircraft, vehicle or vessel;
- (b) a place (whether enclosed or built upon or not); and
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b));

“prescribed vocation” means—

- (a) a trade; or
- (b) a declared vocation;

“probationary period”, in relation to a contract of training, means—

- (a) if the trainee under the contract is an apprentice—
 - (i) the 3 months; or
 - (ii) if a period is prescribed for the purposes of this paragraph—the prescribed period;

commencing on the day on which the apprentice commences employment under the contract; and

- (b) in any other case—
 - (i) the month; or
 - (ii) if a period is prescribed for the purposes of this paragraph—the prescribed period;

commencing on the day on which the trainee commences employment under the contract;

“repealed Act” means the *Apprenticeship Act 1936*, as in force immediately before the commencement date;

“trade” means a vocation, other than a declared vocation, declared by the regulations to be a trade;

“Trades and Labour Council” means the body corporate known as the Trades and Labour Council of the A.C.T. Incorporated;

“trainee” means—

- (a) an apprentice; or
- (b) a person whom an employer has undertaken to train under a contract of training in a declared vocation;

“training” means training, whether by way of a course of study, instruction or practical training, in the knowledge and skills required for a vocation in industry or commerce or in any government service;

“Training Advisory Committee” means a Training Advisory Committee established under section 29;

“transitional apprentice” means an old scheme apprentice, within the meaning of Part VI, in relation to whom the provisions applied by subsection 94 (1) continue to have effect;

“transitional probationer” means an old scheme probationer, within the meaning of Part VI, in relation to whom the provisions applied by subsection 94 (1) continue to have effect.

(2) For the purposes of this Act, a person shall be taken to be qualified in a prescribed vocation if, in respect of that vocation—

- (a) the person has completed the approved training program and holds the appropriate certificate issued by the Authority;
- (b) the person holds—
 - (i) a certificate issued under section 50;
 - (ii) a qualification accredited by the Authority; or
 - (iii) a certificate of recognition;
- (c) the person was, immediately before the commencement date, a tradesman under the repealed Act; or
- (d) the person has completed an apprenticeship as a transitional apprentice and holds a final certificate issued by the Authority under the provisions of the repealed Act in their application by virtue of subsection 94 (1).

PART II—VOCATIONAL TRAINING AUTHORITY

Division 1—Establishment, functions and powers

Establishment

7. There is established by this section an authority by the name of the Vocational Training Authority.

Functions

8. (1) The Authority has the following functions:

- (a) to plan and co-ordinate the provision of training programs;

- (b) to devise and develop training programs, including the determination of their nature, syllabus and duration;
- (c) to determine requirements as to age, education or any other matter to be satisfied by persons wishing to undertake training programs;
- (d) to accredit training programs, whether provided in the Territory or elsewhere;
- (e) to accredit qualifications for training awarded by other bodies or persons;
- (f) to inquire into the provision of training programs outside the Territory and arrange for the provision of similar programs which the Authority considers should be provided in the Territory;
- (g) to promote the provision and undertaking of training programs;
- (h) to promote equity in access to training opportunities;
- (i) to keep under review the adequacy of training programs and their implementation;
- (j) to supervise generally the theoretical and practical training of trainees;
- (k) to keep under review the number of trainees under contracts of training;
- (l) to keep under review the adequacy of facilities provided at institutions concerned in the provision of training programs;
- (m) to assess, whether by examination or otherwise, the competency of persons who undertake training programs;
- (n) to issue, or arrange for the issuing of, certificates to persons who complete training programs;
- (o) to advise the Minister on matters related to training in the Territory;
- (p) to inquire into and provide advice to the Minister on matters referred to the Authority by the Minister in relation to training in the Territory;
- (q) such other functions as are conferred on the Authority by or under this Act or any other law of the Territory.

(2) In the performance of its functions, the Authority shall consult with such employee or employer associations and such other persons or bodies as it considers necessary.

Powers

9. (1) The exercise of a power by the Authority shall be by resolution.

(2) In addition to any other power conferred on it by or under this Act or any other law of the Territory, the Authority has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

(3) Without limiting the generality of subsection (2), the Authority may make arrangements, including reciprocal arrangements, with an appropriate person or body with respect to the accreditation of industrial or commercial training, or qualifications granted for such training.

Ministerial control

10. (1) The Minister may, in writing, give the Authority directions in relation to the policy the Authority is to pursue in connection with the exercise of its powers or the performance of its functions.

(2) The Authority shall comply with any direction given to it under subsection (1).

Delegation

11. (1) The Authority may, either generally or as otherwise provided by resolution, delegate to—

- (a) the Chairperson or any other member of the Authority;
- (b) the Chief Executive;
- (c) the Grievances Committee;
- (d) a Training Advisory Committee or any other committee established under section 29; or
- (e) a public servant whose services have been made available to the Authority pursuant to an arrangement under section 25;

any of its powers under this Act or any other law of the Territory, other than its power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for all purposes, be deemed to have been exercised by the Authority.

(3) A delegation of a power under this section—

- (a) may be revoked by the Authority (whether or not constituted by the persons constituting the Authority when the power was delegated);
- (b) does not prevent the exercise of the power by the Authority; and
- (c) continues in force notwithstanding a change in the membership of the Authority.

(4) Section 30 of the *Interpretation Act 1967* applies in relation to a delegation under this section as if the Authority were a person.

(5) A certificate signed by the Chairperson of the Authority stating any matter with respect to a delegation of a power under this section is evidence of that matter.

(6) A document purporting to be a certificate referred to in subsection (5) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

Annual report

12. (1) The Authority shall furnish to the Minister for presentation to the Legislative Assembly a report relating to the activities of the Authority during each financial year.

(2) A direction given to the Authority under subsection 10 (1) shall be set out in the annual report relating to the financial year in which the direction was given.

Division 2—Constitution and meetings

Membership

13. The Authority shall consist of—

- (a) the Director of the Institute;
- (b) 3 persons appointed by the Minister, after consultation with the Trades and Labour Council, to represent the interests of persons undertaking training;

- (c) 3 persons appointed by the Minister, after consultation with employer organisations, to represent the interests of employers; and
- (d) 3 other members appointed by the Minister.

Terms of appointment

14. (1) A member of the Authority other than the Director of the Institute—

- (a) shall be appointed in writing as a full-time member or as a part-time member; and
- (b) holds office for such period not exceeding 5 years as is specified in the instrument of appointment.

(2) An appointed member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined in writing by the Minister.

Chairperson

15. The Minister shall, in writing, appoint one of the members referred to in paragraph 13 (d) to be the Chairperson of the Authority.

Remuneration and allowances

16. (1) An appointed member of the Authority shall be paid such remuneration and allowances as are prescribed.

(2) Subsection (1) does not apply—

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the member; or
- (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the member.

(3) In subsection (2), “determination” means a determination of the Remuneration Tribunal of the Commonwealth.

Leave of absence

17. (1) The Minister may grant leave of absence to the Chairperson of the Authority on such terms and conditions as to remuneration or otherwise as the Minister determines.

(2) The Authority may grant leave of absence to an appointed member of the Authority (other than the Chairperson) on such terms and conditions as to remuneration or otherwise as the Authority determines.

Disclosure of interest

18. (1) A member of the Authority who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure shall be recorded in the minutes of the meeting and, unless the Authority otherwise determines, the member shall not—

- (a) be present during any deliberation of the Authority with respect to that matter; or
- (b) take part in any decision of the Authority with respect to that matter.

(3) A member referred to in subsection (2) shall not—

- (a) be present during any deliberation of the Authority for the purpose of considering whether to make a determination under that subsection in relation to that member; or
- (b) take part in the making by the Authority of such a determination.

Resignation

19. An appointed member of the Authority may resign his or her office by writing signed by the member and delivered to the Minister.

Termination of appointment

20. (1) The Minister may terminate the appointment of a member of the Authority for misbehaviour or physical or mental incapacity.

(2) If an appointed member of the Authority—

- (a) 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 remuneration for the benefit of those creditors;

- (b) is absent, except on leave granted under section 17, from 3 consecutive meetings of the Authority;
- (c) fails, without reasonable excuse, to comply with an obligation imposed by section 18; or
- (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer;

the Minister shall terminate the appointment of the member.

Acting appointments

21. (1) The Minister may appoint a person to act as the Chairperson of the Authority—

- (a) during a vacancy in the office of the Chairperson, whether or not an appointment has previously been made to the office; or
- (b) during any period or during all periods when the Chairperson is absent from duty or from the Territory or is, for any reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Minister may appoint a person to act as a member of the Authority, other than the Chairperson or the Director of the Institute—

- (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or
- (b) during any period or during all periods when the member is absent from duty or from the Territory or is, for any reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(3) Anything done by or in relation to a person purporting to act under subsection (1) or (2) is not invalid on the ground that—

- (a) the occasion for the person's appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or

- (d) the occasion for the person to act had not arisen or had ceased.

Convening meetings

22. (1) The Chairperson of the Authority shall convene such meetings of the Authority as the Chairperson considers necessary for the efficient performance of its functions.

(2) Where the Chairperson proposes to convene a meeting of the Authority, the Chairperson shall, not later than 7 days before the date of the proposed meeting, give each member of the Authority a notice in writing specifying—

- (a) the date, time and place of the meeting; and
- (b) the matters to be considered at the meeting.

Procedure at meetings

23. (1) The Chairperson shall preside at all meetings of the Authority at which the Chairperson is present.

(2) If the Chairperson is not present at a meeting of the Authority, the members present shall elect 1 of their number to preside at the meeting.

(3) At a meeting of the Authority, 5 members including—

- (a) 1 of the members referred to in paragraph 13 (b); and
- (b) 1 of the members referred to in paragraph 13 (c);

constitute a quorum.

(4) Questions arising at a meeting of the Authority shall be decided by a majority of the votes of members present and voting.

(5) The member presiding at a meeting of the Authority has a deliberative vote only.

(6) In the event of an equality of votes on a question, the question shall be reconsidered at a time and place fixed by the member presiding.

(7) Subject to this Division, the member presiding at a meeting of the Authority may determine the procedure to be followed at or in connection with the meeting.

(8) The Authority shall keep a record in writing of its proceedings.

Division 3—Administration

Chief Executive

24. (1) There shall be a Chief Executive of the Authority who shall be appointed in writing by the Head of Administration.

(2) The Chief Executive shall, subject to and in accordance with the directions of the Authority, manage the affairs of the Authority.

(3) A person who is not a public servant shall not be appointed to be the Chief Executive.

Arrangements for staff

25. The Authority may arrange with the Head of Administration for the services of public servants to be made available to assist the Authority.

Inspectors

26. (1) The Chief Executive may, in writing, appoint—

- (a)** a member of the Authority; or
- (b)** a public servant whose services have been made available to the Authority pursuant to an arrangement under section 25;

to be an inspector for the purposes of this Act.

(2) An inspector shall, in addition to the powers conferred by or under this Act, perform such duties for the purposes of this Act as the Chief Executive directs.

Identity cards

27. The Chief Executive shall issue to each inspector an identity card that specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.

Return of identity cards

28. A person appointed to be an inspector shall not, without reasonable excuse, fail to return his or her identity card to the Chief Executive upon ceasing to be an inspector.

Penalty: \$100.

PART III—COMMITTEES***Division 1—Advisory and other committees*****Establishment**

29. (1) The Authority may—

- (a) establish such committees as it thinks necessary for the purposes of this Act; and
- (b) dissolve such committees.

(2) Without limiting the generality of subsection (1), the Authority may establish—

- (a) a Training Advisory Committee in relation to a particular part of industry or commerce; and
- (b) such other committees as it thinks necessary to assist the Authority in performing its functions.

Functions of Training Advisory Committees

30. A Training Advisory Committee—

- (a) may, of its own accord; and
- (b) shall, on request by the Authority;

provide information and advice to the Authority in relation to training in that part of industry or commerce in relation to which the committee is established.

Performance of functions

31. (1) Subject to any determination under subsection (2), a committee established under section 29 may determine the procedure to be followed in relation to its meetings.

(2) The Authority may determine—

- (a) the manner in which a committee is to perform its functions; and
- (b) the procedure to be followed in relation to meetings of a committee, including matters with respect to—
 - (i) the convening of meetings;

- (ii) the quorum for meetings (including requirements that particular members be present);
- (iii) the member of the committee who is to preside at meetings;
- (iv) the manner in which questions arising at a meeting are to be decided; and
- (v) the keeping of records of its proceedings.

Membership

32. (1) A committee established under section 29 shall consist of such persons as are appointed by the Authority.

(2) A committee may consist wholly of members of the Authority or partly of members of the Authority and partly of other persons.

(3) A member of a committee may resign his or her office by writing signed by the member and delivered to the Chief Executive.

(4) The Authority may terminate the appointment of a member of a committee at any time.

Expenses of members

33. (1) Subject to subsection (2), a member of a committee established under section 29 is not entitled to be paid in respect of the performance of the member's duties or functions.

(2) The Territory shall reimburse a member for expenses reasonably incurred by the member in the performance of the member's duties or functions.

(3) Subsection (2) does not apply to a member who is also a member of the Authority.

Division 2—The Grievances Committee

Establishment

34. There is established by this section a committee of the Authority by the name of the Grievances Committee.

Membership

35. (1) The Grievances Committee shall consist of—

- (a) the Chairperson of the Authority; and

(b) 2 other members appointed by the Authority of whom—

- (i) 1 shall be a member of the Authority referred to in paragraph 13 (b); and
- (ii) 1 shall be a member of the Authority referred to in paragraph 13 (c).

(2) An appointed member of the Committee may resign his or her office by writing signed by the member and delivered to the Chairperson of the Committee.

(3) The Authority may terminate the appointment of a member of the Committee at any time.

(4) A member of the Committee shall cease to be such a member if the member ceases to be a member of the Authority.

Chairperson

36. The Chairperson of the Authority shall be the Chairperson of the Grievances Committee.

Meetings

37. (1) The Grievances Committee shall hold such meetings as are necessary for the performance of its functions.

(2) The Chairperson of the Committee may convene a meeting of the Committee.

(3) At a meeting of the Committee its 3 members shall be present.

(4) The Chairperson of the Committee shall preside at meetings of the Committee.

(5) Questions arising at a meeting of the Committee shall be decided by the votes of the members of the Committee and, for that purpose, each member has a deliberative vote only.

(6) If, at a meeting of the Committee, any member votes against a question, or abstains from voting on a question, the question shall be deemed to be unresolved and shall be reconsidered at a time and place fixed by the Chairperson.

(7) The Committee shall keep a record in writing of its proceedings.

Protection of members

38. An action (other than an action in negligence) or other proceeding, civil or criminal, does not lie against a member of the Grievances Committee for or in relation to any act or thing done in good faith in his or her capacity as a member.

Member ceasing to be available

39. (1) Where the Grievances Committee has commenced an inquiry under section 63 or 65 but before the inquiry has been completed an appointed member—

- (a) ceases to be a member of the Committee; or
- (b) becomes unable to perform his or her functions as a member;

the Committee shall be reconstituted by the remaining members and another member appointed under subsection 35 (1).

(2) Where the Committee is reconstituted under subsection (1), it may complete the inquiry and for that purpose may have regard to the record relating to the inquiry kept by the Committee as previously constituted.

PART IV—TRAINING IN PRESCRIBED VOCATIONS

Division 1—Approved training programs

Determination of approved training programs

40. (1) The Authority may determine that a specified training program shall be the approved training program in relation to a prescribed vocation.

(2) Such a determination shall be in writing, specifying—

- (a) the nature, syllabus and duration of the approved training program to which it relates; and
- (b) the requirements as to age, education, experience or any other matter to be satisfied by a person wishing to undertake that program.

(3) The Chief Executive shall—

- (a) prepare a statement setting out particulars of each determination; and

- (b) make copies of the statement available, on request, to members of the public.

(4) Where the Authority refuses to make a determination under subsection (1) in respect of a private training program, the Chief Executive shall give the person whom the Chief Executive reasonably believes is, or would be, responsible for the conduct of the program, a notice in writing of the refusal.

(5) In subsection (4), “private training program” means a training program conducted, or proposed to be conducted, by a person or body for the purpose of securing a pecuniary benefit to that person or to any member of that body.

Approval to undertake

41. (1) For the purposes of this Act but subject to subsection 42 (2), a person shall not be taken to have commenced an approved training program under a contract of training unless the Authority has approved the undertaking of that program by that person under that contract.

(2) Where an application has been made for such an approval, the Authority shall—

- (a) grant the approval sought, subject to such conditions if any as the Authority thinks necessary; or
- (b) refuse to grant the approval sought.

(3) For the purpose of making a decision under subsection (2), the Authority shall take into account any decision made under Division 3 of this Part in relation to the person who is, or would be, the employer under the contract.

(4) The Authority shall not grant approval under subsection (2) unless it believes on reasonable grounds that the person who is, or would be, the employer under the contract—

- (a) has the appropriate qualifications, knowledge and skills to train the trainee; and
- (b) is otherwise a fit and proper person for that purpose.

(5) The Chief Executive shall, within 14 days after the date of a decision under subsection (2), give the applicant a notice in writing setting out the terms of the decision.

Credit for previous training

42. (1) The Authority may, upon application, determine that all or part of a period of training undertaken by the applicant in accordance with—

- (a) an approved training program;
- (b) a training program accredited by the Authority;
- (c) a course of pre-vocational training approved under section 91; or
- (d) any other course of training;

shall, whether or not the program or course has been completed by the applicant, be counted as a period of training in accordance with an approved training program under a contract of training.

(2) For the purpose of determining whether a trainee has completed an approved training program for a prescribed vocation under a contract of training, any period of training determined under subsection (1) in respect of that person in relation to that vocation shall be taken to have been undertaken by that person in accordance with that program under the contract of training.

(3) Where the Authority makes a determination under subsection (1), the Chief Executive shall give the applicant a notice in writing setting out the terms of the determination.

(4) Where the Authority refuses to make such a determination, the Chief Executive shall, within 14 days after the date of the refusal, give the applicant a notice in writing of that refusal.

Variation of standard duration

43. (1) The Authority may, upon application, determine that the period of an approved training program to be undertaken by the applicant shall be a specified period other than the period determined under section 40 in respect of that program.

(2) For the purposes of making a determination under subsection (1), the Authority shall have regard to any determination made under section 42 in respect of the applicant.

(3) For the purposes of this Act, a person in respect of whom a period is determined under subsection (1) shall, upon completion of the training for the period so determined, be taken to have completed that program.

(4) Where the Authority makes a determination under subsection (1), the Chief Executive shall give the applicant a notice in writing setting out the terms of the determination.

(5) Where the Authority refuses to make such a determination, the Chief Executive shall, within 14 days after the date of the refusal, give the applicant a notice in writing of the refusal.

Applications under this Division

44. An application referred to in section 41, 42 or 43 shall be—

- (a) in accordance with the appropriate form;
- (b) signed by the applicant; and
- (c) lodged with the Chief Executive.

Division 2—Contracts of training

Training to be done under contract

45. (1) An employer shall not train an employee for the purpose of enabling that employee to become qualified in a prescribed vocation except pursuant to a contract of training.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

(2) For the purposes of subsection (1), an employer who trains an unqualified employee in a prescribed vocation shall, unless the contrary is established, be taken to be training that employee for the purpose of enabling the employee to become qualified in that vocation.

(3) Subsection (1) does not apply in relation to the training in a trade of a transitional apprentice in that trade or a transitional probationer in relation to that trade.

Determination of terms

46. (1) Subject to section 47, the Authority shall, in writing, determine the terms that contracts of training shall contain.

(2) Without limiting the generality of subsection (1), the terms determined under that subsection may provide for the imposition of obligations on employers—

- (a) not to use premises or equipment that are not approved under section 52;
- (b) not to use training methods that are not approved under section 52;
- (c) not to employ or engage a supervisor who is not approved under section 53; or
- (d) not to allow the ratio of trainees to approved supervisors to exceed the relevant ratio approved under section 58.

Standard requirements

47. (1) Under a contract of training—

- (a) the trainee shall be employed by the person who undertakes to train the trainee; and
- (b) the conditions of employment shall not be inconsistent with those fixed by the relevant industrial award.

(2) An employer's obligations under a contract of training shall include the following obligations:

- (a) to train the trainee in accordance with the relevant approved training program;
- (b) not to hinder or obstruct the trainee from complying with the requirements of the relevant approved training program;
- (c) if the trainee has not attained the age of 18 years—not to require the trainee to work overtime without the trainee's consent.

(3) A trainee's obligations under a contract of training shall include the obligation to comply with the requirements of the relevant approved training program.

(4) A contract of training shall permit each party to terminate the contract by notice in writing given to each other party within the probationary period.

(5) Under a contract of training, the parties shall undertake—

- (a) to submit any dispute concerning the contract to the Grievances Committee; and
- (b) to be bound by any finding of fact made by the Committee in relation to the subject matter of the dispute.

(6) A contract of training shall be construed subject to and in accordance with this Act and any exercise of a power by the Authority or the Grievances Committee in respect of the contract.

Approved variations

48. (1) A variation of a contract of training by the parties has no effect unless the variation has been approved under this section.

(2) Where all the parties to a contract of training apply to the Authority for approval for the variation of the contract, the Authority shall approve the variation sought unless it believes on reasonable grounds that the training that would be provided under the contract, if it were to be so varied, would not be in accordance with the relevant approved training program.

(3) Where the Authority makes a decision under subsection (2), the Chief Executive shall, not later than 14 days after the date of the decision, give each of the parties to the contract a notice in writing of the decision.

Notice of early termination

49. A party to a contract of training who terminates the contract under the term referred to in subsection 47 (4) shall, not later than 7 days after the date of termination, give the Chief Executive notice in writing of the termination.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Termination—trainee: qualifying early

50. (1) Where the Authority assesses the knowledge and skills of a trainee and is satisfied that—

- (a) the trainee is competent to work in the prescribed vocation in which he or she is training; and
- (b) it is unnecessary for the trainee to complete the relevant approved training program under the contract of training;

the Authority shall, upon application by all the parties to the contract—

- (c) issue a certificate to the trainee in respect of that vocation as if the trainee had completed the approved training program; and
- (d) terminate the contract.

(2) Where the Authority terminates a contract under subsection (1), the Chief Executive shall give each party to the contract a notice in writing of the termination.

(3) The termination of a contract under subsection (1) takes effect—

- (a) on the date of the notice given under subsection (2); or
- (b) if a later date of effect is specified in that notice—on that later date.

Applications under section 48 or 50

51. An application referred to in section 48 or 50 shall be—

- (a) in accordance with the appropriate form;
- (b) executed by or on behalf of each party to the contract of training to which the application relates; and
- (c) lodged with the Chief Executive.

Division 3—Conditions affecting training

Approval of premises etc.

52. The Authority may approve the premises, types of equipment or methods of training which an employer uses, or proposes to use, for the purpose of training a person under a contract of training, if the Authority believes on reasonable grounds that they are suitable for that purpose.

Approval of supervisors

53. The Authority may approve a person whom an employer uses, or proposes to use, for the purpose of supervising the training of a person under a contract of training, if the Authority believes on reasonable grounds that the person—

- (a) has the appropriate qualifications, knowledge and skills for that purpose; and
- (b) is otherwise a fit and proper person for that purpose.

Approvals under section 52 or 53

54. (1) The Authority may exercise its powers under section 52 or 53 on application by an employer or of its own accord.

(2) An approval under section 52 or 53—

- (a) shall be in writing; and
- (b) is subject to such conditions, if any, as the Authority specifies.

(3) Where the Authority grants its approval under section 52 or 53, the Chief Executive shall give the employer concerned a notice in writing of the approval specifying any conditions to which the approval is subject.

(4) An approval under section 52 or 53 takes effect—

- (a) on the date of the notice given under subsection (3); or
- (b) if a later date of effect is specified in the notice—on that later date.

(5) Where—

- (a) an employer has applied for approval under section 52 or 53; and
- (b) the Authority refuses to grant the approval;

the Chief Executive shall, within 14 days after the date of the refusal, give the employer a notice in writing of the refusal.

Conditional approvals—variation

55. (1) In this section, “approval” means an approval under section 52 or 53.

(2) The Authority may, on application by an employer who is a party to a contract of training and, if it believes on reasonable grounds that it will not adversely affect the provision of training in accordance with the relevant approved training program—

- (a) vary in the manner sought in the application a condition to which an approval concerning the employer is subject;
- (b) revoke such a condition; or
- (c) make an approval concerning the employer subject to a condition sought in the application.

(3) Where the Authority believes on reasonable ground that it is necessary in order to ensure that training under a contract of training is provided in accordance with the relevant approved training program, the Authority may, subject to subsections (4) and (5)—

- (a) vary a condition to which an approval is subject;
- (b) revoke such a condition; or
- (c) make an approval subject to a condition.

(4) The Authority shall not take action under subsection (3) unless the Chief Executive has given the employer concerned a notice in writing—

- (a) specifying the action proposed to be taken by the Authority and its reasons for that action; and
- (b) informing the employer that he or she may, within 14 days after the date of the notice, by writing given to the Chief Executive, place before the Authority any matters in answer to the action proposed by the Authority.

(5) For the purpose of deciding whether to take action under subsection (3), the Authority shall have regard to any matter placed before it by the employer by virtue of a notice under subsection (4).

(6) Where the Authority makes a decision under subsection (2) or (3), the Chief Executive shall give the employer concerned a notice in writing specifying the terms of the decision.

(7) A variation, revocation or an imposition of a condition under subsection (2) or (3) takes effect—

- (a) on the date of the notice given to the employer concerned under subsection (6); or
- (b) if a later date of effect is specified in the notice—on that later date.

Applications under section 54 or 55

56. An application referred to in subsection 54 (1) or 55 (2) shall be—

- (a) in accordance with the appropriate form;
- (b) executed by or on behalf of the applicant; and
- (c) lodged with the Chief Executive.

Revocation of approval

57. (1) In this section, “approval” means an approval under section 52 or 53.

(2) Where the Authority believes on reasonable grounds that—

- (a) an employer in relation to whom an approval has been granted has failed to comply with a condition to which the approval is subject;
- (b) the premises, a type of equipment or a method of training in respect of which an approval has been granted are, or is, no longer suitable for training a person under a contract of training; or
- (c) an approved supervisor—
 - (i) does not hold the appropriate qualifications to supervise the training of a person under a contract of training;
 - (ii) does not have the appropriate knowledge or skills to supervise the training of a person under a contract of training; or
 - (iii) is otherwise not a fit and proper person to supervise the training of a person under a contract of training;

the Authority may, subject to subsections (3) and (4), revoke the approval.

(3) The Authority shall not revoke an approval unless the Chief Executive has given the employer concerned a notice in writing—

- (a) informing the employer of the proposed revocation and of the Authority's reasons for it; and
- (b) informing the employer that he or she may, within 14 days after the date of the notice, by writing given to the Chief Executive, place before the Authority any matters in answer to the proposed revocation.

(4) For the purpose of deciding whether to revoke an approval, the Authority shall have regard to any matter placed before it by the employer by virtue of a notice under subsection (3).

(5) Where the Authority revokes an approval, the Chief Executive shall give the employer a notice in writing of the revocation.

(6) The revocation of an approval takes effect—

- (a) on the date of the notice given under subsection (5); or
- (b) if a later date of effect is specified in the notice—on that later date.

Ratio—trainees: supervisors

58. (1) The Authority may, in writing, determine that the ratio between—

- (a) the number of persons training in a prescribed vocation under a contract of training with an employer; and
- (b) the number of approved supervisors used by that employer to supervise the training of those persons;

shall not exceed a specified ratio.

(2) A determination under subsection (1) may be made in relation to a specified employer or in relation to employers in a specified class of employers.

(3) Where the Authority makes a determination under subsection (1) in relation to a specified employer—

- (a) the Chief Executive shall give the employer a notice in writing setting out the terms of the determination; and

- (b) the determination takes effect—
 - (i) on the date of the notice; or
 - (ii) if a later date of effect is specified in the notice—on that later date.

(4) Where the Authority makes a determination under subsection (1) in relation to employers in a specified class of employers—

- (a) the Chief Executive shall publish in the *Gazette* a notice of the making of the determination and of the ratio fixed; and
- (b) the determination takes effect—
 - (i) on the date on which the notice is published in the *Gazette*; or
 - (ii) if a later date of effect is specified in the notice—on that later date.

Travelling expenses etc.

59. (1) Where the Authority requires a trainee to attend at a college, or another place, outside the Territory for the purpose of undertaking a course of training as part of an approved training program, the Territory shall pay to the trainee—

- (a) an amount equal to the approved travelling expenses incurred by the trainee in connection with that attendance; and
- (b) an allowance at the prescribed rate in respect of any period during which the trainee is necessarily absent overnight from his or her normal place of living.

(2) An amount may be advanced to a trainee on account of the trainee's anticipated entitlements under subsection (1).

(3) In paragraph (1) (a), “approved” means approved by the Chief Executive or a person authorised for that purpose by the Chief Executive.

Division 4—Employer's obligations

Notice of contract

60. An employer who enters into a contract of training shall not, without reasonable excuse, fail to give the Chief Executive, within 14 days after the date of the contract—

- (a) a copy of the contract; and
- (b) such other documents, if any, as are prescribed.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Hindering attendance at college etc.

61. Where an approved training program requires a person undertaking the program—

- (a) to undertake training at a college or any other place;
- (b) to attend a college or any other place—
 - (i) at a particular time; or
 - (ii) during a particular period;

for the purpose of undertaking training; or

- (c) to comply with any other requirement in relation to training under the program;

an employer who is a party to the contract of training under which the person is undertaking that program shall not, without reasonable excuse, hinder or obstruct the person from undertaking that training, making that attendance or complying with that other requirement, as the case may be.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Records

62. (1) An employer who trains a person under a contract of training shall, while the contract subsists, keep—

- (a) a copy of the contract; and
- (b) such other documents, if any, as are prescribed.

(2) Where a contract of training is terminated, whether by agreement or otherwise, the person who was the employer under the contract shall, not later than 28 days after the date of termination, give—

- (a) a copy of the contract; and
- (b) any other document required by subsection (1) to be kept in relation to the contract;

to the Chief Executive.

(3) A person who, without reasonable excuse, contravenes subsection (1) or (2) is guilty of an offence punishable on conviction—

- (a) if the offender is a natural person—by a fine not exceeding \$1,000; or
- (b) if the offender is a body corporate—by a fine not exceeding \$5,000.

Division 5—Grievances and misconduct**Request for action by Grievances Committee**

63. (1) Where a party to a contract of training—

- (a) is aggrieved by conduct of another party in relation to any matter concerning the contract; and
- (b) applies to the Grievances Committee requesting the exercise of a power under section 66 in relation to that matter;

the Committee shall hold an inquiry in relation to that matter.

(2) An application referred to in paragraph (1) (b) shall—

- (a) be in accordance with the appropriate form;
- (b) specify particulars of the applicant's grievance;
- (c) indicate the power which the applicant requests the Committee to exercise;

- (d) be executed by or on behalf of the applicant; and
- (e) be lodged with the Chairperson of the Committee.

Suspension pending inquiry

64. (1) Where—

- (a) an employer has applied for an exercise of power by the Grievances Committee on the ground of a trainee's misconduct; and
- (b) the Chairperson of the Committee believes on reasonable grounds that the trainee has been guilty of misconduct;

the Chairperson may—

- (c) on request in writing by the employer; and
- (d) by notice in writing given to each party to the contract;

suspend the contract until the completion of the inquiry in relation to the employer's application.

(2) The suspension of a contract of training under subsection (1) takes effect—

- (a) on the date of the notice given under subsection (1); or
- (b) if a later date of effect is specified in the notice—on that later date.

(3) Where a contract of training is suspended under subsection (1), the Committee shall—

- (a) commence the inquiry in relation to the application concerned not later than 7 days after the date of the suspension; and
- (b) complete the inquiry as soon as practicable.

(4) In subsection (1) "misconduct" includes—

- (a) a wilful refusal to obey a lawful command of the employer; and
- (b) an unauthorised absence from employment without reasonable excuse.

Inquiry initiated by Grievances Committee

65. The Grievances Committee may hold an inquiry in relation to any matter concerning a contract of training in relation to which it believes on reasonable grounds that—

- (a) a party to the contract has contravened an obligation under the contract or this Act; or
- (b) the employer under the contract is not a fit and proper person to train the trainee.

Powers of Grievances Committee

66. (1) Where the Grievances Committee has completed an inquiry under section 63 or 65 in relation to a matter concerning a contract of training, the Committee may—

- (a) attempt, by counselling or conciliation, to resolve any dispute or grievance between the parties to the contract;
- (b) make a finding of fact in relation to any matter concerning the contract;
- (c) reprimand a party to the contract;
- (d) direct a party to the contract to comply with his or her contractual obligations;
- (e) direct a party to the contract not to enforce a specified contractual right against another party to the contract;
- (f) set aside any suspension of the contract by the Chairperson under section 64;
- (g) suspend the contract for a specified period not exceeding 4 weeks;
- (h) terminate the contract; or
- (i) give directions to a party to the contract incidental to the exercise of its powers under this subsection.

(2) Where the Committee gives a direction to a person under paragraph (1) (d), (e) or (i)—

- (a) the Chairperson of the Committee shall give the person a notice in writing setting out the terms of the direction; and

- (b) the direction takes effect—
 - (i) on the date of the notice; or
 - (ii) if a later date of effect is specified in the notice—on that later date.

(3) Where the Committee—

- (a) sets aside the suspension of a contract by the Chairperson under section 64;
- (b) suspends a contract of training; or
- (c) terminates a contract of training;

the Chairperson of the Committee shall give each party to the contract a notice in writing setting out the terms of the decision.

(4) Where the Committee sets aside the suspension of a contract by the Chairperson under section 64, the suspension ceases to have effect—

- (a) on the date of the notice given under subsection (3); or
- (b) if a later date is specified in the notice—on that later date.

(5) Where the Committee suspends or terminates a contract of training, the suspension or termination, as the case may be, takes effect—

- (a) on the date of the notice given under subsection (3); or
- (b) if a later date of effect is specified in the notice—on that later date.

(6) The suspension of a contract of training by the Committee ceases to have effect on the expiration of the relevant date specified in the notice given under subsection (3), being a date not later than 4 weeks after the suspension takes effect.

Effect of direction not to enforce contractual rights

67. Where, under paragraph 66 (1) (e), a party to a contract of training is directed not to enforce a contractual right, no action lies by that party to enforce that right while the direction remains in force.

Compliance with directions

68. A person shall not, without reasonable excuse, contravene a direction given to the person under paragraph 66 (1) (d) or (i).

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Reconsideration

69. (1) Where the Grievances Committee makes a decision under section 66 in relation to a contract of training—

- (a) a party to the contract who is aggrieved by the decision; or
- (b) the Authority;

may, by notice in writing given to the Chairperson of the Committee, request the Committee to reconsider its decision.

(2) A request shall—

- (a) set out the reasons for the request; and
- (b) be given to the Chairperson within 14 days after the day on which the decision first came to the notice of the person making the request or the Authority, as the case may be, or within such further period (if any) as the Chairperson either before or after the end of that period, allows.

(3) As soon as practicable after receiving a request, the Committee shall reconsider the decision to which the request relates and make a decision affirming or revoking the decision or varying the decision in such manner as the Committee thinks fit.

(4) As soon as practicable after the Committee reconsiders a decision, the Chairperson of the Committee shall give the Authority, or the person who requested the reconsideration, as the case may be, a notice in writing setting out—

- (a) the terms of the decision made by the Committee after its reconsideration; and
- (b) the reasons for that decision.

Division 6—Inquiries

Interpretation

70. (1) In this Division, “inquiry” means an inquiry under section 63 or 65.

(2) For the purposes of this Division, each party to a contract of training to which an inquiry relates is a party to the inquiry.

Notice of inquiry

71. (1) The Grievances Committee shall not commence an inquiry unless the Chairperson of the Committee has given a notice of the inquiry to each party at least 7 days before the proposed commencement.

(2) The notice shall specify—

- (a)** the subject matter of the inquiry;
- (b)** the time and place fixed by the Committee for the commencement of the inquiry; and
- (c)** the date before which written submissions may be made to the Committee in relation to the inquiry.

Procedure

72. (1) An inquiry shall be conducted with as little formality and technicality, and with as much expedition, as is practicable to permit a proper consideration of the matter before the Grievances Committee.

(2) At an inquiry the Committee is not bound by the rules of evidence and may inform itself of any matter in such manner as it thinks appropriate.

(3) The Chairperson of the Committee may, in respect of any matter not dealt with by this Act, give directions as to the procedure to be followed in relation to an inquiry.

Consultation

73. Without limiting the generality of section 72, the Grievances Committee may consult with—

- (a)** the Authority;
- (b)** a Training Advisory Committee; or

(c) any other person or body the Committee thinks necessary;
for the purpose of informing itself of any matter relating to an inquiry.

Inquiry to be private

74. (1) An inquiry shall not be open to the public without the agreement of each of the parties.

(2) The Grievances Committee may give directions—

- (a) as to the persons who may be present at a hearing by the Committee in an inquiry;
- (b) prohibiting or restricting the publication of evidence given at an inquiry or any matter contained in a document produced to the Committee in relation to an inquiry; and
- (c) prohibiting or restricting the disclosure to some or all of the parties to the inquiry of evidence given at the inquiry or the contents of a document produced at an inquiry.

Representation

75. (1) At a hearing in an inquiry a party may appear in person or, with the approval of the Grievances Committee, be represented by another person who may examine witnesses and address the Committee on behalf of that person.

(2) A person summoned to appear before the Committee may, with the approval of the Committee, be represented by another person who may examine witnesses and address the Committee on behalf of that person.

Powers of Committee

76. (1) For the purposes of an inquiry, the Grievances Committee may—

- (a) take evidence on oath or affirmation;
- (b) proceed in the absence of a party to whom notice under subsection 71 (1) has been given; and
- (c) adjourn an inquiry from time to time.

(2) For the purposes of an inquiry, the Chairperson of the Committee may—

- (a) summon a person to appear before the Committee and to produce such documents (if any) as are referred to in the summons, being documents that are relevant to any matter to which the inquiry relates;
- (b) require a person appearing before the Committee to give evidence, to take an oath or to make an affirmation; and
- (c) administer an oath or affirmation to a person so appearing before the Committee.

(3) A summons to a person under paragraph (2) (a), shall be in writing signed by the Chairperson and served on the person.

Inspection of documents

77. (1) The Grievances Committee may—

- (a) inspect any document produced to it for the purposes of an inquiry; and
- (b) make copies of, or take extracts from, any part of the document that is relevant to the inquiry.

(2) The Committee may retain any document produced to it for the purposes of an inquiry for as long as is necessary for the purposes of the inquiry.

Submissions etc.

78. Subject to subsection 74 (2), the Grievances Committee shall ensure that each party to an inquiry is given a reasonable opportunity to present his or her case, to inspect any document which the Committee proposes to have regard to in reaching a decision and to make submissions to the Committee.

Protection of witnesses

79. (1) A person who represents a person at an inquiry has the same protection and immunity as a barrister and solicitor appearing for a party in proceedings in the Supreme Court.

(2) A person summoned to appear before the Grievances Committee has the same protection as a witness in proceedings in the Supreme Court.

Witnesses—fees and expenses

80. (1) A person who appears before the Grievances Committee for the purpose of giving evidence in an inquiry is entitled to be paid such fees, and allowances for expenses, in accordance with the scale in Schedule 1 to the AAT determination, as the Chairperson of the Committee determines.

(2) Fees and expenses payable to a person under subsection (1) are payable—

- (a) where the person appears before the Committee, whether on summons or not, by reason of the request of a person other than a member of the Committee—by the person at whose request the first-mentioned person so appeared; or
- (b) in any other case—by the Territory.

(3) In this section, “AAT determination” means the determination, of fees and expenses payable to witnesses appearing before the Administrative Appeals Tribunal, in force from time to time for the purposes of subsection 59 (1) of the *Administrative Appeals Tribunal Act 1989*.

Offences

81. (1) A person summoned to attend before the Grievances Committee in an inquiry shall not fail, without reasonable excuse—

- (a) to attend the inquiry as required by the summons; or
- (b) to produce a document that the person is required by the summons to produce.

Penalty: \$1,000.

(2) A person appearing before the Committee as a witness in an inquiry shall not, without reasonable excuse—

- (a) fail to be sworn or to make an affirmation; or
- (b) fail, except as provided by section 57 of the *Evidence Ordinance 1971*, to answer a question relevant to the inquiry that the person is required by the Chairperson of the Committee to answer.

Penalty: \$1,000.

(3) A statement or disclosure made before the Committee by a witness is not, except in proceedings for giving false testimony at an inquiry, admissible in evidence against the person in civil or criminal proceedings in a court.

Division 7—Review of decisions

Reviewable decisions

82. (1) For the purposes of this Division, each of the following decisions of the Authority is a reviewable decision:

- (a) a refusal to make a determination under subsection 40 (1) in respect of a private training program;
- (b) a decision under paragraph 41 (2) (a) to grant an approval subject to conditions;
- (c) a refusal under paragraph 41 (2) (b) to grant an approval;
- (d) a determination under subsection 42 (1);
- (e) a refusal to make a determination under subsection 42 (1);
- (f) a determination under subsection 43 (1);
- (g) a refusal to make a determination under subsection 43 (1);
- (h) a refusal to grant approval under subsection 48 (2);
- (j) a decision under section 52—
 - (i) fixing the date of effect of an approval;
 - (ii) imposing conditions on an approval; or
 - (iii) refusing to grant an approval;
- (k) a decision under section 53—
 - (i) fixing the date of effect of an approval;
 - (ii) imposing conditions on an approval; or
 - (iii) refusing to grant an approval;
- (m) a decision refusing—
 - (i) to vary a condition under paragraph 55 (2) (a);
 - (ii) to revoke a condition under paragraph 55 (2) (b); or

- (iii) to impose a condition under paragraph 55 (2) (c);
 - (n) a decision under paragraph 55 (3) (a) varying a condition;
 - (o) a decision under paragraph 55 (3) (b) revoking a condition;
 - (p) a decision under paragraph 55 (3) (c) imposing a condition on an approval;
 - (q) the revocation of an approval under subsection 57 (2);
 - (r) a determination under subsection 58 (1);
 - (s) a refusal to issue a certificate of recognition under subsection 89 (1).
- (2) For the purposes of this Division—
- (a) a decision of the Grievances Committee under paragraph 66 (1) (b), (c), (d), (e), (f), (g) or (h); or
 - (b) a decision of the Grievances Committee under paragraph 66 (1) (i) or subsection 69 (3) (other than a decision relating to the exercise of a power under paragraph 66 (1) (a));

is a reviewable decision.

Notice of review rights

83. (1) Where—

- (a) the Chief Executive or the Chairperson of the Grievances Committee is required under this Act to give a notice in writing to a person in respect of the making of a reviewable decision; or
- (b) the Chief Executive is required under paragraph 58 (4) (a) to publish a notice in the *Gazette* in respect of the making of a reviewable decision;

the notice shall—

- (c) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of that decision; and
- (d) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

(2) The validity of a reviewable decision shall not be taken to have been affected by a failure to comply with subsection (1).

Review of decisions

84. Application may be made to the Administrative Appeals Tribunal for a review of a reviewable decision.

Division 8—Powers of inspectors

Inspections etc.

85. (1) For the purpose of ensuring that—

- (a) the parties to a contract of training comply with their obligations under the contract; or
- (b) that the provisions of this Act are being complied with;

an inspector may, at any reasonable time—

- (c) enter premises (other than residential premises) which the inspector believes on reasonable grounds to be used for the purpose of training a person in a prescribed vocation; and
- (d) subject to subsection (2), exercise any of the powers referred to in subsection (3).

(2) An inspector who enters premises under subsection (1) is not authorised to remain on the premises if, on request by the occupier, the inspector does not show his or her identity card to the occupier.

(3) An inspector who enters premises under subsection (1) may—

- (a) inspect the premises;
- (b) inspect and test any equipment on the premises which the inspector believes on reasonable grounds to be used for the purpose of training a person in a prescribed vocation;
- (c) inspect any work in progress on the premises, being work that the inspector believes on reasonable grounds relates to the training of a person in a prescribed vocation;
- (d) require the occupier to give the inspector such information as the inspector requests concerning training conducted on the premises in a prescribed vocation; or

- (e) require the occupier to produce any document containing information relating to training conducted on the premises in a prescribed vocation.

Obstructing inspectors

86. A person shall not, without reasonable excuse—

- (a) obstruct or hinder an inspector in the exercise of his or her powers under section 85; or
- (b) contravene a requirement made by an inspector under paragraph 85 (3) (d) or (e).

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

False information

87. A person shall not, in purported compliance with a requirement made under paragraph 85 (3) (d) or (e) by an inspector—

- (a) give the inspector information that is, to the person's knowledge, false or misleading in a material particular; or
- (b) give the inspector a document containing information that is, to the person's knowledge, false or misleading in a material particular.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

PART V—MISCELLANEOUS

Unqualified young persons not to be employed in trades

88. (1) An employer shall not, without reasonable excuse, employ in a trade a person who has not attained the age of 21 years.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

(2) For the purposes of subsection (1), a person who, under a contract of employment, performs work ordinarily performed by a person qualified in a trade shall be taken to be employed in that trade, unless the contrary is established.

(3) Subsection (1) does not apply in relation to the employment in a trade of—

- (a) an apprentice in that trade;
- (b) a transitional apprentice in that trade;
- (c) a transitional probationer in relation to that trade; or
- (d) a person qualified in that trade.

Certificates of recognition

89. (1) The Authority may, on application, issue a certificate of recognition to the applicant in respect of a prescribed vocation.

(2) A person training in a prescribed vocation under a contract of training is not eligible to apply for a certificate of recognition in respect of that vocation.

(3) The Authority shall not grant a certificate of recognition to a person in respect of a prescribed vocation unless it is satisfied that the person is competent to work in that vocation.

(4) For the purpose of making a decision under subsection (1), the Authority—

- (a) shall have regard to any work done or training undertaken by the person; and
- (b) may arrange for the person's knowledge and skills in the relevant vocation to be assessed, whether by examination or otherwise.

(5) An application for a certificate or recognition shall be—

- (a) in accordance with the appropriate form;
- (b) signed by the applicant; and
- (c) lodged with the Chief Executive.

Training schemes

90. (1) The Authority may, in writing, declare a specified scheme of training to be an approved scheme of training for a specified vocation other than a prescribed vocation.

(2) A scheme of training shall provide for such courses of instruction or practical training, whether provided on the job or otherwise, as the Authority considers necessary or desirable to develop vocational knowledge and skills.

(3) The Authority may issue, or arrange for the issuing of, appropriate certificates to persons who complete approved schemes of training.

Pre-vocational courses

91. (1) The Authority may, in writing, declare a specified course of pre-vocational training to be an approved course of pre-vocational training.

(2) In subsection (1), “pre-vocational training” means training designed to prepare persons for training in a prescribed vocation.

Regulations

92. The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

PART VI—TRANSITIONAL**Interpretation**

93. (1) In this Part, unless the contrary intention appears—

“applied provisions” means the provisions applied by subsection 94 (1) in relation to old scheme apprentices and old scheme probationers;

“old scheme apprentice” means a person who, immediately before the commencement date, was an apprentice within the meaning of the repealed Act;

“old scheme probationer” means a person who, immediately before the commencement date, was serving a period of probationary employment referred to in section 20 of the repealed Act;

“prescribed authority” means—

- (a) the Apprenticeship Board;
- (b) the Chairman of the Apprenticeship Board; or
- (c) the Registrar of Apprenticeship;

within the meaning of the repealed Act.

(2) For the purposes of this Part—

- (a) the Vocational Training Authority is the corresponding authority to the Apprenticeship Board;
- (b) the Chairperson of the Vocational Training Authority is the corresponding authority to the Chairman of the Apprenticeship Board; and
- (c) the Chief Executive is the corresponding authority to the Registrar of Apprenticeship.

Application of certain repealed provisions

94. (1) Notwithstanding the repeal effected by section 3, the relevant provisions of the repealed Act, and the provisions of the Apprenticeship Regulations as in force immediately before the commencement date, apply on and after that date in relation to old scheme apprentices and old scheme probationers as if—

- (a) a reference in those provisions to a prescribed authority were a reference to the corresponding authority;
- (b) a reference in those provisions to an apprentice were a reference to an old scheme apprentice;
- (c) a reference in those provisions to a person employed on probation were a reference to an old scheme probationer;

- (d) a reference in those provisions to the *Apprenticeship Act 1936* or the Apprenticeship Regulations were a reference to the relevant provisions of the repealed Act or the Apprenticeship Regulations, as the case may be, in their application by virtue of this subsection; and
- (e) a reference in those provisions to a particular provision of the *Apprenticeship Act 1936* or the Apprenticeship Regulations, being an applied provision, were a reference to that provision in its application by virtue of this subsection.

(2) For the purposes of this section, the relevant provisions of the repealed Act are—

- (a) sections 12, 17 and 18, subsections 20 (5) and (6) and sections 22, 25 and 26;
- (b) Division 3 of Part IV; and
- (c) Part V, other than section 35, subsection 36 (1) and sections 39, 41 and 46.

Savings

95. (1) An indenture of apprenticeship in force immediately before the commencement date has effect on and after that date subject to the applied provisions.

(2) Where—

(a) at any time before the commencement date—

- (i) an instrument was made, granted or issued;
- (ii) any other act was done; or
- (iii) a decision was made;

by or on behalf of a prescribed authority under a provision of the repealed Act or the Apprenticeship Regulations, being an applied provision; and

- (b) immediately before the commencement date, the instrument, act or decision had effect in relation to an old scheme apprentice or old scheme probationer;

then, on and after that date—

- (c) the instrument has effect, as if it had been made, granted or issued under the applied provisions by or on behalf of the corresponding authority; and
- (d) the act or decision, as the case may be, has effect as if it had been done or made under the applied provisions by or on behalf of the corresponding authority.

(3) A reference in—

- (a) an indenture of apprenticeship referred to in subsection (1); or
- (b) an instrument referred to in paragraph (2) (b);

to a prescribed authority shall, except in relation to matters occurring before the commencement date, be read as a reference to the corresponding authority.

Inspections

96. Division 8 of Part IV applies in relation to transitional apprentices and transitional probationers as if—

- (a) a reference to a contract of training were a reference to an indenture of apprenticeship;
- (b) a reference to the provisions of this Act were a reference to the applied provisions; and
- (c) a reference to a prescribed vocation were a reference to a trade.

SCHEDULE

Section 3

ACTS REPEALED*Apprenticeship Act 1936**Apprenticeship Act 1938**Apprenticeship Act 1950**Apprenticeship Act 1958**Apprenticeship Act 1974**Apprenticeship (Amendment) Act 1988*

[Minister's presentation speech made in Assembly on 31 May 1989.]

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