



Australian Capital Territory

# **Vocational Education and Training Act 1995 No 37**

## **Republication No 2**

Republication date: 13 December 2001

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Vocational Education and Training Act 1995* as in force on 13 December 2001. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Vocational Education and Training Act 1995

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Australian Capital Territory

# Vocational Education and Training Act 1995

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An Act relating to vocational education and training

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Vocational Education and Training Act 1995*.

### 3 Objects

The objects of this Act are—

- (a) to provide effective and efficient mechanisms for the planning, funding, coordination and evaluation of vocational education and training; and
- (b) to regulate vocational education and training in the ACT; and
- (c) to support quality assurance and best management practices in relation to all aspects of vocational education and training; and
- (d) within the community, to encourage an awareness of the need for, and to promote the development of, vocational education and training that is relevant to industry.

### 4 Definitions for Act

(1) In this Act:

**accreditation** means accreditation of vocational education and training courses under division 5.1.

**accredited course** means a sequence of vocational education and training that is accredited under this Act or under a corresponding law of a State or another Territory.

**ANTA** means the Australian National Training Authority established by the ANTA Act.

**ANTA Act** means the *Australian National Training Authority Act 1992* (Cwlth).



**approved training** means a sequence of vocational education and training that is the subject of a determination in force under section 25.

**approved training agreement** means a training agreement approved by the Authority under section 30 (2) (a).

**approved variation** means a variation of an approved training agreement—

- (a) approved by the Authority under section 36 (2) (a); or
- (b) made by the Authority under section 37.

**authority** means the Vocational Education and Training Authority established by section 5.

**council** means the Accreditation and Registration Council established by section 12.

**employer** means the person who is obliged under a training agreement to employ the trainee.

**federal award** means—

- (a) an award or order that has been reduced to writing under the *Workplace Relations Act 1996* (Cwlth), section 143 (1); or
- (b) an enterprise flexibility agreement within the meaning of that Act; or
- (c) a certified agreement within the meaning of that Act.

**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 ACT.

**joint industry training council** means the body corporate known as the Joint Industry Training Council Incorporated or any of its successors.

***NVETS statement*** means the statement (a copy of which is set out in the ANTA Act) entitled *A National Vocational Education and Training System* agreed on by the Commonwealth, the States, the Territory and the Northern Territory and published on 21 July 1992.

***prescribed vocation*** means a trade or other vocation that is the subject of a determination in force under section 26.

***registered provider*** means a vocational education and training provider who is registered under section 19 (1) (a).

***registration*** means registration of vocational education and training providers under division 5.2.

***relevant body*** means the authority or the council, as the case requires.

***trade*** means a trade for an industrial award.

***trades and labour council*** means the body corporate known as the Trades and Labour Council of the Australian Capital Territory Incorporated.

***trainee*** means the person who is obliged under a training agreement to undertake training.

***training agreement*** means a written agreement between a trainee and his or her employer, the terms of which are in accordance with the terms determined by the authority under section 33.

***university*** means a higher education institution that is—

- (a) established or recognised as a university under a law of the Commonwealth or a State; or
- (b) established in a foreign country and recognised by the authority in the foreign country that, in the Minister's opinion, based on reasonable grounds, is the competent authority for the purpose; or
- (c) recognised by the regulations as a university.

- (2) In this Act, a reference to *varying a training agreement* includes a reference to—
- (a) shortening or extending the duration of the agreement; or
  - (b) suspending the operation of the agreement for a specified period; or
  - (c) standing down the trainee for a specified period; or
  - (d) terminating the agreement.

## **Part 2**

# **Vocational Education and Training Authority**

### **5 Establishment**

The Vocational Education and Training Authority is established.

### **6 Functions**

- (1) The authority has the following functions:
  - (a) to advise the Minister on matters relating to vocational education and training generally, including adult and community education;
  - (b) to advise the Minister, in consultation with industry, in relation to policies and priorities for vocational education and training in the ACT that are consistent with the NVETS statement;
  - (c) to develop a strategic plan for vocational education and training that is both relevant to industry and consistent with the NVETS statement, and to coordinate and monitor the implementation of that plan;
  - (d) to advise the Minister in relation to priorities for, and allocation of, funds for vocational education and training in the ACT;
  - (e) to manage specified funding programs for vocational education and training and to monitor the use of funds for vocational education and training in the ACT;
  - (f) to provide programs and services to support vocational education and training in the ACT;
  - (g) to administer training agreements;

- (h) in association with the council, to facilitate recognition and quality assurance in the provision of vocational education and training;
  - (j) to promote vocational education and training generally throughout the community;
  - (k) to promote equity in access to, and participation in, vocational education and training;
  - (m) to foster cooperation between public and private sector providers of vocational education and training and to encourage private industry to participate in the provision of vocational education and training;
  - (n) to undertake research in relation to vocational education and training in the ACT and the surrounding region;
  - (p) to inquire into and provide advice to the Minister on matters referred to the authority by the Minister in relation to vocational education and training in the ACT;
  - (q) such other functions as are conferred on the authority by or under this Act or another law of the ACT.
- (2) Where the authority is nominated as the State training agency for the ACT under section 9, in addition to the functions listed in subsection (1), the authority has the following functions:
- (a) to provide policy advice and information to ANTA to assist ANTA in the development of national policies and priorities for vocational education and training;
  - (b) to assist ANTA in the development of a draft national strategic plan in accordance with the NVETS statement;
  - (c) to develop, in conjunction with ANTA, an annual state training profile for the ACT in accordance with the NVETS statement;
  - (d) to manage or monitor, as appropriate, national programs and national projects under the ANTA Act within the ACT;

- (e) to advise ANTA in relation to priorities for, and allocation of, funds for vocational education and training in the ACT;
- (f) to ensure that the management of vocational education and training in the ACT (including the planning, regulation and provision of public and private training) is in accordance with the national strategic plan determined under the NVETS statement and the state training profile for the ACT agreed under that statement;
- (g) to monitor the use of funds for vocational education and training in the ACT against the state training profile for the ACT;
- (h) to provide an annual report to ANTA on the performance of the authority as the State training agency for the ACT in accordance with the NVETS statement;
- (j) to provide annually to ANTA an audited statement of the funds for vocational education and training allocated by ANTA to the authority under the NVETS statement.

## **7 Consultation**

In the performance of its functions, the authority shall consult with relevant industry training advisory boards, employee and employer associations, and such other persons or bodies as it considers necessary.

## **8 Annual report by authority**

The report prepared by the authority for the *Annual Reports (Government Agencies) Act 1995*, section 8 shall include, in relation to the reporting period—

- (a) an account of the implementation of the state training profile for the ACT agreed under the NVETS statement, including a performance evaluation; and

- (b) particulars of any directions under section 50 (1) given to the authority by the Minister during the period to which the report relates; and
- (c) a statement by the authority indicating how effect has been given to those directions.

## **9 State training agency**

For the ANTA Act, section 4 (1), the definition of *State training agency* the Minister may nominate the authority as the State training agency for the ACT.





## **Part 4                      Accreditation and registration council**

### **12      Establishment**

The Accreditation and Registration Council is established.

### **13      Functions**

The council has the following functions:

- (a) to advise the Minister on matters relating to the accreditation of vocational education and training courses and the registration of vocational education and training providers;
- (b) to accredit vocational education and training in schools and the vocational education and training sector, whether provided in the ACT or elsewhere;
- (c) to accredit courses in the higher education sector, including but not limited to vocational education and training courses, whether provided in the ACT or elsewhere;
- (d) to register vocational education and training providers;
- (e) to promote credit transfer and articulation arrangements between vocational education and training courses;
- (f) to promote the recognition of prior learning as credit towards vocational education and training qualifications and as a means of obtaining such qualifications without further study;
- (g) to promote assessment practices by vocational education and training providers that are reliable, fair and flexible;
- (h) in association with the authority, to facilitate recognition and quality assurance in the provision of vocational education and training;

- (j) to ensure the consistency of qualifications obtained as a result of accredited vocational education and training provided in the ACT;
- (k) to promote consistent national standards in relation to the accreditation of vocational education and training courses, the registration of vocational education and training providers and the issue of qualifications on completion of vocational education and training courses;
- (m) to coordinate and monitor the implementation of national agreements in relation to the accreditation of vocational education and training courses and the registration of vocational education and training providers and, for that purpose, to liaise with ANTA as appropriate;
- (n) to establish, as appropriate, links with other organisations and bodies that maintain systems for the recognition of vocational education and training courses and the registration of vocational education and training providers;
- (p) to keep under review the system for the accreditation of vocational education and training courses and the registration of vocational education and training providers in the ACT;
- (q) to inquire into and provide advice to the Minister on matters referred to the council by the Minister in relation to the accreditation of vocational education and training courses and the registration of vocational education and training providers in the ACT.

#### **14 Authority's views to be taken into account**

In considering a matter, the council shall have regard to any views the authority may have in relation to that matter.

**15 Annual report by council**

The report prepared by the council for the *Annual Reports (Government Agencies) Act 1995*, section 8 shall include, in relation to the reporting period—

- (a) particulars of any directions under section 50 (1) given to the council by the Minister during the period to which the report relates; and
- (b) a statement by the council indicating how effect has been given to those directions.

## **Part 5** Accreditation of courses and registration of trainers

### **Division 5.1** Accreditation of courses

#### **16** Application for accreditation

- (1) A person who develops or provides a vocational education and training course may apply to the council for accreditation of the course.
- (2) A person who develops or provides a higher education course may apply to the council for accreditation of the course.

*Note 1* A fee may be determined under s 66 (Determination of fees) for this section.

*Note 2* If a form is approved under s 67 (Approved forms) for an application, the form must be used.

#### **17** Accreditation

- (1) On receipt of an application under section 16, the council shall—
  - (a) accredit the course, subject to such conditions (if any) as the council thinks necessary; or
  - (b) refuse to accredit the course.
- (2) In making a decision under subsection (1), the council shall have regard to the following:
  - (a) the purpose and level of the course;
  - (b) the curriculum and assessment methods of the course;
  - (c) the qualifications (if any) proposed to be awarded on successful completion of the course;
  - (d) the likelihood of the course achieving its purpose;

- (e) any relevant competency standards endorsed by a body recognised by the council for that purpose;
  - (f) any views that relevant industry, professional or academic bodies may have about the course.
- (3) A course remains accredited for the period (not exceeding 5 years) determined by the council.

## **Division 5.2                      Registration of providers**

### **18      Application of registration**

A vocational education and training provider may apply to the council for registration.

*Note 1*    A fee may be determined under s 66 (Determination of fees) for this section.

*Note 2*    If a form is approved under s 67 (Approved forms) for an application, the form must be used.

### **19      Registration**

- (1) On receipt of an application under section 18, the council shall—
- (a) register the applicant, subject to such conditions (if any) as the council thinks necessary; or
  - (b) refuse to register the applicant.
- (2) In making a decision under subsection (1), the council shall have regard to the accredited courses that the applicant proposes to provide, and any conditions to which the accreditation of those courses is subject.
- (3) The council shall not register an applicant unless satisfied that—
- (a) the facilities and equipment proposed to be used to deliver those courses are suitable; and

- (b) the qualifications, knowledge and skills of the teachers, trainers and assessors proposed to deliver those courses are appropriate; and
  - (c) the financial safeguards proposed to protect the interests of fee-paying students are adequate; and
  - (d) the applicant's policies and practices are consistent with responsible and ethical conduct.
- (4) A provider remains registered for the period (not exceeding 5 years) determined by the council.

### **19A Deemed registration of pre-1996 providers**

- (1) Where—
- (a) before 1 January 1996, the ACT Accreditation Agency issued to a vocational education and training provider a certificate of registration certifying that the provider had met the standard required by the ACT Accreditation Agency for the delivery of an accredited course; and
  - (b) the certificate had effect immediately before that date;
- that provider shall be deemed to have been registered under section 19 (1) (a) on that date subject to the conditions (if any) specified in the certificate, and on or after the commencement of this section the purported registration referred to in the certificate is void and ceases to have effect for any purpose.
- (2) Registration deemed to have been effected under subsection (1)—
- (a) may be cancelled under section 20 or 21; and
  - (b) unless sooner so cancelled, shall be taken to have expired when the relevant certificate of registration referred to in that subsection would have expired.
- (3) In this section:

*accredited course* means a sequence of vocational education and training that was accredited by the ACT Accreditation Agency before 1 January 1996.

## **20 Cancellation if criteria no longer satisfied**

- (1) Where the council believes on reasonable grounds that a registered provider no longer satisfies a criterion specified in section 19 (3) (a), (b), (c) or (d), the council shall give the provider notice in writing—
  - (a) stating that the council proposes to cancel the provider's registration for that reason; and
  - (b) stating the facts and circumstances on which the council's belief is based; and
  - (c) inviting the provider, within 28 days after the date of the notice, to show cause why the registration should not be cancelled.
- (2) After the expiration of 28 days after the date of the notice, the council may cancel the provider's registration for the reason mentioned in subsection (1).
- (3) In making a decision under subsection (2), the council shall have regard to any explanation provided in accordance with subsection (1) (c) as to why the registration should not be cancelled.

## **21 Cancellation on provider's request**

The council shall cancel a provider's registration on the written request of the provider.

## **Division 5.3 Miscellaneous**

### **22 Registers**

- (1) The council shall keep a register of each course that is accredited under division 5.1.

- (2) The council shall keep a register of each provider who is registered under division 5.2.

**23 False advertising—vocational education and training courses**

- (1) A person shall not advertise or otherwise hold out a vocational education and training course that is not accredited under division 5.1 as being so accredited.

Maximum penalty: 30 penalty units.

- (2) A person who is not registered under division 5.2 shall not advertise or otherwise hold himself or herself out as being so registered.

Maximum penalty: 30 penalty units.

**23A False advertising—higher education courses**

- (1) A person must not advertise the provision of a higher education course that is not accredited under division 5.1.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply if the higher education course is provided by a university.

- (3) A person must not hold out a higher education course that is not accredited under division 5.1 as being so accredited.

Maximum penalty: 30 penalty units.

**24 Employers not to be taken to be providing courses**

For this part, an employer shall not be taken to be providing a vocational education and training course merely because the employer conducts training for his or her employees.



## **Part 6 Training**

### **Division 6.1 Approved training and prescribed vocations**

#### **25 Determination of approved training**

- (1) The authority may determine in writing that a sequence of vocational education and training is approved training for this Act.

*Note* Power given under an Act to make a statutory instrument (including a determination) includes power to amend or repeal the instrument (see *Legislation Act 2001*, s 46 (1)).

- (2) A determination is a notifiable instrument.

*Note 1* A notifiable instrument must be notified under the *Legislation Act 2001*.

*Note 2* An amendment or repeal of a determination is also a notifiable instrument (see *Legislation Act 2001*, s 46 (2)).

#### **26 Determination of prescribed vocations**

- (1) The authority may determine in writing that a trade or other vocation is a prescribed vocation for this Act.

*Note* Power given under an Act to make a statutory instrument (including a determination) includes power to amend or repeal the instrument (see *Legislation Act 2001*, s 46 (1)).

- (2) A determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

*Note 2* An amendment or repeal of a determination is also a notifiable instrument (see *Legislation Act 2001*, s 46 (2)).

## Division 6.2 Conduct of approved training

### 28 Training agreements to be approved

- (1) A person shall not undertake any approved training under a training agreement unless the agreement has been approved by the authority.
- (2) Despite subsection (1), where—
  - (a) a person undertakes approved training under a training agreement that has been lodged for approval but has not yet been approved; and
  - (b) the authority subsequently approves the agreement;

that training shall be deemed to have been undertaken under the approved agreement.

### 29 Employer to conduct training under approved agreement

An employer shall not train an employee for the purpose of enabling the employee to become qualified in a prescribed vocation except under an approved training agreement.

Maximum penalty: 50 penalty units.

### 30 Approval of training agreements

- (1) Application for approval of a training agreement shall be made by the employer and the trainee jointly lodging with the authority a copy of the agreement signed by both the employer and the trainee.
- (2) The authority shall, on receipt of a training agreement lodged under subsection (1)—
  - (a) approve the agreement, subject to such conditions (if any) as the authority thinks necessary; or
  - (b) refuse to approve the agreement.
- (3) The authority shall not approve a training agreement unless satisfied that—

- (a) the facilities, equipment and training methods proposed to be used for the approved training are suitable; and
- (b) the qualifications, knowledge and skills of the person proposed to deliver the approved training are appropriate; and
- (c) the person proposed to deliver the approved training conducts himself or herself in a manner appropriate for a person responsible for the delivery of training; and
- (d) the employer is likely to comply with the relevant industrial award.

### **31 Qualifications**

Where—

- (a) a trainee has completed approved training under an approved training agreement; or
- (b) the authority is satisfied that a person who has not completed approved training under an approved training agreement has acquired the relevant knowledge and skills;

the authority may issue a qualification to the trainee or person.

### **32 Travelling expenses**

- (1) Where a trainee is required to attend at a college or other place outside the ACT for the purpose of undertaking approved training, the trainee is entitled to be paid by the Territory—
  - (a) the determined amount in respect of travelling expenses incurred by the trainee in connection with that attendance; and
  - (b) an allowance at the determined rate in respect of any period during which the trainee is necessarily absent overnight from his or her normal place of living.

- (2) In subsection (1):

*determined* means determined in writing by the chief executive.

## Division 6.3 Training agreements

### 33 Determination of terms

Subject to section 34, the authority shall determine in writing the terms to be included in training agreements.

### 34 Standard terms

- (1) Subject to any approved variation, an employer's obligations under a training agreement shall include the following:
  - (a) to employ the trainee;
  - (b) to ensure that the conditions of the trainee's employment are consistent with the relevant industrial award and the *Workplace Relations Act 1996* (Cwlth);
  - (c) to conduct the approved training specified in the agreement;
  - (d) to use facilities, equipment and training methods that are suitable for the approved training;
  - (e) to ensure that the trainee is adequately supervised while undertaking the approved training at the trainee's place of employment or at any other place the trainee is required to attend in the course of his or her employment;
  - (f) to allow the trainee to undertake the approved training at any place determined by the authority;
  - (g) to advise the authority of any change in the employer's circumstances as a result of which the employer is unable to conduct the approved training in accordance with the training agreement.
- (2) Subject to any approved variation, a trainee's obligations under a training agreement shall include the following:
  - (a) to comply with the requirements of the approved training specified in the agreement;

- (b) to maintain satisfactory progress while undertaking the approved training;
  - (c) to behave in a reasonable manner while undertaking the approved training.
- (3) A training agreement shall include a provision specifying the date on which (subject to any approved variation) the obligations of the parties under the agreement cease.
- (4) A training agreement may include a period of probation (the length of which shall be determined by the authority under section 33) during which either party to the agreement may terminate the agreement without loss or penalty.

### **35 Effect of varying approved training agreements**

A variation of an approved training agreement has no effect unless it is an approved variation.

### **36 Authority may approve variations**

- (1) Application for approval for the variation of an approved training agreement may be made to the authority by either party or jointly by both parties to the agreement.
- (2) The authority shall, on receipt of an application under subsection (1)—
- (a) approve the variation sought; or
  - (b) refuse to approve it.
- (3) The authority shall approve a variation sought jointly by both parties unless he or she believes on reasonable grounds that—
- (a) the training that would be conducted under the agreement if it were varied as sought would not be in accordance with the relevant approved training; or
  - (b) the variation sought would adversely affect the provision of the relevant approved training.

**37 Authority may make variations**

Where the authority is advised by an employer of a change in the employer's circumstances as a result of which the employer is unable to conduct the approved training in accordance with the approved training agreement, the authority may vary the agreement.

## **Part 7**                      **Disagreements and disputes**

### **38**    **Disagreement with decision of council or authority**

(1) Where—

(a) an applicant for—

- (i) accreditation of a course, or registration as a provider, under part 5; or
- (ii) approval of a training agreement, approval of a variation of a training agreement, or issue of a qualification, under part 6;

disagrees with the decision of the relevant body in relation to the application; or

(b) a party to a training agreement that has been varied under section 37 disagrees with the decision of the relevant body in relation to the variation;

that applicant or party may, within 14 days after being notified of the decision, request that the disagreement be referred to a committee established by the relevant body under section 54 for resolution.

(2) Within 28 days after a relevant body receives a request under subsection (1)—

(a) the relevant body shall comply with the request; and

(b) the committee to whom the matter is referred shall report back to the relevant body on the outcome of its attempt to resolve the disagreement; and

(c) the relevant body shall notify the person who requested the referral of the outcome of that attempt.

- (3) If the committee has been able to resolve the disagreement, the relevant body shall (if necessary) revoke its original decision and substitute a decision in accordance with the agreement reached.
- (4) If the committee has been unable to resolve the disagreement, the original decision stands.

### **39 Disputes between employers and trainees**

- (1) Where a dispute arises between the parties to an approved training agreement, either party may request that the dispute be referred to a committee established by the authority under section 54 for resolution.
- (2) Within 28 days after the authority receives a request under subsection (1)—
  - (a) the authority shall comply with the request; and
  - (b) the committee to whom the matter is referred shall report back to the authority on the outcome of its attempt to resolve the dispute.
- (3) If the committee has been unable to resolve the dispute, the authority may resolve it by—
  - (a) making a finding of fact in relation to any matter concerning the training agreement; or
  - (b) varying the agreement; or
  - (c) giving directions to a party to the agreement incidental to the exercise of a power under paragraph (a) or (b).



## **Part 8 Administration of authority and council**

### **Division 8.1 Membership of authority and council**

#### **40 Membership of authority**

The authority shall consist of the following members:

- (a) a chairperson;
- (b) 2 persons appointed, after consultation with the Trades and Labour Council, to represent the interests of employees;
- (c) 2 persons appointed, after consultation with employer organisations, to represent the interests of employers, 1 only of whom shall be appointed to represent the interests of public sector employers;
- (d) the director of the Canberra Institute of Technology;
- (e) 1 person appointed to represent the interests of private providers of vocational education and training;
- (f) 1 person who in the opinion of the Minister is of good standing in the community;
- (g) 1 person appointed, after consultation with the Joint Industry Training Council, to represent the interests of industry training advisory boards;
- (h) 1 person appointed to represent the interests of the A.C.T. Council of Parents & Citizens Associations Inc.;
- (j) the chief executive.

#### **41 Membership of council**

The council shall consist of the following members:

- (a) a chairperson;
- (b) 4 persons who have expertise in vocational education and training;
- (c) 1 person appointed, after consultation with employer organisations, to represent the interests of employers;
- (d) 1 person appointed, after consultation with the Trades and Labour Council, to represent the interests of employees;
- (e) 1 person appointed, after consultation with the Joint Industry Training Council, to represent the interests of industry training advisory boards;
- (f) a person nominated by the authority to represent the interests of the authority;
- (g) not more than 2 persons with expertise in higher education.

## **Division 8.2 Members' terms and conditions**

### **42 Terms of appointment**

- (1) A member of a relevant body, other than the director of the Canberra Institute of Technology and the chief executive—
  - (a) shall be appointed in writing by the Minister; and
  - (b) holds office for the period (not exceeding 5 years) 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.

### **44 Leave of absence**

The Minister may grant leave of absence to an appointed member of a relevant body on such terms and conditions as to remuneration or otherwise as the Minister determines.

## **45 Disclosure of interests**

- (1) A member of a relevant body who has a direct or indirect interest, pecuniary or otherwise, in a matter being considered or about to be considered by the relevant body 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 relevant body.
- (2) A disclosure shall be recorded in the minutes of the meeting and, unless the relevant body determines otherwise, the member shall not—
  - (a) be present during any deliberation of the relevant body with respect to that matter; or
  - (b) take part in any decision of the relevant body with respect to that matter.
- (3) A member referred to in subsection (2) shall not—
  - (a) be present during any deliberation of the relevant body 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 relevant body of such a determination.
- (4) A member of a relevant body is not to be taken to have an interest in a matter only because of his or her office as member.

## **46 Resignation**

An appointed member of a relevant body may resign his or her office by writing signed by the member and delivered to the Minister.

## **47 Termination of appointment**

- (1) The Minister may terminate the appointment of a member of a relevant body at any time.

- (2) The Minister shall terminate the appointment of a member of a relevant authority if the member—
- (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 creditors; or
  - (b) is absent, except on leave granted under section 44, from 3 consecutive meetings of the relevant body; or
  - (c) fails, without reasonable excuse, to comply with an obligation imposed by section 45; or
  - (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer.

#### **48 Acting appointments**

- (1) The Minister may appoint a person to act as an appointed member of a relevant body—
- (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 for any reason unable to perform the functions of the office.
- (2) A person appointed to act as the member during a vacancy in the office of the member shall not so act continuously for more than 12 months.
- (3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subsection (1) is not invalid on the ground that—
- (a) the appointment was ineffective or had ceased to have effect; or
  - (b) the occasion to act had not arisen or had ceased.

## **Division 8.3 Powers and procedures**

### **49 Powers**

A relevant body has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

### **50 Ministerial control**

- (1) The Minister may, in writing, give a relevant body directions in relation to the performance or exercise of its functions or powers.
- (2) A relevant body shall comply with any direction given to it under subsection (1).

### **51 Delegation**

- (1) A relevant body may, either generally or as otherwise provided by resolution, delegate the performance or exercise of a function or power of the relevant body to—
  - (a) the chairperson, or any other member, of the relevant body; or
  - (b) a committee established by the relevant body under section 54;  
or
  - (c) a member of the staff of the relevant body; or
  - (d) a prescribed person or body.
- (2) A delegation of a function or power under this section may be revoked by resolution of the relevant body (whether or not constituted by the persons constituting the relevant body at the time the function or power was so delegated).
- (3) A certificate signed by the chairperson of a relevant body stating any matter with respect to a delegation of a function or power by the relevant body under this section is evidence of that matter.

- (4) A document purporting to be a certificate mentioned in subsection (4) shall, unless the contrary intention is established, be deemed to be such a certificate and to have been duly given.

## **52 Convening meetings**

- (1) The chairperson of a relevant body shall convene such meetings of the relevant body as the chairperson considers necessary for the performance of its functions.
- (2) Where the chairperson of a relevant body proposes to convene a meeting, the chairperson shall, not later than 7 days before the date of the proposed meeting, give to each member of the relevant body a notice in writing specifying—
- (a) the date, time and place of the meeting; and
  - (b) the matters to be considered at the meeting.

## **53 Procedure at meetings**

- (1) The chairperson of a relevant body shall preside at all meetings of the relevant body at which the chairperson is present.
- (2) If the chairperson is not present at a meeting, the members present shall elect one of their number to preside at the meeting.
- (3) At a meeting of the authority, 6 members including—
- (a) 1 of the members referred to in section 40 (1) (b); and
  - (b) 1 of the members referred to in section 40 (1) (c);
- constitute a quorum.
- (4) At a meeting of the council, 5 members including—
- (a) the member referred to in section 41 (1) (c); and
  - (b) the member referred to in section 41 (1) (d);
- constitute a quorum.

- (5) Questions arising at a meeting of a relevant body shall be decided by a majority of the votes of members present and voting.
- (6) The member presiding at a meeting of a relevant body has a deliberative vote only.
- (7) 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.
- (8) Subject to section 45 and this division, the member presiding at a meeting of a relevant body may determine the procedure to be followed at or in connection with the meeting.
- (9) A relevant body shall keep a written record of its proceedings.

## **Division 8.4                      Committees**

### **54      Establishment**

A relevant body may establish such committees as it thinks necessary to assist the relevant body in the performance of its functions, and may dissolve such committees.

### **55      Performance of functions**

- (1) Subject to any determination under subsection (2) by the relevant body mentioned in that subsection, a committee may determine the procedure to be followed in relation to its meetings.
- (2) The relevant body that establishes a committee may determine—
  - (a) the manner in which the committee is to perform its functions; and
  - (b) the procedure to be followed in relation to meetings of the committee, including matters with respect to—
    - (i) the convening of meetings; and
    - (ii) the quorum for meetings (including requirements that particular members be present); and

- (iii) the member of the committee who is to preside at meetings; and
- (iv) the manner in which questions arising at a meeting are to be decided; and
- (v) the keeping of records of its proceedings.

## **56 Membership**

- (1) A committee established under section 54 by a relevant body shall consist of such persons as are appointed by the relevant body.
- (2) A committee may consist—
  - (a) wholly of members of the relevant body; or
  - (b) partly of members of the relevant body 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 relevant body.
- (4) The relevant body may terminate the appointment of a member of a committee at any time.

## **57 Expenses of members**

- (1) Subject to subsection (2), a member of a committee established under section 54 is not entitled to be paid in respect of the performance of the member's functions.
- (2) The Territory shall reimburse a member for expenses reasonably incurred by the member in the performance of the member's functions.
- (3) Subsection (1) does not apply to a member who is also a member of the relevant body that established the committee.



## **Division 8.5                  Staff**

### **58      Staff of the authority and the council**

- (1) The authority may make arrangements with the chief executive for the use of the services of public servants in the administrative unit under the chief executive's control.
- (2) The council may make arrangements with the authority for the use of the services of public servants who are the subject of an arrangement under subsection (1).
- (3) The *Public Sector Management Act 1994* applies in relation to the management by the authority and the council of public servants who are the subject of an arrangement under this section.



- (c) request the employer or provider to provide information concerning—
  - (i) approved training conducted on the premises; or
  - (ii) vocational education and training courses provided on the premises; or
- (d) request the employer or provider to produce any document in the possession of the employer or provider containing information relating to—
  - (i) approved training conducted on the premises; or
  - (ii) vocational education and training courses provided on the premises.

## **60 Identity cards**

- (1) The authority shall issue to a member of a relevant body or a member of the staff of a relevant body an identity card that specifies the member's or staff member's name and office, and on which appears a recent photograph of the member or staff member.
- (2) A member or staff member who enters premises under section 59 (3) (a) is not authorised to remain on the premises if, on request by the occupier of the premises, the employer or the provider, the member or staff member does not show his or her identity card to the person who made the request.
- (3) Upon ceasing to be a member of a relevant body or a member of the staff of a relevant body, a person shall not, without reasonable excuse, fail to return his or her identity card to the relevant body.

Maximum penalty (subsection (3)): 1 penalty unit.

## **61 Obstructing official visits**

If an employer or a registered provider—

- (a) obstructs or hinders a member of a relevant body or a member of staff of a relevant body when he or she is entering premises

under section 59 (3) (a) or observing the conduct of training or the provision of a course under section 59 (3) (b); or

(b) refuses to provide information, or provides information that the employer or provider knows is false or misleading, in response to a request under section 59 (3) (c); or

(c) refuses to produce a document, or provides a document that the employer or provider knows contains false or misleading information, in response to a request under section 59 (3) (d);

the relevant body may—

(d) if the body is the authority—vary any approved training agreement to which the employer is a party; or

(e) if the body is the council—cancel the provider's registration.

## **Part 10**                      **Review of decisions**

### **62 Council's decisions**

- (1) Application may be made to the administrative appeals tribunal for review of a decision of the council—
  - (a) under section 17 (1) (a) accrediting a course subject to conditions; or
  - (b) under section 17 (1) (b) refusing to accredit a course; or
  - (c) under section 17 (3) determining a period for which a course is to remain accredited; or
  - (d) under section 19 (1) (a) registering a provider subject to conditions; or
  - (e) under section 19 (1) (b) refusing to register a provider; or
  - (f) under section 19 (4) determining a period for which a provider is to remain registered; or
  - (g) under section 20 (2) cancelling the registration of a provider; or
  - (h) under section 61 (e) cancelling the registration of a provider.
- (2) Where a decision of the kind referred to in subsection (1) (a), (b), (c), (d), (e) or (f) is made, the council shall give notice in writing of the decision to the applicant.
- (3) Where a decision of the kind referred to in subsection (1) (g) or (h) is made, the council shall give notice in writing of the decision to the provider.
- (4) A notice under this section shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

### **63 Authority's decisions**

- (1) Application may be made to the administrative appeals tribunal for review of a decision of the authority—
  - (a) under section 30 (2) (a) approving a training agreement subject to conditions; or
  - (b) under section 30 (2) (b) refusing to approve a training agreement; or
  - (c) under section 31 refusing to issue a qualification; or
  - (d) under section 36 (2) (a) approving a variation of an approved training agreement; or
  - (e) under section 36 (2) (b) refusing to approve a variation of an approved training agreement; or
  - (f) under section 37 varying an approved training agreement; or
  - (g) under section 39 (3) (a) making a finding of fact in relation to a matter concerning a training agreement; or
  - (h) under section 39 (3) (b) varying an approved training agreement; or
  - (j) under section 39 (3) (c) giving directions to a party to a training agreement; or
  - (k) under section 61 (d) varying an approved training agreement.
- (2) Where a decision of the kind referred to in subsection (1) (a), (b) or (c) is made, the authority shall give notice in writing of the decision to the applicant.
- (3) Where a decision of the kind referred to in subsection (1) (d), (e), (f), (g), (h), (j) or (k) is made, the authority shall give notice in writing of the decision to the parties to the agreement.

- (4) A notice under this section shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

#### **64 Modification of Administrative Appeals Tribunal Act, s 27**

- (1) This section applies in relation to a decision of the kind referred to in section 62 (1) (a) to (f) or section 63 (1) (a) to (f).
- (2) A person is not entitled to make application under section 62 (1) or 63 (1) for review of a decision—
- (a) until the period during which a request under section 38 (1) may be made has expired; or
  - (b) if a request in accordance with section 38 (1) has been made, until—
    - (i) the person who made the request is notified under section 38 (2) (c) of the outcome of the attempt to resolve the disagreement; or
    - (ii) the period referred to in section 38 (2) expires;
- whichever occurs first.
- (3) Where a request has been made in accordance with section 38 (1) in relation to a decision, the prescribed time for lodging an application under section 62 (1) or 63 (1) for review of the decision is the period commencing on the day on which the person who made the request becomes entitled under subsection (2) to make the application and ending on the 28th day after that day.

## Part 11 Miscellaneous

### 65 Protection of members

(1) No action or other proceeding, civil or criminal, lies against a person who is or has been—

- (a) a member of a relevant body; or
- (b) a member of a committee established by a relevant body under section 54;

in relation to an act done or omitted to be done in good faith in the performance or exercise, or purported performance or exercise, of a function or power under this Act or another law of the Territory.

(2) Nothing in subsection (1) shall be taken to affect any liability that the Territory would, but for that subsection, have in respect of an act or omission mentioned in that subsection.

### 66 Determination of fees

(1) The Minister may, in writing, determine fees for this Act.

*Note* The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### 67 Approved forms

(1) The council may, in writing, approve forms for this Act.

(2) If the council approves a form for a particular purpose, the approved form must be used for that purpose.

(3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.



## **68 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

### 3 Legislation history

#### **Vocational Education and Training Act 1995 No 37**

notified 31 October 1995 (Gaz 1995 No S266)  
s 1, s 2 commenced 31 October 1995 (s 2 (1))  
remainder (ss 3-68) commenced 1 January 1996 (s 2 (2) and Gaz 1995 No S322)

#### **Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1**

notified 19 September 1997 (Gaz 1997 No S264)  
s 1, s 2 commenced 19 September 1997 (s 2 (1))  
sch 1 commenced 23 September 1997 (s 2 (2) and Gaz 1997 No S280)

#### **Vocational Education and Training (Amendment) Act 1997 No 43**

notified 19 September 1997 (Gaz 1997 No S264)  
commenced 19 September 1997 (s 2)

#### **Vocational Education and Training Amendment Act 2000 No 44**

notified 11 September 2000 (Gaz 2000 No S51)  
commenced 11 September 2000 (s 2)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 411**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 411 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

### 4 Amendment history

#### **Commencement**

s 2 om 2001 No 44 amdt 1.4254

#### **Definitions for Act**

s 4 hdg sub 2000 No 44 s 4  
s 4 am 2000 No 44 s 4  
def **determined fee** om 2001 No 44 amdt 1.4255

#### **Annual report by authority**

s 8 sub 1997 No 43 s 4

#### **Annual report by council**

s 15 sub 1997 No 43 s 5

## Endnotes

4 Amendment history

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### **Accreditation of courses**

div 5.1 hdg (prev pt 5 div 1 hdg) renum R2 LA

### **Application for accreditation**

s 16 am 2000 No 44 s 5  
am 2001 No 44 amdts 1.4256-1.4258

### **Registration of providers**

div 5.2 hdg (prev pt 5 div 2 hdg) renum R2 LA

### **Application for registration**

s 18 am 2001 No 44 amdts 1.4259-1.4261

### **Deemed registration of pre-1996 providers**

s 19A ins 1997 No 43 s 6

### **Miscellaneous**

div 5.3 hdg (prev pt 5 div 3 hdg) renum R2 LA

### **False advertising—vocational education and training courses**

s 23 hdg sub 2000 No 44 s 6

### **False advertising—higher education courses**

s 23A ins 2000 No 44 s 7

### **Approved training and prescribed vocations**

div 6.1 hdg (prev pt 6 div 1 hdg) renum R2 LA

### **Determination of approved training**

s 25 am 2001 No 44 amdts 1.4262-1.4264

### **Determination of prescribed vocations**

s 26 am 2001 No 44 amdts 1.4265-1.4268

### **Publication in Gazette**

s 27 om 2001 No 44 amdt 1.4269

### **Conduct of approved training**

div 6.2 hdg (prev pt 6 div 2 hdg) renum R2 LA

### **Training agreements**

div 6.3 hdg (prev pt 6 div 3 hdg) renum R2 LA

### **Membership of authority and council**

div 8.1 hdg (prev pt 8 div 1 hdg) renum R2 LA

### **Membership of council**

s 41 am 2000 No 44 s 8

### **Members' terms and conditions**

div 8.2 hdg (prev pt 8 div 2 hdg) renum R2 LA

### **Remuneration and allowances**

s 43 om 1997 No 41

**Powers and procedures**

div 8.3 hdg (prev pt 8 div 3 hdg) renum R2 LA

**Delegation**

s 51 am 2001 No 44 amdt 1.4270, amdt 1.4271

**Committees**

div 8.4 hdg (prev pt 8 div 4 hdg) renum R2 LA

**Staff**

div 8.5 hdg (prev pt 8 div 5 hdg) renum R2 LA

**Determination of fees**

s 66 sub 2001 No 44 amdt 1.4272

**Approved forms**

s 67 sub 2001 No 44 amdt 1.4272

**Regulation-making power**

s 68 sub 2001 No 44 amdt 1.4272

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
1	Act 1997 No 43	31 January 1998

Authorised when accessed at [www.legislation.act.gov.au](http://www.legislation.act.gov.au) or in authorised printed form

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