

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education and Training)

Training and Tertiary Education Amendment Bill 2014

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(As presented)

(Minister for Education and Training)

Training and Tertiary Education Amendment Bill 2014

A Bill for

An Act to amend the *Training and Tertiary Education Act 2003*, and for other purposes

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

- 1 **1 Name of Act**
- 2 This Act is the *Training and Tertiary Education Amendment*
3 *Act 2014*.
- 4 **2 Commencement**
- 5 This Act commences on the 14th day after its notification day.
- 6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Training and Tertiary Education Act 2003*.
- 10 *Note 1* This Act also amends other legislation (see sch 1).
- 11 *Note 2* This Act also repeals other legislation (see s 59).
- 12 **4 Long title**
- 13 *substitute*
- 14 An Act about vocational education and training, and for other
15 purposes
- 16 **5 Preliminary**
17 **Chapter 1**
- 18 *renumber as part 1*
- 19 **6 Section 3**
- 20 *substitute*
- 21 **3 Objects of Act**
- 22 The objects of this Act are to—
- 23 (a) regulate apprenticeships and traineeships; and

1 (b) support quality assurance and best management practices for
2 vocational education and training; and

3 (c) encourage awareness in the community of the need for, and to
4 promote the development of, vocational education and training
5 that is relevant to industry.

6 **7 Dictionary** 7 **Section 4, note 1**

8 *substitute*

9 *Note 1* The dictionary at the end of this Act defines certain terms used in this
10 Act, and includes references (*signpost definitions*) to other terms
11 defined elsewhere.

12 For example, the signpost definition '*registered training organisation*
13 (or *RTO*)—see the [Commonwealth Act](#), section 3.' means that the term
14 'registered training organisation' is defined in that section and the
15 definition applies to this Act.

16 **8 Chapters 2 and 3**

17 *substitute*

18 **Part 2 Vocational education and** 19 **training**

20 **7 Functions of director-general**

21 The director-general has the following functions:

22 (a) to inquire into, and advise the Minister on, issues about
23 vocational education and training;

24 (b) to facilitate recognition and quality assurance in the provision
25 of vocational education and training;

26 (c) to ensure a strong policy framework for the delivery of
27 vocational education and training in the ACT;

1 (d) to establish a simple, streamlined system for apprenticeships
2 and traineeships;

3 (e) any other function given to the director-general under this Act.

4 **9 Work-related training and training contracts**
5 **Chapter 3A**

6 *renumber as part 3*

7 **10 New section 55AA**

8 *insert*

9 **55AA Probationary period for training contract**

10 (1) The director-general may determine a period of probation under a
11 training contract (a *probationary period*).

12 **Examples**

13 1 A probationary period of 60 days may be determined for a 2-year traineeship.

14 2 A probationary period of 90 days may be determined for a 4-year
15 apprenticeship.

16 *Note 1* Power to make a statutory instrument includes power to make different
17 provisions in relation to different matters or different classes of matters
18 (see [Legislation Act](#), s 48).

19 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
20 does not limit, the meaning of the provision in which it appears (see
21 [Legislation Act](#), s 126 and s 132).

22 (2) A determination is a notifiable instrument.

23 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

24 **11 Training contracts for qualification or statement of**
25 **attainment**
26 **Section 55D (2)**

27 *omit*

28 or the council

1 **12 New section 55FA**

2 *insert*

3 **55FA Ending training contract during probationary period**

- 4 (1) This section applies if—
- 5 (a) an employer and another person (an *apprentice or trainee*)
- 6 have entered into an approved training contract; and
- 7 (b) a probationary period has been determined for the contract.
- 8 (2) The employer or the apprentice or trainee may end the contract
- 9 before the end of the probationary period.

10 **13 Director-general may suspend, cancel or amend contract**

11 **Section 55H (b)**

12 *omit*

13 the trainee

14 *substitute*

15 the apprentice or trainee

16 **14 Section 55I heading**

17 *substitute*

18 **55I Dispute between employer and apprentice or trainee**

- 1 **15 Section 55I (4)**
2 *omit*
- 3 **16 Chapters 4 and 5**
4 *omit*
- 5 **17 General**
6 **Chapter 6 heading**
7 *omit*
- 8 **18 Visits to premises**
9 **Part 6.1**
10 *renumber as part 4*
- 11 **19 Section 99 heading**
12 *substitute*
- 13 **99 Visits by director-general—RTO premises**
- 14 **20 Section 99 (1)**
15 *substitute*
- 16 (1) The director-general may give an RTO written notice that a person
17 authorised by the director-general proposes to visit premises where
18 the RTO is conducting, or proposing to conduct, training or
19 assessment as part of a VET course.
- 20 *Note RTO—see the dictionary.*
- 21 **21 Section 99 (4)**
22 *omit*
23 member, staff member or

- 1 **22 Section 99 (5)**
- 2 *omit*
- 3 A member, staff member or
- 4 *substitute*
- 5 An
- 6 **23 New section 99 (6)**
- 7 *after the note, insert*
- 8 (6) In this section:
- 9 *VET course*—see the [Commonwealth Act](#), section 3.
- 10 **24 Visits by council—higher education provider premises**
- 11 **Section 100**
- 12 *omit*
- 13 **25 Identity cards**
- 14 **Section 101 (1) and (2)**
- 15 *omit*
- 16 relevant authority
- 17 *substitute*
- 18 director-general

1 **26 Section 101 (4)**

2 *omit*

3 **27 Obstructing visits—council**
4 **Section 103**

5 *omit*

6 **28 Section 103A**

7 *substitute*

8 **103A Obstructing visits—director-general**

9 (1) This section applies if the director-general is satisfied that an
10 employer or RTO—

11 (a) without reasonable excuse, obstructs or hinders a person
12 entering premises or observing training under section 99 (4) (a)
13 or (b) (Visits by director-general—RTO premises) or
14 section 99A (4) (a) or (b) (Visits by director-general—training
15 contract premises); or

16 (b) refuses to give information, or gives information that the
17 employer or RTO knows is false or misleading in response to a
18 request under section 99 (4) (c) or section 99A (4) (c); or

19 (c) refuses to produce a document, or produces a document that
20 the employer or RTO knows contains false or misleading
21 information, in response to a request under section 99 (4) (d) or
22 section 99A (4) (d).

23 (2) The director-general may suspend or cancel the approval of, or
24 amend, an approved training contract to which the employer is a
25 party or under which the RTO delivers work-related training.

1	29	Notification and review of decisions
2		Part 6.2
3		<i>renumber as part 5</i>
4	30	Reviewable decision notices
5		Section 105
6		<i>omit</i>
7		council or Minister
8		<i>substitute</i>
9		director-general
10	31	Time for lodging ACAT review applications for s 55 and
11		s 80 decisions—ACAT Act, s 11
12		Section 107
13		<i>omit</i>
14	32	Other provisions
15		Part 6.3
16		<i>renumber as part 6</i>
17	33	CRICOS approval
18		Section 108 (2), definition of <i>CRICOS</i>
19		<i>omit</i>
20		section 10
21		<i>substitute</i>
22		section 14A

1 **34 Section 112**

2 *substitute*

3 **112 Approved forms**

- 4 (1) The director-general may approve forms for this Act.
5 (2) If the director-general approves a form for a particular purpose, the
6 form must be used for that purpose.

7 *Note* For other provisions about forms, see the [Legislation Act](#), s 255.

- 8 (3) An approved form is a notifiable instrument.

9 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

10 **35 Regulation-making power**
11 **Section 113 (2)**

12 *omit*

13 **36 Schedule 1**

14 *substitute*

15 **Schedule 1 Reviewable decisions**

16 (see pt 6.2)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	55B (1) (Approval of training contract)	refusing to approve a training contract	applicant for approval
2	55B (3)	approving a training contract subject to conditions	applicant for approval

column 1 item	column 2 section	column 3 decision	column 4 entity
3	55G (2) (a) (Party may ask for amendment)	approving an amendment of an approved training contract	each party to the contract
4	55G (2) (b)	refusing to approve an amendment of an approved training contract	each party to the contract
5	55H (Director-general may suspend, cancel or amend contract)	suspending or cancelling approval of a training contract	each party to the contract
6	55H	amending an approved training contract	each party to the contract
7	55I (5) (a) (Dispute between employer and apprentice or trainee)	making a finding of fact about a matter in relation to a training contract	each party to the contract
8	55I (5) (b)	amending an approved training contract	each party to the contract
9	55I (5) (c)	giving directions to a party to an approved training contract	each party to the contract
10	103A (2) (Obstructing visits—director-general)	suspending or cancelling approval of an approved training contract	each party to the contract
11	103A (2)	amending an approved training contract	each party to the contract

37 Dictionary, note 2

omit

- bankrupt or personally insolvent
- corporation

1 **38 Dictionary, note 2**

2 *omit*

- 3 • person

4 *substitute*

- 5 • person (see s 160)

6 **39 Dictionary, definitions of *accredited course* and**
7 ***accreditation***

8 *omit*

9 **40 Dictionary, new definition of *apprentice or trainee***

10 *insert*

11 *apprentice or trainee* means a person who undertakes an
12 apprenticeship or traineeship under an approved training contract.

13 **41 Dictionary**

14 *omit the definitions of*

15 *AQF*

16 *AQTF*

17 *committee*

18 **42 Dictionary, new definition of *Commonwealth Act***

19 *insert*

20 *Commonwealth Act* means the *National Vocational Education and*
21 *Training Regulator Act 2011* (Cwlth).

1 **43 Dictionary**

2 *omit the definitions of*
3 *compliance audit*
4 *corresponding law*
5 *council*
6 *course accrediting body*

7 **44 Dictionary, definition of employer**

8 *substitute*
9 *employer*, for an apprentice or trainee, means the person who is
10 obliged under a training contract to employ the apprentice or trainee.

11 **45 Dictionary**

12 *omit the definitions of*
13 *foreign university*
14 *franchise arrangement*
15 *higher education award*
16 *higher education course*
17 *higher education provider*
18 *higher education standards*
19 *jurisdiction*
20 *legislative compliance standard*
21 *ministerial council*
22 *nationally endorsed*
23 *national protocols*

1 *national register*

2 *national training framework*

3 **46 Dictionary, new definition of *probationary period***

4 *insert*

5 *probationary period*—see section 55AA.

6 **47 Dictionary, definition of *prohibition***

7 *omit*

8 **48 Dictionary, definition of *qualification***

9 *substitute*

10 *qualification* means a VET qualification under the [Commonwealth](#)
11 [Act](#).

12 **49 Dictionary, definition of *registered***

13 *omit*

14 **50 Dictionary, definition of *registered training organisation***

15 *substitute*

16 *registered training organisation* (or *RTO*)—see the [Commonwealth](#)
17 [Act](#), section 3.

18 **51 Dictionary**

19 *omit the definitions of*

20 *registering body*

21 *registration*

22 *restriction*

- 1 **52 Dictionary, definition of *RTO***
- 2 *substitute*
- 3 *RTO*—see *registered training organisation*.
- 4 **53 Dictionary**
- 5 *omit the definitions of*
- 6 *RTO standards*
- 7 *scope of registration*
- 8 *standards for accreditation of courses*
- 9 *standards for registered training organisations*
- 10 *standards for State and Territory registering and course*
- 11 *accrediting bodies*
- 12 **54 Dictionary, definition of *statement of attainment***
- 13 *substitute*
- 14 *statement of attainment* means a VET statement of attainment
- 15 under the [Commonwealth Act](#).
- 16 **55 Dictionary**
- 17 *omit the definitions of*
- 18 *trades and labour council*
- 19 *trainee*
- 20 *training package*
- 21 *unit of competency*
- 22 *university*
- 23 *university advisory panel*

1 **56 Dictionary, definition of vocational education and training**

2 *substitute*

3 *vocational education and training* means the education and training
4 and qualifications and statements of attainment under the vocational
5 education and training provisions of the AQF, being the Australian
6 Qualifications Framework under the [Commonwealth Act](#), section 3.

7 **57 Dictionary, definition of vocational education and training**
8 **course**

9 *omit*

10 **58 Act—renumbering**

11 *renumber provisions when Act next republished under [Legislation](#)*
12 *Act*

13 **59 Legislation repealed**

14 The following legislation is repealed:

- 15 • [Training and Tertiary Education Regulation 2004](#) (SL2004-22)
- 16 • [Training and Tertiary Education \(Fees\) Determination 2014](#)
17 (DI2014-196)
- 18 • [Tertiary Accreditation and Registration Council Direction 2004](#)
19 (*No 1*) (NI2004-470)
- 20 • [Training and Tertiary Education \(Accreditation and](#)
21 [Registration Council\) Direction 2008 \(No 1\)](#) (NI2008-59).

Schedule 1 Consequential amendments

Part 1.1 ACT Teacher Quality Institute Regulation 2010

[1.1] Section 7 (1) (c) (i)

substitute

(i) provided by a registered higher education provider; and

[1.2] Section 7 (2)

substitute

(2) In this section:

registered higher education provider—see the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth), section 5.

Part 1.2 Agents Regulation 2003

[1.3] Section 3, note 1

substitute

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition '*agent*, for schedule 8 (Rules of conduct)—see schedule 8, section 8.1.' means that the term 'agent' is defined in that section for schedule 8.

[1.4] Dictionary, definition of *registered training organisation*

substitute

registered training organisation—see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

1 **[1.5] Dictionary, definition of *statement of attainment***
2 *substitute*
3 *statement of attainment* means the VET statement of attainment
4 under the *National Vocational Education and Training Regulator*
5 *Act 2011* (Cwlth).

6 **Part 1.3 Building and Construction**
7 **Industry Training Levy Act 1999**

8 **[1.6] Section 28 (4), definition of *registered training***
9 ***organisation***
10 *substitute*
11 *registered training organisation*—see the *National Vocational*
12 *Education and Training Regulator Act 2011* (Cwlth), section 3.

13 **Part 1.4 Children and Young People**
14 **Act 2008**

15 **[1.7] Section 25 (3), definition of *ACT education provider,***
16 ***paragraphs (c) to (e)***
17 *substitute*
18 (c) a registered training organisation under the *National*
19 *Vocational Education and Training Regulator Act 2011*
20 (Cwlth), section 3;
21 (d) a registered higher education provider under the *Tertiary*
22 *Education Quality and Standards Agency Act 2011* (Cwlth).

1 **Part 1.5** **Construction Occupations**
2 **(Licensing) Act 2004**

3 **[1.8] Section 55A (6), definition of *registered training***
4 ***organisation***

5 *substitute*

6 *registered training organisation*—see the [National Vocational](#)
7 [Education and Training Regulator Act 2011](#) (Cwlth), section 3.

8 **Part 1.6** **Construction Occupations**
9 **(Licensing) Regulation 2004**

10 **[1.9] Section 14 (6), definition of *registered training***
11 ***organisation***

12 *substitute*

13 *registered training organisation*—see the [National Vocational](#)
14 [Education and Training Regulator Act 2011](#) (Cwlth), section 3.

15 **[1.10] Section 35 (3) (c) (iii) and (v)**

16 *omit*

17 accredited course

18 *substitute*

19 VET course

1 **[1.11] Section 35 (4), definition of *accredited course***

2 *omit*

3 **[1.12] Section 35 (4), definition of *relevant person***

4 *omit*

5 accredited course

6 *substitute*

7 VET course

8 **[1.13] Section 35 (4), definition of *trainee*, paragraph (b)**

9 *omit*

10 an accredited course

11 *substitute*

12 a VET course

13 **[1.14] Section 35 (4), new definition of *VET course***

14 *insert*

15 *VET course*—see the *National Vocational Education and Training*
16 *Regulator Act 2011* (Cwlth), section 3.

1 **Part 1.7** **Crimes (Child Sex Offenders)**
2 **Act 2005**

3 **[1.15] Section 124 (1) (s)**

4 *omit*

5 work-related training contracts

6 *substitute*

7 approved training contracts

8 **[1.16] Section 124 (2), definition of *educational institutions for***
9 ***children*, paragraph (b)**

10 *substitute*

11 (b) a registered training organisation under the *National*
12 *Vocational Education and Training Regulator Act 2011*
13 (Cwlth), section 3;

14 (c) a registered higher education provider under the *Tertiary*
15 *Education Quality and Standards Agency Act 2011* (Cwlth).

16 **Part 1.8** **Education Act 2004**

17 **[1.17] Table 9A, items 3 to 7**

18 *substitute*

3	a course of study leading to the completion of year 10 or year 12	a registered training organisation under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3
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Schedule 1 Consequential amendments
Part 1.9 Electricity Feed-in (Renewable Energy Premium) Act 2008

Amendment [1.18]

4	a VET course under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3	a registered training organisation under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3
5	an accredited course under the <i>Tertiary Education Quality and Standards Agency Act 2011</i> (Cwlth)	a registered higher education provider under the <i>Tertiary Education Quality and Standards Agency Act 2011</i> (Cwlth)

1 **Part 1.9** **Electricity Feed-in (Renewable**
2 **Energy Premium) Act 2008**

3 **[1.18] Section 5F (3), definition of *educational institution***

4 *substitute*

5 *educational institution* means—

- 6 (a) a government school or school-related institution established
7 under the *Education Act 2004*, section 20; or
8 (b) a registered higher education provider under the *National*
9 *Vocational Education and Training Regulator Act 2011*
10 (Cwlth).

11 **[1.19] Section 5F (3), definition of *higher education provider***

12 *omit*

1 **Part 1.10** **Food Act 2001**

2 **[1.20] Section 116, definition of *registered training organisation***

3 *substitute*

4 *registered training organisation*—see the [National Vocational](#)
5 [Education and Training Regulator Act 2011](#) (Cwlth), section 3.

6 **[1.21] Section 116, definition of *statement of attainment***

7 *before*

8 training organisation

9 *insert*

10 registered

11 **Part 1.11** **Liquor Act 2010**

12 **[1.22] Section 188, definition of *registered training organisation***

13 *substitute*

14 *registered training organisation*—see the [National Vocational](#)
15 [Education and Training Regulator Act 2011](#) (Cwlth), section 3.

1 **Part 1.12 Long Service Leave (Portable**
2 **Schemes) Act 2009**

3 **[1.23] Schedule 1, section 1.1 (2) (e)**

4 *omit*

5 under the *Training and Tertiary Education Act 2003*

6 *substitute*

7 under the *National Vocational Education and Training Regulator*
8 *Act 2011* (Cwlth), section 3

9 **Part 1.13 Payroll Tax Act 2011**

10 **[1.24] Schedule 2, section 2.16 heading**

11 *substitute*

12 **2.16 Exemption from tax—apprentices or trainees under**
13 **approved training contracts**

14 **[1.25] Schedule 2, section 2.16 (1)**

15 *omit*

16 a trainee

17 *substitute*

18 an apprentice or trainee

1 **[1.26] Schedule 2, section 2.16 (1) and (2)**

2 *omit*

3 the trainee

4 *substitute*

5 the apprentice or trainee

6 **[1.27] Schedule 2, section 2.16 (3) (b) and (c)**

7 *omit*

8 trainees

9 *substitute*

10 apprentices or trainees

11 **[1.28] Schedule 2, section 2.16 (4), new definition of *apprentice***
12 ***or trainee***

13 *insert*

14 ***apprentice or trainee***—see the *Training and Tertiary Education*
15 *Act 2003*, dictionary.

16 *Note* ***Apprentice or trainee*** is defined as a person who undertakes an
17 apprenticeship or traineeship under an approved training contract.

18 **[1.29] Schedule 2, section 2.16 (4), definition of *trainee* and note**

19 *omit*

1 **Part 1.14 Planning and Development**
2 **Regulation 2008**

3 **[1.30] Section 108 (1) (a) (iii) and (iv) and note**

4 *substitute*

5 (iii) a registered training organisation under the *National*
6 *Vocational Education and Training Regulator Act 2011*
7 (Cwlth), section 3; or

8 (iv) a registered higher education provider under the *Tertiary*
9 *Education Quality and Standards Agency Act 2011*
10 (Cwlth); and

11 **[1.31] Section 108 (5), definitions of *authorised* and *university***

12 *omit*

13 **Part 1.15 Road Transport (Driver**
14 **Licensing) Regulation 2000**

15 **[1.32] Section 62 (5), definition of *registered training***
16 ***organisation***

17 *substitute*

18 *registered training organisation*—see the *National Vocational*
19 *Education and Training Regulator Act 2011* (Cwlth), section 3.

1 **Part 1.16** **Security Industry Act 2003**

2 **[1.33] Section 26 (5)**

3 *substitute*

4 (5) In this section:

5 *trainee* means a person undertaking training under an approved
6 training contract under the *Training and Tertiary Education*
7 *Act 2003*.

8 **Part 1.17** **Security Industry**
9 **Regulation 2003**

10 **[1.34] Section 15**

11 *omit*

12 under the *Training and Tertiary Education Act 2003*

13 *substitute*

14 under the *National Vocational Education and Training Regulator*
15 *Act 2011* (Cwlth), section 3

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 25 September 2014.

2 Notification

Notified under the [Legislation Act](#) on 2014.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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