

1995

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

VOCATIONAL EDUCATION AND TRAINING BILL 1995

EXPLANATORY MEMORANDUM

Circulated by authority of

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Minister for Education and Training

Explanatory Memorandum

Outline

The Bill provides for new arrangements to manage the vocational education and training system in response to wide ranging changes across the system at the national level. It replaces the Vocational Training Act 1989.

The Bill introduces more flexible, less regulatory approaches to entry level training following the establishment of the Australian Vocational Training System. At the same time, it provides for the new functions of a State training agency required following the establishment by the Commonwealth of the Australian National Training Authority known by its acronym, ANTA.

The Bill will provide for much greater access to entry level training opportunities by making the system more relevant to employers in the ACT.

There will be a new Authority of 11 members. For the first time, accreditation and registration arrangements will be given legislative underpinning. The Accreditation and Registration Council will be responsible for these matters and will comprise nine members.

The Authority will be industry driven to ensure that the current and future needs of ACT industry are the focus of the ACT vocational education and training system.

Revenue/Cost Implications

The Bill has no revenue or cost implications. The new arrangements have been premised on there being no additional costs to the ACT Budget. However under the National Vocational Education and Training System, the Commonwealth provides significant guaranteed and increasing recurrent funding for training in the ACT.

PART 1 - PRELIMINARY

This part provides for the formal matters of the Act including the short title, the citation of the Bill once enacted, its commencement and the objects of the Act. The broad objectives cover planning and evaluation, regulation, quality assurance and promotion of vocational education and training. Also included in this Part is the interpretation section of the Act.

The delayed commencement will allow time for the establishment of the Vocational Education and Training Authority and the Accreditation and Registration Council.

PART II VOCATIONAL EDUCATION AND TRAINING AUTHORITY

Part II provides for the establishment of the Vocational Education and Training Authority and its functions. The Authority replaces the Vocational Training Authority established in 1989. Under this Part, the Authority is required to consult with relevant organisations in the performance of its functions and to prepare an annual report. There is provision also for the Authority to be the State Training Agency.

The functions of the Authority include an advisory role to the Minister, a planning and management role for the vocational education and training system, a service delivery role to clients, a promotional role to the general community on training matters and a research role. Separate functions are identified where the Authority is nominated as the State Training Agency under the National Vocational Education and Training System (NVETS) Statement. These functions include the development in conjunction with ANTA of an annual State Training Profile, the management of national projects and programs in the Territory and the monitoring of the use of funds for vocational education and training against the State Training Profile in the Territory.

Consultation with stakeholders, especially industry training advisory bodies and employer and employee interests in the vocational education and training system will be fundamental to the Authority's operations to ensure that the Authority is acting in a flexible and responsible manner.

This Part also provides for the Vocational Education and Training Authority to be the State Training Authority on the nomination of the Minister for the purposes of the Australian National Training Authority (ANTA) Act. The discretion afforded the Minister is consistent with the discretion provided State and Territory Ministers in the NVETS Statement in the ANTA Act.

PART III - FUNCTIONS OF AUSTRALIAN NATIONAL TRAINING AUTHORITY

Part III deals with the functions and powers in the ACT of the Australian National Training Authority and include developing annual State Training Profiles, ensuring that the management of vocational education and training in the Territory is in accordance with the National Vocational Education and Training Statement, providing advice to ANTA to assist it in the development of national policies and priorities for vocational education and training. These functions are limited to those set out in the ANTA Act.

PART IV - ACCREDITATION AND REGISTRATION COUNCIL

Part IV deals with the establishment of the Accreditation and Registration Council and its functions. The Council replaces the ACT Accreditation Agency. The functions of the Council include the accreditation of courses - in the schools sector, the vocational education and training sector and the higher education sector - and the registration of training providers.

In these roles it will be the quality assurance body for training in the ACT and will build on established processes which ensure that industry has a direct influence on training quality. The Council will operate in a manner consistent with the Agreement for a National Framework for the Recognition of Training of 1992. It will also be required to take into account the views of the Authority when making decisions.

The Council is required to prepare an annual report.

PART V ACCREDITATION OF COURSES AND REGISTRATION OF PROVIDERS

Division 1 - Accreditation of courses

This Division provides for accreditation applications and sets out the matters which the Accreditation and Registration Council will take into account in making a decision to accredit or not to accredit a training course. Accreditation of vocational education and training courses ensures that:

- the content and standards of a course are appropriate to the qualification that is received
- the course and methods of delivering it fulfil the purpose for which it was introduced
- the curriculum and assessment are based on national competency standards which are set by industry to ensure the training system is responsive to industry needs

Accreditation of courses under the National Framework for the Recognition of Training establishes common approaches to accreditation to achieve national consistency in the recognition of vocational education and training courses.

Division 2 - Registration of Providers

This Division provides for training providers to apply for registration. Registration is the formal recognition by the Council that a provider is competent to deliver a particular accredited course. The Division sets out the matters on which the Council needs to be satisfied before registering a training provider. These matters include the facilities and equipment proposed to be used, the qualifications, knowledge and skills of the teachers, trainers and assessors, the financial safeguards proposed to protect the interests of fee paying participants and whether the applicant's policies and practices are consistent with responsible and ethical conduct.

Division 3 - Miscellaneous

This Division requires the Council keep a register of accredited courses and registered training providers which will be accessible to the public. It makes it an offence for a person to claim its courses are accredited and its organisation registered if accreditation and registration has not been granted. An employer's ability to train an employee outside the context of an accredited course or being registered is not restricted by this Division.

PART VI - TRAINING

This Part is broadly consistent with arrangements in other States and Territories and provides for the regulation of entry level training, that is the training taken to gain entry to the work force involving structured on-the-job and off-the-job training leading to a vocational education and training qualification. The training is provided under apprentice and trainee arrangements which are employment contracts between an employer and employee. Essentially the Division is about ensuring the on-the-job training component of the training meets minimum quality assurance standards when the on-the-job provider is not a registered training provider under the registration provisions of Part V. These provisions generally relate to institutional training providers such as TAFE Colleges, private training providers such as business colleges and the larger employers. The requirement that a small business like the neighbourhood garage should be registered would discourage these businesses from taking on apprentices/trainees.

Division 1 Approved Training and Prescribed Vocations

Division 1 provides for the approval of specific entry level training and for the prescription of trades or vocations.

In relation to the approval of sequences of training, only accredited or other recognised training will be approved. Determining that an accredited entry level course is approved is necessary to identify the specific training for the purpose of inclusion in the employer/employee training agreement (when several accredited training courses may exist covering the same endorsed competencies).

The Authority may also determine that a trade or other occupation is prescribed. The effect of such a determination is to require that all entry level training in that trade or occupation is provided under apprentice or trainee arrangements to ensure conformity with the National Vocational Training System (AVTS). The AVTS is a new system of vocational education and training based on nationally endorsed competency standards and which combines both on-the-job and off-the-job training. The System provides for national qualifications at the Certificate I to IV levels. Entry level training provided under traineeships and apprenticeships lead to Certificates II or III.

The provisions of Division 1 reflects the Commonwealth's requirements in relation to the payment of training subsidies to employers. To be eligible for Commonwealth

subsidies, training must be approved, be in prescribed trades or occupations and be covered by a training agreement

Division 2 - Conduct of Approved Training

This Division provides for the conduct of approved training conducted under a training agreement between an employer and the apprentice or trainee (the employee). The Vocational Education and Training Authority is required to approve the agreement to ensure that the relationship between the employer and employee as apprentice or trainee is appropriate.

The Authority will approve the training agreement if it is satisfied that the employer, as the provider of the on-the-job training, has suitable facilities, equipment and qualified staff to provide the training. The Authority has also to be satisfied that the employer will comply with the relevant industrial award and importantly will behave in an appropriate manner towards the employee.

This Division also allows the Authority to issue a qualification to a person who has acquired the relevant knowledge and skills for that qualification, whether by completing approved training or by learning on-the-job.

Where a trainee is required to attend off the job training outside the Territory in a trade or vocation prescribed by the Authority, the trainee is entitled to financial support from the Authority to cover travel and a daily subsidy for living expenses.

Division 3 - Training agreements

This Division sets out the employer's and employee's obligations under a training agreement. The context of these provisions centres on the notion of reciprocal obligation - that of the employer to offer appropriate and professional training while the trainee is in the workplace and to meet normal employer obligations. On the part of the trainee, the obligation is to participate in all training whether on or off-the-job and to contribute positively while in the workplace.

The Division also allows the Authority to approve variations in the training agreement, including termination of the agreement.

PART VII - DISAGREEMENTS AND DISPUTES

This Part provides an informal process of dispute resolution available to

- an applicant for accreditation of a course or registration as a training provider who disagrees with a decision of the Council
- an applicant for approval of a training agreement who disagrees with a decision of

- the Authority
- disputing parties to an approved training agreement.

An applicant or party has 14 days after being notified of a decision to seek a review by a committee of the Authority. The Authority has 28 days to make a decision on the dispute.

The procedures are in addition to any rights of review by the Administrative Appeals Tribunal

PART VIII - ADMINISTRATION OF AUTHORITY AND COUNCIL

This Part provides for the membership of the Vocational Education and Training Authority and the Accreditation and Training Council, the terms and conditions of members and the powers and procedures of the Council and Authority. The Authority will have a membership of 11 and the Council will comprise nine members. As the Authority will be industry driven, a significant proportion of the membership will be drawn from ACT industry.

The Part also includes arrangements for the staffing of the Authority and Council. Essentially these arrangements provide for staff to be officers of the agency to which the Council and Authority are attached, namely the Department of Education and Training.

PART IX - VISITS TO PREMISES BY AUTHORITY AND COUNCIL

This Part provides for the staff of the Authority and Council to formally visit the premises of registered training providers and employers who are party to a training agreement to investigate the training being undertaken. It sets out conditions under which such visits may occur including the provision of notice in writing. The circumstances of such visits would usually be to investigate possible breaches of registration conditions or breaches of training agreements.

PART X - REVIEW OF DECISIONS

This Part sets out those decisions of the Council and Authority which may be reviewed by application to the Administrative Appeals Tribunal.

PART XI - MISCELLANEOUS

This Part provides protection to members of the Council and Authority from civil and criminal proceedings in relation to their actions as members taken in good faith. It provides for the Minister to determine fees and for the making of regulations by the Executive. It also provides that strict compliance with any official forms is not necessary and that substantial compliance would, depending on the circumstances, be sufficient.