

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

TRAINING AND TERTIARY EDUCATION LEGISLATION AMENDMENT BILL 2007

EXPLANATORY STATEMENT

**Circulated by the Authority of
Andrew Barr MLA
Minister for Education and Training**

TRAINING AND TERTIARY EDUCATION LEGISLATION AMENDMENT BILL 2007

EXPLANATORY STATEMENT

Overview of the Bill

The purpose of this bill is to repeal the *Vocational Education and Training Act 2003* and amend the *Tertiary Accreditation and Registration Act 2003* to:

- permit certain clauses from the *Vocational Education and Training Act 2003* that are required for the governance of apprenticeships in the ACT to be retained and inserted into the *Tertiary Accreditation and Registration Act 2003*
- rename the act to more accurately reflect its expanded scope;
- accommodate necessary references to revised National Protocols for Higher Education Approval Processes;
- allow for efficient, expert advice on the eligibility of an application for university status in the Territory; and
- give the Chair of the Accreditation and Registration Council authority to nominate approved providers of courses for overseas students to the Commonwealth Register of Institutions and Courses for Overseas Students.

Details of the Bill

Clause 1 Names the Act as the *Training and Tertiary Education Legislation Amendment Act 2007*.

Clause 2 Provides the commencement provisions, noting that this Act will commence on a day fixed by the Minister by written notice.

Clause 3 Declares that it is the *Tertiary Accreditation and Registration Act 2003* that is being amended and the *Vocational Education and Training Act 2003* that is being repealed.

Clause 4 Renames the *Tertiary Accreditation and Registration Act 2003* the *Training and Tertiary Education Act 2003*.

Clause 5 Amends the functions of Council to remove reference to the Vocational Education and Training Authority.

Clause 6 Amends the section so that it reads consistently with the rest of the Act in that accreditation is always mentioned before registration

Clause 7 Removes reference to the Vocational Education and Training Authority.

Clause 8 Provides improved higher education representation on Council, resulting in a more balanced composition.

Clause 9 Removes reference to a person who is nominated by the authority to represent the interests of the authority.

Clause 10 Removes reference to a Council member also being an authority member.

Clause 11 Inserts an additional provision that allows Council to make valid resolutions, even if they are not passed at a meeting of the council, provided at least two thirds of the members agree to the proposed resolution in writing or by electronic communications. This will allow Council to more readily and legally make resolutions on issues that may arise without notice.

Clause 12 Inserts those provisions of the repealed *Vocational Education and Training Act 2003*, relating to governance and administration, required to retain the ACT Government's authority to enforce good conduct and good practice by employers of apprentices and trainees and resolve disputes related to training. All references to the Vocational Education and Training Authority have been replaced by references to the chief executive.

Clause 13 Amends the current provision to incorporate the Council's involvement in the consideration of proposals for an ACT university and applications for approval as a foreign university.

Clause 14 Amends the current provision to incorporate the Council's involvement in the consideration of proposals for an ACT university and applications for approval as a foreign university.

Clause 15 Inserts a new section giving the Council responsibility to consider and advise on proposals for ACT universities, eliminating unnecessary expenditure of time and other resources if the applicant clearly has little chance of meeting minimum criteria as defined in the National Protocols and the Council's guidelines.

Clause 16 Amends the current provision to incorporate the Council's involvement in the consideration of proposals for an ACT university and applications for approval as a foreign university.

Clause 17 Amends the current provision to take into account Council's earlier involvement in the consideration of proposals for an ACT university and applications for approval as a foreign university.

Clause 18 Inserts a new section giving the Council responsibility to consider and advise on applications from foreign universities, eliminating unnecessary expenditure of time and other resources if the applicant clearly has little chance of meeting minimum criteria as defined in the National Protocols and the Council's guidelines.

Clause 19 Amends the current provision to incorporate the Council's involvement in the consideration of applications for approval as a foreign university.

Clause 20 Under the *Vocational Education and Training Act 2003*, the Vocational Education and Training Authority had the power to inspect premises. This amendment inserts a new section giving that same power to the chief executive.

Clause 21 Amends the current provision to include reference to the chief executive and Council.

Clause 22 Amends the current provision to include reference to the chief executive and Council.

Clause 23 Amends the current provision to provide clarity about the responsibilities of the chief executive and Council.

Clause 24 Amends the heading of this section to clarify that this section refers to Council visits.

Clause 25 Inserts a new section giving the chief executive the powers to suspend, cancel or amend a training contract where a visit, in relation to a training contract, has been obstructed.

Clause 26 Corrects an error in the current provision whereby a reference is made to an incorrect section of the act.

Clause 27 This amendment removes the existing section 108 and 109 in the Act. These sections are no longer needed as the Criminal Code, section 337 and 374 now deals with these matters. This amendment also brings the ACT into line with other jurisdictions, all of whom nominate an authority to perform these ESOS-related functions in their legislation.

Clause 28 Amends section 112 to include reference to the chief executive and provides clear delineation of responsibility for approving forms.

Clause 29 Inserts a new chapter into the Act outlining the transitional provisions that will maintain the existing regime.

Clause 30 Amends Schedule 1 to include the reviewable decisions that will be retained from the repealed *Vocational Education and Training Act 2003*.

Clause 31 Inserts two new items into Schedule 1 allowing reviewable decisions to be made under the new section 103A – see amendment 25.

Clause 32 Removes the definition of ANTA as it no longer exists.

Clause 33 Amends the definition of 'approved training contract' to make reference to the chief executive.

Clause 34 Removes the definition of authority as it no longer exists.

- Clause 35** Inserts a definition of employer as it was previously not defined.
- Clause 36** Removes the definition of MINCO as it is not referred to elsewhere in the Act.
- Clause 37** Inserts a definition of ‘nationally agreed training contract’ as it was previously not defined.
- Clause 38** Amends the definition of national protocols by removing reference to the date the protocols were originally approved as a revised edition is now available.
- Clause 39** Inserts a new note in the definition of national protocols explaining when the revised edition will come into effect.
- Clause 40** Inserts a definition of trainee as it was previously not defined.
- Clause 41** Inserts a definition of work related training as it was previously undefined in the dictionary.
- Clause 42** Omits notes that were misleading. These standards, protocols and guidelines are applied or adopted only by the Act itself, not by any instrument made under the Act. The requirements of the Legislation Act, s 47 do not apply. That provision operates to require notification of instruments applied or adopted by another instrument but not by an Act.
- Clause 43** Provides that the *Vocational Education and Training Act 2003* and all legislative instruments made under that Act, are repealed.

Schedule 1 – Consequential Amendments

Schedule 1 lists the consequential amendments made as a result of the renaming of the *Tertiary Accreditation and Registration Act 2003* and the repeal of the *Vocational Education and Training Act 2003*.