

Queensland



**VOCATIONAL EDUCATION,
TRAINING AND
EMPLOYMENT
AMENDMENT BILL 1993**

Queensland



VOCATIONAL EDUCATION, TRAINING AND EMPLOYMENT AMENDMENT BILL 1993

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1993

A BILL

FOR

**An Act to amend the *Vocational Education, Training and Employment*
*Act 1991***

*Vocational Education, Training and
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The Parliament of Queensland enacts—	1
 Short title	2
<i>Clause1.</i> This Act may be cited as the <i>Vocational Education, Training and Employment Amendment Act 1993</i> .	3 4
 Commencement	5
<i>Clause2.</i> This Act commences on a day to be fixed by proclamation.	6
 Amended Act	7
<i>Clause3.</i> The <i>Vocational Education, Training and Employment Act 1991</i> is amended as set out in this Act.	8 9
 Amendment of s.1.3 (Objects)	10
<i>Clause4.</i> Section 1.3—	11
<i>insert—</i>	12
‘(i) to improve links between vocational education and training and secondary or higher education; and	13 14
(j) to promote the development of a national vocational education and training system in accordance with the National Statement.’.	15 16
 Amendment of s.1.4 (Interpretation)	17
<i>Clause5.(1)</i> Section 1.4 (definitions “accredit”, “accredited course”, “apprentice”, “apprenticeship calling”, “award or industrial agreement”, “commencement of this Act”, “Director-General”, “eligible apprentice”, “eligible trainee”, “indenture”, “ratification” and “training agreement”)—	18 19 20 21 22
<i>omit.</i>	23

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(2) Section 1.4—	1
<i>insert—</i>	2
“ accreditation ” of a course means confirmation that the course has met standards set by the Commission;	3 4
“ ANTA ” means the Australian National Training Authority established under the <i>Australian National Training Authority Act 1992</i> (Commonwealth);	5 6 7
“ ANTA Act ” means the <i>Australian National Training Authority Act 1992</i> (Commonwealth);	8 9
“ apprentice ” means a person who is registered as an apprentice under this Act, whether or not the person has entered into a training agreement with an employer;	10 11 12
“ apprenticeship ” means an approved training scheme under section 3.8(2)(b);	13 14
“ apprenticeship calling ” means a trade that is approved under section 3.8(9) as an apprenticeship calling;	15 16
“ approved training organisation ” means a vocational education and training establishment that is recognised as an approved training organisation under section 3.1;	17 18 19
“ approved training scheme ” has the meaning given by section 3.8(1);	20
“ award ” means a certificate, advanced certificate, associate diploma, diploma or other award that is approved by the Commission;	21 22
“ chief executive ” means the chief executive of the department;	23
“ course ” means a structured sequence of vocational education and training;	24
“ industrial award or industrial agreement ” means an award or industrial agreement made or registered under—	25 26
(a) the <i>Industrial Relations Act 1990</i> ; or	27
(b) the <i>Industrial Relations Act 1988</i> (Commonwealth);	28
“ Ministerial Council ” means the Ministerial Council established in accordance with the National Statement;	29 30
“ National Statement ” means the statement set out in the Schedule;	31

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“National Strategic Plan” has the meaning given to it in the National Statement;	1 2
“recognition” of a training program or short course means confirmation that the program or course has met standards set by the Commission;	3 4
“registration” of a person providing a course, training program or short course means confirmation that the person has met standards set by the Commission;	5 6 7
“short course” means a course—	8
(a) that does not contain a component of an accredited course; and	9
(b) for which a person completing the course does not receive an award;	10 11
“State Training Profile” has the meaning given to it in the National Statement;	12 13
“traineeship” means an approved training scheme under section 3.8(2)(a);	14
“training agreement” means an agreement of training, binding a trainee or apprentice and an employer, made under this Act;	15 16
“training program” means a course—	17
(a) that contains a component of an accredited course; and	18
(b) for which a person completing the course does not receive an award;’.	19 20
Amendment of s.2.2 (Membership of Commission)	21
Clause 6.(1) Section 2.2(1)(c)(ii)—	22
omit ‘for Education’;	23
insert ‘charged with the administration of the <i>Education (General Provisions) Act 1989</i> ’.	24 25
(2) Section 2.2(1)(d)—	26
omit ‘who is a member <i>ex officio</i> ’.	27
(3) Section 2.2(1)—	28
insert—	29

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‘(f) the chief executive.’.	1
(4) Section 2.2(2) and (3)—	2
<i>omit, insert—</i>	3
‘(2) The members of the Commission (other than the general manager of the Commission and the chief executive) are to be appointed by the Governor in Council.	4 5 6
‘(3) The Governor in Council is to designate a member of the Commission to be chairperson of the Commission and another member to be deputy chairperson of the Commission.	7 8 9
‘(4) The deputy chairperson is to act as chairperson during—	10
(a) all vacancies in the office of chairperson; and	11
(b) all periods when the chairperson is absent from duty or, for another reason, cannot perform the functions of the office.’.	12 13
Amendment of s.2.4 (Functions of Commission)	14
Clause 7.(1) Section 2.4(a) (after ‘ensure’)—	15
<i>insert</i> ‘efficient and’.	16
(2) Section 2.4(d)—	17
<i>omit, insert—</i>	18
‘(d) to decide policy about—	19
(i) the accreditation of courses; and	20
(ii) the recognition of training programs and short courses; and	21
(iii) the registration of persons providing courses, training programs or short courses; and	22 23
(iv) the conferment of awards; and’.	24
(3) Section 2.4—	25
<i>insert—</i>	26
‘(o) the Commission’s functions mentioned in section 2.4A as the	27

State training agency for Queensland under the National Statement.’.	1 2
Insertion of new s 2.4A	3
Clause 8. After section 2.4—	4
<i>insert—</i>	5
‘Functions of Commission in relation to ANTA	6
‘2.4A(1) The Commission is the State training agency for Queensland under the National Statement.	7 8
‘(2) In relation to ANTA, the functions of the Commission are—	9
(a) to advise ANTA about—	10
(i) the development of vocational education and training policy; and	11 12
(ii) the development of the National Strategic Plan; and	13
(iii) the vocational education and training needs of the State; and	14
(b) to consult with ANTA about the allocation of funds by the Authority to the Commission; and	15 16
(c) to develop with ANTA a State Training Profile based on the planning parameters set by the Ministerial Council and the National Strategic Plan; and	17 18 19
(d) to ensure vocational education and training is managed and delivered in accordance with the National Strategic Plan and the State Training Profile; and	20 21 22
(e) to consult with ANTA to enable it to make recommendations to the Ministerial Council for the more effective and efficient delivery of vocational education and training; and	23 24 25
(f) to provide information to ANTA to enable it to maintain national data on vocational education and training; and	26 27
(g) to provide annual vocational education and training performance reports to ANTA; and	28 29

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(h) to perform other functions given under the National Statement to Queensland's State training agency.'.	1 2
Amendment of s.2.5 (Powers of Commission)	3
Clause9. Section 2.5—	4
<i>insert—</i>	5
'(j) to do all things necessary or convenient to be done for or in connection with the performance of its functions.'.	6 7
Amendment of s.2.7 (Commission's rules)	8
Clause10. Section 2.7(1) and (2)—	9
<i>omit, insert—</i>	10
' 2.7(1) The Commission, with the approval of the Minister, may make rules with respect to—	11 12
(a) the accreditation of courses; and	13
(b) the recognition of training programs and short courses; and	14
(c) the recognition of vocational education and training establishments as approved training organisations; and	15 16
(d) the registration of persons providing courses, training programs or short courses; and	17 18
(e) fees payable for the matters mentioned in paragraphs (a) to (d); and	19 20
(f) standing committees and subcommittees appointed under section 2.5.	21 22
' (2) The rules are subordinate legislation.'.	23
Amendment of s.2.14 (Functions and powers of Accreditation Council)	24 25
Clause11. Section 2.14(1)(a) to (d)—	26

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<i>omit, insert—</i>	1
‘(a) to make decisions and orders about—	2
(i) the accreditation of courses; and	3
(ii) the recognition of training programs and short courses; and	4
(iii) the registration of persons providing courses, training programs or short courses; and	5 6
(b) to review accredited courses, recognised training programs and recognised short courses to ensure maintenance of standards and portability of awards; and	7 8 9
(c) to administer a system of awards; and	10
(d) to liaise about accreditation and recognition with—	11
(i) other recognition bodies; and	12
(ii) providers of secondary and higher education; and	13
(iii) persons conducting vocational education and training establishments;’.	14 15
 Amendment of s.2.48 (Establishment and constitution of councils)	16
Clause 12.(1) Section 2.48(1)—	17
<i>omit, insert—</i>	18
‘ 2.48(1) In this section—	19
“ officer ” of a State college means an officer of the public service employed at the State college.	20 21
‘ (1A) A college council must be established for each State college in the way decided by the Minister.’.	22 23
(2) Section 2.48(2)(b) to (d)—	24
<i>omit, insert—</i>	25
‘(b) an officer of the department nominated by the chief executive; and	26
(c) an officer of the Commonwealth department responsible for vocational education and training nominated by the chief officer	27 28

of the Commonwealth department in the State; and	1
(d) an officer of the State college nominated by the staff; and’.	2
New Division 8 of Part 2	3
Clause 13. In Part 2—	4
<i>insert—</i>	5
‘Division 8—ANTA	6
‘Conferral of functions on ANTA in relation to State	7
‘2.55 ANTA has the functions, in relation to the State, that are expressed	8
to be conferred on it by the ANTA Act.	9
‘Powers of ANTA in State	10
‘2.56(1) In this State, ANTA has power to do all things in the	11
performance of the functions, and may exercise the powers, expressed to be	12
conferred on it by—	13
(a) this Act; or	14
(b) the ANTA Act; or	15
(c) the law of a another State or a Territory corresponding to this Act.	16
‘(2) In this State, ANTA also has power to do all things necessary or	17
convenient to be done in the performance of the functions expressed to be	18
conferred on it by the laws mentioned in subsection (1).	19
‘(3) This section is in addition to, and does not limit, another law of the	20
Commonwealth, a State or a Territory that confers power on ANTA.’.	21
Amendment of s.3.6 (Offence re advertising vocational education and	22
training establishment or program)	23
Clause 14. Before section 3.6(1)—	24
<i>insert—</i>	25

‘3.6(1A) In this section—	1
“vocational education and training establishment” includes a State college.’.	2 3
Replacement of section 3.7 (Authority required to confer awards)	4
Clause 15. Section 3.7—	5
<i>omit, insert—</i>	6
‘Control over matters about the conferring of awards	7
‘3.7(1) In this section—	8
“advertisement” of a matter includes a verbal or written representation that—	9 10
(a) is intended to inform, or is likely to have the effect of informing, another person of the matter; or	11 12
(b) is intended, or likely, to induce another person to believe the matter;	13 14
“prescribed words” means—	15
(a) if the course for which the award is issued has not been accredited—	16 17
‘The course for which this award is issued has not been accredited under the <i>Vocational Education, Training and Employment Act 1991</i> ’; and	18 19 20
(b) if the person conferring or offering to confer the award is not registered to provide the course for the award—	21 22
‘The provider of this award is not registered under the <i>Vocational Education, Training and Employment Act 1991</i> ’;	23 24
“vocational education and training establishment” includes a State college.	25 26
‘(2) A person conducting a vocational education and training establishment is authorised to confer an award—	27 28
(a) if—	29

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- (i) the person provides, and is registered by the Accreditation Council to provide, the course for the award; and 1
2
- (ii) the course has been accredited by the Accreditation Council; 3
or 4
- (b) if the person is authorised by a law of the Commonwealth, another State or a Territory to confer the award. 5
6
- ‘(3) A person conducting a vocational education and training 7
establishment who is not authorised to confer an award must not— 8
- (a) confer the award; or 9
- (b) offer to confer the award; or 10
- (c) advertise that the person is authorised to confer the award. 11
- Maximum penalty—40 penalty units. 12
- ‘(4) A person conducting a vocational education and training 13
establishment must not advertise that another person who is not authorised 14
to confer an award— 15
- (a) confers the award; or 16
- (b) offers to confer the award; or 17
- (c) is authorised to confer the award. 18
- Maximum penalty—40 penalty units. 19
- ‘(5) Subsections (3) and (4) apply to— 20
- (a) a person conducting a vocational education and training 21
establishment in Queensland who does any of the acts mentioned 22
in either subsection in Queensland or elsewhere; and 23
- (b) a person conducting a vocational education and training 24
establishment outside Queensland who does any of the acts 25
mentioned in either subsection in Queensland. 26
- ‘(6) Despite subsection (3), a person who is not authorised to confer an 27
award may— 28
- (a) if the prescribed words are written on the award—confer the 29
award; and 30

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- (b) if the prescribed words are stated in any offer or advertisement made by or on behalf of the person—offer to confer the award or advertise that the person may lawfully confer the award.’. 1
2
3

Replacement of Divisions 2 and 3 4

Clause 16. Divisions 2 and 3— 5

omit, insert— 6

‘Division 2—Approved training schemes 7

‘Approved training schemes 8

‘3.8(1) The State Training Council may approve a type of training scheme (an **“approved training scheme”**) it considers necessary or desirable to advance the knowledge and skills required in industry or commerce. 9
10
11
12

‘(2) An approved training scheme may consist of— 13

(a) a traineeship; or 14

(b) an apprenticeship— 15

(i) in an apprenticeship calling; or 16

(ii) to a group of occupations, at least 1 of which is an apprenticeship calling; or 17
18

(iii) in part of an apprenticeship calling. 19

‘(3) The Council must decide the training required to be completed by a trainee or apprentice in an approved training scheme. 20
21

‘(4) The training may include a course of instruction or on-the-job training. 22
23

‘(5) A person employing an apprentice in an approved training scheme must employ the apprentice under a training agreement. 24
25

Maximum penalty—40 penalty units. 26

‘(6) The Council may require or authorise a trainee, or a type of trainee, employed in an approved training scheme to be employed under a training 27
28

agreement.	1
‘(7) An employer may apply to the Council to employ a person, under a training agreement, in a training scheme not approved by the Council.	2 3
‘(8) If the Council approves the application, this Act applies to the training agreement as if the training scheme were an approved training scheme.	4 5 6
‘(9) The Council may approve a trade, generally or in a particular industry, to be an apprenticeship calling.	7 8
‘(10) The provisions of this Act about apprenticeships or apprentices apply to all apprenticeship callings.	9 10
‘(11) The Council must notify an approval under subsection (1) or (9) in the Industrial Gazette.	11 12
 ‘Prohibition of premium for training scheme	 13
‘3.9(1) In this section—	14
“trainee” includes an apprentice.	15
‘(2) A person must not demand, accept or agree to accept (directly or indirectly) from another person a premium for—	16 17
(a) employing a trainee in a training scheme; or	18
(b) inducing, or attempting to induce, another person to employ a trainee in a training scheme; or	19 20
(b) cancelling a training agreement.	21
Maximum penalty—40 penalty units.	22
‘(3) If a court finds a person guilty of accepting a premium in contravention of subsection (2), it may order the person to—	23 24
(a) return the premium to the person who gave the premium; or	25
(b) reimburse the person who gave the premium.	26
‘(4) Subsection (3) does not affect the court’s power to impose a penalty.	27
‘(5) An order under subsection (3) may be filed in a court with	28

jurisdiction in an action for debt for the amount payable under the order (“ filing court ”) and be enforced as an order of the filing court.	1 2
‘Training agreements	3
‘3.10(1) In this section—	4
“trainee” includes an apprentice.	5
‘(2) If an employer agrees to employ a person in an approved training scheme that requires employment under a training agreement, the employer must send to the State Training Council—	6 7 8
(a) an application for the person’s registration as a trainee; and	9
(b) a training agreement.	10
Maximum penalty—40 penalty units.	11
‘(3) The application and training agreement must be signed by the following persons (the “parties to the agreement”)—	12 13
(a) the employer;	14
(b) the person;	15
(c) if the person is a minor—the person’s guardian.	16
‘(4) On receiving the application and training agreement, the Council must record the following particulars in a register—	17 18
(a) the names of the parties to the agreement;	19
(b) any other particulars decided by the Council.	20
‘(5) The Council must consider the application and approve or refuse it.	21
‘(6) After making the decision, the Council must promptly—	22
(a) if it approves the application—return a copy of the approved training agreement to each of the parties to the agreement; or	23 24
(b) if it refuses the application—	25
(i) write to each of the parties to the agreement giving the reasons for the refusal; and	26 27
(ii) remove the person’s particulars from the register.	28

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‘(7) The training agreement binds—	1
(a) the trainee and the trainee’s employer throughout the period of the agreement; and	2 3
(b) the trainee’s guardian while the trainee is a minor.	4
 ‘Trainee probation	5
‘3.11(1) In this section—	6
“ trainee ” includes an apprentice.	7
‘(2) A trainee is employed on probation from the start of work with the trainee’s employer for the period (of no more than 180 days) specified by the State Training Council.	8 9 10
‘(3) The probationary period is part of the period to be served in a training scheme.	11 12
‘(4) The probationary period is extended by any period for which a trainee is absent from work.	13 14
‘(5) A trainee’s service may be terminated during the probationary period by 1 week’s notice (a “ termination notice ”) given by—	15 16
(a) the trainee to the employer; or	17
(b) the employer to the trainee.	18
‘(6) A trainee who terminates the service without giving a termination notice loses an amount equal to 1 week’s wages to the employer.	19 20
‘(7) An employer who terminates the service without giving a termination notice must pay the trainee an amount equal to 1 week’s wages.	21 22
‘(8) An amount owed by a person to another person because of subsection (6) or (7) may be recovered by an action in an Industrial Magistrates Court or as otherwise prescribed by an Act.	23 24 25
 ‘Amendment of training agreement	26
‘3.12(1) A party to a training agreement who wants to amend the agreement must send an application for amendment to the State Training Council.	27 28 29

‘(2) The Council must consider the application and approve or refuse it.	1
‘(3) After making the decision, the Council must promptly—	2
(a) if it approves the application—return a copy of the approved amendment to each of the parties to the agreement; or	3
(b) if it refuses the application—write to each of the parties to the agreement giving the reasons for the refusal.	4
	5
	6
‘Period of training scheme	7
‘3.13(1) In this section—	8
“trainee” includes an apprentice;	9
“training period” means the period of an approved training scheme to be served by a trainee under a training agreement.	10
	11
‘(2) For each type of approved training scheme, the State Training Council must decide whether the training period is completed—	12
	13
(a) at the end of a period specified by the Council; or	14
(b) when the trainee reaches a level of competence indicating to the Council that the trainee is qualified in the occupation or trade concerned.	15
	16
	17
‘(3) The Council may reduce or extend the training period to be served by a particular trainee by a period it considers appropriate.	18
	19
‘(4) The Council may reduce the training period if the Council considers it appropriate because—	20
	21
(a) of the experience and knowledge gained by the trainee before starting the training scheme; or	22
	23
(b) of the experience and knowledge gained by the trainee when employed under a training agreement that has since been cancelled; or	24
	25
	26
(c) the trainee is making exceptional progress in gaining theoretical or practical knowledge of the occupation or trade concerned.	27
	28
‘(5) The Council may extend the training period if it considers the trainee is not making appropriate progress in gaining theoretical or practical	29
	30

knowledge of the occupation or trade concerned.	1
‘(6) If the Council reduces or extends the training period, the training agreement is taken to be amended in the same way.	2 3
‘(7) The Council may cancel a training agreement if it considers it unlikely that the trainee will make appropriate progress in gaining theoretical or practical knowledge of the occupation or trade concerned.	4 5 6
‘(8) The Council must give the trainee a certificate of completion if it is satisfied that the trainee has completed an approved training scheme.	7 8
 ‘Temporary assignment of trainee	 9
‘3.14(1) In this section—	10
“trainee” includes an apprentice.	11
‘(2) A trainee may be assigned from the trainee’s employer to another person for training for a period (of no more than 6 months) specified by the State Training Council.	12 13 14
‘(3) The employer of a trainee who wants to assign the trainee must send an application for assignment to the Council.	15 16
‘(4) The Council must consider the application and approve or refuse it.	17
‘(5) After making the decision, the Council must promptly—	18
(a) if it approves the application—give written notice of the approval to each of the parties to the application; or	19 20
(b) if it refuses the application—write to each of the parties to the application giving the reasons for the refusal.	21 22
 ‘Trainees attendance at courses of instruction	 23
‘3.15(1) In this section—	24
“trainee” includes an apprentice.	25
‘(2) The State Training Council may decide that a trainee, as part of an approved training scheme, must take a specified course of instruction—	26 27
(a) by attending a State college, another college or a school approved	28

by the Council; or	1
(b) by correspondence with a State college.	2
‘(3) The Council must give written notice of the decision to—	3
(a) the trainee; and	4
(b) the trainee’s employer; and	5
(c) if the trainee is a minor—the trainee’s guardian.	6
‘(4) The trainee and employer must comply with the decision.	7
Maximum penalty—40 penalty units.	8
‘(5) An employer must allow a trainee to take annual holidays at a time other than when the trainee is required to take a specified course.	9 10
Maximum penalty—40 penalty units.	11
‘Trainee or apprentice not required to be member of industrial organisation of employees	12 13
‘3.16(1) In this section—	14
“trainee” includes an apprentice.	15
‘(2) A person must not require, force or attempt to force a trainee to become a member of an industrial organisation of employees.	16 17
Maximum penalty—40 penalty units.	18
‘Minimum qualifications for apprenticeships	19
‘3.17(1) The State Training Council may decide, by Industrial Gazette notice—	20 21
(a) the age; and	22
(b) the minimum standard of education;	23
a person must have reached (the “ minimum qualifications ”) before the person may enter into an apprenticeship.	24 25
‘(2) Different minimum qualifications may be decided for different types of apprenticeships.	26 27

‘(3) If a person has received education outside the State, the minimum standard of education is the standard the Council decides is equal to the standard decided under subsection (1) for the apprenticeship calling concerned. 1
2
3
4

‘(4) Despite subsection (1), the Council may allow a person who does not have the minimum qualifications to enter into an apprenticeship. 5
6

**‘Restrictions on employing persons under 21 in an apprenticeship calling 7
8**

‘3.18(1) A person must not employ or use a person who has not reached 21 years (a “youth”) in an apprenticeship calling unless the youth— 9
10

(a) has completed an apprenticeship in the calling; or 11

(b) is an apprentice in the apprenticeship calling employed by the person. 12
13

‘(2) A person must not employ a youth as an apprentice in an apprenticeship calling other than under this Act. 14
15

‘(3) A youth must not, without first obtaining the approval of the State Training Council— 16
17

(a) engage in an apprenticeship calling on the youth’s own behalf unless the youth has completed an apprenticeship in the calling; or 18
19

(b) enter employment with another person as an apprentice other than under this Act. 20
21

Maximum penalty—40 penalty units. 22

‘Employer’s entitlement to apprentice 23

‘3.19(1) In this section— 24

“person” includes— 25

(a) a person who contracts the person’s work out, wholly or substantially, to subcontractors; or 26
27

(b) a group training scheme; or 28

(c) an industrial organisation; or 29

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- (d) a group of 2 or more persons.¹ 1
- ‘(2) The State Training Council may allow a person to employ at least 2
1 apprentice in an apprenticeship calling if— 3
- (a) the person— 4
- (i) is a tradesperson in the calling; or 5
- (ii) employs a tradesperson in the calling; or 6
- (iii) is able to make arrangements in the person’s business to 7
make tradespersons in the calling available to train 8
apprentices; and 9
- (b) the person satisfies the Council that the person has (or has made 10
arrangements to ensure there will be) sufficient plant, facilities 11
and tradespersons to adequately train the apprentice in the calling. 12
- ‘(3) If a group of more than 1 person is permitted to employ an 13
apprentice, the Council must— 14
- (a) decide the liabilities of each member of the group under the 15
apprenticeship; and 16
- (b) give each member written notice of the liabilities. 17
- ‘(4) Each member must comply with the decision. 18
- Maximum penalty—40 penalty units. 19
- ‘Apprentice must be paid for course time 20**
- ‘3.20** Time spent by an apprentice to undertake a specified course of 21
instruction under section 3.15, to the maximum time specified by the State 22
Training Council, is to be regarded as ordinary time worked by the 23
apprentice for which the apprentice is entitled to be paid.’. 24

¹ This definition is included to avoid doubt, despite section 32C of the *Acts Interpretation Act 1954*.

Amendment of s.3.51 (Offences concerning employment of apprentices or trainees)

Clause 17. Section 3.51—

insert—

‘(5) A person must not—

- (a) state anything to the State Training Council that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the State Training Council anything without which the statement is, to the person’s knowledge, misleading in a material particular.

Maximum penalty—40 penalty units.

‘(6) A complaint against a person for an offence against subsection (5) is sufficient if it states that the statement made was false or misleading to the person’s knowledge.’.

Replacement of s.4.3 (Exemptions)

Clause 18. Section 4.3—

omit, insert—

‘Approved forms of State Training Council

‘4.3(1) The State Training Council may approve a form for the purposes of this Act.

‘(2) If the Council approves a form for a purpose, the form must be used for the purpose.

‘(3) A person may request the Council to give the person an approved form.

‘(4) The Council must promptly comply with the request.’.

Amendment of s.4.14 (Destruction etc. of documents)

Clause 19. Section 4.14(a)—

omit.

Amendment of s.4.20 (Evidentiary provisions)

Clause 20.(1) Section 4.20(1)(b)—

omit.

(2) Section 4.20(1)(g)—

omit ‘an indenture or’, and ‘the indenture or’.

(3) Section 4.20(1)—

insert—

‘(h) a document apparently published by or on behalf of a State college is evidence that the document was authorised by the director of the State college.’.

Amendment of s.4.21 (Appeal to Commission or Minister)

Clause 21.(1) Section 4.21(2)—

omit, insert—

‘**(2)** An appeal under subsection (1) must be in writing given to the Commission’s chairperson within 21 days after the day written notice of the decision or action is given to the person aggrieved or within a further period allowed at any time by the Commission.’.

(2) Section 4.21(4)—

omit, insert—

‘**(4)** An appeal under subsection (3) must be in writing given to the Minister within 21 days after the day written notice of the decision is given to the person aggrieved or within a further period allowed at any time by the Minister.’.

(3) Section 4.21(7)—

omit, insert—

‘**(7)** An appeal is to be by way of rehearing, unaffected by the decision appealed against.

‘**(7A)** In deciding an appeal, the Commission, the Minister or Industrial Magistrate (“**appeal tribunal**”) may—

(a) confirm the decision appealed against; or	1
(b) set aside the decision and substitute another decision; or	2
(c) set aside the decision and return the matter to the person or body that made the decision with directions the appeal tribunal considers appropriate.	3 4 5
‘(7B) When substituting another decision, an appeal tribunal has the same powers as the person or body that made the decision appealed against.	6 7
‘(7C) If an appeal tribunal substitutes another decision, the substituted decision is taken, for the purposes of this Act, to be the decision of the person or body appealed against.	8 9 10
‘(7D) A party aggrieved by a decision of an Industrial Magistrate may appeal to an Industrial Court but only on a question of law.’.	11 12
Replacement of Part 5 (Repeals and transitional provisions)	13
<i>Clause 22. Part 5—</i>	14
<i>omit, insert—</i>	15
‘PART 5—TRANSITIONAL PROVISIONS	16
‘Indentures become training agreements	17
‘5.1 An indenture in force immediately before the commencement of this section is taken to be a training agreement from the commencement.	18 19
‘Apprenticeships and traineeships become approved training schemes	20
‘5.2 An apprenticeship or traineeship in existence immediately before the commencement of this section is taken to be an approved training scheme.	21 22
‘Numbering and renumbering of Act	23
‘5.3 In the first reprint of the Act produced under the <i>Reprints Act 1992</i> , section 43 (Numbering and renumbering of provisions) of the <i>Reprints Act</i> <i>1992</i> must be used.’.	24 25 26

Insertion of new Schedule

*Clause*23. After Part 4—

insert—

‘SCHEDULE

‘NATIONAL VOCATIONAL EDUCATION AND TRAINING STATEMENT

section 1.4

Objectives

1. In supporting the proposal for an Australian National Training Authority (ANTA), the main aim would be to promote—

- a national vocational education and training system, with agreed objectives and priorities, assured funding arrangements, consistent national strategies and a network of providers delivering high quality, nationally recognised programs at the State and local level; and
- close interaction between industry and vocational education and training providers, to ensure that the training system operates within a strategic plan that reflects industry’s needs and priorities; and
- an effective training market, with public and private provision of both high level, advanced technical training and further education opportunities for the workforce and for the community generally; and
- an efficient and productive network of publicly funded providers that can compete effectively in the training market; and
- increased opportunities and improved outcomes for individuals and target groups, including school leavers, to enhance their employment outcomes; and

- improved cross-sectoral links between schools, higher education and vocational education and training. 1
2

Framework 3

2. The new National System would have the following key features— 4

- a Ministerial Council to oversee the ANTA and to be responsible for decisions on strategic policy, national objectives and priorities; 5
6
 - decision making by the Ministerial Council will be on the basis of voting by all of its members 7
8
- an ANTA responsible for the development of, and advice on, national policy and the development of a draft National Strategic Plan on vocational education and training, within the framework of National Goals, Objectives and Priorities established by the Ministerial Council and for endorsement by the Ministerial Council; 9
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- State training agencies² as distinct bodies in the context of a National Training System with responsibility for vocational education and training within their own borders consistent with the agreed National Strategic Plan on Training Policy and the agreed State Training Profile. State training agencies will be accountable to State Ministers and parliaments for the operational responsibilities of their agencies and accountable to the Ministerial Council on matters of national policy. The relationship between State training agencies and ANTA will be formally defined in Commonwealth and State legislation consistent with this agreement. 15
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Key planning instruments 26

3. Planning processes for the new National System would involve the following key planning instruments: 27 28

² One such agency to be designated by each State as the co-ordinating point for the purpose of this agreement and to be listed in the relevant schedule.

- Agreed National Goals, Objectives and Priorities 1
 - these constitute the long term, broad policy framework for 2
 - the National Vocational Education and Training System and 3
 - would include Common and Agreed National Goals for 4
 - Vocational Education and Training, long-term participation 5
 - targets (such as those arising from the Finn Report), 6
 - priorities for longer-term reform (such as reforms to 7
 - entry-level training arrangements) and any agreed 8
 - improvements in the cost and quality of service provision. 9
- A National Strategic Plan for Vocational Education and Training 10
 - setting strategic directions for the vocational education and 11
 - training system over the medium term (3 to 5 years) 12
 - consistent with agreed national goals, objectives and 13
 - priorities 14
 - endorsed by the Ministerial Council to provide a national 15
 - strategic framework to guide the operations of the ANTA. 16
- Planning Parameters 17
 - setting firm targets and priorities for the provision and 18
 - support of vocational education and training for the year 19
 - ahead and indicative parameters for the following 2 years on 20
 - the basis of funds already approved 21
 - determined by the Ministerial Council, for inclusion in the 22
 - guidelines issued to the ANTA for the development of 23
 - profiles with the State training agencies. 24
- Profiles 25
 - within the ambit of ANTA's responsibilities (see 26
 - paragraph 36), defining a single and comprehensive plan for 27
 - the provision and support of vocational education and 28
 - training (in terms of level and type of course provision, other 29
 - training services and infrastructure development) for the year 30
 - ahead and outlining an indicative plan for the following 31
 - 2 years 32

- | | | |
|--|---|---|
| | : at the State level and, in aggregate, at the national level | 1 |
| | — agreed by the Ministerial Council. | 2 |

ROLES AND RESPONSIBILITIES OF THE KEY PARTIES	3 4
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The Ministerial Council	5
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4. The Council will consist of 1 Minister from each State and Territory and the Commonwealth responsible for vocational education and training and will be chaired by the Commonwealth.	6 7 8
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5. On the Ministerial Council, each State and Territory Minister will have 1 vote while the Commonwealth Minister will have 2 votes and a casting vote. All matters will be decided by a simple majority.	9 10 11
---	---------------

6. The functions of the Ministerial Council would include:	12
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- | | | |
|--|--|----------------|
| | • to agree on necessary Commonwealth and State legislation establishing the ANTA and defining the relationship between the ANTA, the Ministerial Council and State training agencies | 13
14
15 |
| | • to decide on the appointment of members of the ANTA and their removal | 16
17 |
| | • to decide on the appointment of the chairperson of the ANTA | 18 |
| | • to determine the budget for, and establishment of, the ANTA including relevant aspects of staffing policy | 19
20 |
| | • to determine National Goals, Objectives and Priorities for vocational education and training | 21
22 |
| | • to determine a National Strategic Plan on Training Policy based on advice from the ANTA, consistent with agreed National Goals, Objectives and Priorities | 23
24
25 |
| | • to determine, in the context of the National Strategic Plan, the principles to be applied for the allocation of funding between States and for any national programs | 26
27
28 |

- to provide annual advice to assist the Commonwealth Minister in Commonwealth decisions on growth funding requirements 1
2
- to agree planning parameters and profiles for the delivery of vocational education and training nationally 3
4
- to ensure that the ANTA operates in an effective and efficient manner 5
6
- to resolve any dispute between the ANTA and a State training agency or any other issue raised by a Minister 7
8
- to give references to the ANTA on other issues of training policy 9
- to be accountable to State and Commonwealth Parliaments for the operation of the ANTA and the expenditure of funds 10
11
- to approve an annual national training report. 12

Australian National Training Authority (ANTA) 13

7. The ANTA will be a Board of acknowledged independent experts set up as a Commonwealth statutory authority with members appointed through the Commonwealth Executive Council consistent with the decision of the Ministerial Council. 14
15
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17

8. It will consist of 5 members appointed for 3 years. 18

9. The functions of the ANTA will include: 19

- based on advice from State training agencies and, where appropriate, in consultation with National Industry Training Advisory Bodies (ITABs), to develop for the consideration of the Ministerial Council: 20
21
22
23
 - a draft National Strategic Plan; and 24
 - aspects of training policy in response to references from the Ministerial Council 25
26
- to initiate draft references on aspects of training policy, for the approval of the Ministerial Council 27
28
- to advise the Ministerial Council, in the context of the National Strategic Plan, of the principles to be applied for the allocation of 29
30

funding between States	1
• to provide information and advice to the Ministerial Council to assist the Commonwealth Minister to make decisions on growth funding levels	2 3 4
• to provide information and advice to assist the Ministerial Council to make decisions on planning parameters	5 6
• to develop, in conjunction with State training agencies, detailed State Training Profiles based on the National Strategic Plan once approved by the Ministerial Council, and to submit the Profiles to the Ministerial Council with advice on the agreement or otherwise which has been reached in their development	7 8 9 10 11
• to develop, in conjunction with State training agencies, an efficient and quality service provision	12 13
• to receive from each State an amount at least equal to the amount of its own source funding for vocational education and training in that State (see paragraph 31)	14 15 16
• to receive Commonwealth funds for vocational education and training (see paragraph 36)	17 18
• to allocate and remit funding to the State training agencies on the basis of principles determined by the Ministerial Council and on condition that each will receive an amount at least equivalent to that which that State has provided to the ANTA	19 20 21 22
• to administer any programs agreed by the Ministerial Council as requiring national delivery within guidelines approved by the Ministerial Council	23 24 25
• to be responsible for ensuring that comprehensive up-to-date national statistical data are available on relevant aspects of training	26 27
• to provide an integrated annual report for approval by the Ministerial Council which incorporates reports received from State training agencies in an agreed format.	28 29 30

State training agencies

10. State training agencies will be distinct bodies in the context of a national training system with responsibility for vocational education and training within their own borders consistent with the agreed National Strategic Plan on training policy and the agreed state training profile. State training agencies will be accountable to State Ministers and parliaments for the operational responsibilities of their agencies and accountable to the Ministerial Council on matters of national policy. The relationship between State training agencies and ANTA will be formally defined in Commonwealth and State legislation consistent with this agreement.

11. The functions of the State training agencies will include:

- to provide to the ANTA policy advice and information on training needs and the funding implications of these needs, developed in consultation with all interested stakeholders including State government and industry
- to develop, in conjunction with the ANTA, detailed State Training Profiles based on the National Strategic Plan and in accordance with agreed planning parameters
- to ensure that the management of the State training system including the planning, regulation and provision of public and private training at State and Territory level is in accordance with the National Strategic Plan and agreed State Profile
 - including the allocation of resources within individual States and Territories on a program and geographic basis
- to provide annually to the ANTA a report on performance in an agreed format to enable the compilation of an annual integrated report for approval by the Ministerial Council in addition to any reporting required by the relevant state.

Industry

12. Industry would be involved in key aspects of the new National System, including

- through membership on the ANTA, by participating in the

development of national policy and priorities	1
• through participation in the State training agencies and involvement in the development of State Training profiles	2 3
and, in addition,	4
• the National ITABs will be a key source of advice to the ANTA in the development of national policy and priorities	5 6
• State ITABs will be consulted in the development of State Profiles and provide input to national plans to the State training agencies	7 8 9
• The precise industry consultative mechanism at the State level will be a matter for the State government. It is envisaged that consultative mechanisms will also involve other stakeholders.	10 11 12
Main decision making processes	13
13. The Ministerial Council will develop and endorse agreed national objectives and priorities for vocational education and training.	14 15
14. State training agencies will provide data and advice to the ANTA on the needs and priorities of the sector, including funding implications.	16 17
15. State training agencies' input will be compiled in consultation with other relevant stakeholders as appropriate.	18 19
16. The input from the State training agencies is aggregated by the ANTA and considered in the context of national objectives, priorities and needs.	20 21 22
17. The ANTA will prepare a draft National Strategic Plan setting strategic directions for vocational education and training system over the medium term (3 to 5 years). The draft National Strategic Plan will be based on the national objectives and priorities endorsed by Ministers, input from State training agencies and consideration of national issues. The draft Plan will also address issues of efficiency and effectiveness. The draft National Strategic Plan and draft principles to be applied for the allocation of funds between the States, will be forwarded to the Ministerial Council for approval.	23 24 25 26 27 28 29 30 31
18. The ANTA will also prepare, for the Ministerial Council's	32

consideration, advice on the triennial planning parameters focussing on the following program year.

19. The States and the Commonwealth will jointly fund the vocational education and training system through the ANTA (subject to any State's decision to hand over responsibility to the Commonwealth). States will maintain (and in some cases lift) their current effort, as outlined below. The Commonwealth will fund growth for the sector on a continuing basis and, for 1993–95, provide funding as outlined in One Nation. The ANTA will provide information and advice to the Ministerial Council to assist the Commonwealth Minister to make decisions on growth funding levels.

20. The Ministerial Council will amend and/or approve the National Strategic Plan and the planning parameters.

21. The Ministerial Council will return the approved National Strategic Plan and the planning parameters to the ANTA for use in the development of detailed planning profiles in conjunction with each State training agency.

22. Following Budget decisions, the Ministerial Council will provide the ANTA with advice on the quantum of funds available. It will also transmit the principles to be applied by ANTA to determine the allocation of funds across the States.

23. State training agencies will develop in conjunction with the ANTA detailed State Training Profiles based on the National Strategic Plan and consistent with the planning parameters.

24. The ANTA will advise the Ministerial Council on the agreement or otherwise which has been reached in the development of the State Profile and remit the State Profile to the Ministerial Council.

25. Where the ANTA and the State training agency cannot reach agreement about the profile, the matter will be referred to the Ministerial Council for resolution.

26. Once approved by the Ministerial Council, the planning profile will be implemented.

27. State training agencies will have responsibility for implementation of approved State Training Profiles within their borders.

28. Within the scope of the ANTA's responsibilities, training programs and services will be managed through State training agencies except for

programs agreed by the Ministerial Council as requiring national delivery which would be administered by the ANTA within guidelines approved by the Ministerial Council.

29. Each State training agency will provide annually to the ANTA a report on performance in an agreed format and ANTA will provide an annual integrated Report to the Ministerial Council for tabling in respective Parliaments.

Funding arrangements

30. Except where a State relinquishes financial responsibility, States will pass to the ANTA an amount equal to their own-source State funding for vocational education and training. An equal amount will be returned to respective States and Territories along with the Commonwealth funds as specified in paragraphs 32 and 33.

31. States will at least maintain their effort for vocational education and training on an ongoing basis. The Commonwealth and States are committed to the development of agreed outcomes measures of effort for agreement by the commencement of 1993. Pending such agreement being reached and agreement to a timetable for subsequent implementation, States will maintain 1992 effort in real terms. On the basis of an early move to measure the vocational education and training system in each State on an outcome basis, any State which is demonstrably underachieving would agree to increase its effort to an agreed level in outcome terms. In the interim there may be agreed arrangements for those States to increase their funding contributions.

32. The Commonwealth will maintain its current level of financial support for vocational education and training under States Grants arrangements, plus the \$100 m in TAFE recurrent funding provided in the Economic Statement of November 1991 which will be distributed under existing arrangements.

33. The Commonwealth will provide growth funding on a continuing basis, including the \$70 m nationally in each year of the 1993–95 triennium as announced in One Nation. All growth funding for calendar 1993 will be allocated on a proportional basis in accordance with relevant population shares. For 1994 and 1995, 80 per cent of cumulative growth funds (ie,

\$112 m in 1994 and \$168 m in 1995) will be allocated on the same basis, with the balance to be allocated by the Ministerial Council on the recommendation of ANTA having regard to assessed performance against agreed objectives and other relevant factors.

34. The funds described in paragraphs 32 and 33 will be passed to the ANTA, for on passing to State training agencies or to other parties as appropriate in the case of agreed national projects. For any given year, pending the agreement by the Ministerial Council regarding the State Profile, the State training agency will continue to operate on the basis of the funds and Profile agreed for the previous year. When agreement is reached the growth provisions prescribed in paragraph 33 will obtain.

35. All States will share in growth funds according to principles established by the Ministerial Council except insofar as the circumstances outlined in paragraph 34 would prevent a State or Territory accessing growth funds for a particular year.

36. To the maximum extent possible, Commonwealth government-funded training programs should be funded through ANTA arrangements. Existing Commonwealth programs should be allocated on a functional basis in accordance with a set of guiding principles. Under those principles:

- the Commonwealth would retain responsibility for those programs which:
 - cover employment and migration and relate directly to its own areas of responsibility;
 - provide income support to individuals or training subsidies to employers;
 - are counter-cyclical in nature; or
 - provide training opportunities to client groups for which the Commonwealth has a special responsibility (eg, Aborigines);
- State governments would assume responsibility for those programs which relate directly to their own responsibilities for the regulation and delivery of training and which do not have a broader national purpose;

- furthermore ANTA should be advised on Commonwealth labour market programs and report on their impact on national vocational education and training policy and on State Training Profiles; 1
2
3
4
- all general recurrent and capital grants to TAFE currently provided under States Grants (TAFE Assistance) legislation would be passed to ANTA under the arrangements set out at paragraph 34 above. In addition, ANTA would assume responsibility for programs which support training activities and services which are national in scope and purpose (this includes after its establishment the national aspects of the new Australian Vocational Certificate Training System); and provide operating support for the national Industry Training Advisory Body (ITAB) network; 5
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- existing arrangements would continue to apply in relation to the National Training Board, and the National Centre for Vocational Education Research which would report to the Ministerial Council. 15
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The Commonwealth and the States remain committed to improvements in coordination and planning arrangements for the training elements of labour market programs, consistent with the MOVEET resolutions of August 1991 and June 1992. The role of ANTA in this respect will need to be developed and this and any other matters which are left unresolved by the provisions of paragraph 36 should be resolved before 1 September 1992. 19
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37. Subject to paragraph 38, if a State(s) were to relinquish financial responsibility for vocational education and training (by way of an adjustment to its FAGs) but others do not, there would be no disturbance to the determination of per capita relativities by the Commonwealth Grants Commission. That is, the following principles would apply 26
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29
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- that vocational education and training continue to form part of the fiscal equalisation process 31
32
- any recurrent Commonwealth own purpose outlays (replacing former State outlays) should be treated as notional SPPs in the State where the expenditure occurs 33
34
35

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- such notional SPPs should be treated by the inclusion approach.

38. Grants Commission treatment would have to be kept under review by the Premiers' Conference in the light of the number of States relinquishing financial responsibility.

39. A State that relinquishes funding responsibility for vocational education and training would retain its voting rights on the Ministerial Council.

40. This agreement comes into force on 1 January 1994. Transitional arrangements, including provision for an interim Board of the ANTA, will be determined by the Ministerial Council by 1 September 1992. The agreement will be subject to review before the end of 1995.'

SCHEDULE	1
MINOR AND CONSEQUENTIAL AMENDMENTS	2
section 3	3
1. Section 2.4(l)—	4
<i>omit</i> ‘appropriation approved by Parliament’, <i>insert</i> ‘funds’.	5
2. Section 2.9(1)(e)—	6
<i>omit, insert—</i>	7
‘(e) 2 officers of the department nominated by the chief executive; and’.	8 9
3. Section 2.10(1)(e)—	10
<i>omit</i> ‘indentures and’.	11
4. Section 2.11(1)(f)—	12
<i>omit, insert—</i>	13
‘(f) 2 officers of the department nominated by the chief executive; and’.	14 15
5. Section 2.13(1)(d)—	16
<i>omit</i> ‘for Education’,	17
<i>insert</i> ‘charged with the administration of the <i>Education (General Provisions) Act 1989</i> ’.	18 19

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SCHEDULE (continued)

6. Section 2.16—	1
<i>omit.</i>	2
7. Section 2.17(4)—	3
<i>omit.</i>	4
8. Section 2.22(1)(f)—	5
<i>renumber</i> as paragraph (g).	6
9. After section 2.22(1)(e)—	7
<i>insert—</i>	8
‘(f) the way in which its decisions are to be made; and’.	9
10. Section 2.25(2) and (4)—	10
<i>omit.</i>	11
11. Section 2.26 (heading)—	12
<i>omit, insert—</i>	13
‘Chief executive is corporation sole’.	14
12. Section 2.26(2)—	15
<i>omit, insert—</i>	16
‘(2) The corporation sole is constituted by the chief executive.’.	17
13. Section 2.27 (heading)—	18
<i>omit ‘Corporation’, insert ‘Chief executive’.</i>	19

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SCHEDULE (continued)

14. Section 2.27—	1
<i>omit</i> ‘Corporation’, <i>insert</i> ‘chief executive’.	2
15. Section 2.33(1)—	3
<i>omit</i> ‘Corporation’, <i>insert</i> ‘chief executive’.	4
16. Section 2.33(2) and (3)—	5
<i>omit, insert—</i>	6
‘(2) A rule is subordinate legislation.’.	7
17. Section 2.34(1) (at the end)—	8
<i>insert—</i>	9
‘Maximum penalty—40 penalty units.’.	10
18. Section 2.41(1)—	11
<i>omit</i> ‘, Registrar of Dealings’.	12
19. Section 2.43—	13
<i>omit.</i>	14
20. Section 2.49(a)(vi)—	15
<i>omit</i> ‘Director-General’, <i>insert</i> ‘chief executive’.	16
21. Section 3.4 (at the end)—	17
<i>insert—</i>	18
‘Maximum penalty—40 penalty units.’.	19

SCHEDULE (continued)

22. Section 3.5 (heading)—	1
<i>omit, insert—</i>	2
‘Cancellation or suspension of recognition as approved training organisation’.	3
	4
23. Section 3.5(4) (at the end)—	5
<i>insert—</i>	6
‘Maximum penalty—40 penalty units.’.	7
24. Section 3.6(3) (at the end)—	8
<i>insert—</i>	9
‘Maximum penalty—40 penalty units.’.	10
25. Section 3.31(2) and (3)—	11
<i>omit ‘an indenture’, insert ‘a training agreement’.</i>	12
26. Section 3.32(6) (at the end)—	13
<i>insert—</i>	14
‘Maximum penalty for subsection (6)—40 penalty units.’.	15
27. Before section 3.33, in Division 5 of Part 3—	16
<i>insert—</i>	17
‘Trainees’ entitlements if not under training agreement	18
‘3.32C Despite not having entered into a training agreement as a trainee,	19
a person is entitled to all the entitlements under this Act of a trainee under a	20
training agreement if the person is training—	21
(a) under an approved training scheme mentioned in	22
section 3.8(2)(a); and	23

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SCHEDULE (continued)

(b) under conditions substantially equivalent to conditions in a training agreement.’.	1 2
28. Section 3.33(1)(a) and (5) (before ‘award’)—	3
<i>insert ‘industrial’.</i>	4
29. Sections 3.34(1) to (6) (before ‘award’)—	5
<i>insert ‘industrial’.</i>	6
30. Section 3.35—	7
<i>omit.</i>	8
31. Section 3.36 (heading)—	9
<i>omit, insert—</i>	10
‘Apprentices’ entitlements if not under training agreement’.	11
32. Section 3.36—	12
<i>omit ‘section 3.10’, insert ‘section 3.18’.</i>	13
33. Section 3.38(3)(a) and (4)(a) (before ‘award’)—	14
<i>insert ‘industrial’.</i>	15
34. Section 3.39 (before subsection (1))—	16
<i>insert—</i>	17
‘3.39(1A) In this section—	18
“eligible trainee” means a trainee who, within the meaning of any relevant industrial award or industrial agreement, is an eligible employee for the	19 20

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SCHEDULE (continued)

purposes of entitlement to occupational superannuation benefits;	1
“ trainee ” includes an apprentice.’.	2
35. Section 3.39(1), (4) and (5) (before ‘award’)—	3
<i>insert ‘industrial’.</i>	4
36. Section 3.39(1) (at the end)—	5
<i>omit, insert—</i>	6
‘Maximum penalty—40 penalty units.’.	7
37. Section 3.39(2)—	8
<i>omit.</i>	9
38. Sections 3.38 and 3.39—	10
<i>renumber and relocate</i> (in Division 5 of Part 3) as sections 32A and	11
32B.	12
39. Section 3.40—	13
<i>omit.</i>	14
40. Section 3.41(1)—	15
<i>omit ‘An indenture by which a person is apprenticed to partners or a’,</i>	16
<i>insert ‘A’.</i>	17
41. Section 3.41(2)—	18
<i>omit ‘an indenture or’.</i>	19

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Employment Amendment*

SCHEDULE (continued)

42. Sections 3.42—	1
<i>omit.</i>	2
43. Section 3.44(3) (at the end)—	3
<i>insert—</i>	4
‘Maximum penalty—40 penalty units.’	5
44. Section 3.45—	6
<i>omit</i> ‘training record book’, <i>insert</i> ‘training record’.	7
45. Section 3.45(1), (2)(a) and (4)—	8
<i>omit</i> ‘the book’, <i>insert</i> ‘the record’.	9
46. Section 3.45(2), (3) (1st sentence) and (4) (at the end)—	10
<i>insert—</i>	11
‘Maximum penalty—40 penalty units.’	12
47. Section 3.46—	13
<i>omit, insert—</i>	14
‘Period of absence from employment may be added to training period	15
‘3.46(1) In this section—	16
“trainee” includes an apprentice.	17
‘(2) If a trainee is absent from the trainee’s employment (other than as	18
required under this Act) during the period of training required under the	19
trainee’s training agreement, the State Training Council may extend the	20
period of the training.	21
‘(3) The Council may extend the period of training for any period (not	22
longer than the period of absence) it considers appropriate.	23

*Vocational Education, Training and
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SCHEDULE (continued)

‘(4) If the Council extends the period of training, the training agreement is taken to be amended in the same way.’.	1 2
48. Section 3.47 (at the end)—	3
<i>insert—</i>	4
‘Maximum penalty—40 penalty units.’.	5
49. Section 3.48(1)—	6
<i>omit, insert—</i>	7
‘3.48(1) In this section—	8
“ trainee ” includes an apprentice.	9
‘(1A) If the State Training Council considers, on reasonable grounds, that a trainee has engaged in misconduct mentioned in subsection (3), the Council may make 1 or more of the following orders—	10 11 12
(a) an order cancelling or suspending a training agreement;	13
(b) an order directing the trainee to pay an amount of not more than 4 penalty units;	14 15
(c) an order reprimanding the trainee.	16
‘(1B) The Council may act under subsection (1A)—	17
(a) on a complaint made to it by the trainee’s employer; or	18
(b) on its own initiative, on information received from any source.’.	19
50. Section 3.48(2) to (4)—	20
<i>omit</i> ‘the apprentice or trainee’, <i>insert</i> ‘the trainee’.	21
51. Section 3.48(4)—	22
<i>omit</i> ‘any apprentice or trainee’, <i>insert</i> ‘a trainee’.	23

*Vocational Education, Training and
Employment Amendment*

SCHEDULE (continued)

52. Section 3.48(7) and (8) (at the end)—	1
<i>insert—</i>	2
‘Maximum penalty—40 penalty units.’	3
 53. Section 3.49 (heading)—	 4
<i>omit, insert—</i>	5
‘Cancellation of training agreement on request’.	6
 54. Section 3.49—	 7
<i>omit</i> ‘an indenture or’.	8
 55. Section 3.50(1)—	 9
<i>omit</i> ‘section 3.10’, <i>insert</i> ‘section 3.18’.	10
 56. Section 3.50(2)—	 11
<i>omit</i> ‘; to be so provided’.	12
 57. Section 3.50(2) (at the end)—	 13
<i>insert—</i>	14
‘Maximum penalty—40 penalty units.’	15
 58. Section 3.51(1)—	 16
<i>omit</i> ‘section 3.10’, <i>insert</i> ‘section 3.18’.	17
 59. Section 3.51(4) (at the end)—	 18
<i>insert—</i>	19
‘Maximum penalty—40 penalty units.’	20

*Vocational Education, Training and
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SCHEDULE (continued)

60. Sections 3.52(1) and 3.53(1)—	1
<i>omit</i> ‘section 3.10’, <i>insert</i> ‘section 3.18’.	2
61. Section 3.53(2) and (3) (at the end)—	3
<i>insert</i> —	4
‘Maximum penalty—40 penalty units.’	5
62. Section 3.53(3)(b) (before ‘award’)—	6
<i>insert</i> ‘industrial’.	7
63. Section 3.54(3)(a)(iii) (before ‘award’)—	8
<i>insert</i> ‘industrial’.	9
64. Section 3.54(4) and (6)—	10
<i>omit</i> ‘Director-General’, <i>insert</i> ‘chief executive’.	11
65. Section 3.55(1)—	12
<i>omit</i> ‘section 3.10’, <i>insert</i> ‘section 3.18’.	13
66. Section 3.55(2) and (3) (before ‘award’)—	14
<i>insert</i> ‘industrial’.	15
67. Section 4.1—	16
<i>omit, insert</i> —	17
‘State bound by Act	18
‘4.1(1) This Act binds the State.	19
‘(2) Nothing in this Act makes the State liable to be prosecuted for an	20

*Vocational Education, Training and
Employment Amendment*

SCHEDULE (continued)

offence.	1
‘(3) However, subsection (2) does not prevent the prosecution of an officer, employee or agent of the State for an offence.’.	2 3
68. Section 4.2(2) (before ‘award’)—	4
<i>insert</i> ‘industrial’.	5
69. Section 4.4(1) and (2)—	6
<i>omit</i> ‘Director-General’, <i>insert</i> ‘chief executive’.	7
70. Section 4.4(1) and (3) (at the end)—	8
<i>insert</i> —	9
‘Maximum penalty—40 penalty units.’.	10
71. Section 4.5(4) (at the end)—	11
<i>insert</i> —	12
‘Maximum penalty—40 penalty units.’.	13
72. Section 4.6 (at the end)—	14
<i>insert</i> —	15
‘Maximum penalty—40 penalty units.’.	16
73. Section 4.8(2)(a)(i) (before ‘award’)—	17
<i>insert</i> ‘industrial’.	18
74. Section 4.8(2)(a)(ii)—	19
<i>omit</i> ‘indenture or’.	20

*Vocational Education, Training and
Employment Amendment*

SCHEDULE (continued)

75. Section 4.11 (at the end)—	1
<i>insert—</i>	2
‘Maximum penalty—40 penalty units.’	3
 76. Section 4.12(1) (at the end)—	 4
<i>insert—</i>	5
‘Maximum penalty—40 penalty units.’	6
 77. Section 4.13(1)—	 7
<i>omit</i> ‘an indenture or’.	8
 78. Section 4.13(3) and (4) (at the end)—	 9
<i>insert—</i>	10
‘Maximum penalty—40 penalty units.’	11
 79. Section 4.14 (at the end)—	 12
<i>insert—</i>	13
‘Maximum penalty—40 penalty units.’	14
 80. Section 4.15(1) (at the end)—	 15
<i>insert—</i>	16
‘Maximum penalty—40 penalty units.’	17
 81. Section 4.15(2)(b)—	 18
<i>omit</i> ‘Director-General’, <i>insert</i> ‘chief executive’.	19

*Vocational Education, Training and
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SCHEDULE (continued)

82. Section 4.16—	1
<i>omit.</i>	2
83. Section 4.23(1)—	3
<i>omit, insert—</i>	4
‘ 4.23(1) The Governor in Council may make regulations for the purpose	5
of this Act.’.	6
84. Section 4.23(2)—	7
<i>omit</i> ‘Without limiting the power to make regulations conferred by	8
subsection (1), regulations’,	9
<i>insert</i> ‘A regulation’.	10
85. Section 4.23(2)(e)—	11
<i>omit, insert—</i>	12
‘(e) the conditions of a training agreement; or’.	13
86. Section 4.23(2)(j)—	14
<i>omit</i> ‘variation, cancellation and assignment of indentures, and’,	15
<i>insert</i> ‘amendment, cancellation and assignment of’.	16
87. Section 4.23(2)(n)—	17
<i>omit, insert—</i>	18
‘(n) the fees payable under this Act, including fees for instruction,	19
assessment or other services provided by a State college;’.	20

*Vocational Education, Training and
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SCHEDULE (continued)

88. Section 4.23(2)(u)—

omit, insert—

‘(u) exempting a person from any provision of this Act.’.

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