



Australian Capital Territory

# Vocational Education and Training Act 2003

A2003-37

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Australian Capital Territory

# Vocational Education and Training Act 2003

**A2003-37**

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An Act about vocational education and training, and for other purposes

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*Notified under the Legislation Act 2001 on 8 September 2003  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))*

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Vocational Education and Training Act 2003*.

### 2 Commencement

This Act commences on 1 November 2003.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

### 3 Objects

The objects of this Act are—

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

*Note* The *Tertiary Accreditation and Registration Act 2003* contains important provisions about the quality of vocational education and training, including the application of nationally agreed protocols and standards.

## 4 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition ‘*statement of attainment*—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.’ means that the expression ‘statement of attainment’ is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

## 5 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## 6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## **Part 2 Vocational education and training authority**

### **Division 2.1 Establishment, functions and membership**

#### **7 Establishment of authority**

The Vocational Education and Training Authority is established.

#### **8 Functions of authority**

The authority has the following functions:

- (a) to advise the Minister about vocational education and training generally, including adult and community education;
- (b) to advise the Minister, in consultation with industry and the community, about nationally consistent policies and priorities for vocational education and training;
- (c) to develop a strategic plan for vocational education and training that is consistent with nationally agreed strategies and relevant to industry and the community, and to coordinate and monitor its implementation;
- (d) to advise the Minister about priorities for, and allocation of, funds for vocational education and training;
- (e) to manage funding programs, and to monitor the use of funds, for vocational education and training;
- (f) to provide programs and services to support vocational education and training;
- (g) to administer training contracts;



- (h) in association with the accreditation and registration council, to facilitate recognition and quality assurance in the provision of vocational education and training;
- (i) to promote vocational education and training generally in the community;
- (j) to promote equity in access to, and participation in, vocational education and training;
- (k) to promote cooperation between public and private providers of vocational education and training and to encourage private industry to provide vocational education and training;
- (l) to undertake research about vocational education and training in the ACT and the surrounding region;
- (m) to inquire into, and advise the Minister, on vocational education and training issues referred to the authority by the Minister;
- (n) any other function given to the authority under this Act or another Territory law.

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

## **9 Ministerial directions to authority**

- (1) The Minister may give the authority written directions about the exercise of its functions, but not about advising the Minister or reporting under the *Annual Reports (Government Agencies) Act 1995*, section 8.
- (2) The authority must comply with a direction under this section.
- (3) A direction under this section is a notifiable instrument.

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

## **10 Consultation**

- (1) In exercising its functions, the authority may consult with relevant industry, training, community, employee and employer associations.
- (2) The authority may consult with any other entity it considers appropriate.

## **11 Delegation by authority**

The authority may delegate the exercise of its functions to—

- (a) an authority member; or
- (b) a committee of the authority; or
- (c) an authority staff member; or
- (d) a person prescribed under the regulations.

*Note 1* For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

*Note 2* If a law authorises or requires a body to exercise a function, it may do so by resolution, see Legislation Act, s 199.

## **12 Membership of authority**

- (1) The authority consists of the following members:
  - (a) a chairperson;
  - (b) 2 people appointed, after consultation with the trades and labour council, to represent the interests of employees;
  - (c) 2 people appointed, after consultation with employer organisations, to represent the interests of employers;
  - (d) 1 person who, in the Minister's opinion, represents the interests of registered training organisations which are private providers of vocational education and training;
  - (e) 1 person who, in the Minister's opinion, represents the interests of providers of industry training advisory services;

- (f) 1 person who, in the Minister's opinion, represents the interests of indigenous communities;
  - (g) 1 person who, in the Minister's opinion, represents the interests of the ACT Council of Parents & Citizens Associations Inc.;
  - (h) 1 other person who, in the Minister's opinion, is of good standing in the community;
  - (i) the director of the Canberra Institute of Technology;
  - (j) the chief executive;
  - (k) the chairperson of the accreditation and registration council.
- (2) The Minister must appoint the authority members (other than the director of the Canberra Institute of Technology or the chief executive).

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

*Note 3* Certain Ministerial appointments require consultation with a Legislative Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

### **13 Ending appointment of authority member**

- (1) The Minister must end the appointment of an authority member if the Minister becomes aware that the member—
- (a) has failed to comply with section 14 (Disclosure of interests by authority members) without reasonable excuse; or
  - (b) has at any time been convicted, in Australia or elsewhere, of an offence punishable by imprisonment for at least 1 year.
- (2) The Minister may end the appointment of an authority member—
- (a) if the member is absent from 3 consecutive meetings of the authority other than on leave approved by the Minister; or

- (b) for members mentioned in section 12 (1) (b) to (g)—if the Minister is satisfied that the member is no longer an appropriate person to represent the relevant interests; or
- (c) for misbehaviour or physical or mental incapacity, if the incapacity affects the exercise of the member’s functions; or
- (d) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of creditors.

*Note* A person’s appointment also ends if the person resigns (see Legislation Act, s 210).

#### **14 Disclosure of interests by authority members**

- (1) An authority member who has a relevant interest in an issue being considered, or about to be considered by the authority must, as soon as practicable after the relevant facts have come to the authority member’s knowledge, disclose the nature of the interest at a meeting of the authority.
- (2) The disclosure must be recorded in the authority’s minutes and, unless the authority otherwise decides, the authority member must not—
  - (a) be present when the authority considers the issue; or
  - (b) take part in a decision of the authority on the issue.
- (3) Any other authority member who also has a relevant interest in the issue must not—
  - (a) be present while the authority is considering whether to make a decision under subsection (2); or
  - (b) take part in the decision.
- (4) In this section:

***relevant interest***, in an issue, means a direct or indirect financial interest in the issue.

## **15 Reporting of disclosed interests to Minister**

- (1) Within 14 days after the day the disclosure of an interest under section 14 (1) is made, the authority chairperson must report to the Minister in writing about—
  - (a) the disclosure; and
  - (b) the nature of the interest disclosed; and
  - (c) any decision by the authority under section 14 (2).
- (2) The authority chairperson must give to the Minister, by 31 July in each year, a statement that sets out the information given to the Minister in reports under subsection (1) that relate to disclosures made during the previous financial year.
- (3) The Minister must give a copy of the statement to the relevant committee of the Legislative Assembly within 14 days after the day the Minister receives the statement.
- (4) In this section:  
*relevant committee* means—
  - (a) a standing committee of the Legislative Assembly nominated by the Speaker for subsection (3); or
  - (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for public accounts.

## **16 Reimbursement of authority members**

The Territory must reimburse an authority member for expenses reasonably incurred in the exercise of the member's functions.

## **17 Authority staff**

- (1) The authority may make arrangements with the chief executive to use public servants in the administrative unit under the chief executive's control.

- (2) The *Public Sector Management Act 1994* applies to the management by the authority of public servants the subject of an arrangement under subsection (1).

## **18 Annual report by authority**

A report prepared by the authority for the *Annual Reports (Government Agencies) Act 1995*, section 8 must include, for the reporting period, details of any direction under section 9 (Ministerial directions to authority) given during the period and the way the direction was given effect.

## **Division 2.2 Proceedings of authority**

### **19 Calling authority meetings**

- (1) The authority meets at the times and places the authority chairperson decides.
- (2) The chairperson must ensure that authority members have reasonable notice of meetings.

### **20 Authority procedures**

- (1) The authority chairperson presides at meetings of the authority.
- (2) However, if the chairperson is absent from a meeting, the members present may elect a member to preside at the meeting.
- (3) Business may be carried out at an authority meeting only if at least 6 authority members are present, including—
- (a) at least 1 of the members mentioned in section 12 (1) (b); and
  - (b) at least 1 of the members mentioned in section 12 (1) (c).
- (4) A question arising at a meeting may be decided by a majority of the votes of members present and voting.

- (5) If the votes of the authority on a question are equally divided, the decision of the member presiding is the decision of the authority on the question.
- (6) The authority may decide its own procedure in relation to anything for which a procedure is not provided under this Act.
- (7) The authority must keep minutes of its meetings.

## **Division 2.3 Authority committees**

### **21 Establishment of committees**

The authority may establish committees to help the authority in the exercise of its functions.

### **22 Exercise of committee functions**

- (1) Subject to any decision of the authority under subsection (2), a committee may decide its own procedures.
- (2) The authority may decide—
  - (a) how a committee is to exercise its functions; and
  - (b) the procedure to be followed for meetings of the committee, including—
    - (i) the calling of meetings; and
    - (ii) the number of committee members to be present at meetings (including requirements that particular members be present); and
    - (iii) the committee member who is to preside at meetings; and
    - (iv) how questions arising at a meeting are to be decided; and
    - (v) the keeping of minutes of meetings.

## **23 Membership of committees**

- (1) A committee consists of the people appointed by the authority.

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) A committee may consist completely or partly of authority members.

## **24 Reimbursement for committee members**

- (1) A committee member is not entitled to be paid for the exercise of the member's functions.
- (2) However, the Territory must reimburse a committee member for expenses reasonably incurred in the exercise of the member's functions.
- (3) This section does not apply to a committee member who is also an authority member.



## Part 3 Training

### 25 Determination of work-related training

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

#### Examples

- 1 apprenticeship
- 2 traineeship
- 3 other training in a trade or occupation

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

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

- (2) A determination is a notifiable instrument.

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

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

### 26 Approval of training contract

- (1) The authority may approve a training contract between an employer and another person in relation to work-related training.
- (2) Before approving a training contract, the authority must consider whether the contract complies with the form and content of any nationally agreed training contract.
- (3) Also, the authority must not approve a training contract unless satisfied that—

- (a) the facilities, equipment and methods proposed to be used for the training are suitable; and
  - (b) the qualifications, knowledge and skills of the person proposed to deliver the training are appropriate; and
  - (c) the person proposed to deliver the training conducts himself or herself in a way appropriate for a person responsible for the delivery of training; and
  - (d) the employer is likely to comply with any relevant industrial award.
- (4) The authority may approve a training contract subject to conditions.
- (5) In this section:

*nationally agreed training contract* means the training contract agreed by the ministerial council.

*ministerial council*—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

## 27 Application for approval

An application for approval must be made in the way required by the authority.

*Note* If a form is approved under s 48 (Approved forms) for an application, the form must be used.

## 28 Training contracts for qualification or statement of attainment

- (1) An employer and another person may enter into an approved training contract for training that results in a qualification or statement of attainment being issued to the other person.
- (2) However, a contract cannot be entered into if the authority or the accreditation and registration council decides that training contracts cannot be entered into for the particular qualification or statement of attainment.

**29 Training must be under approved training contract**

- (1) A person commits an offence if—
  - (a) the person is an employer who provides someone else with work-related training for a qualification or statement of attainment; and
  - (b) there is no approved training contract between the employer and the other person.

Maximum penalty: 50 penalty units.

- (2) An offence under this section is a strict liability offence.

**30 Code of practice**

- (1) In providing work-related training under an approved training contract, an employer must comply with the National Code of Good Practice for New Apprenticeships as in force from time to time.
- (2) The Legislation Act, section 47 (6) does not apply to this section.

*Note* The text of the code is available at [www.newapprenticeships.gov.au](http://www.newapprenticeships.gov.au).

**31 Party may ask for amendment**

- (1) A party to an approved training contract may ask the authority to approve an amendment of the contract.

*Note* If a form is approved under s 48 (Approved forms) for a request, the form must be used.

- (2) The authority must—
  - (a) approve the amendment requested; or
  - (b) refuse to approve it.
- (3) Before approving an amendment, the authority must consider whether the contract as amended will comply with the form and content of any nationally agreed training contract.

- (4) The authority must approve an amendment requested by both parties unless satisfied that the amendment would adversely affect the provision of the training.

**32 Authority may suspend, cancel or amend contract**

The authority may suspend or cancel approval of a training contract, or amend an approved training contract—

- (a) if the employer is unable to provide training under the contract because of a change in the employer's circumstances; or
- (b) if the authority is satisfied that it is in the interests of the trainee to suspend or cancel the approval or amend the contract; or
- (c) in any other circumstance prescribed under the regulations.

## Part 4 Disagreements and disputes

### 33 Disagreement with decision of authority

- (1) This section applies if—
  - (a) an applicant for approval or amendment of a training contract under part 3 disagrees with the decision of the authority about the application; or
  - (b) a party to a training contract that is amended under section 31 (Party may ask for amendment) disagrees with the decision of the authority about the amendment.
- (2) The applicant or party may, within 14 days after the day the applicant is notified of the decision under section 40 (Notice of reviewable decisions), ask the authority to refer the disagreement to a committee for resolution.
- (3) As soon as practicable after receiving the request for referral, the authority must refer the disagreement to a committee.
- (4) Within 28 days after the day the authority receives the referral, the committee must attempt to resolve the disagreement and report to the authority about the outcome.

### 34 Dispute between employer and trainee

- (1) This section applies if a dispute about training under an approved training contract arises between the parties to the training contract.
- (2) A party may ask the authority to refer the dispute to a committee.
- (3) As soon as practicable after receiving the request for referral, the authority must refer the dispute to a committee.
- (4) Within 28 days after the day of receiving the referral, the committee must attempt to resolve the dispute and report to the authority about the outcome.

**Part 4** Disagreements and disputes

Section 34

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- (5) In attempting to resolve the dispute, the committee must take into account any views of the accreditation and registration council on an issue in dispute.
- (6) If the committee does not resolve the dispute, the authority may—
  - (a) make a finding of fact about any matter relating to the training contract; or
  - (b) amend the contract; or
  - (c) give directions to a party to the contract incidental to an action under paragraph (a) or (b).

## Part 5 Visits to premises

### 35 Visits by authority

- (1) The authority may give an employer written notice that an authority member, a staff member of the authority or a person authorised by the authority proposes to visit premises where the employer is providing, or proposes to provide, training under a training contract.
- (2) The notice under subsection (1) must—
  - (a) state the address of the premises proposed to be visited; and
  - (b) state the day and time of the proposed visit; and
  - (c) state the purpose of the visit; and
  - (d) be given to the employer at least 7 days before the day of the proposed visit.
- (3) The day and time of the proposed visit must be a day and time when the employer normally conducts business on the premises.
- (4) The member, staff member or authorised person may, on the day and at the time stated in the notice—
  - (a) enter the premises stated in the notice; or
  - (b) observe any work-related training being provided on the premises; or
  - (c) ask the employer to give information about work-related training provided, or proposed to be provided, on the premises; or
  - (d) ask the employer to produce any document in the possession of the employer containing information about work-related training provided, or proposed to be provided, on the premises.

- (5) A member, staff member or authorised person may, in exceptional circumstances, do a thing mentioned in subsection (4) (a) to (d) without notice.

**Example of exceptional circumstance**

danger of injury to anyone's health or safety

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

### **36 Identity cards**

- (1) The authority may give a person who may conduct visits under this part an identity card that states the person's name and position, and shows—
- (a) the date of issue of the card; and
  - (b) the date of expiry of the card; and
  - (c) anything else prescribed under the regulations.
- (2) A person who is given an identity card commits an offence if the person fails to return it to the authority as soon as practicable, but within 7 days, after the day the person is asked by the authority to return the card.

Maximum penalty: 1 penalty unit.

- (3) An offence against this section is a strict liability offence.

### **37 Production of identity card**

An authority member, staff member or authorised person must not remain on premises entered under this part if, on request by the occupier, the authority member, staff member or authorised person does not produce his or her identity card.



**38 Obstructing visits**

- (1) This section applies if the authority is satisfied that an employer—
  - (a) without reasonable excuse, obstructs or hinders a person entering premises or observing training under section 35 (4) (a) or (b) (Visits by authority); or
  - (b) refuses to give information, or gives information that the employer knows is false or misleading, in response to a request under section 35 (4) (c); or
  - (c) refuses to produce a document, or produces a document that the employer knows contains false or misleading information, in response to a request under section 35 (4) (d).
- (2) The authority may suspend or cancel the approval of, or amend, any approved training contract to which the employer is a party.

## Part 6 Review of decisions

### 39 Definition for pt 6

In this part:

*reviewable decision* means a decision of the authority mentioned in an item in schedule 1, column 3 under a provision of this Act mentioned in the item, column 2.

### 40 Notice of reviewable decisions

- (1) If the authority makes a reviewable decision, the authority must give written notice of the decision to each person mentioned in schedule 1, column 4 in relation to the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

### 41 Review by AAT of reviewable decisions

A person may apply in writing to the administrative appeals tribunal for review of a reviewable decision.

### 42 Modification of Administrative Appeals Tribunal Act, s 27

- (1) This section applies in relation to a decision to which section 33 (Disagreement with decision of authority) applies.
- (2) A person is not entitled to apply under section 41 for review of a decision—
  - (a) until after the end of the period when a request under section 33 (2) may be made; or
  - (b) if a request under section 33 (2) has been made, until the earlier of the following days:

- (i) the day the person who made the request is notified of the outcome of the attempt to resolve the disagreement;
  - (ii) the day after the end of the period mentioned in section 33 (4).
- (3) If a request has been made under section 33 (2) in relation to a decision, the prescribed time for lodging an application with the AAT is the period beginning on the day when the person who made the request becomes entitled under subsection (2) (b) to make the application and ending on the 28th day after that day.

## Part 7 Miscellaneous

### 43 Functions of ANTA for the ACT

ANTA may exercise, for the ACT, any function given to it under the *Australian National Training Authority Act 1992* (Cwlth).

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

### 44 False or misleading statements in applications etc

- (1) A person commits an offence if—
  - (a) the person makes a statement (whether orally, in a document or in any other way); and
  - (b) the person does so knowing that the statement—
    - (i) is false or misleading; or
    - (ii) omits anything without which the statement is misleading; and
  - (c) the statement is made—
    - (i) in, or in relation to, an application for approval or amendment of a training contract; or
    - (ii) in response to a request for information under section 35 (4) (c) (Visits by authority).

Maximum penalty: 100 penalty units.

- (2) Subsection (1) (b) (i) does not apply if the statement is not false or misleading in a material particular.
- (3) Subsection (1) (b) (ii) does not apply if the omission does not make the statement misleading in a material particular.

- (4) A person commits an offence if—
- (a) the person makes a statement (whether orally, in a document or in any other way); and
  - (b) the person is reckless as to whether the statement—
    - (i) is false or misleading; or
    - (ii) omits anything without which the statement is misleading; and
  - (c) the statement is made—
    - (i) in, or in relation to, an application for approval or amendment of a training contract; or
    - (ii) in response to a request for information under section 35 (4) (c) (Visits by authority).

Maximum penalty: 50 penalty units.

- (5) Subsection (4) (b) (i) does not apply if the statement is not false or misleading in a material particular.
- (6) Subsection (4) (b) (ii) does not apply if the omission does not make the statement misleading in a material particular.

#### **45 Alternative verdict for offence against s 44**

- (1) This section applies if, in a prosecution for an offence against section 44 (1) (False or misleading statements in applications etc), the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence against section 44 (4).
- (2) The trier of fact may find the defendant not guilty of the offence against section 44 (1) but guilty of the offence against section 44 (4) only if the defendant has been given procedural fairness in relation to that finding of guilt.

**46 Protection from liability**

- (1) A person exercising a function under this Act does not incur civil liability for an act or omission done honestly and without negligence for this Act.
- (2) Civil liability that would, apart from this section, attach to a person attaches instead to the Territory.

**47 Determination of fees**

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

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

- (2) A determination is a disallowable instrument.

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

**48 Approved forms**

- (1) The authority may, in writing, approve forms for this Act.
- (2) If the authority approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see Legislation Act, s 255.

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

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

**49 Regulation-making power**

The Executive may make regulations for this Act.

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

## Part 8 Transitional provisions

### 50 Training contracts

- (1) An agreement that was an approved training agreement under the *Vocational Education and Training Act 1995* immediately before 1 November 2003 is taken to be approved as a training contract under section 26 (Approval of training contract).
- (2) If a suspension of approval of the agreement or an amendment of the agreement is in force immediately before 1 November 2003, the suspension or amendment has effect as if the approval had been suspended, or the agreement amended, under part 3 (Training).

### 51 Modification of pt 8's operation

The regulations may modify the operation of this part to make provision in relation to any matter that, in the Executive's opinion, is not, or is not adequately, dealt with in this part.

### 52 Expiry of pt 8

This part expires on 30 October 2004.

## **Part 9** **Repeals and consequential amendments**

### **53 Act repealed**

The *Vocational Education and Training Act 1995* No 37 is repealed.

### **54 Regulation repealed**

The *Vocational Education and Training Regulations 1998* No 26 are repealed.

### **55 Acts and regulations amended—sch 2**

Schedule 2 amends the Acts and regulations mentioned in it.



## Schedule 1 Reviewable decisions

(see s 39)

column 1 item	column 2 Act provision	column 3 reviewable decision	column 4 person to be notified
1	26 (1) (Approval of training contract)	refusing to approve a training contract	applicant for approval
2	26 (4)	approving a training contract subject to conditions	applicant for approval
3	31 (2) (a) (Party may ask for amendment)	approving an amendment of an approved training contract	each party to the contract
4	31 (2) (b)	refusing to approve amendment of approved training contract	each party to the contract
5	32 (Authority may suspend, cancel or amend contract)	suspending or cancelling approval of a training contract	each party to the contract
6	32	amending an approved training contract	each party to the contract
7	34 (6) (a) (Dispute between employer and trainee)	making a finding of fact about a matter in relation to a training contract	each party to the contract

**Schedule 1**      Reviewable decisions

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<b>column 1 item</b>	<b>column 2 Act provision</b>	<b>column 3 reviewable decision</b>	<b>column 4 person to be notified</b>
8	34 (6) (b)	amending an approved training contract	each party to the contract
9	34 (6) ©	giving directions to a party to an approved training contract	each party to the contract
10	38 (2) (Obstructing visits)	suspending or cancelling approval of an approved training contract	each party to the contract
11	38 (2)	amending an approved training contract	each party to the contract

## **Schedule 2      Consequential amendments**

(see s 55)

### **Part 2.1              Annual Leave Act 1973**

#### **[2.1] Section 2 (1), definition of *approved training agreement***

*omit*

#### **[2.2] New definition of *approved training contract***

*insert*

*approved training contract*—see the *Vocational Education and Training Act 2003*, dictionary.

#### **[2.3] Section 2 (1), definition of *trainee***

*omit*

a training agreement

*substitute*

an approved training contract

#### **[2.4] Section 2 (1), definition of *training agreement***

*omit*

## Part 2.2 Building and Construction Industry Training Levy Act 1999

### [2.5] Section 28 (3)

*omit*

registered provider.

*substitute*

registered training organisation.

### [2.6] Section 28 (4), definition of *registered provider*

*substitute*

*registered training organisation*—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

## Part 2.3 Electricity Safety Act 1971

### [2.7] Section 24 (2)

*substitute*

(2) In this section:

*accredited*, for a course—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

*trainee*—see the *Vocational Education and Training Act 2003*, dictionary.

## Part 2.4 Electricity Safety Regulations 1971

### [2.8] Regulation 3 (3) (b) (i) (A)

*omit*

*Vocational Education and Training Act 1995;*

*substitute*

*Tertiary Accreditation and Registration Act 2003;*

### [2.9] Regulation 5 (3) (b) (i) (A)

*omit*

*Vocational Education and Training Act 1995;*

*substitute*

*Tertiary Accreditation and Registration Act 2003;*

## Part 2.5 Long Service Leave Act 1976

### [2.10] Section 2 (1), definition of *approved training agreement*

*omit*

### [2.11] Section 2 (1), new definition of *approved training contract*

*insert*

*approved training contract*—see the *Vocational Education and Training Act 2003*, dictionary.

**[2.12] Section 2 (1), definition of *continuous service*, paragraph (d)**

*substitute*

- (d) for an employee who begins service with an employer within a period of 12 months from the end of an apprenticeship, or an approved training contract, with the employer—the period of the apprenticeship or approved training contract.

**[2.13] Section 2 (1), definition of *trainee***

*omit*

a training agreement

*substitute*

an approved training contract

**[2.14] Section 2 (1), definition of *training agreement***

*omit*

## **Part 2.6 Payroll Tax Act 1987**

**[2.15] Section 9A (8)**

*substitute*

- (8) In this section:

***approved training*** means training under an approved training contract.

***approved training contract***—see the *Vocational Education and Training Act 2003*, dictionary.

***recognised training*** means approved training other than training declared under subsection (6) not to be recognised training.

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## Part 2.7 Workers Compensation Regulations 2002

### [2.16] Regulation 95A (2), new definition of *approved training contract*

*insert*

*approved training contract*—see the *Vocational Education and Training Act 2003*, dictionary.

### [2.17] Regulation 95A (2), definition of *group trainer*

*substitute*

*group trainer* means a registered training organisation that, as a business (a *labour hire business*), places trainees with employers relevant to the trainees' approved training contracts for the duration of their contracts.

### [2.18] Regulation 95A (2), definition of *registered provider*

*substitute*

*registered training organisation*—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

### [2.19] Regulation 95A (2), definition of *trainee*

*omit*

a training agreement

*substitute*

an approved training contract

### [2.20] Regulation 95A (2), definition of *training agreement*

*omit*

## Dictionary

(see s 4)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- entity
- exercise
- function
- may (see s 146)
- must (see s 146)
- person.

***accreditation and registration council*** means the Accreditation and Registration Council established under the *Tertiary Accreditation and Registration Act 2003*.

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

***ANTA agreement***—see the Commonwealth Act, section 4 (1), definition of ***Agreement***.

***approved training contract*** means a training contract approved by the authority under section 26 (Approval of training contract).

***authority*** means the Vocational Education and Training Authority established by section 7.

***committee*** means a committee established by the authority under section 21.

***Commonwealth Act*** means the *Australian National Training Authority Act 1992* (Cwth).

***employer***, for a trainee, means the person who is obliged under a training contract to employ the trainee.



***federal award*** means—

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

***industrial award*** means—

- (a) a federal award; or
- (b) an award, determination or order made by an entity prescribed under the regulations.

***qualification***—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

***registered training organisation***—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

***statement of attainment***—see the *Tertiary Accreditation and Registration Act 2003*, dictionary.

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

***trainee*** means a person who undertakes training under a training contract, and includes an apprentice.

***work-related training*** means a sequence of vocational education and training that is determined by the authority under section 25 to be work-related training.

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## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

*[Presentation speech made in Assembly on 3 April 2003]*

I certify that the above is a true copy of the Vocational Education and Training Bill 2003 which was passed by the Legislative Assembly on 26 August 2003.

Acting Clerk of the Legislative Assembly

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