



Australian Capital Territory

Training and Tertiary Education Amendment Act 2014

A2014-48

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Long title	2
5 Preliminary	
Chapter 1	2
6 Section 3	2
7 Dictionary	
Section 4, note 1	3
8 Chapters 2 and 3	3

J2013-712

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

		Page
9	Work-related training and training contracts Chapter 3A	4
10	New section 55AA	4
11	Training contracts for qualification or statement of attainment Section 55D (2)	4
12	New section 55FA	5
13	Director-general may suspend, cancel or amend contract Section 55H (b)	5
14	Section 55I heading	5
15	Section 55I (4)	5
16	Chapters 4 and 5	5
17	General Chapter 6 heading	6
18	Visits to premises Part 6.1	6
19	Section 99 heading	6
20	Section 99 (1)	6
21	Section 99 (4)	6
22	Section 99 (5)	6
23	New section 99 (6)	7
24	Visits by council—higher education provider premises Section 100	7
25	Identity cards Section 101 (1) and (2)	7
26	Section 101 (4)	7
27	Obstructing visits—council Section 103	7
28	Section 103A	8
29	Notification and review of decisions Part 6.2	8
30	Reviewable decision notices Section 105	9
31	Time for lodging ACAT review applications for s 55 and s 80 decisions—ACAT Act, s 11 Section 107	9
32	Other provisions Part 6.3	9

	Page	
33	CRICOS approval	
	Section 108 (2), definition of <i>CRICOS</i>	9
34	Section 112	10
35	Regulation-making power	
	Section 113 (2)	10
36	Schedule 1	10
37	Dictionary, note 2	12
38	Dictionary, note 2	12
39	Dictionary, definitions of <i>accredited course</i> and <i>accreditation</i>	12
40	Dictionary, new definition of <i>apprentice or trainee</i>	12
41	Dictionary	12
42	Dictionary, new definition of <i>Commonwealth Act</i>	13
43	Dictionary	13
44	Dictionary, definition of <i>employer</i>	13
45	Dictionary	13
46	Dictionary, new definition of <i>probationary period</i>	14
47	Dictionary, definition of <i>prohibition</i>	14
48	Dictionary, definition of <i>qualification</i>	14
49	Dictionary, definition of <i>registered</i>	14
50	Dictionary, definition of <i>registered training organisation</i>	14
51	Dictionary	15
52	Dictionary, definition of <i>RTO</i>	15
53	Dictionary	15
54	Dictionary, definition of <i>statement of attainment</i>	15
55	Dictionary	16
56	Dictionary, definition of <i>vocational education and training</i>	16
57	Dictionary, definition of <i>vocational education and training course</i>	16
58	Act—renumbering	16
59	Legislation repealed	17
Schedule 1	Consequential amendments	18
Part 1.1	ACT Teacher Quality Institute Regulation 2010	18
Part 1.2	Agents Regulation 2003	18

	Page
Part 1.3	Building and Construction Industry Training Levy Act 1999 19
Part 1.4	Children and Young People Act 2008 19
Part 1.5	Construction Occupations (Licensing) Act 2004 20
Part 1.6	Construction Occupations (Licensing) Regulation 2004 20
Part 1.7	Crimes (Child Sex Offenders) Act 2005 21
Part 1.8	Education Act 2004 22
Part 1.9	Electricity Feed-in (Renewable Energy Premium) Act 2008 23
Part 1.10	Food Act 2001 23
Part 1.11	Liquor Act 2010 24
Part 1.12	Long Service Leave (Portable Schemes) Act 2009 24
Part 1.13	Payroll Tax Act 2011 24
Part 1.14	Planning and Development Regulation 2008 26
Part 1.15	Road Transport (Driver Licensing) Regulation 2000 26
Part 1.16	Security Industry Act 2003 27
Part 1.17	Security Industry Regulation 2003 27



Australian Capital Territory

Training and Tertiary Education Amendment Act 2014

A2014-48

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

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

1 Name of Act

This Act is the *Training and Tertiary Education Amendment Act 2014*.

2 Commencement

This Act commences on the 14th day after its notification day.

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

3 Legislation amended

This Act amends the *Training and Tertiary Education Act 2003*.

Note 1 This Act also amends other legislation (see sch 1).

Note 2 This Act also repeals other legislation (see s 59).

4 Long title

substitute

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

**5 Preliminary
Chapter 1**

renumber as part 1

6 Section 3

substitute

3 Objects of Act

The objects of this Act are to—

- (a) regulate apprenticeships and traineeships; and

- (b) support quality assurance and best management practices for vocational education and training; and
- (c) encourage awareness in the community of the need for, and to promote the development of, vocational education and training that is relevant to industry.

7 Dictionary Section 4, note 1

substitute

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

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

8 Chapters 2 and 3

substitute

Part 2 Vocational education and training

7 Functions of director-general

The director-general has the following functions:

- (a) to inquire into, and advise the Minister on, issues about vocational education and training;
- (b) to facilitate recognition and quality assurance in the provision of vocational education and training;
- (c) to ensure a strong policy framework for the delivery of vocational education and training in the ACT;

- (d) to establish a simple, streamlined system for apprenticeships and traineeships;
- (e) any other function given to the director-general under this Act.

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

renumber as part 3

10 New section 55AA

insert

55AA Probationary period for training contract

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

Examples

- 1 A probationary period of 60 days may be determined for a 2-year traineeship.
- 2 A probationary period of 90 days may be determined for a 4-year apprenticeship.

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

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

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

omit

or the council

12 New section 55FA

insert

55FA Ending training contract during probationary period

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

**13 Director-general may suspend, cancel or amend contract
Section 55H (b)**

omit

the trainee

substitute

the apprentice or trainee

14 Section 55I heading

substitute

55I Dispute between employer and apprentice or trainee

15 Section 55I (4)

omit

16 Chapters 4 and 5

omit

17 **General**
Chapter 6 heading

omit

18 **Visits to premises**
Part 6.1

renumber as part 4

19 **Section 99 heading**

substitute

99 **Visits by director-general—RTO premises**

20 **Section 99 (1)**

substitute

- (1) The director-general may give an RTO written notice that a person authorised by the director-general proposes to visit premises where the RTO is conducting, or proposing to conduct, training or assessment as part of a VET course.

Note **RTO**—see the dictionary.

21 **Section 99 (4)**

omit

member, staff member or

22 **Section 99 (5)**

omit

A member, staff member or

substitute

An

23 New section 99 (6)

after the note, insert

(6) In this section:

VET course—see the [Commonwealth Act](#), section 3.

**24 Visits by council—higher education provider premises
Section 100**

omit

**25 Identity cards
Section 101 (1) and (2)**

omit

relevant authority

substitute

director-general

26 Section 101 (4)

omit

**27 Obstructing visits—council
Section 103**

omit

28 Section 103A

substitute

103A Obstructing visits—director-general

- (1) This section applies if the director-general is satisfied that an employer or RTO—
 - (a) without reasonable excuse, obstructs or hinders a person entering premises or observing training under section 99 (4) (a) or (b) (Visits by director-general—RTO premises) or section 99A (4) (a) or (b) (Visits by director-general—training contract premises); or
 - (b) refuses to give information, or gives information that the employer or RTO knows is false or misleading in response to a request under section 99 (4) (c) or section 99A (4) (c); or
 - (c) refuses to produce a document, or produces a document that the employer or RTO knows contains false or misleading information, in response to a request under section 99 (4) (d) or section 99A (4) (d).
- (2) The director-general may suspend or cancel the approval of, or amend, an approved training contract to which the employer is a party or under which the RTO delivers work-related training.

**29 Notification and review of decisions
Part 6.2**

renumber as part 5

**30 Reviewable decision notices
Section 105**

omit

council or Minister

substitute

director-general

**31 Time for lodging ACAT review applications for s 55 and
s 80 decisions—ACAT Act, s 11
Section 107**

omit

**32 Other provisions
Part 6.3**

renumber as part 6

**33 CRICOS approval
Section 108 (2), definition of *CRICOS***

omit

section 10

substitute

section 14A

34 Section 112

substitute

112 Approved forms

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

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

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

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

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

omit

36 Schedule 1

substitute

Schedule 1 Reviewable decisions

(see pt 6.2)

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

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

37 Dictionary, note 2

omit

- bankrupt or personally insolvent
- corporation

38 Dictionary, note 2

omit

- person

substitute

- person (see s 160)

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

omit

40 Dictionary, new definition of *apprentice or trainee*

insert

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

41 Dictionary

omit the definitions of

AQF

AQTF

committee

42 Dictionary, new definition of *Commonwealth Act*

insert

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

43 Dictionary

omit the definitions of

compliance audit

corresponding law

council

course accrediting body

44 Dictionary, definition of *employer*

substitute

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

45 Dictionary

omit the definitions of

foreign university

franchise arrangement

higher education award

higher education course

higher education provider

higher education standards

jurisdiction

legislative compliance standard

ministerial council

nationally endorsed

national protocols

national register

national training framework

46 Dictionary, new definition of *probationary period*

insert

probationary period—see section 55AA.

47 Dictionary, definition of *prohibition*

omit

48 Dictionary, definition of *qualification*

substitute

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

49 Dictionary, definition of *registered*

omit

50 Dictionary, definition of *registered training organisation*

substitute

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

51 Dictionary

omit the definitions of
registering body
registration
restriction

52 Dictionary, definition of RTO

substitute
RTO—see *registered training organisation*.

53 Dictionary

omit the definitions of
RTO standards
scope of registration
standards for accreditation of courses
standards for registered training organisations
standards for State and Territory registering and course accrediting bodies

54 Dictionary, definition of statement of attainment

substitute
statement of attainment means a VET statement of attainment under the [Commonwealth Act](#).

55 Dictionary

omit the definitions of
trades and labour council
trainee
training package
unit of competency
university
university advisory panel

56 Dictionary, definition of vocational education and training

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

57 Dictionary, definition of vocational education and training course

omit

58 Act—renumbering

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

59 Legislation repealed

The following legislation is repealed:

- *Training and Tertiary Education Regulation 2004* (SL2004-22)
- *Training and Tertiary Education (Fees) Determination 2014* (DI2014-196)
- *Tertiary Accreditation and Registration Council Direction 2004 (No 1)* (NI2004-470)
- *Training and Tertiary Education (Accreditation and Registration Council) Direction 2008 (No 1)* (NI2008-59).

Schedule 1 Consequential amendments

Part 1.1 ACT Teacher Quality Institute Regulation 2010

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

substitute

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

[1.2] Section 7 (2)

substitute

- (2) In this section:

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

Part 1.2 Agents Regulation 2003

[1.3] Section 3, note 1

substitute

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

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

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

substitute

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

[1.5] Dictionary, definition of *statement of attainment*

substitute

statement of attainment means the VET statement of attainment under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

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

[1.6] Section 28 (4), definition of *registered training organisation*

substitute

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

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

[1.7] Section 25 (3), definition of *ACT education provider*, paragraphs (c) to (e)

substitute

- (c) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3;
- (d) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth).

Part 1.5 Construction Occupations (Licensing) Act 2004

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

substitute

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

Part 1.6 Construction Occupations (Licensing) Regulation 2004

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

substitute

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

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

omit

accredited course

substitute

VET course

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

omit

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

omit

accredited course

substitute

VET course

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

omit

an accredited course

substitute

a VET course

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

insert

VET course—see the [National Vocational Education and Training Regulator Act 2011](#) (Cwlth), section 3.

Part 1.7 Crimes (Child Sex Offenders) Act 2005

[1.15] Section 124 (1) (s)

omit

work-related training contracts

substitute

approved training contracts

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

substitute

- (b) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3;
- (c) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth).

Part 1.8 Education Act 2004

[1.17] Table 9A, items 3 to 7

substitute

3	a course of study leading to the completion of year 10 or year 12	a registered training organisation under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3
4	a VET course under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3	a registered training organisation under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3
5	an accredited course under the <i>Tertiary Education Quality and Standards Agency Act 2011</i> (Cwlth)	a registered higher education provider under the <i>Tertiary Education Quality and Standards Agency Act 2011</i> (Cwlth)

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

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

substitute

educational institution means—

- (a) a government school or school-related institution established under the [Education Act 2004](#), section 20; or
- (b) a registered higher education provider under the [National Vocational Education and Training Regulator Act 2011](#) (Cwlth).

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

omit

Part 1.10 Food Act 2001

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

substitute

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

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

before

training organisation

insert

registered

Part 1.11 Liquor Act 2010

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

substitute

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

Part 1.12 Long Service Leave (Portable Schemes) Act 2009

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

omit

under the [Training and Tertiary Education Act 2003](#)

substitute

under the [National Vocational Education and Training Regulator Act 2011](#) (Cwlth), section 3

Part 1.13 Payroll Tax Act 2011

[1.24] Schedule 2, section 2.16 heading

substitute

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

[1.25] Schedule 2, section 2.16 (1)

omit

a trainee

substitute

an apprentice or trainee

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

omit

the trainee

substitute

the apprentice or trainee

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

omit

trainees

substitute

apprentices or trainees

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

insert

apprentice or trainee—see the [Training and Tertiary Education Act 2003](#), dictionary.

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

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

omit

Part 1.14 Planning and Development Regulation 2008

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

substitute

- (iii) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3; or
- (iv) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth); and

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

omit

Part 1.15 Road Transport (Driver Licensing) Regulation 2000

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

substitute

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

Part 1.16 Security Industry Act 2003

[1.33] Section 26 (5)

substitute

(5) In this section:

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

Part 1.17 Security Industry Regulation 2003

[1.34] Section 15

omit

under the *Training and Tertiary Education Act 2003*

substitute

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

Endnotes

1 Presentation speech

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

2 Notification

Notified under the [Legislation Act](#) on 6 November 2014.

3 Republications of amended laws

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

I certify that the above is a true copy of the Training and Tertiary Education Amendment Bill 2014, which was passed by the Legislative Assembly on 23 October 2014.

Clerk of the Legislative Assembly

© Australian Capital Territory 2014