

Western Australia

**Vocational Education and Training Act
1996**

As at 01 Feb 2007

Version 01-c0-07

Extract from www.slp.wa.gov.au, see that website for further information

Vocational Education and Training Act 1996

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Application to Crown	2
4.	Objects	2
5.	Interpretation	3
6.	Vocational education and training provided by a secondary school or university	5

Part 2 — Coordination of the State vocational education and training system

Division 1 — The Minister

7.	Minister a body corporate	6
8.	Functions of the Minister	6
9.	Powers of the Minister	7
10.	Delegation by Minister	9
11.	Minister may give directions	9
12.	Directions to secondary schools and universities providing vocational education and training	10
13.	Minister may issue guidelines	11
14.	Minister to have access to information	11

Division 2 — Financial matters

15.	Vocational Education and Training Trust Account	12
16.	Application of <i>Financial Management Act 2006</i> and <i>Auditor General Act 2006</i>	13

Contents

17.	Minister may lend money	13
17A.	Borrowing by the Minister	14
17B.	Moneys to be credited and charged to operating account	14
17C.	Guarantee by the Treasurer	15
17D.	Payments under guarantee	15

Part 3 — The State Training Board

18.	Establishment of Board	17
19.	Constitution of the Board	17
20.	Further provisions relating to the Board	17
21.	Functions of the Board	18
22.	Powers of the Board	19
23.	Committees of the Board	19
24.	Annual report of Board	19

Part 4 — The Training Accreditation Council

Division 1 — Establishment and functions of Council

25.	Establishment of Council	21
26.	Further provisions relating to Council	21
27.	Functions of Council	21
28.	Delegation by the Council	22
29.	Committees of the Council	22
30.	Annual report of Council	23

Division 2 — Appeals against decisions of the Council

31.	Appeals against decisions of the Council	23
32.	Board to establish review panels	23
33.	Reference back to Council	24
34.	Determination of appeal	24

Part 5 — Colleges

Division 1 — Establishment and functions of colleges

35.	Establishment of colleges	25
36.	Constitution of colleges	25
37.	Functions of a college	26
38.	Vacation periods	27

	Division 2 — Governing councils	
39.	Governing council	27
40.	Further provisions relating to governing councils	28
41.	Interim governing councils	28
42.	Functions of a governing council	28
43.	Powers of a governing council	29
44.	By-laws	30
45.	Delegation by governing council	31
46.	Managing director	31
47.	College employees	31
	Division 3 — Financial provisions	
48.	Funds of a college	31
49.	College Trust Accounts	32
50.	Use of funds	33
51.	Power to borrow	33
52.	Power to invest	33
53.	Minister may direct transfer of funds	33
54.	Application of <i>Financial Management Act 2006</i> and <i>Auditor General Act 2006</i>	33
	Division 4 — Failure of governing council to operate efficiently etc.	
55.	Minister may take action where governing council fails to operate efficiently etc.	34
56.	Order assuming functions or appointing administrator	34
	Part 6 — Other vocational education and training institutions	
57.	Minister may establish other vocational education and training institutions	36
	Part 8 — Miscellaneous	
63.	Remuneration of members of Board, Council etc.	37
64.	Protection from liability	37
65.	Falsely claiming accreditation or registration	37
66.	Further provision relating to closure of college	38
67.	Regulations	39
68.	Provisions relating to the Commonwealth Act	40
69.	Review of Act	40
70.	Repeals	41

Contents

Schedule 1

1.	Vacation of office	42
2.	Leave of absence	42
3.	Meetings	42
4.	Disclosure of interests	43
5.	Voting by interested members	43
6.	Clause 5 may be declared inapplicable	44

Notes

	Compilation table	45
	Provisions that have not come into operation	46

Vocational Education and Training Act 1996

An Act to establish a vocational education and training system for the State, to constitute the State Training Board of Western Australia and the Training Accreditation Council, to provide for the establishment of colleges and other vocational education and training institutions, to repeal —

- **the *Colleges Act 1978*;**
- **the *Industrial Training Act 1975*; and**
- **the *State Employment and Skills Development Authority Act 1990*,**

to consequentially amend certain other Acts, and for related purposes.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Vocational Education and Training Act 1996*¹.

2. Commencement

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation¹.

3. Application to Crown

This Act binds the Crown in right of the State.

4. Objects

The main objects of this Act are —

- (a) to establish a State training system for the effective and efficient provision of vocational education and training to meet the immediate and future needs of industry and the community;
- (b) to provide for the recognition of vocational education and training, training providers, qualifications and skills;
- (c) to provide a means by which the State is able to meet its obligations under national arrangements relating to vocational education and training;
- (d) to promote equality of opportunity to undertake vocational education and training;
- (e) to provide for research and development for the purposes of vocational education and training; and
- (f) to allow for the operation of an open and competitive training market in this State.

5. Interpretation

- (1) In this Act, unless the contrary intention appears —
- accredited** means accredited by the Council;
- Board** means the State Training Board established by section 18;
- chief executive** means the chief executive officer of the department;
- college** means a college established under section 35;
- Council** means the Training Accreditation Council established by section 25(1);
- course** means a sequence of vocational education and training and includes a part or component of a course;
- department** means the department of the Public Service principally assisting the Minister in the administration of this Act;
- educational institution** means an institution providing education of any kind and includes a training provider;
- governing council** means a governing council provided for by section 39(1);
- industry training advisory body** means an association, whether incorporated or not, which is conversant with, and capable of giving advice in relation to, the vocational education and training requirements of a particular industry;
- interim governing council** means an interim governing council appointed under section 41(3);
- member** means a member of the Board, the Council, a governing council or an interim governing council as the context requires and includes, where appropriate, the chairperson or deputy chairperson of any of those bodies;
- other vocational education and training institution** means a vocational education and training institution established under section 57(2);

s. 5

public training provider means a college or other vocational education and training institution;

registered training provider means a training provider registered by the Council;

Resource Agreement means an agreement between the Minister and a training provider relating to the vocational education and training to be provided by that training provider;

skills training programme means a programme of vocational education and training which may include recognition of skills or qualifications previously acquired;

State Training Profile means a comprehensive plan for the provision of vocational education and training in the State;

State training system means the vocational education and training system operating under this Act;

training provider means a person or entity who or which provides vocational education and training and includes a secondary school or university that provides a course, programme or service approved under section 6;

training scheme means a training scheme established or recognised under section 58;

vocational education and training means post-compulsory education, instruction, training or experience that encompasses the development of skills, knowledge and attitudes in any vocation, or in any academic or practical discipline relevant to a particular occupation, business, employment or trade, but, subject to section 6, does not include education, instruction, training or experience provided by a secondary school or a university.

- (2) A reference in this Act to the **training market** is a reference to the market in which the vocational education and training required by a State Training Profile may be purchased by the State from either public or private training providers.

6. Vocational education and training provided by a secondary school or university

- (1) The Minister may for the purposes of this Act, subject to subsection (2), approve a specified course, skills training programme or related service, or class of course, skills training programme or related service, provided by a specified secondary school or university; and any course, programme or service so approved is within the definition of “vocational education and training” in section 5(1).
- (2) The power conferred by subsection (1) may only be exercised with the concurrence of the Minister to whom the administration of the *School Education Act 1999* is for the time being committed by the Governor.

[Section 6 amended by No. 36 of 1999 s. 247.]

Part 2 — Coordination of the State vocational education and training system

Division 1 — The Minister

7. Minister a body corporate

- (1) The Minister is, for the purposes of this Act —
 - (a) a body corporate with a corporate name and a common seal; and
 - (b) capable of taking and defending proceedings in that corporate name.
- (2) The corporate name of the Minister is the “Minister for Training”.
- (3) All courts, judges and persons acting judicially are to take judicial notice of the common seal of the Minister affixed to any document and are to presume that it was duly affixed.
- (4) The body corporate constituted under subsection (1)(a) may, by writing under its common seal, authorise the chief executive, either generally or in respect of a specified matter or specified matters to execute deeds or other instruments on its behalf.
- (5) A deed or other instrument executed by the chief executive on behalf of the body corporate binds the body corporate and has the same effect as if it were under the common seal of the body corporate.
- (6) Nothing in subsection (4) or (5) prevents the body corporate from making or discharging a contract under its common seal.

8. Functions of the Minister

The functions of the Minister are —

- (a) to control, direct and coordinate the State training system;
- (b) to approve State Training Profiles from time to time;

- (c) to promote the development of a competitive training market and to facilitate commercial activities that are authorised by or under this Act; and
- (d) to enter into commercial activities both within Australia and overseas, to generate revenue for, and otherwise benefit, the State training system.

9. Powers of the Minister

- (1) The Minister may do all things necessary or convenient to be done for or in connection with the performance of the functions specified in section 8 and any other functions conferred on the Minister by this Act.
- (2) Without limiting subsection (1) the Minister may for the purpose of performing any function —
 - (a) authorise and require public training providers to provide education and training in accordance with a State Training Profile;
 - (b) determine and coordinate arrangements for —
 - (i) the curriculum;
 - (ii) student selection, admission and enrolment procedures; and
 - (iii) other administrative procedures,to be used or followed by public training providers;
 - (c) acquire, hold, improve, develop and dispose of land and other property of any kind, for and on account of the State, for the purposes of this Act;
 - (d) by public notice, invite expressions of interest in, and tenders for, and enter into, contracts to fund or partly fund the provision of courses, skills training programmes and services related to vocational education and training by training providers;
 - (e) provide funds, by way of grants and otherwise, and make other resources available to training providers and

Vocational Education and Training Act 1996

Part 2 Coordination of the State vocational education and training system

Division 1 The Minister

s. 9

other persons for purposes related to vocational education and training;

- (f) authorise, by lease, licence or other arrangement, the use for commercial, community or any other purpose of any land, buildings, equipment, facilities or services used or provided for, or in connection with, the provision of vocational education and training as long as the use for such a purpose does not detract from the provision of vocational education and training;
- (g) enter into contracts or other arrangements to provide products, consultancy or other services in the course of, or incidental to, the provision of vocational education and training;
- (h) turn to account the vocational education and training expertise of the State by means of the sale of knowledge and services and the commercial exploitation of copyright and other intellectual property, including the assignment and licensing of such property;
- (i) enter into contracts and arrangements with overseas organisations for the provision of vocational education and training and related services;
- (j) engage in applied research and development related to vocational education and training in conjunction with industry, research organisations, other educational institutions and other bodies;
- (k) assist the development of industry and commerce and the community in relation to the application of new technology related to vocational education and training and the skills and knowledge needed for that application; and
- (l) on terms and conditions approved by the Treasurer, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement.

- (3) The powers referred to in subsection (2)(d), (j), (k) and (l) are not subject to, and may be exercised despite, the *State Supply Commission Act 1991*.
- (4) In subsection (2)(l) —
business arrangement means a company, a partnership, a trust, a joint venture, or an arrangement for sharing profits;
participate includes form, promote, establish, enter, manage, dissolve, wind up, and do anything incidental to participating in a business arrangement.

10. Delegation by Minister

- (1) Subject to subsection (2) the Minister may, by instrument of delegation, and either generally or as otherwise provided in the instrument, delegate to —
- (a) the chief executive;
 - (b) a governing council or an interim governing council; or
 - (c) the managing director of a college or a person in charge of any other vocational education and training institution,
- the performance of any of the Minister's functions under this Act.
- (2) The Minister cannot delegate any of the Minister's powers in relation to the appointment of members of the Board or the Council.
- (3) A person to whom a power has been delegated under subsection (1) may subdelegate that power to another person with the approval of the Minister but not otherwise.

11. Minister may give directions

- (1) This section applies to the Board, the Council, colleges, and an institution established under Part 6.

- (2) Subject to subsection (4), the Minister may give directions to a body to which this section applies with respect to the performance by that body of its functions under this Act either generally or in relation to a particular matter, and the body is to give effect to those directions.
- (3) A direction may be given under subsection (2) requiring a body to have regard to a particular policy or principle.
- (4) The Minister may not give directions to —
 - (a) the Board, with respect to the performance of its functions under Division 2 of Part 4; or
 - (b) the Council, with respect to the performance of its functions under section 27(1).
- (5) The text of any direction given to —
 - (a) the Board or the Council is to be included in the annual report presented to the Minister under section 24 or 30; or
 - (b) a college or other institution is to be included in the annual report submitted by the accountable authority of the college or other institution under Part 5 of the *Financial Management Act 2006*.

[Section 11 amended by No. 77 of 2006 s. 17.]

12. Directions to secondary schools and universities providing vocational education and training

- (1) The Minister may give directions as to matters coming within subsection (2) to a secondary school or university that —
 - (a) provides vocational education and training by virtue of an approval under section 6; and
 - (b) is funded or partly funded under this Act.
- (2) The matters as to which directions may be so given are —
 - (a) the preparation, scope and form of management plans;
 - (b) the fees to be charged;

(c) the standard and general form of accounts to be kept;
and

(d) reporting requirements,

in relation to the relevant vocational education and training.

13. Minister may issue guidelines

(1) This section applies to the Board, the Council and a public training provider.

(2) The Minister may, from time to time, issue guidelines, not inconsistent with this Act, to a body to which this section applies relating to —

(a) the functioning of the State training system; and

(b) the policy to be implemented and the procedures to be followed,

under this Act.

(3) The Minister may not issue guidelines to —

(a) the Board, with respect to the performance of its functions under Division 2 of Part 4; or

(b) the Council, with respect to a particular application or matter that is to be determined by the Council.

(4) Guidelines issued under this section are to be followed by the body to which they are directed.

14. Minister to have access to information

(1) This section applies to the Board, the Council and colleges.

(2) The Minister is entitled —

(a) to have information in the possession of a body to which this section applies; and

(b) where the information is in or on a document, to have, and make and retain copies of, that document.

- (3) For the purposes of subsection (1) the Minister may —
- (a) request a body to which this section applies to furnish information to the Minister; or
 - (b) request a body to which this section applies to give the Minister access to information.
- (4) A body to which this section applies is to comply with a request under subsection (3).
- (5) In this section —
- document* includes any tape, disc or other device or medium on which information is recorded or stored;
- information* means information specified, or of a description specified, by the Minister that relates to the functions of a body to which this section applies.

Division 2 — Financial matters

15. Vocational Education and Training Trust Account

- (1) An agency special purpose account called the Vocational Education and Training Trust Account is established under section 16 of the *Financial Management Act 2006*, which is to be administered by the chief executive.
- (2) There is to be placed to the credit of the Vocational Education and Training Trust Account —
- (a) the funds generated by the performance of the Minister's function under section 8(d);
 - (b) any funds directed by the Minister under section 53 to be so credited; and
 - (c) any interest earned on the funds standing to the credit of the Vocational Education and Training Trust Account.
- (3) There is to be paid out of the Vocational Education and Training Trust Account amounts necessary for the performance of the Minister's functions under section 8.

[Section 15 amended by No. 24 of 2000 s. 45; No. 77 of 2006 s. 17.]

16. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

- (1) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of departments apply to and in relation to the Vocational Education and Training Trust Account.
- (2) The administration of the Vocational Education and Training Trust Account is for the purposes of section 52 of the *Financial Management Act 2006* to be regarded as a service of the department.
- (3) Section 20 of the *Financial Management Act 2006* does not apply to the Vocational Education and Training Trust Account.

[Section 16 amended by No. 77 of 2006 s. 17.]

17. Minister may lend money

- (1) The Minister may lend money for approved purposes to a private training provider which does not operate for the purpose of private gain by its members, provided the purposes relate to the provision of vocational education and training.
- (2) Any such loan is to be made out of moneys borrowed by the Minister under section 17A.
- (3) The terms and conditions of any such loan, including the interest to be paid —
 - (a) may be less onerous than those that might reasonably apply to such a loan made commercially; and
 - (b) are to be approved by the Treasurer.
- (4) In subsection (1) —

approved purposes means the acquisition of land, the construction, modification and renovation of buildings and the purchase or lease of plant and equipment, or any of those things.

[Section 17 inserted by No. 27 of 1998 s. 7.]

17A. Borrowing by the Minister

- (1) The Minister may borrow moneys for the purpose of lending under section 17 —
 - (a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or
 - (b) with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.
- (2) Any moneys borrowed by the Minister under subsection (1)(b) may be raised —
 - (a) as one loan or as several loans; and
 - (b) in such manner as the Treasurer approves.
- (3) The total amount of the moneys borrowed by the Minister under subsection (1)(b) in any one financial year is not to exceed such amount as the Treasurer approves.

[Section 17A inserted by No. 27 of 1998 s. 7.]

17B. Moneys to be credited and charged to operating account

- (1) The following moneys are to be credited to an operating account approved by the Treasurer —
 - (a) repayments of moneys loaned under section 17; and
 - (b) moneys borrowed under section 17A.
- (2) The following moneys are to be charged to the operating account —
 - (a) moneys loaned under section 17; and

(b) repayments of moneys borrowed under section 17A.

(3) In this section —

operating account means an agency special purpose account established under section 16 of the *Financial Management Act 2006*.

[Section 17B inserted by No. 27 of 1998 s. 7; amended by No. 77 of 2006 s. 17.]

17C. Guarantee by the Treasurer

(1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee the payment of any moneys payable by the Minister in respect of moneys borrowed by the Minister under section 17A(1)(b).

(2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.

(3) Before a guarantee is given —

(a) the Minister is to give to the Treasurer such security as the Treasurer requires; and

(b) all instruments that are necessary for the purpose are to be executed.

(4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Account in respect of a guarantee given under this section.

[Section 17C inserted by No. 27 of 1998 s. 7; amended by No. 77 of 2006 s. 4.]

17D. Payments under guarantee

(1) The due payment of moneys under a guarantee given under section 17C is to be —

(a) made by the Treasurer; and

(b) charged to, and paid out of, the Consolidated Account,

Vocational Education and Training Act 1996

Part 2 **Coordination of the State vocational education and training system**

Division 2 Financial matters

s. 17D

and this subsection appropriates that Account accordingly.

- (2) The Treasurer is to cause to be credited to the Consolidated Account any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 17C.

[Section 17D inserted by No. 27 of 1998 s. 7; amended by No. 77 of 2006 s. 4 and 5(1).]

Part 3 — The State Training Board

18. Establishment of Board

There is established a body called the State Training Board.

19. Constitution of the Board

- (1) The Board is to consist of —
 - (a) 7 persons appointed by the Minister, of whom one is to be appointed by the Minister to be the chairperson; and
 - (b) the persons appointed under subsection (2), if any.
- (2) The members appointed under subsection (1)(a) may submit to the Minister a panel of names from which the Minister may appoint 2 other persons to be members of the Board.
- (3) The members are to be appointed by the Minister for their experience and expertise in education and training, industry or community affairs and for their ability to contribute to the strategic direction of the State training system.
- (4) A member is to hold office —
 - (a) in the case of the chairperson for such period not exceeding 5 years; and
 - (b) in the case of any other member for such period not exceeding 3 years,as is specified in the instrument appointing that member, and a member is eligible for re-appointment.
- (5) The appointment of a member is to be published in the *Gazette*.

20. Further provisions relating to the Board

- (1) Schedule 1 has effect with respect to the Board.
- (2) Subject to this Act, the Board may determine its own procedures.

21. Functions of the Board

- (1) The functions of the Board are —
- (a) to prepare a State Training Profile for the approval of the Minister as and when required by the Minister;
 - (b) to recognise various industry training advisory bodies as bodies from which the Board takes advice in relation to the preparation of a State Training Profile;
 - (c) to prepare, for consideration by the Minister —
 - (i) policy which aims to improve the links between specific industry developments and vocational education and training so as to gain optimum employment opportunities for people, and ensure the availability of appropriately skilled labour, in the State;
 - (ii) policy relating to the accreditation of courses, skills training programmes and qualifications, the registration of training providers and the recognition of skills; and
 - (iii) policy relating to the prescribing of vocations for the purposes of training schemes;
 - (d) to perform the functions vested in it under Division 2 of Part 4 in relation to appeals against decisions made by the Council; and
 - (e) to provide advice to the Minister on the matters set out in subsection (2).
- (2) The Board is to provide advice to the Minister on —
- (a) the existing and anticipated supply and demand for skills in various industries, particularly expanding industries and industries which are experiencing or are expected to experience a shortage of skilled labour, and on proposed strategies to support such industries;
 - (b) strategic directions, policies and priorities for the State training system;

- (c) emerging international, national and State training issues;
- (d) the extent to which training services meet the current and future requirements of industry and the community, including the requirement for equal opportunity of access to those services; and
- (e) any other matters, as directed by the Minister.

22. Powers of the Board

- (1) The Board may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) For the purposes of section 21(1)(b) the Board may issue guidelines to industry training advisory bodies in relation to —
 - (a) the criteria to be met for an industry training advisory body to be recognised by the Board; and
 - (b) the matters in relation to which the advice of a recognised industry training advisory body may be sought or given.

23. Committees of the Board

- (1) The Board may establish committees consisting of, or including, persons who are not members of the Board, to assist it in the performance of its functions.
- (2) Subject to the directions of the Board, a committee may determine its own procedures.

24. Annual report of Board

- (1) The Board, on or before 30 September in each year, is to prepare and present to the Minister a report on the operations of the Board during the period of 12 months ending on the preceding 30 June.

s. 24

- (2) The Minister is to cause the report to be laid before both Houses of Parliament as soon as practicable after its receipt by the Minister.

Part 4 — The Training Accreditation Council

Division 1 — Establishment and functions of Council

25. Establishment of Council

- (1) There is established a council called the Training Accreditation Council.
- (2) The Council is to consist of 7 members appointed by the Minister of whom one is to be appointed by the Minister to be chairperson.
- (3) The members are to be appointed for their expertise, qualifications and experience in accreditation, curriculum, training provider registration or skills recognition.

26. Further provisions relating to Council

- (1) Schedule 1 has effect with respect to the Council.
- (2) Subject to this Act, the Council may determine its own procedures.

27. Functions of Council

- (1) The functions of the Council are to —
 - (a) register and de-register training providers;
 - (b) accredit, and vary and cancel the accreditation of, courses and skills training programmes and the qualifications gained from such courses and skills training programmes;
 - (c) recognise skills and qualifications obtained by individuals in this State or elsewhere, in industry, the workplace or educational institutions;
 - (d) determine the minimum competency to be provided by accredited courses and skills training programmes;

- (e) provide advice to the Board on matters relating to the functions specified in paragraphs (a), (b), (c) and (d); and
 - (f) recommend to the Minister the vocations it considers should be prescribed for the purposes of section 59 and advise the Minister on any conditions or requirements which should apply to those vocations.
- (2) The functions of the Council under subsection (1)(a), (b), (c) and (d) may be performed on the application of a training provider or other person or on the initiative of the Council.
- (3) A decision of the Council made in the performance of a function under subsection (1)(a), (b), (c) or (d) takes effect —
- (a) where no appeal is lodged under section 31, when the time for lodging an appeal has passed;
 - (b) where an appeal is lodged under section 31, when that appeal is determined under section 34 or is withdrawn; or
 - (c) on such later day as may be specified by the Council.

28. Delegation by the Council

The Council may by resolution delegate to a person, either generally or as otherwise provided in the resolution, any of the Council's functions under this Act other than this power of delegation.

29. Committees of the Council

- (1) The Council may establish committees, consisting of or including persons who are not members of the Council, to assist it in the performance of its functions.
- (2) Subject to the directions of the Council, a committee may determine its own procedures.

30. Annual report of Council

- (1) The Council, on or before 30 September in each year, is to prepare and present to the Minister a report on the operations of the Council during the period of 12 months ending on the preceding 30 June.
- (2) The Minister is to cause the report to be laid before both Houses of Parliament as soon as practicable after its receipt by the Minister.

Division 2 — Appeals against decisions of the Council

31. Appeals against decisions of the Council

- (1) A person who is dissatisfied with a decision of the Council made in the performance of a function under section 27(1)(a), (b), (c) or (d) on the application of that person may in writing appeal to the Board against that decision.
- (2) An appeal can only be brought on the ground that, in making the decision appealed against, the Council erred in its application of, or failed to apply criteria or procedures in, guidelines it was required to apply under section 13.
- (3) An appeal against a decision must be brought within 21 days of the day on which the appellant was notified of the decision.
- (4) The Board is to give the Council a copy of an appeal.

32. Board to establish review panels

- (1) To assist it in determining an appeal under section 31 the Board is to establish an independent review panel, of such number of persons as it considers appropriate, appointed for their expertise in the area of the subject matter of the appeal.
- (2) A review panel is to consider the decision appealed against and submit to the Board, within the time the Board allows, a written recommendation on the issues raised by the appeal.

33. Reference back to Council

- (1) If a review panel recommends that an appeal be allowed the Board is to refer the matter back to the Council for reconsideration and is to give the Council a copy of the panel's recommendation.
- (2) When a matter is referred back to it under subsection (1), the Council is to advise the Board, within the time that the Board allows, whether it considers its original decision should be confirmed or altered.

34. Determination of appeal

- (1) If a review panel recommends that an appeal be allowed and the Council considers that its original decision should be altered, the Board is to advise the appellant that the appeal is allowed.
- (2) If a review panel recommends that an appeal be allowed but the Council does not accept this recommendation and confirms its original decision the Board is to decide whether to —
 - (a) accept the recommendation of the review panel and allow the appeal; or
 - (b) accept the original decision of the Council and not allow the appeal.
- (3) The Board is to give the appellant reasons in writing for its decision under subsection (2)(a) or (b).
- (4) If a review panel recommends that an appeal not be allowed the Board is to advise the appellant that the appeal is not allowed and give the appellant a copy of the review panel's recommendation.
- (5) A decision on an appeal under this section is final.

Part 5 — Colleges

Division 1 — Establishment and functions of colleges

35. Establishment of colleges

There are to be maintained in the State such colleges as the Minister considers necessary or desirable for the provision of vocational education and training and for that purpose the Minister may, by order published in the *Gazette* —

- (a) establish a college;
- (b) amalgamate a college or part of a college with another college or close a college;
- (c) name or rename a college; and
- (d) make provision in relation to any other matters necessary for, or incidental to —
 - (i) giving effect to the order; and
 - (ii) protecting the rights, interests and welfare of persons affected by an order by which colleges are amalgamated or a college is closed.

36. Constitution of colleges

- (1) A college consists of the governing council, the staff and the enrolled students of that college.
- (2) A college is a body corporate with —
 - (a) perpetual succession and a common seal; and
 - (b) power to take and defend proceedings in its corporate name.
- (3) Regulations may be made under section 67 as to the custody and use of the common seal of a college or a facsimile of that seal, in this State or any other State or Territory.

37. Functions of a college

- (1) The functions of a college are —
- (a) to provide vocational education and training consistent with a College Training Profile referred to in section 42(2)(a);
 - (b) to provide to an employer, a group of employers or any other persons or authorities such fee-for-service training programmes as are authorised by the Minister;
 - (c) to undertake research and development related to vocational education and training which has a direct practical application to industry, commerce and the community;
 - (d) to promote equality of opportunity in the undertaking of vocational education and training;
 - (e) to provide or arrange for the provision of services to students;
 - (f) to participate in initiatives involving the whole of the State training system and to collaborate with other colleges and educational institutions to ensure the greatest effectiveness and economy in expenditure and the most beneficial relationship between the college and other colleges and educational institutions throughout the State;
 - (g) to contribute to the general development of the community in the region of the college through such activities, including the provision of adult and community education, as may be authorised by the Minister;
 - (h) subject to subsection (2), to provide on behalf of another educational authority such post-secondary education as is approved by the Minister; and
 - (i) to perform any other function conferred on it by this Act or by the Minister under subsection (4).

- (2) A college is not to use funds referred to in section 48(a) in performing a function referred to in subsection (1)(h).
- (3) A college is not to hold land or any estate or interest in land, but this subsection does not apply to the holding of land or an estate or interest in land that is part of a business arrangement under section 43(2)(f).
- (4) The Minister may, from time to time, by order published in the *Gazette*, confer on colleges other functions not inconsistent with this Act.

38. Vacation periods

- (1) The Minister may, by order published in the *Gazette* determine the vacation periods for colleges in each year.
- (2) Section 43(4) and (7) to (9) of the *Interpretation Act 1984* apply to an order under this section as if it were a regulation.

Division 2 — Governing councils

39. Governing council

- (1) A college is to have a governing council.
- (2) The governing council of a college is to consist of —
 - (a) a chairperson and a deputy chairperson and not less than 6 or more than 10 other members appointed by the Minister; and
 - (b) the managing director for the time being of the college.
- (3) The members referred to in subsection (2)(a) are to be appointed for their experience and expertise in education and training, industry or community affairs and for their ability to contribute to the strategic direction of the college.
- (4) A member appointed under subsection (2)(a) is to be appointed for a period not exceeding 3 years and is eligible for re-appointment.

40. Further provisions relating to governing councils

- (1) Schedule 1 has effect with respect to governing councils.
- (2) Subject to this Act, a governing council may determine its own procedures.

41. Interim governing councils

- (1) The governing council of a college is to be constituted on the day specified in the order by which the college is established.
- (2) Until the governing council of a college is constituted the college may, if necessary, be administered by an interim governing council appointed under subsection (3).
- (3) The Minister may, by order published in the *Gazette* (whether before, with or after the order by which the college is established) —
 - (a) appoint such number of persons as he or she thinks fit to be the interim governing council of the college;
 - (b) make provision in relation to the terms of appointment of and the procedures to be followed by, an interim governing council; and
 - (c) authorise the interim governing council to exercise such of the powers of a governing council as are specified in the notice.

42. Functions of a governing council

- (1) The governing council is the governing body of a college with authority in the name of the college to perform the functions of the college and govern its operations and affairs.
- (2) In performing its functions under subsection (1) the governing council is to —
 - (a) prepare a College Training Profile for the approval of the Minister as and when required by the Minister;

- (b) develop and implement strategic and management plans for the college;
 - (c) ensure the college courses, programmes and services are responsive to, and meet, the needs of students, industry and the community; and
 - (d) ensure that the college's commitments under its Resource Agreement and any other contractual arrangements are met.
- (3) A College Training Profile referred to in subsection (2)(a) is a comprehensive plan which, when approved by the Minister, is the basis for the provision of vocational education and training by the college.

43. Powers of a governing council

- (1) A governing council of a college may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1) a governing council may, on behalf of the college —
 - (a) enter into contracts in relation to the provision of the education and training that it is authorised or required by the Minister under this Act to provide;
 - (b) confer awards and qualifications;
 - (c) with the approval of the Minister, establish and maintain branches of the college at such places in the State as the governing council thinks fit;
 - (d) provide housing for staff, and residential accommodation for students, of the college;
 - (e) provide, for a fee or otherwise, or enter into contracts to provide, products, consultancy or other services in the course of, or incidental to, the provision by the college of vocational education and training; and

- (f) with the approval of the Minister, on terms and conditions approved by the Treasurer, participate in business arrangements relating to the provision of vocational education and training for the purpose of —
 - (i) applied research and development with industry, research organisations, other educational institutions and any other bodies; and
 - (ii) assisting the development of industry, commerce and the community in relation to the application, and the knowledge and skills required for the application, of new technology.
- (3) The power conferred by subsection (2)(f) is not subject to, and may be exercised despite, the *State Supply Commission Act 1991*.
- (4) In subsection (2)(f) —
business arrangement and *participate* have the meanings given by section 9(4).
- (5) A governing council may exercise its powers in another State or Territory if that is necessary or convenient for the performance of the functions of the college.

44. By-laws

With the approval of the Minister, a governing council may make by-laws —

- (a) for the safe operation and efficient management of lands and facilities under the management or control of the college, regulating entry on to, use of and conduct on, those lands and facilities and providing disciplinary consequences and penalties not exceeding \$1 000 for breach of those by-laws; and
- (b) prescribing —
 - (i) the classes of membership and the conditions or qualifications for membership of a student association; and

- (ii) the functions of a student association and other matters that are necessary or convenient for the effective performance of those functions.

45. Delegation by governing council

- (1) Subject to subsection (2), a governing council may delegate the performance of all or any of its functions under this Act, other than its power under section 44 to make by-laws, to the managing director of the college.
- (2) The managing director of a college to whom a function is delegated under subsection (1) may subdelegate that function to a person employed by the college with the approval of the governing council but not otherwise.

46. Managing director

- (1) A chief executive officer is to be appointed under Part 3 of the *Public Sector Management Act 1994* for each college.
- (2) The chief executive officer for a college is to be called the managing director of the college.

47. College employees

A college is to employ such persons as the governing council considers necessary to enable the functions of the college and the governing council to be performed.

Division 3 — Financial provisions

48. Funds of a college

The funds of a college consist of —

- (a) monies provided by the department, and other monies properly receivable by the college for the delivery of courses forming part of a College Training Profile under section 42(3);
- (b) commercial funds being —

- (i) monies received from college fee-for-service operations;
- (ii) monies received from commercial services including cafeterias and bookshops;
- (iii) monies from other commercial activities conducted by the college;
- (iv) monies received in connection with the exercise of the power conferred by section 9(2)(f) in respect of land, buildings or facilities under the control of the college;
- (v) monies donated by way of gifts, bequests or other voluntary contributions; and
- (vi) any other monies properly receivable for the purposes of the college;

and

- (c) funds borrowed by the college under section 51.

49. College Trust Accounts

- (1) An account called the (*name of College*) Trust Account (referred to in this Division as a “**college Trust Account**”) is to be established for each college —

- (a) as an agency special purpose account under section 16 of the *Financial Management Act 2006*; or
- (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which the monies referred to in section 48 are to be credited.

- (2) There is to be maintained within a college Trust Account —
 - (a) a general account through which the monies referred to in section 48(a) are to be accounted for; and
 - (b) a commercial account through which the monies referred to in section 48(b) and (c) are to be accounted for.

[Section 49 amended by No. 77 of 2006 s. 17.]

50. Use of funds

The funds of a college are to be applied for the purposes of this Act.

51. Power to borrow

A college may borrow money on such terms and conditions as the Treasurer approves.

52. Power to invest

If a college Trust Account is maintained at a bank, the governing council may, with the written approval of the Treasurer, invest any funds of the college that are not immediately required for the purposes of this Act in the manner that moneys in the Public Bank Account may be invested under the *Financial Management Act 2006*.

[Section 50 amended by No. 77 of 2006 s. 17.]

53. Minister may direct transfer of funds

If the Minister is satisfied that there is available in the commercial account of a college Trust Account a credit balance in excess of the amount reasonably required for the purposes of that account the Minister may direct that the whole or a part of that excess be credited to another college Trust Account or to the Vocational Education and Training Trust Account referred to in section 15.

[Section 53 amended by No. 77 of 2006 s. 17.]

54. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

- (1) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of a college and its operations.

- (2) The financial year of a college begins on 1 January and ends on 31 December and a reference in the *Financial Management Act 2006* to an annual report is to be construed accordingly.
- (3) The Minister, with the approval of the Treasurer, may determine that for the purposes of this section in respect of any operation of the college another period of one year may be substituted for the financial year referred to in subsection (2).
- (4) Section 20 of the *Financial Management Act 2006* does not apply to a college Trust Account.

[Section 54 amended by No. 77 of 2006 s. 17.]

Division 4 — Failure of governing council to operate efficiently etc.

55. Minister may take action where governing council fails to operate efficiently etc.

Where, in the opinion of the Minister, the governing council of a college has failed, or is failing —

- (a) to operate efficiently or effectively;
- (b) to meet the college's obligations under a Resource Agreement; or
- (c) otherwise to adequately and properly perform its functions,

the Minister is to give that governing council written notice, detailing how, in the Minister's opinion, it has failed or is failing and requiring it to remedy the failure within the time specified in the notice.

56. Order assuming functions or appointing administrator

- (1) Where in the opinion of the Minister a governing council has failed to comply with a notice under section 55 the Minister may, by order published in the *Gazette* —

- (a) remove the members of the governing council from office and appoint another governing council or appoint an administrator to perform the functions of the governing council; or
 - (b) amalgamate the college with another college or close the college.
- (2) An order under subsection (1) may make provision in relation to any other matters necessary for or incidental to —
- (a) giving effect to the order; and
 - (b) protecting the rights, interests and welfare of persons affected by the order.
- (3) An order under subsection (1) may be expressed to take effect on the day of publication, on a day specified in the order being a day not later than the day of publication or on the happening of an event specified in the order and to continue in effect until a day, or the happening of an event, so specified.

Part 6 — Other vocational education and training institutions

57. Minister may establish other vocational education and training institutions

- (1) The Minister may exercise the powers conferred by this section where in the Minister's opinion it is necessary or desirable to do so for the purposes of vocational education and training but it is not appropriate to establish a college for that purpose, or to do so at the particular time.
- (2) Where subsection (1) applies, the Minister may, by order published in the *Gazette* —
 - (a) establish any vocational education and training institution, other than a college, that he or she considers is required for the effective operation of the State training system; and
 - (b) make provision in relation to any matters necessary for, or incidental to, giving effect to the order including provision for the employment of persons by the chief executive, otherwise than under the *Public Sector Management Act 1994*.
- (3) An order under this section must vest the management and control of an institution in the chief executive, but subject to the exercise of the Minister's powers under section 14.
- (4) An institution established under subsection (2) has such functions and is to operate in such manner as the Minister specifies in the order establishing the institution.

[Part 7 has not come into operation².]

Part 8 — Miscellaneous

63. Remuneration of members of Board, Council etc.

A member of —

- (a) the Board and a committee of the Board;
- (b) the Council and a committee of the Council; and
- (c) a review panel appointed under section 32(1),

is to be paid such remuneration and allowances as the Minister, on the recommendation of the Minister for Public Sector Management, determines from time to time.

64. Protection from liability

- (1) An action in tort does not lie against a person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (2) The protection given by this Act applies even if the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.
- (3) This section does not relieve the Crown of any liability it might have for the doing of anything by a person against whom this section provides that an action does not lie.
- (4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

65. Falsely claiming accreditation or registration

- (1) A person must not, in relation to a course or skills training programme, use any name, title, letters or description stating or implying, or that may reasonably be understood to imply, that the course or skills training programme is accredited, unless that course or skills training programme is so accredited.

Penalty: \$10 000.

s. 66

- (2) No person other than a registered training provider is to use a name, title, letters or description stating or implying or that may reasonably be understood to imply that the person is a registered training provider.

Penalty: \$10 000.

66. Further provision relating to closure of college

- (1) In this section —

college means a college that has been closed by an order under section 35(b) or 56(1)(b);

the closing day means the day on which an order under section 35(b) or 56(1)(b) to close a college takes effect.

- (2) On the closing day —

- (a) all assets and rights of the college become assets and rights of the Minister without the need for any transfer;
- (b) all liabilities of the college, including contingent liabilities, become liabilities of the Minister;
- (c) any agreement to which the college is a party (other than one to which the Minister was the other party) has effect as if the Minister was substituted for the college as a party to that agreement;
- (d) all proceedings commenced before the closing day by or against the college are to be taken to be proceedings pending by or against the Minister;
- (e) anything done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) before the closing day by, to or in respect of the college (to the extent that that thing has any force or effect) is to be taken to have been done by, to or in respect of the Minister;
- (f) the Minister becomes the owner of all the college's registers, documents, books and other records, however compiled, recorded or stored and of any tape, disc or other device or medium relating to such records; and

- (g) the status of a college as a body corporate ceases.
- (3) The Minister is to complete the winding-up of the operations and affairs of the college as soon as practicable after the closing day and for that purpose the Minister has, and may exercise, any powers that are necessary.
- (4) Despite section 55 of the *Financial Management Act 2006* an order under section 35 or 56(1) may specify the person who is to be the accountable authority for the purposes of the report required by Part 5 of that Act with respect to the period from 1 January in a year until the completion of the winding up of the operations and affairs of the college under subsection (3), and Part 5 of that Act applies to that person as the accountable authority of the college as if that period were a full financial year.

[Section 66 amended by No. 77 of 2006 s. 17.]

67. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may —
 - (a) subject to Schedule 1, regulate the procedures of the Board, the Council and governing councils;
 - (b) provide for fees and charges to be paid for, or in connection with —
 - (i) the supply of vocational education and training and related services;
 - (ii) an application to the Council; or
 - (iii) an appeal against a decision of the Council;
 - (c) amend or supplement, with effect from a time which is not earlier than the commencement of this section, the transitional provisions set out in Schedule 4 for the

s. 68

purpose of providing an effective and efficient transition from —

- (i) the operation of the provisions repealed by section 70 or amended by Schedule 3 to the operation of this Act; or
- (ii) from the employment circumstances of the persons employed under or for the purpose of those provisions to the employment circumstances of those persons under this Act.

68. Provisions relating to the Commonwealth Act

- (1) The Minister is to nominate the department as the State training agency for the purposes of the *Australian National Training Authority Act 1992* of the Commonwealth (***the Commonwealth Act***).
- (2) A public training provider is not to make any application or representation directly to the Australian National Training Authority established under the Commonwealth Act in respect of the allocation of funding for vocational education and training except with the approval of the chief executive.

69. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act no later than 6 months after the expiration of 3 years from its commencement and in the course of that review the Minister is to consider and have regard to —
 - (a) such matters as appear to be relevant to the operation of this Act; and
 - (b) the effectiveness of the Board and the Council.
- (2) The Minister is to prepare a report based on the review under subsection (1) and, as soon as practicable after the report is prepared, cause it to be laid before each House of Parliament.

70. Repeals

- (1) The *Colleges Act 1978* is repealed.
- (2) The *State Employment and Skills Development Authority Act 1990* is repealed.

[71-72. Omitted under the Reprints Act 1984 s. 7(4)(e).]

Schedule 1

[Sections 20, 26 and 40]

Provisions relating to the board, the council and governing councils

1. Vacation of office

- (1) The office of a member becomes vacant if —
 - (a) the term of the member expires;
 - (b) the member resigns by written notice addressed to the Minister;
 - (c) the member is an undischarged bankrupt or a person whose property is subject to an arrangement under the laws relating to bankruptcy;
 - (d) the member is convicted of an indictable offence; or
 - (e) the appointment of the member is terminated under subclause (2).
- (2) The Minister may at his or her discretion terminate the appointment of a member at any time.

2. Leave of absence

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

3. Meetings

- (1) The chairperson is to preside at any meeting at which the chairperson is present.
- (2) If the chairperson, and in the case of a governing council the deputy chairperson, is not present at a meeting the members present are to elect one of their number to preside at the meeting.
- (3) A quorum for a meeting is at least one half of the number of members or if a quorum cannot be present at a meeting because of the operation of clause 5, a quorum for that meeting is such number of members as the Minister may determine.
- (4) Any question arising at a meeting is to be decided by a majority of the votes of the members present and in the event of an equality of votes

the chairperson, or the person presiding, is to have a casting as well as a deliberative vote.

4. Disclosure of interests

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the body of which he or she is a member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the body.

Penalty: \$10 000.

- (2) The circumstances in which a person has a material personal interest in a matter being considered or about to be considered by a body include a case where an entity with which the member is associated may benefit from the body's decision on the matter.
- (3) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

5. Voting by interested members

A member who has a material personal interest in a matter, within the meaning in clause 4, that is being considered by the body of which he or she is a member —

- (a) must not vote whether at a meeting or otherwise —
- (i) on the matter; or
 - (ii) on a proposed resolution under clause 6 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
- (i) the matter; or
 - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),
- is being considered at a meeting.

Schedule 1

6. Clause 5 may be declared inapplicable

Clause 5 does not apply if the body has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

[Schedule 2 has not come into operation².]

[Schedules 3 and 4 omitted under the Reprints Act 1984 s. 7(4)(e).]

Notes

¹ This is a compilation of the *Vocational Education and Training Act 1996* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Vocational Education and Training Act 1996</i> ^{1a}	42 of 1996	16 Oct 1996	Act other than Pt. 7 and Sch. 2: 1 Jan 1997 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301); balance to be proclaimed
<i>Acts Amendment (Education Loan Scheme) Act 1998</i> Pt. 3 and 5 ³	27 of 1998	30 Jun 1998	30 Jun 1998 (see s. 2)
<i>School Education Act 1999</i> s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Vocational Education and Training Amendment Regulations (No. 2) 1999</i> r. 3 (see <i>Gazette</i> 5 Nov 1999 p. 5634)			1 Jan 1997 (see r. 2(2) and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 45	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Reprint of the Vocational Education and Training Act 1996 as at 11 Jan 2002 (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 5(1) and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Vocational Education and Training Act 1996 Pt. 7 and Sch. 2</i> ²	42 of 1996 (as amended by No. 20 of 2002 s. 184)	16 Oct 1996	To be proclaimed (see s. 2)
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 75</i> ⁴	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2)

² On the date as at which this compilation was prepared, the *Vocational Education and Training Act 1996 Pt. 7 and Sch. 2* (as amended by the *Labour Relations Reform Act 2002 s. 184*) had not come into operation. They read:

“

Part 7 — Training schemes

58. Minister may establish training schemes

- (1) The Minister may establish and implement, or may recognise as a training scheme for the purposes of this Act, any scheme which provides vocational education and training that the Minister thinks would give persons who take part in the scheme improved employment opportunities.
- (2) A training scheme —
 - (a) is to provide for such accredited courses and skills training programmes, whether on-the-job or off-the-job or both, as the Minister may determine, in the case of a scheme established, or approve, in the case of a scheme recognised, under this section; and
 - (b) may take the form of, or include, an apprenticeship.
- (3) A training scheme may provide for training relevant to a particular occupation or to several occupations.
- (4) In this section —

apprenticeship means a training scheme involving a contract between an employer and an employee under which the employer undertakes to train the employee in a particular trade.

59. Regulations relating to training schemes

- (1) Regulations may provide for any matters necessary for or incidental to the establishment, implementation or recognition of a training scheme and in particular may —
- (a) prescribe the vocations in relation to which a training scheme may operate;
 - (b) prescribe requirements to be met by trainees and employers of trainees including requirements that —
 - (i) trainees undertake prescribed courses or skills training programmes; and
 - (ii) employers grant leave of absence from employment without deduction from wages to enable trainees to fulfil prescribed requirements;
 - (c) prescribe the amount of paid employment to be provided to a trainee;
 - (d) provide for the transfer of employment of trainees; and
 - (e) provide for the resolution of disputes arising between an employer and a trainee in relation to any agreement concerning training between that employer and trainee, and in particular, in relation to —
 - (i) the construction or operation of;
 - (ii) the rights, duties and liabilities of the employer or trainee under; or
 - (iii) the termination or threatened termination of, any such agreement.
- (2) In this section —
trainee means a person receiving vocational education and training under a training scheme.

60. Inconsistency

Where a provision of this Part or of a regulation made under section 59 (1) is inconsistent with a provision of the *Industrial Relations Act 1979* or any order, award or industrial agreement in force under that Act, the former provision prevails.

61. Repeal

The *Industrial Training Act 1975* is repealed.

62. Consequential amendments and transitional provisions relating to this Part

Schedule 2 has effect —

- (a) to amend the *Industrial Relations Act 1979* as a consequence of the repeal of the *Industrial Training Act 1975*; and
- (b) in relation to the transition from the operation of the *Industrial Training Act 1975* to the operation of this Part.

”.

“

Schedule 2

[Section 62]

Amendments and transitional provisions relating to Part 7

1. *Industrial Relations Act 1979* amended

The *Industrial Relations Act 1979* is amended in section 7 —

- (a) in the definition of “apprentice” by deleting “an apprentice under the *Industrial Training Act 1975*” and substituting the following —

“

a person who has entered an apprenticeship within the meaning of that term in section 58 of the *Vocational Education and Training Act 1996*

”;

[(b) and (c) deleted]

- (d) in paragraph (f) of the definition of “industrial matter” —
 - [(i) deleted]*
 - (ii) by deleting “*Industrial Training Act 1975*” and substituting the following —

“

relevant training scheme under the *Vocational Education and Training Act 1996*

”;

and

- (iii) by deleting “any agreement of apprenticeship or training agreement” and substituting the following —

“

an apprenticeship contract or other agreement forming part of a training scheme under that Act

”

[(e) deleted]

2. Transitional

- (1) In this clause —
repealed Act means the *Industrial Training Act 1975* repealed by section 61.
- (2) On the commencement of section 61 any apprenticeship agreement or industrial training agreement entered into and registered under the repealed Act and in force immediately before that commencement is to be taken to be an agreement entered into under a training scheme established or recognised under section 58 but with the same terms, conditions and provisions as were applicable before that commencement.
- (3) Any regulations made under the repealed Act and in operation immediately before the commencement of section 61 which were applicable to, or in respect of, an apprenticeship or industrial training agreement referred to in subclause (2) are to continue to apply to such an agreement, until regulations are made under this Act in respect of the matters covered by those regulations.
- (4) Regulations may be made, with effect from a time which is not earlier than the commencement of section 61, amending or supplementing the transitional provisions set out in subclauses (2) and (3) for the purpose of providing an effective and efficient transition from the provisions of the repealed Act to the provisions of this Act.

[Schedule 2 amended by No. 20 of 2002 s. 184.]

”

³ The *Acts Amendment (Education Loan Scheme) Act 1998* Pt. 5 reads as follows:

“

Part 5 — Transitional

9. Existing loans may be varied

Despite the repeal of sections 9A(5)(c) and 27C(3) of the *Education Act 1928*, section 17 of the *Vocational Education and Training Act 1996* and section 25A of the *University of Notre Dame Australia Act 1989*, the terms and conditions of a loan made under any of those provisions before the coming into operation of this Act may be varied in the same manner and to the same extent as if the provision had not been repealed.

10. Moneys may be borrowed and paid to Treasurer

- (1) Any moneys advanced to the Education Minister or the Vocational Education and Training Minister under the authorisation of the *Treasurer's Advance Authorization Act 1997* for the purpose of lending under the *Education Act 1928*, the *Vocational Education and Training Act 1996* or the *University of Notre Dame Australia Act 1989* and not repaid to the Treasurer before the coming into operation of this Act, are to be repaid, together with the interest accrued and due on those moneys, by the relevant Minister to the Treasurer.
- (2) The Education Minister may borrow moneys under section 9D(1) of the *Education Act 1928*, as amended by this Act, or section 25C(1) of the *University of Notre Dame Australia Act 1989*, as amended by this Act, for the purpose of meeting obligations under subsection (1).
- (3) The Vocational Education and Training Minister may borrow moneys under section 17A(1) of the *Vocational Education and Training Act 1996*, as amended by this Act, for the purpose of meeting obligations under subsection (1).
- (4) In this section —
Education Minister means the Minister in whom the administration of the *Education Act 1928* is for the time being committed by the Governor;
Vocational Education and Training Minister means the Minister in whom the administration of the *Vocational Education and Training Act 1996* is for the time being committed by the Governor.

⁴ On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 75 had not come into operation. It reads:

75. Various provisions repealed

The provisions listed in the Table to this section are repealed.

Table of provisions repealed

Act	Provision
.....
<i>Vocational Education and Training</i>	Sch. 4, cl. 7A

Act

Act 1996

.....

Provision

.....

”.