

Western Australia

Industrial Training Act 1975

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Industrial Training Act 1975

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Western Australia

Industrial Training Act 1975

An Act to amend and consolidate the law relating to apprentices, to make provision for the industrial and commercial training of other persons, to repeal the *Apprentices Act 1918* and certain provisions of the *Industrial Arbitration Act 1912*, and for incidental and other purposes.

[Long title amended by No. 103 of 1985 s.2.]

Part I — General

1. **Short title**

This Act may be cited as the *Industrial Training Act 1975*¹.

2. **Commencement**

This Act shall come into operation on a date to be fixed by proclamation¹.

[3. *Repealed by No. 103 of 1985 s.3.*]

4. **Interpretation**

(1) In this Act unless the contrary intention appears —

“**apprentice**” means any person pursuant to this Act bound apprentice to an employer or an industrial training advisory board in an apprenticeship trade by an agreement or by assignment of an agreement;

“**apprenticeship agreement**” means an agreement under which a person is bound as an apprentice;

“**apprenticeship trade**” means a trade prescribed as an apprenticeship trade under this Act;

“**Commission**” means The Western Australian Industrial Commission established under the *Industrial Arbitration Act 1912*²;

“**Department**” means the department of the Public Service of the State known as the Department of Labour and Industry³ or if there is no department of that name the department that is responsible for assisting the Minister in the administration of this Act;

“**Director**” means the person for the time being holding or acting in the office of Director of Industrial Training under this Act;

“**Division**” means the Division of Industrial Training established under this Act;

“industrial trainee” means a person, other than an apprentice, who undertakes a course of training in an industrial training trade;

“industrial training agreement” means an agreement under which a person undertakes a course of training in an industrial training trade;

“industrial training trade” means a trade that is prescribed as an industrial training trade under this Act;

“probationer” means a person who is employed on probation pursuant to section 29;

“Registrar” means the Registrar of Industrial Training appointed under this Act;

“section” means a section of this Act;

“trade” includes occupation and any branch or branches of a trade or occupation;

“traineeship scheme” means a traineeship scheme established by the Minister under section 37D(1).

[(2) repealed]

[Section 4 amended by No. 86 of 1980 s.4; No. 103 of 1985 s.4; No. 40 of 1990 s.45; No. 42 of 1996 s.71(2).]

5. Repeals and savings

- (1) The *Apprentices Act 1918* and the following provisions of the *Industrial Arbitration Act 1912*², that is to say —
 - (a) subparagraphs (iii), (v), (vi), (viii), (ix) and (x) of paragraph (f) of the definition “industrial matter” in section 6 of that Act; and
 - (b) the whole of Part VIII of that Act,

are hereby repealed.

- (2) Without affecting the application of the *Interpretation Act 1918*⁴, and particularly sections 15 and 16 thereof to the

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repeal by subsection (1) of this section of the provisions referred to in that subsection it is hereby declared that —

- (a) any industrial agreement, award or order in force under the *Industrial Arbitration Act 1912*², or any provision thereof, that relates to the training of apprentices and in force immediately before the coming into operation of this Act shall continue and have effect to the extent that it is not inconsistent with the provisions of this Act or the regulations made under this Act;
- (b) subject to section 6, any apprenticeship agreement in force under the provisions of the *Industrial Arbitration Act 1912*² as in force immediately before the coming into operation of this Act shall continue to have effect; and
- (c) until regulations are made under this Act, the regulations made under the *Industrial Arbitration Act 1912*² relating to apprentices and apprenticeships and in force at the time that this Act comes into operation, shall apply, so far as applicable, to persons, acts, circumstances and things under this Act, as if those regulations were made under this Act.

6. Existing apprenticeship agreements may be varied

Where the parties thereto with the approval of the Director agree; an apprenticeship agreement in force under the provisions of the *Industrial Arbitration Act 1912*², may be varied or replaced by a new apprenticeship agreement under this Act but any agreement so substituted shall be notified to the Registrar.

7. Administration

Subject to the Minister, this Act shall be administered by the chief executive officer of the Department.

[Section 7 amended by No. 28 of 2006 s. 452(2).]

Part II — Industrial Training Advisory Council

[Heading amended by No. 86 of 1980 s.5.]

[8-16A. Repealed by No. 40 of 1990 s.45(b).]

Part III — Director of Industrial Training and Division of Industrial Training

17. Director of Industrial Training

- (1) Subject to this section, there shall be appointed a Director of Industrial Training and such other officers as are necessary to assist the Director in carrying out his functions under this Act.
- (2) The Director may be appointed —
 - (a) by the Governor for a term not exceeding 7 years; or
 - (b) under and subject to Part 3 of the *Public Sector Management Act 1994*.
- (3) Where the Director is appointed by the Governor for a term of years —
 - (a) the conditions of service of the Director shall be such as the Governor determines;
 - (b) the Director shall be paid such remuneration and allowances as the Governor may, from time to time, determine;
 - (c) the Director may be reappointed from time to time at the expiration of the term, unless he has been previously removed from office by the Governor under paragraph (d);
 - (d) the Director may, at any time, be removed from office by the Governor for disability, bankruptcy, neglect of duty or misconduct; and
 - (e) the Director may at any time resign from his office by writing under his hand addressed to the Governor.
- (4) The officers appointed under subsection (1) to, assist the Director shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* or by the Minister.

[Section 17 amended by No. 32 of 1994 s.3(1).]

17A. Delegation

- (1) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to any officer appointed under section 17(1) or to any other person specified in the instrument of delegation any of his powers or duties under this Act, other than this power of delegation.
- (2) For the purposes of this Act, the exercise of a power or the performance of a duty by a delegate under this section shall be deemed to be the exercise of the power or the performance of the duty by the Director.
- (3) A delegation under this section may —
 - (a) be made subject to such conditions, qualifications, and exceptions as are set out in the instrument of delegation;
 - (b) be revoked or varied by instrument in writing signed by the Director.
- (4) The Director may exercise a power or perform a duty notwithstanding that he has delegated its exercise or performance under this section.

[Section 17A inserted by No. 86 of 1980 s.6; amended by No. 42 of 1996 s.71(2).]

18. Division of Industrial Training

- (1) There shall be established in the Department a division to be known as the Division of Industrial Training.
- (2) The Division shall consist of the Director and the officers for the time being holding office who are appointed to assist him.
- (3) The functions of the Division are to perform such duties and responsibilities with respect to industrial training as are required under this Act.

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19. Registrar

- (1) There shall be appointed in the Division and under and subject to Part 3 of the *Public Sector Management Act 1994*, a Registrar of Industrial Training.
- (2) The Registrar shall have such duties and functions as are conferred on him by this Act, and as are conferred on him or directed to be performed by him by the Director.

[Section 19 amended by No. 32 of 1994 s.3(1).]

20. Register

- (1) The Registrar shall —
 - (a) maintain a Register of Apprentices and a Register of Industrial Trainees;
 - (b) make provision for the examination and testing of apprentices and industrial trainees in accordance with the regulations.
- (2) The Register of Apprentices and the Register of Industrial Trainees shall be in the form approved by the Director.
- (3) A register referred to in this section, and any certified copy of or extract from such a register, shall be prima facie evidence of the facts stated therein.
- (4) A certificate that any person is or is not or was or was not registered as an apprentice or industrial trainee as the case requires under this Act shall, if signed by the Registrar, be prima facie evidence of the facts stated therein.

Part IV — Industrial training in trades and industrial training advisory boards

21. Council to recommend trades to be prescribed

The Governor may, by regulation prescribe a trade or a group of trades as an apprenticeship trade or industrial training trade, or as both an apprenticeship trade and an industrial training trade, for the purposes of this Act.

[Section 21 amended by No. 40 of 1990 s.45.]

22. Act to apply to prescribed trade

The provisions of this Act apply to training in any trade or group of trades so long as the regulation prescribing that trade or group of trades as —

- (a) an apprenticeship trade; or
- (b) an industrial training trade,

or both, as the case may be, remains in force.

[Section 22 amended by No. 40 of 1990 s.45; No. 42 of 1996 s.71(2).]

[23. Repealed by No. 40 of 1990 s.45.]

24. Agreements to be registered

An agreement with respect to training in a trade that is prescribed under this Act as an apprenticeship trade or an industrial training trade shall if it is in force on the date that that trade is so prescribed be lodged for registration with the Registrar within one month of that date.

[25-27. Repealed by No. 40 of 1990 s.45.]

Part V — Employment and training of apprentices and industrial trainees

28. Inconsistency

- (1) Where a provision of —
- (a) this Act;
 - (b) any regulation made under this Act;
 - (c) an agreement registered under this Act or any provision of the *Industrial Arbitration Act 1912*²;
 - (d) an award or industrial agreement in force under that Act,

is inconsistent with the law relating to masters and apprentices as declared by the *Imperial Acts (Masters and Servants) Adopting Act 1873* the first-mentioned provision prevails.

- (2) Where a provision of this Act or of any regulation made under this Act relates —
- (a) to the name given to a trade or group of trades to which this Act applies;
 - (b) to the training to be given under an apprenticeship or course of industrial training to which this Act applies;
 - (c) to the registration, cancellation, suspension, extension or transfer of an apprenticeship agreement or industrial training agreement; or
 - (d) to the term of training to be given to an apprentice or industrial trainee,

and is inconsistent with the provisions of the *Industrial Arbitration Act 1912*², or any award or industrial agreement in force thereunder, the first-mentioned provision prevails.

[Section 28 amended by No. 40 of 1990 s.45; No. 42 of 1996 s.71(2).]

29. Employment on probation

Except as provided by this Act, a person who desires to be employed as an apprentice or industrial trainee in a trade to which this Act applies shall be employed in the first instances on probation for a period of 3 months or such additional period, not exceeding 3 months, as the Director may, on application by the employer approve, for the purpose of determining his fitness to be so employed, and in the event of his becoming an apprentice or industrial trainee in that trade the period of probation shall be counted as service under his apprenticeship agreement or industrial training agreement.

[Section 29 amended by No. 86 of 1980 s.8.]

29A. Employment of probationers

- (1) No employer shall employ a probationer unless the Director has approved of the employer and the employment of the probationer.
- (2) An employer shall within 14 days after he first employs a probationer notify the Registrar in writing of that fact and make application to the Director for approval to establish an apprenticeship or period of industrial training.
- (3) On receipt of an application pursuant to subsection (2) the Director shall cause to be made such enquiries as are prescribed as to whether approval should be given to the application and may approve of the application or make such order as he considers appropriate in the particular case, including an order that the probationer be no longer employed by the applicant, and shall notify the applicant of his decision.

[Section 29A inserted by No. 86 of 1980 s.9.]

30. General provisions as to agreements

The following provisions apply with respect to every apprenticeship agreement and every industrial training agreement —

- (a) the term of the apprenticeship or period of industrial training shall be as prescribed;

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- (b) the agreement shall be in the prescribed form;
- (c) except as otherwise provided by this Act, the parties to the agreement shall be the employer, the apprentice or industrial trainee and the parent or guardian of the apprentice or industrial trainee but if the Director is satisfied that it is in the interest of the employer and the apprentice or industrial trainee the Director may by endorsement on the agreement consent to it being executed only by the employer and the apprentice or industrial trainee;
- (d) the agreement shall not be deemed to be invalid by reason only of not being under seal;
- (e) the agreement duly executed shall be lodged with the Registrar for registration as required by this Act and the Registrar shall retain the agreement during the term of the agreement;
- (f) 3 copies of the agreement as executed shall be prepared by the Division, one of which shall be given to the employer and one to the apprentice or industrial trainee and one to the parent or guardian.

31. Registration

- (1) Subject to the provisions of sections 32 and 32A, a person shall be deemed not to be employed as an apprentice or industrial trainee in a trade to which this Act applies unless the apprenticeship or industrial training agreement entered into by that person is registered as required under this Act.
- (2) Application for the registration of an agreement shall be made to the Registrar within 14 days of the execution of the agreement.

[Section 31 amended by No. 86 of 1980 s.10.]

32. Commencement of service

Service under an apprenticeship or industrial training agreement commences on the day that the apprentice or industrial trainee commences employment as such.

32A. Employment after probation

- (1) Where a person who has been employed by an employer as a probationer after application duly made by that employer has been employed by that employer for 2 months after the expiration of the period of his probation or any extension of that period and an apprenticeship agreement or industrial training agreement has not been entered into and duly executed and dealt with as prescribed, the Director may execute an apprenticeship agreement or industrial training agreement on behalf of the party in default and any such person shall thereupon, for the purposes of this Act, be deemed to have entered into the agreement so executed.
- (2) Where an agreement is executed under subsection (1) the period between the beginning of the employment on probation and the execution of the agreement shall form part of the term of apprenticeship or industrial training.

[Section 32A inserted by No. 86 of 1980 s.11.]

33. Apprentice, industrial trainee to attend classes, etc.

- (1) Every apprentice or industrial trainee shall —
 - (a) attend such classes and obtain such instruction by correspondence as is prescribed; and
 - (b) undertake such courses or skills training programmes as are accredited by the Training Accreditation Council under the *Vocational Education and Training Act 1996*,
in relation to the trade with respect to which he is being trained.
- (2) An employer shall grant to his apprentice or industrial trainee such leave of absence, without deduction from his wages, as is necessary to enable the apprentice or industrial trainee to comply with the requirements specified in subsection (1).
- (3) An employer shall train his apprentice or industrial trainee, or cause him to be trained, in accordance with the course or skills training programme accredited by the Training Accreditation

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Council under the *Vocational Education and Training Act 1996* in relation to the trade with respect to which he is being trained.

- (4) The Director may impose penalties not exceeding \$20 in each case, for failure by an apprentice or industrial trainee to enrol for or attend classes or submit correspondence lessons as prescribed, and where an apprentice or industrial trainee fails to pay the penalty within the time specified by the Director an employer shall, when required by the Director to do so, deduct the amount of such penalty imposed from the wages of the apprentice or industrial trainee.

[Section 33 inserted by No. 86 of 1980 s.12; amended by No. 40 of 1990 s.45; No. 42 of 1996 s.71(2).]

33A. Extension of apprenticeship

Where the Director is satisfied that, for any reason, an apprentice or industrial trainee has not served the period of service as provided for in his apprenticeship agreement he may by written direction —

- (a) require the apprentice or industrial trainee to serve such additional period as he specifies in his direction; and
- (b) specify the manner in which the period of apprenticeship or industrial training is to be extended,

and the period to be served by that apprentice or industrial trainee shall be extended accordingly.

[Section 33A inserted by No. 86 of 1980 s.13.]

34. Transfer of employment

- (1) Where all parties agree, the employment of an apprentice or industrial trainee may be transferred from one employer to another employer.
- (2) Where any party to a proposed transfer of the employment of an apprentice or industrial trainee from one employer to another is not willing to consent to enter into a formal assignment the Director may authorize the transfer.

- (3) Where the transfer of the employment of an apprentice or industrial trainee from one employer to another and the assignment of the apprenticeship or industrial training agreement is authorized by the Director, and the employment of that apprentice or industrial trainee is transferred from the first to the second employer but an assignment is not executed within one month after the apprentice or industrial trainee is transferred, the Director may execute an assignment on behalf of the party in default, and any such person shall thereupon for the purposes of this Act be deemed to have made and accepted the assignment.
- (4) Where an employer is, from any cause, temporarily unable to provide work to fully employ an apprentice or industrial trainee the Director, upon application made in that behalf by the employer, may, if satisfied after due enquiry that the circumstances make such action appropriate, allow the employer to employ the apprentice or industrial trainee for less than his full working time per week or per month at a remuneration in accordance with the time worked proportionate to his weekly wage.
- (5) A transfer of employment in accordance with this section shall be registered with the Registrar.

[Section 34 amended by No. 86 of 1980 s.14.]

35. Agreements not to be determined by death, retirement or sale of business

- (1) Where a person is bound by an apprenticeship agreement or industrial training agreement to partners the agreement shall not be determined by reason only of the death or retirement of any partner, but shall be deemed to be assigned to the surviving or continuing partners.
- (2) Except where the Director otherwise determines, upon the sale of the business of any employer or any part of a business the apprenticeship agreement or industrial training agreement of any apprentice or industrial trainee which may form part of the

business sold shall be deemed to be assigned to the purchaser of the business.

[Section 35 amended by No. 86 of 1980 s.15.]

36. Apprentices and industrial trainees in defence forces

(1) In this section —

“law of the Commonwealth” means a law of the Commonwealth relating to the re-employment of persons who have been engaged in the defence forces of the Commonwealth.

(2) Where —

- (a) an apprenticeship or industrial training agreement is suspended by the operation of a law of the Commonwealth; or
- (b) an apprentice or industrial trainee is re-employed pursuant to a law of the Commonwealth,

and an industrial agreement or award under the *Industrial Arbitration Act 1912*² prescribes the number of or proportion of apprentices or industrial trainees to other workers in calculating the number or proportion so prescribed —

- (c) an apprentice or industrial trainee whose apprenticeship or industrial training agreement is so suspended; and
- (d) an apprentice or industrial trainee so re-employed,

shall be excluded.

37. Differences over agreements to be decided by Director

(1) Subject to subsection (2), no apprentice or industrial trainee shall be discharged from employment by an employer for alleged misconduct unless the parties to the relevant apprenticeship agreement or industrial training agreement consent to the dismissal or the agreement is cancelled by order of the Director on the application of the employer.

- (2) An employer may suspend an apprentice or industrial trainee for alleged misconduct but shall, within 7 days of the date of suspension, apply to the Director for suspension or cancellation of the relevant apprenticeship agreement or industrial training agreement.
- (3) Upon an application by an employer under subsection (1) or subsection (2) the Director may, after following the procedure prescribed, —
- (a) suspend the operation of the agreement for such period and on such conditions as he thinks fit;
 - (b) cancel the agreement; or
 - (c) order the employer to reinstate the apprentice or industrial trainee and make such order as to the payment of wages to the apprentice or industrial trainee during any period of suspension as he thinks fit.

[Section 37 amended by No. 86 of 1980 s.16.]

37A. Power of Director in special circumstances

Without affecting the generality of any provision of this Act relating to the cancellation of an apprenticeship agreement or an industrial training agreement, in any case where —

- (a) an employer is unable by reason of cessation of business or financial difficulties to provide sufficient employment and training for an apprentice or industrial trainee and a transfer of the employment of the apprentice or industrial trainee to another employer in accordance with the provisions of this Act is for any reason impossible or impracticable; or
- (b) the Director is satisfied that there are other special circumstances rendering such action desirable,

the Director may, if satisfied after due enquiry that the circumstances require such action, order that the apprenticeship agreement or industrial training agreement —

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- (c) be suspended for such period as the Director thinks fit;
or
- (d) be cancelled.

[Section 37A inserted by No. 86 of 1980 s.17.]

37B. Hearings conducted by the Director

- (1) Where under this Act or the regulations the Director conducts a hearing he may conduct it in accordance with the regulations.
- (2) Subject to this section, a person or body entitled to be heard at a hearing referred to in subsection (1) may appear in person or by legal practitioner or agent.
- (3) A person or body appearing by a legal practitioner or agent is bound by the acts of that legal practitioner or agent.
- (4) Where a question of law is raised or argued or is likely in the opinion of the Director to be raised or argued at a hearing, the Director may allow legal practitioners to appear and be heard but the director shall not otherwise allow legal practitioners to appear and be heard unless all the parties entitled to be heard at the hearing expressly consent thereto.

[Section 37B inserted by No. 86 of 1980 s.17.]

37C. Appeal to Commission

A person aggrieved by a decision of the Director in the exercise of the jurisdiction conferred upon him by sections 29A, 34(2) and (3), and 37 may appeal to the Commission.

[Section 37C inserted by No. 86 of 1980 s.17.]

Part VA — Traineeship schemes

[Heading inserted by No. 103 of 1985 s.7.]

37D. Minister to set up traineeship schemes

- (1) The Minister may establish and give effect to any traineeship scheme providing training in the knowledge and skills required in industry and commerce that he considers would give persons who take part in the scheme improved employment opportunities.
- (2) A traineeship scheme shall provide for such courses of instruction and such forms of on-the-job and off-the-job training as the Minister may determine.
- (3) A traineeship scheme may provide for training relevant to a particular occupation or to several occupations.

[Section 37D inserted by No. 103 of 1985 s.7; amended by No. 42 of 1996 s.71(2).]

37E. Delegation

- (1) The Minister may, by instrument in writing, delegate to the chief executive officer of the Department any of his functions under section 37D.
- (2) A function delegated to the chief executive officer of the Department under subsection (1) may be further delegated by the permanent head, by instrument in writing, to an officer of the Department.
- (3) A function performed in accordance with a delegation under this section shall be deemed to have been performed by the Minister.

[Section 37E inserted by No. 103 of 1985 s.7; amended by No. 40 of 1990 s.45; No. 42 of 1996 s.71(2); No. 28 of 2006 s. 452(2).]

Part VI — Miscellaneous

38. Instruments not dutiable

No duty shall be payable upon or in respect of any registration, certificate, agreement or instrument effected, issued or made under this Act.

39. No premiums

- (1) A person who, whether directly or indirectly, demands or receives any premium, fee, gift or reward for —
- (a) taking an apprentice or industrial trainee in a trade; or
 - (b) inducing or attempting to induce any other person to take an apprentice or industrial trainee in a trade,
- commits an offence.

- (2) A person who pays or gives any such premium, fee, gift or reward may recover the same in any court of competent jurisdiction from the person who received the same.

40. Penalty for offence

A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, where no other penalty is expressly provided for the offence, is liable to a penalty of \$200.

[Section 40 inserted by No. 86 of 1980 s.18.]

[41. Repealed by No. 40 of 1990 s.45.]

42. Regulations

- (1) The Governor may make such regulations as are necessary or expedient for the purposes of giving effect to the provisions or objects of this Act.
- (2) Without limiting the generality of the provisions of subsection (1), the regulations may —

- (a) provide for the registration of apprentices and industrial trainees;
- (b) prescribe trades as apprenticeship trades or industrial training trades for the purposes of this Act;
- [(c) deleted]*
- (d) prescribe the hours of attendance at training classes conducted by such bodies as may be prescribed;
- (e) prescribe the examinations to be passed in relation to a trade to which this Act applies and payments to examiners;
- (ea) provide for the variation by the Director of the prescribed period of apprenticeship;
- (f) provide for the extension, variation, suspension and cancellation of apprenticeship or industrial agreements;
- (g) provide for the transfer of apprenticeship and industrial training agreements;
- (ga) provide for notice of —
 - (i) an application to employ a probationer under section 29A(2); or
 - (ii) a transfer of employment under section 34, to be given to appropriate employer and employee organizations, and provide for the objection by such organizations to the employment or transfer, and the hearing of such objections by the Director;
- (h) prescribe forms of final certificate to be issued in respect of the completion of an apprenticeship or industrial training;
- (i) prescribe the conditions for prizes and scholarships under this Act;
- (ia) provide for any matter relating to a hearing held by the Director under this Act;
- (ib) prescribe, in relation to a particular place of employment, the maximum number of apprentices or

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industrial trainees who may be employed by an employer in an apprenticeship trade or industrial training trade in proportion to the number of tradesmen employed by that employer in that trade and provide that where the training facilities of a particular employer are adequate for the purpose the Director may approve the employment by that employer of a greater number of apprentices or industrial trainees than would otherwise be permitted;

- (ic) provide for the submission of evidence by a probationer of medical suitability to undertake a prescribed trade;
 - (j) prescribe penalties, not exceeding \$50, in respect of a contravention of the regulations.
- (3) Regulations made under this Act may be general or of limited application and may discriminate according to apprenticeships or classes of apprenticeship and according to courses of industrial training or classes of courses of industrial training.

[Section 42 amended by No. 86 of 1980 s.19.]

Notes

¹ This is a compilation of the *Industrial Training Act 1975* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

| Short title | Number and year | Assent | Commencement |
|---|------------------------|---------------|---|
| <i>Industrial Training Act 1975</i> | 95 of 1975 | 20 Nov 1975 | 6 Feb 1978 (see s. 2 and <i>Gazette</i> 27 Jan 1978 p. 249) |
| <i>Industrial Training Amendment Act 1980</i> | 86 of 1980 | 9 Dec 1980 | 20 Jul 1981 (see s. 2 and <i>Gazette</i> 17 Jul 1981 p. 2865) |
| <i>Industrial Training Amendment Act 1985</i> | 103 of 1985 | 7 Dec 1985 | 4 Jan 1986 |
| <i>State Employment and Skills Development Authority Act 1990 s. 45</i> | 40 of 1990 | 26 Nov 1990 | 22 Mar 1991 (see s. 2 and <i>Gazette</i> 22 Mar 1991 p. 1209) |
| <i>Acts Amendment (Public Sector Management) Act 1994 s. 3(1)</i> | 32 of 1994 | 29 Jun 1994 | 1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948) |
| <i>Vocational Education and Training Act 1996 s. 71(2)</i> | 42 of 1996 | 16 Oct 1996 | 1 Jan 1997 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301) |
| <i>Machinery of Government (Miscellaneous Amendments) Act 2006 s. 452(2)</i> ⁷ | 28 of 2006 | 26 Jun 2006 | 1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347) |

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

Provisions that have not come into operation

| Short title | Number and year | Assent | Commencement |
|--|------------------------|---------------|-----------------------------|
| <i>Vocational Education and Training Act 1996 s. 61-62 and Sch. 2 cl. 2</i> ⁶ | 42 of 1996 | 16 Oct 1996 | To be proclaimed (see s. 2) |

| Short title | Number and year | Assent | Commencement |
|--|------------------------|---------------|-----------------------------|
| <i>Industrial Training Amendment Act 2006</i> s. 3-8 ⁸ | 68 of 2006 | 11 Dec 2006 | To be proclaimed (see s. 2) |

² Repealed by the *Industrial Arbitration Act 1979* (No. 114 of 1979) which is now cited as the *Industrial Relations Act 1979*.

³ Now see Department of Productivity and Labour Relations.

⁴ Now see *Interpretation Act 1984* (No. 112 of 1984).

⁵ Footnote no longer applicable.

⁶ On the date as at which this compilation was prepared, the *Vocational Education and Training Act 1996* s. 61-62 and Sch. 2 cl. 2 had not come into operation. They read:

“

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

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 recognized 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.

”.

⁷ The *Machinery of Government (Miscellaneous Amendments) Act 2006* section 454 provides general transitional provisions concerning references to chief executive officers that are amended or repealed by that Act.

⁸ On the date as at which this compilation was prepared, the *Industrial Training Amendment Act 2006* s. 3-8 had not come into operation. They read as follows:

“

3. The Act amended

The amendments in this Act are to the *Industrial Training Act 1975*.

4. Section 28A inserted

After section 28 the following section is inserted —

“

28A. Ministerial approval of part-time employment

The Minister may, by notice published in the *Gazette*, approve of an apprentice, or industrial trainee, of a class specified in the notice being employed on a part-time basis.

”.

5. Section 29A amended

After section 29A(3) the following subsection is inserted —

“

- (4) The Director must not approve of the employment of a probationer on a part-time basis unless the Director is satisfied that an apprenticeship or industrial training agreement in respect of that probationer would meet the requirements of section 29B.

”.

6. Section 29B inserted

After section 29A the following section is inserted —

“

29B. Part-time employment of apprentices and industrial trainees

- (1) An apprenticeship or industrial training agreement must not be registered under this Act if the employment of the apprentice or industrial trainee is to be on a part-time basis unless —
- (a) the Minister has approved under section 28A of an apprentice, or industrial trainee, of that class being employed on a part-time basis; and
 - (b) the Director has notified the Registrar that the Director is satisfied that —
 - (i) the training (including required courses or skills training programmes) of the apprentice or industrial trainee can be completed within the term of the agreement; and
 - (ii) the employer will provide the apprentice or industrial trainee with adequate training during the term of the agreement; and
 - (iii) the apprentice or industrial trainee will be employed for at least the prescribed minimum hours.
- (2) For the purposes of this Act, employment of an apprentice or industrial trainee is on a part-time basis if the hours of employment are less than —
- (a) the ordinary hours of work specified in the industrial instrument that applies to the employment of the apprentice or industrial trainee; or
 - (b) if there is no industrial instrument that specifies the apprentice's or industrial trainee's ordinary hours of work, the prescribed hours.
- (3) In subsection (2) —
“industrial instrument” means an award or industrial agreement as defined in the *Industrial Relations Act 1979*, or an award

or workplace agreement as defined in the *Workplace Relations Act 1996* of the Commonwealth.

”.

7. Section 30 amended

(1) Section 30 is amended by inserting before “The” the subsection designation “(1)”.

(2) At the end of section 30 the following subsection is inserted —

“

(2) An apprenticeship agreement or industrial training agreement for an apprentice or industrial trainee who is to be employed part-time may provide for the term of the apprenticeship or industrial training to be up to 50% longer than the term prescribed.

”.

8. Section 42 amended

After section 42(2)(b) the following paragraph is inserted —

“

(c) provide for a minimum number of hours of employment of a probationer, apprentice or industrial trainee;

”.

”.