

# INDUSTRIAL TRAINING.

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No. 86 of 1980.

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## AN ACT to amend the Industrial Training Act 1975.

[Assented to 9 December 1980.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Industrial Training Amendment Act 1980*. Short title and citation.

(2) In this Act the Industrial Training Act 1975 is referred to as the principal Act. Act No. 95 of 1975.

(3) The principal Act as amended by this Act may be cited as the Industrial Training Act 1975-1980.



(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. ” .

7. Section 26 of the principal Act is amended in paragraph (e) of subsection (3) by deleting lines 9 to 13 inclusive and substituting the following—

Section 26  
amended.

“ employer. ” .

8. Section 29 of the principal Act is amended by inserting after “three months” the following—

Section 29  
amended.

“ or such additional period, not exceeding three months, as the Director may, on application by the employer approve, ” .

9. After section 29 of the principal Act the following section is inserted—

Section 29A  
inserted.

“ 29A. (1) No employer shall employ a probationer unless the Director has approved of the employer and the employment of the probationer.

Employment  
of proba-  
tioners.

(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) of this section 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 31  
amended.

10. Section 31 of the principal Act is amended in subsection (1) by deleting “section 32” and substituting the following—

“ sections 32 and 32A ” .

Section 32A  
inserted.

11. After section 32 of the principal Act the following section is inserted—

Employment  
after  
probation.

“ 32A. (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) of this section 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.

12. Section 33 of the principal Act is repealed and the following section is substituted—

Section 33  
repealed and  
substituted.

“ 33. (1) Every apprentice or industrial trainee shall—

Apprentice,  
industrial  
trainee to  
attend  
classes, etc.

- (a) attend such classes and obtain such instruction by correspondence as is prescribed; and
- (b) undertake such training as is approved by the Council,

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) of this section.

(3) An employer shall train his apprentice or industrial trainee, or cause him to be trained, in accordance with the syllabus approved by the Council 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 33A  
inserted.

13. After section 33 of the principal Act the following section is inserted—

Extension  
of appren-  
ticeship.

“ 33A. 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 34  
amended.

14. Section 34 of the principal Act is amended—

(a) by deleting “Commission” wherever it occurs and substituting the following—

“ Director ”; and

(b) by deleting subsection (4) and substituting the following subsection—

“ (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. ” .

15. Section 35 of the principal Act is amended in subsection (2) by deleting “Commission” and substituting the following—

Section 35  
amended.

“ Director ” .

16. Section 37 of the principal Act is amended—

Section 37  
amended.

(a) in subsection (1)—

(i) by deleting “No apprentice” and substituting the following—

“ Subject to subsection (2) of this section, no apprentice ”; and

(ii) by deleting “Commission” and substituting the following—

“ Director ”; and

(b) by repealing subsection (2) and substituting the following subsections—

“ (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) of this section 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. ” .

Sections  
37A, 37B  
and 37C  
inserted.

17. After section 37 of the principal Act the following sections are inserted—

Power of  
Director in  
special cir-  
cumstances.

“ 37A. 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—

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



37B. (1) Where under this Act or the regulations the Director conducts a hearing he may conduct it in accordance with the regulations.

Hearings  
conducted  
by the  
Director.

(2) Subject to this section, a person or body entitled to be heard at a hearing referred to in subsection (1) of this section 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.

37C. 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 of this Act may appeal to the Commission. ” .

Appeal to  
Commission

18. Section 40 of the principal Act is repealed and the following section is substituted—

Section 40  
repealed and  
substituted.

“ 40. 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. ” .

Penalty for  
offence.

19. Section 42 of the principal Act is amended—

Section 42  
amended.

(a) in subsection (1), by deleting “, on the recommendation of the Council,”; and

(b) in subsection (2)—

(i) by deleting paragraph (c);

(ii) by inserting after paragraph (e) the following paragraph—

“ (ea) provide for the variation by the Director of the prescribed period of apprenticeship; ”;

(iii) by inserting after paragraph (g) the following paragraph—

“ (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 organisations, and provide for the objection by such organisations to the employment or transfer, and the hearing of such objections by the Director; ”; and

(iv) by inserting after paragraph (i) the following paragraphs—

“ (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

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; ” .
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