

NORTHERN TERRITORY OF AUSTRALIA

NORTHERN TERRITORY EMPLOYMENT AND TRAINING AUTHORITY ACT

As in force at 22 March 2001

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 22 March 2001

NORTHERN TERRITORY EMPLOYMENT AND TRAINING AUTHORITY ACT

An Act to establish the Northern Territory Employment and Training Board and the Northern Territory Employment and Training Authority, to provide for employment and vocational training and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Northern Territory Employment and Training Authority Act*.

2 Objectives

The objectives of this Act are to enable:

- (a) the provision of vocational training that meets the present and future needs in the Territory of government, industry and the community and that is nationally recognised in accordance with the Australian Qualifications Framework; and
- (b) the development of employment initiatives.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

accredited course means a course of vocational education and training that is accredited under section 33 or that is accredited or otherwise recognised as part of the Australian Qualifications Framework under a corresponding law.

apprentice means a person employed or to be employed as an apprentice.

approved means approved by the Authority.

approved apprenticeship means a type of apprenticeship approved under section 45.

Australian Qualifications Framework means the Australian Qualifications Framework published by the Australian Qualifications Framework Advisory Board, as amended by that Board from time to time.

Authority means the Northern Territory Employment and Training Authority established by section 18.

Board means the Northern Territory Employment and Training Board established by section 4.

certifiable component means a competency, module, standard or other component of:

- (a) a qualification specified in a Training Package; or
- (b) an accredited course,

that is a competency, module, standard or component in relation to which a statement of attainment may be awarded.

Chairperson means the Chairperson of the Board appointed under section 8(1) and includes the Deputy Chairperson appointed under section 8(3), or a person elected to act as Chairperson under section 8(4), when acting as the Chairperson.

Chief Executive Officer means the Chief Executive Officer of the Agency administering this Act.

corresponding law means a law declared under subsection (3) to be a corresponding law for the purposes of this Act.

determined fee, in relation to an application under this Act, means a fee determined under section 100 to be payable for that application.

employer means a person who employs or intends to employ an apprentice.

nationally recognised qualification means a qualification specified in Part 4 to be a nationally recognised qualification.

organisation includes a person, group of persons, partnership, body, association, Agency, corporation, group of corporations and a statutory corporation.

qualification means a qualification specified in a Training Package or an accredited course in accordance with the titles of the Australian Qualifications Framework.

registered training agreement means a training agreement that is registered under section 52.

registered training organisation means:

- (a) an organisation that is registered under section 39; or
- (b) an organisation that is authorised under a corresponding law to award a nationally recognised qualification.

statement of attainment means a formal certification that may be awarded to a person who has attained a level of competency or skill in relation to a certifiable component of a qualification but has not completed all the certifiable components required to be completed to be eligible for the award of the qualification.

Training Package means a Training Package endorsed by the Australian National Training Framework Committee of the Australian National Training Authority.

Tribunal means the Appeals and Review Tribunal established by section 77.

- (2) This Act does not apply to or in relation to a course provided by:
 - (a) the Northern Territory University established under the *Northern Territory University Act*; or
 - (b) the Batchelor Institute of Indigenous Tertiary Education established by section 4(1) of the *Batchelor Institute of Indigenous Tertiary Education Act 1999*,

that is specified by the University or Institute, as the case may be, to be a higher education course of instruction or training, or both, unless the course is approved by the Minister.

- (3) The Minister may, by notice in the *Gazette*, declare an Act of the Commonwealth or a State or another Territory of the Commonwealth to be a corresponding law for the purposes of this Act.

Part 2 Northern Territory Employment and Training Board

Division 1 Establishment and membership of Board

4 Establishment of Board

The Northern Territory Employment and Training Board is established.

5 Functions of Board

Subject to this Act, the functions of the Board are:

- (a) to formulate policy relating to the promotion and purchase of appropriate training for delivery to industry and the community;
- (b) to provide advice to the Territory and the Commonwealth about employment and about training for vocational and community educational purposes; and
- (c) to develop employment and training initiatives for the Territory.

6 Powers of Board

Subject to this Act, the Board has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions.

7 Composition of Board

- (1) The Board consists of:
 - (a) the Chairperson;
 - (b) the Chief Executive Officer;
 - (c) the Chief Executive Officer of the Agency administering the Education Act; and
 - (d) not more than 7 persons appointed by the Minister under subsection (2).
- (2) The Minister may, in writing, appoint a person to be a member of the Board referred to in subsection (1)(d).

- (3) In determining who to appoint to be a member of the Board under subsection (2), the Minister is to take into account the requirements of:
- (a) employer, employee, business, industry, union, government, community and regional interest groups; and
 - (b) any other organisations that, in the opinion of the Minister, are relevant to employment or training in the Territory.
- (4) A member of the Board appointed under subsection (2) holds office on the terms and conditions the Minister thinks fit.

8 Chairperson

- (1) The Minister may appoint a person to be the Chairperson of the Board.
- (2) The Chairperson is to preside at all meetings of the Board at which he or she is present.
- (3) The Minister may appoint a person who is a member of the Board referred to in section 7(1)(d) to be the Deputy Chairperson of the Board.
- (4) If the Chairperson or Deputy Chairperson is not present at a meeting of the Board, the members of the Board at the meeting must elect one of the members present to act as Chairperson for the purposes of that meeting.

9 Temporary vacancies

The Minister may authorise a person to act in the office of a member of the Board appointed under section 7(2) if:

- (a) there is, or is expected to be, a temporary vacancy in the office of the member; and
- (b) the Board has requested the Minister to appoint a person to act in that office.

10 Period of appointment

The Chairperson and a member of the Board appointed under section 7(2) hold office for the period of not more than 3 years that is specified in the instrument of appointment and is eligible for reappointment.

11 Termination of office

- (1) The Minister may, in writing, terminate the appointment of:
 - (a) the Chairperson; or
 - (b) a member of the Board appointed under section 7(2).
- (2) If the Chairperson or a member of the Board appointed under section 7(2):
 - (a) is absent, except on leave granted by the Board, from 3 Consecutive meetings of the Board; or
 - (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,

the Minister must terminate the appointment of the Chairperson or member, as the case may be.
- (3) The Chairperson or a member of the Board appointed under section 7(2) may resign his or her office in writing delivered to the Minister.

Division 2 Meetings of Board

12 Calling of meetings of Board

- (1) Subject to this section, the Chairperson:
 - (a) must call such meetings of the Board as are necessary for the performance of its functions; and
 - (b) must ensure that the Board meets not less than 6 times in each calendar year.
- (2) The Chairperson must call a meeting of the Board not later than 28 days after receiving a written notice signed by not less than 5 members of the Board requesting that the meeting be held.
- (3) The Minister may direct the Chairperson to call a meeting of the Board and the Chairperson must call a meeting accordingly.
- (4) A meeting of the Board is to be held at a time and place determined by the Chairperson and notified to the members of the Board.

13 Procedure at meetings

- (1) At a meeting of the Board, one half of the number of the members then holding office plus one member of the Board constitute a quorum.
- (2) At a meeting of the Board, questions arising are to be determined by a majority of the members of the Board present and voting but, in the event of an equality of votes, the Chairperson may exercise a casting vote.
- (3) Subject to this Act, the Board is to determine the procedures to be followed at or in connection with its meetings.

14 Chief Executive Officer to advise Board at meetings

The Chief Executive Officer or his or her nominee must attend all meetings of the Board and must provide to the Board advice and information relating to the administration of this Act that the Board requires.

Division 3 Performance of functions by Board

15 Board to consult industry

The Board is to consult with and have regard to the advice of industry in exercising its powers or performing its functions under this Act.

16 Direction by Minister

- (1) The Minister may, either generally or in relation to a particular matter, give directions to the Board with respect to the exercise of its powers or the performance of its functions under this Act.
- (2) A direction under subsection (1) is to be given by notice in writing addressed to the Chairperson.
- (3) The Board must give effect to a direction given under subsection (1).
- (4) The Minister may direct the Board to:
 - (a) provide information in the possession of the Board to the Minister; or
 - (b) give the Minister access to information in the possession of the Board.
- (5) The Board must comply with a direction given under subsection (4).

17 Committees

- (1) The Board may establish committees as it thinks fit to advise and make recommendations to the Board on those matters within the Board's powers and functions under this Act that are referred to the committee by the Board.
- (2) The Board is to determine the constitution of a committee established under subsection (1) and the way in which it is to carry out its functions.
- (3) A committee under subsection (1) may be constituted by members of the Board or other persons or both.
- (4) A person who is a member of the Tribunal may not be appointed to be a member of a committee established under subsection (1).

Part 3 Northern Territory Employment and Training Authority**18 Establishment of Authority**

The Northern Territory Employment and Training Authority is established.

19 Composition of Authority

The Authority consists of the Chief Executive Officer.

20 Functions of Authority

The functions of the Authority are:

- (a) to provide support to the Board in the exercise of its powers and the performance of its functions;
- (b) to implement the policies of the Board;
- (c) to provide employment and vocational training advice to the Territory;
- (d) to fund the provision of training, and assessment of training, authorised under this Act;
- (e) to provide registration and associated services;
- (f) to represent the Territory at a national level in relation to vocational education and training; and
- (g) any other functions conferred on it by this or any other Act.

21 Powers of Authority

Subject to this Act, the Authority has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions.

22 Funding of training

- (1) The Authority may engage persons to provide training, and assessment of training, authorised under this Act.
- (2) The funding by the Authority of training, or assessment, authorised under this Act is subject to the terms and conditions the Board thinks fit.

23 Chief Executive Officer

The Chief Executive Officer is responsible for the management of the day to day functions of the Authority.

24 Authority subject to policies of Board

Subject to section 25(2), the Authority is, in the exercise and performance of its powers and functions, subject to the policies determined by the Board from time to time.

25 Minister may direct Authority

- (1) The Authority is subject to the direction of the Minister, other than a direction that is not permitted to be made to a Chief Executive Officer, within the meaning of the *Public Sector Employment and Management Act*, under another Act.
- (2) The Authority must comply with a direction of the Minister made to the Authority although the direction is inconsistent with a direction or a policy of the Board.

26 Delegation to Chief Executive Officer

The Minister may, in writing, delegate to the Chief Executive Officer any of the Minister's powers and functions under this Act, other than this power of delegation.

27 Delegation by Authority

- (1) The Authority may, in writing, delegate to an employee within the meaning of the *Public Sector Employment and Management Act* any of the powers and functions of the Authority under this Act (other than under section 42(2) or 70(4)) or under any other Act.

- (2) The Authority may, in writing, delegate to a registered training organisation the powers and functions of the Authority under section 33 (other than subsection (3) of that section) and section 39(1).
- (3) The Authority may, in writing, delegate to a registered training organisation or other organisation the powers and functions of the Authority under Parts 6 and 7.
- (4) A registered training organisation, or an organisation, that has been delegated a power or function of the Authority under this Act may delegate that power to a person.

Part 4 Nationally recognised qualifications and training

Division 1 Training packages and accredited courses are nationally recognised

28 Training Package

A qualification specified in a Training Package is a nationally recognised qualification for the purposes of this Act.

29 Qualifications from course accredited under corresponding law

A qualification specified in a course of vocational education and training accredited under a corresponding law is a nationally recognised qualification for the purposes of this Act.

30 Qualifications from course accredited under this Act

A qualification specified in a course of vocational education and training accredited under section 33 is a nationally recognised qualification for the purposes of this Act.

31 Persons must be authorised to offer nationally recognised course or qualification or associated training

A person or organisation must not:

- (a) purport:
 - (i) to award, or to be authorised to award, a nationally recognised qualification or a statement of attainment in relation to a certifiable component of such a qualification; or

- (ii) to be authorised to provide training that may lead to the award of such a qualification or statement;
- (b) purport:
 - (i) to award, or to be authorised to award, a qualification, or a statement of attainment in relation to a certifiable component of a qualification, which qualification, statement of attainment or certifiable component purports to be **nationally recognised** or **government accredited**; or
 - (ii) to be authorised to provide training that may lead to the award of such a qualification or statement; or
- (c) use any other name, title, letters or description implying, or that may reasonably be understood to imply, that the person or organisation is otherwise authorised:
 - (i) to award a nationally recognised qualification or a statement of attainment in relation to a certifiable component of a nationally recognised qualification; or
 - (ii) to provide training that may lead to the award of such a qualification or statement,

unless:

- (d) the person or organisation; or
- (e) the organisation on behalf of which the person has purported to be or implied that he or she is authorised to award the qualification or statement, or provide the training,

is a registered training organisation that is authorised under this Act or a corresponding law to award the qualification or provide the training.

Penalty: 200 penalty units.

Division 2 Accreditation of courses

32 Course may only be accredited if no relevant Training Package available

A course may only be accredited under section 33 if there is no appropriate qualification in a Training Package the training for which would provide the competency or skills that are relevant for the purpose for which the course is established.

33 Accreditation of courses by Authority

- (1) An organisation may apply to the Authority for accreditation of a course of vocational education and training.
- (2) The Authority may, on receipt of an application under subsection (1), accredit a course of vocational education and training.
- (3) If an organisation seeks accreditation of a vocational education and training course under this section, the Authority may require the organisation to pay all or a part of the reasonable cost of and incidental to determining whether to accredit the course.

34 Suspension or revocation of accredited course

The Authority may suspend or revoke the accreditation of a course accredited under section 33.

35 Register of accredited courses

- (1) The Authority must maintain a register of all courses accredited under section 33.
- (2) If the accreditation of a course is revoked under section 34, the Authority must remove the course from the register maintained under subsection (1).

Part 5 Provision of training: registered training organisations**36 Application for registration as registered training organisation**

- (1) A person may apply to the Authority for the registration of an organisation as a registered training organisation.
- (2) An application under subsection (1) is to be on the approved form accompanied by the determined fee.

37 Authority may issue guidelines about registration

- (1) For the purpose of assisting the preparation of applications under section 36, the Authority may make guidelines relating to the minimum requirements for registration.
- (2) The Authority is to make guidelines made under subsection (1) available for viewing or purchase by members of the public at an office of the Authority.

38 Matters to be taken into account in deciding whether to register

- (1) In determining whether to register or to refuse to register an organisation under section 39, the Authority is to have regard to, but is not limited by, the guidelines made under section 37.
- (2) The Authority may register an organisation under section 39 if it is satisfied that:
 - (a) the organisation is suitable for registration;
 - (b) the organisation has sufficient facilities and resources to conduct to the required standard assessments of whether to award the nationally recognised qualification specified in the relevant application under section 36; and
 - (c) if the organisation seeks authorisation of the kind specified in section 39(1)(a) – the organisation has sufficient facilities and resources to conduct to the required standard training that may lead to the award of the nationally recognised qualification specified in the relevant application under section 36.
- (3) In determining whether to register an organisation under section 39, the Authority:
 - (a) must have regard to current Territory and Commonwealth government policy in relation to the nationally recognised qualification that the organisation has applied to be registered to provide;
 - (b) may have regard to any recommendations of an organisation the Authority considers has an interest in the training that the organisation has applied to be registered to provide; and
 - (c) must have regard to the matters, if any, determined by the Board in relation to the type of organisation that has applied to be registered to provide or that are determined by the Board in relation to a qualification of the type in relation to which the organisation has sought registration.

39 Registration

- (1) The Authority may, on receipt of an application under section 36, by notice in writing to the applicant, register or refuse to register an organisation as a registered training organisation authorised to:
 - (a) conduct training that may lead to the awarding to a person of the nationally recognised qualification specified in the

application or a statement of attainment in relation to a certifiable component of such a qualification, assess whether to award to a person the qualification or such a statement and award the qualification or statement to an appropriately competent person; or

- (b) assess whether to award to a person a nationally recognised qualification specified in the application or a statement of attainment in relation to a certifiable component of such a qualification and award the qualification or statement to an appropriately competent person.
- (2) An organisation may be registered under this section subject to the conditions relating to:
- (a) the qualifications and courses that may be provided; and
 - (b) other matters,
- that the Authority specifies in the notice under subsection (1).
- (3) If the Authority decides to refuse to register an application under section 36, the notice under subsection (1) must specify the grounds for the refusal.

40 Duration of registration

Registration under section 39 remains in force for the period of not more than 3 years that is specified in the notice under that section unless it is sooner suspended or cancelled.

41 Suspension or cancellation of registration

- (1) The Authority may, by notice in writing, suspend or cancel a registration under section 39 or alter a condition to which the registration is subject.
- (2) The notice under subsection (1) must specify the grounds for the suspension, cancellation or alteration.
- (3) A suspension under subsection (1) may be subject to the conditions relating to the reinstatement of registration that the Authority thinks fit and specifies on the notice under subsection (1).

42 Request for inquiry against decision by Authority

- (1) An organisation that is aggrieved by a decision of a delegate of the Authority:
 - (a) to refuse to register the organisation under section 39;

- (b) to register the organisation on conditions specified in the notice under section 39; or
- (c) to suspend or cancel under section 41 the registration of the organisation under section 39,

may request the Authority to consider the decision and to make a decision in relation to the matter in substitution for the decision of the delegate.

- (2) If a request is made to the Authority under subsection (1), the Authority must consider the decision to which the request relates and uphold the decision or make a decision in relation to the matter in substitution for the decision of the delegate.
- (3) An organisation that is aggrieved by a decision of the Authority (including a decision under subsection (2)) made by the Authority and not by a delegate of the Authority:
 - (a) to refuse to register the organisation under section 39;
 - (b) to register the organisation on conditions specified in the notice under section 39; or
 - (c) to suspend or cancel under section 41 the registration of the organisation under section 39,

may request the Tribunal to conduct an inquiry in relation to the decision.

43 Register of organisations providing recognised training

- (1) The Authority must maintain a register of all registrations issued under section 39.
- (2) If the registration of a registered training organisation has been suspended under section 41, the Authority must indicate that fact on the register kept under subsection (1).
- (3) The Authority must remove from the register kept under subsection (1) the registration of a registered training organisation under section 39 if that registration has been cancelled under section 41.

Part 6 Apprenticeships

Division 1 Approval of types of apprenticeships

44 Authority to consider industry needs

The Authority is to have regard to:

- (a) the requirements of industry in the Territory; and
- (b) the advice and recommendations, if any, of the Board,

in determining whether to approve a type of apprenticeship under section 45(1).

45 Approval of types of apprenticeships

- (1) The Authority may approve a type of apprenticeship for the purposes of this Act.
- (2) An approval under subsection (1) is to:
 - (a) specify the name of the type of apprenticeship;
 - (b) specify the nationally recognised qualification that may be obtained by completing the type of apprenticeship; and
 - (c) specify the Training Package or accredited course to which the approval relates.
- (3) The Authority may only approve a type of apprenticeship under subsection (1):
 - (a) if the nationally recognised qualification specified in the approval is specified in a Training Package; or
 - (b) if there is no nationally recognised qualification specified in a Training Package that, if awarded, would recognise the acquisition by an apprentice of the competencies or other skills that appear to be required for the purposes of the relevant industry – if the nationally recognised qualification is specified in an accredited course.

Division 2 Employers must be approved to take on apprentices

46 Employer must be approved before taking on apprentice

An employer must not employ an apprentice except if the employer is approved under section 47.

Penalty: 100 penalty units.

47 Approval of employer

- (1) An employer may apply to the Authority for approval to employ an apprentice in an approved apprenticeship.
- (2) An application under subsection (1) is to be in the approved form.
- (3) The Authority may, on receipt of an application under subsection (1), by notice in writing to the applicant, grant or refuse to grant approval to the person to employ an apprentice in an approved apprenticeship.
- (4) The Authority may only grant approval to a person to employ an apprentice in an approved apprenticeship if it is satisfied that the premises, equipment, method of training and supervision to which the approval relates are suitable for training an apprentice in respect of an approved apprenticeship.
- (5) An approval under subsection (3):
 - (a) is to specify the name of the employer who or that is to employ the apprentice;
 - (b) is to specify the approved apprenticeship that may be offered by the employer;
 - (c) is to specify the ratio of trainers to apprentices in accordance with subsection (6);
 - (d) is to specify the maximum number of apprentices that may be employed at any one time by the employer in respect of the approved apprenticeship specified under paragraph (b); and
 - (e) may be subject to the conditions, if any, the Authority thinks fit and specifies in the approval.
- (6) The ratio of trainers to apprentices specified in an approval is to be:
 - (a) one trainer in relation to each apprentice; or

- (b) if the Authority is satisfied that it will not adversely affect the training of an apprentice – the ratio, of not more than 4 apprentices in relation to each trainer, that the Authority thinks fit and specifies in the approval.
- (7) An approval under subsection (3) that is subject to conditions that are to be complied with before a training agreement may be entered into by an employer is of no force or effect until those conditions are complied with by the employer.
- (8) If the Authority decides to refuse an application under section (3), it must notify the applicant of the refusal and specify the grounds for the refusal.

48 Variation or revocation of approval of employer

- (1) Subject to this section, the Authority may:
 - (a) on the Authority's own motion; or
 - (b) on the application in the approved form of the employer,vary or revoke an approval given under section 47.
- (2) The Authority must not vary an approval under subsection (1) on the application of an employer unless satisfied that the variation will not adversely affect the training being or to be undertaken by the apprentice.
- (3) The Authority may only vary an approval under subsection (1) on the Authority's motion if the Authority is satisfied that the variation is necessary to ensure that the training of an apprentice is satisfactory.
- (4) The Authority may only revoke an approval under subsection (1) on the Authority's motion if the Authority is satisfied that:
 - (a) the employer has failed to comply with a condition of the approval; or
 - (b) the premises, equipment, method of training or supervision to which the approval related are no longer suitable for training an apprentice in respect of an approved apprenticeship.
- (5) The Authority must not vary or revoke an approval under subsection (1) on the Authority's motion unless:
 - (a) the Authority allows the employer 14 days within which to make representations to the Authority; and

- (b) the Authority takes into account those representations, if any, before exercising the power.
- (6) The Authority must, not later than 14 days after exercising the power under subsection (1), notify the employer of the decision.
- (7) A decision of the Authority under this section takes effect on the date notification is given under subsection (6) or another date the Authority determines and specifies in the notification.

Division 3 Training agreements

Subdivision 1 Registration of training agreements

49 Apprenticeships must be performed under registered training agreement

A person (*the employer*) must not employ another person as an apprentice (*the apprentice*) in an approved apprenticeship unless:

- (a) the employer and the apprentice have entered into a registered training agreement; or
- (b) the employer has, within 14 days after the training agreement in relation to the apprentice comes into operation, submitted the agreement to the Authority under section 50 and the Authority has not given him or her notice under section 52 that the Authority refuses to register the agreement.

Penalty: 100 penalty units.

50 Applications for registration of training agreements

- (1) An employer may submit to the Authority for registration under section 52 a training agreement entered into by the employer and the proposed apprentice.
- (2) A training agreement is to be in the approved form.

51 Contents of training agreement

A training agreement may specify that training is to be provided to an apprentice:

- (a) on a part-time or a full-time basis; or
- (b) in conjunction with education or training provided at a school or other place.

52 Registration of training agreements

- (1) The Authority may register or refuse to register a training agreement submitted for registration under section 50.
- (2) If a training agreement is registered under subsection (1), the Authority must provide to the employer who submitted the agreement for registration a certificate as to the registration.
- (3) If the Authority refuses to register a training agreement, the Authority must, in writing, notify the employer who submitted the agreement for registration of the refusal.

53 Approval of multiple agreements

- (1) The Authority may only register a training agreement under section 52 in relation to an apprentice that is to be in operation for a period that is or will be concurrent, in whole or in part, with another training agreement or proposed training agreement in relation to the apprentice if:

(a) it is satisfied that:

- (i) the apprentice;
- (ii) if the apprentice has not attained the age of 18 years – a parent or guardian of the apprentice; and
- (iii) each employer of the apprentice under a training agreement or a proposed training agreement,

consents to the apprentice entering into a training agreement that is to be in operation for a period that is or will be concurrent, in whole or in part, with another training agreement in relation to the apprentice; and

(b) if it is satisfied that:

- (i) the training agreements do not both relate to the same qualification;
- (ii) a qualification that may be awarded upon the successful completion of one training agreement is not part of a qualification to be obtained through the other training agreement, irrespective of whether the qualifications are at the same level;
- (iii) training under one of the training agreements that is training to be provided other than by the employer will not be scheduled to be delivered at the same time as

such training to be provided in relation to the other training agreement; and

- (iv) the apprentice intends to apply an equal effort under both training agreements.

54 Registration terminated if training schedule not registered within probationary period

If a training schedule in relation to a training agreement has not been provided to the Authority before the end of the probationary period specified in section 57(2) in relation to the agreement, the registration of the training agreement is terminated by virtue of this section.

55 Training schedules

- (1) A training schedule is a schedule of the certifiable components to be undertaken by an apprentice for the purpose of attaining the qualification to which his or her apprenticeship relates.
- (2) A training schedule is to be determined and agreed upon by the employer of an apprentice, a registered training organisation and the apprentice.
- (3) A registered training organisation must not require in a training schedule in relation to an apprentice who:
 - (a) is undertaking or about to undertake an approved apprenticeship; and
 - (b) has been issued with a qualification, or a statement of attainment in relation to a certifiable component, by a registered training organisation,

that the apprentice also attain that qualification or a statement of attainment in relation to that certifiable component, from the first-mentioned organisation.

Penalty: 100 penalty units.

- (4) A training schedule is to be attached to an application under section 50 or submitted to the Authority before the end of the probationary period specified in section 57 in relation to the agreement.

56 Parties to training agreements are bound by them

(1) Subject to this Act, an apprentice is bound by a training agreement he or she has entered into if:

- (a) it has been registered under section 52; or
- (b) it has been submitted under section 50 to the Authority for registration and the Authority has not given notice under section 52 that the Authority refuses to register the agreement,

even though the apprentice had not, at the time of entering into the agreement, attained the age of 18 years.

(2) The parent or guardian of an apprentice who has entered into a training agreement:

- (a) that has been registered under section 52; or
- (b) that has been submitted under section 50 to the Authority for registration and in relation to which the Authority has not given notice under section 52 that the Authority refuses to register the agreement,

is bound by the agreement until:

- (c) the apprentice attains the age of 18 years; or
- (d) the training agreement is terminated, cancelled or completed under this Act,

whichever occurs first.

(3) An employer who enters into a training agreement:

- (a) that has been registered under section 52; or
- (b) that has been submitted under section 50 to the Authority for registration and in relation to which the Authority has not given notice under section 52 that the Authority refuses to register the agreement,

is bound by the agreement until it is terminated, cancelled or completed under this Act, whichever occurs first.

Subdivision 2 Cancellation, termination, suspension and completion of training agreements

57 Termination during probationary period

- (1) A training agreement may be terminated, by the employer or the apprentice who entered into it, within the relevant probationary period specified under subsection (2) or extended in accordance with subsection (5).
- (2) The relevant probationary period for a training agreement in respect of a qualification that is classified under the Australian Qualifications Framework as:
 - (a) a qualification level 1 or 2 – is one month from the date on which the agreement comes into operation; and
 - (b) a qualification level 3, 4, 5 or 6 – is 3 months from the date on which the agreement comes into operation.
- (3) The parties to a registered training agreement must, not later than 14 days after the termination of the agreement under subsection (1), give to the Authority notice in writing of the termination.

Penalty: 10 penalty units.
- (4) It is a defence to a prosecution for an offence against subsection (3) that another person required by that subsection to give notice to the Authority gave that notice.
- (5) An employer who has entered into a training agreement may, by notice in writing to the Authority before the end of the relevant probationary period in relation to the training agreement, extend the probationary period in relation to the training agreement.
- (6) An extension under subsection (5) of a probationary period in respect of a qualification that is classified under the Australian Qualification Framework as:
 - (a) a qualification level 1 or 2 – may be for not less than one month and not more than 2 months, beginning at the end of the probationary period; and
 - (b) a qualification level 3 to 6 (inclusive) – may be for not less than 3 months and not more than 6 months, beginning at the end of the probationary period.
- (7) A probationary period in relation to a training agreement may not be extended more than once under subsection (6).

58 Cancellation of training agreement by mutual consent of parties

- (1) Subject to this section, a registered training agreement may, in writing signed by the parties to the agreement, be cancelled by mutual consent of the parties.
- (2) The parties to a registered training agreement must, not later than 14 days after the cancellation of the agreement under subsection (1), give to the Authority notice in writing of the cancellation.

Penalty: 10 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) that another person required by that subsection to give notice to the Authority gave that notice.

59 Authority may cancel agreement

- (1) Despite any other provision of this Act or the conditions of a registered training agreement, the Authority may, if it thinks fit, by notice in writing served on the parties to the agreement, cancel the agreement.
- (2) The notice under subsection (1) is to specify the grounds for the cancellation.

60 Authority may suspend agreement

- (1) The Authority may, by notice in writing to the employer and the apprentice specified in a registered training agreement:
 - (a) suspend the operation of the registered training agreement for a period of not more than 6 months if the Authority is satisfied that the employer or apprentice are unable to comply with the agreement; or
 - (b) suspend the registered training agreement if the Authority is satisfied that the employer or apprentice has contravened or failed to comply with this Act, the Regulations or the training agreement.
- (2) If the Authority suspends a registered training agreement under subsection (1), the Authority must notify the employer and the apprentice of the grounds for the suspension.

- (3) If the Authority suspends a training agreement under subsection (1), the suspension:
- (a) takes effect on notice being given to the employer and the apprentice; and
 - (b) remains in force:
 - (i) until the expiration of the period, if any, specified in the notice under subsection (1)(a); or
 - (ii) if no period is specified in the notice under subsection (1)(a) – until the Authority determines otherwise.

61 Assignment of training agreement

- (1) The parties to a registered training agreement may jointly apply to the Authority in the approved form for approval to assign the training agreement, either temporarily or permanently, to another employer.
- (2) The Authority must, as soon as practicable after receiving an application under subsection (1), by notice in writing to the parties, approve, either conditionally or unconditionally, or refuse to approve, the assignment of the training agreement.
- (3) A purported assignment of a training agreement without the approval of the Authority is of no effect.
- (4) If the Authority approves under this section the assignment of a training agreement of an apprentice from one employer to another, an assignment of the agreement, in the approved form, is to be executed within 14 days after the approval by:
- (a) both employers;
 - (b) the apprentice; and
 - (c) if the apprentice has not attained the age of 18 years – a parent or guardian of the apprentice.
- (5) If:
- (a) an apprentice continues to be employed by an employer to whom the assignment of his or her registered training agreement has been approved under this section for more than 14 days; and

- (b) an assignment of the agreement has not been executed within that period of 14 days,

an assignment of the agreement in accordance with subsection (4) is to be taken to have been executed.

- (6) If an assignment of a training agreement is or is to be taken to be executed in accordance with this Act, the assignment is to be taken to come into effect on the day on which the apprentice commenced employment with the employer to whom the training agreement is or is to be taken to be assigned.
- (7) The Authority may give the directions it thinks fit in relation to the execution of an assignment of a training agreement.
- (8) A person to whom a direction under subsection (7) is given must comply with the direction.

Penalty: 100 penalty units.

- (9) The Authority may require an employer to whom a training agreement is assigned to fill out a new training agreement that, when accepted by the Authority, is to be the training agreement in place of the assigned training agreement.

62 Termination of assigned agreements

- (1) Subject to subsection (3), despite the terms of a registered training agreement assigned to an employer, the training agreement may be terminated by:
- (a) if the apprentice has attained the age of 18 years – the apprentice;
- (b) if the apprentice has not attained the age of 18 years – the apprentice with the consent of a parent or guardian of the apprentice; or
- (c) the employer,

at any time before the expiration of the relevant probationary period specified under subsection (2).

- (2) The relevant probationary period for an assigned registered training agreement in respect of a qualification that is classified under the Australian Qualification Framework as:
- (a) a qualification level 1 or 2 – is one month from the date on which the assignment of the training agreement is executed or taken to be executed; or

- (b) a qualification level 3, 4, 5 or 6 – is 3 months from the date on which the training agreement is executed or taken to be executed.
- (3) If a registered training agreement is assigned by an employer to another employer but the Authority is satisfied that the employer to whom the agreement is assigned is substantially the same as the former employer, the Authority may, by notice in writing to the employer to whom the agreement is assigned, declare that there is no relevant probationary period for the purposes of this section in relation to the agreement.
- (4) The parties to a registered training agreement must, not later than 14 days after the termination of the agreement under subsection (1), give to the Authority notice in writing of the termination.

Penalty: 10 penalty units.

- (5) It is a defence to a prosecution for an offence against subsection (4) that another person required by the subsection to give notice to the Authority gave that notice.

63 Completion of training agreement through attainment of competency

- (1) If a registered training organisation has assessed an apprentice as having attained the level of competency or skill specified in a certifiable component of a qualification, being a qualification specified in a training agreement, and the apprentice does not intend to complete the qualification, the registered training organisation may award a statement of attainment to the apprentice in respect of that component.
- (2) A registered training organisation must advise the Authority if:
- (a) an apprentice is eligible for the award of a statement of attainment in respect of a certifiable component of a qualification; and
- (b) the apprentice does not intend to complete the qualification to which the certifiable component relates.

Penalty: 10 penalty units.

- (3) If an apprentice is assessed as being eligible to be awarded a qualification for attaining the level of competency or skill specified in each of the certifiable components of a qualification that is specified in the registered training agreement in relation to the apprentice, the registered training organisation that assessed the apprentice:

- (a) must award the qualification as soon as reasonably practicable; and
- (b) must, within 14 days after the assessment, advise the Authority that the apprentice is eligible for the award of the qualification.

Penalty: 100 penalty units.

- (4) If the Authority receives advice under subsection (3) in relation to an apprentice, the Authority must issue to the apprentice a document indicating that the apprentice has completed the training specified under the training agreement.
- (5) A registered training agreement is, on and from the date on which the Authority issues a document under subsection (4) in relation to the agreement, to be taken to have been completed and, as between the parties, to be of no further force or effect.

Division 4 Employer's obligations

64 Employer not to prevent apprentice from complying with registered training organisation requirement

An employer must not hinder or obstruct an apprentice from complying with a requirement of a registered training organisation that relates to the training or assessment of the apprentice.

Penalty: 100 penalty units.

65 Records

- (1) An employer who is a party to a registered training agreement in relation to an apprentice must, while the agreement remains in force, maintain:
 - (a) records adequate to enable the Authority or a relevant registered training organisation to ascertain the progress of the apprentice towards the achievement of competency in respect of a certifiable component of the qualification, which qualification is specified in the training agreement; and
 - (b) other records, if any, in the manner and form determined by the Authority.

Penalty: 100 penalty units.

- (2) An employer who is a party to a training agreement in relation to an apprentice must, while the agreement remains in force, forward to the Authority, within 7 days after the request or a longer period

specified by the Authority, copies of all records the Authority requests the employer to provide.

Penalty: 10 penalty units.

66 Rate of wages of apprentices

- (1) This section applies subject to the terms of any award under the *Workplace Relations Act 1996* of the Commonwealth.
- (2) Subject to section 68(2), the rate of wages payable to apprentices are to be determined by the Authority based on levels of competence of apprentices.

67 Apprentices to be paid rate of wages

- (1) A person must not employ, attempt to employ or authorise or permit the employment of an apprentice at a lower rate of wages than the rate of wages to which the apprentice is entitled under this Act.

Penalty: 100 penalty units.

- (2) In an action for the recovery of wages or other remuneration, it is not a defence to the action that a person was employed in contravention of this Act.

68 Slackness of trade

- (1) The Authority may, on being satisfied that the employer of an apprentice is or is likely to be temporarily unable to provide sufficient work to keep the apprentice fully employed during an ordinary working week or month, approve of the employer's employing the apprentice for a shorter period of time in the week or month approved by the Authority.
- (2) If the Authority approves under subsection (1) the employment of an apprentice for a shorter period of time in a week or month, the Authority may, by notice served on the employer of the apprentice, fix the rate of wages payable to the apprentice for that week or month.

69 Stand down of apprentices etc.

- (1) In this section, ***industrial occurrence*** means a breakdown in machinery or a stoppage of work by any cause for which an employer could not reasonably be held responsible.
- (2) Subject to subsection (3) and to the prior approval of the Authority, if an employer of an apprentice is unable, by reason of an industrial occurrence, to keep the apprentice fully employed during the

normal working hours of a day, the employer may deduct from the wages due to that apprentice an amount equal to the wages for that part of the day in excess of 20 minutes during which the apprentice cannot be fully employed.

- (3) An apprentice:
- (a) who is required to attend for work on a day but by reason of an industrial occurrence cannot be fully employed, is entitled to receive payment equal to the apprentice's wages in respect of 2 hours work; or
 - (b) who begins work on a day but by reason of an industrial occurrence cannot be fully employed, is entitled to receive payment equal to the apprentice's wages in respect of:
 - (i) 4 hours work; or
 - (ii) the number of hours actually worked,whichever is the greater.

Division 5 Miscellaneous

70 Review of decision and resolution of disputes

- (1) A person or organisation aggrieved by a decision made under this Part in relation to the person or organisation by a delegate of the Authority may apply to the Authority for the Authority to review the decision and to make a decision in relation to the matter in substitution for the decision of the delegate.
- (2) A party to a registered training agreement may apply to the Authority for the Authority to resolve a dispute between the parties relating to the agreement or an obligation under the agreement.
- (3) An application under subsection (1) or (2) is to be in writing.
- (4) If an application is made to the Authority under subsection (1), the Authority must consider the decision to which the application relates and uphold the decision or make a decision in relation to the matter in substitution for the decision of the delegate.
- (5) If an application is made to the Authority under subsection (2), the Authority is to attempt to resolve the dispute to which the application relates.
- (6) If an application is made under subsection (2), the Authority must, if it is of the opinion that the dispute to which the application relates is not resolved or is not likely to be resolved, forward the application

to the Tribunal with a request that it carry out an inquiry under section 85 into the dispute.

- (7) A person or organisation aggrieved by a decision (including a decision under subsection (4)) of the Authority under this Part made by the Authority and not by a delegate of the Authority may request the Tribunal to conduct an inquiry in relation to the decision.

71 Travelling expenses and allowances

The Authority may approve the payment of travelling expenses and allowances of an apprentice who is required to travel away from his or her usual residential locality to undertake a course of training as part of an approved apprenticeship.

72 Apprenticeship register

The Authority must establish and maintain an apprenticeship register containing:

- (a) the names of all apprentices in each type of apprenticeship;
- (b) particulars of all registered training agreements;
- (c) the names and addresses of all employers approved under section 47;
- (d) a record of all assignments, suspensions or cancellations of registered training agreements; and
- (e) for each type of apprenticeship, the names and particulars of all persons who have successfully completed a training agreement in respect of that type of apprenticeship.

Part 7 Ensuring quality of training

73 Persons may be appointed

- (1) The Authority may appoint a person for the purposes of this Part.
- (2) The Authority must issue an identity card to each person appointed under subsection (1).
- (3) A person appointed under subsection (1) must, on the termination of his or her appointment, return to the Authority the identity card issued to the person under subsection (2).

Penalty: 10 penalty units.

74 Powers of entry

- (1) Subject to this section, a person appointed under section 73 may enter a place where, or where the person reasonably believes, an apprentice is employed.
- (2) Despite subsection (1), a person appointed under section 73 may not enter residential premises except with the consent of the occupier of the residence.
- (3) A person appointed under section 73 who enters a place under this section must, at the request of the occupier of the place, produce to the occupier and permit the occupier to examine the identity card issued to the person under section 73.
- (4) If a person appointed under section 73 who enters a place under this section does not, at the request of the occupier of the place, produce to the occupier and permit the occupier to examine the identity card issued to the person under section 73, the person must leave the place immediately.

75 Powers of appointed persons

A person appointed under section 73 who enters a place under section 74 may:

- (a) inspect the place for the purpose of ensuring that this Act, the Regulations or a training agreement is or are being complied with;
- (b) inspect and test any equipment at the place that the person reasonably believes is used in the training of apprentices;
- (c) inspect any facilities required to be at the place in pursuance of this Act;
- (d) inspect any work in progress at the place that the person reasonably believes relates to the training of apprentices;
- (e) direct the occupier of the place to answer any questions relating to the training of apprentices at the place;
- (f) direct the occupier of the place to produce any documents containing information relating to the training of apprentices at the place; or
- (g) inspect, take extracts from, or make copies of, documents produced under paragraph (f).

76 Offences in respect of persons appointed under section 73

A person must not:

- (a) obstruct or hinder a person appointed under section 73 who is exercising his or her powers under this Act;
- (b) without reasonable excuse, fail to comply with a direction made to that person by a person appointed under section 73; or
- (c) knowingly give a person appointed under section 73 false or misleading information (whether orally or in writing).

Penalty: 100 penalty units.

Part 8 Appeals and Review Tribunal

Division 1 Membership of Tribunal

77 Appeals and Review Tribunal

The Appeals and Review Tribunal is established.

78 Composition of Tribunal

- (1) Subject to this section, the Tribunal consists of 3 members appointed by the Minister.
- (2) Of the persons appointed under subsection (1):
 - (a) one is to be appointed as representing employer interests; and
 - (b) one is to be appointed as representing employee interests.
- (3) The Minister must appoint one member of the Tribunal to be the President of the Tribunal.
- (4) A member of the Board must not be appointed as a member of the Tribunal.

79 Temporary vacancies

- (1) If:
 - (a) there is, or is expected to be, a vacancy in the office of a member of the Tribunal; or
 - (b) a member of the Tribunal is, or is expected to be, absent or unable to act,

the Minister may authorise a person to act in the office of that member.

- (2) The power of the Minister under subsection (1) includes the power to authorise a person to act from time to time in the office of a member during the absence or inability of the member to act.

80 Period of appointment

A member of the Tribunal holds office for the period of not more than 3 years specified in his or her instrument of appointment and is eligible for reappointment.

81 Termination of office

- (1) The Minister may, by notice in writing, terminate the appointment of a member of the Tribunal.
- (2) The Minister must terminate the appointment of a member of the Tribunal if the member:
 - (a) is absent, except on leave granted by the Tribunal, from 3 consecutive meetings of the Tribunal; or
 - (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.
- (3) A member of the Tribunal may resign his or her office by notice in writing delivered to the Minister.

Division 2 Inquiries

82 Application to Tribunal

- (1) A person who is permitted under section 42 of this Act to request the Tribunal to carry out an inquiry in relation to a decision may, within 28 days of being notified of the decision to which the application relates, apply to the Tribunal for the Tribunal to carry out an inquiry under this Division.
- (2) For the purposes of subsection (1), a decision includes a failure to make a decision within a reasonable time.

83 Inquiry initiated by Authority

The Authority may request the Tribunal to carry out an inquiry under this Division if the Authority reasonably believes that:

- (a) an employer, apprentice or registered training organisation has contravened or failed to comply with this Act, the Regulations or the training agreement; or
- (b) an employer is not a fit and proper person to train an apprentice.

84 Parties to inquiry, commencement of inquiry and notice

- (1) In this Part a reference, in relation to an inquiry, to a party, means:
 - (a) in relation to a request under section 42 – the Authority and the organisation aggrieved by the decision of the Authority;
 - (b) in relation to an application forwarded to the Tribunal under section 70(6) – the apprentice, the employer of the apprentice and, if the apprentice has not attained the age of 18 years, the parent or guardian who executed the training agreement;
 - (c) in relation to a request under section 83 for a reason specified in section 83(a) – the Authority and the employer, apprentice or registered training organisation who or that it is alleged has contravened or failed to comply with the Act, Regulations or the training agreement;
 - (d) in relation to a request under section 83 for a reason specified in section 83(b) – the Authority and the employer who it is alleged is not a fit and proper person.
- (2) The Tribunal must, within 14 days of receiving an application under section 82, a request under section 83 or a request forwarded under section 70(6), begin an inquiry under this Division.
- (3) The Tribunal must, not less than 7 days before the date for the holding of an inquiry under this Division, give written notice of the inquiry to the parties to the inquiry.
- (4) A notice under subsection (3) is to give details of:
 - (a) the time, date and place of the inquiry;
 - (b) the nature of the inquiry; and
 - (c) the date by which any written submissions are to be lodged with the President of the Tribunal.

85 Conduct of inquiry

- (1) An inquiry of the Tribunal under this Division is to be by way of a rehearing.
- (2) The Tribunal, in carrying out its functions under this Division, is not bound:
 - (a) by the rules of evidence and may inform itself on any matter and in the manner it thinks fit; or
 - (b) to act in a formal manner and may act without regard to legal forms and technicalities.
- (3) Subject to this Division, the procedures at an inquiry under this Division are as determined by the Tribunal.
- (4) An inquiry of the Tribunal under this Division is to be held in private unless the parties to the inquiry consents to it being held in public.
- (5) The Tribunal may determine who may be present at an inquiry held under this Division.
- (6) The Tribunal may examine documents produced at an inquiry under this Division and may copy those documents or retain those documents for as long as is necessary for the purposes of the inquiry.
- (7) The Tribunal must ensure that each party to an inquiry under this Division has a reasonable opportunity to present his or her case, to inspect all relevant documents and to make submissions to the Tribunal.
- (8) A party to an inquiry under this Division may appear in person or be represented by another person.
- (9) A person who represents a party at an inquiry under this Division has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings before the Supreme Court.
- (10) A witness at an inquiry under this Division has the same protection and immunity as a witness has in proceedings before the Supreme Court.
- (11) The Tribunal may, for the purpose of carrying out an inquiry under this Division:
 - (a) take evidence on oath or affirmation;
 - (b) proceed in the absence of a party; and

- (c) adjourn the inquiry from time to time.

86 Summons

- (1) The President of the Tribunal may, for the purpose of carrying out an inquiry under this Division:
 - (a) issue and serve on a person a summons to appear before the Tribunal to give evidence or to produce the documents specified in the summons;
 - (b) require a person to give evidence on oath or affirmation; and
 - (c) administer an oath or affirmation.
- (2) A summons under subsection (1) may be served on a person:
 - (a) by delivering it to the person;
 - (b) by posting it to the person at the person's place of residence or business; or
 - (c) by leaving it at the person's place of residence or business with a person who is apparently over the age of 16 years and living or working there.
- (3) A person summoned to appear before the Tribunal is to receive fees and travelling expenses determined by the President of the Tribunal.
- (4) If a party to an inquiry under this Division requests the President of the Tribunal to summons a person to appear before the Tribunal, that party is to pay the fees and expenses referred to in subsection (3).

87 Powers of Tribunal

- (1) The Tribunal may, after carrying out an inquiry under this Division in respect of an application made under section 82, confirm, modify or reverse the decision the subject of the application or any part of that decision, or substitute its own decision for that decision.
- (2) The Tribunal may, after carrying out an inquiry under this Division in respect of a request forwarded under section 70(6) or made under section 83, do one or more of the following:
 - (a) attempt to resolve the dispute between the parties by counselling or conciliation;

- (b) make a finding of fact in relation to any matter concerning a registered training agreement;
- (c) reprimand a party to a registered training agreement;
- (d) order a party to a registered training agreement to comply with a condition of the training agreement;
- (e) order a party to a registered training agreement not to enforce a condition of the training agreement;
- (f) revoke or amend an order by the Authority suspending or cancelling a registered training agreement;
- (g) suspend a registered training agreement for the period it thinks fit;
- (h) cancel a registered training agreement;
- (j) give a direction to a party to a registered training agreement, including a direction to an employer relating to the payment of a sum due to an apprentice under the agreement or this Act;
- (k) impose on a party a penalty of not more than 500 penalty units.

88 Notice of decision to be given

- (1) If the Tribunal exercises any of its powers under section 87, it must, not later than 7 days after exercising the power, notify the person in respect of whom the power is exercised.
- (2) The exercise of a power of the Tribunal under section 87 takes effect in relation to the person in respect of whom it is exercised on and from the date on which the person is notified of the exercise of the power under subsection (1).

Division 3 Miscellaneous

89 Recovery of penalties

- (1) A penalty imposed under section 87(2)(k) is a debt due and payable to the Territory.
- (2) The President of the Tribunal may, by notice in writing served on the employer of an apprentice, require the employer to:
 - (a) deduct the amount of any unpaid penalty imposed under section 87(2)(k) on the apprentice from the wages of the apprentice; and

(b) pay that amount to the Territory.

- (3) An employer on whom a notice under subsection (2) is served must comply with the notice.

Penalty: 10 penalty units.

90 Effect of direction not to enforce condition of training agreement

If the Tribunal, under section 87(2)(k), orders a party to a registered training agreement not to enforce a condition of the training agreement, the party cannot enforce the condition while the order remains in force.

91 Failure to comply with order of Tribunal

A person must not contravene or fail to comply with a finding, order or direction of the Tribunal made or given under section 87.

Penalty: 1000 penalty units.

92 Protection of parties

A statement or disclosure made by a person before the Tribunal is inadmissible in any court proceedings, other than proceedings for giving false evidence.

93 Offences relating to inquiries

- (1) A person summoned to appear before the Tribunal must not fail to comply with the summons.

Penalty: 100 penalty units.

- (2) The employer of a person summoned to appear before the Tribunal must not:

- (a) refuse to allow the person to attend the inquiry as and when required by the summons;
- (b) attempt to persuade or direct the person as to the nature of the person's evidence at the inquiry; or
- (c) threaten or otherwise victimise the person because of evidence given, or to be given, by the person to the Tribunal.

Penalty: 100 penalty units.

(3) A person appearing before the Tribunal to give evidence at an inquiry under this Division must not, without reasonable excuse, refuse to:

- (a) take an oath or affirmation; or
- (b) answer a question put to the person,

at the inquiry when directed to do so by the President of the Tribunal.

Penalty: 100 penalty units.

94 Appeal to Supreme Court

(1) A person may appeal against a decision of the Tribunal to the Supreme Court only on a question of law.

(2) In its determination of an appeal under this section the Supreme Court may confirm, modify or reverse the decision appealed against or any part of that decision and may, instead of determining the appeal, direct the Tribunal to reconsider, either generally or in respect of specified matters, the decision to which the appeal relates.

(3) In giving a direction under subsection (2), the Supreme Court must:

- (a) advise the Tribunal of its reasons for doing so; and
- (b) give the Tribunal directions it thinks fit as to the Tribunal's reconsideration of the matter,

and the Tribunal must have regard to those reasons and the directions.

Part 9 Miscellaneous

Division 1 General requirements relating to members of Board, Authority, Tribunal or committee

95 Definitions

In this Division:

body means, as the case requires, the Board, the Authority, a committee of the Board or the Tribunal.

member means a member of a body.

96 Indemnity

An action or proceeding, criminal or civil, cannot be commenced and does not lie against a member or a delegate of a body for or in respect of an act or thing done or omitted to be done in good faith by the member or delegate in that capacity.

97 Confidentiality

A member or a delegate of a body must not disclose information obtained in the course of his or her duties as a member or a delegate unless the disclosure is:

- (a) made in the course of his or her duties as a member or delegate; and
- (b) authorised by the body.

Penalty: 100 penalty units.

98 Disclosure of interests

- (1) If a member has a direct or indirect interest, whether pecuniary or otherwise, in:

- (a) a matter being considered or about to be considered at a meeting of a body; or
- (b) a thing being done or about to be done by the body,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the body.

Penalty: 100 penalty units.

- (2) If a member has made a disclosure under subsection (1) in respect of a matter or thing, the member must not:

- (a) be present during any deliberation of the body, or take part in a decision of the body, in relation to that matter or thing; or
- (b) exercise a function under this Act in relation to that matter or thing,

unless the body (in the absence of the member) otherwise determines.

Penalty: 100 penalty units.

Division 2 Other**99 Notice to be given**

If notice is required to be given by the Authority or the Chief Executive Officer to a person under this Act, the notice is to be given:

- (a) by delivering it to the person;
- (b) by posting it to the person at the person's place of residence or of business; or
- (c) by leaving it at the person's place of residence or business with a person who is apparently over the age of 16 years and living or working there.

100 Fees

The Board may, by notice in the *Gazette*, determine the fee payable for an application under this Act.

101 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

102 Repeal

The Acts specified in the Schedule are repealed.

Part 10 Savings and transitional**103 Savings and transitional**

- (1) In this section:

commencement date means the date on which this Act comes into operation.

repealed Act means the *Northern Territory Employment and Training Authority Act* as in force immediately before the commencement date.

- (2) Contracts of training entered into under the repealed Act and in force immediately before the commencement date are to be taken to be registered training agreements under this Act.
- (3) A schedule of training that was part of a contract of training under the repealed Act that is in force is to be taken to be a training schedule under this Act.
- (4) A declared vocation within the meaning of the repealed Act is to be taken to be an approved apprenticeship under this Act and a declaration that, immediately before the commencement date, was in force under section 26 of the repealed Act is to be taken to be an approval under section 45 of this Act.
- (5) A course that, immediately before the commencement date, was an accredited course under section 55 of the repealed Act or was an approved training program under that Act is to be taken to be a course accredited under section 33 of this Act.
- (6) A person who, immediately before the commencement date, was a registered employer of a trainee or probationer under the repealed Act is to be taken to be approved as an employer of an apprentice under section 47 of this Act.
- (7) A person or body who or that, immediately before the commencement date, was a registered provider under the repealed Act is to be taken to be a registered training organisation under this Act.
- (8) A person who, immediately before the commencement date, was a probationer or trainee within the meaning of the repealed Act is to be taken to be an apprentice for the purposes of this Act.
- (9) A person who, immediately before the commencement date, was a training adviser within the meaning of the repealed Act is to be taken to be a person appointed under section 73 of this Act.
- (10) The traineeship register established and maintained under the repealed Act is to be taken to be the register required to be established and maintained under section 72.
- (11) An application for registration of a contract of training under the repealed Act that, immediately before the commencement date, had not been determined under that Act is to be taken to be an application for registration of a training agreement under this Act.
- (12) If an application under section 32 or 52 of the repealed Act is not determined under that Act before the commencement date, the section continues to apply in relation to the application as if the section had not been repealed and any action taken under the

section after the commencement date is to be taken to have occurred immediately before the commencement date.

- (13) Despite the repeal of section 34 of the repealed Act, the Authority may issue certificates recognising successful completion of an approved training program before the commencement date.

Schedule

section 102

Northern Territory Employment and Training Authority Act 1991 No. 62 of 1991

Northern Territory Employment and Training Authority Amendment Act 1994 No. 4 of 1994

Northern Territory Employment and Training Amendment Act (No. 2) 1994 No. 48 of 1994

Northern Territory Employment and Training Amendment Act 1996 No. 39 of 1996

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Northern Territory Employment And Training Authority Act 1999 (Act No. 51, 1999)

Assent date	30 November 1999
Commenced	30 November 1999

Statute Law Revision Act 2001 (Act No. 3, 2001)

Assent date	22 March 2001
Commenced	22 March 2001

3 LIST OF AMENDMENTS

s 52 amd No. 3, 2001, s 3