

NORTHERN TERRITORY OF AUSTRALIA
NORTHERN TERRITORY EMPLOYMENT AND
TRAINING AUTHORITY ACT 1991

No. 62 of 1991

TABLE OF PROVISIONS

Section

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Delegation

PART 2 - NORTHERN TERRITORY EMPLOYMENT
AND TRAINING AUTHORITY

5. Establishment of Authority
6. Functions of Authority
7. Powers of Authority
8. Constitution of Authority
9. Chairman
10. Temporary vacancies
11. Period of appointment
12. Termination of office
13. Meetings of Authority
14. Direction by Minister
15. Committees
16. Operational assistance to Authority
17. Annual reports

PART 3 - ADVISORY COUNCILS

18. Advisory councils
19. Functions of advisory councils
20. Constitution of advisory councils
21. Convenor
22. Temporary appointments, period of appointment,
&c.
23. Meetings of advisory councils

PART 4 - VOCATIONAL EDUCATION AND TRAINING

Division 1 - Preliminary

24. Exercise of powers and performance of
functions by Secretary
25. Funding of vocational education and training

Division 2 - Declared Vocations

26. Declared vocations
27. Employment of persons in declared vocations

Division 3 - Contracts of Training

- 28. Conditions of contracts
- 29. Standard conditions of contract binding on parties

Division 4 - Approved Training Programs

- 30. Approved training programs
- 31. Approval to undertake approved training program
- 32. Credit for existing competencies
- 33. Variation of approved training program
- 34. Certificates of completion

Division 5 - Approved Training Facilities

- 35. Approval of facilities
- 36. Variation or revocation of approval

Division 6 - Employment of Probationers and Trainees

- 37. Registration of employer
- 38. Registration of probationer
- 39. Notification of registration
- 40. Probationer may enter into contract
- 41. Approval of certain contracts
- 42. Contract deemed to be signed
- 43. Term of contract
- 44. Execution of contract
- 45. Parties to contract to be bound
- 46. Notice of contract
- 47. Variation of contract
- 48. Cancellation of contract by mutual consent
- 49. Assignment of contract
- 50. Cancellation of assigned contract
- 51. Secretary may cancel contract
- 52. Completion of contract

Division 7 - Employer's Obligations

- 53. Hindering attendance at college, &c.
- 54. Records

PART 5 - ACCREDITATION OF VOCATIONAL EDUCATION AND TRAINING COURSES

- 55. Accreditation
- 56. Falsely claiming accreditation

PART 6 - REGISTRATION OF PROVIDERS OF VOCATIONAL EDUCATION AND TRAINING

- 57. Application for registration to provide course
- 58. Registration of person or body
- 59. Guidelines
- 60. Duration of registration
- 61. Suspension or cancellation of registration
- 62. Register of persons or bodies for provision of vocational education and training courses

PART 7 - DISPUTES AND APPEALS

Division 1 - Grievances and Misconduct

- 63. Resolution of dispute
- 64. Suspension of contract

Division 2 - Review Board

- 65. Review Board
- 66. Constitution of Board
- 67. Temporary appointments, period of appointments, &c.
- 68. Application to Board
- 69. Inquiry initiated by the Board
- 70. Notice
- 71. Conduct of inquiry
- 72. Summons
- 73. Powers of the Board
- 74. Notice of decision to be given
- 75. Recovery of penalties
- 76. Effect of directions not to enforce condition of contract
- 77. Failure to comply with order of Board
- 78. Protection of parties
- 79. Offences relating to inquiries
- 80. Appeal to Supreme Court

PART 8 - MISCELLANEOUS

Division 1 - Inspectors

- 81. Inspectors
- 82. Powers of entry
- 83. Powers of inspector
- 84. Offences in respect of inspectors

Division 2 - General Requirements relating to Members

- 85. Definitions
- 86. Indemnity
- 87. Confidentiality
- 88. Disclosure of interests

Division 3 - General

- 89. Travelling expenses, &c.
- 90. Notice and reasons to be given
- 91. Rate of wages of trainees and probationers
- 92. Trainees, &c., to be paid rate of wages
- 93. Slackness of trade
- 94. Stand down of trainees, &c.
- 95. Traineeship register
- 96. Certificates relating to other skills
- 97. Offences
- 98. Regulations
- 99. Repeal
- 100. Savings and transitional



NORTHERN TERRITORY OF AUSTRALIA

No. 62 of 1991

AN ACT

to establish the Northern Territory Employment and Training Authority and to provide for training of persons for industry and employment, and for related purposes

[Assented to 6 November 1991]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART 1 - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Northern Territory Employment and Training Authority Act 1991*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. INTERPRETATION

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

"advisory council" means an advisory council established by section 18;

"approved" means approved by the Secretary or, in respect of sections 57 and 63, approved by the Authority;

*Northern Territory Employment and
Training Authority*

"approved training program" means a vocational education and training program approved under section 30(1)(a);

"Authority" means the Northern Territory Employment and Training Authority established by section 5;

"Board" means the Review Board established by section 65;

"Chairman" means the Chairman of the Authority and includes the Deputy Chairman when acting as the Chairman and a person appointed to act as Chairman under section 9(4);

"contract of training" means a contract of training entered or deemed entered into under Part 4;

"declared vocation" means an occupation declared to be a declared vocation under section 26;

"employer" means a person registered as an employer of a trainee under section 37;

"government institution" means -

(a) a college as defined in the *Education Act*;

(b) the Institute of Technical and Further Education established under section 20 of the *Northern Territory University Act*; or

(c) a Government school as defined in the *Education Act*, providing a post-school course within the meaning of that Act accredited by the Northern Territory Board of Studies and the Authority;

"inspector" means an inspector appointed under section 81;

"Northern Territory Board of Studies" means the Board by that name established by section 10B of the *Education Act*;

"probationer" means a person employed in a declared vocation for the purpose of that person becoming qualified in the declared vocation who is not a trainee;

"Secretary" means the Departmental Head, within the meaning of the *Public Service Act*, of the Department primarily responsible under the Minister for the administration of this Act;

*Northern Territory Employment and
Training Authority*

"trainee" means a person employed under a contract of training.

(2) A reference in this Act to vocational education and training is a reference to a course or courses of instruction or training, or both, for the purpose of any occupation but does not include, unless approved by the Minister, a higher education course of instruction or training, or both, provided at -

- (a) the Northern Territory University established under the *Northern Territory University Act*; or
- (b) Batchelor College established as a college under section 41 of the *Education Act*.

4. DELEGATION

(1) The Minister may, by instrument in writing, delegate to the Chairman or the Secretary any of the Minister's powers and functions under this or any other Act, other than this power of delegation.

(2) The Chairman, the Secretary or the Authority may, by instrument in writing, delegate to a person, including the person from time to time holding, acting in or performing the duties of, an office, designation or position, any of the powers and functions of the Chairman, the Secretary or the Authority under this Act, as the case may be, other than this power of delegation.

(3) A delegation under this section does not prevent the exercise of a power or performance of a function by the Minister, Chairman, Secretary or Authority, as the case may be.

PART 2 - NORTHERN TERRITORY EMPLOYMENT
AND TRAINING AUTHORITY

5. ESTABLISHMENT OF AUTHORITY

There is hereby established an authority to be known as the Northern Territory Employment and Training Authority.

6. FUNCTIONS OF AUTHORITY

Subject to this Act, the functions of the Authority are to -

- (a) promote the co-operation of employers, employees, employer and employee organisations, the providers of vocational education and training and government in the provision of vocational education and training and the development of vocational education and training policies;

*Northern Territory Employment and
Training Authority*

- (b) develop, co-ordinate and monitor vocational education and training to meet the immediate and future requirements of business and industry in the Territory and in the various parts of the Territory;
- (c) promote the concept of quality vocational education and training, examine the quality of courses offered and obtain information on the competence of graduates of such courses, and, as it thinks fit, publish reports on those courses;
- (d) recommend and promote policies directed at achieving private funding of vocational education and training;
- (e) in conjunction with relevant organisations, ensure vocational education and training provides a basis for adaptation and flexibility in the context of industrial, organisational and technological change;
- (f) in conjunction with relevant organisations, liaise with educational authorities to facilitate the effective transition of young persons from school to employment;
- (g) in conjunction with the advisory council established under the *Education Act* known as Feppi, recommend and promote policies that enhance the training of Aborigines for employment;
- (h) ensure that the criteria for selection for vocational education and training do not include characteristics that discriminate against any person or group of persons in the community on the basis of sex, age, marital status or cultural, economical or social background;
- (j) identify vocational education and training needs for disadvantaged and disabled persons;
- (k) recommend and promote policies to assist persons lacking in skills and training to gain vocational education and training and employment in business and industry;
- (m) assist persons participating in vocational education and training;
- (n) promote the recognition of vocational education and training in business and industry;

*Northern Territory Employment and
Training Authority*

- (p) in conjunction with relevant organisations, enhance vocational education and training by ensuring provision for credit transfer and integration with higher education courses and senior secondary courses;
- (q) initiate, conduct and promote research into vocational education and training, either alone or jointly with others, and publish reports and provide information on such research;
- (r) recommend and promote policies and organisational arrangements to assist providers of vocational education and training in providing courses within the Asian and Pacific regions;
- (s) provide for accreditation of vocational education and training, the registration of providers of vocational education and training, the granting of scholarships and other forms of educational assistance and the issuing of awards and certificates for achievement in vocational education and training;
- (t) promote awareness of vocational education and training in the community generally as well as in business and industry;
- (u) advise the Minister with respect to the charging of fees and the provision of services under contract for vocational education and training at government institutions;
- (w) advise the Minister with respect to research and development of intellectual property and the establishment of bodies corporate for the purpose of the commercial exploitation of such property; and
- (y) advise the Minister generally on matters relating to its functions, including the allocation of resources to vocational education and training, and on such matters as may be referred to it, from time to time, by the Minister.

7. 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.

*Northern Territory Employment and
Training Authority*

8. CONSTITUTION OF AUTHORITY

The Authority shall consist of -

- (a) the Chairman;
- (b) the Secretary or the nominee of the Secretary;
- (c) 4 persons appointed by the Minister at the Minister's discretion;
- (d) one person appointed by the Minister after consultation with the Minister of the Commonwealth having responsibility for the administration of the *Employment, Education and Training Act 1988* of the Commonwealth; and
- (e) 8 persons appointed by the Minister as representing between them trade unions, business and industry groups and regional interest groups.

9. CHAIRMAN

(1) The Minister shall appoint a person to be the Chairman of the Authority.

(2) The Chairman shall preside at all meetings of the Authority at which the Chairman is present.

(3) The Minister shall appoint a person appointed as a member of the Authority under section 8(c) or (e) to be the Deputy Chairman of the Authority.

(4) If the Chairman or Deputy Chairman is not present at a meeting of the Authority, the members of the Authority at the meeting shall elect one of the members present to act as Chairman for the purposes of that meeting.

10. TEMPORARY VACANCIES

(1) Where -

- (a) there is, or is expected to be, a vacancy in the office of a member of the Authority appointed under section 8; or
- (b) such a member 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.

*Northern Territory Employment and
Training Authority*

(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.

11. PERIOD OF APPOINTMENT

The Chairman and a member of the Authority appointed under section 8 shall hold office for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for reappointment.

12. TERMINATION OF OFFICE

(1) The Minister may, in his or her absolute discretion, by notice in writing, terminate the appointment of the Chairman or a member of the Authority appointed under section 8.

(2) Where the Chairman or a member of the Authority appointed under section 8 -

- (a) is absent, except on leave granted by the Authority, from 3 consecutive meetings of the Authority; 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 shall terminate the appointment of the Chairman or the member, as the case may be.

(3) The Chairman or a member of the Authority appointed under section 8 may resign his or her office by notice in writing delivered to the Minister.

13. MEETINGS OF AUTHORITY

(1) Subject to this section, the Chairman shall call such meetings of the Authority as are necessary for the performance of its functions but so that the Authority meets not less than 6 times in each calendar year.

(2) The Chairman shall, not later than 28 days after receiving a written notice signed by not less than 5 members of the Authority requesting a meeting of the Authority to be held, call a meeting of the Authority.

(3) The Minister may at any time direct the Chairman to convene a meeting of the Authority and the Chairman shall convene a meeting accordingly.

*Northern Territory Employment and
Training Authority*

(4) A meeting of the Authority shall be held at a time and place determined by the Chairman and notified to the members of the Authority.

(5) At a meeting of the Authority 8 members of the Authority shall constitute a quorum.

(6) At a meeting of the Authority questions arising shall be determined by a majority of the members of the Authority present and voting but, in the event of an equality of votes, the Chairman may exercise a casting vote.

(7) Subject to this Act, the Authority shall determine its own procedures to be followed at or in connection with its meetings.

14. DIRECTION BY MINISTER

(1) The Minister may, from time to time, either generally or with respect to a particular matter, give directions to the Authority by notice in writing addressed to the Chairman with respect to the exercise of its powers or the performance of its functions under this Act.

(2) The Authority shall -

(a) give effect to a direction given under subsection (1); and

(b) incorporate a direction given under that subsection in its annual report prepared under section 17 and shall report on the effect of that direction.

(3) The Minister may direct the Authority to -

(a) furnish information in the possession of the Authority to the Minister; or

(b) give the Minister access to information in the possession of the Authority,

and the Authority shall comply with the Minister's direction.

15. COMMITTEES

(1) The Authority may establish such committees as it thinks fit to advise and make recommendations to the Authority on such matters within the Authority's powers and functions under this Act as are referred to the committee by the Authority.

*Northern Territory Employment and
Training Authority*

(2) The constitution of a committee established under subsection (1), and the way in which it carries out its functions, shall be determined by the Authority.

(3) Without limiting the generality of subsection (2), a committee may be constituted by members of the Authority or other persons or both.

16. OPERATIONAL ASSISTANCE TO AUTHORITY

The Minister may provide the Authority with such secretarial or administrative assistance, if any, which in the opinion of the Minister is necessary or desirable.

17. ANNUAL REPORTS

(1) The Authority shall, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report on its activities during the year ending on that date.

(2) The Minister shall cause a copy of a report furnished under subsection (1) to be laid before the Legislative Assembly within 3 sitting days of the Legislative Assembly after the report has been so furnished.

PART 3 - ADVISORY COUNCILS

18. ADVISORY COUNCILS

There are hereby established the following advisory councils to be known as -

- (a) the Accreditation and Registration Advisory Council;
- (b) the Employment and Training Needs Planning Advisory Council;
- (c) the Planning and Resources Advisory Council; and
- (d) the Aboriginal Programs Employment Training Advisory Council.

19. FUNCTIONS OF ADVISORY COUNCILS

(1) The functions of the Accreditation and Registration Advisory Council are to review applications for accreditation or registration under this Act and to make recommendations to the Authority in respect of those applications and to provide advice to the Authority in respect of other related matters as may be referred to it by the Authority.

*Northern Territory Employment and
Training Authority*

(2) The functions of the Employment and Training Needs Planning Advisory Council are to provide advice and make recommendations to the Authority on matters relating to employment and training needs in the Territory and, in particular the employment and training needs of women, and to provide advice to the Authority in respect of other related matters as may be referred to it by the Authority.

(3) The functions of the Planning and Resources Advisory Council are to provide advice and make recommendations to the Authority on the distribution of recurrent and capital funding to authorities and bodies engaged in vocational education and training and to provide advice to the Authority in respect of other related matters as may be referred to it by the Authority.

(4) The functions of the Aboriginal Programs Employment Training Advisory Council are to provide advice and make recommendations to the Authority on matters relating to vocational education and training for Aboriginals and to provide advice to the Authority in respect of other related matters as may be referred to it by the Authority.

20. CONSTITUTION OF ADVISORY COUNCILS

An advisory council shall consist of -

- (a) the Convenor appointed under section 21; and
- (b) such other persons, including members of the Authority, appointed by the Minister.

21. CONVENOR

(1) The Minister shall appoint a member of the Authority appointed under section 8(c) or (e) to be the Convenor of an advisory council.

(2) The Convenor of an advisory council shall preside at all meetings of that advisory council at which the Convenor is present.

(3) If the Convenor of an advisory council is not present at a meeting of the advisory council, the members of the advisory council at the meeting shall elect one of the members present to act as Convenor for the purposes of that meeting.

22. TEMPORARY APPOINTMENTS, PERIOD OF APPOINTMENT, &c.

For the purposes of this Part, sections 10, 11 and 12 apply to and in relation to an advisory council as if a reference in those sections to -

*Northern Territory Employment and
Training Authority*

- (a) "a member of the Authority appointed under section 8" were a reference to a member of the advisory council appointed under section 20; and
- (b) "the Chairman" were a reference to the Convenor of the advisory council appointed under section 21.

23. MEETINGS OF ADVISORY COUNCILS

(1) The Convenor of an advisory council shall call such meetings of the advisory council as are necessary for the performance of its functions.

(2) The Authority may at any time direct the Convenor of an advisory council to convene a meeting of the advisory council and the Convenor shall convene a meeting accordingly.

(3) An advisory council shall determine its own procedures to be followed at or in connection with its meetings.

PART 4 - VOCATIONAL EDUCATION AND TRAINING

Division 1 - Preliminary

24. EXERCISE OF POWERS AND PERFORMANCE OF FUNCTIONS BY SECRETARY

The Secretary in the exercise of a power or the performance of a function under this Part -

- (a) is subject to the direction and control of the Minister; and
- (b) subject to paragraph (a), shall have regard to the policies and criteria, from time to time, determined by the Authority.

25. FUNDING OF VOCATIONAL EDUCATION AND TRAINING

(1) The funding of vocational education and training by the Territory shall be subject to such terms and conditions as the Minister thinks fit based on course profiles approved by the Authority.

(2) Except with the approval of the Authority, a government institution providing vocational education and training which is funded by the Territory shall not cease to provide that vocational education and training.

*Northern Territory Employment and
Training Authority*

Division 2 - Declared Vocations

26. DECLARED VOCATIONS

The Authority may, by notice in the *Gazette*, declare an occupation to be a declared vocation for the purposes of this Act.

27. EMPLOYMENT OF PERSONS IN DECLARED VOCATIONS

A person shall not be employed in a declared vocation for the purpose of becoming qualified under this Act in the declared vocation unless the person is -

- (a) a probationer; or
- (b) a trainee.

Division 3 - Contracts of Training

28. CONDITIONS OF CONTRACTS

(1) Subject to this Act, contracts of training shall contain such conditions as are determined by the Secretary.

(2) Without limiting the generality of subsection (1), the Secretary may determine standard conditions -

- (a) which apply to -
 - (i) all contracts of training; or
 - (ii) all contracts of training in a particular declared vocation; or
- (b) that may be used as a basis for negotiating a contract of training when all or any of the standard conditions determined under paragraph (a) are not to apply.

(3) Where the terms and conditions of employment of a person in an occupation are not fixed by an award by or under the *Industrial Relations Act 1988* of the Commonwealth, the Secretary may determine, as a standard condition of a contract of training, those terms and conditions in respect of the employment in that occupation of a trainee under the contract.

(4) The Secretary shall, before determining any conditions under subsection (2)(a) or (3), consult with the Authority.

*Northern Territory Employment and
Training Authority*

29. STANDARD CONDITIONS OF CONTRACT BINDING ON PARTIES

Where under section 28 the Secretary determines standard conditions to apply to a contract of training, the parties to such a contract are bound by those conditions and any provision or condition of the contract which purports to exclude or limit the application of those standard conditions is of no force or effect.

Division 4 - Approved Training Programs

30. APPROVED TRAINING PROGRAMS

(1) The Authority may approve an educational program to be -

(a) a vocational education and training program; or

(b) a prevocational education and training program,

for the purposes of this Act.

(2) An approval of the Authority under this section shall be in writing and shall specify -

(a) the nature of the training, procedures for assessment and eligibility for certification to be provided under the program;

(b) the minimum age, educational standard and experience of a person wishing to undertake the program; and

(c) any other pre-requisites required by the Authority of a person wishing to undertake the program.

(3) An approval of the Authority under this section shall be published in the *Gazette* and copies of the approval shall be made available to the public by the Authority.

(4) A person wishing to be trained in a declared vocation shall, subject to this Act, complete an approved training program relating to that declared vocation.

(5) A person who does not possess the skill, competence, qualification or learning required by this Act to undertake an approved training program relating to a declared vocation shall complete a prevocational training program approved under subsection (1)(b) relating to the declared vocation before being eligible or suitable to be approved under section 31 to undertake the approved training program.

*Northern Territory Employment and
Training Authority*

31. APPROVAL TO UNDERTAKE APPROVED TRAINING PROGRAM

(1) A person wishing to become qualified in a declared vocation may apply to the Secretary for approval to undertake an approved training program.

(2) An application under subsection (1) shall be in the approved form and shall contain such information as the Secretary may require.

(3) The Secretary shall, as soon as practicable after receiving an application under this section, approve or refuse the application.

(4) In determining whether to approve or refuse an application under this section, the Secretary shall have regard to whether the person is eligible or suitable to undertake the approved training program.

(5) For the purposes of subsection (4), the Secretary may require an applicant to undertake a test or examination.

(6) An approval under subsection (3) may be subject to such conditions as the Secretary thinks fit and specifies in the approval.

(7) The Secretary shall, not later than 14 days after determining an application under subsection (3), notify the applicant of the decision and, where approval is given, provide the applicant with a copy of the approval.

(8) A person shall not be taken, for the purposes of this Act, to have undertaken an approved training program unless the approval of the Secretary has been obtained under subsection (3).

32. CREDIT FOR EXISTING COMPETENCIES

(1) The Secretary may approve a credit for a level of skill, competence, qualification or learning already possessed by a person undertaking or about to undertake an approved training program.

(2) A person may apply to the Secretary for an approval under subsection (1).

(3) An application under subsection (2) shall be in the approved form and shall contain such information as the Secretary may require.

*Northern Territory Employment and
Training Authority*

(4) The Secretary shall, as soon as practicable after receiving an application under this section, approve or refuse the application.

(5) The Secretary shall, not later than 14 days after determining an application under subsection (1), notify the applicant of the decision and, where a credit is approved, provide the applicant with a copy of the approval.

(6) Where the Secretary approves a credit under this section, the person shall be deemed, for the purposes of this Act, to have gained the level of skill, competence, qualification or learning to which the credit relates in accordance with an approved training program.

33. VARIATION OF APPROVED TRAINING PROGRAM

(1) A trainee who is undertaking an approved training program may apply to the Secretary in the approved form for the approved training program to be varied in respect of that trainee.

(2) The Secretary shall, as soon as practicable after receiving an application under this section, approve or refuse the variation being sought.

(3) The Secretary shall, not later than 14 days after exercising the power under subsection (2), notify the trainee of the decision.

(4) A trainee who completes an approved training program as varied under this section shall, for all purposes, be taken to have completed that approved training program.

34. CERTIFICATES OF COMPLETION

The Authority may, for the purposes of this Act, issue certificates recognising successful completion by a trainee of all or part of an approved training program.

Division 5 - Approved Training Facilities

35. APPROVAL OF FACILITIES

(1) The Secretary may, for the purposes of this Act, approve the premises, equipment, methods of training and supervision which an employer is using or will use to train a trainee in a declared vocation.

(2) The power of the Secretary under subsection (1) may be exercised either on the Secretary's own motion or on the application of the employer.

*Northern Territory Employment and
Training Authority*

(3) An approval under this section shall be in writing and may be subject to such conditions, if any, as the Secretary thinks fit and specifies in the approval.

(4) Where the Secretary gives an approval under this section, the Secretary shall furnish the employer with a copy of the approval.

(5) An approval given under this section which is subject to conditions is of no force or effect until those conditions are complied with by the employer.

36. VARIATION OR REVOCATION OF APPROVAL

(1) Subject to this section, the Secretary may -

(a) on the Secretary's own motion; or

(b) on the application in the approved form of the employer,

vary or revoke an approval given under section 35.

(2) The Secretary shall not vary an approval under subsection (1) on the application of an employer unless satisfied that the variation will not adversely affect the training of a trainee under an approved training program being, or to be, undertaken by the trainee.

(3) The Secretary shall only vary an approval under subsection (1) on the Secretary's motion if the Secretary is satisfied that the variation is necessary to ensure that the training of a trainee accords with an approved training program being, or to be, undertaken by the trainee.

(4) The Secretary shall only revoke an approval under subsection (1) on the Secretary's motion if the Secretary 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 in respect of which the approval related are no longer suitable for training a trainee in a declared vocation.

(5) The Secretary shall not vary or revoke an approval under subsection (1) on the Secretary's motion, unless the Secretary allows the employer 14 days within which to make representations to the Secretary and the Secretary takes into account those representations, if any, before exercising the power.

*Northern Territory Employment and
Training Authority*

(6) The Secretary shall, not later than 14 days after exercising the power under subsection (1), notify the employer of the decision.

(7) A decision of the Secretary under this section takes effect on the date notification is given under subsection (6) or such other date as the Secretary determines and specifies in the notification.

*Division 6 - Employment of
Probationers and Trainees*

37. REGISTRATION OF EMPLOYER

(1) A person who employs a person for the purpose of that person becoming qualified in a declared vocation shall, not later than 14 days after the commencement of that employment, apply to the Secretary in the approved form for registration as an employer of a trainee.

(2) The Secretary shall, as soon as practicable after receiving an application under subsection (1), register or refuse to register the person as an employer of a trainee and shall notify the person and the employee accordingly.

(3) Where the Secretary registers a person under subsection (2), the Secretary may impose such conditions as the Secretary thinks fit on the person concerning the employment of the trainee or probationer in relation to whom the registration is obtained.

(4) An employer shall comply with and not contravene a condition imposed on the employer under subsection (3).

38. REGISTRATION OF PROBATIONER

A person who employs a person for the purpose of that person becoming qualified in a declared vocation shall, not later than 14 days after the commencement of that employment, cause that person to apply in the approved form for registration as a probationer.

39. NOTIFICATION OF REGISTRATION

The Secretary shall, as soon as practicable after receiving an application under section 38, register or refuse to register the applicant as a probationer and shall notify the employer and the applicant accordingly.

40. PROBATIONER MAY ENTER INTO CONTRACT

Where an employer is registered under section 37 in relation to a probationer and the probationer is registered under section 38, the employer and the probationer may, subject to this Act, enter into a contract of training.

*Northern Territory Employment and
Training Authority*

41. APPROVAL OF CERTAIN CONTRACTS

(1) Where a contract of training contains conditions other than standard conditions determined in respect of the contract under section 28(2)(a), the contract shall be forwarded to the Secretary to be approved before being signed by the parties.

(2) A contract referred to in subsection (1) which is not approved under that subsection is of no force or effect.

42. CONTRACT DEEMED TO BE SIGNED

(1) Subject to subsection (2), where a probationer continues to be employed by an employer for more than 3 months following his or her employment as a probationer, a contract of training in accordance with the standard conditions determined under section 28 shall be deemed to be executed by -

- (a) the employer;
- (b) the probationer; and
- (c) if the probationer has not attained his or her majority, a parent or guardian of the probationer.

(2) The Secretary may defer the effect of subsection (1) for a period of not longer than 3 months from the expiration of the period referred to in that subsection where the probationer and the employer by notice, in writing, signed by them and delivered to the Secretary before the expiration of the period in subsection (1), agree to the deferral.

43. TERM OF CONTRACT

Where a contract of training is executed or shall be deemed to be executed under this Act, the term of the contract shall be deemed to have commenced on the day on which the trainee was first employed by the employer who executed or is deemed to have executed the contract.

44. EXECUTION OF CONTRACT

A contract of training shall be executed by -

- (a) the employer;
- (b) the probationer; and
- (c) if the probationer has not attained his or her majority, a parent or guardian of that person.

*Northern Territory Employment and
Training Authority*

45. PARTIES TO CONTRACT TO BE BOUND

(1) Subject to this Act, a trainee shall be bound by the contract of training notwithstanding that the trainee had not, at the time of becoming a party to the contract, attained his or her majority.

(2) The parent or guardian of a trainee who is a party to a contract of training is bound by the contract until -

- (a) the trainee attains his or her majority; or
- (b) the expiration of the contract,

whichever first occurs.

(3) An employer who executes or is deemed to have executed a contract of training shall comply with and not contravene the contract.

46. NOTICE OF CONTRACT

(1) An employer who enters into a contract of training shall, not later than 14 days after entering into the contract, forward the original contract and any other documents as determined by the Secretary to the Secretary.

(2) The Secretary shall, on receiving a contract of training under subsection (1), register the contract and enter particulars of the contract in the traineeship register maintained under section 95.

47. VARIATION OF CONTRACT

(1) The parties to a contract of training may apply to the Secretary in the approved form for a condition of the contract to be varied.

(2) The Secretary shall, as soon as practicable after receiving an application under subsection (1), approve or refuse the application.

(3) The Secretary shall refuse an application under subsection (1) unless satisfied that the training of the trainee under the contract of training as varied will comply with the approved training program being undertaken by the trainee.

(4) The Secretary shall, not later than 14 days after determining an application under subsection (1), notify the applicants of the determination.

*Northern Territory Employment and
Training Authority*

48. CANCELLATION OF CONTRACT BY MUTUAL CONSENT

(1) Subject to this section, a contract of training may, by instrument in writing signed by the parties to the contract, be cancelled by mutual consent of the parties.

(2) The parties to a contract of training shall, not later than 14 days after the cancellation of the contract under subsection (1), give to the Secretary notice, in writing, of the cancellation.

(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 Secretary gave that notice.

49. ASSIGNMENT OF CONTRACT

(1) The parties to a contract of training may apply to the Secretary in the approved form for approval to assign the contract of training, either temporarily or permanently, to another employer.

(2) The Secretary shall, as soon as practicable after receiving an application under subsection (1), approve, either conditionally or unconditionally, or refuse to approve the assignment of the contract of training.

(3) A purported assignment of a contract of training without the approval of the Secretary is of no force or effect.

(4) Where the Secretary, under this section, approves the assignment of a contract of training of a trainee from one employer to another, an assignment of the contract, in the approved form, shall be executed by -

- (a) both employers;
- (b) the trainee; and
- (c) if the trainee has not attained his or her majority, a parent or guardian of that trainee.

(5) Where a trainee continues to be employed by an employer to whom the assignment of his or her contract of training has been approved under this section for more than 14 days and an assignment of the contract has not been executed, an assignment of the contract in accordance with subsection (4) shall be deemed to have been executed.

*Northern Territory Employment and
Training Authority*

(6) Where an assignment of a contract of training is or shall be deemed to be executed in accordance with this Act, the assignment shall be deemed to take effect on the day on which the trainee commenced employment with the employer to whom the contract of training is or is deemed to be assigned.

(7) The Secretary may give such directions as the Secretary thinks fit in relation to the execution of an assignment of a contract of training.

(8) A person to whom a direction under subsection (7) is given shall comply with and not contravene the direction.

50. CANCELLATION OF ASSIGNED CONTRACT

(1) Notwithstanding the terms of a contract of training assigned to an employer, the contract of training may be cancelled by -

- (a) if the trainee has attained his or her majority - the trainee;
- (b) if the trainee has not attained his or her majority - the trainee with the consent of a parent or guardian of the trainee; or
- (c) the employer of the trainee,

at any time before the expiration of 3 months after the date on which the trainee was first employed by the employer to whom the contract of training was assigned.

(2) The parties to a contract of training shall, not later than 14 days after the cancellation of the contract under subsection (1), give to the Secretary notice, in writing, of the cancellation.

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

51. SECRETARY MAY CANCEL CONTRACT

(1) Notwithstanding any other provision of this Act or the conditions of a contract of training, the Secretary may, if the Secretary thinks fit, by notice in writing served on the parties to the contract, cancel the contract.

(2) A notice under subsection (1) has effect according to its tenor.

*Northern Territory Employment and
Training Authority*

52. COMPLETION OF CONTRACT

(1) Where the parties to a contract of training are of the opinion that the trainee is qualified in the declared vocation to which the contract relates, they may apply to the Secretary in the approved form for a declaration to that effect by the Secretary.

(2) The Secretary shall, as soon as practicable after receiving an application under subsection (1), approve or refuse the application and shall notify the parties accordingly.

(3) The Secretary shall not make a declaration under subsection (1) unless satisfied that the trainee in respect of whom the application relates has the skill, competence, qualification and learning required of a person qualified in the declared vocation to which the contract of training relates.

(4) Where the Secretary makes a declaration under subsection (1), the Secretary shall endorse the original contract of training to indicate that the trainee has completed the approved training program under the contract and return it to the trainee.

(5) A contract of training shall, on and from the date on which the Secretary endorses it under subsection (4), be taken to have been completed and, as between the parties, to be of no further force or effect.

Division 7 - Employer's Obligations

53. HINDERING ATTENDANCE AT COLLEGE, &c.

An employer shall not hinder or obstruct a trainee from complying with a requirement of an approved training program.

54. RECORDS

(1) An employer who is a party to a contract of training shall retain a copy of the contract and any other documents as determined by the Secretary while the contract remains in force.

(2) Where a contract of training is cancelled under this Act, the employer under the cancelled contract shall forward the contract and all documents retained under subsection (1) to the Secretary not later than 28 days after the contract is cancelled.

*Northern Territory Employment and
Training Authority*

PART 5 - ACCREDITATION OF VOCATIONAL EDUCATION
AND TRAINING COURSES

55. ACCREDITATION

(1) The Authority may, for the purposes of this Act, accredit such vocational education and training courses as it thinks fit.

(2) The Authority shall maintain a register of all courses accredited under this section.

(3) The Authority may, as it thinks fit, suspend or revoke the accreditation of a course and, where it does so, it shall remove the course from the register maintained under subsection (2).

(4) Where a person or body seeks accreditation of a vocational education and training course under this section, the Authority may require the person or body to pay all or a part of the cost of and incidental to the accreditation of the course.

56. FALSELY CLAIMING ACCREDITATION

A person shall not, in relation to a course of education or training provided or to be provided by the person or a body with which the person is associated, use the name or title of 'government accredited' or any other name, title, letters or description implying, or that may reasonably be understood to imply, that the course is accredited by the Authority, unless the course has been so accredited under this Act.

PART 6 - REGISTRATION OF PROVIDERS OF
VOCATIONAL EDUCATION AND TRAINING

57. APPLICATION FOR REGISTRATION TO PROVIDE COURSE

(1) A person who provides or proposes to provide, or who has the management or control of the affairs of a body which provides or proposes to provide, vocational education and training may apply to the Authority for registration under this Part for the purposes of providing vocational education and training.

(2) An application under subsection (1) shall be in the approved form and shall be accompanied by such fee, if any, as is determined by the Minister.

58. REGISTRATION OF PERSON OR BODY

(1) Where the Authority is of the opinion that an applicant under section 57 or body of which the applicant has the management or control -

*Northern Territory Employment and
Training Authority*

- (a) is a suitable person or body; and
- (b) has sufficient facilities and resources to provide vocational education and training in respect of which the application is made to a standard appropriate for the purposes for which it is or is to be offered,

the Authority may, by notice in writing to the applicant, but subject to subsection (2), register the person or body for the purpose of providing vocational education and training.

(2) Registration under subsection (1) may be subject to such conditions as the Authority thinks fit and specifies in the notice.

(3) In determining whether to register a person or body under subsection (1) the Authority shall have regard to current government policy in relation to vocational education and training of the type provided or to be provided by the person or body and may have regard to any recommendations of a body the Authority considers has an interest in that kind and standard of education or training, and the matters, if any, prescribed in relation to the person, body or course.

59. GUIDELINES

To assist a person or body in the preparation of an application under section 58, but without limiting the Authority's discretion under this Part, the Authority may from time to time issue guidelines relating to any matter prescribed for the purposes of that section as an indication of the minimum requirements for registration.

60. DURATION OF REGISTRATION

Registration under section 58 remains in force for such period, not exceeding 3 years, as is specified in the notice under that section, unless it is sooner suspended or cancelled.

61. SUSPENSION OR CANCELLATION OF REGISTRATION

(1) The Authority may, at any time, in its absolute discretion, by notice in writing, suspend or cancel a registration under section 58 or alter a condition to which the registration is subject.

(2) A suspension under subsection (1) may be subject to such conditions relating to the reinstatement of registration as the Authority thinks fit.

*Northern Territory Employment and
Training Authority*

62. REGISTER OF PERSONS OR BODIES FOR PROVISION OF
VOCATIONAL EDUCATION AND TRAINING COURSES

The Authority shall maintain a register of all registrations granted under section 58.

PART 7 - DISPUTES AND APPEALS

Division 1 - Grievances and Misconduct

63. RESOLUTION OF DISPUTE

(1) A party to a contract of training may apply to the Authority in the approved form for the Authority to resolve a dispute between the parties relating to the contract or an obligation under the contract.

(2) An application under subsection (1) shall not be made unless the dispute has first been referred to the Secretary and the Secretary has not resolved the dispute by mediation between the parties within 28 days of the dispute being referred to the Secretary.

(3) Where the Authority receives an application under subsection (1) and is satisfied that the dispute has not been resolved under subsection (2), it may establish a committee under section 15 and refer the dispute to that committee for the purpose of the committee attempting to negotiate a resolution of the dispute.

(4) A committee referred to in subsection (3) shall, not later than 28 days after a matter is referred to it, report back to the Authority as to whether the dispute has been resolved.

(5) Where, under subsection (4), a committee reports that a dispute has not been resolved, the Authority shall forward the application under subsection (1) to the Board with a request that it carry out an inquiry under Division 2 into the dispute.

64. SUSPENSION OF CONTRACT

(1) The Secretary may suspend a contract of training where the Secretary is satisfied that the employer or trainee has contravened or failed to comply with this Act, the Regulations or the contract of training.

(2) Where the Secretary suspends a contract of training under subsection (1), the Secretary shall notify the employer, the trainee and the Authority of the suspension.

*Northern Territory Employment and
Training Authority*

(3) Where the Secretary suspends a contract of training under subsection (1), the suspension -

- (a) takes effect on notice being given to the employer and the trainee; and
- (b) shall remain in force until the Secretary or the Board determines otherwise.

Division 2 - Review Board

65. REVIEW BOARD

There is hereby established a board to be known as the Review Board.

66. CONSTITUTION OF BOARD

(1) Subject to this section, the Board shall consist of 3 members appointed by the Minister.

(2) Of the persons appointed under subsection (1) -

- (a) one shall be appointed as representing employer interests; and
- (b) one shall be appointed as representing employee interests.

(3) The Minister shall appoint one member of the Board to be the President of the Board.

(4) A member of the Authority shall not be appointed as a member of the Board.

67. TEMPORARY APPOINTMENTS, PERIOD OF APPOINTMENTS, &c.

For the purposes of this Part, sections 10, 11 and 12 apply to and in relation to the Board as if a reference in those sections to -

- (a) "a member of the Authority appointed under section 8" were a reference to a member of the Board appointed under section 66(1); and
- (b) "the Chairman" were a reference to the President of the Board appointed under section 66(3).

68. APPLICATION TO BOARD

(1) A person aggrieved by a decision of the Authority or the Secretary under Part 4 or 6 or the Secretary under section 64 may, within 28 days of being notified of the decision, apply to the Board for the Board to carry out an inquiry under this Division.

*Northern Territory Employment and
Training Authority*

(2) For the purposes of subsection (1), a decision includes a failure to make a decision within a prescribed time or a reasonable time, as the case may be.

69. INQUIRY INITIATED BY THE BOARD

(1) The Secretary may request the Board to carry out an inquiry under this Division where the Secretary reasonably believes that -

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

(2) The Board shall, within 14 days of receiving an application under section 68 or a request under subsection (1) or section 63, commence an inquiry under this Division.

70. NOTICE

(1) The Board shall, 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.

- (2) A notice under subsection (1) shall -
 - (a) give details of -
 - (i) the time, date and place of the inquiry; and
 - (ii) the nature of the inquiry; and
 - (b) the date by which any written submissions shall be lodged with the President of the Board.

71. CONDUCT OF INQUIRY

(1) An inquiry of the Board under this Division shall be by way of a rehearing.

(2) The Board, 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 such manner as it thinks fit; or

*Northern Territory Employment and
Training Authority*

- (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 shall be as determined from time to time by the Board.
- (4) An inquiry of the Board under this Division shall be held in private unless the parties to the inquiry determine otherwise.
- (5) The Board may determine who may be present at an inquiry held under this Division.
- (6) The Board 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 Board shall 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 Board.
- (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 Board 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.

72. SUMMONS

(1) The President of the Board 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 Board to give evidence or to produce such documents as are specified in the summons;

*Northern Territory Employment and
Training Authority*

- (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 Board shall receive fees and travelling expenses as determined by the President of the Board.
- (4) Where a party to an inquiry under this Division requests the President of the Board to summons a person to appear before the Board, that party shall pay the fees and expenses referred to in subsection (3).

73. POWERS OF THE BOARD

The Board, after carrying out an inquiry under this Division, may -

- (a) in respect of an application made under section 68, 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; or
- (b) in respect of a request forwarded under section 63 or made under section 69, do one or more of the following:
 - (i) attempt to resolve the dispute between the parties by counselling or conciliation;
 - (ii) make a finding of fact in relation to any matter concerning a contract of training;
 - (iii) reprimand a party to a contract of training;
 - (iv) order a party to a contract of training to comply with a condition of the contract;

*Northern Territory Employment and
Training Authority*

- (v) order a party to a contract of training not to enforce a condition of the contract;
- (vi) revoke or amend an order by the Secretary suspending a contract of training;
- (vii) suspend a contract of training for such period as it thinks fit;
- (viii) cancel a contract of training;
- (ix) give a direction to a party to a contract of training, including a direction to an employer relating to the payment of a sum due to a trainee under the contract or this Act;
- (x) impose a penalty of not more than \$5,000.

74. NOTICE OF DECISION TO BE GIVEN

Where the Board exercises any of its powers under section 73, it shall, not later than 7 days after exercising the power, notify the person in respect of whom the power is exercised, and the power shall be effective against the person in respect of whom it is exercised on and from the date on which that notification is given.

75. RECOVERY OF PENALTIES

(1) A penalty imposed under section 73(b)(x) is a debt due and payable to the Territory.

(2) The President of the Board may, by notice in writing served on the employer of a trainee or probationer, require the employer to -

(a) deduct the amount of any unpaid penalty imposed under section 73(b)(x) on the trainee or probationer from the wages of the trainee or probationer; and

(b) pay that amount to the Territory.

(3) An employer on whom a notice under subsection (2) is served shall comply with and not contravene the notice.

76. EFFECT OF DIRECTIONS NOT TO ENFORCE CONDITION OF CONTRACT

Where the Board, under section 73(b)(v), orders a party to a contract of training not to enforce a condition of the contract, no right of action shall lie to enforce the condition while the order remains in force.

*Northern Territory Employment and
Training Authority*

77. FAILURE TO COMPLY WITH ORDER OF BOARD

A person shall not contravene or fail to comply with a finding, order or direction of the Board made or given under section 73.

78. PROTECTION OF PARTIES

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

79. OFFENCES RELATING TO INQUIRIES

(1) A person summoned to appear before the Board who fails to comply with the summons is guilty of an offence.

(2) The employer of a person summoned to appear before the Board shall 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 Board.

(3) A person appearing before the Board to give evidence at an inquiry under this Division shall 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 Board.

80. APPEAL TO SUPREME COURT

(1) An appeal lies to the Supreme Court in accordance with the rules of that Court against a decision of the Board under this Division, but only on the grounds that the decision was made on an error 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 Board to reconsider, either generally or in respect of specified matters, the decision to which the appeal relates.

*Northern Territory Employment and
Training Authority*

(3) In giving a direction under subsection (2) the Supreme Court shall -

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

and the Board shall have regard to those reasons and those directions.

PART 8 - MISCELLANEOUS

Division 1 - Inspectors

81. INSPECTORS

(1) Subject to subsection (2), the Secretary may appoint such persons as the Secretary thinks fit to be inspectors for the purposes of this Act.

(2) A person shall not be appointed under subsection (1) unless the person is an employee, within the meaning of the *Public Service Act*, employed in the Department responsible under the Minister for the administration of this Act.

(3) The Secretary shall issue an identity card to each inspector.

(4) A person shall, on ceasing to be an inspector, return to the Secretary the identity card issued to the person under subsection (3).

82. POWERS OF ENTRY

(1) Subject to this section, an inspector may enter a place where, or where the inspector reasonably believes, there is employed a probationer or a trainee.

(2) An inspector shall not enter a place under subsection (1) which is a residence except with the consent of the occupier of the residence.

(3) An inspector who enters a place under this section shall, on being requested to do so by the occupier of the place, produce to the occupier and permit the occupier to examine the inspector's identity card issued under section 81.

*Northern Territory Employment and
Training Authority*

83. POWERS OF INSPECTOR

An inspector who enters a place under section 82 may -

- (a) inspect the place for the purpose of ensuring that the Act, the Regulations or a contract of training is being complied with;
- (b) inspect and test any equipment at the place which the inspector reasonably believes is used in training persons in a declared vocation;
- (c) inspect any facilities required to be at the place in pursuance of this Act;
- (d) inspect any work in progress at the place which the inspector reasonably believes relates to the training of persons in a declared vocation;
- (e) direct the occupier of the place to answer any questions relating to the training of persons in a declared vocation at that place; or
- (f) direct the occupier of the place to produce any documents containing information relating to the training of persons in a declared vocation at the place, and permit the inspector to inspect, take extracts from, or make copies of, those documents.

84. OFFENCES IN RESPECT OF INSPECTORS

A person shall not -

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

*Division 2 - General Requirements
relating to Members*

85. DEFINITIONS

For the purposes of this Division -

"body" means, as the case requires, the Authority, a committee of the Authority established under section 15, an advisory council or the Board;

"member" means a member of a body.

*Northern Territory Employment and
Training Authority*

86. INDEMNITY

No action or proceeding, criminal or civil, shall be commenced or lie against a member for or in respect of an act or thing done or omitted to be done in good faith by the member in that capacity.

87. CONFIDENTIALITY

A member shall not disclose information obtained in the course of his or her duties as a member unless the disclosure is -

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

88. DISCLOSURE OF INTERESTS

(1) Where 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 shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the body, and the body shall notify the Minister of the interest.

(2) A body shall cause particulars of all disclosures made under this section to be recorded in a book kept for the purpose and that book shall be open at all reasonable times for inspection of any person.

(3) Where a member has made a disclosure under subsection (1) in respect of a matter or thing, the member shall 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.

*Northern Territory Employment and
Training Authority*

Division 3 - General

89. TRAVELLING EXPENSES, &c.

The Secretary may approve the payment of travelling expenses and allowances of trainees who are required to travel away from their usual residential locality to undertake a course of training as part of an approved training program.

90. NOTICE AND REASONS TO BE GIVEN

(1) Where notification is required to be given by the Secretary to a person under this Act it shall be in writing and shall 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.

(2) Where the Secretary refuses an application of a person under this Act, the Secretary shall provide the person with the reasons for the refusal of the application.

91. RATE OF WAGES OF TRAINEES AND PROBATIONERS

(1) This section applies subject to the terms of any award under the *Industrial Relations Act 1988* of the Commonwealth.

(2) Subject to section 93(2), the rate of wages payable to trainees and probationers shall be determined by the Secretary based on levels of competence of trainees and probationers.

92. TRAINEES, &c., TO BE PAID RATE OF WAGES

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

(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.

*Northern Territory Employment and
Training Authority*

93. SLACKNESS OF TRADE

(1) The Secretary may, on being satisfied that the employer of a trainee or probationer is or is likely to be temporarily unable to provide sufficient work to keep the trainee or probationer fully employed during an ordinary working week or month, approve of the employer's employing the trainee or probationer for such shorter period of time in the week or month as the Secretary approves.

(2) Where the Secretary, under subsection (1), approves the employment of a trainee or probationer for a shorter period of time in a week or month, the Secretary may, by notice served on the employer, the trainee or probationer, fix the rate of wages payable to the trainee or probationer for that week or month.

94. STAND DOWN OF TRAINEES, &c.

(1) For the purposes of 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 Secretary, where an employer of a trainee or probationer is unable, by reason of an industrial occurrence, to keep the trainee or probationer fully employed during the normal working hours of a day, the employer may deduct from the wages due to that trainee or probationer an amount equal to the wages for that part of the day in excess of 20 minutes during which the trainee or probationer cannot be fully employed.

(3) A trainee or probationer who -

(a) is required to attend for work on a day but by reason of an industrial occurrence cannot be fully employed shall be entitled to receive payment equal to the trainee's or probationer's wages in respect of 2 hours work; or

(b) commences work on a day but by reason of an industrial occurrence cannot be fully employed, shall be entitled to receive payment equal to the trainee's or probationer's wages in respect of -

(i) 4 hours work; or

(ii) the number of hours actually worked,
whichever is the greater.

*Northern Territory Employment and
Training Authority*

95. TRAINEESHIP REGISTER

The Secretary shall establish and maintain a traineeship register in the approved form containing -

- (a) the names of all trainees and probationers in each declared vocation;
- (b) particulars of all contracts of training;
- (c) the names and addresses of all employers registered under section 37;
- (d) a record of all assignments, suspensions or cancellations of contracts of training;
- (e) such particulars as the Secretary thinks fit in relation to the progress of trainees and the completion of approved training programs by those trainees; and
- (f) for each declared vocation, the names of all persons who have successfully completed an approved training program in respect of that declared vocation.

96. CERTIFICATES RELATING TO OTHER SKILLS

(1) This section applies to a level of skill, competence, qualification or learning obtained other than under this Act.

(2) Where the Authority is satisfied that a person has a level of skill, competence, qualification or learning of not less than that of a person who has completed an approved training program, the Authority may issue to the person a certificate under this section to that effect.

97. OFFENCES

A person who contravenes or fails to comply with a provision of this Act is guilty of an offence and, on conviction is liable, in the case of a body corporate, to a penalty not exceeding \$10,000 or, in the case of a natural person, to a penalty not exceeding \$2,000.

98. REGULATIONS

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

- (a) required or permitted by this Act to be prescribed; or

*Northern Territory Employment and
Training Authority*

- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

99. REPEAL

The *Industry and Employment Training Act* (No. 74 of 1985) is repealed.

100. SAVINGS AND TRANSITIONAL

(1) In this section, "repealed Act" means the Act repealed by section 99.

(2) Notwithstanding the repeal effected by section 99 -

- (a) indentures of apprenticeship entered into under the repealed Act in force immediately before the commencement of this Act shall continue in force as contracts of training under this Act, but may be suspended, cancelled or assigned under this Act;
- (b) an arrangement approved by the Minister under section 19 of the repealed Act in force immediately before the commencement of this Act shall continue in force in respect of a person undertaking a training course for industry and employment referred to in that section and the arrangement shall continue to be administered under the repealed Act as if this Act has not come into operation;
- (c) a declaration of a trade as an apprenticeship trade under section 20 of the repealed Act in force immediately before the commencement of this Act shall continue in force as a declaration of a declared vocation under section 26;
- (d) a determination under section 40 of the repealed Act in force immediately before the commencement of this Act shall be deemed, on that commencement, to be an approved training program for the purpose of this Act, and an apprentice to whom such a determination applied immediately before that commencement shall be deemed, on that commencement, to have been approved to undertake that approved training program for the purposes of this Act;
- (e) the apprenticeship register established and maintained under the repealed Act shall be the traineeship register required to be established and maintained under section 95; and

*Northern Territory Employment and
Training Authority*

- (f) where, immediately before the commencement of this Act, a person was registered as an employer of an apprentice, or was registered as a probationer, under the repealed Act, that person shall be deemed, on that commencement, to be registered as an employer of a trainee or as a probationer, as the case may be, under this Act.
-
-