

NORTHERN TERRITORY OF AUSTRALIA  
INDUSTRY AND EMPLOYMENT TRAINING ACT 1985

No. 74 of 1985

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## NORTHERN TERRITORY OF AUSTRALIA

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No. 74 of 1985

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### AN ACT

Relating to the training of persons for industry  
and employment in the Territory

[Assented to 24 December 1985]

**B**E 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 I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Industry and Employment Training Act 1985*.

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 -

"apprentice" means a person employed within the Territory who is bound apprentice by indentures of apprenticeship, whether or not those indentures have been assigned;

"apprenticeship trade" means a trade declared under section 20 to be an apprenticeship trade;

"approved" means approved by the Secretary;

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"Chairman" means the Chairman of the Council appointed under section 9, and includes the Deputy Chairman while acting as Chairman;

"Council" means the Industry and Employment Training Advisory Council established by section 6;

"Darwin Institute of Technology" means the Darwin Institute of Technology established under the *Education Act*;

"Deputy Chairman" means the Deputy Chairman of the Council appointed under section 9;

"determined" means determined by the Secretary;

"employer", in relation to an apprentice, means a person registered under section 29 to whom the apprentice is bound apprentice by indentures of apprenticeship and, where the indentures have been assigned, a person registered under section 29 and specified in the assignment as the employer of the apprentice;

"member" means a member of the Council appointed under section 6 and includes a person authorized under section 10 to act in the office of a member;

"probationer" means a person who is -

- (a) employed in an apprenticeship trade; and
- (b) registered under section 31 as a probationer in that apprenticeship trade;

"Secretary" means the Departmental Head of the Department for the time being principally responsible under the Minister responsible for the administration of this Act;

"trade" includes a branch or part of a trade;

"training course" means a course, arrangements for the preparation or conduct of which have been approved or made under Part III.

(2) For the purposes of this Act, a person is employed in a trade when he customarily works as an employee with the recognized tools of that trade at the request or under the direction of, or in association with, an employer or tradesman in the trade.

(3) A reference in this Act to the employment of -

- (a) an apprentice - is a reference to the employment of that apprentice in the apprenticeship trade to which he is indentured; and

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- (b) a probationer - is a reference to the employment of that probationer in the apprenticeship trade for which he is registered under section 31 as a probationer.

### 4. ACT TO BIND CROWN

This Act binds the Crown.

### 5. DELEGATIONS

(1) The Minister or the Secretary may, by instrument in writing signed by him, delegate to a person any of his powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister or the Secretary.

(3) A delegation under this section does not prevent the exercise of a power or performance of a function by the Minister or the Secretary.

## PART II - INDUSTRY AND EMPLOYMENT TRAINING ADVISORY COUNCIL

### 6. ESTABLISHMENT AND COMPOSITION

(1) There shall be a council to be known as the Industry and Employment Training Advisory Council.

(2) The Council shall consist of 9 members, of whom -

(a) one shall be the Secretary or his nominee;

(b) one shall be the Departmental Head of the Department for the time being principally responsible under the Minister for the administration of the *Education Act* or his nominee; and

(c) 7 shall be persons appointed, in accordance with subsection (3), by the Minister.

(3) Of the members appointed under subsection (2)(c) not less than -

(a) 2 shall be from employer associations; and

(b) 2 shall be from employee associations,

in the Territory.

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(4) The Minister shall not appoint a person under subsection (2)(c) who is an employee unless the employer of that person has consented in writing to the appointment.

### 7. PERIOD OF APPOINTMENT

(1) Subject to subsection (2), a member appointed under section 6(2)(c) holds office for 3 years from the date of his appointment and is eligible for re-appointment.

(2) A member appointed under subsection 6(2)(c) from an association referred to in section 6(3) ceases to be a member if he ceases to be a member of the association.

### 8. RESIGNATION OF MEMBERS

A member appointed under section 6(2)(c) may resign his office by writing signed by him and delivered to the Minister.

### 9. CHAIRMAN AND DEPUTY CHAIRMAN

(1) The Secretary or his nominee shall be the Chairman of the Council.

(2) The Council may appoint a member to be the Deputy Chairman of the Council.

(3) The Chairman or, in his absence, the Deputy Chairman, shall preside at meetings of the Council.

### 10. TEMPORARY VACANCIES

(1) Where -

(a) there is, or is expected to be, a vacancy in the office of a member; or

(b) a member is, or is expected to be, absent or unable to act,

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

(2) The power of the Minister under subsection (1) includes the power to authorize 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. DISMISSAL OF MEMBERS

(1) The Minister may terminate the appointment of a member appointed under section 6(2)(c) for inability, inefficiency, misbehaviour or physical or mental incapacity.

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- (2) Where a member appointed under section 6(2)(c) -
  - (a) is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council; or
  - (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member.

### 12. MEETINGS OF COUNCIL

(1) Subject to this section, the Chairman shall call such meetings of the Council as are necessary for the performance of its functions but so that the interval between meetings does not exceed 3 months.

(2) The Chairman shall, not later than 28 days after receiving a written notice signed by not less than 4 members requesting a meeting of the Council to be held, call a meeting of the Council.

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

- (4) At a meeting of the Council -
  - (a) the Chairman, or in the absence of the Chairman, the Deputy Chairman and 4 other members constitute a quorum;
  - (b) questions arising shall be determined by a majority of the votes of the members present and voting, excluding the Chairman, but, in the event of an equality of votes, the Chairman shall have a casting vote; and
  - (c) subject to this Part, the Council shall determine the procedure to be followed at or in connection with the meeting.

(5) The exercise of a power or the performance of a function by the Council is not affected by reason only of there being a vacancy in the membership of the Council.

### 13. PROTECTION OF MEMBERS IN EMPLOYMENT

(1) Where an employer has given his consent referred to in section 6(4) to the appointment of an employee as a member, the employer shall not penalize or prejudice the employee in his employment, whether by reducing his salary or wages or otherwise, by reason only of -



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- (a) the fact that the employee is a member of the Council or a committee of the Council; or
- (b) anything said or done or omitted to be said or done by the employee in the exercise by him of a power or the performance by him of a function as a member of the Council or a committee of the Council.

Penalty: \$500.

(2) The employer of a member shall grant to the member such reasonable leave of absence as is necessary to enable the member to attend meetings of the Council and such leave shall be construed as service by the member to his employer without prejudice to such rights as to leave as the member may otherwise have in respect of his employment with the employer.

(3) An employer shall not be held to have penalized or prejudiced an employee in his employment by reason only of the employee's being granted leave of absence without pay under subsection (2) if the employee is entitled under the *Remuneration (Statutory Bodies) Act* to remuneration in respect of the period of his absence.

(4) A court on the conviction of an employer for an offence against subsection (1), in addition to imposing a penalty, may order -

- (a) that the employer pay to an employee the amount of salary or wages lost by the employee by reason of the action constituting the offence; or
- (b) if the employee has been dismissed, that the employer reinstate the employee in his former employment or in employment of similar status.

14. FUNCTIONS OF COUNCIL

The functions of the Council are to -

- (a) consider and advise the Minister on, and make recommendations to the Minister in relation to, any matter connected with training in apprenticeship trades or other training for industry and employment;
- (b) consider and advise the Minister on, and make recommendations to the Minister in relation to, reports made and research carried out into matters related to training for industry and employment, including -

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- (i) the assessment of the present and future requirements of industry for skilled and semi-skilled labour; and
- (ii) the special training needs of persons by reason of their background and otherwise in relation to the acquisition by those persons of industry and employment skills;
- (c) monitor the provision of training for industry;
- (d) monitor standards of training for industry;
- (e) consider and advise the Minister on, and make recommendations to the Minister in relation to, ways to promote training in apprenticeship trades and in industry generally; and
- (f) exercise and discharge such other powers and functions as are conferred or imposed on it by or under this or any other Act.

### 15. CONFIDENTIALITY

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

- (a) made in the course of those duties; and
- (b) authorized by the Council.

Penalty: \$2,000.

### 16. COMMITTEES

(1) The Council may establish such committees as it thinks fit to advise and make recommendations to -

- (a) the Secretary on such matters within the Secretary's powers and functions under this Act, as are referred to the committee by the Secretary; and
- (b) the Council on such matters within the Council's powers and functions under this Act, as are referred to the committee by the Council.

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

### 17. MINUTES

The Council shall cause minutes to be kept of each meeting of the Council and each meeting of a committee of the Council.

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18. ANNUAL REPORTS

(1) The Council shall, as soon as practicable after 30 June 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 each report furnished to him under subsection (1) to be laid before the Legislative Assembly within 6 sitting days of the Legislative Assembly after the report has been furnished.

PART III - TRAINING COURSES FOR INDUSTRY  
AND EMPLOYMENT

19. TRAINING COURSES FOR INDUSTRY AND EMPLOYMENT

(1) Subject to this Act, the Minister may approve arrangements, or make such arrangements as he thinks fit, for the preparation and conduct of training courses for industry and employment.

(2) The power of the Minister under subsection (1) extends to pre-apprenticeship, pre-vocational, apprenticeship and traineeship courses but not to -

- (a) training courses relating to professional or scientific pursuits; or
- (b) courses known generally as the technical and further education courses conducted by the Department of Education and the Darwin Institute of Technology.

(3) Without limiting the generality of subsection (1), the power of the Minister under that subsection includes the power to -

- (a) determine or approve the content of training courses, including the theoretical and practical instruction to be given in the courses;
- (b) determine or approve the standards of proficiency or knowledge to be reached by students in the courses;
- (c) provide or arrange for the provision of financial assistance to such persons, bodies or institutions as he thinks fit in relation to the provision of the courses; and
- (d) provide or arrange for the provision of scholarships, bursaries and prizes in relation to the courses.

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(4) The Minister shall, in exercising his powers under this section, endeavour to ensure that appropriate recognition is given to training courses referred to in this section by such authorities in States and other Territories as are concerned with training for industry and employment.

(5) The Minister shall publish a determination or approval under subsection (3)(a) or (b) in the *Gazette*.

### PART IV - APPRENTICESHIPS

#### *Division 1 - Declaration and Regulation of Apprenticeship Trades*

#### 20. DECLARATION OF APPRENTICESHIP TRADES

The Minister may, by notice in the *Gazette*, declare a trade, other than a professional or scientific pursuit, to be an apprenticeship trade.

#### 21. CERTAIN PERSONS NOT TO BE EMPLOYED IN APPRENTICESHIP TRADES

(1) A person, other than a person who is approved under subsection (2) by the Secretary, shall not employ a person who has not attained the age of 21 years in an apprenticeship trade unless the person so employed -

- (a) is a probationer;
- (b) is an apprentice; or
- (c) has completed an apprenticeship in that trade.

Penalty: \$500.

(2) The Secretary may -

- (a) by notice in writing given to an employer, approve of that employer employing a person specified in the notice; or
- (b) by notice in the *Gazette* approve of a class of employers employing a person who is a member of a class of persons specified in the notice,

in an apprenticeship trade, notwithstanding that the person is under the age of 21 years and is not a probationer, an apprentice or a person who has completed an apprenticeship in that trade.

#### 22. RECOVERY OF WAGES

It is not a defence to an action for the recovery of wages or other remuneration that the person employed was employed in contravention of section 21(1).

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### 23. APPRENTICES TO BE BOUND

Subject to this Act, an employer shall not employ or purport to employ a person as an apprentice in an apprenticeship trade unless and until that person is bound by indentures of apprenticeship under this Act but nothing in this section prevents the employment of a probationer not inconsistent with this Act.

Penalty: \$500.

### 24. RATE OF WAGES IN APPRENTICESHIP TRADES

(1) This section applies subject to the terms of any award under the *Conciliation and Arbitration Act 1904* of the Commonwealth.

(2) The rate of wages payable to an apprentice in relation to his employment in a year of his apprenticeship shall be the prescribed rate or such other rate as is determined under section 27(2)(a) by the Secretary.

(3) The rate of wages payable to, and the terms and conditions of employment of, a probationer shall be the rate payable and the terms applicable to an apprentice -

(a) in the year of apprenticeship determined by the Secretary in relation to the probationer; or

(b) if no year is so determined - the first year of apprenticeship in that trade.

### 25. APPRENTICES, &c., TO BE PAID RATE OF WAGES

A person shall not employ, attempt to employ or authorize or permit the employment of an apprentice or probationer at a lower rate of wages than the rate of wages to which the apprentice or probationer is entitled under this Act.

Penalty: \$500.

### 26. RECOVERY OF WAGES UNPAID

A court on the conviction of a person for an offence against section 25, in addition to imposing a penalty, may order the offender to pay to the apprentice or probationer such sum as the court considers is due to the apprentice or probationer.

### 27. SLACKNESS OF TRADE

(1) The Secretary may, where he is satisfied that the employer of an apprentice or probationer is or is likely to be temporarily unable to provide sufficient work to keep the apprentice or probationer fully employed during an ordinary working week or month, approve of the

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employer's employing the apprentice 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 an apprentice or probationer for a shorter period of time in a week or month, he may -

- (a) by notice in writing served on the employer, the apprentice or probationer, fix the rate of wages payable to the apprentice or probationer for that week or month; and
- (b) by notice in writing served on the parties to the indentures, vary the indentures of apprenticeship by extending the term of the indentures for the time specified in the notice and the term of the indentures is extended accordingly.

### 28. STAND DOWN OF APPRENTICES, &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 an apprentice or probationer is unable, by reason of an industrial occurrence, to keep the apprentice or probationer fully employed during the normal working hours of a day, he may deduct from the wages due to that apprentice or probationer an amount equal to the wages for that part of the day in excess of 20 minutes during which the apprentice or probationer cannot be fully employed.

(3) An apprentice 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 his 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 his wages in respect of -

(i) 4 hours work; or

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

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### 29. REGISTRATION OF EMPLOYER

(1) A person who employs a person as an apprentice or probationer 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 an apprentice.

Penalty: \$200.

(2) The Secretary, on receipt of an application under subsection (1), may register or refuse to register the employer and shall notify, in writing, the employer and the apprentice or probationer accordingly.

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

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

Penalty: \$200.

### 30. REGISTRATION OF PROBATIONER

A person who employs a person as a probationer 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.

Penalty: \$200.

### 31. NOTIFICATION OF REGISTRATION

The Secretary, on receipt of an application under section 30, may register or refuse to register the applicant as a probationer and shall notify, in writing, the employer and the applicant accordingly.

### 32. EXECUTION OF INDENTURES OF APPRENTICESHIP

Where an employer is registered under section 29 in relation to a probationer and that probationer is registered under section 31 -

- (a) the employer;
- (b) the probationer; and
- (c) if the probationer has not attained his majority, unless the Secretary otherwise directs, a parent or guardian of the probationer,

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may execute indentures of apprenticeship in relation to the apprenticeship trade in respect of which the probationer is registered.

33. FORM OF INDENTURES OF APPRENTICESHIP

(1) Indentures of apprenticeship in an apprenticeship trade shall -

(a) contain the prescribed covenants; and

(b) be expressed to be for -

(i) the term prescribed in relation to that trade; or

(ii) such lesser term as is approved by the Secretary.

(2) The Secretary shall not approve under subsection (1)(b)(ii) a lesser term for indentures of apprenticeship unless he is satisfied that the theoretical knowledge of the person to be the bound apprentice in relation to the apprenticeship trade to which the apprenticeship relates or the practical experience in that trade already gained by him warrants the reduction in the term of the indentures of apprenticeship.

34. APPROVAL OF LESSER TERM

(1) Notwithstanding section 33(1)(b), the Secretary may, in relation to indentures of apprenticeship, approve a lesser term than that prescribed or approved under that section on being satisfied that the theoretical knowledge of the apprentice in relation to the apprenticeship trade to which the apprenticeship relates and the practical experience in that trade gained by him warrants the reduction in the term of the indentures of apprenticeship.

(2) Where, in accordance with subsection (1), the Secretary approves a lesser term he shall amend the indentures of apprenticeship to express the lesser term.

35. INDENTURES 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 employment as a probationer, indentures of apprenticeship in accordance with section 33 shall be deemed to be executed by -

(a) the employer;

(b) the probationer; and

(c) if the probationer has not attained his majority, a parent or the guardian of the probationer.



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(2) The effect of subsection (1) shall be deferred for a period of 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.

### 36. TERM OF APPRENTICESHIP

Where indentures of apprenticeship are executed or are deemed to be executed under this Act, the term of the apprenticeship shall be deemed to have commenced on and to include the day on which the apprentice was first employed by the employer who executed or is deemed to have executed the indentures.

### 37. EXECUTION OF INDENTURES

(1) Indentures of apprenticeship shall be executed by -

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

(2) Indentures of apprenticeship need not be under seal.

### 38. DELIVERY OF INDENTURES TO SECRETARY

(1) An employer specified in indentures of apprenticeship shall, within 14 days after the indentures are executed, deliver the indentures to the Secretary.

Penalty: \$100.

(2) Subject to this Act, the Secretary shall retain the original of all indentures of apprenticeship under this Act.

### 39. PARTIES TO BE BOUND

(1) Subject to this Act, an apprentice shall be bound by the covenants of the indentures of his apprenticeship during the term thereof, notwithstanding that he had not, at the time of becoming a party to the indentures, attained his majority.

(2) The parent or guardian of an apprentice who is a party to the indentures of apprenticeship is bound by the covenants of the indentures until -

- (a) the apprentice attains his majority; or

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(b) the expiration of the term of the indentures, whichever first occurs.

(3) An employer who executes or is deemed to have executed indentures of apprenticeship shall comply with and not contravene the covenants of the indentures of apprenticeship.

Penalty: \$500.

*Division 2 - Training of Apprentices*

40. DETERMINATION BY SECRETARY

The Secretary may, by notice in the *Gazette*, determine -

- (a) that apprentices in the apprenticeship trade specified in the notice shall attend the training courses specified in the notice;
- (b) that probationers shall attend the training courses specified in the notice;
- (c) that apprentices in the apprenticeship trade specified in the notice shall obtain, in each year of apprenticeship specified in the notice, the practical training and experience specified in the notice;
- (d) that probationers shall obtain the practical training specified in the notice;
- (e) the number of hours in each year during which apprentices and probationers shall attend classes for instruction in a training course and, with the approval of the person providing the course, the times in each week in each year during which they shall so attend; and
- (f) the standard of education and trade experience to be attained by an apprentice in an apprenticeship trade in a year of his apprenticeship.

41. APPRENTICES TO BE TRAINED

(1) Subject to this section, an apprentice or probationer shall, on commencing employment -

- (a) obtain such practical training and experience as is; and
- (b) attend such training courses as are,

determined under section 40 in relation to the apprenticeship trade in which he is employed.

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(2) The Secretary may, if he is of the opinion that it is impractical for an apprentice or a probationer to attend a training course or part of a course determined under section 40 in respect of an apprenticeship trade, by notice in writing served on the apprentice or probationer, give directions as to the training to be obtained by the apprentice or probationer in that trade in substitution for the course or part of the course.

(3) The Secretary may, if he is satisfied that the theoretical knowledge of an apprentice or probationer in relation to the apprenticeship trade in which he is employed and the practical experience in that trade gained by him in that trade warrants it, exempt the apprentice or probationer from attendance at the training courses or parts of such courses determined by the Secretary.

### 42. LEAVE TO BE GRANTED

The employer of an apprentice or a probationer shall allow the apprentice or probationer such leave of absence from his employment as is necessary to enable the apprentice or probationer to obtain the instruction that is, and attend the training courses that are, determined in relation to the apprentice or probationer under section 40 or as is otherwise directed, under section 41(2), by the Secretary.

Penalty: \$200.

### 43. EXTENSION OF TRAINING PERIOD

(1) Where an apprentice has not, during a year of his apprenticeship, attained the standard of education and trade experience determined under section 40 in relation to that year of his apprenticeship, the Secretary may, by notice in writing served on the apprentice -

- (a) extend the time within which the apprentice shall attain that standard; and
- (b) if he thinks fit, direct that the apprentice shall be deemed to have not completed that year of his apprenticeship until he attains that standard.

(2) Where the Secretary gives a direction under subsection (1)(b), the term of the indentures of apprenticeship of the apprentice to whom the direction relates shall be deemed to be extended accordingly.

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*Division 3 - Assignment of Indentures  
of Apprenticeship*

44. APPLICATION FOR APPROVAL

An apprentice or the parent, guardian or employer of an apprentice may apply to the Secretary in the approved form for approval to assign the indentures of apprenticeship of the apprentice, either temporarily or permanently, to another employer.

45. APPROVAL OF APPLICATION

The Secretary may approve an application under section 44 either conditionally or unconditionally.

46. NO ASSIGNMENT WITHOUT APPROVAL

A purported assignment of indentures of apprenticeship without the approval of the Secretary is of no force or effect.

47. EXECUTION OF ASSIGNMENT OF INDENTURES

(1) Where the Secretary, under section 45, approves the assignment of indentures of apprenticeship of an apprentice from one employer to another, an assignment of indentures, in the prescribed form, shall be executed by -

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

(2) Where an apprentice continues to be employed by an employer to whom the assignment of his indentures of apprenticeship has been approved under section 45 for more than 14 days and an assignment of the indentures has not been executed, an assignment of the indentures in accordance with subsection (1) shall be deemed to have been executed.

(3) Where an assignment of indentures of apprenticeship is or is deemed to be executed in accordance with this Act, the assignment shall be deemed to take effect on the day on which the apprentice commenced employment with the employer to whom the indentures of apprenticeship are or are deemed to be assigned.

48. DIRECTIONS IN RELATION TO EXECUTION

(1) The Secretary may give such directions as he thinks fit in relation to the execution of an assignment of indentures of apprenticeship.

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(2) A person to whom a direction under subsection (1) is given shall comply with and not contravene the direction.

Penalty: \$100.

49. TERMINATION OF EMPLOYMENT

(1) Notwithstanding the terms of indentures of apprenticeship assigned to an employer, the employment of an apprentice whose indentures of apprenticeship have been assigned may be determined by -

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

at any time before the expiration of 3 months after the date on which the apprentice was first employed by the employer to whom the indentures of his apprenticeship were assigned.

(2) Where the employment of an apprentice is terminated under subsection (1), the parties bound by the indentures of apprenticeship shall, not later than 14 days after the termination, give to the Secretary notice, in writing, of the termination.

Penalty: \$100.

(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.

*Division 4 - Regulation of Apprenticeships*

50. QUESTIONS OR DIFFERENCES TO BE DETERMINED BY SECRETARY

A question or difference arising between the parties to indentures of apprenticeship in relation to -

- (a) the construction of the indentures; or
- (b) a matter connected with the indentures,

shall be determined by the Secretary.

51. REGISTER

The Secretary shall establish and maintain an apprenticeship register in the approved form containing -

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- (a) the names of all apprentices and probationers in each apprenticeship trade;
- (b) the names and addresses of all employers registered under section 29;
- (c) a record of all assignments, suspensions or cancellations of indentures of apprenticeship;
- (d) such particulars as he thinks fit in relation to the annual progress of apprentices and the completion of training courses by those apprentices; and
- (e) for each apprenticeship trade, the names of all persons who have successfully completed the training courses determined in relation to that trade under section 40.

52. DISCIPLINARY PROCEEDINGS

(1) The Secretary may, if he is of the opinion that an apprentice or probationer has -

- (a) committed a minor breach of the indentures of his apprenticeship; or
- (b) failed, without good cause -
  - (i) to attend classes held in a training course; or
  - (ii) to obtain such instruction as is determined under section 40 in relation to the apprenticeship trade in which he is employed,

by notice in writing served on the apprentice or probationer require the apprentice or probationer to show cause why he should not be fined in accordance with this section.

(2) A notice under subsection (1) shall set out details of the alleged breach or failure.

(3) Subject to this section, the Secretary may, at any time after the expiration of 14 days after the date of service of a notice under subsection (1) on an apprentice or probationer, impose on the apprentice or probationer a fine not exceeding \$100.

(4) The Secretary shall not impose a fine under this section on an apprentice or probationer unless he has given the apprentice or probationer a reasonable opportunity to show cause, either personally or in writing, why he should not be so fined.

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### 53. RECOVERY OF FINES

(1) A fine imposed under section 52 is a debt due and payable to the Territory.

(2) The Secretary may, by notice in writing served on the employer of an apprentice or probationer, require the employer to -

(a) deduct the amount of any unpaid fine imposed under section 52 from the wages of the apprentice 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.

Penalty: \$100.

### 54. CERTIFICATE

The Secretary may, on request, give an apprentice or former apprentice a certificate in the approved form setting out particulars of -

(a) the time served by the apprentice or former apprentice as an apprentice;

(b) the employer to whom the apprentice or former apprentice was bound;

(c) the trade in which the apprentice or former apprentice has received instruction; and

(d) the standard of proficiency attained by the apprentice or former apprentice.

### 55. POWERS OF ENTRY AND INSPECTION

(1) For the purposes of this Act, the Secretary or a person authorized by the Secretary may -

(a) enter at all reasonable times a place where -

(i) apprentices or probationers are employed;

(ii) persons under the age of 21 years are employed in an apprenticeship trade; or

(iii) he has reasonable cause to believe such persons are employed;

(b) inspect and, at the expense of the Territory, take extracts from or copies of such books, papers or other documents in the possession or control of the occupier of the place entered in

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pursuance of paragraph (a) as are kept in relation to the employment of a person referred to in that paragraph, other than a tax return; or

- (c) make inquiries of and examine -
  - (i) an apprentice;
  - (ii) a probationer; or
  - (iii) a person whom the Secretary or the authorized person has reasonable cause to believe to be or to have been within the preceding 2 months employed as an apprentice, probationer or in an apprenticeship trade,

and do any act which appears to the Secretary or the authorized person to be necessary or convenient to ascertain whether this Act is being complied with.

(2) A person authorized under subsection (1) by the Secretary shall be issued with an approved form of identification.

- (3) A person who wilfully -
  - (a) delays or obstructs the Secretary or a person authorized under subsection (1) by the Secretary in the exercise of a power under this section; or
  - (b) conceals or prevents a person from appearing before or being examined by the Secretary or a person authorized under subsection (1) by the Secretary or attempts to conceal or prevent a person from appearing or being examined,

is guilty of an offence.

Penalty: \$100.

56. BOOKS MAY BE REQUIRED TO BE PRODUCED

(1) The Secretary may, by notice in writing served on the employer of an apprentice, probationer or person under the age of 21 years employed in an apprenticeship trade, require the production to the Secretary, within the time specified in the notice, of such books, papers or other documents, other than a tax return, kept in relation to the employment of the apprentice, probationer or person.

(2) A person served with a notice under subsection (1) shall not contravene or fail to comply with the notice.

Penalty: \$100.



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*Division 5 - Suspension or Cancellation of  
Indentures of Apprenticeship*

57. SECRETARY MAY SUSPEND OR CANCEL

(1) Notwithstanding any other provision of this Act or the terms of indentures of apprenticeship, the Secretary may, if he thinks fit, by notice in writing served on the parties bound by the indentures, suspend or cancel the indentures of apprenticeship.

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

58. CANCELLATION BY MUTUAL CONSENT

(1) Subject to this section, indentures of apprenticeship may, by instrument in writing signed by the parties bound by the indentures, be cancelled by mutual consent of the parties bound thereby.

(2) The parties bound by the indentures of apprenticeship shall, not later than 14 days after the cancellation 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.

59. APPLICATION FOR APPROVAL TO SUSPEND OR CANCEL

An apprentice, or the parent, guardian or employer of an apprentice may apply to the Secretary in the approved form for approval to suspend or cancel the indentures of apprenticeship of the apprentice.

60. APPROVAL OF SUSPENSION OR CANCELLATION

The Secretary may approve, conditionally or unconditionally, the suspension or cancellation of indentures of apprenticeship.

61. EFFECT OF APPROVAL

Where the Secretary approves under section 60 the suspension of indentures of apprenticeship, the indentures shall be deemed to be suspended for the period specified in the approval.

*Division 6 - Completion of Apprenticeships*

62. ORIGINAL INDENTURES TO BE RETURNED TO APPRENTICE

The Secretary shall, on the completion of the term of the indentures of apprenticeship of an apprentice, give to the apprentice the original indentures of his apprenticeship endorsed as prescribed.

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### 63. COMPLETION OF TRAINING COURSES

The Secretary shall, after the satisfactory completion of a training course determined under section 40 in relation to the apprenticeship trade in respect of which the apprentice was indentured, give to the apprentice a certificate in the approved form stating that the apprentice has satisfactorily completed the course.

### 64. FOREIGN CERTIFICATES

The Secretary may certify that a final certificate or other document held by an apprentice or tradesman which fulfils the requirements specified in the law of a State or another Territory is equivalent to such certificate or other document required or permitted to be given under this Act as is specified in the certificate given by the Secretary.

## PART V - MISCELLANEOUS

### 65. EVIDENTIARY

A certificate purporting to be signed by the Secretary that -

- (a) a specified person was or was not at a specified time an apprentice or a probationer;
- (b) a specified approval was or was not on a specified day given by the Secretary; or
- (c) a specified determination was or was not on a specified day made by the Secretary,

is evidence of the facts stated in the certificate and all courts, judges and persons acting judicially shall take judicial notice of the signature of the Secretary on the certificate.

### 66. SERVICE BY POST

A notice or other document required or permitted to be served under this Act may be served by certified post.

### 67. REGULATORY OFFENCES

An offence of contravening or failing to comply with section 13, 21(1), 25, 29(1), 29(4), 38(1), 42, 48(2), 53(3) or 56 is a regulatory offence.

### 68. REGULATIONS

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

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

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

PART VI - REPEAL AND SAVINGS

69. REPEAL

The Acts specified in the Schedule are repealed.

70. SAVINGS

(1) In this section "Commission" means the Vocational Training Commission established by section 7 of the *Vocational Training Commission Act* as in force immediately before the commencement of this Act.

(2) Notwithstanding the repeal effected by section 69 -

- (a) a determination or approval made under the *Vocational Training Commission Act* in force immediately before the commencement of this Act continues in force as a determination or approval made under this Act but may be altered or repealed by a determination or approval under this Act;
  - (b) indentures of apprenticeship entered into under the *Vocational Training Commission Act* in force immediately before the commencement of this Act continue in force as indentures of apprenticeship under this Act but may be suspended, cancelled or assigned under this Act;
  - (c) a trade declared to be an apprenticeship trade under the *Vocational Training Commission Act* in force immediately before the commencement of this Act shall be deemed to have been declared to be an apprenticeship trade under this Act;
  - (d) an application to the Commission under the *Vocational Training Commission Act* in force immediately before the commencement of this Act may be dealt with as if it were an application under this Act to the Secretary; and
  - (e) the apprenticeship register maintained by the Commission under the *Vocational Training Commission Act* in force immediately before the commencement of this Act shall be maintained as the apprenticeship register required to be maintained under this Act.
- (3) An estate or interest in property, whether real or personal, held by the Commission immediately before the commencement of this Act shall, on that commencement, be transferred to and vested in the Territory without further assurance and the Territory shall have all powers

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necessary to take possession of and recover and deal with such property.

(4) The rights and liabilities of the Commission existing immediately before the commencement of this Act shall, on that commencement, be acquired and accepted by the Territory.

(5) An agreement to which the Commission was a party or which affected the Commission, and whether or not of such a nature that the rights, liabilities and obligations under the agreement could be assigned, in force immediately before the commencement of this Act shall, on that commencement, have effect as if the Territory instead of the Commission were a party to or affected by the agreement and as if for every reference to the Commission (however worded and whether expressed or implied) in the agreement there were substituted, in relation to anything to be done, a reference to the Territory.

(6) Notwithstanding any law of the Territory, the Registrar-General shall, after the commencement of this Act, without any authority other than this section, upon application by the Territory, amend all references to the Commission in the registers kept under the *Real Property Act* to read as references to the Territory.

(7) Where before the commencement of this Act the Commission or the Chairman of the Commission was required by the *Vocational Training Commission Act* or by another Act or law of the Territory to exercise a power or perform a function in relation to the preparation or furnishing of a report and the power was not exercised or the function was not performed before that commencement, the power may be exercised or the function performed by the Secretary as if the Secretary were the Commission or the Chairman, as the case may be.

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SCHEDULE

Section 69

REPEALED ACTS

*Industries Training Act 1979* (No. 6 of 1980)  
*Industries Training Amendment Act 1981* (No. 23 of 1981)  
*Industries Training Amendment Act 1982* (No. 97 of 1982)

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