

Serial 220
Northern Territory Employment and Training Amendment Bill 2004
Mr Stirling

**A BILL
for
AN ACT**

to amend the *Northern Territory Employment and Training Act*



NORTHERN TERRITORY OF AUSTRALIA
NORTHERN TERRITORY EMPLOYMENT AND TRAINING
AMENDMENT ACT 2004

No. of 2004

TABLE OF PROVISIONS

Section

1. Short title
 2. Commencement
 3. Principal Act
 4. Interpretation
 5. Repeal and substitution of Parts 4 and 5
- PART 4 – NATIONAL TRAINING
- Division 1 – Preliminary*
28. Application of Part
- Division 2 – National registration*
29. National Register and national effect of registration
- Division 3 – Registered training organisations*
- Subdivision 1 – Requirement for registration*
30. Offence to falsely claim to be an RTO
- Subdivision 2 – Registration activities in this jurisdiction*
31. Registration and scope of registration
 - 31A. Applying in this jurisdiction for registration
 - 31B. Decision about registration
 - 31C. Registration conditions
 - 31D. Term of registration
 - 31E. Amending registration on application by RTO
 - 31F. Removal of registered details on registration expiry or on application
 - 31G. Amending, suspending or cancelling registration without application on particular grounds
 - 31H. Cancelling registration on change of business operations
 - 31J. Effect of suspension of RTO's registration
 - 31K. Authority to register amendment, suspension or cancellation
 - 31L. Authority may issue guidelines about registration
- Subdivision 3 – Audit powers*
32. Audit of RTO registered by Authority
 - 32A. Audit of RTO registered by another registering body
 - 32B. Conduct of audit
 - 32C. Powers not limited by compliance audit provisions

Subdivision 4 – Other powers

- 33. Function or power may be used to support national scheme
- 33A. Information may be made available to other registering bodies

Division 4 – Accredited courses

Subdivision 1 – Requirement for accreditation

- 34. Offence of falsely claiming to provide an accredited course

Subdivision 2 – Course accreditation activities in this jurisdiction

- 35. Applying in this jurisdiction for accreditation
- 36. Decision about accreditation
- 37. Term of accreditation
- 38. Cancellation of accreditation
- 39. Expiry of accreditation
- 40. Authority may issue guidelines about accreditation

Division 5 – Requests for reviews and inquiries into Authority's decisions

- 41. Reviewable decisions and affected persons
- 41A. Request for review
- 42. Request for inquiry

Division 6 – Enforcement

- 43. Appointment of authorised officers
- 43A. Powers of entry
- 43B. Powers of authorised officer
- 43C. Obstructing etc. authorised officer
- 43D. Return of identity card

- 6. Regulations
- 7. Repeal of section 102
- 8. Repeal and substitution of Schedule
SCHEDULE
- 9. Further amendments
- 10. Transitional provisions

SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. of 2004

AN ACT

to amend the *Northern Territory Employment and Training Act*

[Assented to 2004]
[Second reading 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Northern Territory Employment and Training Amendment Act 2004*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Northern Territory Employment and Training Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended –

- (a) by omitting from subsection (1) the definitions of "accredited course", "Australian Qualifications Framework", "corresponding law", "nationally recognised qualification", "organisation", "qualification", "registered training organisation", "statement of attainment" and "Training Package";

Northern Territory Employment and Training Amendment Act 2004

- (b) by inserting in alphabetical order in subsection (1) the following:
- " 'accreditation' includes renewed accreditation;
 - 'accredited', for a course, means registered under Part 4;
 - 'affected person' has the meaning in section 41;
 - 'amended' includes replaced;
 - 'another jurisdiction' means a jurisdiction other than this jurisdiction;
 - 'ANTA' means the Australian National Training Authority established under the Commonwealth Act;
 - 'ANTA agreement' means the "Agreement" within the meaning of section 4(1) of the Commonwealth Act;
 - 'ANTA service' means the National Training Information Service maintained by ANTA;
 - 'AQF' means the policy framework entitled 'Australian Qualifications Framework' that defines all qualifications recognised nationally in education and training within Australia, endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs so as to commence on 1 January 1995 and that policy framework as amended from time to time;
 - 'AQTF' means the policy framework entitled 'Australian Quality Training Framework' that defines the criteria and standards for the registration of training organisations and the accreditation of courses in the vocational education and training sector as endorsed or amended from time to time by the Ministerial Council;
 - 'authorised officer' means a person holding office as an authorised officer under an appointment under section 43;
 - 'Commonwealth Act' means the *Australian National Training Authority Act 1992* of the Commonwealth;
 - 'compliance audit' means an audit establishing whether the subject of the audit complies with the RTO Standards, other than the legislative compliance standard;
 - 'condition', for Part 4, means any of the following:
 - (a) a condition on all or some of the operations of an RTO;
 - (b) a restriction;

Northern Territory Employment and Training Amendment Act 2004

'corresponding law', for Part 4 or a provision of Part 4, means –

- (a) if a law of another jurisdiction is prescribed under the Regulations as the corresponding law for this definition – the law prescribed under the Regulations; or
- (b) otherwise – a law of another jurisdiction that corresponds to Part 4 or the provision of Part 4;

'course accrediting body' means the Authority or an equivalent body in another jurisdiction responsible for the administration of the accreditation of courses under that jurisdiction's legislation relating to vocational education and training;

'information notice', for a decision of the Authority under Part 4, means a written notice stating the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) the day the decision has effect;
- (d) the right of the person to whom the notice is given to seek a review of, or request an inquiry by the Tribunal into, the decision;

'jurisdiction' means the Territory or, if a State or the Australian Capital Territory has enacted a corresponding law for Part 4, that State or Territory;

'legislative compliance standard' means the standard included in the RTO Standards requiring that an RTO ensures that compliance with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations is integrated into its policies and procedures and that compliance is maintained;

'Ministerial Council' means the Council consisting of the Ministers from the Commonwealth and each State and Territory responsible for vocational education and training operating in accordance with the ANTA Agreement;

'nationally endorsed', for a Training Package, means endorsed by a committee established by ANTA's members;

'nationally recognised qualification' means a qualification specified in an accredited course or Training Package;

'National Register' has the meaning in section 29(1);

Northern Territory Employment and Training Amendment Act 2004

'prohibition' means a prohibition on all or some of an RTO's operations;

'qualification' means formal certification in the vocational education and training sector by an RTO and under the AQF that a person has achieved all the units of competencies or modules comprising learning outcomes stated for the qualification in –

- (a) a nationally endorsed Training Package for which details of the qualification have been registered by ANTA; or
- (b) an accredited course that provides training for the qualification;

'registered', for Part 4, means registered as prescribed under section 29(2);

'registered training organisation' means a person whose details as a training organisation are registered under Part 4;

'registering body' means the Authority or an equivalent body in another jurisdiction responsible for the registration of training organisations under that jurisdiction's legislation relating to vocational education and training;

'registration', for Part 4, includes renewed registration under the Part;

'restriction' means a restriction on all or some of the operations of an RTO or a prohibition;

'reviewable decision' has the meaning in section 41;

'RTO' means a registered training organisation;

'RTO Standards' means the standards for registered training organisations;

'scope of registration' has the meaning in section 31(2);

'standards for accreditation of courses' means the standards for accreditation of courses adopted on 8 June 2001 by the Ministerial Council under the AQTF, as in force from time to time;

'standards for registered training organisations' means the standards for registered training organisations adopted on 8 June 2001 by the Ministerial Council under the AQTF, as in force from time to time;

'standards for State and Territory registering and course accrediting bodies' means the standards for State and Territory registering course accrediting bodies adopted on 8 June 2001 by the Ministerial Council under the AQTF, as in force from time to time;

'statement of attainment' means formal certification in the vocational education and training sector by an RTO under the AQF that a person has achieved –

- (a) part of a qualification;
- (b) one or more units of competency from a nationally endorsed Training Package; or
- (c) all the units of competency or modules comprising learning outcomes for an accredited course that does not meet the requirements for a qualification;

'this jurisdiction' means the Territory;

'Training Package' means an integrated set of competency standards and assessment guidelines leading to a qualification for a particular industry, industry sector or enterprise;

'unit of competency' means a specification of knowledge and skill and their application to a specified standard of performance;

'vocational education and training' means the education and training and qualifications and statements of attainment under the vocational education and training provisions of the AQF."; and

- (c) by omitting subsection (3).

5. Repeal and substitution of Parts 4 and 5

Parts 4 and 5 of the Principal Act are repealed and the following substituted:

"PART 4 – NATIONAL TRAINING

"Division 1 – Preliminary

"28. Application of Part

"This Part applies only to the provision of training and assessments for qualifications and statements of attainment in relation to vocational education and training.

"Division 2 – National registration

"29. National Register and national effect of registration

"(1) The 'National Register' is the ANTA Service to the extent it consists of registered matters.

"(2) For subsection (1), a matter is registered to the extent details of the matter are recorded –

- (a) for this Part – by the Authority;
- (b) for a corresponding law – by another registering body or course accrediting body; or
- (c) for this Part, a corresponding law or regulations made under this Part or the law – by ANTA or another entity.

"Division 3 – Registered training organisations

"Subdivision 1 – Requirement for registration

"30. Offence to falsely claim to be an RTO

"(1) A person who is not an RTO must not claim to be an RTO.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

"(2) A person who is not, or not acting for, an RTO operating within the scope of registration of the RTO must not –

- (a) issue, or claim to be able to issue, a qualification or statement of attainment; or
- (b) claim to be able to provide training or assessments resulting in the issue of a qualification or statement of attainment.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

"(3) A person must not claim to be able to provide training resulting in the issue of a qualification or statement of attainment by another person knowing that the other person is not lawfully able to issue the qualification or statement of attainment.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

"(4) For subsections (1), (2) and (3), a person claims to be an RTO or claims to be able to do a particular thing if the person –

- (a) makes that claim;

- (b) purports to be an RTO or to be able to do the particular thing; or
- (c) does any act likely to induce someone else to believe the person is an RTO or is able to do the particular thing.

"(5) This section does not apply to a registering body.

"Subdivision 2 – Registration activities in this jurisdiction

"31. Registration and scope of registration

"(1) A person may be registered under this Part as a training organisation that provides, within its scope of registration –

- (a) training and assessments resulting in the issue of qualifications or statements of attainment by the organisation; or
- (b) assessments resulting in the issue of qualifications or statements of attainment by the organisation.

"(2) A training organisation's scope of registration consists of –

- (a) the training or assessments the training organisation is registered to provide; and
- (b) the qualifications, statements of attainment or units of competency for which the training organisation is registered to provide training or assessments.

"31A. Applying in this jurisdiction for registration

"(1) A person may apply to the Authority for registration as a training organisation.

"(2) The application must be in the approved form and accompanied by the determined fee.

"(3) The applicant must give the Authority any information required by it to decide the application.

"31B. Decision about registration

"(1) On an application for registration, the Authority must register or refuse to register the applicant as a training organisation.

"(2) In deciding the application, the Authority must apply the RTO Standards.

Northern Territory Employment and Training Amendment Act 2004

"(3) The Authority must not grant the application unless –

- (a) on registration under the application, the applicant will not otherwise be registered as a training organisation by any registering body;
- (b) the Authority considers that the applicant's principal place of business is, or all or most of its operations will be conducted, in this jurisdiction; and
- (c) a compliance audit has been conducted of the applicant that shows the applicant complies with the RTO standards (other than the legislative compliance standard).

"(4) Subsection (3)(c) does not apply to an application if –

- (a) the application is made by an RTO registered by another registering body;
- (b) the RTO has received a notice from the other registering body under a corresponding law for section 31H; and
- (c) the application does not ask for an amendment of the existing scope of registration or registered conditions of the RTO.

"(5) Subsections (2) and (3) do not limit the grounds on which the Authority may decide not to grant the application.

"(6) The Authority may impose reasonable conditions on the registration of the training organisation to take effect for the period of registration.

"(7) A condition imposed under subsection (6) –

- (a) must apply for all jurisdictions, that is, it may not be limited in effect to a particular place or jurisdiction;
- (b) is not limited to matters mentioned in this Part; and
- (c) must be consistent with this Part and the RTO Standards.

"(8) If the Authority decides to grant the application, it must –

- (a) register the applicant as a training organisation and the applicant's scope of registration;
- (b) if the Authority imposes a condition under subsection (6) –
 - (i) give the applicant an information notice for the decision; and

- (ii) register the condition for the applicant; and
 - (c) give the applicant a certificate of registration.
- "(9) The Authority must comply with subsection (8) –
- (a) immediately after granting the application; or
 - (b) if the application is a transfer application mentioned in section 31H – immediately after the existing registration of the training organisation is cancelled under section 31K.

"(10) If the Authority decides not to grant the application, the Authority must immediately give the applicant an information notice for the decision.

"31C. Registration conditions

- "(1) Registration of an RTO under section 31B is subject to –
- (a) conditions imposed under subsection (2); and
 - (b) registered conditions imposed –
 - (i) under section 31B(6) or 31G(2); or
 - (ii) by another registering body under a corresponding law for section 31G(2)(a).

"(2) For an RTO registered under section 31B, the following conditions are imposed for the RTO's period of registration:

- (a) the RTO must comply with requirements stated to apply to an RTO under the RTO Standards;
- (b) the RTO must give notice to the Authority of the following matters immediately after they happen:
 - (i) any substantial change to the RTO's control, management or operations;
 - (ii) any matter the RTO Standards states the RTO must give notice of to the Authority;
- (c) the RTO –
 - (i) must submit to any compliance audit conducted by the Authority under section 32; and
 - (ii) if a particular compliance audit shows the RTO does not comply with the RTO Standards (other than the legislative

compliance standard) must take all necessary steps to comply;

- (d) the RTO must submit to any compliance audit conducted by another registering body under a corresponding law for section 32A;
- (e) the RTO must not contravene a provision of this Part or a corresponding law;
- (f) the RTO must give to the Authority any information about any of its operations reasonably required by the Authority;
- (g) the RTO must give to the Authority any information reasonably required by it relating to a registered condition imposed by the Authority under section 31G;
- (h) the RTO must give to another registering body any information reasonably required by the other registering body relating to a registered condition imposed by the registering body under a corresponding law for section 31G(2)(a).

"(3) Conditions mentioned in subsections (1) and (2) to which an RTO is subject apply in relation to the operations of the RTO in every jurisdiction, unless the contrary intention appears.

"(4) An RTO must not contravene a condition of its registration.

"(5) It is declared that a condition to which an RTO registered by another registering body is expressed to be subject in this jurisdiction under a corresponding law for subsection (3) has effect for this jurisdiction.

"31D. Term of registration

"Registration may be for a term up to 5 years and may be renewed if application for renewal is made at least 6 months before the registration expires.

"31E. Amending registration on application by RTO

"(1) The Authority may, on application by an RTO that was registered by it, amend the RTO's registered details.

"(2) If the application is to amend the RTO's scope of registration or registered conditions –

- (a) the application must be in the approved form and accompanied by the determined fee; and

- (b) the RTO must give the Authority any information reasonably required by it to decide the application.

"(3) For an application mentioned in subsection (2), section 31B applies as if it were an application under the section, subject to the following:

- (a) section 31B(3)(a) is not relevant;
- (b) section 31B(3)(b) applies in relation to the scope of registration or registered conditions as amended in accordance with the application;
- (c) section 31B(3)(c) only requires a compliance audit to the extent an audit is relevant to the amendment.

"31F. Removal of registered details on registration expiry or on application

"The Authority must remove from the National Register the details of an RTO registered by it if –

- (a) the RTO's registration expires; or
- (b) the RTO applies to the Authority to have its registration cancelled and the Authority grants the application.

"31G. Amending, suspending or cancelling registration without application on particular grounds

"(1) An object of this section is to ensure that, of all registering bodies, the registering body that registers an RTO has the primary responsibility to take action against the RTO if a ground mentioned in subsection (3) arises.

"(2) On one or more of the grounds mentioned in subsection (3), the Authority may on its own initiative –

- (a) amend the scope of registration or registered conditions of an RTO that was registered by another registering body, but only to impose a restriction applying in this jurisdiction;
- (b) amend the scope of registration or registered conditions of an RTO that was registered by it, including by imposing a restriction applying in this or another jurisdiction;
- (c) suspend the registration, or part of the scope of registration, of an RTO that was registered by it, by imposing a prohibition applying in this or another jurisdiction while the suspension is in force; or
- (d) cancel the registration of an RTO that was registered by it.

Northern Territory Employment and Training Amendment Act 2004

"(3) The grounds are as follows:

- (a) the registration, or the part of the scope of registration, was obtained because of incorrect or misleading information;
- (b) the RTO has contravened a condition of its registration.

"(4) If the Authority decides to amend, suspend or cancel an RTO's registration under subsection (2), the Authority must give the RTO an information notice for the decision.

"(5) The Authority may not impose a restriction under subsection (2)(a) unless the registering body that registered the RTO –

- (a) fails to take any step to deal with the matter to which the grounds relate within 30 days after the matter comes to its attention; or
- (b) fails, after taking any step to deal with the matter to which the grounds relate, to take another step within 30 days.

"(6) Subsection (5) does not apply if the Authority is relying on a ground established by a compliance audit under section 32A.

"(7) Also, subsection (5) does not prevent the Authority, before the end of a 30-day period mentioned in that subsection, taking all steps necessary to impose a restriction immediately after, or at any time after, the period has ended.

"(8) Subject to subsection (2)(a), a restriction imposed under subsection (2)(a), (b) or (c) may, but need not, relate to a particular place or jurisdiction, but if it does so, it may only be imposed because of a particular fact situation that has arisen in the place or jurisdiction.

"(9) Also, a restriction imposed under subsection (2)(a), (b) or (c) must be consistent with this Part and the RTO Standards.

"(10) For subsection (2)(c), in exceptional circumstances, the registering body may direct the RTO to immediately cease conducting operations continued under section 31J(3).

"(11) Before cancelling the registration of an RTO under subsection (2)(d), the Authority must consult the registering bodies of each of the other jurisdictions where the RTO is operating.

"(12) Failure to comply with subsection (11) does not affect a cancellation of the registration of an RTO.

"31H. Cancelling registration on change of business operations

"(1) This section applies to an RTO registered by the Authority.

"(2) On the grounds that the RTO neither has its principal place of business, nor conducts all or most of its operations, in this jurisdiction, the Authority may cancel the RTO's registration –

- (a) on application by the RTO; or
- (b) on its own initiative.

"(3) The Authority must give written notice to the RTO at least 28 days before cancelling the registration.

"(4) If, before the end of the period mentioned in subsection (3), the RTO makes an application to another registering body for registration as a training organisation (the 'transfer application'), the Authority must not cancel the registration of the RTO until the transfer application is decided.

"31J. Effect of suspension of RTO's registration

"(1) This section applies if a prohibition is imposed on an RTO under section 31G(2)(c).

"(2) A person must not, for training or an assessment provided or to be provided in operations the subject of the prohibition, do anything for any of the following purposes:

- (a) recruiting or enrolling anyone;
- (b) soliciting or accepting any consideration from anyone for anyone's recruitment or enrolment;
- (c) starting anyone's training or assessment;
- (d) if the operations have been directed to immediately cease under section 31G(10) – training or assessing anyone.

Penalty: If the offender is a natural person – 200 penalty units.

If the offender is a body corporate – 1 000 penalty units.

"(3) If the RTO, before the prohibition took effect, entered into an agreement to provide training or an assessment to a person, subsection (2)(a), (b) or (c) does not prohibit anyone from relying on the agreement –

- (a) to provide the training or assessment; or
- (b) to solicit or accept consideration for the provision of the training or assessment.

"31K. Authority to register amendment, suspension or cancellation

"If, in relation to an RTO, the Authority decides to do anything under section 31G(2) or 31H(2), it must, on the National Register –

- (a) for an amendment of the scope of registration or registered conditions – amend the scope of registration or registered conditions in accordance with its decision;
- (b) for a suspension of the registration or part of the scope of registration – register the suspension; or
- (c) for a cancellation of the registration – remove the registered details of the RTO.

"31L. Authority may issue guidelines about registration

"(1) For assisting the preparation of an application for registration as a training organisation, the Authority may make guidelines about the minimum requirements for registration.

"(2) The Authority must make the guidelines available for inspection or purchase by members of the public at the Authority's offices.

"Subdivision 3 – Audit powers

"32. Audit of RTO registered by Authority

"(1) This section applies in relation to –

- (a) an RTO registered by the Authority; and
- (b) any of the RTO's operations.

"(2) The Authority may at any time conduct a compliance audit of the RTO.

"32A. Audit of RTO registered by another registering body

"(1) This section applies in relation to –

- (a) an RTO registered by a registering body other than the Authority (the 'other registering body'); and
- (b) any of the RTO's operations in this jurisdiction.

"(2) Subsection (3) applies if –

(a) the Authority–

- (i) suspects on reasonable grounds that the RTO may have contravened the RTO Standards; and
- (ii) has advised the other registering body of the suspected contravention; and

(b) the other registering body –

- (i) within 30 days after receiving the advice, fails to take steps to deal with the suspected contravention to the satisfaction of the Authority; or
- (ii) at any time advises the Authority that it does not propose to take any step or further step to deal with the suspected contravention.

"(3) The Authority may conduct a compliance audit of the RTO.

"32B. Conduct of audit

"(1) A compliance audit mentioned in section 31B(3)(c), 31C(2)(c), 31C(2)(d), 32 or 32A must have regard to the standards for State and Territory registering and course accrediting bodies.

"(2) A failure to comply with subsection (1) is of no effect if the failure –

- (a) does not substantially affect the outcome of the audit; or
- (b) arises out of inconsistency between the standards mentioned in that subsection and the legislation of the particular jurisdiction in relation to which the failure arises.

"32C. Powers not limited by compliance audit provisions

"A provision of this Part that makes provision for a compliance audit does not limit the power of any registering body to inquire into the activities of an RTO or other training organisation.

"Subdivision 4 – Other powers

"33. Function or power may be used to support national scheme

"(1) This section applies to a person who, apart from this section, may exercise a power or perform a function under this Part in relation to an RTO or an applicant for registration under section 31B.

"(2) The person may also perform the same kind of function or exercise the same kind of power in this jurisdiction –

- (a) at the request of the Authority – for inquiries into whether an RTO registered by another registering body is complying with this Part or a corresponding law; or
- (b) at the request of another registering body – for a compliance audit that is being conducted under a corresponding law for this Part in relation to –
 - (i) an RTO registered by the other registering body; or
 - (ii) an applicant for registration by the other registering body under a corresponding law for section 31B.

"(3) Subsection (2) does not limit the person's functions or powers.

"33A. Information may be made available to other registering bodies

"(1) The Authority may disclose to another registering body information it has about, or arising from, the following:

- (a) an application by anyone for registration as a training organisation;
- (b) an RTO's registration;
- (c) a compliance audit conducted for this Part;
- (d) action taken by the Authority in relation to an RTO;
- (e) the performance of a function, or the exercise of a power, by a person at the request of another registering body.

"(2) A person disclosing information under subsection (1) or under a corresponding law for subsection (1) does not contravene an obligation not to disclose the information, whether imposed by an Act or by another rule of law.

"Division 4 – Accredited courses

"Subdivision 1 – Requirement for accreditation

"34. Offence of falsely claiming to provide an accredited course

"(1) A person must not claim to provide an accredited course unless the course is an accredited course.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

"(2) For subsection (1), a person claims to provide an accredited course if the person –

- (a) makes that claim;
- (b) claims to provide a course that purports to be an accredited course; or
- (c) does any act likely to induce someone else to believe a course the person is providing is accredited.

"Subdivision 2 – Course accreditation activities in this jurisdiction

"35. Applying in this jurisdiction for accreditation

"(1) A person may apply to the Authority to have a course accredited only if –

- (a) the holder of the copyright in the course –
 - (i) is resident in this jurisdiction; or
 - (ii) has its principal place of business or conducts all or most of its operations in this jurisdiction; and
- (b) the skills and knowledge that may be attained under the course are not recognised under the vocational education and training provisions of the AQF.

"(2) The application must be in the approved form and accompanied by the determined fee.

"(3) The Authority may require the applicant to pay all or a part of the reasonable costs of and incidental to deciding the application.

"(4) The applicant must give the Authority any information required by it to decide the application.

"36. Decision about accreditation

"(1) On an application to have a course accredited, the Authority must grant or refuse to grant the accreditation.

"(2) In deciding the application, the Authority must apply the standards for accreditation of courses.

"(3) The Authority may grant the application only if there is no appropriate qualification in a Training Package the training for which would provide the competency or skills that are relevant for the purpose for which the course is established.

"(4) Subsection (2) does not limit the grounds on which the Authority may decide not to grant the application.

"(5) If the Authority decides to grant the application, it may impose reasonable conditions on the accreditation.

"(6) If the Authority decides to grant the application, it must –

- (a) immediately register the course as an accredited course;
- (b) if it imposes conditions under subsection (5) – give the applicant an information notice for the decision; and
- (c) give the applicant a certificate of accreditation for the course.

"(7) If the Authority decides not to grant the application, it must immediately give the applicant an information notice for the decision.

"37. Term of accreditation

"Accreditation may be for a term up to 5 years and may be renewed if application for renewal is made at least 6 months before the accreditation expires.

"38. Cancellation of accreditation

"(1) The Authority may cancel an accreditation granted by it at the written request of the holder of the certificate of accreditation.

"(2) The Authority may cancel an accreditation granted by it on its own initiative on the grounds and in the circumstances prescribed by the Regulations.

"(3) The Authority must –

- (a) immediately give written notice of its decision to the holder of the certificate of accreditation; and
- (b) remove the registered details of the accredited course from the National Register.

"(4) If the Authority cancels the accreditation under subsection (2), the notice under subsection (3)(a) must be an information notice.

"39. Expiry of accreditation

"(1) This section applies to a course that has been accredited on an application to the Authority.

"(2) If the accreditation of the course expires, the Authority must remove the registered details of the accredited course from the National Register.

"40. Authority may issue guidelines about accreditation

"(1) For assisting the preparation of an application to have a course accredited, the Authority may make guidelines about the minimum requirements for accreditation.

"(2) The Authority must make the guidelines available for inspection or purchase by members of the public at the Authority's offices.

"Division 5 – Requests for reviews and inquiries into Authority's decisions

"41. Reviewable decisions and affected persons

"Each of the Authority's decisions in the Schedule is a reviewable decision and the person stated opposite the decision is an affected person for the decision.

"41A. Request for review

"(1) An affected person for a reviewable decision made by a delegate of the Authority may request the Authority to review the decision.

"(2) On receipt of the request, the Authority must review the decision.

"(3) On reviewing the decision, the Authority must –

(a) confirm the decision; or

(b) set aside the delegate's decision and substitute its own decision.

"42. Request for inquiry

"(1) An affected person for a reviewable decision made by the Authority itself may request the Tribunal to carry out an inquiry in relation to the decision.

"(2) Also, an affected person for a reviewable decision for which a decision is made by the Authority under section 41A(3) (the 'review decision') may request the Tribunal to carry out an inquiry in relation to the review decision.

"Division 6 – Enforcement

"43. Appointment of authorised officers

"(1) The Chief Executive Officer may, in writing, appoint a person to be an authorised officer.

"(2) If a person appointed under subsection (1) is an employee within the meaning of the *Public Sector Employment and Management Act*, the appointment ceases when the person ceases to be such an employee.

"(3) The Chief Executive Officer must issue an identity card to each authorised officer.

"43A. Powers of entry

"(1) For the administration or enforcement of this Part, an authorised officer may enter –

- (a) a place the officer reasonably believes is a place where an RTO carries on business at any reasonable time; or
- (b) any place at any time with the consent of the occupier of the place.

"(2) An authorised officer who enters a place under subsection (1) must not remain on the place if, asked by the occupier of the place, the officer does not produce the officer's identity card for inspection by the occupier.

"43B. Powers of authorised officer

"An authorised officer who enters a place under section 43A may do any of the following:

- (a) inspect the place for ensuring this Part and the Regulations made for it are being complied with;
- (b) direct the occupier of the place to answer any questions or produce any documents relating to an RTO;
- (c) inspect, take extracts from or make copies of documents produced under paragraph (b).

"43C. Obstructing etc. authorised officer

"A person must not –

- (a) without reasonable excuse, obstruct, hinder or resist an authorised officer exercising a power under this Part;

- (b) without reasonable excuse, fail to comply with a direction made to that person by an authorised officer; or
- (c) knowingly give an authorised officer false or misleading information (whether orally or in writing).

Penalty: 100 penalty units.

"43D. Return of identity card

"A person who ceases to be an authorised officer must return the person's identity card to the Chief Executive Officer within 21 days after ceasing to be an authorised officer unless the person has a reasonable excuse.

Penalty: 10 penalty units."

6. Regulations

Section 101 of the Principal Act is amended –

- (a) by omitting "The" and substituting "(1) The"; and
- (b) by inserting at the end the following:

"(2) The Regulations may provide for the registration of details not otherwise expressly provided for under Part 4."

7. Repeal of section 102

Section 102 of the Principal Act is repealed.

8. Repeal and substitution of Schedule

The Schedule to the Principal Act is repealed and the following substituted:

"SCHEDULE

REVIEWABLE DECISIONS AND AFFECTED PERSONS

Section 41

A decision under section 31B(1) to refuse to register a person as an RTO	The applicant
A decision under section 31B(6) to impose conditions on the registration of an RTO	The RTO

A decision under section 31G(2) to amend, suspend or cancel the registration of an RTO	The RTO
A decision under section 36(1) to refuse to accredit a course	The applicant
A decision under section 36(5) to impose conditions on the accreditation of a course	The applicant
A decision under section 38(2) to cancel the accreditation of a course	The holder of the certificate of accreditation for the course

_____".

9. Further amendments

The Principal Act is amended as set out in the Schedule.

10. Transitional provisions

(1) Each of the following details recorded on the ANTA Service immediately before the commencement date is taken to have been registered under Part 4 or a corresponding law by the entity that recorded the detail:

- (a) a training organisation's registration;
- (b) a training organisation's scope of registration and term of registration;
- (c) registered conditions of an RTO;
- (d) registration of an accredited course;
- (e) an accredited course's term of registration;
- (f) a qualification registered for a nationally endorsed Training Package.

(2) On the commencement date, a condition of an RTO taken to be registered under subsection (1) (a "recorded condition") is taken to be a condition imposed under Part 4 or a corresponding law under which a similar condition may be imposed in similar circumstances to those applying when the recorded condition was imposed.

(3) An application for registration of a training organisation made under section 36 of the Principal Act as in force immediately before the

Northern Territory Employment and Training Amendment Act 2004

commencement date and not decided by the Authority before that date is taken to have been made under section 31A of the Principal Act as in force on the commencement date.

(4) An application for accreditation of a course under section 33 of the Principal Act as in force immediately before the commencement date and not decided by Authority before that date is taken to have been made under section 35 of the Principal Act as in force on the commencement date.

(5) In this section –

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

SCHEDULE

Section 9

FURTHER AMENDMENTS OF PRINCIPAL ACT

Provision	Amendment	
	omit	substitute
Long title	vocational training	vocational education and training
Section 2(a)	vocational training	vocational education and training
	Australian Qualifications Framework	AQF
Section 20(a)	vocational training	vocational education and training
Section 27(1)	section 42(2)	section 41A
Section 27(2)	a registered training organisation	an RTO
	section 33 (other than subsection (3) of that section) and section 39(1)	sections 35 (other than subsection (3)) and 36
Section 27(3)	a registered training organisation	an RTO
Section 27(4)	A registered training organisation	An RTO
Section 55(2)	a registered training organisation	an RTO
Section 55(3)	A registered training organisation	An RTO
Section 55(3)(b)	a registered training organisation	an RTO
Section 55(3)	organisation.	RTO.

Northern Territory Employment and Training Amendment Act 2004

Section 57(2)	Australian Qualifications Framework	AQF
Section 63(1)	a registered training organisation	an RTO
	the registered training organisation	the RTO
Section 63(2)	A registered training organisation	An RTO
Section 63(3)	registered training organisation	RTO
Section 64	a registered training organisation	an RTO
Section 65(1)(a)	registered training organisation	RTO
Section 83(a)	registered training organisation	RTO
Section 84(1)(a)	organisation aggrieved by the decision of the Authority	affected person for the decision
Section 84(1)(c)	registered training organisation	RTO

ALTERATION TO SECTION HEADING

On the day on which the *Northern Territory Employment and Training Act* is amended by this Act, in addition to any alteration to section headings indicated in the text of this Act, the heading to section 64 of the *Northern Territory Employment and Training Act* is altered by omitting "registered training organisation" and substituting "**RTO**".

○ 1

○

○ . . .

○