

TASMANIA

VOCATIONAL EDUCATION AND TRAINING AMENDMENT (SKILLS TASMANIA) BILL 2007

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**VOCATIONAL EDUCATION AND TRAINING
AMENDMENT (SKILLS TASMANIA) BILL 2007**

*(Brought in by the Minister for Education, the Honourable
David John Bartlett)*

A BILL FOR

An Act to amend the *Vocational Education and Training Act 1994* and to consequentially amend certain other Acts

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Vocational Education and Training Amendment (Skills Tasmania) Act 2007*.

2. Commencement

- (1) This Act commences on 1 July 2007, but if it does not receive the Royal Assent by 1 July 2007 this Act, except as provided by this section, commences on the day on which this Act receives the Royal Assent.
- (2) If this Act does not receive the Royal Assent by 1 July 2007, Part 3 is taken to have commenced on 1 July 2007.

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**PART 2 – VOCATIONAL EDUCATION AND
TRAINING ACT 1994 AMENDED**

3. Principal Act

In this Part, the *Vocational Education and Training Act 1994** is referred to as the Principal Act.

4. Long title amended

The long title of the Principal Act is amended by omitting “the provision of post-Year 10 education and training” and substituting “vocational skills development”.

5. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of “adult and community education”;
- (b) by omitting the definitions of “ANTA” and “ANTA Ministerial Council”;
- (c) by omitting “12 January 1995,” from the definition of “Australian Qualifications

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Framework” and substituting “1 January 1995,”;

- (d) by omitting “ANTA” from the definition of “Australian Quality Training Framework”;
- (e) by inserting the following definition after the definition of “Australian Quality Training Framework”:

“**Board**” means the Board of Directors of Skills Tasmania appointed under section 10C;

- (f) by inserting the following definition after the definition of “corresponding law”:

“**director**”, in relation to the Board or Skills Tasmania, means a member of the Board;

- (g) by inserting the following definition after the definition of “employer”:

“**general manager**” means the general manager of Skills Tasmania appointed under section 10I;

- (h) by omitting the definition of “Learning and Skills Authority”;

- (i) by inserting the following definition after the definition of “local registered training organisation”:

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“Ministerial Council” means a council which –

- (a) comprises a Minister of each State and Territory and of the Commonwealth who has responsibility for vocational education and training; and
- (b) includes vocational education and training in its functions;
- (j) by omitting “ANTA” from paragraph (a) of the definition of “national course accreditation standards”;
- (k) by omitting “ANTA” from paragraph (b) of the definition of “national course accreditation standards”;
- (l) by omitting “ANTA” from paragraph (a) of the definition of “national training register” and substituting “the Commonwealth government”;
- (m) by omitting “ANTA” from paragraph (a) of the definition of “national training standards”;
- (n) by omitting “ANTA” from paragraph (b) of the definition of “national training standards”;

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- (o) by omitting “established by ANTA’s members;” from paragraph (b) of the definition of “nationally endorsed training package” and substituting “of the Ministerial Council;”;
 - (p) by omitting the definition of “post-Year 10 education and training”;
 - (q) by omitting “by ANTA;” from paragraph (a) of the definition of “qualification” and substituting “in the national training register;”;
 - (r) by omitting paragraph (c) from the definition of “registered” and substituting the following paragraph:
 - (c) the person or body given responsibility for registering persons and matters in that register;
 - (s) by omitting the definition of “senior secondary education” and substituting the following definition:

“Skills Tasmania” means Skills Tasmania established by section 6;
 - (t) by omitting “ANTA” from paragraph (a) of the definition of “standards for State and Territory registering and course accrediting bodies”;

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- (u) by omitting the definition of “Training Agreements Committee” and substituting the following definition:

“Training Agreements Committee”
means the Tasmanian Training
Agreements Committee
established under
section 14(1)(b);

6. Section 5 substituted

Section 5 of the Principal Act is repealed and the following section is substituted:

5. State Training Plan

- (1) Skills Tasmania is to submit to the Minister a State Training Plan at least once in each year.
- (2) The Minister may require Skills Tasmania to amend the State Training Plan in accordance with the requirement and submit the amended Plan to the Minister.

7. Part 2: Heading amended

Part 2 of the Principal Act is amended by omitting “**TASMANIAN LEARNING AND SKILLS AUTHORITY**” from the heading to

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that Part and substituting “**SKILLS
TASMANIA**”.

8. Part 2, Division 1 substituted

Division 1 of Part 2 of the Principal Act is repealed and the following Divisions are substituted:

Division 1 – Establishment of Skills Tasmania

6. Skills Tasmania

- (1) Skills Tasmania is established.
- (2) Skills Tasmania –
 - (a) is a body corporate with perpetual succession; and
 - (b) has a seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown.
- (3) All courts and persons acting judicially must take judicial notice of the imprint of the seal on a document and presume that it was duly sealed by Skills Tasmania.

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7. Objective of Skills Tasmania

The objective of Skills Tasmania is to ensure that Tasmania has a vocational education and training system that supports a productive workforce and contributes to economic and social development in the State.

8. Functions of Skills Tasmania

- (1) Skills Tasmania has the following functions:
 - (a) to develop and implement policies, strategies and plans for the development, acquisition and recognition of vocational skills in Tasmania;
 - (b) to develop and implement policies, strategies and plans for the purchase of vocational education and training;
 - (c) to ensure that programs and services relating to the development, acquisition and recognition of vocational skills that meet the needs of businesses and communities in, and the people of, Tasmania are provided;

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- (d) to advise the Minister on all matters, including policies, strategies and plans, relating to the development, acquisition and recognition of vocational skills in Tasmania;
- (e) to advise the Minister on national vocational education and training policies and intergovernmental agreements and to oversee the implementation of such policies and agreements;
- (f) to enter into arrangements with registered training organisations and other persons in relation to the purchase of vocational education and training and the performance by those organisations and persons of vocational education and training functions;
- (g) to oversee the administration of vocational placements and training agreements;
- (h) to liaise with representatives of industries, businesses, communities and interest groups in relation to the development, acquisition and recognition of vocational skills in Tasmania;

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- (i) to monitor the effectiveness of policies, strategies and plans for the development, acquisition and recognition of vocational skills in Tasmania when implemented;
- (j) to inquire into, undertake research into and report on –
 - (i) the development, acquisition and recognition of vocational skills; and
 - (ii) the need for vocational skills of businesses and communities in, and the people of, Tasmania;
- (k) to promote and facilitate the development, acquisition and recognition of vocational skills;
- (l) to liaise with the Qualifications Authority, the Tasmania Development and Resources Board established under the *Tasmanian Development Act 1983* and other relevant government bodies of this State or elsewhere on matters relating to vocational education and training and vocational skills;
- (m) other functions imposed on Skills Tasmania by this Act;

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- (n) other functions imposed on Skills Tasmania by the Minister by written notice provided to Skills Tasmania.
- (2) If Skills Tasmania becomes aware of any issue relating to the provision of vocational education and training, or the development, acquisition or recognition of vocational skills, which Skills Tasmania considers urgent or significant, Skills Tasmania is to notify the Minister, in writing, of that issue within a time that is reasonable in the circumstances.

9. Powers of Skills Tasmania

- (1) Skills Tasmania has the following powers:
 - (a) to acquire, hold, dispose of and otherwise deal with property;
 - (b) to enter into contracts, including a contract with another person for the performance or exercise of any of its functions or powers by or jointly with that other person;
 - (c) to set charges, terms and conditions relating to work done, or services, goods or information supplied, by it;

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- (d) to do any other thing necessary or convenient to be done in connection with the performance or exercise of its functions or powers under this or any other Act.
- (2) Skills Tasmania may use, and operate under, one or more of the following trading names:
 - (a) Skills Tasmania;
 - (b) Skills Authority;
 - (c) Tasmanian Skills Authority;
 - (d) State Training Authority;
 - (e) another trading name approved by the Minister.

10. Delegation

Skills Tasmania may delegate to the Training Agreements Committee, another of its committees, the general manager or any other person any of its functions or powers under this or any other Act other than this power of delegation.

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10A. Ministerial directions and policies

- (1) The Minister may advise Skills Tasmania, in writing, of the policies of the government in relation to vocational education and training and vocational skills.
- (2) The Minister may give to Skills Tasmania, in writing, directions relating to the performance and exercise of its functions and powers.
- (3) Skills Tasmania is to –
 - (a) implement a policy of which it is advised under subsection (1); and
 - (b) to comply with a direction given to it under subsection (2).

10B. Independence of Skills Tasmania

Except as otherwise provided by or under this or any other Act, Skills Tasmania is not subject to the control or direction of the Secretary or the Department in respect of the formation of any opinion, or the making of any decision, that Skills Tasmania is required to form, or make, to perform its functions.

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Division 1A – Board of Directors of Skills Tasmania

10C. Board of Directors

- (1) Skills Tasmania has a Board of Directors consisting of 7 members appointed by the Minister.
- (2) In appointing the members of the Board, the Minister is to –
 - (a) ensure that those members together have –
 - (i) the knowledge and skills necessary to ensure that Skills Tasmania performs its functions competently; and
 - (ii) business and financial skills; and
 - (iii) an understanding of the requirements for meeting the vocational education and training needs of industries, businesses and communities in the State; and
 - (b) take into account –
 - (i) the need to have both male and female directors; and

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- (ii) the desirability of having persons from all regions of the State as directors; and
- (c) ensure, if practicable, that at least one member is a member of the Aboriginal community.
- (3) The Minister is to appoint one of the members of the Board as its chairperson.
- (4) Schedule 1 has effect with respect to the membership and meetings of the Board.

10D. Role of Board

The Board is responsible to the Minister –

- (a) for the performance by Skills Tasmania of its functions; and
- (b) for the achievement by Skills Tasmania of its objective.

10E. Powers of Board

The Board has power to do all things necessary or convenient to be done in connection with the performance and exercise of its functions and powers under this or any other Act.

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10F. Duties of director

A director must act honestly, exercise reasonable care and be diligent in the performance and exercise of the functions and powers of a director.

Penalty: Fine not exceeding 50 penalty units.

10G. Delegation

The Board may delegate any of its functions or powers under this or any other Act, other than this power of delegation, to any one or more of the following:

- (a) a director;
- (b) its general manager;
- (c) the Training Agreements Committee;
- (d) another of its committees;
- (e) a person whose services are made available as specified in section 10K.

10H. Acting directors

- (1) For the purposes of this section, a director is absent if he or she –
 - (a) is absent from duty; or
 - (b) is otherwise unable to perform the functions of the office of a director.
- (2) The Minister may appoint a person to act as a director during –
 - (a) any one or more absences of the chairperson or another director; or
 - (b) during all absences of the chairperson or another director.
- (3) The appointment of a person to act as a director if the chairperson is absent is not an appointment to act in the position of chairperson.
- (4) While a person appointed to act as a director is acting as a director that person is taken to be a director.

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Part 2 – Vocational Education and Training Act 1994 Amended

***Division 1B – General manager and staff of Skills
Tasmania***

10I. General manager

- (1) On the recommendation of the Minister and subject to and in accordance with the *State Service Act 2000*, a person other than a director may be appointed as general manager of Skills Tasmania.
- (2) Before recommending a person for appointment as general manager, the Minister is to consult the Board in relation to the recommendation.

10J. Role, functions and powers of general manager

- (1) The general manager is responsible to the Board for the general administration and management of Skills Tasmania.
- (2) The general manager –
 - (a) must perform any functions, and may exercise any powers, delegated to the general manager by the Board; and
 - (b) must perform any other functions imposed on, and may exercise any other powers granted to, him or her by this or any other Act.

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- (3) The general manager may delegate any of his or her functions or powers under this or any other Act other than this power of delegation.

10K. Staff

Skills Tasmania may arrange with the Head of a State Service Agency, within the meaning of the *State Service Act 2000*, for State Service employees and State Service officers employed in the Agency to be made available to Skills Tasmania to enable it and the Board to perform their functions under this and any other Act.

9. Section 11 amended (Payment of funds from Commonwealth)

Section 11 of the Principal Act is amended as follows:

- (a) by omitting “ANTA” and substituting “the Commonwealth government”;
- (b) by omitting “for” and substituting “to”.

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10. Section 12 amended (Acceptance on behalf of Skills Tasmania)

Section 12 of the Principal Act is amended by omitting “the Learning and Skills Authority” and substituting “Skills Tasmania”.

11. Section 13 amended (Annual report)

Section 13 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The Learning and Skills Authority” and substituting “Skills Tasmania”;
- (b) by omitting subsection (2).

12. Part 2, Division 3 inserted

After section 13 of the Principal Act, the following Division is inserted in Part 2:

Division 3 – Committees

14. Committees

- (1) The Board –
 - (a) must establish an audit committee; and

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- (b) must establish a committee as the Tasmanian Training Agreements Committee; and
 - (c) may establish one or more other committees to advise and assist the Board in the performance or exercise of its functions or powers under this or any other Act.
- (2) A committee consists of such persons as the Board appoints.
 - (3) A director of Skills Tasmania may be a member of a committee.
 - (4) A member of a committee holds office on such conditions in relation to matters not provided for by this Act as are specified in the instrument of appointment.
 - (5) Schedule 2 applies to the membership and meetings of a committee.
 - (6) At any time, the Board may abolish a committee.

15. Functions and powers of committees

- (1) Each committee –

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- (a) must provide the Board with advice on any matter referred to it by the Board; and
 - (b) must perform any functions, and may exercise any powers, delegated to it by the Board.
- (2) In addition to its functions under subsection (1), the audit committee must provide the Board with advice on –
 - (a) the internal audit function of Skills Tasmania; and
 - (b) monitoring Skills Tasmania’s systems of financial reporting and internal control; and
 - (c) the resources necessary for the performance of the internal audit function of Skills Tasmania.
- (3) In addition to its functions under subsection (1), the Training Agreements Committee must –
 - (a) provide the Board with advice on matters relating to vocational placements and training agreements; and
 - (b) administer vocational placements and training agreements in accordance with any directions

given or policies advised by the Board; and

(c) issue guidelines for the operation of vocational placements and training agreements; and

(d) establish procedures and systems in respect of its functions as required and approved by the Board.

(4) A Committee may do anything necessary or convenient to perform its functions.

16. Delegation by committees

(1) A committee, with the approval of the Board, may delegate any of its functions or powers, other than its power of delegation, to any person or body.

(2) A committee, when required by the Board to do so, must delegate any of its functions or powers, other than its power of delegation, to any person or body specified by the Board.

(3) The terms and conditions of a delegation are to be approved by the Board.

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17. Committees subject to direction

- (1) The Board may give written directions to a committee in relation to the performance and exercise of its functions and powers, other than discretionary functions and powers.
- (2) A committee is to comply with a direction given under subsection (1).

13. Part 3 repealed

Part 3 of the Principal Act is repealed.

14. Section 35 amended (Limits on entering into training agreement)

Section 35(5) of the Principal Act is amended by omitting “ANTA”.

15. Section 67 amended (Inquiries)

Section 67 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the Learning and Skills Authority” and substituting “Skills Tasmania”;

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- (b) by omitting from subsection (2)(b) “the Learning and Skills Authority” and substituting “Skills Tasmania”;
- (c) by omitting from subsection (3) “The Learning and Skills Authority,” and substituting “Skills Tasmania,”;
- (d) by omitting from subsection (4) “The Learning and Skills Authority” and substituting “Skills Tasmania”;
- (e) by omitting from subsection (5) “the Learning and Skills Authority” and substituting “Skills Tasmania”;
- (f) by omitting from subsection (6) “the Learning and Skills Authority” and substituting “Skills Tasmania”.

16. Section 69 amended (Inspections)

Section 69(1) of the Principal Act is amended by omitting “The Learning and Skills Authority,” and substituting “Skills Tasmania,”.

17. Section 70 amended (Search warrants)

Section 70 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “the Learning and Skills Authority,” and substituting “Skills Tasmania,”;
- (b) by omitting from subsection (4)(a)(i) “the Learning and Skills Authority” and substituting “Skills Tasmania”.

18. Section 71 repealed

Section 71 of the Principal Act is repealed.

19. Section 77 amended (Records)

Section 77 of the Principal Act is amended as follows:

- (a) by omitting “advisory committees” and substituting “all committees established under section 14”;
- (b) by omitting from paragraph (b) “the Learning and Skills Authority” and substituting “Skills Tasmania”.

20. Section 78 amended (Scholarships, bursaries and prizes)

Section 78 of the Principal Act is amended by omitting “The Learning and Skills Authority” and substituting “Skills Tasmania”.

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21. Section 83 amended (Regulations)

Section 83 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “the Learning and Skills Authority,” and substituting “Skills Tasmania,”;
- (b) by omitting from subsection (4) “Committee” and substituting “Committee, another committee established under section 14”;
- (c) by omitting from subsection (6) “the *Vocational Education and Training Amendment Act 2003* or the *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004.*” and substituting “any Act which amends this Act.”;
- (d) by omitting from subsection (7) “*Vocational Education and Training Amendment Act 2003* or the *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004*, as the case requires,” and substituting “Act amending this Act”.

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Part 2 – Vocational Education and Training Act 1994 Amended

22. Section 85C inserted

After section 85B of the Principal Act, the following section is inserted in Part 9:

85C. Savings and transitional provisions consequent on *Vocational Education and Training Amendment (Skills Tasmania) Act 2007*

Schedule 7 has effect in respect of savings and transitional provisions consequent on the commencement of the *Vocational Education and Training Amendment (Skills Tasmania) Act 2007*.

23. Schedules 1 and 2 substituted

Schedules 1 and 2 to the Principal Act are repealed and the following Schedules are substituted:

**SCHEDULE 1 – MEMBERSHIP AND MEETINGS OF
BOARD**

Section 10C(4)

PART 1 – MEMBERSHIP OF BOARD

1. Term of office

A director is appointed for such period, not exceeding 3 years, as is specified in the director's instrument of appointment and may be reappointed.

2. Holding other office

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a director; or
- (b) accepting any remuneration payable to a director.

3. State Service Act 2000

- (1) The *State Service Act 2000* does not apply in relation to a director in his or her capacity as a director.
- (2) A person may hold the office of director in conjunction with State Service employment.

4. Remuneration and conditions of appointment

- (1) A director is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A director who is a State Service employee or State Service officer is not

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entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.

- (3) A director holds office on such conditions in relation to matters not provided for by this Act as are specified in the director's instrument of appointment.

5. Vacation of office

- (1) A director vacates office if he or she –
- (a) dies; or
 - (b) resigns by written notice given to the Minister; or
 - (c) is removed from office under subclause (2) or (3).
- (2) The Minister may remove a director from office if the director –
- (a) is absent from 3 consecutive meetings of the Board without the permission of the other directors of the Board; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the

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director's creditors or makes an assignment of the director's remuneration or estate for their benefit; or

- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer; or
 - (d) is convicted of an offence under this Act; or
 - (e) fails to disclose a pecuniary interest as required under clause 15; or
 - (f) has benefited from, or claimed to be entitled to benefit from, a contract made by or on behalf of the Board, other than a contract for a good or service ordinarily supplied by the Board and supplied on the same terms as that good or service is ordinarily supplied to other persons in the same situation.
- (3) The Minister may remove a director from office if satisfied that the director is unable to perform adequately or competently the duties of office.

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- (4) A director must not be removed from office otherwise than in accordance with this clause.

6. Filling of vacancies

If the office of a director becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that director's term of office.

7. Validation of proceedings, &c.

An act or proceeding of the Board or of a person acting under any direction of the Board is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a director or a defect in the appointment of a director.

8. Presumptions

In any proceeding by or against the Board, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Board; or
- (b) the appointment of any director.

PART 2 – MEETINGS OF BOARD

9. Convening of meetings

- (1) The chairperson of the Board, after giving each director reasonable notice of a meeting –
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 2 or more other directors.
- (2) If the chairperson of the Board is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of the meeting, by –
 - (a) two or more other directors; or
 - (b) a person authorised by the Board to do so.
- (3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Board.

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10. Presiding at meeting

- (1) The chairperson of the Board is to preside at all meetings of the Board at which he or she is present.
- (2) If the chairperson is not present at a meeting of the Board, a director elected by the directors present at the meeting is to preside.

11. Quorum and voting at meetings

- (1) Four directors constitute a quorum at a meeting of the Board.
- (2) A meeting of the Board at which a quorum is present is competent to transact any business of the Board.
- (3) At a meeting of the Board –
 - (a) the director presiding has a deliberative vote only; and
 - (b) a question is decided –
 - (i) by a majority of votes of the directors present and voting; or
 - (ii) in the negative if there is an equality of votes of the directors present and voting.

- (4) At a meeting of the Board where a director is excluded from being present and taking part in the consideration and decision of the Board in relation to a matter, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of directors specified as constituting a quorum in subclause (1) less the number of directors so excluded.

12. Conduct of meeting

- (1) Subject to this Act, the Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Board may permit directors to participate in a particular meeting or all meetings by –
- (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Board.
- (3) A director who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.

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- (4) Without limiting subclause (1), the Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

13. Resolutions without meetings

- (1) If all directors appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last of the directors signs the document.
- (2) If a resolution is taken to have been passed under subclause (1), each director is to be –
- (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, is taken to constitute one document.

14. Minutes

The Board is to keep accurate minutes of its meetings.

15. Disclosure of interests

- (1) If a director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board, the director must, as soon as practicable after the relevant facts come to the director's knowledge, disclose the nature of the interest to the Board.

Penalty: Fine not exceeding 50 penalty units.

- (2) Unless the Board otherwise determines, a director who has made a disclosure under subclause (1) in relation to a matter must not –
- (a) be present during any deliberation of the Board in relation to the matter; or
 - (b) take part in any decision of the Board in relation to the matter.
- (3) For the purpose of making a determination under subclause (2), the director to whom the determination relates must not –

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- (a) be present during any deliberation of the Board for the purpose of making the determination; or
 - (b) take part in making the determination.
- (4) Subclause (1) does not apply –
- (a) in respect of a contract for goods or services supplied by the Board if those goods or services are ordinarily supplied by the Board and are supplied on the same terms as they are ordinarily supplied to other persons in the same situation; or
 - (b) in respect of an interest that arises only because the director is also a State Service officer or State Service employee.

16. General procedure

Except as provided by this Act, the Board may regulate its own proceedings.

17. Presumptions

In any proceeding by or against the Board, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the Board; or
- (b) the presence of a quorum at any meeting of the Board.

SCHEDULE 2 – MEMBERSHIP AND MEETINGS OF COMMITTEES

Section 14(5)

PART 1 – MEMBERSHIP OF COMMITTEES

1. Interpretation

In this Schedule –

“committee” means an audit committee, the Training Agreements Committee or another committee established by the Board under section 14;

“member” means a member of a committee.

2. Term of office

A member is appointed for such period, not exceeding 3 years, as is specified in the member’s instrument of appointment and may be reappointed.

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3. Holding other office

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. State Service Act 2000

- (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.
- (2) A person may hold the office of member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member who is a State Service employee or State Service officer is not

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entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.

- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Vacation of office

- (1) A member vacates office if he or she –
- (a) dies; or
 - (b) resigns by written notice given to the Board; or
 - (c) is removed from office under subclause (2).
- (2) The Board may remove a member from office if the member –
- (a) is absent from 3 consecutive meetings of the committee without the permission of the other members of the committee; or
 - (b) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by

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- imprisonment for 12 months or longer; or
- (c) is convicted of an offence under this Act; or
 - (d) fails to disclose a pecuniary interest as required under clause 16; or
 - (e) has benefited from, or claimed to be entitled to benefit from, a contract made by or on behalf of the committee, other than a contract for a good or service ordinarily supplied by the committee and supplied on the same terms as that good or service is ordinarily supplied to other persons in the same situation; or
 - (f) in the opinion of the Board, is unable to perform adequately or competently the duties of office; or
 - (g) for any other reason the Board considers appropriate.

7. Filling of vacancies

If the office of a member becomes vacant, the Board may appoint a person

to the vacant office for the remainder of that member's term of office.

8. Validation of proceedings, &c.

An act or proceeding of a committee or of a person acting under any direction of a committee is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member or a defect in the appointment of a member.

9. Presumptions

In any proceeding by or against a committee, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the committee;
or
- (b) the appointment of any member.

PART 2 – MEETINGS OF COMMITTEE

10. Convening of meetings

- (1) The chairperson of the committee, after giving each member reasonable notice of a meeting –

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- (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 2 or more other members.
- (2) If the chairperson of a committee is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of the meeting, by –
- (a) two or more other members; or
 - (b) a person authorised by the Board to do so.
- (3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the committee.

11. Presiding at meeting

- (1) The chairperson of a committee is to preside at all meetings of the committee at which he or she is present.
- (2) If the chairperson is not present at a meeting of a committee, a member elected by the members present at the meeting is to preside.

12. Quorum and voting at meetings

- (1)** At a meeting of a committee, a quorum is constituted by a majority of the total number of members appointed.
- (2)** A meeting of a committee at which a quorum is present is competent to transact any business of the committee.
- (3)** At a meeting of a committee –
 - (a)** the member presiding has a deliberative vote only; and
 - (b)** a question is decided –
 - (i)** by a majority of votes of the members present and voting; or
 - (ii)** in the negative if there is an equality of votes of the members present and voting.
- (4)** At a meeting of a committee where a member is excluded from being present and taking part in the consideration and decision of the committee in relation to a matter, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of members specified as constituting a quorum in subclause (1) less the number of members so excluded.

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13. Conduct of meeting

- (1) Subject to this Act, a committee may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) A committee may permit members to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Board.
- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), a committee may allow a person to attend a meeting for the purpose of advising or informing the committee on any matter.

14. Resolutions without meetings

- (1) If all members appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a

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resolution in those terms is taken to have been passed at a meeting of the committee held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.

- (2) If a resolution is taken to have been passed under subclause (1), each member is to be –
 - (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

15. Minutes

A committee is to keep accurate minutes of its meetings.

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16. Disclosure of interests

- (1) If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by a committee, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to the committee.

Penalty: Fine not exceeding 50 penalty units.

- (2) Unless a committee otherwise determines, a member who has made a disclosure under subclause (1) in relation to a matter must not –
- (a) be present during any deliberation of the committee in relation to the matter; or
 - (b) take part in any decision of the committee in relation to the matter.
- (3) For the purpose of making a determination under subclause (2), the member to whom the determination relates must not –
- (a) be present during any deliberation of the committee for the purpose of making the determination; or

- (b) take part in making the determination.
- (4) Subclause (1) does not apply –
- (a) in respect of a contract for goods or services supplied by the committee if those services are ordinarily supplied by the committee and are supplied on the same terms as they are ordinarily supplied to other persons in the same situation; or
 - (b) in respect of an interest that arises only because the director is also a State Service officer or State Service employee.

17. General procedure

Except as provided by this Act, a committee may regulate its own proceedings.

18. Presumptions

In any proceeding by or against a committee, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the committee;
or

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- (b) the presence of a quorum at any meeting of the committee.

24. Schedule 7 inserted

After Schedule 6 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 7 – SAVINGS AND TRANSITIONAL
PROVISIONS CONSEQUENT ON VOCATIONAL
EDUCATION AND TRAINING AMENDMENT (SKILLS
TASMANIA) ACT 2007**

Section 85C

1. Interpretation

In this Schedule –

“**Amendment Act**” means the *Vocational Education and Training Amendment (Skills Tasmania) Act 2007*;

“**commencement day**” means the day on which the Amendment Act commences as specified in section 2(1) of that Act;

“**former Act**” means this Act as in force immediately before the commencement day;

“**former Tasmanian Training Agreements Committee**” means

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the Tasmanian Training
Agreements Committee
continued under section 14 of the
former Act;

“Learning and Skills Authority”
means the Tasmanian Learning
and Skills Authority established
under section 6 of the former Act.

2. Abolition of Learning and Skills Authority

- (1) The Learning and Skills Authority is abolished.
- (2) The appointment of each member of the Learning and Skills Authority is revoked.
- (3) A member of the Learning and Skills Authority is not entitled to any compensation or other payment in relation to the revocation of his or her appointment under this clause.

3. Annual report for 2007

Skills Tasmania is to include in its annual report submitted to the Minister under section 13 in respect of the period of 12 months ending on 31 December 2007 a report of the activities of the Learning and Skills Authority during that period.

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Part 2 – Vocational Education and Training Act 1994 Amended

4. Inquiries

- (1) If a person has applied under section 67 of the former Act to the Learning and Skills Authority for it to carry out an inquiry and, immediately before the commencement day, that inquiry has not been completed, that application is taken to have been made to Skills Tasmania under section 67 of this Act.
- (2) If the Learning and Skills Authority has commenced an inquiry under section 67 of the former Act and, immediately before the commencement day, that inquiry has not been completed –
 - (a) that inquiry is to be completed by Skills Tasmania; and
 - (b) anything done by or in relation to the Learning and Skills Authority for the purposes of, or in the course of, that inquiry is taken to have been done by or in relation to Skills Tasmania.

5. Certificates of authority

A certificate of authority issued by the Learning and Skills Authority under section 69 of the former Act and in force immediately before the commencement day continues and is taken to have been

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issued by Skills Tasmania under section 69 of this Act.

6. Abolition of former Tasmanian Training Agreements Committee

- (1) The former Tasmanian Training Agreements Committee is abolished.
- (2) The extension of an appointment under section 85D is taken on and from the commencement day to be an appointment to the Training Agreements Committee.

7. Acts by Learning and Skills Authority, &c.

An act or omission done by or in relation to the Learning and Skills Authority is taken to have been done by or in relation to Skills Tasmania if circumstances require it.

8. Documents

- (1) A reference in an Act or any other document to the Learning and Skills Authority is taken to be or include a reference to Skills Tasmania if the context requires it.
- (2) A reference in an Act or any other document to the Tasmanian Training

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Part 2 – Vocational Education and Training Act 1994 Amended

Agreements Committee is taken to be or include a reference to the Training Agreements Committee.

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Part 3 – Vocational Education and Training Act 1994 Further Amended

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**PART 3 – VOCATIONAL EDUCATION AND
TRAINING ACT 1994 FURTHER AMENDED**

25. Principal Act

In this Part, the *Vocational Education and Training Act 1994** is referred to as the Principal Act.

26. Section 85D inserted

After section 85C of the Principal Act, the following section is inserted in Part 9:

85D. Extension of certain appointments

The appointment of each member of the Training Agreements Committee as constituted on 30 June 2007 is extended until 30 September 2007.

*No. 88 of 1994

*Vocational Education and Training Amendment (Skills
Tasmania) Act 2007*
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s. 27 Part 4 – Building and Construction Industry Training Fund Act 1990
Amended

**PART 4 – BUILDING AND CONSTRUCTION
INDUSTRY TRAINING FUND ACT 1990 AMENDED**

27. Principal Act

In this Part, the *Building and Construction Industry Training Fund Act 1990** is referred to as the Principal Act.

28. Section 34 amended (Building and construction industry training plans)

Section 34(4) of the Principal Act is amended by omitting “the Tasmanian Learning and Skills Authority” and substituting “Skills Authority”.

*No. 38 of 1990

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Part 5 – Employment Incentive Assistance Act 1984 Amended

s. 29

**PART 5 – EMPLOYMENT INCENTIVE ASSISTANCE
ACT 1984 AMENDED**

29. Principal Act

In this Part, the *Employment Incentive Assistance Act 1984** is referred to as the Principal Act.

30. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting “the Tasmanian Learning and Skills Authority” from the definition of “Authority” and substituting “Skills Tasmania”.

*No. 106 of 1984

*Vocational Education and Training Amendment (Skills
Tasmania) Act 2007*
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s. 31

Part 6 – Long Service Leave Act 1976 Amended

**PART 6 – LONG SERVICE LEAVE ACT 1976
AMENDED**

31. Principal Act

In this Part, the *Long Service Leave Act 1976** is referred to as the Principal Act.

32. Section 5 amended (Nature of continuous employment)

Section 5(1)(f) of the Principal Act is amended by omitting “the Tasmanian Learning and Skills Authority” and substituting “Skills Tasmania”.

*No. 95 of 1976