

TASMANIA

**VOCATIONAL EDUCATION AND TRAINING
AMENDMENT BILL 2003**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 4 amended (Vocational education and training)
6. Section 5 amended (State Training Plan)
7. Section 7 amended (Functions and powers of Training Authority)
8. Section 10 repealed
9. Section 16A substituted
 17. Training Agreements Committee subject to direction
 18. Service of documents
10. Part 3, Division 2 repealed
11. Section 20 amended (Advisory committees)
12. Parts 4 and 5 substituted
 - PART 4 – Qualifications Authority
 25. Functions and powers of Qualifications Authority under this Act
 26. Directions by Qualifications Authority
 27. Review of decisions

28. Application of regulations and rules under
Tasmanian Qualifications Authority Act 2003

PART 5 – Registered Training Organisations

Division 1 – Requirement for registration

29. Offence to falsely claim to be registered training
organisation

*Division 2 – Registration as registered training
organisation*

30. Application for registration

31. Registration as registered training organisation

32. Registration subject to conditions

32A. Registration certificate

32B. Term of registration

32C. Registration fee

32D. Amendment of registration

32E. Renewal of registration

32F. Cancellation, suspension or amendment of
registration or conditions

32G. Cancelling registration on change of location of
operations

32H. Effect of suspending registration of registered
training organisation

32I. Surrender of registration

32J. Registering amendment, suspension or
cancellation of registration on national training
register

Division 3 – Compliance audits

32K. Compliance audit of local registered training
organisation

32L. Compliance audit of interstate registered
training organisation

32M. Conduct of compliance audit

32N. Charge for compliance audit

32O. Powers not limited by compliance audit
provisions

Division 4 – Disclosing information to registering bodies

32P. Information may be given to registering bodies

*Division 5 – Issue of qualifications and statements of
attainment*

32Q. Issuing qualifications and statements of
attainment

- 32R. Cancellation of qualification or statement of attainment
- PART 5A – Accredited Training Courses
 - Division 1 – Requirement for accreditation*
 - 32S. Offence to falsely claim to provide accredited training course
 - Division 2 – Accreditation of training courses*
 - 32T. Applying for accreditation
 - 32U. Accreditation as accredited training course
 - 32V. Accreditation certificate
 - 32W. Term of accreditation
 - 32X. Renewal of accreditation
 - 32Y. Cancellation of accreditation
 - 32Z. Updating national training register
- 13. Part 6: Heading amended
- 14. Sections 33, 34 and 35 substituted
 - 33. Offence to undertake to train a person without training agreement
 - 34. Employer may enter into training agreements
 - 35. Limits on entering into training agreement
- 15. Section 36 amended (Approval of training agreement)
- 16. Section 38 amended (Compliance with training agreement)
- 17. Sections 43 and 44 substituted
 - 43. Training subject to conditions
 - 44. Directions by Training Agreements Committee
- 18. Sections 45, 46 and 47 substituted
 - 45. Vocational placement agreement
 - 46. Vocational placement of no effect unless under vocational placement agreement
 - 47. Offence to contravene vocational placement agreement
- 19. Section 52 amended (Indemnity insurance)
- 20. Section 53 inserted
 - 53. Directions by Training Agreements Committee
- 21. Part 6, Division 3 inserted
 - Division 3 – Restrictions on entering into training agreements or vocational placement agreements*

- 54. Persons who may not enter into training agreements or vocational placement agreements
 - 55. Offence to enter into training agreement or vocational placement agreement
 - 56. Revocation of notice
 - 22. Section 67 amended (Inquiries)
 - 23. Section 68 amended (Disputes relating to training and vocational placement agreements)
 - 24. Section 69 amended (Inspections)
 - 25. Section 70 amended (Search warrants)
 - 26. Section 71 substituted
 - 71. Declaration of interest
 - 27. Section 75 amended (Training Agreements Register)
 - 28. Section 76 amended (Collection of records, statistics and information)
 - 29. Section 77 amended (Records)
 - 30. Section 79 repealed
 - 31. Section 80 amended (Evidence)
 - 32. Section 83 amended (Regulations)
 - 33. Section 85A inserted
 - 85A. Savings and transitional provisions consequent on *Vocational Education and Training Amendment Act 2003*
 - 34. Section 87 repealed
 - 35. Schedule 1 amended (Membership and Meetings of Training Authority)
 - 36. Schedule 2 amended (Membership and Meetings of Committees)
 - 37. Schedule 5 inserted
 - Schedule 5 – Savings and transitional provisions consequent on *Vocational Education and Training Amendment Act 2003*
 - 38. Substitutions
- Schedule 1 – Substitutions

VOCATIONAL EDUCATION AND TRAINING AMENDMENT BILL 2003

*(Brought in by the Minister for Education, the Honourable
Paula Catherine Wriedt)*

A BILL FOR

An Act to amend the *Vocational Education and Training Act 1994*

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:

Short title

1. This Act may be cited as the *Vocational Education and Training Amendment Act 2003*.

Commencement

2. This Act commences on a day to be proclaimed.

Principal Act

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

*No. 88 of 1994

Section 3 amended (Interpretation)**4.** Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definitions of “Accreditation and Recognition Committee” and “accredited training program” and substituting the following definitions:

“accreditation certificate” means an accreditation certificate issued under section 32V;

“accredited training course” means a course that is registered in the national training register as an accredited course, whether that course is registered by the Qualifications Authority or an interstate course accrediting body;

“amend” means –

- (a) omit any matter; or
- (b) insert or add any matter; or
- (c) omit any matter and substitute other matter;
- (b) by inserting the following definition after the definition of “ANTA”:

“ANTA Ministerial Council” means the Australian National Training Authority Ministerial Council consisting of Ministers from each State and Territory of the Commonwealth and from the Commonwealth who have

responsibility for vocational
education and training;

- (c) by omitting the definition of “competency” and substituting the following definitions:

“Australian Quality Training Framework” means the policy of that name, that defines the criteria and standards for the registration of training organisations and the accreditation of courses in the vocational education and training sector, endorsed by the ANTA Ministerial Council on 8 June 2001, as amended from time to time;

“compliance audit” means a compliance audit conducted under section 32K or 32L;

“corresponding law” means –

- (a) a law of another State or a Territory that is prescribed by the regulations as a corresponding law; or
- (b) if no law of another State or a Territory is prescribed by the regulations under paragraph (a), a law of that State or Territory that has substantially the same effect as Part 5 and 5A; or
- (c) a provision of a law referred to in paragraph (a) or (b);

- (d) by omitting the definition of “Ministerial Council” and substituting the following definitions:

“interstate course accrediting body”

means a body responsible under the law of another State or a Territory for the administration of the registration of courses relating to vocational education and training as accredited courses;

“interstate registered training organisation”

means a person that is registered in the national training register as a registered training organisation by a registering body under a corresponding law;

“legislative compliance standard”

means the standard included in the national training standards which requires that a registered training organisation ensures that compliance with Commonwealth, State and Territory legislation and regulatory requirements relevant to the operation of a registered training organisation is integrated into its policies and procedures and that compliance is maintained;

“local registered training organisation”

means a person that is registered in the national training register as a registered

training organisation by the
Qualifications Authority;

**“national course accreditation
standards”** means –

- (a) the standards for course accreditation functions as endorsed on 8 June 2001 by the ANTA Ministerial Council under the Australian Quality Training Framework, as amended from time to time; or
 - (b) any standards endorsed, approved or adopted by the ANTA Ministerial Council under the Australian Quality Training Framework in substitution for the standards referred to in paragraph (a), as amended from time to time;
- (e) by inserting the following definitions after the definition of “National Strategic Plan”:

“national training register” means –

- (a) the National Training Information Service maintained by ANTA to the extent it consists of registered matters; or
- (b) any service maintained in substitution for the service referred to in paragraph (a)

to the extent it consists of
registered matters;

“national training standards”
means –

- (a) the standards for registered training organisations as adopted by the ANTA Ministerial Council on 8 June 2001, as amended from time to time; or
- (b) any standards adopted by the ANTA Ministerial Council in substitution for the standards referred to in paragraph (a), as amended from time to time;

“nationally endorsed training package” means an integrated set of competency standards and assessment guidelines that –

- (a) lead to a qualification for a particular industry, industry sector or enterprise; and
 - (b) have been endorsed by a committee established by ANTA’s members;
- (f) by omitting “school” from paragraph (a) of the definition of “person” and substituting “school, or a registered school,”;
- (g) by omitting “State schools” from paragraph (b) of the definition of “person” and substituting

“such State schools or registered schools, or both”;

- (h) by omitting the definitions of “qualification”, “quality assurance” and “registered training provider” and substituting the following definitions:

“qualification” means formal certification in vocational education and training by a registered training organisation and under the Australian Qualifications Framework that a person has achieved all the units of competency 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 training course that provides training for the qualification;

“Qualifications Authority” means the Tasmanian Qualifications Authority established by section 5 of the *Tasmanian Qualifications Authority Act 2003*;

“registered”, in relation to a provider of training, a training course, a nationally endorsed training

package or a qualification, means registered in the national training register if the person or matter is registered in that register by –

- (a) the Qualifications Authority under this Act; or
- (b) a registering body, or course accrediting body, under a corresponding law; or
- (c) ANTA or another entity ;

“registered training organisation” means a person who is registered in the national training register as a registered training organisation, whether that person is a local registered training organisation or an interstate registered training organisation;

“registering body” means the Qualifications Authority or a body responsible for registering persons as registered training organisations under a corresponding law;

“registration certificate” means a registration certificate issued under section 32A;

“scope of registration” consists of –

- (a) the training or assessments that a registered training organisation is registered to provide; and

- (b) the qualifications, statements of attainment, units of competency or modules comprising learning outcomes for an accredited training course for which the registered training organisation is registered to provide training or assessments;
- (i) by inserting the following definition after the definition of “Secretary”:
 - “standards for State and Territory registering and course accrediting bodies” means –**
 - (a) the standards for State and Territory registering bodies/course accrediting bodies adopted on 8 June 2001 by the ANTA Ministerial Council under the Australian Quality Training Framework, as amended from time to time; or
 - (b) any standards made or adopted by that Ministerial Council in substitution for the standards referred to in paragraph (a), as amended from time to time;
- (j) by inserting the following definition after the definition of “State training system”:

“statement of attainment” means formal certification in vocational education and training by a registered training organisation under the Australian Qualifications Framework that a person has achieved in –

- (a) part of a qualification; or
 - (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 training course that does not meet the requirements for a qualification;
- (k) by omitting “a training program” from the definition of “trainee” and substituting “training”;
- (l) by inserting the following definition after the definition of “Training Agreements Committee”:

“Training Agreements Register”
means the Training Agreements Register kept under section 75;

- (m) by omitting the definitions of “training program” and “training provider” and substituting the following definition:

“unit of competency” means a specification of knowledge and skill and their application to a standard of performance specified in a nationally endorsed training package;

- (n) by omitting “an accredited training program” from the definition of “vocational placement” and substituting “training leading to a qualification”.

Section 4 amended (Vocational education and training)

5. Section 4(2) of the Principal Act is amended by omitting paragraphs (a), (b), (c) and (d) and substituting the following paragraphs:

- (a) training leading to the attainment of a qualification or statement of attainment; and
- (b) training provided in the State, another State, a Territory or elsewhere by registered training organisations, whether or not under a training agreement; and

Section 5 amended (State Training Plan)

6. Section 5(4) of the Principal Act is amended by inserting “ANTA” after “to the”.

Section 7 amended (Functions and powers of Training Authority)

7. Section 7(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “capital works” and substituting “infrastructure”;
- (b) by omitting from paragraph (g) “by industry and private training providers”.

Section 10 repealed

8. Section 10 of the Principal Act is repealed.

Section 16A substituted

9. Section 16A of the Principal Act is repealed and the following sections are substituted:

Training Agreements Committee subject to direction

17. (1) The Training Authority may give written directions to the Training Agreements Committee in relation to the performance and exercise of its functions and powers, other than discretionary functions and powers.

(2) The Training Agreements Committee is to comply with a direction given under subsection (1).

Service of documents

18. (1) A document may be served on or otherwise provided to the Training Agreements Committee by –

- (a) leaving it at, or sending it by post to, the address of the Training Agreements Committee; or
- (b) faxing it to the Training Agreements Committee's fax number; or
- (c) emailing it to the Training Agreements Committee's email address; or
- (d) any other means determined by the Training Agreements Committee.

(2) The Training Agreements Committee may serve on or otherwise provide to a person a document required to be served or otherwise provided under this Act –

- (a) in the case of a natural person, by –
 - (i) giving it to the person; or
 - (ii) leaving it at, or sending it by post to, the person's postal or residential address, or the place or address of business or employment, last known to the Training Agreements Committee; or
 - (iii) faxing it to the person's fax number; or
 - (iv) emailing it to the person's email address; and
- (b) in the case of any other person, by –
 - (i) leaving it at, or sending it by post to, the person's principal office, office registered under the

Corporations Act or principal place of business; or

- (ii) faxing it to the person's fax number; or
- (iii) emailing it to the person's email address.

Part 3, Division 2 repealed

10. Division 2 of Part 3 of the Principal Act is repealed.

Section 20 amended (Advisory committees)

11. Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “, the Accreditation and Recognition Committee”;
- (b) by inserting the following subsections after subsection (3):

(4) The quorum at a meeting of an advisory committee established under subsection (1)(a) is a majority of the total number of members of the advisory committee.

(5) An advisory committee established under subsection (1)(a) is to keep accurate minutes of its meetings.

(6) Subject to this Act, the procedure for the calling of, and for the conduct of business at, meetings of an advisory committee established under subsection (1)(a) are as determined by the committee.

(7) If all members of an advisory committee established under subsection (1)(a) 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 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 member signs the document.

(8) If a resolution is taken to have been passed under subsection (7), each member of the advisory committee is to be –

- (a) advised immediately of the matter; and
- (b) given a copy of the terms of the resolution.

(9) For the purposes of subsection (7), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members of the advisory committee, is taken to constitute one document.

Parts 4 and 5 substituted

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

PART 4 – QUALIFICATIONS AUTHORITY**Functions and powers of Qualifications
Authority under this Act**

25. (1) The Qualifications Authority has the following functions:

- (a) to liaise with authorities and bodies in respect of accreditation and registration decisions and endorsements of nationally endorsed training packages;
- (b) to register providers of accredited training courses;
- (c) to accredit courses as accredited training courses;
- (d) to ensure that the quality of service provided by registered training organisations is maintained;
- (e) to establish and maintain procedures and systems in respect of its functions under this Act;
- (f) any other function that the Minister, by written notice provided to the Qualifications Authority, directs the Qualifications Authority to perform.

(2) The Qualifications Authority has the following powers under this Act:

- (a) to enter into reciprocal arrangements with other accreditation, recognition and registration bodies;

- (b) to do anything necessary or convenient to be done in connection with the performance and exercise of its functions and powers under this Act.

Directions by Qualifications Authority

26. (1) By written notice served on a registered training organisation, the Qualifications Authority may give directions in relation to any matter relating to qualifications, accredited training courses, training, assessments and registered training organisations.

(2) A registered training organisation must comply with a direction given under subsection (1).

Penalty: Fine not exceeding 200 penalty units.

Review of decisions

27. Part 6 of the *Tasmanian Qualifications Authority Act 2003* makes provision for the review of decisions of the Qualifications Authority made under this Act.

Application of regulations and rules under *Tasmanian Qualifications Authority Act 2003*

28. The *Tasmanian Qualifications Authority Act 2003* provides for the making of regulations and rules in relation to the performance and exercise of the functions and powers of the Qualifications Authority under this Act.

**PART 5 – REGISTERED TRAINING
ORGANISATIONS*****Division 1 – Requirement for registration*****Offence to falsely claim to be registered
training organisation**

29. (1) A person must not claim to be a registered training organisation unless the person is a registered training organisation.

Penalty: Fine not exceeding 200 penalty units.

(2) A person must not –

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

unless the person is a registered training organisation operating within the scope of its registration or a person acting for such a registered training organisation.

Penalty: Fine not exceeding 200 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: Fine not exceeding 200 penalty units.

(4) For subsections (1), (2) and (3), a person claims to be a registered training organisation or claims to be able to do a particular thing if the person –

- (a) makes that claim; or
- (b) does any act likely to induce another person to believe the person is a registered training organisation or is able to do the particular thing.

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

Division 2 – Registration as registered training organisation

Application for registration

30. (1) A person who proposes to provide, in Tasmania or elsewhere, training or assessments in respect of a qualification may apply to the Qualifications Authority for registration as a registered training organisation.

(2) An application is to be –

- (a) in a form approved by the Qualifications Authority; and
- (b) accompanied by any prescribed fee.

(3) The Qualifications Authority may require the applicant to provide any further information it considers relevant to the application.

Registration as registered training organisation

31. (1) On receipt of an application under section 30, the Qualifications Authority may –

- (a) register the applicant as a registered training organisation for a period not exceeding 5 years; or
- (b) refuse to so register the applicant.

(2) In determining whether or not to register an applicant, the Qualifications Authority is to apply the national training standards.

(3) The Qualifications Authority may not register an applicant unless –

- (a) the applicant is not already registered; and
- (b) the Qualifications Authority considers that the applicant's principal place of business is or will be, or all or most of its operations will be conducted, in Tasmania; and
- (c) a compliance audit has been conducted and shows that the applicant complies with the national training standards, other than the legislative compliance standard.

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

- (a) the application is made by an interstate registered training organisation; and

- (b) the interstate registered training organisation has received a notice from a registering body under a corresponding law that corresponds to section 32G; and
- (c) the application does not ask for an amendment of the interstate registered training organisation's existing scope of registration or registered conditions.

(5) The Qualifications Authority may refuse to register the applicant if the Qualifications Authority considers that the applicant is not suitable to be a registered training organisation.

(6) In determining whether the applicant is suitable to be a registered training organisation, the Qualifications Authority may have regard to –

- (a) the prior conduct of the applicant or an associate of the applicant, whether in Tasmania or elsewhere; and
- (b) any other matter the Qualifications Authority considers relevant.

(7) In subsection (6), a person is an associate of the applicant if the person can, or will be able to, have a significant influence over or in relation to the carrying out of the operations of the applicant once registered as a registered training organisation.

(8) Subsections (2), (3) and (5) do not limit the grounds on which the Qualifications Authority may refuse to register the applicant.

(9) On refusing to register an applicant, the Qualifications Authority is to notify the applicant in writing of that decision.

(10) On deciding to register an applicant, the Qualifications Authority is to –

- (a) register the applicant as a training organisation that provides, within its scope of registration –
 - (i) training and assessments resulting in the issue of qualifications or statements of attainment by the organisation; or
 - (ii) assessments resulting in the issue of qualifications or statements of attainment by the organisation; and
- (b) register the scope of the registration.

(11) The Qualifications Authority is to comply with subsection (10) –

- (a) as soon as practicable after deciding to register the applicant; or
- (b) if the application is by a person who is an interstate registered training organisation in respect of whom a registering body is taking action under a corresponding law that corresponds to section 32G(3), as soon as practicable after that registering body cancels the existing registration of the interstate registered training organisation.

Registration subject to conditions

32. (1) On deciding under section 31 to register a person as a registered training organisation, the

Qualifications Authority may impose conditions to which the registration is subject.

(2) A condition may only be imposed under subsection (1) if it –

- (a) applies to the operation of the registered training organisation in all States and Territories; and
- (b) is consistent with this Act and the national training standards.

(3) At any time, the Qualifications Authority –

- (a) may amend conditions imposed on the registration of a registered training organisation under subsection (1); or
- (b) may impose any conditions that it could have imposed under that subsection.

(4) If the Qualifications Authority imposes or amends conditions under subsection (1) or (3), the Qualifications Authority is to –

- (a) notify the applicant or registered training organisation in writing of the condition; and
- (b) register –
 - (i) the conditions imposed under subsection (1) when it registers the applicant as a training organisation; or
 - (ii) the amendment made, or the new conditions imposed, under subsection (3) as soon as practicable after determining to

make the amendment or impose those new conditions.

(5) The registration of a local registered training organisation is also subject to the following conditions:

- (a) the local registered training organisation must comply with the national training standards;
- (b) the local registered training organisation must notify the Qualifications Authority, in writing, of any substantial change to the registered training organisation's control, management or operations before or as soon as practicable after the change occurs;
- (c) the local registered training organisation must –
 - (i) submit to any compliance audit; and
 - (ii) take all necessary steps to comply with the national training standards if a particular compliance audit shows the registered training organisation does not comply with those standards, other than the legislative compliance standard;
- (d) the local registered training organisation must submit to any audit conducted by a registering body under a corresponding law that corresponds to section 32L;

- (e) the local registered training organisation must not contravene a provision of this Act or a corresponding law;
- (f) the local registered training organisation must give to the Qualifications Authority any information it reasonably requires that relates to –
 - (i) any of the operations of the registered training organisation; or
 - (ii) a condition to which the registration is subject;
- (g) registered conditions imposed under a corresponding law corresponding to this Part;
- (h) the local registered training organisation must give to a registering body any information it reasonably requires that relates to a registered condition imposed by the registering body under a corresponding law that corresponds to section 32F(2)(b).

(6) A condition to which the registration of a local registered training organisation is subject applies in relation to the operation of the registered training organisation in all States and Territories, unless the contrary intention appears.

(7) A local registered training organisation must not contravene a condition to which its registration is subject.

Penalty: Fine not exceeding 200 penalty units.

(8) A prescribed condition has effect in Tasmania.

(9) In subsection (8), “**prescribed condition**” means a condition that –

- (a) is imposed on the registration of a registered training organisation by a registering body under a corresponding law; and
- (b) is referred to in a provision of that corresponding law that corresponds to subsection (6).

Registration certificate

32A. (1) On registering a registered training organisation, the Qualifications Authority is to issue a registration certificate to the local registered training organisation.

(2) A registration certificate is to specify –

- (a) the period for which the local registered training organisation is registered; and
- (b) any conditions to which the registration of the local registered training organisation is subject.

(3) If the Qualifications Authority –

- (a) amends the period for which a local registered training organisation is registered; or

- (b) amends the conditions to which the registration is subject; or
- (c) imposes new conditions to which the registration is subject –

the Qualifications Authority is to amend the registration certificate or issue a replacement registration certificate.

(4) Conditions to which the registration of a local registered training organisation is subject may be specified in a registration certificate by –

- (a) specifying those conditions in or on the certificate; or
- (b) attaching those conditions to the certificate; or
- (c) providing to the registered training organisation a written notice containing those conditions.

(5) A local registered training organisation must comply with the written requirement of the Qualifications Authority that the registration certificate be surrendered to the Qualifications Authority for the purpose of amending it or replacing it as the Qualifications Authority determines appropriate.

Term of registration

32B. (1) The registration of a local registered training organisation has effect for the period not exceeding 5 years specified in the registration certificate unless sooner cancelled.

(2) The registration of a local registered training organisation takes effect when that registration is entered in the national training register.

Registration fee

32C. A local registered training organisation must pay any prescribed registration fee.

Amendment of registration

32D. (1) On the application of a local registered training organisation, the Qualifications Authority may amend the registration of the local registered training organisation or the conditions to which the registration is subject, other than the conditions referred to in section 32(5)(a), (b), (c), (d), (e), (f) and (h).

(2) If an application is to amend the scope of the registration or the registered conditions –

- (a) the application is to be –
 - (i) in a form approved by the Qualifications Authority; and
 - (ii) accompanied by any prescribed fee; and
- (b) the Qualifications Authority may require the applicant to provide any further information it considers relevant to the application.

(3) Sections 31 and 32(1), (2) and (4) apply as if the application were an application under section 31 subject to the following:

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

(4) On determining to amend the registration of a registered training organisation or a condition under subsection (1) or to refuse to do so, the Qualifications Authority must notify the applicant of that determination in writing.

(5) The amendment of the registration of a registered training organisation or a condition under subsection (1) takes effect when that amendment is entered in the national training register.

Renewal of registration

32E. (1) A local registered training organisation may apply for renewal of the registration not less than 6 calendar months before the registration ceases to have effect.

(2) This Part applies in respect of an application for renewal of registration as a registered training organisation, and that renewal, as if the application were an application for a first registration as a registered training organisation.

Cancellation, suspension or amendment of registration or conditions

32F. (1) Each of the following is a ground for cancelling, suspending or amending the registration of a registered training organisation or for amending the conditions to which that registration is subject:

- (a) the registered training organisation provided incorrect or misleading information to the Qualifications Authority when applying for that registration, an amendment to that registration or an amendment to the conditions to which that registration is subject;
- (b) the registered training organisation has contravened a condition to which its registration is subject;
- (c) the registered training organisation has contravened a direction given to it under section 26.

(2) If the Qualifications Authority is satisfied that any of the grounds specified in subsection (1) exist, it may, after allowing the registered training organisation an opportunity to make submissions in respect of the matter –

- (a) in the case of a local registered training organisation –
 - (i) amend the scope of its registration or the registered conditions to which registration is subject, including by the imposition of a restriction that applies in Tasmania, another State or a

Territory or in Tasmania and any
or all other States and Territories;
or

- (ii) suspend its registration, or part of
the scope of its registration, for the
purposes of Tasmania, another
State or a Territory, or for
Tasmania and any or all other
States and Territories, by
imposing a prohibition applying in
Tasmania, another State or a
Territory while the suspension is
in force; or

- (iii) cancel its registration; or

- (b) in the case of an interstate registered
training organisation, amend the scope
of its registration or the registered
conditions to which its registration is
subject, but only to impose a restriction
that applies in Tasmania.

(3) The Qualifications Authority may not
impose a restriction under subsection (2)(b) unless –

- (a) the registering body that registered the
registered training organisation –
 - (i) fails to take any step to deal with
the matter to which the grounds
relate within 30 days after the
matter comes to the attention of
the registering body; or
 - (ii) fails, after taking any step to deal
with the matter to which the
grounds relate, to take another

step within 30 days after taking that earlier step; or

- (b) the Qualifications Authority has conducted a compliance audit and is imposing the restriction as a consequence of that audit.

(4) Subsection (3)(a) does not prevent the Qualifications Authority from taking, within the relevant period referred to in that subsection, all steps necessary in preparation for the imposition of a restriction after the end of that period.

(5) If a restriction or prohibition imposed under subsection (2) relates to a particular place, State or Territory, it may only be imposed because of a particular fact situation that has arisen in that place, State or Territory.

(6) A restriction or prohibition imposed under subsection (2) is to be consistent with this Act and the national training standards.

(7) In circumstances the Qualifications Authority considers exceptional, the Qualifications Authority under subsection (2)(a)(ii) may suspend the local registered training organisation from providing training or an assessment, or soliciting or accepting consideration for the provision of training or an assessment, that it would otherwise be entitled to provide, solicit or accept by reason of section 32H(3).

(8) Before cancelling the registration of a local registered training organisation under subsection (2), the Qualifications Authority is to consult with the registering bodies of each State or

Territory in which the registered training organisation is operating.

(9) A failure to comply with subsection (8) does not affect a cancellation of the registration of a local registered training organisation.

Cancelling registration on change of location of operations

32G. (1) On its own initiative or on the application of the local registered training organisation, the Qualifications Authority may cancel the registration of a local registered training organisation if the Qualifications Authority is satisfied that the local registered training organisation does not have its principal place of business, and does not conduct all or most of its operations, in Tasmania.

(2) At least 30 days before cancelling the registration of a local registered training organisation, the Qualifications Authority is to notify the registered training organisation, in writing, of its intention to do so.

(3) If before the end of the period specified in subsection (2) the local registered training organisation makes an application to a registering body in another State or a Territory for registration as a training organisation, the Qualifications Authority may not cancel the registration of the registered training organisation until that application is determined.

(4) Subsection (3) does not apply if the Qualifications Authority is satisfied that the local registered training organisation is not acting honestly in relation to the application to be

registered as a training organisation by a registering body in another State or a Territory.

Effect of suspending registration of registered training organisation

32H. (1) This section applies if the registration, or part of the scope of registration, of a local registered training organisation is suspended under section 32F(2)(a)(ii).

(2) A person must not do anything, in Tasmania, another State or a Territory, for any of the following purposes in relation to training, or an assessment, that is the subject of a suspension under section 32F(2)(a)(ii):

- (a) recruiting or enrolling anyone;
- (b) soliciting, or accepting any consideration for, the recruitment or enrolment of anyone;
- (c) starting a person's training or assessment;
- (d) if the provision of training or the soliciting or accepting of consideration for the provision of training has been suspended under section 32F(7), providing the training or soliciting or accepting consideration for the provision of training.

Penalty: Fine not exceeding 200 penalty units.

(3) If before the suspension took effect the local registered training organisation had 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.

Surrender of registration

32I. (1) A local registered training organisation may surrender its registration with the approval of the Qualifications Authority.

(2) If the Qualifications Authority approves the surrender of the registration of a local registered training organisation, it is to cancel that registration.

Registering amendment, suspension or cancellation of registration on national training register

32J. If the Qualifications Authority under this Part –

- (a) amends the scope of the registration of a registered training organisation or the registered conditions to which that registration is subject; or
- (b) suspends the registration, or part of the scope of the registration, of a registered training organisation; or

- (c) cancels the registration of a registered training organisation –

it is to do so by amending the national training register accordingly.

Division 3 – Compliance audits

Compliance audit of local registered training organisation

32K. (1) The Qualifications Authority may conduct an audit of a person who has applied under section 30 to be registered as a training organisation.

(2) At any time, the Qualifications Authority may conduct an audit of –

- (a) a local registered training organisation;
or
- (b) any of the operations of a local registered training organisation, whether conducted in Tasmania, another State, a Territory or elsewhere.

Compliance audit of interstate registered training organisation

32L. The Qualifications Authority may conduct an audit of an interstate registered training organisation or any of its operations conducted in Tasmania if –

- (a) the Qualifications Authority –

- (i) suspects on reasonable grounds that the registered training organisation may have contravened the national training standards; and
 - (ii) has advised the registering body that registered the registered training organisation of the suspected contravention; and
- (b) that 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 Qualifications Authority; or
 - (ii) at any time advises the Qualifications Authority that it does not propose to take any step or any further step to deal with the suspected contravention.

Conduct of compliance audit

32M. (1) A compliance audit is to comply with 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 compliance audit; or
- (b) arises out of inconsistency between the standards for State and Territory

registering and course accrediting bodies and the legislation of the State or Territory in relation to which the failure arises.

Charge for compliance audit

32N. (1) The Qualifications Authority, by written notice provided to a registered training organisation, may require the registered training organisation to pay a fee in respect of a compliance audit of the registered training organisation.

(2) A fee under subsection (1) must not exceed the reasonable costs of conducting the compliance audit.

(3) A registered training organisation must pay any fee it is required to pay under subsection (1).

Powers not limited by compliance audit provisions

32O. The powers of the Qualifications Authority or a registering body to inquire into the activities of a registered training organisation or other person are not limited by this Division.

***Division 4 – Disclosing information to
registering bodies*****Information may be given to registering bodies**

32P. (1) The Qualifications Authority may disclose to a registering body information it has about, or arising from, the following:

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

(2) In disclosing information under subsection (1) or a provision of a corresponding law that corresponds to that subsection, the Qualifications Authority does not contravene an obligation not to disclose the information, whether imposed by an Act or by another rule of law.

***Division 5 – Issue of qualifications and
statements of attainment*****Issuing qualifications and statements of
attainment**

32Q. (1) A registered training organisation must issue a qualification or statement of attainment to a student who –

- (a) has –
 - (i) undertaken an accredited training course or training consistent with the vocational education and training provisions of the Australian Qualifications Framework with the registered training organisation; and
 - (ii) attained the skills and knowledge required for the issue of a qualification or statement of attainment; or
- (b) has been recognised by the registered training organisation as having the skills and knowledge required for the issue of the qualification or statement of attainment.

Penalty: Fine not exceeding 25 penalty units.

(2) For the purposes of subsection (1), the qualification or statement of attainment must be issued –

- (a) within a reasonable time; or

- (b) if the student has, in writing, requested the issue of the qualification or statement of attainment, within 21 days after the registered training organisation receives that request.

(3) Despite subsections (1) and (2), a registered training organisation may refuse to issue a qualification or statement of attainment if any fee payable to the registered training organisation in respect of the qualification or statement of attainment, or the provision of the accredited training course or training that led to the right to have the qualification or statement of attainment issued, has not been paid.

Cancellation of qualification or statement of attainment

32R. (1) A registered training organisation may cancel a qualification or statement of attainment issued by it if the qualification or statement of attainment was issued –

- (a) in error; or
- (b) because a document or representation was false or misleading or was obtained or made in an improper way.

(2) If the registered training organisation cancels a qualification or statement of attainment, the registered training organisation must give written notice of the cancellation to the person to whom the qualification or statement of attainment was issued.

(3) A person receiving notice under subsection (2) must return the cancelled qualification or statement of attainment to the registered training organisation –

- (a) if the person does not apply for a review of the cancellation under section 60 of the *Tasmanian Qualifications Authority Act 2003*, within 21 days after receiving the notice; or
- (b) if the person does apply for a review of the cancellation under that section, within 21 days after the person withdraws the application or the application is unsuccessful.

Penalty: Fine not exceeding 25 penalty units.

PART 5A – ACCREDITED TRAINING COURSES

Division 1 – Requirement for accreditation

Offence to falsely claim to provide accredited training course

32S. (1) A person must not claim that a course provided, or to be provided, by the person is an accredited training course unless it is an accredited training course.

Penalty: Fine not exceeding 200 penalty units.

(2) For subsection (1), a person claims that a course provided or to be provided by the person is an accredited training course if the person –

- (a) makes that claim; or

- (b) does any act likely to induce another person to believe the course is an accredited training course.

Division 2 – Accreditation of training courses

Applying for accreditation

32T. (1) A person may apply to the Qualifications Authority to have a course accredited.

(2) An application is to be –

- (a) in a form approved by the Qualifications Authority; and
- (b) accompanied by any prescribed fee.

(3) The Qualifications Authority may require the applicant to provide any further information it considers relevant to the application.

Accreditation as accredited training course

32U. (1) On receipt of an application under section 32T, the Qualifications Authority may –

- (a) accredit the training course for a period not exceeding 5 years; or
- (b) refuse to so accredit the training course.

(2) In determining whether or not to accredit a training course, the Qualifications Authority is to apply the national course accreditation standards.

(3) Subsection (2) does not limit the grounds on which the Qualifications Authority may refuse to accredit the training course.

(4) On refusing to accredit a training course, the Qualifications Authority is to notify the applicant in writing of that decision.

(5) On deciding to accredit a training course, the Qualifications Authority is to –

- (a) register the course as an accredited training course as soon as practicable; and
- (b) notify the applicant of the accreditation of the course.

Accreditation certificate

32V. (1) On accrediting a training course, the Qualifications Authority is to issue an accreditation certificate to the person who applied for the accreditation of the course.

(2) An accreditation certificate is to specify –

- (a) the person to whom it is issued; and
- (b) the accredited training course to which it applies; and
- (c) the period for which the training course is accredited.

Term of accreditation

32W. (1) The accreditation of a training course has effect for the period not exceeding 5 years as determined by the Qualifications Authority under section 32U(1)(a).

(2) The accreditation of a training course takes effect on the day the course is registered.

Renewal of accreditation

32X. (1) A person may apply to the Qualifications Authority for the renewal of the accreditation of an accredited training course not less than 6 calendar months before the accreditation ceases to have effect.

(2) This Part applies in respect of an application for renewal of the accreditation of an accredited training course, and that renewal, as if the application were an application for a first accreditation as an accredited training course.

Cancellation of accreditation

32Y. (1) Each of the following is a ground for cancelling the accreditation of an accredited training course:

- (a) the course does not meet the national course accreditation standards;
- (b) the person named in an accreditation certificate has surrendered the accreditation with the approval of the Qualifications Authority.

(2) If the Qualifications Authority is satisfied that the ground specified in subsection (1)(a) exists, it may cancel the accreditation of the accredited training course after allowing the person named in the accreditation certificate an opportunity to make submissions in respect of the matter.

(3) As soon as practicable after determining to cancel the accreditation of an accredited training course on a ground referred to in subsection (1)(a) or approving the surrender of that accreditation, the Qualifications Authority is to notify the person named in the accreditation certificate, in writing, of that determination or approval.

Updating national training register

32Z. If the Qualifications Authority does any of the following, it is to amend the national training register accordingly:

- (a) renew the accreditation of an accredited training course under section 32X;
- (b) cancel the accreditation of an accredited training course under section 32Y.

Part 6: Heading amended

13. Part 6 of the Principal Act is amended by omitting “**PROGRAMS**” from the heading to that Part and substituting “**AGREEMENTS AND VOCATIONAL PLACEMENT AGREEMENTS**”.

Sections 33, 34 and 35 substituted

14. Sections 33, 34 and 35 of the Principal Act are repealed and the following sections are substituted:

Offence to undertake to train a person without training agreement

33. An employer must not undertake to train a person as if that person were a trainee without entering into a training agreement with that person under section 34.

Penalty: Fine not exceeding 100 penalty units.

Employer may enter into training agreements

34. (1) Subject to section 35, an employer may enter into a training agreement with another person to provide training to that other person under the agreement that results in a qualification being issued to that other person.

(2) Within 21 days after entering into a training agreement, an employer is to forward the training agreement to the Training Agreements Committee for its approval under section 36.

Limits on entering into training agreement

35. (1) An employer may not enter into a training agreement under section 34 in relation to a particular qualification if the Training Agreements Committee has determined under subsection (4)(a) that a training agreement may not be entered into in relation to that qualification.

(2) An employer may not enter into a training agreement under section 34 in relation to a particular qualification if the training agreement would contravene, or would require the parties to the training agreement to contravene, any conditions determined under subsection (4)(b) or section 43 by the Training Agreements Committee in relation to that qualification.

(3) An employer may not enter into a training agreement if that agreement is not in a form determined by the Training Agreements Committee under subsection (4)(c).

(4) The Training Agreements Committee may determine –

- (a) that training agreements may not be entered into in relation to a particular qualification; and
- (b) the conditions with which a training agreement, or the parties to a training agreement, in relation to a particular qualification must comply; and
- (c) the form with which training agreements are to comply.

(5) In determining under subsection (4)(c) the form with which training agreements are to comply, the Training Agreements Committee is to have regard to the form and contents of the training contract agreed by the ANTA Ministerial Council.

Section 36 amended (Approval of training agreement)

15. Section 36(3) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) and substituting the following paragraphs:
 - (a) the agreement does not relate to a qualification determined by the Training Agreements Committee under section 35(4)(a) to be a

qualification in relation to which training agreements may not be entered into; and

(ab) the agreement is in the form determined by the Training Agreements Committee under section 35(4)(c); and

(ac) the employer is a fit and proper person within the meaning of section 54; and

(b) by omitting from paragraph (c) “the” third occurring and substituting “any”.

Section 38 amended (Compliance with training agreement)

16. The penalty under section 38(1) of the Principal Act is amended by omitting “10” and substituting “100”.

Sections 43 and 44 substituted

17. Sections 43 and 44 of the Principal Act are repealed and the following sections are substituted:

Training subject to conditions

43. (1) The Training Agreements Committee may determine conditions in respect of the training, or the provision of training, under a training agreement leading to a particular qualification, a class of qualification or all qualifications.

(2) The employer and trainee under a training agreement are to comply with any relevant conditions determined under subsection (1).

Directions by Training Agreements Committee

44. (1) The Training Agreements Committee may direct a party to a training agreement to take any action the Training Agreements Committee considers appropriate or refrain from doing any act if the Training Agreements Committee is of the opinion that –

- (a) the party has contravened the agreement; or
- (b) the party has contravened this Act; or
- (c) it is otherwise appropriate to give the direction.

(2) A direction is to be in writing provided to the party to the training agreement.

(3) A party to the training agreement must comply with a direction provided to him, her or it under this section.

Penalty: Fine not exceeding 100 penalty units.

Sections 45, 46 and 47 substituted

18. Sections 45, 46 and 47 of the Principal Act are repealed and the following sections are substituted:

Vocational placement agreement

45. (1) A vocational placement agreement is a written agreement between an employer and a registered training organisation –

- (a) under which the employer may provide vocational placements for persons undertaking training required for a qualification; and
- (b) which sets out the obligations and rights of –
 - (i) the employer; and
 - (ii) the registered training organisation; and
 - (iii) the persons referred to in paragraph (a) who are provided with vocational placements with or by the employer.

(2) A vocational placement agreement –

- (a) must contain the provisions, or provisions of a type, determined by the Training Agreements Committee that are relevant to the vocational placements being provided; and
- (b) may contain other appropriate provisions.

Vocational placement of no effect unless under vocational placement agreement

46. An employer must not provide a vocational placement –

- (a) without entering into a vocational placement agreement with the registered training organisation; and
- (b) without the approval of any relevant trade union.

Penalty: Fine not exceeding 50 penalty units.

Offence to contravene vocational placement agreement

47. A party to a vocational placement agreement must not contravene the agreement.

Penalty: Fine not exceeding 50 penalty units.

Section 52 amended (Indemnity insurance)

19. Section 52 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “training provider” first occurring and substituting “registered training organisation”;
- (b) by omitting from subsection (1)(a) “training provider” and substituting “registered training organisation”;
- (c) by omitting from subsection (2) “\$5 000 000” and substituting “\$10 000 000”.

Section 53 inserted

20. After section 52 of the Principal Act, the following section is inserted in Division 2:

Directions by Training Agreements Committee

53. (1) The Training Agreements Committee may direct a party to a vocational placement to take any action the Training Agreements Committee considers appropriate or refrain from doing any act if the Training Agreements Committee is of the opinion that –

- (a) the party has contravened the vocational placement agreement; or
- (b) the party has contravened this Act; or
- (c) it is otherwise appropriate to give the direction.

(2) A direction is to be in writing provided to the party to the vocational placement.

(3) A party to the vocational placement must comply with a direction provided to him, her or it under this section.

Penalty: Fine not exceeding 50 penalty units.

Part 6, Division 3 inserted

21. After section 52 of the Principal Act, the following Division is inserted in Part 6:

***Division 3 – Restrictions on entering into
training agreements or vocational placement
agreements***

**Persons who may not enter into training
agreements or vocational placement
agreements**

54. (1) After allowing an employer an opportunity to make submissions in respect of the matter, the Training Agreements Committee may determine that the employer is not a fit and proper person for the purposes of entering into training agreements or vocational placement agreements.

(2) In determining whether an employer is not a fit and proper person, the Training Agreements Committee may take into account –

- (a) whether or not the employer has contravened this Act; and
- (b) the previous behaviour of the employer in Tasmania in relation to the fulfilment of training agreements and vocational placement agreements; and
- (c) the previous behaviour of the employer in any place other than Tasmania in relation to the fulfilment of agreements made in that place which are similar in effect to training agreements and vocational placement agreements; and
- (d) whether or not the employer has failed to comply with any directions given by the Training Agreements Committee; and

- (e) any other matter the Committee considers relevant.

(3) If the Training Agreements Committee determines that an employer is not a fit and proper person, it –

- (a) is to notify the employer, in writing, of that determination and that the employer is not entitled to enter into training agreements or vocational placement agreements; and
- (b) may notify a body in another State or a Territory that has functions that correspond to those of the Training Agreements Committee of that determination; and
- (c) may notify a department, or agency, of the Commonwealth that has responsibility for matters relating to vocational education and training of that determination.

(4) A notice under subsection (3) has effect until revoked.

Offence to enter into training agreement or vocational placement agreement

55. An employer who has received a notice under section 54(3) must not enter into a training agreement or a vocational placement agreement while that notice has effect.

Penalty: In the case of –

- (a) a training agreement, a fine not exceeding 100 penalty units; or
- (b) a vocational placement agreement, a fine not exceeding 50 penalty units.

Revocation of notice

56. (1) The Training Agreements Committee may revoke a notice issued under section 54(3) –

- (a) on the application of the employer; or
- (b) at its own discretion.

(2) An employer may not make an application within 12 months after –

- (a) receiving the notice issued under section 54(3); or
- (b) the determination of the last such application.

(3) An application is to be in writing and accompanied by any prescribed fee.

(4) On determining to revoke a notice issued under section 54(3) or refuse to revoke that notice, the Training Agreements Committee is to notify the employer of that determination, in writing.

Section 67 amended (Inquiries)

22. Section 67 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);

- (b) by omitting from subsection (1)(b)(v) “agreements.” and substituting “agreements; or”;
- (c) by inserting the following subparagraph after subparagraph (v) in subsection (1)(b):
 - (vi) whether or not an employer is a fit and proper person for the purposes of entering into training agreements or vocational placement agreements.
- (d) by omitting from subsection (2)(c) “the” and substituting “any”.

Section 68 amended (Disputes relating to training and vocational placement agreements)

23. The penalty under section 68(5) of the Principal Act is amended by omitting “5” and substituting “50”.

Section 69 amended (Inspections)

24. Section 69 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1) and substituting the following paragraph:
 - (a) to require any person to produce any records or documents relating to –
 - (vii) a training agreement or training or assessments to which a training agreement relates; or

- (viii) a vocational placement agreement or training or assessments provided under a vocational placement agreement; and
- (b) by inserting the following subsections after subsection (1):
 - (1A)** Subsection (1) does not authorise an inspection in respect of any matter for which the Qualifications Authority has responsibility under this Act including, but not limited to, records and documents relating to the provision of training or an assessment, other than the provision of training or an assessment that is the subject of a training agreement or in respect of which a vocational placement is provided.
 - (1B)** Part 5 of the *Tasmanian Qualifications Authority Act 2003* makes provision for investigations and inspections in respect of matters for which the Qualifications Authority has responsibility under this Act.
- (c) by omitting from the penalty under subsection (4) “10” and substituting “50”.

Section 70 amended (Search warrants)

25. Section 70(3) of the Principal Act is amended by omitting “accredited training programs” and substituting “training or assessments leading to a qualification”.

Section 71 substituted

26. Section 71 of the Principal Act is repealed and the following section is substituted:

Declaration of interest

71. (1) In this section –

“committee” means –

- (a) the Training Agreements Committee; and
- (b) any advisory committee established under section 20;

“member of a person’s family” means –

- (a) spouse, partner, parent, step-parent, grandparent, child, stepchild or grandchild; or
- (b) brother, sister, half-brother or half-sister;

“partner” means the person with whom a person is in a personal relationship, within the meaning of the *Relationships Act 2003*.

(2) If a member of the Training Authority or any committee has any direct or indirect pecuniary or other interest in any matter being, or about to be, considered by the Training Authority or that 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 Training Authority or committee.

Penalty: Fine not exceeding 50 penalty units.

(3) Without limiting what constitutes an interest in a matter, a member has an interest in a matter if the person or a member of that person's family would receive, or would have a reasonable expectation of receiving, a direct or indirect pecuniary or other benefit or detriment if the matter were decided in a particular manner.

(4) Unless the Training Authority or committee otherwise determines, a member who has made a disclosure under subsection (2) in relation to a matter must not –

- (a) be present during any deliberation of the Training Authority or committee in relation to the matter; or
- (b) take part in any decision of the Training Authority or committee in relation to the matter.

(5) For the purpose of making a determination under subsection (4), the member to whom the determination relates must not –

- (a) be present during the deliberation of the Training Authority or committee for the purpose of making the determination; or
- (b) take part in making the determination.

(6) Subsection (2) does not apply –

- (a) in respect of a contract for goods or services supplied by the Training Authority or committee if those goods or services are ordinarily supplied by the Training Authority or 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 member is also a State Service officer or a State Service employee.

Section 75 amended (Training Agreements Register)

27. Section 75 of the Principal Act is amended by omitting “a register” and substituting “the Training Agreements Register”.

Section 76 amended (Collection of records, statistics and information)

28. Section 76(1) of the Principal Act is amended by omitting “provider” and substituting “organisation”.

Section 77 amended (Records)

29. Section 77 of the Principal Act is amended by omitting “Accreditation and Recognition Committee” and substituting “Qualifications Authority”.

Section 79 repealed

30. Section 79 of the Principal Act is repealed.

Section 80 amended (Evidence)

31. Section 80 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “register” first occurring and substituting “Training Agreements Register”;
- (b) by omitting subsection (2) and substituting the following subsections:

(2) In any proceedings under this Act, a certificate signed or purporting to be signed by the chairperson of the Training Agreements Committee stating that any person at any date specified in the certificate was, or was not, registered is evidence of that fact.

(3) In any proceedings under this Act or the *Tasmanian Qualifications Authority Act 2003*, a certificate signed or purporting to be signed by the chief executive officer of the Qualifications Authority and relating to one or more of the following matters is evidence of the matters specified in it:

- (a) whether or not a person was a registered training organisation;
- (b) whether or not a condition was a condition to which the registration of a person as a registered training organisation was subject;
- (c) whether or not a course was an accredited training course.

Section 83 amended (Regulations)

32. Section 83 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):

(1A) Without limiting the generality of subsection (1), the regulations may provide for the registration of details on the national training register not otherwise expressly provided for under Part 5 or 5A.

- (b) by omitting from subsection (2)(b) “10” and substituting “50”;
- (c) by omitting from subsection (2)(b) “2” and substituting “10”;
- (d) by inserting the following subsections after subsection (3):

(4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Training Authority, the Qualifications Authority, the Training Agreements Committee or any other person specified in the regulations.

(5) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any regulations made under the *Tasmanian Qualifications Authority Act 2003*.

(6) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of the *Vocational Education and Training Amendment Act 2003*.

(7) A provision referred to in subsection (6) may take effect on and from the day on which the *Vocational Education and Training Amendment Act 2003* commences or a later day.

Section 85A inserted

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

**Savings and transitional provisions
consequent on *Vocational Education and
Training Amendment Act 2003***

85A. Schedule 5 has effect in respect of savings and transitional provisions consequent on the commencement of the *Vocational Education and Training Amendment Act 2003*.

Section 87 repealed

34. Section 87 of the Principal Act is repealed.

**Schedule 1 amended (Membership and Meetings of
Training Authority)**

35. Schedule 1 to the Principal Act is amended by inserting after clause 8 the following clause:

Resolutions without meetings

8A. (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 resolution in those terms is taken to have been passed at a meeting of the Training Authority 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 member 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.

Schedule 2 amended (Membership and Meetings of Committees)

36. Schedule 2 to the Principal Act is amended as follows:

- (a) by omitting from the heading “**COMMITTEES**” and substituting “**TRAINING AGREEMENTS COMMITTEE**”;
- (b) by omitting clause 1 and substituting the following clause:

Interpretation

1. In this Schedule, “**member**” means a member of the Training Agreements Committee.

- (c) by omitting from clause 6(1) “or paragraph (b), (c), (d), (e) or (f) of section 17(2)”;
- (d) by omitting from clause 6(1) “those paragraphs” and substituting “that paragraph”;
- (e) by omitting subclause (2) from clause 6;

- (f) by omitting from clause 7(b)(ii) “the Training Agreements Committee or 4 members of the Accreditation and Recognition” and substituting “that”;
- (g) by omitting subclause (1) from clause 8 and substituting the following subclause:
 - (1) The quorum at any duly convened meeting of the Training Agreements Committee is 4 members.
- (h) by inserting the following clause after clause 8:

Resolutions without meetings

8A. (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 resolution in those terms is taken to have been passed at a meeting of the Training Agreements 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 member 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.

- (i) by omitting from clause 10 “A” and substituting “The Training Agreements”.

Schedule 5 inserted

37. After Schedule 4 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 5 – SAVINGS AND
TRANSITIONAL PROVISIONS CONSEQUENT
ON *VOCATIONAL EDUCATION AND
TRAINING AMENDMENT ACT 2003***

Section 85A

PART 1 – PRELIMINARY

Interpretation

1. In this Schedule –

“**Accreditation Committee**” means the Tasmanian Accreditation and Recognition Committee continued under section 17 of the former Act;

“**ANTA service**” means the National Training Information Service maintained by ANTA;

“**commencement day**” means the day on which this Act commences;

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

“recorded condition” means a condition of a registered training organisation that is taken to be registered by reason of clause 5(3).

PART 2 – SAVINGS AND TRANSITIONAL PROVISIONS

Abolition of Accreditation Committee

2. (1) The Accreditation Committee is abolished on 1 February 2004 or the commencement day, whichever occurs later.

(2) The appointment of each member of the Accreditation Committee is revoked on 1 February 2004 or the commencement day, whichever occurs later.

Section 77 report

3. For the purposes of the report due to be provided by 31 January 2004 under section 77(b), that section continues to apply to the Accreditation Committee as if that section had not been amended by the *Vocational Education and Training Amendment Act 2003*.

Directions by Accreditation Committee

4. A direction given by the Accreditation Committee under section 19A of the former Act and not complied with before the commencement day is

taken to be a direction given by the Qualifications Authority under section 26 of this Act.

Details on ANTA service

5. (1) A person who immediately before the commencement day is noted in the ANTA service as a registered training provider is taken to have been registered as a registered training organisation under Part 5 or a corresponding law that corresponds to that Part by the Qualifications Authority or a registering body, as appropriate.

(2) The scope of registration and term of registration of a registered training provider noted in the ANTA service immediately before the commencement day are taken to have been registered as the scope of registration and term of registration of a registered training organisation under Part 5 or a corresponding law that corresponds to that Part by the Qualifications Authority or a registering body, as appropriate.

(3) The registered conditions of a registered training provider noted in the ANTA service immediately before the commencement day are taken to have been registered as the registered conditions of a registered training organisation under Part 5 or a corresponding law that corresponds to that Part by the Qualifications Authority or a registering body, as appropriate.

(4) The registration of a course noted in the ANTA service immediately before the commencement day is taken to have been registered as an accredited training course under Part 5A or a corresponding law that corresponds to that Part by

the Qualifications Authority or a registering body, as appropriate.

(5) The term of registration of a course noted in the ANTA service immediately before the commencement day is taken to have been registered as the term of registration of an accredited training course under Part 5A or a corresponding law that corresponds to that Part by the Qualifications Authority or a registering body, as appropriate.

Recorded conditions

6. On the commencement day, a recorded condition is taken to be a condition imposed under section 32, 32D or 32F, or a corresponding law that corresponds to any of those sections, if a similar condition may be imposed under that section or corresponding law in similar circumstances to those applying when the recorded condition was imposed.

Application to be registered training provider

7. (1) An application for registration as a registered training provider made to Accreditation Committee, and accompanied by the fee required, under section 25 of the former Act and not determined before the commencement day is taken to be an application for registration as a registered training organisation made to the Qualifications Authority under section 30 of this Act and to have been accompanied by the appropriate prescribed fee.

(2) Any thing done by the Accreditation Committee in relation to an application referred to

in subclause (1) is taken to have been done by the Qualifications Authority.

Certificate of registration

8. A certificate of registration issued under section 26 of the former Act is taken to be a registration certificate issued under section 32A of this Act.

Application for accreditation of training program

9. (1) An application for accreditation of a training program made to the Accreditation Committee, and accompanied by the fee required, under section 29 of the former Act and not determined before the commencement day is taken to be an application for the accreditation of a course made to the Qualifications Authority under section 32T of this Act and to have been accompanied by the appropriate prescribed fee.

(2) Any thing done by the Accreditation Committee in relation to an application referred to in subclause (1) is taken to have been done by the Qualifications Authority.

Certificate of accreditation

10. A certificate of accreditation issued under section 30 of the former Act is taken to be an accreditation certificate issued under section 32V of this Act.

Other applications

11. (1) In this clause, “**application**” means an application made under the former Act, other than an application for registration as a registered training provider or for the accreditation of a training program.

(2) If an application has been made to the Accreditation Committee and not determined before the commencement day –

- (a) that application is taken to have been made to the Qualifications Authority under this Act; and
- (b) anything done by the Accreditation Committee in relation to that application is taken to have been done by the Qualifications Authority.

Documents

12. (1) If appropriate, a certificate or other document issued or made by the Accreditation Committee under the former Act is taken to have been issued or made by the Qualifications Authority under this Act.

(2) If appropriate, a reference to the Accreditation Committee in any Act, certificate or other document, is taken to be, or to include, a reference to the Qualifications Authority.

(3) If appropriate, a document served on or by, or otherwise provided to or by, the Accreditation Committee is taken to be served on or by, or provided to or by, the Qualifications Authority.

Inquiries

13. If, under section 67 of the former Act, an application has been made to the Training Authority for the carrying out of an inquiry into a decision of the Accreditation Committee or the Training Authority has commenced such an inquiry on its own motion, but the inquiry has not been completed before the commencement day –

- (a) that application is taken to have been made, or the inquiry is taken to have been commenced, under section 67 of this Act in respect of a decision of the Qualifications Authority and that decision is taken to be one for which an inquiry may be undertaken under that section; and
- (b) the inquiry may be continued in accordance with section 67 of this Act.

Substitutions

38. Each of the provisions of the Principal Act specified in Column 1 of Schedule 1 is amended by omitting “a” on the number of occurrences specified in Column 2 of that Schedule and substituting “the Training Agreements”.

SCHEDULE 1 – SUBSTITUTIONS

Section 38

Column 1	Column 2
Provision amended	Number of occurrences
Clause 5(2)(a) of Schedule 2	1
Clause 7 of Schedule 2	first only
Clause 8(2) of Schedule 2	first only
Clause 8(3) of Schedule 2	second only
Clause 8(4) of Schedule 2	second only
Clause 9(1) of Schedule 2	1
Clause 9(2) of Schedule 2	first only
Clause 11 of Schedule 2	1
Clause 12(1) of Schedule 2	first only
Clause 12(1) of Schedule 2	third only
Clause 12(2) of Schedule 2	first only
Clause 12(2) of Schedule 2	third only
Clause 13 of Schedule 2	first only