

TASMANIA

**VOCATIONAL EDUCATION AND TRAINING
AMENDMENT (TASMANIAN LEARNING
AND SKILLS AUTHORITY) BILL 2004**

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**VOCATIONAL EDUCATION AND TRAINING
AMENDMENT (TASMANIAN LEARNING
AND SKILLS AUTHORITY) BILL 2004**

*(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* 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

Short title

1. This Act may be cited as the *Vocational Education and
Training Amendment (Tasmanian Learning and Skills
Authority) Act 2004*.

Commencement

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

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

Principal Act

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

Long title amended

4. The long title of the Principal Act is amended by inserting “**and to oversee the provision of post-Year 10 education and training in Tasmania**” after “**system**”.

Section 3 amended (Interpretation)

5. Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “accredited training course”:

“adult and community education”

means the diverse range of learning activities within community and other settings that develop the social, cultural and economic potentials of individuals and the community;

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

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“higher education” means education in relation to which a higher education award may be issued under the Australian Qualifications Framework;

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

“Learning and Skills Authority” means the Tasmanian Learning and Skills Authority established by section 6;

- (d) by inserting the following definition after the definition of “national course accreditation standards”:

“national policy agreement” means any agreement made by the Minister on behalf of Tasmania and the appropriate Ministers or other persons on behalf of the Commonwealth, the other States and the Territories that relates to nationally agreed policy for the delivery and the funding of vocational education and training;

- (e) by inserting the following definition after the definition of “person”:

“post-Year 10 education and training” means –

- (a) senior secondary education;
or

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- (b) vocational education and training; or
 - (c) higher education; or
 - (d) adult and community education;
- (f) by inserting the following definition after the definition of “registration certificate”:

“senior secondary education” means education that is normally undertaken during the final 2 years of secondary education, being the years of secondary education commonly known as years 11 and 12;

- (g) by omitting the definition of “Training Authority”;
- (h) by omitting the definition of “vocational education and training” and substituting the following definition:

“vocational education and training” means the education, training and attainment of qualifications or statements of attainment under the vocational education and training provision of the Australian Qualifications Framework;

Section 4 amended (Vocational education and training)

6. Section 4(2) of the Principal Act is amended by omitting paragraph (e).

Section 5 amended (State Training Plan)

7. Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Training” first occurring and substituting “Learning and Skills”;
- (b) by omitting from subsection (2) “Training” second occurring and substituting “Learning and Skills”;
- (c) by omitting from subsection (3) “Training” second occurring and substituting “Learning and Skills”;
- (d) by omitting from subsection (4) “Training” first occurring and substituting “Learning and Skills”.

Part 2: Heading amended

8. Part 2 of the Principal Act is amended by omitting “**TASMANIAN STATE TRAINING AUTHORITY**” from the heading to that Part and substituting “**TASMANIAN LEARNING AND SKILLS AUTHORITY**”.

Part 2, Division 1: Heading amended

9. Division 1 of Part 2 of the Principal Act is amended by omitting “*Continuation of Tasmanian State Training Authority*” from the heading to that Division and substituting “*Establishment of Tasmanian Learning and Skills Authority*”.

Section 6 amended (Tasmanian Learning and Skills Authority)

10. Section 6 of the Principal Act is amended as follows:

- (a) by omitting subsections (1) and (2) and substituting the following subsections:

(1) The Tasmanian Learning and Skills Authority is established.

(2) The Learning and Skills Authority consists of –

- (a) the Secretary; and
- (b) 2 persons selected from nominations submitted by organisations representing employers; and
- (c) 2 persons selected from nominations submitted by organisations representing employees; and
- (d) one person who is a representative of the Aboriginal community; and

- (e) 4 persons who collectively have experience in, and knowledge of –
 - (i) higher education; and
 - (ii) senior secondary education; and
 - (iii) adult and community education; and
 - (iv) vocational education and training.

(2A) The members of the Learning and Skills Authority, other than the Secretary, are appointed by the Minister.

- (b) by omitting from subsection (3) “Training” and substituting “Learning and Skills”;
- (c) by omitting from subsection (4) “Training” and substituting “Learning and Skills”;
- (d) by omitting from subsection (5) “Training” and substituting “Learning and Skills”;
- (e) by omitting from subsection (7) “Training” and substituting “Learning and Skills”.

Section 7 amended (Functions and powers of Learning and Skills Authority)

11. Section 7 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

(1) The Learning and Skills Authority has the following functions:

- (a) to advise the Minister on the development and implementation of policy frameworks and priorities for post-Year 10 education and training in Tasmania to ensure that high-quality services and programs are provided to meet the needs of industry, government, communities and individuals;
- (b) to advise the Minister on state-wide planning for post-Year 10 education and training;
- (c) to advise the Minister on post-Year 10 education and training strategies to complement state and national economic and social development;
- (d) to oversee the implementation of national policy agreements;
- (e) to develop State Training Plans consistent with the National Strategic Plan;
- (f) to monitor the outcomes of post-Year 10 education and training for the broad purposes of economic and regional development, community development, the development of individuals and social justice;

- (g) to support local networks and community partnerships in delivering post-Year 10 education and training programs and services;
 - (h) to inquire into, undertake research on and make reports on the development of post-Year 10 education and training programs and services;
 - (i) to promote the provision of, and participation in, services or activities relating to post-Year 10 education and training;
 - (j) to establish and maintain a consultative process with governments and persons that have an interest in post-Year 10 education and training;
 - (k) to liaise with the Qualifications Authority on matters of mutual interest;
 - (l) any other function the Minister, by notice in writing, directs the Learning and Skills Authority to perform.
- (b) by omitting from subsection (2) “Training” and substituting “Learning and Skills”.

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Skills Authority)*

Section 8 amended (Delegation by Learning and Skills Authority)

12. Section 8(1) of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

Section 9 amended (Assistance to Learning and Skills Authority)

13. Section 9 of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

Section 12 amended (Acceptance on behalf of Learning and Skills Authority)

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

Section 13 amended (Annual report)

15. Section 13(1) of the Principal Act is amended as follows:

- (a) by omitting “Training” and substituting “Learning and Skills”;
- (b) by omitting “31 March” and substituting “30 April”.

Section 14 amended (Establishment of Tasmanian Training Agreements Committee)

16. Section 14(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) one is a person nominated by the Learning and Skills Authority; and

Section 15 amended (Functions and powers of Training Agreements Committee)

17. Section 15 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “Training” and substituting “Learning and Skills”;
- (b) by omitting from subsection (1)(d) “Training” and substituting “Learning and Skills”;
- (c) by omitting from subsection (1)(e) “Training” and substituting “Learning and Skills”;
- (d) by omitting from subsection (2)(a) “Training” and substituting “Learning and Skills”.

Section 16 amended (Delegation by Training Agreements Committee)

18. Section 16 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Training” second occurring and substituting “Learning and Skills”;

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- (b) by omitting from subsection (2) “Training” second occurring and substituting “Learning and Skills”;
- (c) by omitting from subsection (2) “Training” third occurring and substituting “Learning and Skills”;
- (d) by omitting from subsection (3) “Training” and substituting “Learning and Skills”.

Section 17 amended (Training Agreements Committee subject to direction)

19. Section 17(1) of the Principal Act is amended by omitting “Training” first occurring and substituting “Learning and Skills”.

Section 20 amended (Advisory committees)

20. Section 20(1) of the Principal Act is amended as follows:

- (a) by omitting “Training” first occurring and substituting “Learning and Skills”;
- (b) by omitting from paragraph (a) “Training” first occurring and substituting “Learning and Skills”.

Section 21 amended (Industry training advisory bodies)

21. Section 21(1) of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

Section 21A amended (Establishment of industry training advisory body)

22. Section 21A(1) of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

Section 22 amended (Functions and powers of industry training advisory bodies)

23. Section 22(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “Training” and substituting “Learning and Skills”;
- (b) by omitting from paragraph (b) “Training” and substituting “Learning and Skills”.

Section 67 amended (Inquiries)

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

- (a) by omitting from subsection (1) “Training” first occurring and substituting “Learning and Skills”;

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

Section 69 amended (Inspections)

25. Section 69(1) of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

Section 70 amended (Search warrants)

26. Section 70 of the Principal Act is amended as follows:

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

Section 71 amended (Declaration of interest)

27. Section 71 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “Training” three times occurring and substituting “Learning and Skills”;
- (b) by omitting from subsection (4) “Training” first occurring and substituting “Learning and Skills”;
- (c) by omitting from subsection (4)(a) “Training” and substituting “Learning and Skills”;
- (d) by omitting from subsection (4)(b) “Training” and substituting “Learning and Skills”;
- (e) by omitting from subsection (5)(a) “Training” and substituting “Learning and Skills”;
- (f) by omitting from subsection (6)(a) “Training” twice occurring and substituting “Learning and Skills”.

Section 77 amended (Records)

28. Section 77(b) of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

Section 78 amended (Scholarships, bursaries and prizes)

29. Section 78 of the Principal Act is amended by omitting “Training” and substituting “Learning and Skills”.

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Section 83 amended (Regulations)

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

- (a) by omitting from subsection (4) “Training” first occurring and substituting “Learning and Skills”;
- (b) by inserting in subsection (6) “or the *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004*” after “*Vocational Education and Training Amendment Act 2003*”;
- (c) by inserting in subsection (7) “or the *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004*, as the case requires,” after “*Vocational Education and Training Amendment Act 2003*”.

Section 85B inserted

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

Savings and transitional provisions consequent on *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004*

85B. Schedule 6 has effect in respect of savings and transitional provisions consequent on the commencement of the *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004*.

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

32. Schedule 1 to the Principal Act is amended as follows:

- (a) by omitting from the heading “**TRAINING**” and substituting “**LEARNING AND SKILLS**”;
- (b) by omitting from clause 1 “Training” and substituting “Learning and Skills”;
- (c) by omitting from clause 5(2)(a) “Training” first occurring and substituting “Learning and Skills”;
- (d) by omitting from clause 5(2)(a) “Training” second occurring;
- (e) by omitting from clause 6(1) “paragraph (a) or (b) of section 6(2)” and substituting “paragraph (b) or (c) of section 6(2)”;
- (f) by omitting from clause 6(1) “those paragraphs” and substituting “that paragraph”;
- (g) by omitting from clause 6(2) “section 6(2)(c)” and substituting “paragraph (d) or (e) of section 6(2)”;
- (h) by inserting in clause 6(2) “who meets the qualifications specified in that paragraph” after “person”;
- (i) by omitting from clause 7 “Training” first occurring and substituting “Learning and Skills”;
- (j) by omitting from clause 7(a) “Training”;

- (k) by omitting from clause 8(1) “Training” and substituting “Learning and Skills”;
- (l) by omitting from clause 8(2) “Training” first occurring and substituting “Learning and Skills”;
- (m) by omitting from clause 8(2) “Training” second occurring;
- (n) by omitting from clause 8(3) “Training” and substituting “Learning and Skills”;
- (o) by omitting from clause 8(4) “Training” and substituting “Learning and Skills”;
- (p) by omitting from clause 8A(1) “Training” and substituting “Learning and Skills”;
- (q) by omitting from clause 9(1) “Training” first occurring and substituting “Learning and Skills”;
- (r) by omitting from clause 9(1) “Training” second occurring;
- (s) by omitting from clause 9(2) “Training” first occurring and substituting “Learning and Skills”;
- (t) by omitting from clause 9(2) “Training” second occurring;
- (u) by omitting from clause 10 “Training” and substituting “Learning and Skills”;
- (v) by omitting from clause 11 “Training” first occurring and substituting “Learning and Skills”;

- (w) by omitting from clause 11 “Training” second occurring;
- (x) by omitting from clause 12(1) “Training” first occurring and substituting “Learning and Skills”;
- (y) by omitting from clause 12(1) “Training” second occurring;
- (z) by omitting from clause 12(1) “Training” third occurring;
- (za) by omitting from clause 12(2) “Training” first occurring and substituting “Learning and Skills”;
- (zb) by omitting from clause 12(2) “Training” second occurring;
- (zc) by omitting from clause 12(2)(a) “Training”;
- (zd) by omitting from clause 12(2)(b) “Training”;
- (ze) by omitting from clause 13 “Training” first occurring and substituting “Learning and Skills”;
- (zf) by omitting from clause 13(a) “Training”;
- (zg) by omitting from clause 13(b) “Training”;
- (zh) by omitting from clause 13(d) “Training”.

Schedule 6 inserted

33. After Schedule 5 to the Principal Act, the following Schedule is inserted:

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**SCHEDULE 6 – SAVINGS AND
TRANSITIONAL PROVISIONS CONSEQUENT
ON VOCATIONAL EDUCATION AND
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Section 85B

Interpretation

1. In this Schedule –

“Amendment Act” means the *Vocational Education and Training Amendment (Tasmanian Learning and Skills Authority) Act 2004*;

“commencement day” means the day on which the Amendment Act commences;

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

“Tasmanian State Training Authority” means the Tasmanian State Training Authority continued under section 6 of the former Act.

Abolition of Tasmanian State Training Authority

2. The Tasmanian State Training Authority is abolished.

Annual report for 2004

3. (1) The Learning and Skills Authority is to submit to the Minister by 30 April 2005 an annual report in respect of the activities of the Tasmanian State Training Authority during the 12 months ending on 31 December 2004.

(2) On receipt of the report, the Minister is to forward a copy of it to ANTA.

(3) Section 13 does not apply in respect of the 12 months ending on 31 December 2004.

Delegations

4. A delegation of any function or power made by the Tasmanian State Training Authority under section 8 of the former Act and in effect immediately before the commencement day continues and is taken to have been made by the Learning and Skills Authority.

Directions

5. A direction given by the Tasmanian State Training Authority to the Training Agreements Committee under section 17 of the former Act and in effect immediately before the commencement day continues and is taken to have been given by the Learning and Skills Authority.

Advisory committees

6. An advisory committee established under section 20(1)(a) of the former Act to assist the Tasmanian State Training Authority is taken to have been established to assist the Learning and Skills Authority and is not otherwise affected by the commencement of the Amendment Act.

Inquiries

7. (1) If a person has applied under section 67 of the former Act to the Tasmanian State Training 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 the Learning and Skills Authority under section 67 of this Act.

(2) If the Tasmanian State Training 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 the Learning and Skills Authority; and
- (b) anything done by or in relation to the Tasmanian State Training Authority for the purposes of, or in the course of, that inquiry is taken to have been done by or in relation to the Learning and Skills Authority.

Certificates of authority

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

Documents

9. A reference in an Act or any other document to the Tasmanian State Training Authority is taken to be or include a reference to the Learning and Skills Authority if the context requires it.

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**PART 3 – BUILDING AND CONSTRUCTION
INDUSTRY TRAINING FUND ACT 1990 AMENDED**

Principal Act

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

Section 34 amended (Building and construction industry training plans)

35. Section 34(4) of the Principal Act is amended by omitting “Tasmanian State Training Authority” and substituting “Tasmanian Learning and Skills Authority established under the *Vocational Education and Training Act 1994*”.

*No. 38 of 1990

**PART 4 – EMPLOYMENT INCENTIVE ASSISTANCE
ACT 1984 AMENDED**

Principal Act

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

Section 3 amended (Interpretation)

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

*No. 106 of 1984

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PART 5 – LONG SERVICE LEAVE ACT 1976
AMENDED

Principal Act

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

Section 5 amended (Nature of continuous employment)

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

*No. 95 of 1976

PART 6 – OMBUDSMAN ACT 1978 AMENDED

Principal Act

40. In this Part, the *Ombudsman Act 1978** is referred to as the Principal Act.

Schedule 1 amended (Government Departments and Other Authorities to which this Act applies)

41. Item 77 of Schedule 1 to the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) Tasmanian Learning and Skills Authority;

*No. 82 of 1978