

# Training Legislation Amendment and Repeal Bill 2008

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Western Australia

LEGISLATIVE COUNCIL

*(As amended in Committee)*

**Training Legislation Amendment and Repeal  
Bill 2008**

**A Bill for**

**An Act —**

- **to amend the *Vocational Education and Training Act 1996*; and**
  - **to repeal the *Industrial Training Act 1975*,**
- and, as a consequence, to amend various Acts, and for related purposes.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary matters**

### **1. Short title**

This is the *Training Legislation Amendment and Repeal Act 2008*.

5 **2. Commencement**

(1) This Act comes into operation as follows —

(a) Part 1 — on the day on which this Act receives the Royal Assent;

10 (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

(2) Despite subsection (1), if at the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent a day has not been fixed under subsection (1)(b) in respect of a provision, that provision comes into operation on  
15 the day after the last day of that period.

**Part 2 — Vocational Education and Training Act 1996  
amended**

**3. Act amended**

5 This Part amends the *Vocational Education and Training Act 1996*.

**4. Long title amended**

In the long title delete the passage that begins with “**to repeal**” and ends with “**other Acts,**” and insert:

10 **to provide for the training of people, such as apprentices,  
under training contracts with employers,**

**5. Section 4 amended**

In section 4:

15 (a) delete “are — ” and insert:

are as follows —

20 (b) delete paragraph (b) and insert:

(b) to provide for the registration of some providers of vocational education and training and the accreditation of some vocational education and training courses;

25 (c) in paragraph (e) delete “training; and” and insert:

training;

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(d) in paragraph (f) delete “State.” and insert:

State;

5 (e) after paragraph (f) insert:

(g) to provide for people, such as apprentices, to be trained for some occupations under training contracts with employers.

10

**6. Section 5 amended**

(1) In section 5(1) delete these definitions:

*accredited*  
*chief executive*  
*course*  
*department*  
*public training provider*  
*registered training provider*  
*Resource Agreement*  
*skills training programme*  
*State Training Profile*  
*training provider*  
*training scheme*

15

20

(2) In section 5(1) insert in alphabetical order:

25

*account*, of a college, means the college’s account established under section 50;

*approved VET course* means a VET course that —

- (a) is accredited by the Council under Part 7A; or
- (b) is accredited under a corresponding law; or
- (c) is prescribed by the regulations;

30

*approved VET qualification* means a document, other than a prescribed VET qualification, that certifies that a



person has successfully completed an approved VET course or a part of an approved VET course;

5

**chief executive** means the chief executive officer of the department of the Public Service principally assisting the Minister to administer the provision in which the term chief executive is used;

10

**corresponding law** means a law of another State or a Territory that relates to vocational education and training and that is prescribed to be a corresponding law;

**prescribed VET qualification** means a document that certifies that a person has a qualification of a prescribed type;

15

**private training provider** means a training provider who or which is not a public training provider;

**public training provider** means —

20

- (a) a college or other vocational education and training institution; or
- (b) a school or university that provides a VET course under an approval given under section 6;

**registered training provider** means a training provider registered —

25

- (a) by the Council under Part 7A; or
- (b) under a corresponding law;

**school** has the meaning given to that term in the *School Education Act 1999* section 4;

**State Training Plan** means a plan, approved by the Minister, that sets out for a period —

30

- (a) the training needs of the State's various industries in the period; and
- (b) how those needs should be met in the period by registered training providers, using funds provided under this Act; and

**s. 7**

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- (c) any other matters required in the plan by any direction given under section 11;

**training provider** means a person who or which provides vocational education and training;

5 **university** means a university established under a written law;

**VET course** means a course of study or training or both study and training in which vocational education and training is provided;

10 **VET inspector** means a person appointed under section 61A(2);

- (3) In section 5(1) in the definition of **vocational education and training** —

- 15 (a) delete “post-compulsory”;  
(b) delete “secondary”.

- (4) In section 5(2) delete “Profile” and insert:

Plan

20

**7. Section 6 replaced**

Delete section 6 and insert:

**6. Vocational education and training provided by a school or university**

25

- (1) The Minister may, for the purposes of this Act, approve a specified course or programme, or class of course or programme, provided by a specified school or university.

- 5
- (2) Any course or programme so approved is within the definition of “vocational education and training” in section 5(1).
- (3) The power conferred by subsection (1) may only be exercised with the concurrence of —
- 10
- (a) in the case of a school — the Minister administering the *School Education Act 1999*;
- (b) in the case of a university — the Minister administering the written law that establishes the university.

**8. Part 2 Division 1A inserted**

At the beginning of Part 2 insert:

15 **Division 1A — VET (WA) Ministerial Corporation**

**7A. Body corporate continued**

- (1) The body corporate called the “Minister for Training”, established previously under this Act, continues under the name “VET (WA) Ministerial Corporation”.
- 20 (2) VET (WA) Ministerial Corporation is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against VET (WA) Ministerial Corporation in its corporate name.
- 25 (4) VET (WA) Ministerial Corporation is to be governed by the Minister.

**7B. Status and purpose**

- (1) VET (WA) Ministerial Corporation (the *corporation*) is an agent of the State and has the status, immunities, and privileges of the State.

- (2) The corporation has power —
- (a) to enter into any contract that the Minister, under this Act, has power to enter into; and
  - (b) to acquire, hold and dispose of any property that the Minister, under this Act, has power to acquire, hold and dispose of.
- (3) Despite the employment under the *Public Sector Management Act 1994* of ministerial officers for the purpose of assisting the Minister to perform functions that the Minister performs through the corporation, the corporation and those officers are not an organisation for the purposes of that Act.

**7. Execution of documents**

- (1) VET (WA) Ministerial Corporation (the *corporation*) is to have a common seal.
- (2) A document is duly executed by the corporation if —
- (a) the corporation's common seal is affixed to it in accordance with subsections (3) and (4); or
  - (b) it is signed on behalf of the corporation by the Minister; or
  - (c) it is signed on behalf of the corporation by the chief executive, or another person, authorised under subsection (5).
- (3) The corporation's common seal is not to be affixed to a document except as authorised by the corporation.
- (4) The corporation's common seal is to be affixed to a document in the presence of the Minister, and the Minister is to sign the document to attest that the common seal was so affixed.
- (5) The corporation, in writing under its common seal, may authorise the chief executive or other person to

sign documents on its behalf, either generally or subject to conditions or restrictions specified in the authorisation.

- 5           (6) A document executed by the chief executive or other person under this section without the common seal of the corporation is not to be regarded as a deed unless it is executed as a deed as authorised under subsection (5).
- 10           (7) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- 15           (8) If a document bears a seal purporting to be the common seal of the corporation, it is to be presumed that the seal is the common seal of the corporation until the contrary is shown.

**9. Section 7 deleted**

Delete section 7.

**10. Section 8 amended**

- 20           (1) In section 8:
- (a) delete “The functions of the Minister are —” and insert:
- (1) The main functions of the Minister are as follows —
- 25           (b) delete paragraph (b) and insert:
- (b) to ensure as far as practicable that the needs set out in the State Training Plan are provided by a combination of —
- 30                           (i) public training providers, whether or not under contracts with the Minister; and

**s. 11**

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(ii) private training providers under contracts with the Minister;

(c) in paragraph (c) delete “Act; and” and insert:

5

Act;

(2) At the end of section 8 insert:

10

(2) The Minister from time to time must require the Board to give the Minister a draft State Training Plan for a period specified by the Minister.

15

(3) The Minister may approve any draft State Training Plan or refuse to approve it and require the Board to prepare another or an amended draft.

**11. Section 9 amended**

(1) In section 9(2):

20

(a) delete paragraph (a);

(b) delete paragraph (d) and insert:

25

(d) after publicly inviting tenders or expressions of interest to provide vocational education and training, enter into contracts with training providers under which the training providers provide vocational education and training or services related to vocational education and training;

30

(c) in paragraph (e) after “persons” insert:

for and

- (d) in paragraph (h) delete “knowledge and”;
- (e) in paragraph (h) delete “copyright and other”.

(2) In section 9(3) after “subsection (2)(d),” insert:

5 (e),

**12. Section 11 amended**

In section 11(4):

10 (a) in paragraph (a) delete “Division 2 of Part 4; or” and insert:

Part 7A Division 2; or

15 (b) in paragraph (b) delete “section 27(1).” and insert:

Part 7A Division 1.

**13. Section 12 amended**

In section 12(1) delete “secondary”.

20 **14. Section 13 amended**

In section 13(3) delete “Division 2 of Part 4; or” and insert:

Part 7A Division 2; or

25 **15. Sections 15 and 16 deleted**

Delete sections 15 and 16.

**s. 16**

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**16. Section 17B amended**

- (1) In section 17B(1) delete “an operating account approved by the Treasurer —” and insert:

5                   an agency special purpose account established under  
                    the *Financial Management Act 2006* section 16 —

- (2) In section 17B(2) delete “the operating” and insert:

10                   that

- (3) Delete section 17B(3).

**17. Section 19 amended**

After section 19(3) insert:

15

- (4A) The Board’s members must include —
- (a) at least one person experienced in employers’ interests; and
  - (b) at least one person experienced in workers’ interests.

20

- (4B) For the purpose of complying with subsection (4A)(a), the Minister, in writing, may request the body called the Chamber of Commerce and Industry of Western Australia (Inc.) to give the Minister in accordance with the request the name of one or more (as is specified in the request) persons each of whom has the required experience and is willing to act as a member.

25

- (4C) For the purpose of complying with subsection (4A)(b), the Minister, in writing, may request the body called UnionsWA to give the Minister in accordance with the request the name of one or more (as is specified in the

30



request) persons each of whom has the required  
experience and is willing to act as a member.

**18. Section 21 amended**

5 (1) In section 21(1):

(a) delete “Board are —” and insert:

Board are as follows —

10 (b) delete paragraphs (a) and (b) and insert:

(a) to give the Minister a draft State Training Plan  
as and when required by the Minister;

15 (b) to recognise various industry training advisory  
bodies as bodies from which the Board takes  
advice for the purpose of drafting a State  
Training Plan or making recommendations to  
the Minister under Part 7;

20 (ca) to make recommendations that are required or  
permitted to be made by it to the Minister under  
Part 7;

(c) delete paragraph (c) and insert:

25 (c) to prepare, for consideration by the Minister,  
policy which aims to improve the links between  
specific industry developments and vocational  
education and training so as to gain optimum  
employment opportunities for people, and  
30 ensure the availability of appropriately skilled  
labour, in the State;

**s. 19**

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(d) delete paragraph (d) and “and” after it and insert:

(d) to perform the functions it has under Part 7A  
Division 2;

5

**19. Section 23 replaced**

Delete section 23 and insert:

**23. Committees of the Board**

10

(1) The Board may appoint committees to assist it to perform its functions, and may abolish or alter any committee it has appointed.

15

(2) A committee may include people who are not members of the Board but must include at least one member of the Board.

(3) The Board may by resolution delegate to a committee, either generally or as otherwise provided in the resolution, any of the Board’s functions under this Act other than this power of delegation.

20

(4) A committee may determine its own procedures but they must be consistent with any directions of the Board and the terms of any delegation under which the committee is acting.

**20. Part 4 Division 1 heading deleted**

Delete the heading to Part 4 Division 1.

**21. Section 25 amended**

Delete section 25(3) and insert:

30

(3) The Minister must not appoint a person as a member of the Council unless satisfied the person has expertise,

qualifications or experience relevant to the Council's functions.

**22. Section 26 amended**

5 After section 26(2) insert:

- (3) The chief executive must provide staff, services and facilities to enable the Council to perform its functions.

10 **23. Section 27 replaced**

Delete section 27 and insert:

**27. Functions of the Council**

- 15 (1) The functions of the Council are set out in this Part and Part 7A.
- (2) The Council may do all things necessary or convenient to be done for or in connection with the performance of its functions.

20 **24. Section 28 amended**

In section 28 after "person," insert:

including a committee appointed under section 29,

25 **25. Section 29 replaced**

Delete section 29 and insert:

**29. Committees of the Council**

- 30 (1) The Council may appoint committees to assist it to perform its functions, and may abolish or alter any committee it has appointed.

(2) A committee may include people who are not members of the Council but must include at least one member of the Council.

5 (3) A committee may determine its own procedures but they must be consistent with any directions of the Council and the terms of any delegation under which the committee is acting.

**26. Part 4 Division 2 replaced**

10 Delete Part 4 Division 2 and insert:

**31. Council may provide information to others**

15 (1) The Council may provide information received by it in the course of performing its functions to any person it thinks fit.

(2) Information provided under this section may be provided subject to any conditions the Council decides.

**27. Section 37 amended**

20 (1) At the beginning of section 37 insert:

(1A) In this section —

*business arrangement* has the meaning given in section 9(4);

25 *participate* has the meaning given in section 9(4).

(2) In section 37(1):

(a) delete “college are —” and insert:

30 college are as follows —

- (b) delete paragraphs (a) and (b) and insert:
- (a) to provide vocational education and training;
  - 5 (ba) to tender for and enter into contracts for the provision by it of vocational education and training;
  - (bb) to provide vocational education and training on a fee for service basis;
  - 10 (b) to confer awards and, if it is a registered training provider and, under the terms of its registration as such, authorised to do so —
    - (i) approved VET qualifications; and
    - (ii) prescribed VET qualifications;
  - 15 (ca) to provide, for a fee or otherwise, or enter into contracts to provide, products, consultancy or other services in the course of, or incidental to, the provision by the college of vocational education and training;
  - 20 (c) after paragraph (c) insert:
    - 25 (da) to turn to account the vocational education and training expertise of the college by means of the sale of services and the commercial exploitation of intellectual property, including the assignment and licensing of such property;
  - (d) after paragraph (d) insert:
  - 30 (ea) to provide adult and community education;
  - (e) in paragraph (e) after “services to” insert:
    - 35 its

**s. 27**

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- (f) delete paragraph (f) and insert:
- (fa) to provide housing for its staff, and residential accommodation for its students;
  - 5 (fb) with the approval of the Minister, to establish and maintain branches of the college at such places in the State as its governing council thinks fit;
  - 10 (f) with the approval of the Minister, on terms and conditions approved by the Treasurer, to participate in business arrangements relating to the provision of vocational education and training;
  - 15 (g) in paragraph (g) delete “activities, including the provision of adult and community education,” and insert:  
activities
  - 20 (h) delete paragraph (h) and “and” after it and insert:  
(h) to provide education on behalf of another educational institution;
  - 25 (i) delete paragraph (i) and insert:  
(i) to perform any function prescribed.
  - 30 (3) Delete section 37(2) and insert:  
(2) A college must perform its functions in accordance with its strategic plan last approved under section 43 and its business plan last approved under section 44A.
  - 35

(4) In section 37(3) delete “under section 43(2)(f).” and insert:

in which the college participates under subsection (1)(f).

5 (5) Delete section 37(4) and insert:

(4) The power conferred by subsection (1)(f) is not subject to, and may be exercised despite, the *State Supply Commission Act 1991*.

10

**28. Section 42 amended**

Delete section 42(2) and (3) and insert:

15

(2) A governing council of a college may do all things necessary or convenient to be done for or in connection with the performance of its functions.

20

(3) A governing council may perform its functions in another State or a Territory if that is necessary or convenient for the performance of the functions of the college.

25

(4) In performing its functions the governing council of a college must ensure the college’s courses, programmes and services are responsive to, and meet, the needs of students, industry and the community.

**29. Section 43 replaced**

Delete section 43 and insert:

**43. Strategic plans**

30

(1) Before 1 September in each year, or before some other date notified to the college by the Minister in writing, a college must give the Minister a draft strategic plan for

**s. 30**

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the college for such period, beginning on the following 1 January, as is prescribed.

- (2) A college's strategic plan must set out —
- (a) the college's medium to long term objectives (including economic and financial objectives) and operational targets and how those objectives and targets will be achieved; and
  - (b) any other matters that are prescribed.
- (3) A college's strategic plan must be consistent with the State Training Plan.
- (4) The Minister may approve a draft plan received from a college under this section or refuse to approve it and require the college to prepare another or an amended draft.
- (5) A college may change a plan approved by the Minister under this section with the approval of the Minister.

**30. Section 44A inserted**

After section 43 insert:

**44A. Annual business plans**

- (1) Before 1 September in each year, or before some other date notified to the college by the Minister in writing, a college must give the Minister a draft business plan for the college for the year that begins on the following 1 January.
- (2) A college's business plan for a year must set out —
- (a) the vocational education and training that the college plans to provide in the year; and
  - (b) the other functions of the college that it plans to perform in the year; and



- (c) any other matters that are prescribed.
- 5 (3) A college's business plan for a year must be consistent with the State Training Plan, and the college's strategic plan (if any) approved under section 43, that apply to the year.
- (4) The Minister may approve a draft plan received from a college under this section or refuse to approve it and require the college to prepare another or an amended draft.
- 10 (5) A college may change a plan approved by the Minister under this section with the approval of the Minister.

**31. Sections 48, 49 and 50 replaced**

Delete sections 48, 49 and 50 and insert:

15

**48. Funds of a college**

A college's funds consist of the following —

- (a) monies appropriated by Parliament;
- 20 (b) monies received from commercial activities conducted by the college;
- (c) monies borrowed by it under section 51;
- (d) any other monies lawfully received by it.

**49. Use of a college's funds**

25 A college's funds are to be applied to meet the following —

- (a) the college's expenses in performing its functions;
- (b) the remuneration and allowances payable under section 63 to the members of the college's governing council;
- 30

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---

- (c) the salaries and wages of, and the other expenses associated with the employment of —
  - (i) the college’s managing director; and
  - (ii) the college’s staff.

5       **50. College accounts**

- (1) An account called the (name of college) Account is to be established for each college —
  - (a) as an agency special purpose account under the *Financial Management Act 2006* section 16; or
  - 10       (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act.
- (2) Any funds of a college referred to in section 48 must be credited to the college’s account.
- (3) Any funds of a college applied under section 49 must  
15       be debited to the college’s account.

**32. Section 52 amended**

In section 52 delete “college Trust Account” and insert:

20       college’s account

**33. Section 53 replaced**

Delete section 53 and insert:

25       **53. Minister may direct transfer of college’s funds**

If the Minister is satisfied that there is available in a college’s account a credit balance in excess of the amount reasonably required by the college, the Minister may direct that the whole or a part of that  
30       excess be credited to —

- (a) another college’s account; or

- (b) an account to which the *Financial Management Act 2006* applies that is operated for or in connection with the purposes of this Act.

5   **34.   Section 54 amended**

Delete section 54(4).

**35.   Section 55 amended**

In section 55:

- 10           (a) delete paragraph (b) and “or” after it and insert:
- (b) to perform its functions in accordance with the college’s strategic plan last approved under section 43 or its business plan last approved under section 44A; or
- 15           (b) after paragraph (a) insert:
- or

20   **36.   Part 5 Division 5 inserted**

At the end of Part 5 insert:

**Division 5 — Miscellaneous matters**

**57A.   Closure of college, consequences of**

- 25           (1) In this section —
- closing day* of a college, means the day on which an order that closes the college, published under section 35(b) or 56(1)(b), takes effect.

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- (2) The Minister must notify the Treasurer as soon as practicable after publishing an order under section 35(b) or 56(1)(b) that closes a college.
- (3) On the closing day of a college the following provisions apply —
- 5
- (a) all assets and rights of the college become assets and rights of the Minister without the need for any transfer;
- (b) all liabilities of the college, including  
10 contingent liabilities, become liabilities of the Minister;
- (c) any agreement to which the college is a party (other than one to which the Minister was the other party) has effect as if the Minister was  
15 substituted for the college as a party to that agreement;
- (d) all proceedings commenced before the closing day by or against the college are to be taken to be proceedings pending by or against the  
20 Minister;
- (e) anything done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) before the closing day by, to or in respect of the college (to the extent that that thing has any force or effect) is to be  
25 taken to have been done by, to or in respect of the Minister;
- (f) the Minister becomes the owner of all the college's registers, documents, books and other  
30 records, however compiled, recorded or stored and of any tape, disk or other device or medium relating to such records;
- (g) the status of a college as a body corporate ceases.

- 5 (4) The Minister is to complete the winding-up of the operations and affairs of the college as soon as practicable after the closing day and for that purpose the Minister has, and may exercise, any powers that are necessary.
- (5) On the closure of a college, the *Financial Management Act 2006* Part 5 Division 3 applies to and in respect of the college.

10 **37. Section 57 amended**

- (1) Delete section 57(3).
- (2) After section 57(4) insert:
- 15 (5) An institution established under subsection (2) is to be regarded as a service under the control of the department of the Public Service that principally assists the Minister to administer this Part.

**38. Part 7A inserted**

20 Before Part 7 insert:

**Part 7A — Regulation of the provision of some vocational education and training**

**Division 1 — General matters**

25 **58A. Offences**

- (1) A person must not claim or purport to provide an approved VET course if —
- (a) the person is not a registered training provider;  
or

- 5
- (b) the person is a registered training provider but is not permitted to provide the course by —
- (i) any condition of the person's registration as a registered training provider; or
- (ii) any condition of the course's accreditation; or
- (iii) any order of the Council;
- or
- 10 (c) the course is not an approved VET course.
- (2) Subsection (1)(a) does not apply to a person who, under an arrangement with a registered training provider, provides an approved VET course on behalf of the provider while being monitored by the provider.
- 15 (3) A person must not confer, or claim or purport to confer, an approved VET qualification or a prescribed VET qualification if —
- (a) the person is not a registered training provider; or
- 20 (b) the person is a registered training provider but is not permitted to confer the qualification by —
- (i) any condition of the person's registration as a registered training provider; or
- 25 (ii) any order of the Council.
- (4) A person must not claim or purport to confer an approved VET qualification, or a prescribed VET qualification, if the qualification is not an approved VET qualification or a prescribed VET qualification.
- 30 (5) A person must not claim or purport to be a registered training provider if —
- (a) the person is not a registered training provider; or

- (b) the person is a registered training provider but the Council has ordered the person not to operate in this State.

Penalty: a fine of \$10 000.

5       **58B. Council may register training providers**

Subject to the regulations, the Council, on an application by a person or on its own initiative —

- 10       (a) may register a training provider, either unconditionally or subject to conditions decided by the Council; and
- (b) if a registered training provider's registration was granted by the Council, may vary, suspend or cancel the registration; and
- 15       (c) if a registered training provider's registration was not granted by the Council, may —
  - (i) order the provider not to operate in this State; or
  - (ii) by order, impose conditions restricting the provider's operations in this State.

20       **58C. Council may accredit courses**

Subject to the regulations, the Council, on an application by a person or on its own initiative —

- 25       (a) may accredit a VET course, either unconditionally or subject to conditions decided by the Council; and
- (b) if an approved VET course is accredited by the Council, may vary, suspend or cancel the accreditation.

**58D. Council may inquire into training providers and courses**

For the purpose of ensuring this Act is complied with and the quality of training providers and VET courses, the Council may inquire into —

5

(a) a training provider that is, or that has applied to be, registered by the Council under this Part; and

10

(b) a VET course that is, or that is the subject of an application to be, accredited by the Council under this Part; and

(c) at the request of, or after consulting, a body with functions similar to the Council's under a corresponding law —

15

(i) a training provider that is, or that has applied to be, registered by that body; and

20

(ii) a VET course that is, or that is the subject of an application to be, accredited by that body.

**58E. Council may cancel certain qualifications**

(1) The Council may cancel an approved VET qualification or a prescribed VET qualification conferred by a registered training provider if the Council is satisfied that it was conferred —

25

(a) by mistake or on the basis of false or misleading information; or

(b) in contravention of this Act.



- (2) The Council must not cancel an approved VET qualification or a prescribed VET qualification unless the Council —
- 5 (a) has given the person who conferred the qualification and the person who received it written notice of —
- 10 (i) the Council's intention to cancel it; and
- (ii) their entitlement to make representations to the Council about the matter;
- and
- (b) has afforded those persons a reasonable opportunity to make representations to the Council about the matter; and
- 15 (c) has considered any representations made to the Council by those persons within the time allowed by the Council for doing so.
- (3) To cancel an approved VET qualification or a prescribed VET qualification, the Council must give
- 20 written notice of the cancellation to the person who conferred the qualification and the person who received it.

**58F. When Council's decisions have effect**

25 A decision of the Council made under section 58B, 58C or 58E takes effect —

- (a) if no appeal is commenced under section 58G, when the time for commencing an appeal has passed; or
- 30 (b) if an appeal is commenced under section 58G, when that appeal is determined under section 58J or is withdrawn; or
- (c) on any later day the Council may specify.

**Division 2 — Appeals against the Council’s decisions**

**58G. Appeals against the Council’s decisions**

- 5 (1) A person who is dissatisfied with a decision of the Council made under section 58B, 58C or 58E may appeal against it to the Board.
- 10 (2) An appeal can be only on the ground that, in making the decision appealed against, the Council erred in its application of, or failed to apply criteria or procedures in, guidelines it was required to apply under section 13 or by the regulations.
- 15 (3) An appeal against a decision of the Council must —
- (a) be commenced by giving the Board a written notice stating the decision and the grounds of the appeal; and
  - (b) be commenced within 21 days after the date on which the appellant was notified of the decision; and
  - (c) be conducted in accordance with the regulations.
- 20 (4) The Board must give the Council a copy of any appeal notice.

**58H. Board to establish review panels**

- 25 (1) To assist it in determining an appeal commenced under section 58G, the Board must establish an independent review panel comprised of as many persons with expertise in the area of the subject matter of the appeal as it considers appropriate.
- 30 (2) The review panel must consider the decision appealed against and submit to the Board, within the time the Board allows, a written recommendation on the issues raised by the appeal.

**58I. Reference back to Council**

- 5
- (1) If a review panel recommends an appeal be allowed, the Board must give the Council a copy of the panel's recommendation and ask the Council to reconsider the decision appealed against.
- (2) If the Council receives a request made under subsection (1), it must advise the Board, within the time the Board allows, whether it considers the decision appealed against should be altered or confirmed.
- 10

**58J. Determination of appeal**

- (1) If a review panel recommends an appeal not be allowed, the Board must disallow the appeal.
- 15
- (2) If a review panel recommends an appeal be allowed and under section 58I(2) the Council advises that the decision appealed against should be altered, the Board must allow the appeal.
- (3) If a review panel recommends an appeal be allowed and under section 58I(2) the Council advises that the decision appealed against should be confirmed, the Board must decide whether to —
- 20
- (a) accept the panel's recommendation and allow the appeal; or
- (b) accept the decision appealed against and disallow the appeal.
- 25
- (4) If under subsection (2) or (3)(a) the Board allows an appeal, it must set aside the decision appealed against and substitute a decision that accords with the review panel's recommendation.

- (5) The Board must give the appellant —
- (a) written notice of any decision it makes under this section and of the reasons for it; and
  - (b) a copy of the review panel’s recommendation.
- 5 (6) A decision made by the Board under this section on an appeal is final.

**Division 3 — Miscellaneous matters**

**58. Regulations for this Part**

10 Without limiting the generality of section 67(1), regulations made under section 67 for the purposes of this Part may do any of the following —

- (a) provide for who may apply to the Council;
- (b) provide for how applications to the Council must be made;
- 15 (c) prescribe criteria (including standards and guidelines) that the Council must or may take into account when deciding an application made to it;
- 20 (d) prescribe the conditions that the Council may impose when registering a training provider, including but not limited to conditions that limit —
  - (i) the approved VET courses that the provider can provide;
  - 25 (ii) who the provider can assess for approved VET qualifications or prescribed VET qualifications;
  - 30 (iii) the approved VET qualifications or prescribed VET qualifications that the provider can confer;

- 5
- (e) provide for the conditions that the Council may impose when accrediting a VET course;
- (f) provide for the period of any registration of a training provider or any accreditation of a VET course;
- 10
- (g) provide for any matter of a savings nature that may be needed when the accreditation of a VET course expires;
- (h) provide for a register of decisions by the Council;
- (i) prescribe the circumstances that justify the Council deciding to —
- 15
- (i) vary, suspend or cancel the registration of a training provider or the accreditation of a VET course;
- (ii) make an order against a registered training provider whose registration was not granted by the Council;
- 20
- (j) confer a discretion on the Council;
- (k) require registered training providers and persons who hold an accreditation of a VET course to give the Council information, including when a registration or accreditation is suspended;
- 25
- (l) provide for registered training providers to keep records relevant to vocational education and training;
- 30
- (m) require persons who cease to be registered training providers to provide the Council with records of —
- (i) the courses they provided, in whole or part, and the persons to whom such courses were provided; and

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- (ii) the qualifications they conferred and the persons on whom the qualifications were conferred,
- before ceasing to be registered;
- 5 (n) prescribe fees to be paid by —
  - (i) persons applying to the Council;
  - (ii) registered training providers and persons who hold an accreditation of a VET course, including when a registration or accreditation is suspended;
  - 10 (iii) registered training providers and persons who hold an accreditation of a VET course for any inquiry the Council makes under section 58D;
  - 15 (iv) persons applying to the Council for a copy of any record about the person held by the Council.

20 **39. Part 7 replaced**

Delete Part 7 and insert:

**Part 7 — Obtaining prescribed VET qualifications and approved VET qualifications**

25 **Division 1 — Preliminary matters**

**60A. Terms used in this Part**

In this Part —

30 *apprentice* means the person who is named in a training contract as the person who will be trained under the contract, whether the person is termed an

apprentice, a trainee, a cadet, an intern or some other term;

*class*, in relation to a qualification, means the class into which a prescribed VET qualification is classified under section 60C;

*training contract* means a contract that complies with section 60E.

**60B. Inconsistency with industrial relations laws, awards etc.**

If a provision of this Part or of regulations made under section 60 is inconsistent with a provision of the *Industrial Relations Act 1979* or any order, award or industrial agreement in force under that Act, the former provision prevails.

**60C. Classification of prescribed VET qualifications**

- (1) The Minister must not act under this section without having received and considered the Board's advice and recommendation given after it has consulted in accordance with the regulations.
- (2) Any act done by the Minister under this section must be done in writing and be published in the *Gazette*.
- (3) The Minister must classify each prescribed VET qualification that it is possible to confer in respect of occupations, businesses, employments or trades into one of these 3 classes —
  - (a) class A qualifications, being qualifications that a person cannot obtain except by fulfilling the obligations of an apprentice under a training contract;
  - (b) class B qualifications, being qualifications that a person may, but need not, obtain by fulfilling

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- the obligations of an apprentice under a training contract;
- (c) class C qualifications, being qualifications that a person cannot obtain by fulfilling the obligations of an apprentice under a training contract.
- 5
- (4) The classification of a prescribed VET qualification does not limit the operation of Division 3.
- (5) The Minister may —
- 10 (a) classify a prescribed VET qualification on any condition the Minister decides; and
- (b) in relation to a class A or class B qualification, impose any requirement for training contracts for the qualification the Minister decides, including but not limited to —
- 15 (i) pre-conditions to be satisfied before training contracts for the qualification can be entered into; and
- (ii) the period and terms of the contracts.
- 20 (6) The Minister may vary the classification of a prescribed VET qualification and vary or cancel any condition or requirement imposed under subsection (5).
- (7) The chief executive must keep and make available to the public a register of this information —
- 25 (a) class A and class B qualifications;
- (b) any conditions applicable to those qualifications;
- (c) any requirements applicable to training contracts for those qualifications.



**60D. Offences**

- (1) A registered training provider must not confer, or offer or purport to confer, a class A qualification on a person unless —
- 5           (a) the person has fulfilled the obligations of an apprentice under a training contract that was registered under Division 2; or
- (b) the person has satisfied the registered training provider under Division 3.
- 10       (2) An employer must not enter into a training contract with an employee under which the employee is to be trained in order to obtain a prescribed VET qualification unless the qualification is a class A or class B qualification.
- 15       (3) An employer must not agree to train an employee for the purpose of the employee obtaining a class A or class B qualification except under a training contract.
- Penalty: a fine of \$10 000.

**Division 2 — Qualifying by doing an apprenticeship**

20       **60E. Training contracts**

- (1) A training contract is a contract under which —
- (a) a person who is or will be an employer agrees the following —
- 25           (i) that a person who is or will be an employee will be employed while he or she fulfils the requirements of the contract in order to obtain a class A or class B qualification;
- 30           (ii) to train the employee in accordance with the contract;

- (iii) to permit the employee to fulfil his or her obligations under the contract and to be trained and assessed in accordance with the contract;
    - 5 (iv) that any time spent by the employee in performing his or her obligations under the contract and in being trained and assessed under the contract, whether at the employer's workplace or not, is to be taken for all purposes (including the payment of remuneration) to be time spent working for the employer;
  - and
  - 15 (b) the employee agrees to fulfil his or her obligations under the contract and to be trained and assessed in accordance with the contract.
- (2) With the approval of the chief executive, 2 or more employers may enter into a training contract with one apprentice.
- 20 (3) A training contract must do the following —
- (a) state the class A or class B qualification to which the contract relates;
  - (b) comply with the regulations and with any requirements imposed under the regulations.
- 25 (4) Subject to the regulations, a training contract —
- (a) may be varied by the parties; and
  - (b) may be suspended by a party; and
  - (c) may be assigned by the employer to another person who employs the apprentice.
- 30 **60F. Registration of training contracts**
- (1) A training contract does not commence until it is registered by the chief executive under this section.

- (2) An employer who enters into a training contract must lodge it with the chief executive in accordance with the regulations for registration.  
Penalty: a fine of \$3 000.
- 5 (3) The chief executive may refuse to register a training contract —
- (a) if the contract was not lodged in accordance with the regulations; or
  - 10 (b) if a requirement for the contract imposed under section 60C(5) has not been complied with; or
  - (c) if the content or form of the contract does not comply with the regulations; or
  - 15 (d) if the chief executive is satisfied the employer is not able to train the apprentice adequately or is not a fit and proper person to enter into the contract; or
  - (e) if the apprentice is ineligible under the regulations to enter into the contract; or
  - (f) for any reason prescribed in the regulations.
- 20 (4) Subsections (2) and (3), with any necessary changes, apply to a variation of a training contract.
- (5) The chief executive may cancel the registration of a training contract for any reason prescribed in the regulations.
- 25 (6) If the chief executive cancels the registration of a training contract, the contract ceases to have effect.
- (7) The chief executive must keep a register of registered training contracts.
- 30 (8) A person who is dissatisfied by a decision made by the chief executive under this section may appeal against it to the Western Australian Industrial Relations Commission.

- 5 (9) On an appeal made under subsection (8) against a decision, the Commission must rehear the matter and may confirm the decision or set it aside and either substitute a decision the chief executive could make or order the chief executive to decide the matter again.

**60G. Terminating training contracts**

- 10 (1) Subject to the regulations, a party to a training contract may terminate it.
- (2) An employer who is a party to a training contract the probation period of which (if any) has expired must not terminate the contract unless —
- (a) the apprentice has consented to the termination; or
- (b) the chief executive has approved the termination.
- 15

Penalty: a fine of \$10 000.

- 20 (3) The chief executive must approve the termination of a training contract under subsection (2) if satisfied —
- (a) the employer has ceased or is about to cease business; or
- (b) the employer is unable to fulfil the employer's obligations under the contract due to a substantial change of circumstances that has occurred since the contract was entered into; or
- 25 (c) the apprentice has engaged in serious misconduct; or
- (d) as to any matter prescribed,

but otherwise may refuse to approve the termination.

- 30 (4) A person who is dissatisfied by a decision made by the chief executive under this section may appeal against it to the Western Australian Industrial Relations Commission.

- 5 (5) On an appeal made under subsection (4) against a decision, the Commission must rehear the matter and may confirm the decision or set it aside and either substitute a decision the chief executive could make or order the chief executive to decide the matter again.

**60H. Consequences of training contracts ceasing to have effect**

- 10 (1) If a training contract ceases to have effect, whether under section 60F(6) or because it is terminated or expires or for any other reason, the employment of the apprentice by the employer under the contract ceases.
- (2) Subsection (1) does not prevent the parties entering into another employment agreement or arrangement.

**Division 3 — Qualifying by demonstrating competence**

15 **60I. Conferring prescribed VET qualifications to competent persons**

- (1) Subject to the regulations, a registered training provider may confer a class A qualification on a person who —
- 20 (a) has not entered into a training contract under Division 2 in respect of the qualification; or
- (b) has entered into such a contract as an apprentice but has only partly fulfilled the apprentice's obligations under it,
- 25 if, after assessing the person, the provider is satisfied the person nevertheless has, as a result of training received from an employer and other learning, the skills and competency required for the qualification.
- (2) Subject to the regulations, a registered training provider may confer a class B qualification on a person
- 30 who —
- (a) has not entered into a training contract under Division 2 in respect of the qualification; or

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- 5
- (b) has entered into such a contract as an apprentice but has only partly fulfilled the apprentice's obligations under it; or
  - (c) has not undertaken or successfully completed an approved VET course in respect of the qualification,

if, after assessing the person, the provider is satisfied the person nevertheless has the skills and competency required for the qualification.

- 10
- (3) Subject to the regulations, a registered training provider may confer a class C qualification on a person who has not undertaken or successfully completed an approved VET course in respect of the qualification if, after assessing the person, the provider is satisfied the person nevertheless has the skills and competency required for the qualification.

- 15
- (4) Subject to the regulations, a registered training provider may confer an approved VET qualification on a person who has not undertaken or successfully completed an approved VET course in respect of the qualification if, after assessing the person, the provider is satisfied the person nevertheless has the skills and competency required for the qualification.

**Division 4 — Miscellaneous matters**

25 **60. Regulations for this Part**

Without limiting the generality of section 67(1), regulations made under section 67 for the purposes of this Part may do any of the following —

- 30
- (a) provide pre-conditions to be satisfied before persons enter into training contracts;

- 5
- (b) provide for the content or form or both of training contracts, either generally or in relation to specific prescribed VET qualifications;
- (c) give persons under 18 years of age the capacity to enter into training contracts;
- 10 (d) provide for criteria (including standards and guidelines) that the chief executive must or may take into account when deciding whether to register or to cancel the registration of training contracts;
- (e) provide for the registration of contracts, including for backdating registration;
- (f) in relation to disputes arising under training contracts between the parties to them —
- 15 (i) provide for their resolution, including by the chief executive or a person appointed by the chief executive;
- (ii) confer on any such party aggrieved by a decision made by a person referred to in subparagraph (i) in respect of such a dispute a right of appeal to the Western Australian Industrial Relations Commission;
- 20
- (g) require parties to, and registered training providers named in, training contracts to give the chief executive information relevant to and to the carrying out of the contracts;
- 25
- (h) impose functions on registered training providers that are named in training contracts;
- 30 (i) confer on persons refused approved VET qualifications or prescribed VET qualifications a right of appeal against the refusal;

- (j) prescribe the content and form of approved VET qualifications and prescribed VET qualifications;
- (k) confer a discretionary authority on the Minister.

5

**40. Part 8A inserted**

Before Part 8 insert:

**Part 8A — Enforcement matters**

10

**61A. VET inspectors, appointment of**

- (1) In this section —

*certificate* means a certificate given under subsection (3).

15

- (2) The Minister, in writing, may appoint persons to investigate —

- (a) registered training providers, including but not limited to the matters that may be inquired into under section 58D;
- (b) suspected breaches of training contracts;
- (c) suspected contraventions of this Act,

20

on any terms the Minister decides and specifies in the appointment.

- (3) The Minister must give each VET inspector a certificate of his or her appointment.

25

- (4) A person who ceases to be a VET inspector must return his or her certificate to the Minister within 21 days.

Penalty: a fine of \$400.

30

- (5) A certificate that purports to be signed by the Minister is, in the absence of evidence to the contrary, evidence of its contents.



- (6) If requested to do so and if practicable, a VET inspector must produce his or her certificate for inspection when exercising a function of a VET inspector.

5       **61B. VET inspectors' powers**

- (1) For the purpose of investigating any matter that he or she is authorised to investigate, a VET inspector may do any of the following —
- 10           (a) with the occupier's consent, enter, inspect and search any place, other than a dwelling, that the inspector suspects on reasonable grounds is a place where vocational education and training is provided;
- 15           (b) give a person a written direction to produce to the inspector the records that are specified or described in the direction and that are in the person's possession;
- 20           (c) with the consent of the person in possession of the record, read and seize or copy any record the inspector suspects on reasonable grounds is or may be relevant to the matter being investigated.
- (2) A person who is given a written direction under subsection (1)(b) must obey it.  
25       Penalty: a fine of \$5 000.
- (3) A person must not give a VET inspector information that the person knows is false or misleading.  
      Penalty: a fine of \$5 000.

**61C. Entry warrant for a place**

- 5
- (1) A VET inspector may apply to a JP for an entry warrant authorising the entry of a place, including a dwelling, for the purpose of investigating any matter the inspector is authorised to investigate.
- (2) A VET inspector may apply for an entry warrant for a place even if the inspector has not asked the occupier for consent to enter the place.
- 10
- (3) The application must be made in accordance with the *Criminal Investigation Act 2006* section 13.
- (4) The application must —
- (a) describe with reasonable particularity the place to be entered; and
- (b) state —
- 15
- (i) that the VET inspector suspects the place is a place where vocational education and training is provided and the grounds for the suspicion; or
- 20
- (ii) that the VET inspector suspects there are records at the place that relate to the provision of vocational education and training and the grounds for the suspicion;
- and
- 25
- (c) state the purposes for which entry to the place is wanted; and
- (d) state for how long the inspector believes the warrant should remain in force.
- 30
- (5) On such an application, a JP may issue an entry warrant authorising the entry of a place for the purpose of investigating any matter the inspector is authorised to investigate if satisfied that, in respect of the matters

in subsection (4) on which the applicant is required to have a suspicion, there are reasonable grounds for the applicant to have that suspicion.

- 5 (6) An entry warrant must contain this information —
- (a) a reasonably particular description of the place to which it relates;
  - (b) the period, not exceeding 7 days, in which it may be executed;
  - (c) the date and time when it was issued.
- 10 (7) Under an entry warrant issued to a VET inspector, the inspector, with any assistance that is reasonably necessary in the circumstances, may do any or all of the following —
- 15 (a) using any force that is reasonably necessary, enter, inspect and search the place described in the warrant for the purpose of investigating any matter the inspector is authorised to investigate;
  - (b) read and seize or copy any record the inspector suspects on reasonable grounds is or may be relevant to the matter being investigated;
  - 20 (c) for the purposes of paragraph (b) —
    - (i) make reasonable use of any equipment, facilities or services in the place that are needed; and
    - 25 (ii) direct an occupier of the place to do anything that is reasonable and necessary to facilitate that use.
- 30 (8) A person who is given a direction under subsection (7)(c)(ii) must obey it.  
Penalty: a fine of \$5 000.

**61D. Consequences of investigations**

- (1) A VET inspector may give the Council any information that the Council may need in relation to performing its functions under Part 7A.
- 5 (2) A prosecution for an offence against this Act cannot be commenced except by or with the approval of the chief executive officer of the department of the Public Service principally assisting the Minister to administer the provision that creates the offence.

10 **61. Evidentiary matters**

- (1) A certificate that purports to be issued by the Council stating —
- 15 (a) that a person was or was not a registered training provider at a time specified in the certificate;
- (b) the conditions of a registered training provider's registration at a time specified in the certificate;
- 20 (c) that a VET course was or was not an approved VET course at a time specified in the certificate;
- (d) the conditions of an approved VET course's accreditation at a time specified in the certificate,
- 25 is, in the absence of evidence to the contrary, evidence of its contents.
- (2) A certificate that purports to be signed by the chief executive officer of the department of the Public Service principally assisting the Minister to administer
- 30 Part 7 stating —
- (a) the classification of a prescribed VET qualification under section 60C at a time specified in the certificate;

- (b) the requirements, if any, imposed under section 60C by the Minister for a training contract for a prescribed VET qualification at a time specified in the certificate,

5 is, in the absence of evidence to the contrary, evidence of its contents.

**41. Section 63 amended**

10 In section 63 delete paragraph (a), paragraph (b) and “and” after it and paragraph (c) and insert:

- (a) the Board or a committee of the Board; or
- (b) the Council or a committee of the Council; or
- (c) a review panel appointed under section 58H(1);
- 15 or
- (d) the governing council of a college (other than the managing director or any member of staff of the college),

20 **42. Sections 65 and 66 deleted**

Delete sections 65 and 66.

**43. Section 67 amended**

In section 67(2) delete paragraph (c) and insert:

- 25 (c) create offences punishable by a fine of not more than \$5 000.

**44. Section 68 replaced**

Delete section 68 and insert:

**68. Transitional provisions (Sch. 2)**

- 5
- (1) Schedule 2 sets out transitional provisions.
  - (2) Schedule 2 does not affect the operation of the *Interpretation Act 1984* Part V.

**45. Section 69 replaced**

10 Delete section 69 and insert:

**69. Transitional regulations**

- 15
- (1) This section does not affect the operation of the *Interpretation Act 1984* Part V.
  - (2) Without limiting section 67 regulations may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with any issue or matter of a savings or transitional nature —
    - 20 (a) that arises as a result of the enactment of the *Training Legislation Amendment and Repeal Act 2008*; and
    - (b) for which there is no sufficient provision in Schedule 2.
  - (3) Regulations made under this section must be made  
25 within 12 months after the day on which this section comes into operation.
  - (4) Regulations made under this section may provide that  
30 specific provisions of this Act do not apply, or apply with modifications specified in the regulations, to or in relation to any matter.

- 5 (5) Regulations made under this section may provide that a state of affairs specified in the regulations is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations come into operation but not earlier than the commencement of this section.
- 10 (6) If regulations contain a provision referred to in subsection (5), the provision has effect according to its terms but it does not operate so as —
- 15 (a) to affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the regulations commenced; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the regulations commenced.

**46. Sections 70, 71 and 72 replaced**

Delete sections 70, 71 and 72 and insert:

20

**70. Review of Act**

- 25 (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after every fifth anniversary of the commencement of this section.
- (2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

30

**s. 47**

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**47. Schedule 1 amended**

After Schedule 1 clause 3(4) insert:

- 5 (5) The presence of a person at a meeting need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone, or other means of instantaneous communication.

10 **48. Schedule 2 replaced**

Delete Schedule 2 and insert:

**Schedule 2 — Transitional provisions**

[s. 68]

15 **1. Provisions relating to repeal of *Industrial Training Act 1975***

- 20 (1) In this clause —  
*repealed Act* means the *Industrial Training Act 1975* repealed by the *Training Legislation Amendment and Repeal Act 2008* section 50.
- (2) If immediately before the repeal of the repealed Act an apprenticeship agreement or industrial training agreement entered into and registered under the repealed Act is in force, then on that repeal —
- 25 (a) the agreement is to be taken to be a training contract entered into on the same terms and conditions and registered under Part 7 Division 2; and
- (b) Part 7 Division 2 applies to the agreement accordingly.
- 30

**49. Schedules 3 and 4 deleted**

Delete Schedules 3 and 4.



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**Part 3 — Industrial Training Act 1975 repealed**

**Division 1 — Act repealed**

**50. Act repealed**

The *Industrial Training Act 1975* is repealed.

5

**Division 2 — Consequential amendments**

**51. Coal Industry Tribunal of Western Australia Act 1992 amended**

(1) This section amends the *Coal Industry Tribunal of Western Australia Act 1992*.

10

(2) In section 3 in the definition of *employee* in paragraph (a) delete “apprentice or industrial trainee;” and insert:

apprentice;

15

**52. Curriculum Council Act 1997 amended**

(1) This section amends the *Curriculum Council Act 1997*.

(2) In section 19A(2) in the Table to the definition of *provider* delete items 4 and 5 and insert:

4. A student undertaking an approved VET course within the meaning given to that term by the *Vocational Education and Training Act 1996* section 5(1). The registered training provider (within the meaning given to that term by that Act section 5(1)), or a person referred to in section 58A(2) of that Act, who provides the course.

5. An apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2. The employer.

20

(3) Delete section 19F(1) and insert:

(1) In this section —

5                    *apprentice* means a person who is an apprentice under  
a training contract registered under the *Vocational  
Education and Training Act 1996* Part 7 Division 2;  
*employed* includes employed as an apprentice.

**53. Industrial Relations Act 1979 amended**

10            (1) This section amends the *Industrial Relations Act 1979*.

(2) In section 7(1) delete the definitions of *apprentice* and *trainee*.

(3) In section 7(1) insert in alphabetical order:

15                    *apprentice* means a person who is an apprentice under  
a training contract registered under the *Vocational  
Education and Training Act 1996* Part 7 Division 2;

(4) In section 7(1) in the definition of *employee* in paragraph (a)  
delete “apprentice or trainee;” and insert:

20

apprentice;

(5) In section 7(1) in the definition of *group training organisation*  
delete “and trainees” (each occurrence).

25            (6) In section 7(1) in the definition of *industrial matter* delete  
paragraph (f) and insert:

(f) in respect of apprentices, these additional  
matters —

30

(i) their wage rates and, subject to the  
*Vocational Education and Training*

*Act 1996* Part 7 Division 2, other conditions of employment; and

- 5 (ii) the wages, allowances and other remuneration to be paid to them, including for time spent in performing their obligations under training contracts registered under the *Vocational Education and Training Act 1996* Part 7
- 10 Division 2, whether at their employers' workplaces or not; and
- 15 (iii) without limiting subparagraphs (i) and (ii), those other rights, duties and liabilities of them and their employers under such contracts that do not relate to the training and assessment they are to undergo, whether at their employers' workplaces or not;

(7) In section 50A(1)(a):

- 20 (a) in subparagraph (i) delete “apprentices or trainees;” and insert:

apprentices;

- 25 (b) delete subparagraph (iii).

(8) In section 50A(5) delete “employee, apprentice or trainee” (each occurrence) and insert:

30 employee or apprentice

**Training Legislation Amendment and Repeal Bill 2008**

**Part 3** Industrial Training Act 1975 repealed

**Division 2** Consequential amendments

**s. 53**

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(9) In section 50A(6):

(a) delete “employee, apprentice or trainee” (first occurrence) and insert:

5 employee or apprentice

(b) delete “employee, apprentice or trainee.” (second occurrence) and insert:

10 employee or apprentice.

(10) In section 50B(1):

(a) delete “or trainees” (each occurrence);

(b) delete “apprentice or trainee; or” and insert:

15

apprentice; or

(11) In section 50B(2) delete “or trainees” (each occurrence).

(12) In section 50B(3):

20 (a) delete “apprentice and each class of trainee —” and insert:

apprentice —

25 (b) delete “or trainees, as is relevant to the case,”.

(13) In section 50B(4):

(a) delete “or trainees” (each occurrence);

(b) delete “apprentice or trainee,” and insert:

30 apprentice,

**54. Long Service Leave Act 1958 amended**

(1) This section amends the *Long Service Leave Act 1958*.

(2) In section 4(1) delete the definitions of ***apprentice*** and ***industrial trainee***.

5 (3) In section 4(1) insert in alphabetical order:

***apprentice*** means a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

10

(4) In section 4(1) in the definition of ***employee*** in paragraph (a) delete “apprentice or industrial trainee;” and insert:

apprentice;

15

**55. Mines Safety and Inspection Act 1994 amended**

(1) This section amends the *Mines Safety and Inspection Act 1994*.

(2) In section 4(1) delete the definitions of ***apprentice*** and ***trainee***.

(3) In section 4(1) insert in alphabetical order:

20

***apprentice*** means a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

25

(4) In section 4(1) in the definition of ***employee*** delete “or trainee”.

(5) In section 4(1) in the definition of ***employer*** delete paragraph (b) and insert:

(b) in relation to an apprentice, a person who employs the apprentice at a mine under a training contract registered under the

30

**Training Legislation Amendment and Repeal Bill 2008**

**Part 3** Industrial Training Act 1975 repealed

**Division 2** Consequential amendments

**s. 56**

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*Vocational Education and Training Act 1996*  
Part 7 Division 2;

- 5 (6) In section 4(1) in the definition of *self-employed person* in paragraph (b) delete “apprentice or trainee,” and insert:

apprentice,

**56. *Minimum Conditions of Employment Act 1993* amended**

- 10 (1) This section amends the *Minimum Conditions of Employment Act 1993*.

- (2) In section 3(1) delete the definition of *trainee*.

- (3) In section 3(1) in the definition of *public holiday* delete “area;” and insert:

15

area.

- (4) In section 12:

20

- (a) in paragraph (b) delete “apprentice or trainee,” and insert:

apprentice,

25

- (b) delete “apprentices or trainees.” and insert:

apprentices.

- (5) In section 13(b) delete “apprentice or trainee,” and insert:

30

apprentice,

(6) Delete section 15.

(7) In section 40(1) in the definition of *employee* delete “apprentice or trainee;” and insert:

5            apprentice;

**57.      *Occupational Safety and Health Act 1984* amended**

(1) This section amends the *Occupational Safety and Health Act 1984*.

10        (2) In section 3(1) delete the definitions of *apprentice* and *trainee*.

(3) In section 3(1) insert in alphabetical order:

15                            *apprentice* means a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

(4) In section 3(1) in the definition of *employee* delete paragraph (b) and insert:

20                            (b)    an apprentice;

(5) In section 3(1) in the definition of *employer* delete paragraph (b) and insert:

25                            (b)    in relation to an apprentice, a person who employs the apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

30

- (6) In section 3(1) in the definition of *self-employed person* delete paragraph (b) and insert:

(b) as an apprentice,

5

**58. *Painters' Registration Act 1961* amended**

- (1) This section amends the *Painters' Registration Act 1961*.  
(2) In section 12(1) delete paragraph (aa) and “or” after it and insert:

10

(b) has —

(i) under the *Vocational Education and Training Act 1996* Part 7 obtained a qualification prescribed under this Act; and

15

(ii) passed the prescribed additional examination laid down by the Board for those persons;

or

20

**59. *Pay-roll Tax Assessment Act 2002* amended**

- (1) This section amends the *Pay-roll Tax Assessment Act 2002*.  
(2) In section 40(2):

(a) delete paragraph (m) and insert:

25

(m) by an employer to or in relation to a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2; or

30

(b) delete paragraph (p);



(c) after each of paragraphs (a) to (l), (n) and (o) insert:

or

5 **60. *Retail Trading Hours Act 1987* amended**

(1) This section amends the *Retail Trading Hours Act 1987*.

(2) In section 10(3)(bc) delete “apprentice, as defined in the *Industrial Training Act 1975* section 4(1)” and insert:

10 apprentice under a training contract registered  
under the *Vocational Education and Training  
Act 1996* Part 7 Division 2)

**61. *School Education Act 1999* amended**

15 (1) This section amends the *School Education Act 1999*.

(2) In section 4 insert in alphabetical order:

20 *apprentice* means an apprentice under a training  
contract registered under the *Vocational Education and  
Training Act 1996* Part 7 Division 2;

(3) In section 11A(2) in the Table to the definition of *provider*  
delete items 3 and 4 and insert:

3. A student undertaking an approved VET course within the meaning given to that term by the *Vocational Education and Training Act 1996* section 5(1). The registered training provider (within the meaning given to that term by that Act section 5(1)), or a person referred to in section 58A(2) of that Act, who provides the course.

4. An apprentice. The employer.

25

**Training Legislation Amendment and Repeal Bill 2008**

**Part 3** Industrial Training Act 1975 repealed

**Division 2** Consequential amendments

**s. 61**

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(4) In section 11B(1):

(a) delete paragraphs (b) and (c) and insert:

5

(b) undertaking an approved VET course within  
the meaning given to that term by the  
*Vocational Education and Training Act 1996*  
section 5(1); or

(c) being an apprentice; or

10

(b) after paragraph (a) insert:

or

(5) In section 11D(1)(b) delete “or trainee”.

15

(6) In section 11D(5) delete “or trainee”.

(7) In section 11I(2):

(a) delete “or trainee”;

(b) in paragraph (a) delete “apprenticeship or traineeship;  
or” and insert:

20

apprenticeship; or

(8) In section 11J(2)(a) delete “apprentice or trainee; or” and insert:

25

apprentice; or

(9) In section 11J(3) delete “apprenticeship, traineeship” and insert:

30

apprenticeship

(10) In section 11J(4) delete “apprenticeship, traineeship” and insert:

apprenticeship

5 (11) In section 40(1b) delete “ or traineeship”.

(12) In section 42(1b) delete “ or traineeship”.

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