



# **Australian National Training Authority Act 1992**

**Act No. 203 of 1992 as amended**

Consolidated as in force on 24 February 1999

(includes amendments up to Act No. 152 of 1997)

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# **An Act to establish a national training authority with functions related to the funding of vocational education and training, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title** *[see Note 1]*

This Act may be cited as the Australian National Training Authority Act 1992.

### **2 Commencement** *[see Note 1]*

This Act commences on the day on which it receives the Royal Assent.

### **3 Objects**

The objects of this Act are:

- (a) in conjunction with the States, to promote the development of a national vocational education and training system in accordance with the objectives set out in the Statement; and
- (b) to promote that development in accordance with the planning and decision-making arrangements set out in the Statement.

### **4 Interpretation**

- (1) In this Act, unless the contrary intention appears:

*Authority* means the Australian National Training Authority.

*Chairperson* means the Chairperson of the Authority.

*Deputy Chairperson* means the Deputy Chairperson of the Authority.

*industry training advisory body* means an organisation or body declared by the Ministerial Council to be an industry training advisory body for the purposes of the Statement.

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**member** means a member of the Authority.

**Ministerial Council** means the Ministerial Council established in accordance with the Statement.

**national allocation principles** means principles determined by the Ministerial Council as the principles to be applied by the Authority in the allocation of funds under Part 3.

**national program** means a program that is related to vocational education and training and for which the Ministerial Council has required the Authority to undertake responsibility.

**national project** means a project declared by the Ministerial Council to be a national vocational education and training project.

**national strategic plan** has the same meaning as in the Statement.

**qualified auditor** means:

- (a) the Auditor-General of a State; or
- (b) a person registered as a company auditor or a public accountant under a law in force in a State.

**State** includes the Australian Capital Territory and the Northern Territory.

**Statement** means the statement (a copy of which is set out in the Schedule) entitled "A National Vocational Education and Training System" agreed on by the Commonwealth and the States and published on 21 July 1992.

**State training agency**, in relation to a State, means a person, organisation or body nominated by a State Minister as the State training agency of that State.

**State training profile** has the same meaning as in the Statement.

**VET funding** means money paid to the Authority under Part 3 of the *Vocational Education and Training Funding Act 1992*.

**year**, except in section 27, means a calendar year beginning on or after 1 January 1994.

- (2) In this Act, a reference to anything done, or to be done, by the Ministerial Council is a reference to the thing done, or to be done, by the Ministerial Council by resolution in accordance with the Statement.

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**Part 2—Establishment, functions and powers of the Australian National Training Authority**

**5 Establishment of Australian National Training Authority**

- (1) A national training authority, to be known as the Australian National Training Authority, is established.
- (2) The Authority:
  - (a) is a body corporate with perpetual succession; and
  - (b) is to have a common seal; and
  - (c) may acquire, hold and dispose of real and personal property; and
  - (d) may sue and be sued.
- (3) The common seal of the Authority is to be kept in such custody as the Authority directs, and is not to be used except as authorised by the Authority.
- (4) All courts, judges and persons acting judicially must:
  - (a) take judicial notice of the imprint of the common seal of the Authority appearing on a document; and
  - (b) presume that the imprint was duly made.

**6 Functions of the Authority**

- (1) The Authority has the following functions:
  - (a) to assist the Ministerial Council in the performance of the Council's functions under the Statement; and
  - (b) to do anything required by this or another Act to be done by the Authority; and
  - (c) to administer national programs.
- (2) Without limiting paragraph (1)(a), the functions conferred on the Authority by that paragraph include the following:
  - (a) to prepare draft national strategic plans for approval by the Ministerial Council;
  - (b) to give advice, and make recommendations, to the Ministerial Council regarding the amounts of funds that will



- be needed for allocation by the Authority in respect of each year;
- (c) to recommend to the Ministerial Council the principles to be applied by the Authority in the allocation of funds;
  - (d) to provide reports to the Ministerial Council on request by the Council;
  - (e) to join with State training agencies in the development, according to guidelines determined by the Ministerial Council, of State training profiles for submission by the Authority to the Council in accordance with the Statement;
  - (f) after consultation with State training agencies, to make recommendations to the Ministerial Council for more effective and efficient means of delivering vocational education and training;
  - (g) to promote and facilitate the maintenance of comprehensive national data on vocational education and training;
  - (h) subject to the directions of the Ministerial Council, to give advice, and make recommendations, to the Council in relation to matters within the functions of the Council.
- (3) The Authority also has:
- (a) functions that are, with the consent of the Ministerial Council, expressed to be conferred on the Authority by or under a law of a State; and
  - (b) functions that are, with the consent of the Ministerial Council, conferred on the Authority by the Minister in writing; and
  - (c) functions that are, with the consent of the Ministerial Council, expressed to be conferred on the Authority by a State Minister in writing.
- (4) The Authority is to perform its functions according to the Statement.

## **7 Powers of the Authority**

The Authority has power to do anything necessary for, or reasonably incidental to, the performance of its functions.

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**8 Ministerial Council directions to the Authority**

The Authority must perform its functions and exercise its powers in accordance with such general directions (if any) as are given to it by the Ministerial Council.

**9 Consultation**

In relation to any matter relevant to the performance of its functions, the Authority may, if it thinks it appropriate to do so, and must, if so directed by the Ministerial Council, consult with:

- (a) governments and government bodies; and
- (b) industry training advisory bodies; and
- (c) organisations or bodies representative of industries, employers or trade unions; and
- (d) other interested people, bodies or organisations.

**10 Committees**

- (1) The Authority may establish committees to assist it in the performance of its functions and the exercise of its powers.
- (2) A committee may include, or consist wholly of, persons who are not members of the Authority.
- (3) The Authority may give a committee such directions as it thinks fit, including:
  - (a) directions as to the manner in which it is to carry out its functions; and
  - (b) directions regarding the procedure to be followed in relation to the convening and conduct of meetings of the committee.
- (4) Section 28 has effect as if:
  - (a) a member of a committee who is not a member of the Authority were a part-time member of the Authority; and
  - (b) a meeting of the committee were a meeting of the Authority.

## **Part 3—Allocation and payment of funds**

### **11 Payments to the Authority by the Commonwealth**

In addition to money payable to the Authority under Part 3 of the *Vocational Education and Training Funding Act 1992* for allocation under this Act, there is payable to the Authority such money as is appropriated by the Parliament for payment to the Authority for allocation for the purposes of a national program.

### **12 Payments to the Authority by States**

The Authority may receive money paid to it by a State.

### **13 Allocation of funds by the Authority**

- (1) In this section, *available funds*, in respect of a year, means the total of:
  - (a) money payable to the Authority in respect of that year under Part 3 of the *Vocational Education and Training Funding Act 1992*; and
  - (b) money payable to the Authority in respect of that year under section 11 for allocation for the purposes of national programs; and
  - (c) money paid to the Authority by States in respect of that year.
- (2) The Authority must allocate the available funds in respect of each year:
  - (a) for payment to States for expenditure by those States on vocational education and training (including expenditure by way of national programs or national projects); or
  - (b) for payment, otherwise than to States, for expenditure on national programs or national projects.
- (3) The Authority may make more than one allocation in respect of the same year, but the total of the funds so allocated must not exceed the available funds in respect of the year.
- (4) The Authority may vary an allocation at any time.

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- (5) Subject to subsection (7), the Authority must make allocations, and exercise its power of variation, under this section in accordance with the national allocation principles.
- (6) The national allocation principles may include provisions relating to the allocation of funds for expenditure by the Authority, the Commonwealth, States, persons, organisations or bodies on national projects or national programs.
- (7) The Ministerial Council may direct that part of the VET funding available for allocation by the Authority in respect of a year be allocated by the Authority for expenditure of a capital nature.
- (8) Where:
  - (a) a direction has been given under subsection (7); or
  - (b) money is appropriated (otherwise than under the *Vocational Education and Training Funding Act 1992*) for payment to the Authority for the purposes of a national program;the Authority must ensure that its allocation of funds gives effect to the direction or appropriation, as the case may be.
- (9) This section has effect subject to sections 14 and 14A.

**14 Payment of funds by the Authority**

- (1) Subject to subsection (5), the Authority must make payments in respect of each year to give effect to the allocations made in respect of that year.
- (2) Amounts allocated by the Authority:
  - (a) for expenditure of a capital nature; or
  - (b) for expenditure on national programs or national projects;must be paid by the Authority under arrangements that are in accordance with guidelines determined by the Ministerial Council.
- (3) In addition to funds allocated for expenditure of a capital nature or for expenditure on national programs or national projects, the amount paid by the Authority to a State in respect of a year must not be less than the sum of:
  - (a) the amount paid by the State to the Authority in respect of the year; and

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- (b) the amount (if any) of VET funding payable to the State as base funding in respect of the year.
- (4) The amount of VET funding payable to a State as base funding in respect of a year is:
  - (a) in the case of the year 1994—an amount equal to the amount determined by the Minister in respect of the State under subsection 10(1) of the *States Grants (TAFE Assistance) Act 1989* for the calendar year 1993; and
  - (b) in the case of any other year—the total amount of VET funding paid to the State by the Authority in respect of the preceding year, excluding funds paid to the State by the Authority for expenditure on national projects or for expenditure of a capital nature.
- (5) The amount paid to a State in respect of a year (*the payment year*) must not exceed the sum of the amounts referred to in subsection (3) unless the Ministerial Council has agreed to a State training profile for the State in respect of a period of years beginning with the payment year or in respect of a period comprising only that year.
- (6) If the amount paid to a State in respect of a year exceeds the amount properly payable to the State, an amount equal to the excess is payable by the State to the Authority.
- (7) This section has effect subject to section 14A.

**14A Commonwealth Minister may restrict amount payable to a State**

- (1) This section applies in respect of the year 1994 and the year 1995.
- (2) Subject to subsections (3) and (4), the Minister may, by written notice given to the Authority before the start of a year, direct that the Authority must not allocate or pay any, or more than a specified amount, of the VET funding (including funds for expenditure on national projects or for expenditure of a capital nature) available for allocation by the Authority in respect of the year to a particular State.

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- (3) The Minister may give a notice under subsection (2) only if, in the Minister's opinion, the State has failed to comply with the Statement.
- (4) Before forming an opinion under subsection (3) the Minister must seek, and have regard to, any advice provided by the Authority.
- (5) The Minister must not amend or vary a notice given under subsection (2) so as to reduce an amount specified in the notice.
- (6) The Authority must comply with a direction in a notice given under subsection (2).

**15 Benefits of allocations to be available without discrimination**

The national allocation principles must include provision to ensure that, except where the object of expenditure is to secure the adequate advancement of persons who require special assistance, the benefits of, and opportunities created by, allocation of money by the Authority under section 13 are, as far as practicable, available to students or trainees on a non-discriminatory basis.

**16 Arrangements regarding payments to and by the Authority**

- (1) Money payable to the Authority by the Commonwealth under this Part is to be paid in accordance with such arrangements as are approved by the Ministerial Council.
- (2) Money paid by a State to the Authority is to be paid in accordance with such arrangements as are approved by the Ministerial Council.
- (3) Money payable by the Authority to a particular recipient under this Part is to be paid in accordance with such arrangements as are approved by the Ministerial Council.

## **Part 4—Reporting requirements**

### **17 Annual audit reports to the Authority by States**

- (1) Each State to which funds have been paid by the Authority in respect of a year must give the Authority a written statement by a qualified auditor:
  - (a) specifying the amounts of those funds spent in respect of the year; and
  - (b) certifying that the amounts so spent were spent for purposes for which they were allocated to the State by the Authority.
- (2) The statement must be given to the Authority not later than 30 September in the year following the relevant year.

### **18 Annual national report**

- (1) Within 6 months after the end of each year, the Authority must submit to the Ministerial Council a draft annual national report.
- (2) The draft report must incorporate any reports provided to the Authority by State training agencies for incorporation in the draft report.
- (3) The draft report must be according to a form approved by the Ministerial Council.
- (4) The Minister is to cause an annual national report representing the draft report, as approved, or as amended and approved, by the Ministerial Council, to be laid before each House of the Parliament within 15 sitting days after its receipt by the Minister.
- (5) This section does not affect, and is not affected by, section 9 of the *Commonwealth Authorities and Companies Act 1997* as it applies in relation to the Authority under section 23 of this Act.

## Part 5—Finance

### 19 Interpretation

In this Part:

*operating expenditure* means expenditure of the Authority, other than expenditure under Part 3.

*operating receipts* means money received by the Authority, other than money referred to in section 11 or 12.

### 20 Money of the Authority

The Authority's money consists of:

- (a) money paid to the Authority under Part 3 of the *Vocational Education and Training Funding Act 1992*; and
- (b) money paid to the Authority under section 11 for expenditure on national programs; and
- (c) money received by the Authority under section 12; and
- (d) money paid to the Authority to meet its operating expenditure; and
- (e) any other money paid to the Authority.

### 21 Application of the Authority's money

- (1) Money referred to in paragraph 20(a), (b) or (c) is to be spent by the Authority only in making payments to States and in making payments for expenditure on national projects or national programs.
- (2) Money referred to in paragraph 20(d) or (e) is to be spent only:
  - (a) in payment or discharge of costs, expenses or other obligations incurred by the Authority in the performance of its functions and the exercise of its powers; and
  - (b) in payment of remuneration or allowances payable under this Act; and
  - (c) in providing, or paying for, any other benefits that are to be provided under this Act.



**22 Estimates of operating receipts and expenditure**

- (1) The Authority is to prepare estimates, in such form as the Ministerial Council directs, of the Authority's operating receipts and expenditure for each financial year and, if the Ministerial Council so directs, for any other period specified by the Council.
- (2) The Authority must submit estimates to the Ministerial Council not later than such date as the Council directs.
- (3) Except with the consent of the Ministerial Council, money paid to the Authority to meet its operating expenditure is not to be spent otherwise than in accordance with estimates approved by the Ministerial Council.

**23 Application of the Commonwealth Authorities and Companies Act**

- (1) The Authority is not a Commonwealth authority for the purposes of the *Commonwealth Authorities and Companies Act 1997*.
- (2) Sections 9, 11, 18 and 20 of that Act, and Schedule 1 to that Act, apply in relation to the Authority as if it were a Commonwealth authority for the purposes of that Act.
- (3) A copy of each annual report given to the Minister must be given to each member of the Ministerial Council as soon as practicable.

## **Part 6—Administrative provisions relating to the Authority**

### **Division 1—Membership etc.**

#### **24 Membership of the Authority**

- (1) The Authority consists of the following members:
  - (a) a Chairperson;
  - (b) a Deputy Chairperson;
  - (c) 5 other members.
- (2) The Authority may perform its functions and exercise its powers so long as there are not more than 3 vacancies in its membership.

#### **25 Appointment of members**

The members of the Authority are to be appointed by the Governor-General on the nomination of the Ministerial Council.

#### **26 Membership to be full-time or part-time**

The members may be appointed on a full-time or part-time basis.

#### **27 Term of appointment**

A member holds office for such period, not exceeding 3 years, as is specified in the document of appointment, but is eligible for re-appointment.

#### **28 Remuneration and allowances of members**

- (1) The members are to be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) If no determination of the Remuneration Tribunal is in force, the members are to be paid such remuneration as is determined by the Chairperson of the Ministerial Council.

- (3) The members are to be paid such allowances as are determined by the Chairperson of the Ministerial Council.
- (4) A determination for the purpose of subsection (2) or (3):
  - (a) may only be made with the approval of the Ministerial Council; and
  - (b) must be in writing signed by the Chairperson of the Council; and
  - (c) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (5) Remuneration and allowances payable to a member under this section are to be paid out of the money of the Authority.
- (6) This section, other than subsection (5), has effect subject to the *Remuneration Tribunal Act 1973*.
- (7) Subsection (5) has effect in spite of the *Remuneration Tribunal Act 1973*.

## **29 Other benefits**

- (1) In addition to remuneration and allowances under section 28, a member is to be provided with such other benefits (if any) as the Chairperson of the Ministerial Council determines.
- (2) A determination under subsection (1):
  - (a) may only be made with the approval of the Ministerial Council; and
  - (b) must be in writing signed by the Chairperson of the Council; and
  - (c) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (3) The benefits in respect of which a determination may be made under subsection (1) are such benefits as the Ministerial Council considers necessary or desirable to assist a member in, or place a member in a position that may facilitate, the performance of his or her functions.
- (4) Benefits provided to a member under this section are to be provided, or paid for, out of the money of the Authority.

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**30 Leave of absence**

- (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Ministerial Council may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise, as the Ministerial Council determines.
- (3) If the Chairperson is appointed on a part-time basis, the Ministerial Council may grant the Chairperson leave of absence on such terms and conditions as the Ministerial Council determines.
- (4) The Chairperson may grant a part-time member other than the Chairperson leave of absence on such terms and conditions as the Chairperson determines.

**31 Resignation**

A member may resign by giving a signed notice of resignation to the Governor-General.

**32 Termination of appointment**

- (1) The Governor-General may terminate the appointment of a member for misbehaviour or for physical or mental incapacity.
- (2) If a member:
  - (a) is absent from three consecutive meetings of the Authority, except on leave granted under section 30; or
  - (b) contravenes section 39 without reasonable excuse;the Governor-General may terminate the appointment of the member.
- (3) The Governor-General must not terminate the appointment of a member unless the Ministerial Council has, by resolution, recommended the termination of the member's appointment.

### **33 Terms and conditions not provided for by Act**

A member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, from time to time, by the Ministerial Council.

### **34 Acting appointments etc.**

- (1) The Deputy Chairperson is to act as the Chairperson:
  - (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to that office; or
  - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any reason, unable to perform the duties of that office.
- (2) The Ministerial Council may appoint a person to act in the office of a member:
  - (a) during a vacancy in that office, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the member is absent from Australia or is, for any reason, unable to perform the duties of that office.
- (3) A person acting under this section during a vacancy is not to continue to act for more than 12 months.
- (4) Nothing done by or in relation to a person purporting to act under this section is invalid on the ground that:
  - (a) the occasion for the person's appointment to act had not arisen; or
  - (b) there is a technical defect or irregularity in connection with the person's appointment; or
  - (c) the person's appointment had ceased to have effect; or
  - (d) the occasion for the person to act had not arisen or had ceased.

## **Division 2—Meetings**

### **35 Convening of meetings**

- (1) The Authority is to hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chairperson:
  - (a) may, at any time, convene a meeting of the Authority; and
  - (b) must convene a meeting of the Authority if so requested in writing by 2 other members or if so directed by the Ministerial Council.

### **36 Procedure at meetings**

- (1) The Chairperson is to preside at all meetings at which he or she is present.
- (2) If the Chairperson is not present at a meeting but the Deputy Chairperson is present, the Deputy Chairperson is to preside.
- (3) At a meeting, 4 members constitute a quorum.
- (4) At a meeting, all questions are to be decided by a majority of votes of the members present and voting.
- (5) For the purpose of subsection (4), the majority of votes must consist of at least 4 members.

### **37 Conduct of meetings**

- (1) Subject to this Division, the Authority may regulate proceedings at its meetings as it considers appropriate and is to keep minutes of those proceedings.
- (2) Without limiting subsection (1), the Authority may permit members to participate in a particular meeting, or all meetings, by:
  - (a) telephone; or
  - (b) closed-circuit television; or
  - (c) any other means of communication.

- (3) A member who is permitted to participate in a meeting under subsection (2) is to be regarded as being present at that meeting.

### **38 Resolutions without formal meetings**

Where the Authority so determines, a resolution is taken to have been carried at a meeting of the Authority if, without meeting, at least 4 members indicate agreement with the resolution according to the method determined by the Authority.

### **39 Disclosure of interests**

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Authority must, as soon as possible after the relevant facts come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.
- (2) The disclosure is to be recorded in the minutes of the meeting and, unless the Ministerial Council otherwise determines, the member must not:
- (a) be present during any deliberation of the Authority in relation to the matter; or
  - (b) take part in any decision of the Authority in relation to the matter.

## **Part 7—Chief Executive Officer, staff and consultants**

### **Division 1—Chief Executive Officer**

#### **40 Appointment and functions of Chief Executive Officer**

- (1) There is to be a Chief Executive Officer of the Authority, who is to be appointed by the Authority after consultation with the Ministerial Council.
- (2) The Chief Executive Officer is to manage the affairs of the Authority subject to the directions of, and in accordance with policies determined by, the Authority.
- (3) All acts and things done, for the purposes of this Act, in the name of the Authority or on behalf of the Authority by the Chief Executive Officer are to be taken to have been done by the Authority.

#### **40A Secondment of Chief Executive Officer**

- (1) The Authority may appoint as Chief Executive Officer:
  - (a) an officer or employee of a Department of the Australian Public Service or of an authority of the Commonwealth who is made available to the Authority to perform the duties of Chief Executive Officer; or
  - (b) a person who is made available under an arrangement made under subsection (2).
- (2) The Authority may, after consultation with the Ministerial Council, make with the appropriate authority or officer of a State an arrangement under which the State or an authority of the State will make a person available to the Authority to perform the duties of Chief Executive Officer.
- (3) An arrangement under subsection (2) must be consistent with such guidelines (if any) determined by the Ministerial Council as are in effect when the arrangement is made.



- (4) Sections 41 to 44 do not apply to a Chief Executive Officer to whom subsection (1) applies.

#### **41 Remuneration and allowances**

- (1) The Chief Executive Officer is to be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) If no determination of the Remuneration Tribunal is in force, the Chief Executive Officer is to be paid such remuneration as is determined by the Chairperson of the Ministerial Council.
- (3) The Chief Executive Officer is to be paid such allowances as are determined by the Chairperson of the Ministerial Council.
- (4) A determination for the purpose of subsection (2) or (3):
- (a) may only be made in accordance with a resolution of the Ministerial Council; and
  - (b) must be in writing signed by the Chairperson of the Council; and
  - (c) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (5) Remuneration and allowances payable to the Chief Executive Officer under this section are to be paid out of the money of the Authority.
- (6) This section, other than subsection (5), has effect subject to the *Remuneration Tribunal Act 1973*.
- (7) Subsection (5) has effect in spite of the *Remuneration Tribunal Act 1973*.

#### **42 Other benefits**

- (1) In addition to remuneration and allowances under section 41, the Chief Executive Officer is to be provided with such other benefits (if any) as the Chairperson of the Ministerial Council determines.
- (2) A determination under subsection (1):
- (a) may only be made in accordance with a resolution of the Ministerial Council; and

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- (b) must be in writing signed by the Chairperson of the Council;  
and
  - (c) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (3) The benefits in respect of which a determination may be made are such benefits as the Ministerial Council considers necessary or desirable to assist the Chief Executive Officer in, or place the Chief Executive Officer in a position that may facilitate, the performance of his or her functions.
- (4) Benefits provided to the Chief Executive Officer under this section are to be provided, or paid for, out of the money of the Authority.

**43 Leave of absence**

- (1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Authority may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Authority determines.

**44 Terms and conditions not provided for by Act**

The Chief Executive Officer holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, from time to time, by the Ministerial Council.

## **Division 2—Staff and consultants**

### **45 Staff of the Authority**

- (1) The Authority is to be assisted by a staff in accordance with this Division.
- (2) The Authority may employ under a written agreement or written agreements such persons as the Authority thinks necessary for the performance or exercise of its powers or functions.
- (3) The terms and conditions of an agreement made for the purposes of subsection (2) are to be consistent with such guidelines (if any) as the Ministerial Council determines from time to time.
- (4) The Authority's staff may also include persons appointed or employed under the *Public Service Act 1922*.
- (5) The Chief Executive Officer has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922*, so far as those powers relate to the branch of the Australian Public Service comprising the persons referred to in subsection (4) as if that branch were a separate Department of the Australian Public Service.
- (6) If:
  - (a) the Authority notifies a person that he or she has been selected to become a member of its staff; and
  - (b) the person is an officer of the Australian Public Service;the person may inform the Authority in writing that he or she elects to become a member of the Authority's staff by means of an appropriate procedure under the *Public Service Act 1922* or the Public Service Regulations.
- (7) The Authority must, as far as possible, give effect to an election under subsection (6).

### **46 Staff seconded to the Authority**

- (1) The Authority may be assisted by:

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- (a) officers and employees of Departments of the Australian Public Service, and of authorities of the Commonwealth, whose services are made available to the Authority in connection with the performance or exercise of any of its functions or powers; and
  - (b) persons whose services are made available under arrangements made under subsection (2).
- (2) The Authority may make with the appropriate authority or officer of a State an arrangement under which the State or an authority of the State may make officers or employees available to the Authority to perform services in connection with the performance or exercise of any of the Authority's functions or powers.

**47 Consultants**

- (1) The Authority may engage persons with suitable qualifications and experience as consultants to the Authority.
- (2) The terms and conditions of engagement of a consultant are to be in accordance with such determinations (if any) as the Ministerial Council makes for the purposes of this subsection.

## **Part 8—Miscellaneous**

### **47A Transfer of administration of certain national programs to the Authority**

- (1) In this section:

*agreement* includes contract.

*transfer day*, in relation to a particular transferred agreement, means the day on which a declaration under subsection (2) relating to that agreement takes effect.

*transferred agreement* means an agreement specified in a declaration under subsection (2).

- (2) The Minister may declare in writing:
- (a) that a specified agreement entered into by the Commonwealth was made for the purposes of a specified national program; and
  - (b) that this section is to apply to the agreement.
- (3) The day on which a declaration under subsection (2) takes effect is ascertained in the following way:
- (a) if the declaration relating to the agreement is expressed to take effect on a specified day, the transfer day is:
    - (i) that day; or
    - (ii) the day on which a copy of the declaration is given by the Commonwealth to the other party to the agreement; whichever is the later;
  - (b) if the declaration is not so expressed, the transfer day is the day on which a copy of the declaration is given by the Commonwealth to the other party to the agreement.
- (4) A copy of a declaration may be given to a person by post.
- (5) On and after the transfer day, a transferred agreement has effect as if:
- (a) the Authority were a party to the agreement instead of the Commonwealth; and

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- (b) any reference in the agreement to the Commonwealth in its capacity as a party to the agreement were a reference to the Authority; and
  - (c) any reference in the agreement to the Department of Employment, Education and Training (however expressed) were a reference to the Authority; and
  - (d) any reference in the agreement to an officer of that Department were a reference to the Chief Executive Officer of the Authority; and
  - (e) anything done by or for the Commonwealth, before the transfer day, in connection with the agreement had been done by the Authority; and
  - (f) any payment made to the Commonwealth, before the transfer day, in connection with the agreement had been made to the Authority.
- (6) The Minister may delegate the power conferred by subsection (2) to the Secretary to the Department.

**48 No payment without appropriation**

Nothing in this Act authorises the Authority to pay VET funding to a State in respect of a year unless money has been appropriated by the Parliament for allocation under this Act, in respect of that year, among States that include the first-mentioned State.

**49 Delegation by the Authority**

- (1) Subject to subsection (2), the Authority may delegate all or any of its functions and powers under this Act to:
- (a) a member; or
  - (b) a member of the staff of the Authority; or
  - (c) an officer or employee of the Commonwealth; or
  - (d) an officer or employee of a State; or
  - (e) an authority of the Commonwealth or of a State.
- (2) A delegation under subsection (1) does not have effect unless:
- (a) it is in accordance with guidelines laid down by the Ministerial Council; or
  - (b) it has been approved by the Ministerial Council.

- (3) For the purposes of this section, the following are members of the staff of the Authority:
- (a) the Chief Executive Officer;
  - (b) a member of the staff referred to in section 45;
  - (c) any of the officers, employees or persons who, under section 46, are to assist the Authority.

## **50 Change of name of the Authority**

- (1) The regulations may change the name of the Authority.
- (2) On and from the commencement of regulations made for the purpose of subsection (1):
- (a) the Authority is to be known by the new name provided by the regulations; and
  - (b) this Act is to be read as if wherever the name “Australian National Training Authority” occurs, the new name were substituted.
- (3) Subsection 25B (1) of the *Acts Interpretation Act 1901* applies as if regulations made for the purpose of subsection (1) of this section were an Act.

## **51 Regulations**

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made under subsection (1) must be in accordance with a recommendation of the Ministerial Council.

## Schedule—A National Vocational Education and Training System

### Section 4

#### OBJECTIVES

1. In supporting the proposal for an Australian National Training Authority (ANTA), the main aim would be to promote:
  - a **national vocational education and training system**, with agreed objectives and priorities, assured funding arrangements, consistent national strategies and a network of providers delivering high quality, nationally recognised programs at the State and local level;
  - **close interaction between industry and vocational education and training providers**, to ensure that the training system operates within a strategic plan that reflects industry's needs and priorities;
  - an **effective training market**, with public and private provision of both high level, advanced technical training and further education opportunities for the workforce and for the community generally;
  - an **efficient and productive network of publicly funded providers** that can compete effectively in the training market;
  - **increased opportunities and improved outcomes** for individuals and target groups, including school leavers, to enhance their employment outcomes; and
  - **improved cross-sectoral links** between schools, higher education and vocational education and training.

#### FRAMEWORK

2. The new National System would have the following key features:
  - a Ministerial Council to oversee the ANTA and to be responsible for decisions on strategic policy, national objectives and priorities
    - decision making by the Ministerial Council will be on the basis of voting by all of its members



- an ANTA responsible for the development of, and advice on, national policy and the development of a draft National Strategic Plan on vocational education and training, within the framework of National Goals, Objectives and Priorities established by the Ministerial Council and for endorsement by the Ministerial Council
- State training agencies<sup>††</sup> as distinct bodies in the context of a National Training System with responsibility for vocational education and training within their own borders consistent with the agreed National Strategic Plan on Training Policy and the agreed State Training Profile. State training agencies will be accountable to State Ministers and parliaments for the operational responsibilities of their agencies and accountable to the Ministerial Council on matters of national policy. The relationship between State training agencies and ANTA will be formally defined in Commonwealth and State legislation consistent with this agreement.

### KEY PLANNING INSTRUMENTS

3. Planning processes for the new National System would involve the following key planning instruments:

- **Agreed National Goals, Objectives and Priorities**
  - these constitute the long term, broad policy framework for the National Vocational Education and Training System and would include Common and Agreed National Goals for Vocational Education and Training, long-term participation targets (such as those arising from the Finn Report), priorities for longer-term reform (such as reforms to entry-level training arrangements) and any agreed improvements in the cost and quality of service provision.
- **A National Strategic Plan for Vocational Education and Training**
  - setting strategic directions for the vocational education and training system over the medium term (3 to 5 years)

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<sup>††</sup> One such agency to be designated by each State as the co-ordinating point for the purpose of this agreement and to be listed in the relevant schedule.

consistent with agreed national goals, objectives and priorities

- endorsed by the Ministerial Council to provide a national strategic framework to guide the operations of the ANTA.

- **Planning Parameters**

- setting firm targets and priorities for the provision and support of vocational education and training for the year ahead and indicative parameters for the following two years on the basis of funds already approved
- determined by the Ministerial Council, for inclusion in the guidelines issued to the ANTA for the development of profiles with the State training agencies.

- **Profiles**

- within the ambit of ANTA's responsibilities (see paragraph 36), defining a single and comprehensive plan for the provision and support of vocational education and training (in terms of level and type of course provision, other training services and infrastructure development) for the year ahead and outlining an indicative plan for the following two years
  - : at the State level and, in aggregate, at the national level
- agreed by the Ministerial Council.

## **ROLES AND RESPONSIBILITIES OF THE KEY PARTIES**

### **THE MINISTERIAL COUNCIL**

4. The Council will consist of one Minister from each State and Territory and the Commonwealth responsible for vocational education and training and will be chaired by the Commonwealth.
5. On the Ministerial Council, each State and Territory Minister will have one vote while the Commonwealth Minister will have two votes and a casting vote. All matters will be decided by a simple majority.

6. The functions of the Ministerial Council would include:
- to agree on necessary Commonwealth and State legislation establishing the ANTA and defining the relationship between the ANTA, the Ministerial Council and State training agencies
  - to decide on the appointment of members of the ANTA and their removal
  - to decide on the appointment of the chairperson of the ANTA
  - to determine the budget for, and establishment of, the ANTA including relevant aspects of staffing policy
  - to determine National Goals, Objectives and Priorities for vocational education and training
  - to determine a National Strategic Plan on Training Policy based on advice from the ANTA, consistent with agreed National Goals, Objectives and Priorities
  - to determine, in the context of the National Strategic Plan, the principles to be applied for the allocation of funding between States and for any national programs
  - to provide annual advice to assist the Commonwealth Minister in Commonwealth decisions on growth funding requirements
  - to agree planning parameters and profiles for the delivery of vocational education and training nationally
  - to ensure that the ANTA operates in an effective and efficient manner
  - to resolve any dispute between the ANTA and a State training agency or any other issue raised by a Minister
  - to give references to the ANTA on other issues of training policy
  - to be accountable to State and Commonwealth Parliaments for the operation of the ANTA and the expenditure of funds
  - to approve an annual national training report.

#### **AUSTRALIAN NATIONAL TRAINING AUTHORITY (ANTA)**

7. The ANTA will be a Board of acknowledged independent experts set up as a Commonwealth statutory authority with members appointed through the Commonwealth Executive Council consistent with the decision of the Ministerial Council.

8. It will consist of 5 members appointed for three years.
9. The functions of the ANTA will include:
  - based on advice from State training agencies and, where appropriate, in consultation with National Industry Training Advisory Bodies (ITABs), to develop for the consideration of the Ministerial Council:
    - a draft National Strategic Plan; and
    - aspects of training policy in response to references from the Ministerial Council
  - to initiate draft references on aspects of training policy, for the approval of the Ministerial Council
  - to advise the Ministerial Council, in the context of the National Strategic Plan, of the principles to be applied for the allocation of funding between States
  - to provide information and advice to the Ministerial Council to assist the Commonwealth Minister to make decisions on growth funding levels
  - to provide information and advice to assist the Ministerial Council to make decisions on planning parameters
  - to develop, in conjunction with State training agencies, detailed State Training Profiles based on the National Strategic Plan once approved by the Ministerial Council, and to submit the Profiles to the Ministerial Council with advice on the agreement or otherwise which has been reached in their development
  - to develop, in conjunction with State training agencies, an efficient and quality service provision
  - to receive from each State an amount at least equal to the amount of its own source funding for vocational education and training in that State (see paragraph 31)
  - to receive Commonwealth funds for vocational education and training (see paragraph 36)
  - to allocate and remit funding to the State training agencies on the basis of principles determined by the Ministerial Council and on condition that each will receive an amount at least equivalent to that which that State has provided to the ANTA

- to administer any programs agreed by the Ministerial Council as requiring national delivery within guidelines approved by the Ministerial Council
- to be responsible for ensuring that comprehensive up-to-date national statistical data are available on relevant aspects of training
- to provide an integrated annual report for approval by the Ministerial Council which incorporates reports received from State training agencies in an agreed format.

### **STATE TRAINING AGENCIES**

10. State training agencies will be distinct bodies in the context of a national training system with responsibility for vocational education and training within their own borders consistent with the agreed national strategic plan on training policy and the agreed state training profile. State training agencies will be accountable to State Ministers and parliaments for the operational responsibilities of their agencies and accountable to the Ministerial Council on matters of national policy. The relationship between State training agencies and ANTA will be formally defined in Commonwealth and State legislation consistent with this agreement.
11. The functions of the State training agencies will include:
  - to provide to the ANTA policy advice and information on training needs and the funding implications of these needs, developed in consultation with all interested stakeholders including State government and industry
  - to develop, in conjunction with the ANTA, detailed State Training Profiles based on the National Strategic Plan and in accordance with agreed planning parameters
  - to ensure that the management of the State training system including the planning, regulation and provision of public and private training at State and Territory level is in accordance with the National Strategic Plan and agreed State Profile
    - including the allocation of resources within individual States and Territories on a program and geographic basis
  - to provide annually to the ANTA a report on performance in an agreed format to enable the compilation of an annual

integrated report for approval by the Ministerial Council in addition to any reporting required by the relevant state.

## **INDUSTRY**

12. Industry would be involved in key aspects of the new National System, including
  - through membership on the ANTA, by participating in the development of national policy and priorities
  - through participation in the State training agencies and involvement in the development of State Training profilesand, in addition,
  - the National ITABs will be a key source of advice to the ANTA in the development of national policy and priorities
  - State ITABs will be consulted in the development of State Profiles and provide input to national plans to the State training agencies.
  - The precise industry consultative mechanism at the State level will be a matter for the State government. It is envisaged that consultative mechanisms will also involve other stakeholders.

## **MAIN DECISION MAKING PROCESSES**

13. The Ministerial Council will develop and endorse agreed national objectives and priorities for vocational education and training.

14. State training agencies will provide data and advice to the ANTA on the needs and priorities of the sector, including funding implications.

15. State training agencies' input will be compiled in consultation with other relevant stakeholders as appropriate.

16. The input from the State training agencies is aggregated by the ANTA and considered in the context of national objectives, priorities and needs.

17. The ANTA will prepare a draft National Strategic Plan setting strategic directions for vocational education and training system over the medium term (3 to 5 years). The draft National Strategic Plan will be based on the national objectives and priorities endorsed by Ministers, input from State training agencies and consideration of national issues. The draft Plan will also

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address issues of efficiency and effectiveness. The draft National Strategic Plan and draft principles to be applied for the allocation of funds between the States, will be forwarded to the Ministerial Council for approval.

18. The ANTA will also prepare, for the Ministerial Council's consideration, advice on the triennial planning parameters focussing on the following program year.

19. The States and the Commonwealth will jointly fund the vocational education and training system through the ANTA (subject to any State's decision to hand over responsibility to the Commonwealth). States will maintain (and in some cases lift) their current effort, as outlined below. The Commonwealth will fund growth for the sector on a continuing basis and, for 1993-95, provide funding as outlined in **One Nation**. The ANTA will provide information and advice to the Ministerial Council to assist the Commonwealth Minister to make decisions on growth funding levels.

20. The Ministerial Council will amend and/or approve the National Strategic Plan and the planning parameters.

21. The Ministerial Council will return the approved National Strategic Plan and the planning parameters to the ANTA for use in the development of detailed planning profiles in conjunction with each State training agency.

22. Following Budget decisions, the Ministerial Council will provide the ANTA with advice on the quantum of funds available. It will also transmit the principles to be applied by ANTA to determine the allocation of funds across the States.

23. State training agencies will develop in conjunction with the ANTA detailed State Training Profiles based on the National Strategic Plan and consistent with the planning parameters.

24. The ANTA will advise the Ministerial Council on the agreement or otherwise which has been reached in the development of the State Profile and remit the State Profile to the Ministerial Council.

25. Where the ANTA and the State training agency cannot reach agreement about the profile, the matter will be referred to the Ministerial Council for resolution.

26. Once approved by the Ministerial Council, the planning profile will be implemented.

27. State training agencies will have responsibility for implementation of approved State Training Profiles within their borders.

28. Within the scope of the ANTA's responsibilities, training programs and services will be managed through State training agencies except for programs agreed by the Ministerial Council as requiring national delivery which would be administered by the ANTA within guidelines approved by the Ministerial Council.

29. Each State training agency will provide annually to the ANTA a report on performance in an agreed format and ANTA will provide an annual integrated Report to the Ministerial Council for tabling in respective Parliaments.

#### **FUNDING ARRANGEMENTS**

30. Except where a State relinquishes financial responsibility, States will pass to the ANTA an amount equal to their own-source State funding for vocational education and training. An equal amount will be returned to respective States and Territories along with the Commonwealth funds as specified in paragraphs 32 and 33.

31. States will at least maintain their effort for vocational education and training on an ongoing basis. The Commonwealth and States are committed to the development of agreed outcomes measures of effort for agreement by the commencement of 1993. Pending such agreement being reached and agreement to a timetable for subsequent implementation, States will maintain 1992 effort in real terms. On the basis of an early move to measure the vocational education and training system in each State on an outcome basis, any State which is demonstrably underachieving would agree to increase its effort to an agreed level in outcome terms. In the interim there may be agreed arrangements for those States to increase their funding contributions.

32. The Commonwealth will maintain its current level of financial support for vocational education and training under States Grants arrangements, plus the \$100m in TAFE recurrent funding provided



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in the Economic Statement of November 1991 which will be distributed under existing arrangements.

33. The Commonwealth will provide growth funding on a continuing basis, including the \$70m nationally in each year of the 1993-95 triennium as announced in **One Nation**. All growth funding for calendar 1993 will be allocated on a proportional basis in accordance with relevant population shares. For 1994 and 1995, 80 per cent of cumulative growth funds (ie, \$112m in 1994 and \$168m in 1995) will be allocated on the same basis, with the balance to be allocated by the Ministerial Council on the recommendation of ANTA having regard to assessed performance against agreed objectives and other relevant factors.
34. The funds described in paragraphs 32 and 33 will be passed to the ANTA, for on passing to State training agencies or to other parties as appropriate in the case of agreed national projects. For any given year, pending the agreement by the Ministerial Council regarding the State Profile, the State training agency will continue to operate on the basis of the funds and Profile agreed for the previous year. When agreement is reached the growth provisions prescribed in paragraph 33 will obtain.
35. All States will share in growth funds according to principles established by the Ministerial Council except insofar as the circumstances outlined in paragraph 34 would prevent a State or Territory accessing growth funds for a particular year.
36. To the maximum extent possible, Commonwealth government-funded training programs should be funded through ANTA arrangements. Existing Commonwealth programs should be allocated on a functional basis in accordance with a set of guiding principles. Under those principles:
  - the Commonwealth would retain responsibility for those programs which:
    - cover employment and migration and relate directly to its own areas of responsibility;
    - provide income support to individuals or training subsidies to employers;
    - are counter-cyclical in nature; or

- provide training opportunities to client groups for which the Commonwealth has a special responsibility (eg, Aboriginals);
- State governments would assume responsibility for those programs which relate directly to their own responsibilities for the regulation and delivery of training and which do not have a broader national purpose;
- furthermore ANTA should be advised on Commonwealth labour market programs and report on their impact on national vocational education and training policy and on State Training Profiles;
- all general recurrent and capital grants to TAFE currently provided under States Grants (TAFE Assistance) legislation would be passed to ANTA under the arrangements set out at paragraph 34 above. In addition, ANTA would assume responsibility for programs which support training activities and services which are national in scope and purpose (this includes after its establishment the national aspects of the new Australian Vocational Certificate Training System); and provide operating support for the national Industry Training Advisory Body (ITAB) network;
- existing arrangements would continue to apply in relation to the National Training Board, and the National Centre for Vocational Education Research which would report to the Ministerial Council.

The Commonwealth and the States remain committed to improvements in coordination and planning arrangements for the training elements of labour market programs, consistent with the MOVEET resolutions of August 1991 and June 1992. The role of ANTA in this respect will need to be developed and this and any other matters which are left unresolved by the provisions of paragraph 36 should be resolved before 1 September 1992.

37. Subject to paragraph 38, if a State(s) were to relinquish financial responsibility for vocational education and training (by way of an adjustment to its FAGs) but others do not, there would be no disturbance to the determination of per capita relativities by the Commonwealth Grants Commission. That is, the following principles would apply

- that vocational education and training continue to form part of the fiscal equalisation process
  - any recurrent Commonwealth own purpose outlays (replacing former State outlays) should be treated as notional SPPs in the State where the expenditure occurs
  - such notional SPPs should be treated by the inclusion approach.
38. Grants Commission treatment would have to be kept under review by the Premiers' Conference in the light of the number of States relinquishing financial responsibility.
39. A State that relinquishes funding responsibility for vocational education and training would retain its voting rights on the Ministerial Council.
40. This agreement comes into force on 1 January 1994. Transitional arrangements, including provision for an interim Board of the ANTA, will be determined by the Ministerial Council by 1 September 1992. The agreement will be subject to review before the end of 1995.

**NOTE**  
**Table of Acts**

**NOTE**

1. The *Australian National Training Authority Act 1992* as shown in this reprint comprises Act No. 203, 1992 amended as indicated in the Tables below.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian National Training Authority Act 1992</i>	203, 1992	21 Dec 1992	21 Dec 1992	
<i>Australian National Training Authority Amendment Act 1993</i>	4, 1993	27 May 1993	27 May 1993	—
<i>Australian National Training Authority Amendment Act (No. 2) 1993</i>	111, 1993	24 Dec 1993	24 Dec 1993	—
<i>Vocational Education and Training Funding Laws Amendment Act 1993</i>	119, 1993	24 Dec 1993	Div. 1 of Part 2 (ss. 3-5), s. 11 and Schedule 2: 31 Dec 1993 (see s. 2(2) and <i>Gazette</i> 1993, No. GN50) Remainder: Royal Assent	—
<i>Vocational Education and Training Funding Laws Amendment Act 1996</i>	73, 1996	5 Dec 1996	5 Dec 1996	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 413 and 414): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN 49) (a)	—

- (a) The *Australian National Training Authority Act 1992* was amended by Schedule 2 (items 413 and 414) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- “(2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.”.



**NOTE**  
**Table of Amendments**

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**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
S. 4 .....	am. No. 111, 1993
Ss. 13, 14 .....	am. No. 119, 1993
S. 14A .....	ad. No. 119, 1993
S. 18.....	am. No. 152, 1997
S. 23.....	rs. No. 152, 1997
S. 24.....	am. No. 73, 1996
S. 36.....	am. No. 73, 1996
S. 38.....	am. No. 73, 1996
S. 40A .....	ad. No. 4, 1993
S. 46 .....	am. No. 4, 1993
S. 47A .....	ad. No. 111, 1993

