



# **Australian National Training Authority Act 1992**

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

Consolidated as in force on 5 December 1999

(includes amendments up to Act No. 146 of 1999)

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra



---

# Contents

<b>Part 1—Preliminary</b>	1
1	Short title [ <i>see</i> Note 1].....1
2	Commencement [ <i>see</i> Note 1] .....1
3	Objects.....1
4	Interpretation .....1
<b>Part 2—Establishment, functions and powers of the Australian National Training Authority</b>	4
5	Establishment of Australian National Training Authority .....4
6	Functions of the Authority.....4
7	Powers of the Authority.....5
8	Ministerial Council directions to the Authority .....6
9	Consultation .....6
10	Committees.....6
<b>Part 3—Allocation and payment of funds</b>	7
11	Payments to the Authority by the Commonwealth.....7
12	Payments to the Authority by States .....7
13	Allocation of funds by the Authority.....7
14	Payment of funds by the Authority .....8
14A	Commonwealth Minister may restrict amount payable to a State.....9
15	Benefits of allocations to be available without discrimination .....9
16	Arrangements regarding payments to and by the Authority .....10
<b>Part 4—Reporting requirements</b>	11
17	Annual audit reports to the Authority by States .....11
18	Annual national report.....11
<b>Part 5—Finance</b>	12
19	Interpretation .....12
20	Money of the Authority .....12
21	Application of the Authority’s money .....12
22	Estimates of operating receipts and expenditure .....13
23	Application of the Commonwealth Authorities and Companies Act .....13
23A	Exemption from certain taxes.....13
<b>Part 6—Administrative provisions relating to the Authority</b>	14
<b>Division 1—Membership etc.</b>	14
24	Membership of the Authority .....14
25	Appointment of members .....14

---

26	Membership to be full-time or part-time .....	14
27	Term of appointment .....	14
28	Remuneration and allowances of members .....	14
29	Other benefits .....	15
30	Leave of absence .....	16
31	Resignation.....	16
32	Termination of appointment .....	16
33	Terms and conditions not provided for by Act.....	17
34	Acting appointments etc.....	17
<b>Division 2—Meetings</b>		<b>18</b>
35	Convening of meetings.....	18
36	Procedure at meetings.....	18
37	Conduct of meetings.....	18
38	Resolutions without formal meetings .....	19
39	Disclosure of interests .....	19
<b>Part 7—Chief Executive Officer, staff and consultants</b>		<b>20</b>
<b>Division 1—Chief Executive Officer</b>		<b>20</b>
40	Appointment and functions of Chief Executive Officer .....	20
40A	Secondment of Chief Executive Officer.....	20
41	Remuneration and allowances .....	21
42	Other benefits .....	21
43	Leave of absence .....	22
44	Terms and conditions not provided for by Act.....	22
<b>Division 2—Staff and consultants</b>		<b>23</b>
45	Staff of the Authority .....	23
46	Staff seconded to the Authority .....	23
47	Consultants.....	24
<b>Part 8—Miscellaneous</b>		<b>25</b>
47A	Transfer of administration of certain national programs to the Authority .....	25
48	No payment without appropriation.....	26
49	Delegation by the Authority .....	26
50	Change of name of the Authority .....	27
51	Regulations.....	27
<b>Schedule 1—Australian National Training Authority Agreement</b>		<b>28</b>
<b>Notes</b>		<b>37</b>

---

# **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 Agreement; and
- (b) to promote that development in accordance with the planning and decision-making arrangements set out in the Agreement.

### **4 Interpretation**

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

*Agreement* means:

- (a) the Australian National Training Authority Agreement (a copy of which is set out in Schedule 1) that was endorsed by the Ministerial Council on 14 November 1997 and was afterwards approved by the Commonwealth and the States; or
- (b) if that Agreement is amended—that Agreement as so amended.

*annual VET plan* has the same meaning as in the Agreement.

Section 4

---

**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 Agreement.

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

**Ministerial Council** means:

- (a) if the expression is used in respect of a time before the commencement of this definition—a Council consisting of the Ministers from each State and the Commonwealth responsible for vocational education and training as that Council operated in accordance with the Statement; or
- (b) if the expression is used in respect of a time after that commencement—a Council consisting of the Ministers from each State and the Commonwealth responsible for vocational education and training as that Council operates in accordance with the Agreement.

**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 strategy** has the same meaning as in the Agreement.

**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 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.

**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 Agreement.

Section 5

---

## **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 Agreement; 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 a draft national strategy 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 annual VET plans for submission by the Authority to the Council in accordance with the Agreement;
  - (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 Agreement.

## **7 Powers of the Authority**

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

Section 8

---

**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.

Section 14

---

- (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 (3), 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) No amount is to be paid by the Authority to a State under subsection (1) for expenditure other than expenditure on national programs or national projects unless the State annual VET plan for that year has been approved by the Ministerial Council.

- (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.
- (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.

Section 16

---

**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.

**23A Exemption from certain taxes**

The Authority is not liable to pay tax under any law of a State.

## **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.

Section 30

---

**30 Leave of absence**

- (1) 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 an authority of the Commonwealth who is made available to the Authority to perform the duties of Chief Executive Officer; or
  - (aa) a person appointed or engaged under the *Public Service Act 1999* 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.

Section 43

---

- (2) A determination under subsection (1):
  - (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*.
- (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) 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 engaged under the *Public Service Act 1999*.
- (5) For the purposes of the *Public Service Act 1999*:
  - (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
  - (b) the Chief Executive Officer is the Head of that Statutory Agency.

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

- (1) The Authority may be assisted by:
  - (a) officers and employees 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
  - (aa) persons appointed or engaged under the *Public Service Act 1999* 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

Section 47

---

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

Section 48

---

- (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 1—Australian National Training Authority Agreement**

This Agreement between the Commonwealth, State and Territory Ministers responsible for vocational education and training applies in respect of the years 1998 to 2000 inclusive.

### **PURPOSE**

1. Vocational education and training is integral to the development of an Australian workforce with the range and depth of skills necessary to increase the productivity and competitiveness of Australian industry.
2. The purpose of this Agreement is to create the basis for a joint partnership between governments and with industry through the development and refinement of a national vocational education and training (VET) system which will:
  - i. build a leadership role for industry in national VET decision-making, planning and advisory processes;
  - ii. enhance the national recognition framework through national co-operative action;
  - iii. achieve the development of a skilled Australian community, including by working with the school sector to expand vocational education and training opportunities in schools and working with the higher education sector to improve pathways, and expanding apprenticeship and traineeship opportunities;
  - iv. increase opportunities and employment outcomes for individuals;
  - v. define national priorities and outcomes to guide State and Territory directions in the delivery of VET;
  - vi. encourage the development of an effective and competitive training market including through an appropriate framework for competency standards, recognition and qualifications;

- vii. encourage a training culture in Australian enterprises and throughout the Australian community; and
  - viii. improve the efficiency of the provision of VET around Australia.
3. The underpinning principles to a national approach to VET are:
- i. a spirit of co-operation and a commitment to partnership at a national level by States, Territory and Commonwealth Governments working closely with industry as a key stakeholder;
  - ii. a key role for industry in providing leadership and advice, particularly in relation to the ongoing development of the National Training Framework;
  - iii. a recognition of the individual needs and characteristics of States and Territories within the context of the need for a national approach to VET;
  - iv. promotion of clear, nationally shared objectives and goals for VET;
  - v. clearly defined and complementary roles and responsibilities for all stakeholders; and
  - vi. transparent and accountable funding arrangements and relationships which reflect the principle of achieving growth through efficiencies.

#### **KEY OBJECTIVES**

4. The key objectives of a national system for VET are:
- i. to equip Australians effectively for the world of work;
  - ii. to enhance mobility in the labour market;
  - iii. to overcome the skill development and recognition problems for target groups;
  - iv. to provide maximum value for public expenditure; and
  - v. to increase investment in training by industry.

#### **ROLES AND RESPONSIBILITIES**

5. Noting the need to implement arrangements to avoid duplication and overlap, the following roles and responsibilities are agreed.

**ANTA Ministerial Council**

6. The Australian National Training Authority (ANTA) Ministerial Council (MINCO) will be the peak national decision making body for vocational education and training. MINCO will maintain a full national co-operative agenda and process.

7. The Council will consist of the Ministers from each State and Territory and the Commonwealth responsible for VET and will be chaired by the Commonwealth.

8. Each State and Territory will have one vote and the Commonwealth will have two votes and a casting vote. All matters will be decided by a simple majority.

9. The functions of the Ministerial Council will include overseeing ANTA and decision making on national strategic policy and planning, including funding, and national objectives and priorities. Other functions of MINCO will include:

- a) agreeing on necessary Commonwealth and State/Territory legislation establishing ANTA and defining the relationship between ANTA, the Ministerial Council and State training agencies;
- b) deciding on the appointment of members of the ANTA Board and their removal;
- c) deciding on the appointment of the chairperson and deputy chairperson of the ANTA Board;
- d) endorsing an annual plan for ANTA, which includes planning for efficiencies, work priorities and its proposed expenditure;
- e) determining national objectives and priorities for vocational education and training;
- f) determining the National Strategy based on advice from ANTA, consistent with agreed national objectives and priorities;
- g) determining, in the context of the National Strategy, the principles to be applied for the allocation of funding between States/Territories and for any national programs;

- h) identifying and planning for future growth requirements, including demographic growth, and requirements arising from major changes in factors affecting demand;
- i) agreeing planning arrangements for the delivery of vocational education and training nationally;
- j) ensuring that ANTA operates in an effective and efficient manner;
- k) resolving any dispute between ANTA and a State/Territory training agency or any other issue raised by a Minister;
- l) giving references to ANTA on other issues of training policy;
- m) being accountable to the Commonwealth Parliament for the operation of ANTA and the expenditure of Commonwealth funds; and
- n) approving the Annual National Report.

**Australian National Training Authority (ANTA)**

10. The ANTA Board will support MINCO in all of its functions and will have the capacity to give effect to industry-led arrangements with a strategic focus to develop and recommend on national policies and strategies, and will exercise the following core roles:

- a) development of a draft National Strategy for MINCO;
- b) provision of advice to MINCO on annual VET Plans;
- c) provision of advice to MINCO, in the context of the National Strategy, of the principles to be applied in the allocation of funding between States/Territories and the release of Commonwealth funds;
- d) provision of information and advice to MINCO to assist MINCO to identify and plan for future growth requirements, including demographic growth, and requirements arising from major changes in factors affecting demand;
- e) development, management and promotion of the national aspects of the national training framework for training recognition;
- f) policy review, evaluation and research on national priorities agreed by Ministers from time to time (ensuring that descriptions of all research documents are circulated promptly and simultaneously to all MINCO members);
- g) advising MINCO on the development of key performance measures and reporting objectives;
- h) ensuring agreed national data are generated;
- i) co-ordinating major national initiatives agreed by Ministers from time to time;

- j) with the agreement of the Commonwealth and States/Territories, facilitating co-operation between State/Territory systems and, where appropriate, the Commonwealth on specific matters agreed from time to time; and
- k) administration of arrangements for payment of Commonwealth funds to the States and Territories.

11. In discharging its core roles ANTA will consult extensively with relevant stakeholders, and work closely with State/Territory training authorities.

12. The Chair of the ANTA Board will be the principal point of contact between the ANTA Board and members of MINCO.

13. The Board will act as an advocate for encouraging industry investment and involvement in training.

14. Appointment of members to the Board will be determined by MINCO. The composition of the Board will include one large State and one small State/Territory training agency industry representative. The structure of the Board will be reviewed by MINCO at the end of 1998.

15. The ANTA Board will be the accountable authority for its staff and resources and be responsible to MINCO.

#### **State/Territory Training Agencies**

16. The principal role of State/Territory training agencies will be to address, within the national framework, training needs and priorities of industry and the community within their State/Territory. In addition to their State/Territory based roles and responsibilities, State/Territory training agencies will be committed to and actively involved in the national VET system through:

- a) providing advice to their respective Ministers on significant aspects of the national VET system;
- b) participating in the processes for the formulation of national strategic policy, national planning and national objectives and priorities;
- c) implementing agreed national priorities and initiatives within the context of State/Territory needs and priorities;
- d) administering the national training framework within the State/Territory;
- e) consulting with and supporting industry networks at the State/Territory level; and

- f) providing advice to the Minister on resource allocation at the State/Territory level and ensuring the effective operation of the training market within the State/Territory.

#### **Commonwealth Agency Responsible for VET**

17. The Commonwealth department responsible for vocational education and training will have the following role in the national VET system:

- a) ensuring that VET is responsive to emerging national economic and social priorities including linkages between skill formation and migration policy and administration;
- b) providing advice to Commonwealth Ministers on all aspects of the national VET system;
- c) participation in the processes for the formulation of national strategic policy, national planning and national objectives and priorities;
- d) administering arrangements for accountability to the Commonwealth Parliament on Commonwealth VET expenditures;
- e) advising the Commonwealth Government on determining the global level of Commonwealth resources for the VET sector;
- f) management of Australia's bilateral relationships with counterpart Governmental agencies, and of Australia's participation in relevant international organisations;
- g) facilitation, with the States/Territories, of co-operation between education and training providers in international marketing;
- h) co-ordinating training aspects of labour market programs within the national VET system planning processes; and
- i) encouraging clear and improved pathways between educational sectors by the provision of advice on linkages between schools, VET and higher education.

#### **PLANNING AND ACCOUNTABILITY ARRANGEMENTS**

18. The planning and accountability arrangements for the national VET system will include the following:

##### **National Strategy**

19. The National Strategy will be a medium term strategic document which focuses on the operation of the national training framework, national objectives,

policies, priorities and initiatives. The Strategy will also identify agreed key performance measures for the system.

20. A draft Strategy will be developed by ANTA in consultation with all stakeholders for consideration and approval by MINCO.

**Annual National Priorities**

21. A national priorities document will be prepared which provides an annual statement of agreed national priorities based on the National Strategy. This document will identify agreed national priorities for VET together with agreed outputs/outcomes.

22. The priorities document will be developed by ANTA, in consultation with the Commonwealth, States/Territories and key industry parties, for consideration and approval by MINCO.

**State/Territory Planning Arrangements, within the National Response to Annual National Priorities and National Strategy**

23. Within the national planning arrangements the content of State/Territory VET planning documents will be a matter for each individual State/Territory to determine. There will, however, be a requirement for States/Territories to respond to the agreed Annual National Priorities and to report on progress against the National Strategy.

24. Each State/Territory will provide an Annual VET Plan for MINCO.

25. Each Annual VET Plan will include the State/Territory's response to the Annual National Priorities and a report of progress against the National Strategy. It will also include an activity table which shows the distribution of VET activity to be achieved annually by industry and level of training. The Annual VET Plan will include an agreed use of Australian Vocational Education and Training Management Information and Statistical Standards (AVETMISS).

26. State/Territory Annual VET Plans will be considered and agreed by MINCO, acting with the advice of the ANTA Board.

### **Annual National Report**

27. The Annual National Report will provide the basis for reporting against the National Strategy and national priorities, including against the agreed key performance measures.

28. The report will be the mechanism for reporting to the Commonwealth Parliament on the operation of the national VET system.

### **FUNDING**

29. The Commonwealth and the States/Territories will continue to provide funding stability for the national VET system and growth will be achieved through efficiencies. To this end the Commonwealth will maintain current levels of funding in real terms for the duration of this Agreement and States/Territories agree to maintain outputs or outcomes, to be measured on a basis agreed by the Ministerial Council, over the life of the Agreement.

30. The Commonwealth's commitment to maintain current levels of funding in real terms applies to the funding appropriated under the Vocational Education and Training Funding Act 1992 in respect of 1998, amounting to \$890.585 million.

31. ANTA MINCO will, on the basis of advice from ANTA in consultation with States/Territories and the Commonwealth, identify efficiencies to assist in releasing funds for growth and system enhancements. Each State/Territory will negotiate bilaterally with ANTA on the scope for growth recognising the capacity for efficiencies within individual States/Territories in the short and medium term and relative cost structures. MINCO will agree the process and guidelines for these bilateral discussions and will agree the outcomes of the discussions.

32. Commonwealth funds will be released on the advice of MINCO following MINCO consideration of and agreement to the State/Territory Annual VET Plans.



**Table of Acts****Notes to the *Australian National Training Authority Act 1992*****Note 1**

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

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

**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 ( <i>see</i> 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, 414): 1 Jan 1998 ( <i>see</i> <i>Gazette</i> 1997, No. GN49) (a)	—
<i>Australian National Training Authority Amendment Act 1999</i>	135, 1999	21 Oct 1999	Schedule 1 (item 17): 21 Dec 1992 (b) Remainder: Royal Assent	Sch. 1 (item 18)

### Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 219-226): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (c)	—

- (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*.
- (b) Subsection 2(2) of the *Australian National Training Authority Amendment Act 1999* provides as follows:
- (2) Item 17 in Schedule 1 is taken to have commenced on 21 December 1992, immediately after the commencement of the *Australian National Training Authority Act 1992*.
- (c) The *Australian National Training Authority Act 1992* was amended by Schedule 2 (items 219-226) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.

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

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

Provision affected	How affected
S. 3.....	am. No. 135, 1999
S. 4 .....	am. No. 111, 1993; No. 135, 1999
S. 6.....	am. No. 135, 1999
S. 13 .....	am. No. 119, 1993
S. 14.....	am. No. 119, 1993; No. 135, 1999
S. 14A .....	ad. No. 119, 1993
S. 18.....	am. No. 152, 1997
S. 23.....	rs. No. 152, 1997
S. 23A .....	ad. No. 135, 1999
S. 24.....	am. No. 73, 1996
S. 30.....	am. No. 146, 1999
S. 36.....	am. No. 73, 1996
S. 38.....	am. No. 73, 1996
S. 40A .....	ad. No. 4, 1993 am. No. 146, 1999
S. 43.....	am. No. 146, 1999
S. 45.....	am. No. 146, 1999
S. 46 .....	am. No. 4, 1993; No. 146, 1999
S. 47A .....	ad. No. 111, 1993
Schedule .....	rep. No. 135, 1999
Schedule 1 .....	ad. No. 135, 1999

**Table A**

**Application, saving or transitional provisions**

*Australian National Training Authority Amendment Act 1999* (No. 135, 1999)

**Schedule 1**

**18 Saving**

- (1) Any declaration, determination, requirement, guideline, nomination, recommendation or appointment made, any direction, consent or approval given, or any other thing done, by the Ministerial Council or by the Chairperson of that Council under the *Australian National Training Authority Act 1992* that had effect for the purposes of that Act immediately before the commencement of this section has the corresponding effect for the purposes of that Act as amended by this Act as if it had been made, given or done by the Ministerial Council or the Chairperson of the Ministerial Council under that Act as so amended.
- (2) Any recommendation, advice, report or submission made or given to, or any other thing done in relation to, the Ministerial Council, under the *Australian National Training Authority Act 1992* that had effect for the purposes of that Act immediately before the commencement of this section has the corresponding effect for the purposes of that Act as amended by this Act as if it had been made or given to, or done in relation to, the Ministerial Council under that Act as so amended.

