



Skilling Australia's Workforce Act 2005

Act No. 106 of 2005 as amended

This compilation was prepared on 3 March 2010
taking into account amendments up to Act No. 8 of 2010

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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

Contents

Part 1—Preliminary	1
1 Short title [<i>see</i> Note 1].....	1
2 Commencement.....	1
3 Interpretation.....	2
4 Objects.....	5
Part 2—Grants to States: capital expenditure and recurrent expenditure	6
Division 1—General provisions	6
5 Minister may make determinations authorising payments.....	6
6 Allocation of financial assistance by Ministerial Council.....	6
7 Agreements with States in relation to vocational education and training a precondition for payment of financial assistance.....	7
8 Payments subject to conditions.....	8
Division 2—Statutory conditions	9
9 Conditions of grants—general.....	9
10 Condition of grant—payments to be spent for vocational education and training.....	9
10A Condition of grant—skilling Indigenous Australians.....	9
11 Condition of grant—maximising choice for employers and new apprentices.....	9
12 Condition of grant—workplace reforms.....	10
13 Condition of grant—competence-based training.....	11
14 Condition of grant—increased utilisation of publicly funded training infrastructure.....	11
15 Condition of grant—payments for capital expenditure.....	12
16 Condition of grant—role of State Training Authorities.....	12
17 Condition of grant—providing advice about vocational education and training.....	12
18 Condition of grant—overseas students.....	12
19 Condition of grant—recreational pursuits.....	13
Division 3—Conditions of the Skilling Australia’s Workforce Agreement	14
20 Matters to which conditions of the Skilling Australia’s Workforce Agreement must relate.....	14
Division 4—Conditions of bilateral agreements	16
21 When an agreement complies with this Division.....	16
22 Certifying that payments duly spent or committed.....	16
23 Reports about financial expenditure.....	16
24 Reporting on performance.....	17

25	Conditions about reporting	17
26	Agreement may specify other conditions	17
Part 3—Grants for strategic national initiatives		18
27	Minister may make determinations authorising payments	18
28	Allocation of financial assistance by Ministerial Council	18
29	Precondition of payments for strategic national initiatives	18
30	Conditions of payment	19
31	Application of this Part to notional payments.....	19
Part 4—Repayments		20
32	Statutory condition or condition of agreement not fulfilled.....	20
33	Overpayments.....	20
34	Minister’s power if amount repayable	21
35	Amount payable to the Commonwealth is a debt	21
36	Determinations requiring repayments.....	21
Part 5—Amounts of payments		22
37	Limit on payments	22
Part 6—Miscellaneous		23
38	Minister may determine amounts and times of payment of financial assistance	23
39	Payment reduced for false or misleading statement.....	23
40	Appropriation	24
41	Authority to borrow	24
42	Determinations etc.....	24
43	Delegation	24
44	Annual national report.....	25
45	Presentation of agreement to Parliament	25
46	Publication of agreement on internet	26
47	Regulations.....	26
Notes		27

An Act to grant financial assistance to the States and to other persons for vocational education and training, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Skilling Australia's Workforce Act 2005*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	24 August 2005
2. Sections 3 to 47	The later of: (a) the day on which this Act receives the Royal Assent; and (b) 1 July 2005.	24 August 2005 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Interpretation

(1) In this Act:

Agency has the meaning given by section 5 of the *Financial Management and Accountability Act 1997*.

annual VET plan, for a State, means the plan setting out the State's intended vocational education and training activities for a year prepared in accordance with the Skilling Australia's Workforce Agreement.

Australian Quality Training Framework means the document of that name approved by the Ministerial Council, as in force from time to time.

Australian workplace agreement means an AWA within the meaning of Schedule 7A to the *Workplace Relations Act 1996*.

bilateral agreement means an agreement referred to in subsection 7(2), as in force from time to time.

industrial association has the meaning given by the *Workplace Relations Act 1996*.

industrial instrument has the same meaning as in section 779 of the *Workplace Relations Act 1996*.

Ministerial Council means the Council that:

- (a) consists of the Ministers from the Commonwealth and each State that is a party to the Skilling Australia's Workforce Agreement who have responsibility for vocational education and training; and
- (b) has overall responsibility for the national training system, including in relation to strategic policy, national objectives, national priorities and national performance targets.

National Industry Skills Committee means the Committee of that name that is responsible for advising the Ministerial Council on matters relating to vocational education and training, including workforce planning, future training priorities and other related issues.

National Quality Council means the Council of that name that is responsible for:

- (a) monitoring quality assurance procedures in the vocational education and training sector; and
- (b) ensuring national consistency in the application of the standards for auditing and registering VET providers under the Australian Quality Training Framework.

new apprentice means a person who is undertaking a full-time or part-time apprenticeship, traineeship or trainee apprenticeship under the New Apprenticeships Scheme.

New Apprenticeships Scheme means the national apprenticeship and traineeship arrangements that came into effect on 1 January 1998.

organisation has the meaning given by subsection 4(1) of the *Workplace Relations Act 1996*.

overseas student means:

- (a) a person who:
 - (i) has a visa; or
 - (ii) is included in a visa; in force under the *Migration Act 1958* that permits a person to travel to Australia for the purpose of undertaking a course provided by a body; or
- (b) a person, or a person included in a class of persons, prescribed by the regulations for the purposes of this paragraph;

but does not include a person, or a person included in a class of persons, determined by the Minister, by legislative instrument, not to be a person or class of persons to whom this definition applies.

qualified accountant means a person who:

- (a) is registered, or is taken to be registered, as a company auditor under Part 9.2 of the *Corporations Act 2001*; or
- (b) is a member of CPA Australia or the Institute of Chartered Accountants in Australia; or
- (c) is approved by the Minister as a qualified accountant for the purposes of this Act.

Section 3

registered training organisation means an organisation that is registered by a training recognition authority under a law of a State as an organisation that is qualified:

- (a) to deliver training or conduct assessments, or both; and
- (b) to issue nationally recognised qualifications in accordance with the Australian Quality Training Framework.

Skilling Australia's Workforce Agreement means the Commonwealth-State Agreement for Skilling Australia's Workforce referred to in subsection 7(1), as in force from time to time.

State includes the Australian Capital Territory and the Northern Territory.

State award has the meaning given by subsection 4(1) of the *Workplace Relations Act 1996*.

State Training Authority, in relation to a State, means a person, organisation or body nominated as the State Training Authority for that State by the Minister of the State who has responsibility for vocational education and training.

strategic national initiative means a project, program or other initiative relating to vocational education and training that is declared by the Ministerial Council, by instrument in writing, to be a strategic national initiative.

VET provider means a technical and further education institution or other registered training organisation that provides vocational education and training.

workplace agreement has the meaning given by the *Workplace Relations Act 1996*.

- (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 Skilling Australia's Workforce Agreement.
- (3) An instrument declaring a project, program or other initiative relating to vocational education and training to be a strategic national initiative is not a legislative instrument.

4 Objects

The objects of this Act are:

- (a) to strengthen Australia's economic base through providing a highly skilled workforce that will meet the future needs of Australian businesses, industries, communities and individuals; and
- (b) to promote a national approach to the delivery of vocational education and training through collaboration and cooperation between the Commonwealth, the States and industry; and
- (c) to support a national training system that:
 - (i) is responsive to the needs of industry and employers and in which industry and employers drive the policies, priorities and delivery of vocational education and training; and
 - (ii) ensures high quality and nationally consistent vocational education and training, including through providing flexible and accelerated training delivery; and
 - (iii) operates through streamlined arrangements, is simple to access, and encourages more Australians to prefer vocational education and training options when making career choices.

Part 2—Grants to States: capital expenditure and recurrent expenditure

Division 1—General provisions

5 Minister may make determinations authorising payments

- (1) The Minister may make a determination authorising a payment of financial assistance under this Act to a State for a year for the purposes of the following:
 - (a) capital expenditure for vocational education and training;
 - (b) recurrent expenditure for vocational education and training.
- (2) A determination made under subsection (1) for a year must be consistent with the allocations made by the Ministerial Council under section 6 for that year.
- (3) A determination made under subsection (1) is not a legislative instrument.

6 Allocation of financial assistance by Ministerial Council

- (1) The Ministerial Council must allocate the financial assistance that may be paid under this Act to States for a year:
 - (a) for the purposes of capital expenditure for vocational education and training; and
 - (b) for the purposes of recurrent expenditure for vocational education and training.
- (2) The Ministerial Council may make more than one allocation of financial assistance under this section for the same year, but the total amount of the financial assistance allocated under this section and section 28 for the year must not exceed the amount applicable under section 37 for that year.

7 Agreements with States in relation to vocational education and training a precondition for payment of financial assistance

- (1) The Minister must not authorise a payment of financial assistance under this Act to a State for a year for vocational education and training in the State unless a written agreement (the *Commonwealth-State Agreement for Skilling Australia's Workforce*) is in force between the Commonwealth and the State that:
 - (a) relates to vocational education and training; and
 - (b) complies with Division 3; and
 - (c) either:
 - (i) was entered into by the State during 2005 (whether before or after the commencement of this Act); or
 - (ii) is a later agreement that is expressed to replace the 2005 agreement.
- (2) The Minister must not authorise a payment of financial assistance under this Act to a State, for a year starting on or after 1 January 2006, for vocational education and training in the State unless a written agreement (the *bilateral agreement*) is in force between the Commonwealth and the State that:
 - (a) is an agreement of a kind provided for in the Skilling Australia's Workforce Agreement; and
 - (b) complies with Division 4.
- (3) The Minister must not authorise a payment of financial assistance under this Act to a State for a year unless the Minister has approved the annual VET plan for the State for the year.
- (4) The Minister must not authorise a payment of financial assistance under this Act to a State for vocational education and training other than in accordance with the terms of the Skilling Australia's Workforce Agreement.

Section 8

8 Payments subject to conditions

A payment of financial assistance under this Act to a State for a year is subject to the conditions in respect of the payment specified in:

- (a) this Act; and
- (b) the Skilling Australia's Workforce Agreement (see Division 3); and
- (c) for a year starting on or after 1 January 2006—the bilateral agreement in force between the Commonwealth and the State (see Division 4).

Division 2—Statutory conditions

9 Conditions of grants—general

Financial assistance is granted under this Act to a State for a year on the conditions specified in this Division.

10 Condition of grant—payments to be spent for vocational education and training

The State must ensure that financial assistance paid to the State under this Act is spent for the vocational education and training purposes specified in the Skilling Australia's Workforce Agreement or the bilateral agreement to which the State is a party.

10A Condition of grant—skilling Indigenous Australians

Where appropriations are expended in accordance with this Act to provide targeted financial assistance to advance the education of Indigenous persons, the appropriation must be expended in a manner which advances the objectives set out in sections 5, 6, 7, 8 and 9 of the *Indigenous Education (Targeted Assistance) Act 2000*.

11 Condition of grant—maximising choice for employers and new apprentices

- (1) The State must comply with the user choice policy and take action to maximise choice for employers and new apprentices, including:
 - (a) by implementing arrangements to introduce genuine competition in the vocational education and training sector; and
 - (b) by implementing arrangements to ensure that employers and new apprentices have greater choice and flexibility in relation to their VET provider and the method and location of the training provided; and
 - (c) by participating, in accordance with the Skilling Australia's Workforce Agreement, in the establishment of a national unit price band for each apprenticeship or traineeship under the New Apprenticeships Scheme; and

Section 12

- (d) by consulting with the State Training Authority and employer groups in the State to decide which apprenticeships and traineeships, and which employers and new apprentices, are to be eligible to receive user choice funding under the New Apprenticeships Scheme; and
 - (e) by increasing, by 5 per cent each year, the proportion of apprenticeships and traineeships that are eligible for user choice funding under the New Apprenticeships Scheme; and
 - (f) in consultation with the other States and the Commonwealth and before 1 January 2007, by developing a template for a national contract setting out the standard terms and conditions that will apply to VET providers that are eligible to receive user choice funding under the New Apprenticeships Scheme.
- (2) In this section:

user choice policy means the policy relating to vocational education and training agreed to by the Commonwealth and the States in 1997, and includes any amendments of that policy.

12 Condition of grant—workplace reforms

- (1) The State must implement workplace reforms in the vocational education and training sector, including the following:
- (a) giving technical and further education institutions (*TAFE institutions*) greater flexibility and capacity to respond to local industry and community needs within the context of the national requirements of the Skilling Australia's Workforce Agreement;
 - (b) ensuring that TAFE institutions introduce more flexible employment arrangements;
 - (c) supporting stronger leadership and authority for directors (however described) of TAFE institutions, including in relation to recruitment and remuneration of employees;
 - (d) implementing a fair and transparent performance management scheme in TAFE institutions that rewards high performance by employees (including through performance pay) and manages underperformance;
 - (e) providing capacity for TAFE institutions to retain revenue and generate increased revenue through partnerships with industry and sponsorship arrangements;

- (f) providing capacity for TAFE institutions to develop entrepreneurial and commercially oriented business plans;
 - (g) ensuring that TAFE institutions' workplace agreements, AWAs, policies and practices are consistent with the freedom of association principles contained in the *Workplace Relations Act 1996*. In particular, TAFE institutions must neither encourage nor discourage trade union membership.
- (2) Subsection (1) does not require the amendment or variation of pre-reform certified agreements (within the meaning given by the *Workplace Relations Act 1996*) or other industrial instruments in force on the day on which this Act commences.
- (3) However, all pre-reform certified agreements, workplace agreements, AWAs or other industrial instruments made or lodged on or after the day on which this Act commences must be consistent with the workplace reforms referred to in subsection (1).
- (4) All workplace policies and practices in effect on the day on which this Act commences must be amended or varied to be consistent with those workplace reforms, except to the extent that to do so would be directly inconsistent with a pre-reform certified agreement or other industrial instrument in force on that day.

13 Condition of grant—competence-based training

The State must implement an approach to vocational education and training that is based on competence, rather than on length of time, including:

- (a) by taking action to remove any barriers to such an approach included in State awards; and
- (b) by contributing to the achievement of a consistent national system of occupational licensing requirements.

14 Condition of grant—increased utilisation of publicly funded training infrastructure

The State must improve the utilisation of publicly funded training infrastructure by ensuring that VET providers that operate in publicly funded premises make them available, on a commercial basis, for purposes that do not conflict with the provider's vocational education and training purposes.

Section 15

15 Condition of grant—payments for capital expenditure

- (1) The State must ensure that financial assistance paid to the State under this Act for the purposes of capital expenditure on vocational education and training is spent for those purposes in accordance with guidelines determined by the Ministerial Council.
- (2) A determination made under subsection (1) is not a legislative instrument.

16 Condition of grant—role of State Training Authorities

The State must ensure that it maintains a State Training Authority that has the following responsibilities:

- (a) participating in the preparation of the annual VET plan for the State;
- (b) providing advice to the State Minister who has responsibility for vocational education and training, including in relation to any decisions about which apprenticeships and traineeships, and which employers and new apprentices, are to be eligible to receive user choice funding under the New Apprenticeships Scheme.

17 Condition of grant—providing advice about vocational education and training

The State must ensure that it has client advisory arrangements in place in the State that ensure that the views of all students, in particular educationally disadvantaged or isolated students, are considered in making decisions relating to the delivery of vocational education and training.

18 Condition of grant—overseas students

The State must ensure that payments received by the State under this Act are not used for providing vocational education or training to overseas students.

19 Condition of grant—recreational pursuits

The State must ensure that payments received by the State under this Act are not used for providing education or training for private recreational pursuits or hobbies.

Division 3—Conditions of the Skilling Australia's Workforce Agreement

20 Matters to which conditions of the Skilling Australia's Workforce Agreement must relate

- (1) For the purposes of paragraph 7(1)(b), an agreement complies with this Division if the agreement satisfies the requirements of this section.
- (2) The agreement must contain conditions relating to the following matters:
 - (a) national goals and objectives in relation to vocational education and training;
 - (b) national policies to improve the consistency, quality and responsiveness of providers of vocational education and training;
 - (c) national policies to improve the standards for auditing and monitoring providers of vocational education and training;
 - (d) national policies to improve the standards for recognition of qualifications provided by providers of vocational education and training;
 - (e) national planning arrangements in relation to vocational education and training;
 - (f) national priorities in relation to vocational education and training;
 - (g) national initiatives in relation to vocational education and training;
 - (h) national outcomes focused performance measures in relation to vocational education and training.
- (3) The agreement must include a commitment by all parties to the agreement to support the national training system and its guiding principles, including the National Governance and Accountability Framework and the National Skills Framework, by working collaboratively in conjunction with the Ministerial Council, the National Quality Council and National Industry Skills Committee.

- (4) The agreement must contain a provision enabling the making of a bilateral agreement between the Commonwealth and each State that is a party to the Skilling Australia's Workforce Agreement.
- (5) The agreement may specify conditions in addition to, but not inconsistent with, the conditions mentioned in subsections (2), (3) and (4).

Division 4—Conditions of bilateral agreements

21 When an agreement complies with this Division

For the purposes of paragraph 7(2)(b), an agreement complies with this Division if the agreement satisfies the requirements of sections 22 to 25.

22 Certifying that payments duly spent or committed

- (1) The agreement must include:
 - (a) a condition that the State that is a party to the agreement give to the Secretary of the Department a certificate:
 - (i) made by a qualified accountant; and
 - (ii) specifying whether the payments to the State have been spent (or committed to be spent) for the purposes specified in the agreement or the Skilling Australia's Workforce Agreement; and
 - (b) a condition that, if not all the payments were spent (or committed to be spent) by the State for the purposes specified in the agreement or the Skilling Australia's Workforce Agreement, the State will, if the Minister so determines, pay to the Commonwealth the amount stated in the determination within a period determined by the Minister.
- (2) The amount stated in a determination made under paragraph (1)(b) must not be more than the sum of the unspent or uncommitted amounts.
- (3) A determination made under paragraph (1)(b) is not a legislative instrument.

23 Reports about financial expenditure

The agreement must include a condition that the State that is a party to the agreement give to the Minister reports about the expenditure of financial assistance paid under this Act that contain the kind of information that the Minister thinks appropriate about the assistance.

24 Reporting on performance

The agreement must include a condition that the State that is a party to the agreement comply with the performance reporting requirements specified in the agreement.

25 Conditions about reporting

The agreement must include a condition that the State that is a party to the agreement give to the Minister or to the Secretary of the Department (as specified in this Act or in the agreement) at the times, and in the manner, required by the agreement:

- (a) the certificate mentioned in section 22; and
- (b) the reports required under sections 23 and 24; and
- (c) any other reports of a kind or kinds specified in the agreement or the Skilling Australia's Workforce Agreement.

26 Agreement may specify other conditions

The agreement may specify conditions in addition to, but not inconsistent with, the conditions mentioned in sections 22 to 25.

Part 3—Grants for strategic national initiatives

27 Minister may make determinations authorising payments

- (1) The Minister may make:
 - (a) a determination authorising a payment of financial assistance under this Act to a State or to another person for a year for the purposes of a strategic national initiative; or
 - (b) a determination authorising a notional payment of financial assistance under this Act to an Agency (or part of an Agency) for a year for the purposes of a strategic national initiative.
- (2) A determination for a year under subsection (1) must be consistent with the allocations made by the Ministerial Council under section 28 for that year.
- (3) A determination made under subsection (1) is not a legislative instrument.

28 Allocation of financial assistance by Ministerial Council

- (1) The Ministerial Council must allocate the financial assistance that may be paid under this Act to States and to other persons for a year for specified strategic national initiatives.
- (2) The Ministerial Council may make more than one allocation of financial assistance under this section for the same year, but the total amount of the financial assistance allocated under this section and section 6 for the year must not exceed the amount applicable under section 37 for that year.

29 Precondition of payments for strategic national initiatives

- (1) The Minister must not authorise a payment of financial assistance under this Act to a State for a strategic national initiative unless the State satisfies the requirements set out in Part 2 for the payment of financial assistance under that Part.
- (2) The Minister must not authorise a payment of financial assistance under this Act to a person other than a State for a strategic national

initiative unless the Skilling Australia's Workforce Agreement is in force.

- (3) The Minister must not authorise a payment of financial assistance under this Act to a State or to another person for a strategic national initiative other than in accordance with the terms of the Skilling Australia's Workforce Agreement.

30 Conditions of payment

- (1) A payment of financial assistance to a State or to another person for a year for a strategic national initiative is made on the following conditions:
- (a) the condition that the financial assistance be spent in accordance with guidelines determined by the Ministerial Council;
 - (b) in the case of a payment to a State—the conditions specified in Part 2;
 - (c) any other terms and conditions:
 - (i) set out in a written agreement with the State or other person; or
 - (ii) if there is not such an agreement—determined by the Minister for the purposes of that payment.
- (2) A determination made under paragraph (1)(a) or subparagraph (1)(c)(ii) is not a legislative instrument.

31 Application of this Part to notional payments

A reference in this Part to a payment of financial assistance under this Act to a person other than a State includes a reference to a notional payment of financial assistance under this Act to an Agency (or part of an Agency).

Part 4—Repayments

32 Statutory condition or condition of agreement not fulfilled

- (1) It is a condition of the payment of financial assistance under Part 2 of this Act to a State that, if the State does not fulfil a condition in respect of the payment within the required time or within any further period that the Minister allows:
 - (a) the State will, if the Minister so determines, repay to the Commonwealth the amounts stated in the determination; and
 - (b) if the State does not do so, the Minister may make a determination reducing one or more payments of financial assistance under this Act to the State; and
 - (c) the Minister may delay the making of any further payment under this Act to the State until the condition is fulfilled.

- (2) The amount mentioned in paragraph (1)(a) must not be more than the sum of the payments mentioned in section 5.

- (3) A determination made under paragraph (1)(a) or (b) is not a legislative instrument.

- (4) In this section:

required time, in relation to a condition and a State, means the time by which the State is required to fulfil the condition under:

- (a) Division 2 of Part 2; or
- (b) the Skilling Australia's Workforce Agreement; or
- (c) the bilateral agreement to which the State is a party.

33 Overpayments

- (1) It is a condition of the payment of financial assistance under this Act to a State or to another person that, if the amount of financial assistance paid under this Act to the State or to the other person exceeds the amount that was properly authorised to be paid, the State or the other person will, if the Minister so determines, pay to the Commonwealth an amount (not more than the excess) stated in the determination.

- (2) A determination made under subsection (1) is not a legislative instrument.

34 Minister's power if amount repayable

- (1) The Minister may make a determination reducing an amount that is authorised to be paid under this Act to a State or to another person for a year if:
- (a) under a condition in respect of the payment, the Minister determines that the State or other person is to pay an amount to the Commonwealth; and
 - (b) all or part of that amount remains unpaid.
- (2) The amount of the reduction must not be more than the amount unpaid.
- (3) A determination made under subsection (1) is not a legislative instrument.

35 Amount payable to the Commonwealth is a debt

- (1) An amount payable by a State to the Commonwealth under this Act is a debt due by the State to the Commonwealth.
- (2) An amount payable by a person other than a State to the Commonwealth under this Act is a debt due by that person to the Commonwealth.

36 Determinations requiring repayments

If the Minister is considering whether to make:

- (a) a determination in relation to a State under paragraph 32(1)(a); or
- (b) a determination in relation to a State or another person under subsection 33(1);

the Minister must take into account all relevant matters, including whether the State or other person gave all relevant information to the Commonwealth before the payment of financial assistance was made.

Part 5—Amounts of payments

37 Limit on payments

- (1) The sum of the amounts of financial assistance determined under sections 5 and 27 for a year must not be more than the amount specified in the following table for the year:

Financial assistance		
	Column 1	Column 2
	Year	Amount (\$)
1	2005	605,807,000
2	2006	1,231,017,000
3	2007	1,269,533,000
4	2008	1,290,737,000

- (2) The amount specified in column 2 of item 1 of the table in subsection (1) is increased by an amount equal to the amount of money that vested in the Commonwealth under item 2 of Schedule 1 to the *Skilling Australia's Workforce (Repeal and Transitional Provisions) Act 2005*.
- (3) The regulations may make provision for increasing the amounts mentioned in subsection (1) by reference to changes in an index determined in writing by the Minister administering the *Financial Management and Accountability Act 1997*.
- (4) The regulations have effect according to their terms.
- (5) A determination made under subsection (3) is not a legislative instrument.
- (6) To avoid doubt, a reference in this Act to the amount applicable under this section for a year is a reference to the amount specified in column 2 of the table in subsection (1) for that year, as increased under subsection (2) or (3).

Part 6—Miscellaneous

38 Minister may determine amounts and times of payment of financial assistance

- (1) Amounts of financial assistance authorised to be paid under this Act are to be paid in such a way, including payment by instalments, and at such times, as the Minister determines.
- (2) A determination made under subsection (1) is not a legislative instrument.

39 Payment reduced for false or misleading statement

- (1) If:
 - (a) a person made a statement for the purposes of this Act, the Skilling Australia's Workforce Agreement or a bilateral agreement about a payment of financial assistance; and
 - (b) the statement was made to:
 - (i) the Minister; or
 - (ii) the Secretary; or
 - (iii) an APS employee in the Department; and
 - (c) the statement was false or misleading in a material particular; and
 - (d) relying on the statement, a payment has been made under this Act to a State or to another person of an amount that, in the Minister's opinion, exceeds the amount that would have been authorised to be paid if the statement had not been false or misleading in a material particular;the Minister may make a determination reducing by the amount of the excess any amount payable under this Act to the State or to the other person.
- (2) A determination under this section may take effect from a day before the day on which the determination was made.
- (3) A determination made under subsection (1) is not a legislative instrument.

Section 40

40 Appropriation

The Consolidated Revenue Fund is appropriated for the purposes of this Act.

41 Authority to borrow

The Treasurer may, from time to time, in accordance with the provisions of the *Commonwealth Inscribed Stock Act 1911*, or in accordance with the provisions of an Act authorising the issue of Treasury Bills, borrow amounts totalling not more than the sum of the amounts that may become payable under sections 5 and 27 of this Act.

42 Determinations etc.

- (1) A determination under this Act must be in writing.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) Subject to subsection 39(2), a determination takes effect on:
- (a) the day stated for the purposes in the determination; or
 - (b) if no day is stated—the day on which it is made.

- (3) If:

- (a) a provision of this Act refers to a determination made or other act or thing done by the Minister; and
- (b) no other provision of this Act expressly authorises the Minister to make such a determination or do such an act or thing;

this subsection authorises the Minister to make such a determination or do such an act or thing.

43 Delegation

The Minister may, by written instrument, delegate all or any of the Minister's powers and functions under this Act or under an agreement referred to in this Act to:

- (a) the Secretary of the Department; or
- (b) an SES employee in the Department.

Note: *SES employee* is defined in the *Acts Interpretation Act 1901*.

44 Annual national report

- (1) As soon as practicable after the end of each year, the Minister must prepare a draft annual national report for the year.
- (2) The draft annual national report must include the following information:
 - (a) the financial assistance (if any) paid under this Act to a State for the year for the purposes of:
 - (i) capital expenditure for vocational education and training; and
 - (ii) recurrent expenditure for vocational education and training; and
 - (iii) strategic national initiatives;
 - (b) the financial assistance (if any) paid under this Act to persons other than States for the year for strategic national initiatives;
 - (c) the performance of the national training system for the year in terms of the objects set out in section 4 of this Act and the matters covered in the Skilling Australia's Workforce Agreement.
- (3) The draft annual national report must incorporate any reports provided to the Minister by State Training Authorities for incorporation in the draft report.
- (4) The draft annual national report must be in accordance with the form approved by the Ministerial Council.
- (5) Within 6 months after the end of the year, the Minister must submit the draft annual national report to the Ministerial Council.
- (6) The Minister must cause an annual national report, representing the draft annual national 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 of that House after it is received by the Minister from the Ministerial Council.

45 Presentation of agreement to Parliament

The Minister must cause a copy of the Skilling Australia's Workforce Agreement, and any amendment of that agreement, to be laid before each House of the Parliament within 15 sitting days of that House after the agreement is made or amended.

Section 46

46 Publication of agreement on internet

The Minister must publish the Skilling Australia's Workforce Agreement, and any amendment of that agreement, on the Department's website within 15 sitting days of either House of the Parliament after the agreement is made or amended.

47 Regulations

The Governor-General may make regulations 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.

Table of Acts**Notes to the *Skilling Australia's Workforce Act 2005*****Note 1**

The *Skilling Australia's Workforce Act 2005* as shown in this compilation comprises Act No. 106, 2005 amended as indicated in the Tables below.

The *Skilling Australia's Workforce Act 2005* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendments are incorporated in this compilation.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Skilling Australia's Workforce Act 2005</i>	106, 2005	24 Aug 2005	24 Aug 2005	
<i>Indigenous Education (Targeted Assistance) Amendment Act 2005</i>	149, 2005	14 Dec 2005	Schedule 1 (item 4): Royal Assent	—
<i>Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008</i>	8, 2008	20 Mar 2008	Schedules 1–7: 28 Mar 2008 (see F2008L00959) Remainder: Royal Assent	—
<i>Statute Law Revision Act 2010</i>	8, 2010	1 Mar 2010	Schedule 5 (item 137): (a)	—

Act Notes

- (a) Subsection 2(1) (items 31 and 38) of the *Statute Law Revision Act 2010* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
31. Schedule 5, items 1 to 51	The day this Act receives the Royal Assent.	1 March 2010
38. Schedule 5, Parts 2 and 3	Immediately after the provision(s) covered by table item 31.	1 March 2010

Table of Amendments**Table of Amendments**

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

Provision affected	How affected
--------------------	--------------

Part 1

S. 3..... am. SLI 2006 No. 50; No. 8, 2008

Part 2**Division 2**

S. 10A ad. No. 149, 2005

S. 12..... am. SLI 2006 No. 50; No. 8, 2008

Part 6

Heading to s. 46 am. No. 8, 2010