



New South Wales

Vocational Education and Training Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to establish a registration and accreditation framework for vocational education and training, in particular by applying nationally agreed standards,
- (b) to ensure the quality and integrity of vocational education and training in this State,
- (c) to provide for the approval by the Vocational Education and Training Accreditation Board (*the Board*) of persons to provide courses for overseas students (such approval forming the basis for registration under the *Education Services for Overseas Students Act 2000* of the Commonwealth),
- (d) to promote consistency of standards in vocational education and training,
- (e) to encourage the recognition of vocational courses that are accredited under the proposed Act.

The Bill repeals the *Vocational Education and Training Accreditation Act 1990*, but provides for the continuation of the Board (which is currently constituted under that Act) as the agency responsible for registering training providers, and for accrediting vocational courses, in this State.

At the heart of the new framework is the National Register, which is defined to mean the National Training Information Service managed by the Commonwealth Department of Education, Science and Training. For the purposes of the proposed Act, training providers are *registered*, and vocational courses are *accredited*, when the details of the training provider or course are recorded by the Board on the National Register. The new framework also provides for the recognition in this State of training providers who have been registered by interstate registering bodies and for the recognition of vocational courses that have been accredited by interstate course accrediting bodies.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 sets out the objects of the proposed Act (as referred to in the above overview).

Clause 4 defines certain words and expressions used in the proposed Act.

Part 2 Constitution and functions of Board

Clause 5 constitutes the Board as a statutory corporation representing the Crown. It comprises the Director of the Board and 10 part-time members appointed by the Minister.

Clause 6 specifies the objects and functions of the Board.

Clause 7 provides for the staff of the Board, which includes the Director and other public service staff employed under the *Public Sector Employment and Management Act 2002* as well as staff employed by the Board from outside the public sector.

Clause 8 enables the Board to establish advisory committees to assist it in the exercise of its functions.

Clause 9 enables the Board to delegate its functions.

Part 3 Registration of training organisations and accreditation of courses

Division 1 Registration of training organisations

Clause 10 makes it an offence for a person who is not a registered training organisation (*RTO*) to claim to be an RTO or to operate outside the person's scope of registration.

Clause 11 provides for the making of applications to the Board for registration as a training organisation.

Clause 12 provides for the determination by the Board of applications for registration as a training organisation.

Clause 13 provides for the registration of a training organisation to be subject to certain conditions.

Clause 14 provides for the term of registration and its renewal.

Clause 15 specifies the requirements that must be followed by the Board when making a decision in relation to the registration of a training organisation.

Clause 16 enables the Board to amend the registration details of a training organisation.

Clause 17 provides for the removal of the registration details of a training organisation in certain circumstances.

Clause 18 enables the Board to cancel, suspend or amend the registration of a training organisation.

Clause 19 provides for the registration of a training organisation to be cancelled if the organisation changes its business operations.

Clause 20 enables the Board to approve of a training organisation to continue to provide courses after its registration has been cancelled or suspended.

Clause 21 requires the Board to record its registration decisions on the National Register.

Clause 22 enables the Board to conduct compliance audits of training organisations.

Clause 23 authorises the Board to share information about registered training organisations and other related matters.

Division 2 Accreditation of courses

Clause 24 makes it an offence for a person to falsely claim that a course provided by the person is an accredited course.

Clause 25 provides for the making of applications to the Board for the accreditation of vocational courses.

Clause 26 provides for the determination by the Board of applications for accreditation of vocational courses.

Clause 27 provides for the accreditation of a vocational course to be subject to certain conditions.

Clause 28 provides for the term of accreditation and its renewal.

Clause 29 enables the Board to cancel the accreditation of a vocational course.

Clause 30 specifies the requirements that must be followed by the Board when making a decision in relation to the accreditation of a vocational course.

Clause 31 enables the Board to approve of a vocational course being continued to be provided after the accreditation of the course has been cancelled.

Division 3 General provisions

Clause 32 enables the Board to issue guidelines in relation to the registration of training organisations and the accreditation of vocational courses.

Clause 33 makes universities RTOs for the purposes of certain vocational courses that they provide.

Part 4 Overseas students

Clause 34 provides for the approval by the Board of persons to provide courses for overseas students. The Board's approval forms the basis of the registration of the provider under the *Education Services for Overseas Students Act 2000* of the Commonwealth.

Clause 35 provides for the amendment, suspension or cancellation of the Board's approval of a provider of courses for overseas students.

Clause 36 specifies the requirements that must be followed by the Board when making a decision in relation to the approval of a provider.

Clause 37 creates offences in relation to advertising the provision of courses for overseas students.

Clause 38 requires course providers to notify the Board of changes to their name or address.

Clause 39 provides for the admissibility of certain matters as evidence in legal proceedings.

Clause 40 enables the Board to issue guidelines in relation to the approval of persons to provide courses for overseas students.

Clause 41 authorises the Board to share information about approved providers and other related matters.

Part 5 Enforcement and procedural provisions

Clause 42 provides for the appointment of inspectors by the Board.

Clause 43 specifies the powers of inspectors.

Clause 44 provides for proceedings for offences under the proposed Act to be dealt with before a Local Court.

Clause 45 enables offences under the proposed Act to be dealt with by way of penalty notice.

Clause 46 enables the Board to recover unpaid fees as a debt.

Part 6 Miscellaneous

Clause 47 provides for the review by the Administrative Decisions Tribunal of decisions made under the proposed Act in relation to the registration of training organisations, the accreditation of vocational courses and the approval of persons to provide courses for overseas students.

Clause 48 provides for the service of documents on the Board.

Clause 49 protects the members and staff of the Board from personal liability in relation to anything done in good faith for the purposes of executing the proposed Act.

Clause 50 provides that the proposed Act binds the Crown.

Clause 51 gives the Governor the power to make regulations under the proposed Act.

Clause 52 is a formal provision that gives effect to Schedule 2 (Savings, transitional and other provisions).

Clause 53 repeals the *Vocational Education and Training Accreditation Act 1990*.

Clause 54 is a formal provision that gives effect to the amendment of legislation set out in Schedule 3.

Schedule 1 Provisions relating to members and procedure of Board

Schedule 1 contains standard provisions relating to the members of the Board and its procedure.

Schedule 2 Savings, transitional and other provisions

Schedule 2 provides for the making of savings and transitional regulations as a consequence of the enactment of the proposed Act, provides for the continuation of the former Board and continues the operation of existing registrations, accreditations and approvals under the 1990 Act.

Schedule 3 Consequential amendment of other legislation

Schedule 3 contains a number of amendments that are consequential on the enactment of the proposed Act.



New South Wales

Vocational Education and Training Bill 2005

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New South Wales

Vocational Education and Training Bill 2005

No. , 2005

A Bill for

An Act to provide for the registration of training organisations and the accreditation of vocational courses in accordance with national standards and the approval of providers of courses to overseas students; to reconstitute the Vocational Education and Training Accreditation Board; to repeal the *Vocational Education and Training Accreditation Act 1990*; and for other purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Vocational Education and Training Act 2005*. 4

2 Commencement 5

This Act commences on a day or days to be appointed by proclamation. 6

3 Objects 7

The objects of this Act are as follows: 8

(a) to establish a registration and accreditation framework for vocational education and training, in particular by applying nationally agreed standards, 9
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(b) to ensure the quality and integrity of vocational education and training in this State, 12
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(c) to provide for the approval by the Board of persons (other than official universities) to provide courses for overseas students (such approval forming the basis for registration under the *Education Services for Overseas Students Act 2000* of the Commonwealth), 14
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(d) to promote consistency of standards in vocational education and training, 19
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(e) to encourage the recognition of vocational courses that are accredited under this Act. 21
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4 Definitions 23

(1) In this Act: 24

accredited—see subsection (2). 25

approval guidelines means the guidelines issued by the Board under section 40. 26
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approved provider means a person who is for the time being approved by the Board under Part 4 to provide courses for overseas students. 28
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AQTF means the document entitled *Australian Quality Training Framework*, as in force from time to time, that defines the criteria and standards for the registration of training organisations and the accreditation of courses in the vocational education and training sector. 30
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Board means the Vocational Education and Training Accreditation Board constituted by this Act. 34
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<i>compliance audit</i> means an audit conducted under section 22.	1
<i>corresponding law</i> means the law of another State or Territory relating to vocational education and training.	2 3
<i>course</i> means a course of education or training.	4
<i>course accrediting body</i> means:	5
(a) the Board, or	6
(b) the body responsible for the accreditation of vocational courses under a corresponding law.	7 8
<i>Director</i> means the Director of the Board.	9
<i>exercise</i> a function includes perform a duty.	10
<i>function</i> includes a power, authority or duty.	11
<i>inspector</i> means an officer of the Board who is for the time being appointed as an inspector for the purposes of this Act.	12 13
<i>jurisdiction</i> means this State or, if it has enacted a corresponding law, another State or Territory.	14 15
<i>National Register</i> means the National Training Information Service managed by the relevant Commonwealth agency.	16 17
<i>official university</i> means an Australian or overseas university within the meaning of the <i>Higher Education Act 2001</i> .	18 19
<i>overseas student</i> and <i>intending overseas student</i> have the same meanings as in the <i>Education Services for Overseas Students Act 2000</i> of the Commonwealth.	20 21 22
<i>provide</i> , in relation to a course, includes conduct the course.	23
<i>qualification</i> means formal certification in vocational education and training by an RTO that a person has achieved all the units of competency or modules comprising learning outcomes stated for the qualification in:	24 25 26 27
(a) a training package endorsed by the relevant Commonwealth agency and for which details of the qualification have been recorded on the National Register, or	28 29 30
(b) an accredited course that provides training for the qualification.	31
<i>RCAB standards</i> means the Standards for State and Territory Registering/Course Accrediting Bodies under the AQTF.	32 33
<i>registered training organisation</i> (or <i>RTO</i>)—see subsection (3).	34
<i>registering body</i> means:	35
(a) the Board, or	36
(b) the body responsible for the registration of training organisations under a corresponding law.	37 38

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- registration and accreditation guidelines** means the guidelines issued by the Board under section 32. 1
2
- relevant Commonwealth agency** means the Commonwealth Department of Education, Science and Training (or such other agency of the Commonwealth as may be prescribed by the regulations). 3
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- RTO standards** means the Standards for Registered Training Organisations under the AQTF. 6
7
- scope of registration** of a training organisation means the operations that the training organisation is authorised to provide by its registration. 8
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- statement of attainment** means formal certification by an RTO that a person has achieved: 10
11
- (a) part of a qualification, or 12
 - (b) one or more units of competency from a training package endorsed by the relevant Commonwealth agency, or 13
14
 - (c) all the units of competency or modules comprising learning outcomes for an accredited course that does not meet the requirements for a qualification. 15
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- training organisation** means a person who provides, or offers to provide, vocational courses. 18
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- training package** means an integrated set of competency standards and assessment guidelines leading to a qualification for a particular industry, industry sector or enterprise. 20
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- unit of competency** means a specification of knowledge or skill and their application to a standard of performance in a nationally endorsed training package. 23
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- vocational course** means a course leading to a qualification or statement of attainment. 26
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- (2) For the purposes of this Act, a vocational course is **accredited** if the course is entered as an accredited course in vocational education and training, and the conditions of accreditation and the details of the course are recorded, on the National Register by: 28
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31
 - (a) the Board under Part 3, or 32
 - (b) another course accrediting body under a corresponding law. 33
 - (3) For the purposes of this Act, a training organisation is **registered** if it is entered as a registered training organisation (referred to in this Act as an **RTO**) in relation to vocational education and training, and the conditions of registration and details of the RTO are recorded, on the National Register by: 34
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 - (a) the Board under Part 3, or 39

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- (b) another registering body under a corresponding law. 1
- (4) Notes included in this Act do not form part of this Act. 2

Part 2 Constitution and functions of Board

5 Constitution of Board

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|-----|---|----------------------|
| (1) | There is constituted by this Act a body corporate under the name of the Vocational Education and Training Accreditation Board. | 3
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| (2) | The Board is, for the purposes of any Act, a statutory body representing the Crown. | 5
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| (3) | The Board is to comprise 11 members, being: | 7 |
| | (a) the Director, and | 8 |
| | (b) 10 part-time members appointed by the Minister. | 9 |
| (4) | Of the part-time members: | 10 |
| | (a) one is to be a person nominated by the TAFE Commission Board, and | 11
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| | (b) one is to be a person nominated by the Director-General of the Department of Education and Training, and | 13
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| | (c) 3 are to be persons having such qualifications or experience in the provision or accreditation of vocational education or training as the Minister considers appropriate, and | 15
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| | (d) 2 are to be persons having such qualifications or experience in the provision of vocational education or training for students with special needs as the Minister considers appropriate, and | 18
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| | (e) 2 are to be persons having such qualifications or experience in industry, commerce or industrial relations as the Minister considers appropriate, and | 21
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| | (f) one is to be a person having such qualifications or experience in the provision, accreditation or evaluation of education or training for overseas students as the Minister considers appropriate. | 24
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| (5) | If a nomination referred to in subsection (4) (a) or (b) is not made within such time as the Minister allows, the Minister may appoint any person whom he or she considers to be suitably qualified in place of a person required to be so nominated. | 27
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| (6) | One of the part-time members of the Board is, by the instrument of his or her appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board. | 31
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| (7) | Schedule 1 has effect with respect to the members and procedure of the Board. | 34
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6	Objects and functions of Board	1
(1)	The objects of the Board are as follows:	2
(a)	to register training organisations,	3
(b)	to accredit vocational courses,	4
(c)	to approve persons to provide courses for overseas students,	5
(d)	to issue guidelines in relation to the registration of training organisations, the accreditation of vocational courses and the approval of persons to provide courses for overseas students,	6 7 8
(e)	to advise the Minister on matters concerning the registration of training organisations, the accreditation of vocational courses and the approval of persons to provide courses for overseas students,	9 10 11 12
(f)	to liaise with authorities and other bodies (both in New South Wales and elsewhere) in connection with the registration of training organisations, the accreditation of vocational courses and the approval of persons to provide courses for overseas students,	13 14 15 16 17
(g)	to investigate, and to report on, matters concerning the registration of training organisations, the accreditation of vocational courses and the approval of persons to provide courses for overseas students.	18 19 20 21
(2)	The Board:	22
(a)	has such functions as are necessary or convenient to enable it to achieve its objects and to promote the objects of this Act, and	23 24
(b)	has such other functions as are conferred or imposed on it by or under this or any other Act or law, and	25 26
(c)	is, in the exercise of its functions, subject to the control and direction of the Minister.	27 28
7	Staff of Board	29
(1)	A Director, and such other staff as may be necessary to enable the Board to exercise its functions, are to be employed under Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> .	30 31 32
(2)	The Board may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department or a public or local authority.	33 34 35
(3)	The Board may also employ staff. Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> does not apply to the employment of any such staff.	36 37 38

- (4) For the purposes of this Act, a person who is employed under this section or whose services are made use of under this section is an officer of the Board. 1
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8 Advisory committees 4

- (1) The Board may establish advisory committees to assist it in the exercise of its functions. 5
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- (2) Any or all of the members of an advisory committee may be persons who are not members of the Board. 7
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- (3) Without limiting the generality of subsection (2), the membership of an advisory committee may comprise the members of any body, including any body in the nature of an industry training committee, whether established in New South Wales or elsewhere. 9
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- (4) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee. 13
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9 Delegation 17

The Board may delegate the exercise of any of its functions (other than this power of delegation) to any person or body approved by the Board. 18
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Part 3	Registration of training organisations and accreditation of courses	1
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Division 1	Registration of training organisations	3
10	Offences	4
(1)	A person who is not an RTO must not claim to be an RTO. Maximum penalty: 200 penalty units.	5 6
(2)	A person must not:	7
(a)	issue, or claim to be able to issue, a qualification or statement of attainment, or	8 9
(b)	provide, or claim to be able to provide, training or assessments resulting in the issue of a qualification or statement of attainment, unless the person is an RTO operating within the scope of its registration.	10 11 12 13
	Maximum penalty: 200 penalty units.	14
(3)	Without limiting subsections (1) and (2), a person is taken to claim that the person is an RTO, or is able to do a particular thing, if the person does anything that is likely to induce another person to believe that the person is an RTO or can do the particular thing.	15 16 17 18
(4)	This section does not apply in relation to a registering body.	19
11	Application for registration	20
(1)	A person may apply to the Board for registration as a training organisation.	21 22
(2)	The application must be in such form, and be accompanied by such fee, as may be determined by the Board.	23 24
(3)	The Board may require the applicant to provide any further information the Board considers relevant to the application.	25 26
12	Board to decide application for registration	27
(1)	On receiving an application for registration as a training organisation, the Board may:	28 29
(a)	register the applicant as a training organisation, or	30
(b)	refuse to register the applicant.	31
(2)	In deciding the application, the Board is to have regard to the RTO standards, the RCAB standards and the registration and accreditation guidelines.	32 33 34

- (3) The Board may register the applicant as a training organisation only if: 1
- (a) on registration under the application, the applicant will not otherwise be registered as a training organisation by any other registering body, and 2
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 - (b) the Board is satisfied that the applicant's main place of business is, or all or most of its operations will be conducted, in this State, and 5
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 - (c) the Board is satisfied that the applicant complies with the RTO standards. 8
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- (4) In considering whether an applicant complies with the RTO standards, the Board may conduct a compliance audit of the applicant and have regard to the findings of that audit. 10
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- (5) Subsection (3) (c) does not apply in relation to an application if: 13
- (a) the application is made by a training organisation registered by another registering body, and 14
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 - (b) the training organisation has received a notice from the other registering body under a corresponding law for section 19, and 16
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 - (c) the application does not seek an amendment of the training organisation's existing scope of registration or registered conditions. 18
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- (6) The Board may, despite any other provision of this section, refuse to register an applicant as a training organisation if the Board is satisfied that the applicant is not suitable to be registered as a training organisation. In determining whether an applicant is suitable to be registered, the Board may have regard to such matters as it considers relevant (including the registration and accreditation guidelines). 21
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- (7) If the Board decides to grant the application, the Board must: 27
- (a) register the applicant as a training organisation, and 28
 - (b) register the training organisation's scope of registration, and 29
 - (c) if the Board imposes any conditions under section 13—register those conditions in relation to the training organisation, and 30
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 - (d) provide the training organisation with a certificate of registration. 32
- (8) The Board must comply with subsection (7): 33
- (a) as soon as practicable after approving the application, or 34
 - (b) if the application is made in conjunction with an application for the cancellation of a training organisation's registration under a corresponding law for section 19—as soon as practicable after the cancellation under the corresponding law is registered by the other registering body. 35
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(9)	Subject to section 33, an official university may not be registered as a training organisation.	1 2
13	Conditions of registration	3
(1)	The registration of a training organisation is subject to:	4
	(a) any conditions imposed by the Board under subsection (2) or (3), and	5 6
	(b) the conditions referred to in subsection (4), and	7
	(c) any conditions imposed by the Board under section 18 or by another registering body under a corresponding law for that section.	8 9 10
(2)	The Board may impose such conditions on the registration of a training organisation as the Board thinks appropriate. Any such conditions may be imposed when the Board decides to register the training organisation or at any later time.	11 12 13 14
(3)	Without limiting subsection (2), the Board may impose conditions requiring the payment (including periodic payment while the registration of the training organisation remains in force) of fees to the Board in respect of the registration.	15 16 17 18
(4)	The registration of a training organisation is also subject to the following conditions:	19 20
	(a) the RTO must comply with the RTO standards,	21
	(b) the RTO must notify the Board in writing of any substantial change to the RTO's control, management or operations before, or as soon as practicable after, the change occurs,	22 23 24
	(c) the RTO must:	25
	(i) submit to any compliance audit conducted by the Board, and	26 27
	(ii) take all necessary steps to comply with the RTO standards if a compliance audit shows that the RTO does not comply with those standards,	28 29 30
	(d) the RTO must not contravene any provision of this Act or a corresponding law,	31 32
	(e) the RTO must provide the Board or any other registering body with any information the Board or other body reasonably requires in relation to:	33 34 35
	(i) the RTO's operations, or	36
	(ii) a condition to which its registration is subject.	37

(5)	The conditions to which the registration of a training organisation is subject apply in relation to the operations of the training organisation in every jurisdiction, unless the contrary intention appears.	1 2 3
(6)	An RTO must not contravene a condition to which its registration is subject. Maximum penalty: 200 penalty units.	4 5 6
(7)	If the registration of a training organisation by another registering body is subject to conditions imposed by or under a corresponding law, those conditions have effect in this State.	7 8 9
14	Term of registration and renewal	10
(1)	Unless sooner cancelled by the Board, the registration of a training organisation by the Board has effect for such period (not exceeding 5 years) as is specified by the Board.	11 12 13
(2)	The registration of a training organisation may be renewed by the Board if an application for renewal is made to the Board not less than 3 months (or such other period as the Board may, if it thinks fit, determine in any particular case) before the registration is due to expire.	14 15 16 17
(3)	If an application for renewal of the registration of a training organisation is made in accordance with this section, the registration of the training organisation continues to have effect until such time as the Board decides the application.	18 19 20 21
15	Requirements relating to registration decisions of Board	22
(1)	Before the Board makes any decision under this Division (other than a decision to require a person to provide further information in relation to an application for registration as a training organisation or a decision to grant such an application unconditionally), the Board must:	23 24 25 26
(a)	cause notice of the proposed decision to be served on the person concerned, and	27 28
(b)	give the person a reasonable opportunity to make representations to the Board in relation to the proposed decision.	29 30
(2)	Subsection (1) (b) does not apply if the Board is of the opinion that it is in the public interest for the decision to have effect immediately.	31 32
(3)	In making any decision under this Division, the Board is to have regard to the RTO standards, the RCAB standards, the registration and accreditation guidelines and any representations made under this section in relation to the proposed decision.	33 34 35 36

(4)	Notice of any decision made by the Board under this Division, together with the reasons for the decision, must be served on the person to which the decision relates.	1 2 3
16	Amendment of registration details on application by RTO	4
(1)	The Board may, on application by a training organisation registered by the Board, amend the details recorded on the National Register in relation to the training organisation.	5 6 7
(2)	An application under this section must be in the form approved by the Board and accompanied by such fee as may be determined by the Board.	8 9 10
17	Removal of registered details on registration expiry or on application by RTO	11 12
	The Board must remove from the National Register the details of a training organisation registered by it:	13 14
(a)	if the training organisation's registration expires and is not renewed, or	15 16
(b)	if the training organisation applies to the Board to have its registration cancelled and the Board grants the application.	17 18
18	Board may cancel, suspend or amend registration	19
(1)	The Board may do any one or more of the following:	20
(a)	impose or amend the conditions recorded on the National Register in relation to a training organisation that has been registered by another registering body so as to restrict the operations of the training organisation in this State,	21 22 23 24
(b)	amend the scope of registration or recorded conditions of a training organisation that has been registered by the Board so as to restrict the operations of the training organisation in this State or any other jurisdiction,	25 26 27 28
(c)	suspend the registration, or part of the scope of registration, of a training organisation that has been registered by the Board,	29 30
(d)	cancel the registration of a training organisation that has been registered by the Board.	31 32
(2)	The Board may only take action under subsection (1) in relation to an RTO on any one or more of the following grounds:	33 34
(a)	the training organisation requests the suspension or cancellation of its registration,	35 36
(b)	the training organisation is no longer providing the courses in respect of which it is registered,	37 38

- (c) the training organisation has ceased to exist, 1
- (d) the training organisation has failed to comply with the RTO standards or the registration and accreditation guidelines, 2
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- (e) the training organisation's financial arrangements or ethical standards are such that they would not warrant the registration of the training organisation if it were now to apply for registration, 4
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- (f) a reasonable doubt exists as to the training organisation's financial capacity to continue to meet its contractual obligations to its students, staff or other persons, 7
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- (g) the training organisation does not have the resources to competently provide the courses in respect of which it is registered, 10
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- (h) the resources of the training organisation do not comply with the RTO standards or the registration and accreditation guidelines, 13
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- (i) the training organisation has contravened this Act or a condition to which its registration is subject. 15
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- (3) The Board may not impose a restriction under subsection (1) (a) unless the registering body that registered the training organisation: 17
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 - (a) fails to take any step to deal with the matter to which the grounds relate within 30 days after the matter comes to its attention, or 19
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 - (b) fails, after taking any step to deal with the matter to which the grounds relate, to take another step within 30 days. 21
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- (4) Subsection (3) does not apply if the Board: 23
 - (a) is relying on a ground established by a compliance audit, or 24
 - (b) is satisfied that it is in the public interest to impose the restriction immediately. 25
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- (5) A restriction or suspension imposed under subsection (1) (a), (b) or (c) may, but need not, relate to a particular place or jurisdiction, but if it does so, it may only be imposed because of a particular fact situation that has arisen in that place or jurisdiction. 27
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- (6) A restriction or suspension imposed under subsection (1) (a), (b) or (c) must be consistent with this Act and the RTO standards. 31
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- (7) Before cancelling the registration of a training organisation under subsection (1) (d), the Board must consult the registering bodies of each of the other jurisdictions where the RTO is operating. 33
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- (8) Failure to comply with subsection (7) does not affect the cancellation. Also, the Board is not required to comply with subsection (7) if the Board is satisfied that it is in the public interest to immediately cancel the registration of the training organisation. 36
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(9)	A restriction or suspension imposed under this section may be lifted at any time by the Board on payment of such fee as may be determined by the Board and if the Board is satisfied that such requirements as may be determined by the Board have been complied with.	1 2 3 4
19	Cancellation of registration on change of business operations	5
(1)	On the grounds that a training organisation registered by the Board no longer has its main place of business in, and no longer conducts all or most of its operations in, this State, the Board may cancel the registration of the training organisation:	6 7 8 9
(a)	on application by the training organisation, or	10
(b)	on the Board's own initiative.	11
(2)	The Board must give notice to the RTO at least 30 days before cancelling the registration.	12 13
(3)	If, before the end of that 30-day period, the RTO makes an application to another registering body for registration as a training organisation, the Board must not cancel the training organisation's registration until that application is decided.	14 15 16 17
20	Suspension or cancellation of registration—training or assessment previously agreed to be provided	18 19
(1)	This section applies in relation to a training organisation if:	20
(a)	the Board suspends or cancels its registration, and	21
(b)	before the suspension or cancellation took effect, the training organisation entered into an agreement to provide training or an assessment to a person.	22 23 24
(2)	On application by the training organisation, the Board may approve the provision of training or assessment under the agreement for such period as may be specified by the Board in the approval, unless the Board is of the opinion that there are circumstances justifying the refusal of the application.	25 26 27 28 29
(3)	The registration of the training organisation is taken to continue during the period specified in the Board's approval, but only for the purposes of enabling the training organisation:	30 31 32
(a)	to provide the training or assessment, or	33
(b)	to issue a qualification or statement of attainment in relation to the training or assessment.	34 35
(4)	The Board's approval under this section may be withdrawn at any time.	36

21 Board to register amendment, suspension or cancellation	1
If the Board:	2
(a) amends the scope of registration of a training organisation or the conditions recorded on the National Register in relation to the RTO, or	3 4 5
(b) suspends the registration, or part of the scope of registration, of a training organisation, or	6 7
(c) cancels the registration of a training organisation,	8
the Board is to give effect to its decision by amending the National Register accordingly.	9 10
22 Compliance audits	11
(1) The Board may, at any time, conduct a compliance audit of:	12
(a) a training organisation registered by the Board or that has applied to the Board for registration, or	13 14
(b) any of the training organisation's operations (whether those operations are conducted in this State or elsewhere).	15 16
(2) The Board may conduct an audit of a training organisation registered by another registering body, or of any of its operations conducted in this State, if:	17 18 19
(a) the Board:	20
(i) suspects on reasonable grounds that the RTO has contravened the RTO standards, and	21 22
(ii) has advised the registering body that registered the RTO of the suspected contravention, and	23 24
(b) that registering body:	25
(i) within 30 days after receiving the advice, fails to take steps to deal with the suspected contravention to the satisfaction of the Board, or	26 27 28
(ii) at any time advises the Board that it does not propose to take any steps or further step to deal with the suspected contravention.	29 30 31
(3) In conducting a compliance audit the Board is to have regard to the RCAB standards.	32 33
(4) A failure to comply with subsection (3) is of no effect if the failure:	34
(a) does not affect the outcome of the audit, or	35
(b) arises out of an inconsistency between the RCAB standards and the legislation of the jurisdiction in relation to which the failure arises.	36 37 38

(5)	This section does not limit the power of any registering body to inquire into the activities of a training organisation.	1 2
23	Information may be given to registering bodies	3
(1)	The Board may disclose to any agency of the State or the Commonwealth or of any other State or Territory or, to the extent authorised by the regulations, to any other person any information the Board has about or arising from:	4 5 6 7
(a)	an application by a person for registration as a training organisation, or	8 9
(b)	a training organisation's registration, or	10
(c)	a compliance audit conducted by the Board, or	11
(d)	any action taken by the Board in relation to an RTO, or	12
(e)	the exercise of a function by a person at the request of another registering body.	13 14
(2)	In disclosing any information in accordance with this section or under a provision of a corresponding law, the Board does not contravene any obligation, whether imposed by any other Act or law, not to disclose the information.	15 16 17 18
Division 2	Accreditation of courses	19
24	Falsely claiming to provide accredited course and unlawful advertising of courses	20 21
(1)	A person must not claim that a course provided, or to be provided, by the person is an accredited course unless it is an accredited course. Maximum penalty: 200 penalty units.	22 23 24
(2)	For the purposes of subsection (1), a person is taken to claim that a course provided, or to be provided, by the person is an accredited course if the person does anything likely to induce another person to believe the course is an accredited course.	25 26 27 28
(3)	A person must not advertise or otherwise represent:	29
(a)	that a particular course that is, has been or is to be provided by that or any other person is, has been or is to be accredited (however expressed), or	30 31 32
(b)	that courses generally that are, have been or are to be provided by that or any other person are, have been or are to be so accredited, unless the person includes in the advertisement or representation the name of the person by which the accreditation has been or is to be given. Maximum penalty: 200 penalty units.	33 34 35 36 37

25	Application for accreditation	1
(1)	A person may apply to the Board to have a vocational course accredited.	2
(2)	The application must be in such form, and be accompanied by such fee, as may be determined by the Board.	3 4
(3)	The Board may require the applicant to provide such information as the Board considers relevant to the application.	5 6
26	Accreditation of courses by Board	7
(1)	On receiving an application to have a vocational course accredited, the Board may:	8 9
(a)	accredit the course, or	10
(b)	refuse to accredit the course.	11
(2)	In deciding the application, the Board is to have regard to the RCAB standards.	12 13
(3)	Without limiting subsection (2), the Board may refuse to accredit a vocational course if the Board is satisfied that:	14 15
(a)	the course is not of sufficient quality to warrant accreditation, or	16
(b)	the course does not comply with the RTO standards or the registration and accreditation guidelines.	17 18
(4)	If the Board decides to accredit a vocational course, the Board is to register the course on the National Register as an accredited course.	19 20
27	Accreditation may be subject to conditions	21
(1)	The accreditation of a vocational course by the Board is subject to such conditions as may be imposed by the Board (whether at the time the Board decides to accredit the course or at any later time).	22 23 24
(2)	Without limiting subsection (1), the Board may impose conditions:	25
(a)	requiring the payment of fees to the Board in respect of the accreditation of the course, and	26 27
(b)	requiring specified information to be provided to the Board within a specified time.	28 29
28	Term of accreditation and renewal	30
(1)	Unless sooner cancelled by the Board, the accreditation of a vocational course by the Board has effect for such period (not exceeding 5 years) as is specified by the Board.	31 32 33
(2)	A person may apply to the Board for the renewal of the accreditation of a vocational course not less than 6 months (or such other period as the	34 35

Board may, if it thinks fit, determine in any particular case) before the accreditation is due to expire.	1 2
(3) If any such application is made, the accreditation of the vocational course to which the application relates continues to have effect until such time as the Board decides the application.	3 4 5
29 Cancellation of accreditation	6
(1) The Board may cancel the accreditation of a vocational course that has been accredited by the Board for any of the following reasons:	7 8
(a) the course is no longer of sufficient quality to warrant accreditation,	9 10
(b) the course no longer complies with the RTO standards or the registration and accreditation guidelines,	11 12
(c) the person who applied for the accreditation of the course:	13
(i) requests the cancellation, or	14
(ii) no longer exists, or	15
(iii) has contravened this Act, the regulations or a condition to which accreditation of the course is subject.	16 17
(2) If the Board decides to cancel the accreditation of a vocational course, the Board is to amend the National Register accordingly.	18 19
30 Requirements relating to decisions of Board	20
(1) Before the Board decides to refuse an application to accredit a vocational course, or imposes conditions on the accreditation of a vocational course, or cancels the accreditation of a vocational course (other than at the request of the person who applied for the accreditation of the course), the Board must:	21 22 23 24 25
(a) cause notice of the proposed decision to be served on the person on whose application accreditation is sought or was granted, and	26 27
(b) give the person a reasonable opportunity to make representations to the Board in relation to the proposed decision.	28 29
(2) Subsection (1) (b) does not apply if the Board is of the opinion that it is in the public interest for the decision to have effect immediately.	30 31
(3) In making a decision referred to in subsection (1), the Board must have regard to the registration and accreditation guidelines and to any representations made under that subsection in relation to the proposed decision.	32 33 34 35
(4) The Board must cause notice of its decision, together with its reasons for the decision, to be served on the person on whose application accreditation is sought or given.	36 37 38

31 Cancellation of accreditation—vocational course previously agreed to be provided	1 2
(1) This section applies in relation to a vocational course provided by a person (<i>the provider</i>) if:	3 4
(a) the Board cancels the accreditation of the course, and	5
(b) before the cancellation took effect, the provider entered into an agreement to provide the course to a person.	6 7
(2) On application by the provider, the Board may approve the provision of training or assessment under the agreement for such period as may be specified by the Board in the approval, unless the Board is of the opinion that there are circumstances justifying the refusal of the application.	8 9 10 11 12
(3) The accreditation of the vocational course is taken to continue during the period specified in the Board’s approval, but only for the purposes of enabling the provider:	13 14 15
(a) to provide the course, or	16
(b) to issue a qualification or statement of attainment in relation to the course.	17 18
(4) The Board’s approval under this section may be withdrawn at any time.	19
Division 3 General provisions	20
32 Board may issue guidelines	21
(1) The Board may from time to time issue guidelines to be adopted in relation to:	22 23
(a) the registration of training organisations, and	24
(b) the accreditation of vocational courses.	25
(2) Any such guidelines may relate to matters including the following:	26
(a) registration and accreditation procedures,	27
(b) course programs and nomenclature,	28
(c) the resources required to provide vocational courses in a competent manner,	29 30
(d) the financial requirements and ethical standards to be satisfied by training organisations,	31 32
(e) conditions to be imposed on registration or accreditation.	33
(3) Copies of each guideline issued under this section are to be kept at the office of the Board and are to be made available for public inspection free of charge, and for purchase, during ordinary office hours.	34 35 36

33 Official university taken to be RTO in relation to provision of certain vocational courses

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An official university is taken to be a registered training organisation for the purposes of providing vocational courses in connection with recognised trade vocations and recognised traineeship vocations within the meaning of the *Apprenticeship and Traineeship Act 2001*.

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Part 4 Overseas students

Note. The approval by the Board of persons to provide courses for overseas students forms the basis of the registration of that provider under the *Education Services for Overseas Students Act 2000* of the Commonwealth.

34 Approval of persons to provide courses for overseas students

- (1) The Board may, on the application of a person, approve the person to provide courses for overseas students.
- (2) The Board's approval of a person to provide courses for overseas students may (according to the terms of the approval) apply to such courses generally, to specified classes of such courses or to a specified course or courses.
- (3) An application for approval to provide courses for overseas students must be in such form, and be accompanied by such fee, as the Board may determine.
- (4) The Board may require an applicant to furnish further information in relation to the application.
- (5) Approval may be granted unconditionally or subject to such conditions (which may be imposed when the approval is granted or at any later time) as the Board determines.
- (6) Examples of the conditions that may be imposed include the following:
 - (a) conditions specifying the period for which the approval is to remain in force,
 - (b) conditions specifying the premises in or from which the course to which the approval relates are to be conducted,
 - (c) conditions requiring the payment (including periodic payment while the approval remains in force) of fees to the Board in respect of the approval.
- (7) The Board must not refuse an application for approval except on one or more of the following grounds:
 - (a) that the applicant has not furnished such further information in relation to the application as the Board requires,
 - (b) that the applicant does not have the resources to provide the courses to which the approval relates competently,
 - (c) that the applicant's financial arrangements or ethical standards do not warrant the approval of the applicant,
 - (d) in the case of a course that includes matter the subject of proprietary rights (such as copyright)—that the applicant is not lawfully entitled to the benefit of those rights,

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- (e) that the applicant or the applicant's resources do not comply with the approval guidelines. 1
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35 Amendment, suspension or cancellation of approval 3

- (1) The Board may, on its own motion or on the application of any person, do any of the following in relation to an approved provider: 4
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- (a) amend the approval so that it applies to different courses, 6
 - (b) revoke or amend any condition to which the approval is subject, 7
 - (c) impose additional conditions on the approval, 8
 - (d) suspend or cancel the approval. 9
- (2) The suspension of an approval may be lifted at any time by the Board. Before lifting the suspension, the Board may require the payment of a fee determined by the Board. 10
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12
- (3) The Board may not suspend or cancel an approval except on one or more of the following grounds: 13
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- (a) the approved provider requests the suspension or cancellation, 15
 - (b) the approved provider is no longer providing courses for overseas students, 16
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 - (c) the approved provider has ceased to exist, 18
 - (d) the approved provider has failed to comply with the approval guidelines, 19
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 - (e) the approved provider's financial arrangements or ethical standards are such that they would not warrant the approval of the provider if it were now to apply for approval, 21
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 - (f) a reasonable doubt exists as to the approved provider's financial capacity to continue to meet its contractual obligations to its students, staff or other persons, 24
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 - (g) the approved provider does not have the resources to competently provide the courses to which the approval relates, 27
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 - (h) the resources of the approved provider do not comply with the approval guidelines, 29
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 - (i) in the case of a course that includes matter the subject of proprietary rights (such as copyright)—that the approved provider is not lawfully entitled to the benefit of those rights, 31
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 - (j) the approved provider has engaged in misleading or deceptive conduct in connection with the recruitment of intending overseas students, 34
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 - (k) the approved provider has failed to comply with a requirement of the *Education Services for Overseas Students Act 2000* of the 37
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	Commonwealth, or of a regulation under that Act, in relation to the courses to which the approval relates,	1
	(l) the approved provider has contravened this Act, the regulations or a condition to which the provider's approval is subject.	2 3 4
36	Requirements relating to approval decisions of Board	5
(1)	Before the Board makes any decision under this Part (other than a decision to require a person to provide further information in relation to an application for approval or a decision to grant such an application unconditionally), the Board must:	6 7 8 9
(a)	cause notice of the proposed decision to be served on the person concerned, and	10 11
(b)	give the person a reasonable opportunity to make representations to the Board in relation to the proposed decision.	12 13
(2)	Subsection (1) (b) does not apply if the Board is of the opinion that it is in the public interest for the decision to have effect immediately.	14 15
(3)	In making a decision under this Part, the Board must have regard to the approval guidelines and to any representations made under this section in relation to the proposed decision.	16 17 18
(4)	Notice of any decision under this Part by the Board, together with the reasons for the decision, must be served on the person to which the decision relates.	19 20 21
37	Offences relating to advertising of courses for overseas students	22
(1)	A person must not falsely advertise or otherwise falsely represent that a person is or has been approved by the Board to provide a course for overseas students.	23 24 25
(2)	A person must not advertise or otherwise represent that a person may, will or is to be approved by the Board to provide a course for overseas students. Maximum penalty: 200 penalty units.	26 27 28 29
38	Notification of change of name or address	30
	An approved provider must cause notice of any change in the name or the address of the provider to be given to the Board.	31 32
39	Evidentiary certificates	33
	A certificate that is signed by the Director and that certifies that:	34
(a)	on a specified date or during a specified period a specified person was or was not an approved provider, or	35 36

(b) as such a provider, was or was not approved to provide courses generally, a specified class of courses or a specified course, is admissible in any proceedings and is evidence of the fact or facts so certified.

40 Approval guidelines

- (1) The Board may from time to time issue guidelines to be adopted in relation to the approval of persons to provide courses for overseas students.
- (2) Any such guidelines may relate to matters such as the following:
- (a) approval procedures,
 - (b) the resources required to provide a course for overseas students in a competent manner,
 - (c) the financial requirements and ethical standards to be satisfied by approved providers,
 - (d) the conditions to be imposed on the approval of persons to provide courses for overseas students.
- (3) Copies of each guideline issued under this section are to be kept at the office of the Board and are to be made available for public inspection free of charge, and for purchase, during ordinary office hours.

41 Information may be given to other bodies

- (1) The Board may disclose to any agency of the State or the Commonwealth or of any other State or Territory or, to the extent authorised by the regulations, any other person any information the Board has about or arising from:
- (a) an application by a person for approval under this Part, or
 - (b) the approval of persons to provide courses for overseas students, or
 - (c) any action taken by the Board in relation to an approved provider.
- (2) In disclosing any information in accordance with this section or under a provision of a corresponding law, the Board does not contravene any obligation, whether imposed by any other Act or law, not to disclose the information.

Part 5	Enforcement and procedural provisions	1
42	Inspectors	2
(1)	The Board may appoint any of its officers to be inspectors for the purposes of this Act.	3 4
(2)	A certificate of identification, in such form as may be approved by the Minister, is to be issued to each inspector.	5 6
43	Powers of inspectors	7
(1)	An inspector may, for the purposes of conducting a compliance audit or ascertaining whether or not the provisions of this Act have been complied with:	8 9 10
(a)	enter the premises of a training organisation or person who provides courses for overseas students (including the premises at which any course provided by the training organisation or person is conducted), and	11 12 13 14
(b)	inspect the premises, any documents found on the premises and the conduct of any course at the premises, and	15 16
(c)	remove, or make copies of, any such documents.	17
(2)	The powers conferred by this section may be exercised only during the ordinary operating hours of the premises concerned and may not be exercised in any part of premises that is used for residential purposes.	18 19 20
(3)	In exercising the powers conferred by this section, an inspector:	21
(a)	must, if requested to do so by any person on the premises, produce his or her certificate of identification for inspection by that person, and	22 23 24
(b)	must avoid, as far as practicable, doing anything that is likely to impede the conduct of any course at the premises.	25 26
(4)	A person must not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act. Maximum penalty (subsection (4)): 10 penalty units.	27 28 29
44	Proceedings for offences	30
	Proceedings for an offence under this Act or the regulations are to be dealt with summarily before a Local Court.	31 32
45	Penalty notices	33
(1)	An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under	34 35

this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	1 2
(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.	3 4 5 6 7
(3) A penalty notice may be served personally or by post.	8
(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	9 10 11
(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	12 13 14
(6) The regulations may:	15
(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	16 17 18
(b) prescribe the amount of penalty payable for the offence if dealt with under this section, and	19 20
(c) prescribe different amounts of penalties for different offences or classes of offences.	21 22
(7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	23 24 25
(8) This section does not limit the operation of any other provision of, or made under, this or any other Act or law relating to proceedings that may be taken in respect of offences.	26 27 28
(9) In this section, <i>authorised officer</i> means a person authorised in writing by the Board as an authorised officer for the purposes of this section.	29 30
46 Recovery of fees	31
Any fee payable to the Board under this Act may be recovered, as a debt, in any court of competent jurisdiction.	32 33

Part 6 Miscellaneous

47 Review of certain decisions by Administrative Decisions Tribunal

A person who is aggrieved by any of the following decisions of the Board may apply to the Administrative Decisions Tribunal for a review of the decision:

- (a) refusing to register a training organisation under section 12,
- (b) imposing conditions under section 13 (2) or (3) on the registration of a training organisation,
- (c) refusing to renew the registration of a training organisation under section 14,
- (d) refusing to amend the recorded details of a training organisation under section 16,
- (e) amending the scope of registration or recorded conditions of a training organisation under section 18 (1) (a) or (b),
- (f) suspending the registration, or part of the scope of registration, of a training organisation under section 18 (1) (c),
- (g) cancelling the registration of a training organisation under section 18 (1) (d) or 19,
- (h) refusing to approve the provision of training or assessment under section 20,
- (i) refusing to accredit a vocational course under section 26,
- (j) imposing conditions under section 27 on the accreditation of a vocational course,
- (k) refusing to renew the accreditation of a vocational course under section 28,
- (l) cancelling the accreditation of a vocational course under section 29,
- (m) refusing to approve the provision of training or assessment under section 31,
- (n) refusing to approve a person to provide courses for overseas students under section 34,
- (o) imposing conditions under section 34 or 35 (1) (c) on the approval of a person to provide courses for overseas students,
- (p) amending the approval of a person to provide courses for overseas students, or revoking or amending the conditions to which the approval is subject, under section 35 (1) (a) or (b),
- (q) suspending or cancelling the approval of a person to provide courses for overseas students under section 35 (1) (d).

48	Service of documents	1
(1)	A document may be served on the Board by leaving it at, or by sending it by post to:	2
		3
(a)	the office of the Board, or	4
(b)	if it has more than one office—any one of its offices.	5
(2)	A document required or permitted by or under this Act to be served on a person may be served:	6
		7
(a)	on a natural person—by delivering it to the person personally or by leaving it at, or by sending it by post to, the address of the place of residence or business of the person last known to the person serving the document, or	8
		9
		10
		11
(b)	on a corporation—by leaving it at, or by sending it by post to, the head office, a registered office or a principal office of the corporation.	12
		13
		14
(3)	Nothing in this section:	15
(a)	affects the operation of any other Act or law that authorises the service of a document in any other way, or	16
		17
(b)	affects the power of a court to authorise service of a document in any other way.	18
		19
49	Personal liability	20
	No matter or thing done or omitted by the Board, by any member of the Board, by any officer of the Board or by any person acting under the direction of the Board subjects a member of the Board, an officer of the Board or a person so acting personally to any action, liability, claim or demand if the matter or thing was done or omitted in good faith for the purpose of executing this Act.	21
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50	Act binds Crown	27
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.	28
		29
		30
51	Regulations	31
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	32
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(2)	In particular, regulations may be made for or with respect to the following:	1
		2
(a)	the custody and use of the seal of the Board,	3
(b)	applications under this Act,	4
(c)	fees payable under this Act,	5
(d)	information to be supplied to the Board by training organisations and persons who provide courses for overseas students,	6
		7
(e)	records to be kept by registered training organisations and approved providers,	8
		9
(f)	certificates to be issued under this Act to registered training organisations and approved providers,	10
		11
(g)	certificates to be issued under this Act to persons who undertake or complete accredited vocational courses.	12
		13
(3)	A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.	14
		15
52	Savings, transitional and other provisions	16
	Schedule 2 has effect.	17
53	Repeal of Vocational Education and Training Accreditation Act 1990 No 120	18
		19
(1)	The <i>Vocational Education and Training Accreditation Act 1990</i> is repealed.	20
		21
(2)	Different days may be appointed for the commencement of subsection (1) for the purpose of repealing, on different days, different provisions of the <i>Vocational Education and Training Accreditation Act 1990</i> .	22
		23
		24
54	Consequential amendment of other legislation	25
	Each Act, regulation or order specified in Schedule 3 is amended as set out in that Schedule.	26
		27

Schedule 1	Provisions relating to members and procedure of Board	1
		2
	(Section 5 (7))	3
1	Director may appoint deputy	4
(1)	The Director may, by instrument in writing, appoint a person to act as his or her deputy.	5 6
(2)	A deputy appointed under this clause, while so appointed, has all the functions of the Director and is to be taken to be the Director.	7 8
(3)	The appointment of a deputy under this clause does not prevent the Director from exercising his or her functions as Director.	9 10
2	Acting members and acting Chairperson	11
(1)	The Minister may, from time to time, appoint a person to act in the office of a part-time member of the Board during the illness or absence of the member, and the person, while so acting, has all the functions of the member and is to be taken to be a member of the Board.	12 13 14 15
(2)	The Minister may, from time to time, appoint a part-time member of the Board to act in the office of Chairperson of the Board during the illness or absence of the Chairperson, and the member, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.	16 17 18 19 20
(3)	The Minister may, at any time, remove a person from any office to which the person was appointed under this clause.	21 22
(4)	A person while acting in the office of a part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.	23 24 25 26
(5)	For the purposes of this clause, a vacancy in the office of a part-time member of the Board or of the Chairperson of the Board is to be taken to be an absence from office of the member or Chairperson.	27 28 29
3	Terms of office	30
	Subject to this Schedule, a part-time member of the Board is to hold office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	31 32 33 34

4 Remuneration of part-time members	1
A part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	2 3 4
5 Vacancy in office of part-time member	5
(1) The office of a part-time member of the Board becomes vacant if the member:	6 7
(a) dies, or	8
(b) completes a term of office and is not re-appointed, or	9
(c) resigns the office by instrument in writing addressed to the Minister, or	10 11
(d) is removed from office by the Minister under this clause, or	12
(e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings, or	13 14 15 16 17 18
(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	19 20 21 22
(g) becomes a mentally incapacitated person, or	23
(h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	24 25 26 27 28
(2) The Minister may remove a part-time member of the Board from office at any time.	29 30
6 Filling of vacancy in office of part-time member	31
If the office of a part-time member of the Board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	32 33
7 Vacancy in office of Chairperson	34
(1) The office of Chairperson of the Board becomes vacant if the Chairperson:	35 36
(a) is removed from office by the Minister, or	37

(b)	resigns the office by instrument in writing addressed to the Minister, or	1 2
(c)	ceases to be a member of the Board.	3
(2)	The Minister may remove the Chairperson of the Board from office at any time.	4 5
8	Disclosure of pecuniary interests	6
(1)	A member of the Board:	7
(a)	who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and	8 9 10
(b)	whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	11 12 13
	must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.	14 15 16
(2)	A disclosure by a member of the Board at a meeting of the Board that the member:	17 18
(a)	is a member, or is in the employment, of a specified company or other body, or	19 20
(b)	is a partner, or is in the employment, of a specified person, or	21
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	22 23
	is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.	24 25 26 27
(3)	Particulars of any disclosure made under this clause are to be recorded by the members of the Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the members of the Board.	28 29 30 31 32
(4)	After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Board otherwise determine:	33 34 35
(a)	be present during any deliberation of the Board with respect to the matter, or	36 37
(b)	take part in any decision of the Board with respect to the matter.	38

(5)	For the purposes of the making of a determination by the members of the Board under subclause (4), a member of the Board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:	1 2 3 4
(a)	be present during any deliberation of the other members of the Board for the purpose of making the determination, or	5 6
(b)	take part in the making by the other members of the Board of the determination.	7 8
(6)	A contravention of this clause does not invalidate any decision of the Board.	9 10
(7)	A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.	11 12
9	Effect of certain other Acts	13
(1)	Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> does not apply to the appointment of a part-time member of the Board.	14 15
(2)	If by or under any other Act provision is made:	16
(a)	requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	17 18
(b)	prohibiting the person from engaging in employment outside the duties of that office,	19 20
	the provision does not operate to disqualify the person from holding that office and also the office of a part-time member of the Board or from accepting and retaining any remuneration payable to the person under this Act as such a member.	21 22 23 24
(3)	The office of a part-time member of the Board is not, for the purposes of any Act, an office or place of profit under the Crown.	25 26
10	Proof of certain matters not required	27
	In any legal proceedings, proof is not required (until evidence is given to the contrary) of:	28 29
(a)	the constitution of the Board, or	30
(b)	any resolution of the Board, or	31
(c)	the appointment of, or holding of office by, any member of the Board, or	32 33
(d)	the presence or nature of a quorum at any meeting of the Board.	34

11	General procedure	1
	The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Board.	2 3 4
12	Quorum	5
	The quorum for a meeting of the Board is 6 members.	6
13	Presiding member	7
	(1) The Chairperson of the Board (or, in the absence of the Chairperson, another part-time member of the Board elected to chair the meeting by the members of the Board present) is to preside at a meeting of the Board.	8 9 10 11
	(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	12 13
14	Voting	14
	A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.	15 16
15	Transaction of business outside meetings or by telephone etc	17
	(1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Board.	18 19 20 21
	(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members of the Board (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	22 23 24 25 26
	(3) For the purposes of:	27
	(a) the approval of a resolution under subclause (1), or	28
	(b) a meeting held in accordance with subclause (2),	29
	the Chairperson of the Board and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.	30 31
	(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.	32 33
	(5) Papers may be circulated among members of the Board for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	34 35 36

Vocational Education and Training Bill 2005

Schedule 1 Provisions relating to members and procedure of Board

16 Minutes	1
The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.	2 3
17 First meeting of the Board	4
The Minister is to call the first meeting of the Board at such time, and in such manner, as the Minister considers appropriate.	5 6

Schedule 2	Savings, transitional and other provisions	1
		2
	(Section 52)	3
Part 1	Preliminary	4
1	Regulations	5
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: this Act	6 7 8
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	9 10
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	11 12 13
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	14 15 16
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	17 18 19
Part 2	Provisions consequent on enactment of this Act	20 21
2	Definitions	22
	In this Part:	23
	<i>former Board</i> means the Vocational Education and Training Accreditation Board as constituted under the 1990 Act immediately before the repeal of that Act.	24 25 26
	<i>the 1990 Act</i> means the <i>Vocational Education and Training Accreditation Act 1990</i> .	27 28
3	Vocational Education and Training Accreditation Board	29
(1)	The Board constituted under this Act is a continuation of, and the same legal entity as, the former Board.	30 31
(2)	Each person who was, immediately before the commencement of this clause, a member of the former Board is, subject to this Act, taken to have been appointed as a member of the Board constituted under this	32 33 34

Act for the balance of his or her term of office as a member of the former Board.	1 2
4 Preservation of existing registrations, accreditations and approvals	3
(1) Any education or training provider registered under the 1990 Act is, if that registration was in force immediately before the repeal of the 1990 Act, taken to be a registered training organisation.	4 5 6
(2) Any vocational course accredited under the 1990 Act is, if that accreditation was in force immediately before the repeal of the 1990 Act, taken to be accredited under Part 3 of this Act.	7 8 9
(3) Any person or body approved under the 1990 Act to provide courses for overseas students is, if that approval was in force immediately before the repeal of the 1990 Act, taken to be an approved provider under this Act.	10 11 12 13
5 General savings and validation	14
Subject to the regulations:	15
(a) anything done under the 1990 Act (including the delegation of any function) that had any force or effect immediately before its repeal by this Act is taken to have been done under this Act, and	16 17 18
(b) anything done by the former Board under the 1990 Act that would have been validly done had this Act been in force when it was done is validated.	19 20 21
6 Construction of references to registered providers	22
A reference in any Act (other than this Act) or in any instrument made under an Act or in any other document to a registered provider within the meaning of the 1990 Act is taken to be a reference to a registered training organisation.	23 24 25 26

Schedule 3	Consequential amendment of other legislation	1
		2
	(Section 54)	3
3.1	Apprenticeship and Traineeship Act 2001 No 80	4
	Dictionary	5
	Omit the definition of <i>registered training organisation</i> . Insert instead:	6
	<i>registered training organisation</i> has the same meaning as in the	7
	<i>Vocational Education and Training Act 2005</i> .	8
3.2	Board of Vocational Education and Training Act 1994 No 33	9
	Section 6 Objects of the Board	10
	Omit section 6 (i). Insert instead:	11
	(i) to promote and develop, in consultation with the	12
	Vocational Education and Training Accreditation Board, a	13
	co-ordinated and effective registration and accreditation	14
	framework under the <i>Vocational Education and Training</i>	15
	<i>Act 2005</i> for vocational education and training,	16
3.3	Casino Control Regulation 2001	17
	Clause 34B Definitions	18
	Omit the definition of <i>registered training organisation</i> . Insert instead:	19
	<i>registered training organisation</i> has the same meaning as in the	20
	<i>Vocational Education and Training Act 2005</i> .	21
3.4	Children's Services Regulation 2004	22
	Dictionary	23
	Omit the definition of <i>registered training organisation</i> . Insert instead:	24
	<i>registered training organisation</i> has the same meaning as in the	25
	<i>Vocational Education and Training Act 2005</i> .	26

3.5 Commercial Agents and Private Inquiry Agents Regulation 2000	1
	2
Clause 10 Prescribed experience and qualifications	3
Omit clause 10 (3). Insert instead:	4
(3) In this clause, <i>registered training organisation</i> has the same meaning as in the <i>Vocational Education and Training Act 2005</i> .	5
	6
3.6 Fines Act 1996 No 99	7
Schedule 1 Statutory provisions under which penalty notices issued	8
Insert in alphabetical order of Acts:	9
<i>Vocational Education and Training Act 2005</i> , section 45	10
3.7 Gaming Machines Regulation 2002	11
[1] Clause 52 Approval of training providers	12
Omit “registered provider” from clause 52 (1), (4) (a) and (8) wherever occurring.	13
Insert instead “registered training organisation”.	14
	15
[2] Clause 52 (11)	16
Omit the subclause. Insert instead:	17
(11) In this clause, <i>registered training organisation</i> has the same meaning as in the <i>Vocational Education and Training Act 2005</i> .	18
	19
3.8 Hairdressers Act 2003 No 62	20
[1] Section 4 When is an individual “qualified to act as a hairdresser”?	21
Omit “an authorised provider” from section 4 (1) (a).	22
Insert instead “a registered training organisation”.	23
[2] Section 4 (2), definition of “authorised provider”	24
Omit the definition. Insert instead in alphabetical order:	25
<i>registered training organisation</i> has the same meaning as in the <i>Vocational Education and Training Act 2005</i> .	26
	27

3.9 Higher Education Act 2001 No 102	1
Section 3 Definitions	2
Omit “an accredited vocational course within the meaning of the <i>Vocational Education and Training Accreditation Act 1990</i> ” from the definition of <i>post-graduate qualification</i> in section 3 (1).	3 4 5
Insert instead “an accredited course within the meaning of the <i>Vocational Education and Training Act 2005</i> ”.	6 7
3.10 Liquor Regulation 1996	8
Clause 79B Definitions	9
Omit the definition of <i>registered training organisation</i> . Insert instead: <i>registered training organisation</i> has the same meaning as in the <i>Vocational Education and Training Act 2005</i> .	10 11 12
3.11 Occupational Health and Safety Regulation 2001	13
[1] Clause 31 Training to be undertaken by members of OHS committees and OHS representatives	14 15
Omit clause 31 (3) (b). Insert instead:	16
(b) a registered training organisation (within the meaning of the <i>Vocational Education and Training Act 2005</i>) whose registration extends to providing a course of OHS consultation training.	17 18 19 20
[2] Clause 212 Definitions	21
Omit the definition of <i>registered education or training provider</i> .	22
Insert instead:	23
<i>registered training organisation</i> has the same meaning as in the <i>Vocational Education and Training Act 2005</i> .	24 25
[3] Clauses 217 (1) (c) and (d) (ii) and 218 (b)	26
Omit “registered education or training provider” wherever occurring.	27
Insert instead “registered training organisation”.	28
[4] Clause 217 (1) (c) and (d) (ii) and 218 (b)	29
Omit “such a provider” wherever occurring.	30
Insert instead “such an organisation”.	31

[5] Clause 265 Definitions	1
Omit the definition of <i>registered training organisation</i> . Insert instead:	2
<i>registered training organisation</i> has the same meaning as in the	3
<i>Vocational Education and Training Act 2005</i> .	4
3.12 Pesticides Regulation 1995	5
[1] Clause 7 Definitions	6
Omit “provider” from the definition of <i>prescribed qualification</i> in clause	7
7 (1).	8
Insert instead “organisation”.	9
[2] Clause 7 (1), definition of “registered training provider”	10
Omit the definition (and the note following that definition). Insert instead:	11
<i>registered training organisation</i> has the same meaning as in the	12
<i>Vocational Education and Training Act 2005</i> .	13
[3] Clause 7 (2) (b) (ii)	14
Omit “provider”. Insert instead “organisation”.	15
[4] Clause 8 Approval of units of competency for prescribed qualification	16
Omit “providers” from clause 8 (3) (a). Insert instead “organisations”.	17
3.13 Property, Stock and Business Agents (Auctioneers Qualifications) Order 2003	18
Clause 3 Definitions	20
Omit the definition of <i>registered training organisation</i> . Insert instead:	21
<i>registered training organisation</i> has the same meaning as in the	22
<i>Vocational Education and Training Act 2005</i> .	23
3.14 Property, Stock and Business Agents (Qualifications) Order 2003	24
Clause 3 Definitions	26
Omit the definition of <i>registered training organisation</i> from clause 3 (1).	27
Insert instead:	28
<i>registered training organisation</i> has the same meaning as in the	29
<i>Vocational Education and Training Act 2005</i> .	30

3.15 Technical and Further Education Commission Act 1990	1
No 118	2
Section 7 Miscellaneous functions	3
Omit section 7 (2) (a). Insert instead:	4
(a) in the case of the provision of accredited courses of study	5
and the conferring of educational awards in connection	6
with those courses—the provisions of the <i>Vocational</i>	7
<i>Education and Training Act 2005</i> , and	8
3.16 Travel Agents Regulation 2001	9
Clause 18A Qualifications of person in charge of business	10
Omit “registered provider within the meaning of the <i>Vocational Education</i>	11
<i>and Training Accreditation Act 1990</i> ” from clause 18A (a).	12
Insert instead “registered training organisation within the meaning of the	13
<i>Vocational Education and Training Act 2005</i> ”.	14
3.17 Weapons Prohibition Regulation 1999	15
Clause 14 Prohibited weapons—instructor permit	16
Omit “registered training provider under the <i>Vocational Education and</i>	17
<i>Training Accreditation Act 1990</i> who” from clause 14 (3) (b) (i) (B).	18
Insert instead “registered training organisation (within the meaning of the	19
<i>Vocational Education and Training Act 2005</i>) that”.	20