

APPRENTICESHIP BILL, 1981

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Industrial Arbitration (Apprenticeship) Amendment Bill, 1981, is cognate with this Bill.

The objects of this Bill are to—

- (a) make provisions with respect to apprenticeship so as to facilitate meeting the need of the community for skilled tradesmen;
- (b) repeal the Apprentices Act, 1969; and
- (c) make other provisions of a transitional, consequential or ancillary nature.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4 provides that the Industrial Arbitration Act, 1940, is referred to in the proposed Act as the Principal Act.

Clause 5. Interpretation.

Clause 6 provides that the proposed Act is to be construed with the Principal Act.

PART II.—THE NEW SOUTH WALES APPRENTICESHIP COUNCIL.

Clause 7 and Schedule 1 provide for the constitution, membership and procedure of the New South Wales Apprenticeship Council ("the Council").

Clause 8 specifies the matters the Council has a duty to keep under review, outlines the functions the Council exercises and provides for the making of minority reports or recommendations by Council members.

PART III.—SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR.

Clause 9 provides for the appointment of apprenticeship supervisors.

Clause 10 specifies the functions of supervisors with regard to the training of apprentices by employers.

Clause 11 regulates the disclosure of information by supervisors.

Clause 12 and Schedule 2 enable the Industrial Commission of New South Wales ("the Commission") to establish and dissolve apprenticeship training committees ("training committees") and make provisions with regard to the members of those committees.

Clause 13 provides for the assignment of functions to training committees with respect to apprenticeships in trades generally or in trades carried on by an employer or group of employers.

Clause 14 outlines the general functions of training committees and the matters which are to be subject to review and report by those committees.

Clause 15 delineates the jurisdiction and functions of training committees with respect to disputes and differences between employers and apprentices in respect of apprenticeship training.

Clause 16 provides that, subject to any appeal made to the Commission, the decisions of training committees are final.

Clause 17 provides for the appointment of a Director of Apprenticeship ("the Director").

Clause 18 provides for the appointment of a Deputy Director of Apprenticeship.

Clause 19 specifies the functions of the Director with regard to the administration of the apprenticeship system established by the proposed Act.

Clause 20 provides that the Director may refer certain matters to training committees.

PART IV.—GENERAL PROVISIONS RELATING TO APPRENTICESHIP.

Clause 21 prohibits the employment, subject to prescribed exceptions, of persons under the age of 21 years in a trade prescribed by the regulated provisions of an award, unless they are apprentices or qualified tradesmen.

Clause 22 requires employment for a probationary period prior to an employee's entering into an indenture of apprenticeship.

Clause 23 regulates the establishment of an indentured apprenticeship.

Clause 24 describes the extent to which indentures of apprenticeship are binding.

Clause 25 requires the approval of the Director prior to the assignment of an indenture of apprenticeship from one employer to another.

Clause 26 provides for the cancellation of indentures of apprenticeship.

Clause 27 deems an indenture of apprenticeship to bind the executors or administrators of a deceased employer, or the surviving partners of a deceased or retired employer, of an indentured apprentice.

Clause 28 requires the employer of an indentured apprentice to notify the Director on completion of the apprentice's term of apprenticeship.

Clause 29 requires the approval of the Director prior to the establishment of a trainee apprenticeship and requires the employer of a trainee apprentice to notify the Director on completion of the apprentice's term of apprenticeship.

Clause 30 provides that specified provisions of a regulation may form part of an award relating to apprenticeship and that any such provision shall be paramount to an inconsistent negotiated provision of the same award.

Clause 31 enables the Director to exempt employers and apprentices from compliance with regulated provisions of awards.

Clause 32 imposes duties on employers with regard to the training of apprentices and on apprentices with regard to their employers and the completion of prescribed forms of instruction.

Clause 33 requires apprentices, unless exempted by the Director, to attend certain classes of instruction.

Clause 34 empowers training committees and supervisors to inspect the practical training of an apprentice by an employer and, where that training is inadequate, empowers the appropriate training committee to require the employer to take action to improve that training.

PART V.—RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING.

Clause 35 provides for the issue of a certificate, entitling a person to recognition as a qualified tradesman, on completion of a course of service apprenticeship or service adult trade training.

PART VI.—PROCEDURE.

Clause 36 provides for the commencement of proceedings relating to matters dealt with by training committees or the Director by application to the Director.

Clause 37 makes provision for the convening of meetings of training committees by the Director.

Clause 38 enables training committees to make rules as to the order and conduct of their business and proceedings.

Clause 39 enables training committees to confer with other persons.

Clause 40 describes the conditions under which the Director may require a person to appear before a training committee to give evidence or to produce documents and the scope and form of examination permissible with regard to these matters.

Clause 41 enables a training committee member to require a person to answer questions but limits the admissibility of the interrogation in criminal proceedings.

Clause 42. Offences related to requirements arising under clauses 40 and 41.

Clause 43 states the requirements for the making of decisions by training committees.

Clause 44 enables the Crown to intervene in the public interest in proceedings before training committees.

Clause 45 describes the circumstances under which a person may have legal representation in proceedings before training committees.

Clause 46 states the rules governing the procedures and decisions of the Director and training committees.

Clause 47 enables the Director and training committees to waive compliance with certain procedural requirements.

PART VII.—SUPPLEMENTARY.

Clause 48 provides for appeals to the Commission.

Clause 49 prohibits the demand or receipt of a premium from any person for entering into any contract of apprenticeship without the consent of an apprenticeship conciliation committee.

Clause 50 empowers certain persons to enter buildings or other places for purposes relating to the supervision of apprenticeships under the proposed Act.

Clause 51 provides for actions for damages for breach of contracts of apprenticeship to be heard before an industrial magistrate.

Clause 52 provides for the recovery of penalties for a breach of the proposed Act or regulations made under it and applies certain provisions of the Principal Act to proceedings before industrial or stipendiary magistrates under the proposed Act.

Clause 53 requires certain employers carrying on a trade to forward annual returns relating to their employees to the Director.

Clause 54 empowers the making of regulations.

Clause 55 facilitates the giving of evidence of certain matters.

Clause 56 provides for the giving of notice under the proposed Act and regulations made under it.

Clause 57 and Schedule 3. Repeals.

Clause 58 and Schedule 4. Savings and transitional provisions.

PROOF

APPRENTICESHIP BILL, 1981

No. , 1981.

A BILL FOR

**An Act to make provisions with respect to apprenticeship and to repeal the
Apprentices Act, 1969.**

[MR HILLS—15 *April*, 1981.]

See also Industrial Arbitration (Apprenticeship) Amendment Bill, 1981.

Apprenticeship.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Apprenticeship Act, 1981".

Commencement.

- 10 2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsections (1) and (3), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

- 15 (3) Section 53 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that occurs after the day appointed and notified under subsection (2).

Arrangement.

- 20 3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1-6.

PART II.—THE NEW SOUTH WALES APPRENTICESHIP COUNCIL—ss. 7, 8.

- 25 **PART III.—SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR ss. 9-20.**

DIVISION 1.—Apprenticeship Supervisors—ss. 9-11.

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DIVISION 2.—*Apprenticeship Training Committees*—ss. 12–16.

DIVISION 3.—*The Director of Apprenticeship*—ss. 17–20.

PART IV.—GENERAL PROVISIONS RELATING TO APPRENTICESHIP—
ss. 21–34.

5 DIVISION 1.—*Establishment of Apprenticeship*—ss. 21–23.

DIVISION 2.—*Apprenticeship under Indentures*—ss. 24–28.

DIVISION 3.—*Trainee Apprentices*—s. 29.

DIVISION 4.—*Regulated Provisions of Awards*—ss. 30, 31.

DIVISION 5.—*Miscellaneous*—ss. 32–34.

10 PART V.—RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING—s.
35.

PART VI.—PROCEDURE—ss. 36–47.

DIVISION 1.—*Commencement of Proceedings*—s. 36.

DIVISION 2.—*Training Committees*—ss. 37–43.

15 DIVISION 3.—*Miscellaneous*—ss. 44–47.

PART VII.—SUPPLEMENTARY—ss. 48–58.

SCHEDULE 1.—PROVISIONS RELATING TO MEMBERSHIP AND PRO-
CEDURE OF THE COUNCIL.

20 SCHEDULE 2.—PROVISIONS RELATING TO MEMBERS OF TRAINING
COMMITTEES.

SCHEDULE 3.—REPEALS.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

Principal Act.

4. The Industrial Arbitration Act, 1940, is referred to in this Act as the
25 Principal Act.

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Interpretation.

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

5 “appropriate training committee”, in relation to any act, matter or thing concerning an apprenticeship, means the training committee to which functions are for the time being assigned under section 13 with respect to the apprenticeship;

10 “award” means all of the negotiated provisions and the regulated provisions, if any, which are in force for the time being with respect to an employer and any apprentices employed by him in a trade;

“college” means a college within the meaning of the Technical and Further Education Act, 1974;

“Commissioner” means the Conciliation Commissioner for Apprenticeships appointed under section 15 of the Principal Act;

15 “Council” means the New South Wales Apprenticeship Council constituted under section 7 (1);

“Director” means the Director of Apprenticeship appointed under section 17;

20 “employer” means a person (including the Crown) employing an apprentice;

“function” includes power, authority and duty;

“indenture” includes any written contract;

25 “indentured apprentice” means an employee who is serving a period of training under an indenture for the purpose of rendering him fit to be a qualified worker in a trade;

30 “negotiated provision” means a provision of an award or a variation thereof made under the Principal Act by the commission, a conciliation commissioner or an apprenticeship conciliation committee with respect to an employer and any apprentices employed by him in a trade;

“probationer” means a person employed in a trade with a view to ascertaining his suitability for engagement as an indentured apprentice;

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"regulated provision" means a provision made by the regulations and deemed by the regulations to form part of an award relating to an employer and any apprentices employed by him in a trade;

"regulations" means regulations made under this Act;

5 "supervisor" means an apprenticeship supervisor appointed under section 9;

"trade" includes a calling;

10 "trainee apprentice" means an employee, other than a probationer, who is serving a period of training, otherwise than under an indenture, for the purpose of rendering him fit to be a qualified worker in a trade;

"training committee" means an apprenticeship training committee established under section 12 (1).

(2) A reference in this Act to the exercise of a function includes, where 15 that function is a duty, a reference to the performance of that duty.

(3) For the purposes of section 27 (I) of the Interpretation Act, 1897, a notice served by post on a person under this Act or the regulations is properly addressed if it is addressed to the last address of the person known to the Director.

20 **Construction of Act.**

6. This Act shall be read and construed with the Principal Act.

PART II.

THE NEW SOUTH WALES APPRENTICESHIP COUNCIL.

Constitution of the Council.

25 7. (1) There shall be a New South Wales Apprenticeship Council which shall have and may exercise the functions conferred or imposed upon it by this Act.

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(2) Schedule 1 has effect with respect to the membership and procedure of the Council.

Functions of the Council.

8. (1) Subject to this Act, the Council shall—

5 (a) keep under review—

- (i) the requirements of the State for skilled tradesmen;
- (ii) the availability of qualified tradesmen to meet those requirements;
- (iii) the availability of young persons for apprenticeship;
- 10 (iv) the availability of vacancies for apprentices and the extent to which employers are participating in the training of apprentices;
- (v) the adequacy of the training of apprentices in employers' workshops and in colleges and the measures which can be
- 15 taken to improve that training;
- (vi) the adequacy of the apprenticeship system as a means of training skilled tradesmen and the desirability of modifying that system or of providing supplementary systems of training for skilled occupations; and
- 20 (vii) the measures which should be taken to promote apprenticeship;

(b) conduct research into all matters pertaining to its functions;

(c) disseminate information as to matters which it has a duty to keep under review;

25 (d) report to the Minister annually, and at such other times as it thinks fit, its conclusions on the matters which it has a duty to keep under review;

(e) make recommendations to the commission and to training committees in relation to any matter concerning apprenticeship or otherwise relating to the training of skilled workers; and

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(f) consider, and report to the Minister on, any matter referred by him to the Council concerning apprenticeship or concerning the training of skilled workers by other means.

(2) A minority report or recommendation may be recorded by a member, or by members, of the Council in respect of any matter upon which a report or recommendation is made by the Council under subsection (1) and any such minority report or recommendation shall be submitted and considered with the report or recommendation of the Council by the person or body to whom or which it is submitted.

(3) For the purpose of exercising its functions under this Act, the Council may confer with any person, body or organisation and may, with the approval of the Minister concerned and of the Public Service Board and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

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PART III.

SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR.

DIVISION 1.—*Apprenticeship Supervisors.*

Appointment of supervisors.

9. The Governor may, under and in accordance with the Public Service Act, 1979, appoint apprenticeship supervisors who shall have the functions prescribed.

Functions of supervisors.

10. (1) A supervisor may, in respect of an industry in which apprentices are employed—

(a) generally supervise the adequacy of the training of apprentices by employers;

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- (b) advise and assist employers in relation to the employment and training of apprentices and the formation and conduct of group apprenticeship schemes;
- 5 (c) investigate any complaints regarding the conditions of employment or the training of apprentices, alleged breaches of awards or of this Act or the regulations and alleged breaches of the Principal Act relating to apprentices;
- (d) perform such duties as may be assigned by the Director; and
- 10 (e) on obtaining the authority of the Minister, institute proceedings for the imposition of a penalty for any breach of the provisions of this Act or the regulations or of the Principal Act.

(2) For the purpose of exercising his functions, a supervisor may at all reasonable times enter upon the premises of an employer in an industry in which apprentices are employed, and may require the production of time
15 and pay sheets, copies of indentures and other documents relating to the employment of persons with respect to whom provision is made in or under this Act.

(3) No supervisor shall have authority under this Act to enter a private dwelling-house or the land used in connection therewith, unless some
20 manufacturing process or trade in which labour is employed is carried out therein.

(4) Any person who obstructs a supervisor in the exercise of any of his functions under this Act, or fails to produce time and pay sheets or documents when duly required to do so under subsection (2), is guilty of an
25 offence and liable to a penalty not exceeding \$500.

Disclosure of information.

11. (1) Subject to subsection (2), a person who is, or was at any time, a supervisor shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by him in con-
30 nection with the administration or execution of this Act or the regulations.

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(2) Subsection (1) does not operate to prevent the disclosure of information where that disclosure is—

- (a) made in connection with the administration or execution of this Act or the regulations;
- 5 (b) made with the prior permission of the Minister; or
- (c) ordered by a court, or by any other body or person authorised by law to examine witnesses in the course of, and for the purpose of, the hearing and determination of any matter or thing by that court, body or person.

10 (3) The Minister may grant the permission referred to in subsection (2) (b) only if he is satisfied that to do so would be in the public interest.

(4) Any person who contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

DIVISION 2.—Apprenticeship Training Committees.

15 **Establishment of training committees.**

12. (1) The commission may, by its order—

- (a) establish an apprenticeship training committee and appoint the members of the committee, other than the Director, so that the committee is composed of members in accordance with Schedule 2; or
- 20 (b) dissolve a training committee.

(2) A training committee may be established by the commission—

- (a) on its own motion or upon application being made to it; or
- 25 (b) so as to take the place of a dissolved training committee or a training committee whose appointed members have resigned or otherwise ceased to hold office.

(3) Schedule 2 has effect with respect to the members of a training committee.

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Assignment of functions.

13. (1) In this section, "trade" includes a combination of trades.

(2) Subject to subsection (3), where the commission establishes a training committee it shall assign to the committee the functions of a training committee under this Act with respect to—

- (a) all apprenticeships in a trade;
- (b) all apprenticeships in the trades carried on by a particular employer or a particular group of employers; or
- (c) all apprenticeships in a trade except those referred to in paragraph (b) and with respect to which an assignment of functions has been made under this subsection to another training committee.

(3) The commission may, under subsection (2), assign to a training committee functions with respect to apprenticeships in a trade or trades only if each member of the committee, other than the Director, is or has been engaged in, or is acquainted with, that trade or those trades, as the case may be.

Jurisdiction, generally.

14. (1) A training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2) shall keep under review, and shall report to the Council at least once in every 2 years upon—

- (a) the need for tradesmen skilled in that trade;
- (b) the availability of qualified tradesmen to meet that need;
- (c) the availability of young persons for apprenticeship in that trade;
- (d) the number of vacancies for apprentices in that trade and the extent to which employers are participating in the training of apprentices; and
- (e) the adequacy of the training in that trade provided by employers and given in colleges and the measures which can be taken to improve that training,

in so far as those matters are known to the members of the committee and the employers and employees they were appointed to represent.

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(2) Whether or not the matter has been referred to it under section 20, a training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2) may at any time consider, and the chairman of the committee may report to the
5 Minister upon, any matter related to apprenticeship training in that trade or any matter with respect to which regulations may be made in relation to all apprenticeships or to apprenticeships in that trade.

(3) A training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2)
10 shall—

(a) liaise with the Department of Technical and Further Education in any matter concerning the technical education of apprentices in that trade; and

(b) keep under review the facilities which are available in colleges for
15 the training of apprentices in that trade.

(4) A training committee may submit any question arising out of any matter before it to the commission for its opinion and direction.

(5) The commission shall consider any question referred to it under subsection (4) and may give directions to the training committee which sub-
20 mitted the question.

(6) Any direction of the commission given with respect to a question referred to it by a training committee shall be carried into effect by the committee.

Jurisdiction with respect to differences and disputes.

25 15. (1) Where a matter in the nature of a difference or dispute between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians with respect to apprenticeship training is referred to a training committee under section 20 (3) (c), the committee shall—

30 (a) subject to subsection (2), conciliate on the difference or dispute with a view to inducing the parties to it to come to an agreement which will settle the matter and preserve the apprenticeship; or

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(b) refer the matter to the Commissioner so that it may be dealt with under the Principal Act.

(2) A training committee may, at any time after it commences to deal with a matter under subsection (1) (a) and for such reason as it considers sufficient, refer the matter to the Commissioner so that it may be dealt with under the Principal Act.

(3) Where a training committee refers a matter in the nature of a difference or dispute between an employer and an apprentice or his parents or guardians to the Commissioner under subsection (1) (b) or (2), it may recommend in writing that the Commissioner—

(a) order the employer or apprentice to make such redress (other than by way of damages for breach of contract) as the committee thinks appropriate;

(b) require the employer to afford the apprentice such further or better facilities for training within the scope of the employer's business as are specified in the recommendation;

(c) authorise the employer to suspend the apprentice without pay for such period of not more than 12 months as is specified in the recommendation; or

(d) cancel the apprentice's indenture or, if he is a trainee apprentice, terminate his contract of employment.

(4) When a training committee—

(a) refers a matter to the Commissioner under subsection (2) with a recommendation—

(i) that an apprentice's employer be authorised to suspend the apprentice for a period exceeding 14 days; or

(ii) that an indentured apprentice's indenture be cancelled or that a trainee apprentice's contract of employment be terminated; and

(b) is satisfied that the apprentice has, in connection with the matter, seriously misconducted himself in his employment or breached his contract of employment,

the committee may, by order in writing served on the apprentice and his employer, suspend the apprentice without pay for the period—

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- (c) commencing with the day on which the order has been so served;
and
(d) ending with the fourteenth day after that day or the day on which
an order relating to the matter is made under section 231 (3) or
5 29 (3) or (5) of the Principal Act, whichever first occurs.

(5) An employer is not in breach of any award or industrial agreement by reason only of his giving effect to an order made under subsection (4).

Finality of decisions.

10 16. Except as provided in section 48—

- (a) a decision of a training committee in the exercise of the functions conferred or imposed upon it by this Act shall be final; and
(b) no proceeding of a training committee shall be vitiated by reason
15 only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called into question by any court on any account whatever,

and no order of prohibition or of removal into the Supreme Court shall be made in respect of any order, proceeding or recommendation of a training committee in the exercise of the functions conferred or imposed upon it by
20 this Act.

DIVISION 3.—The Director of Apprenticeship.**Appointment of Director.**

17. The Governor may, under and in accordance with the Public Service Act, 1979, appoint a Director of Apprenticeship who shall have the functions
25 conferred or imposed upon him by or under this Act.

Deputy Director of Apprenticeship.

18. (1) The Governor may, under and in accordance with the Public Service Act, 1979, appoint a Deputy Director of Apprenticeship.

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(2) The Deputy Director of Apprenticeship shall, during—

- (a) any temporary absence of the Director; or
- (b) any vacancy in the office of Director,

have, and may exercise, the same functions as he would have if he were the
5 Director.

(3) Anything done by the Deputy Director of Apprenticeship in the exercise of any of the functions conferred upon him by subsection (2) shall be deemed to have been done by the Director.

Functions of the Director.

10 19. (1) In addition to the functions otherwise conferred or imposed upon him by or under this Act, the Director shall—

- (a) act as chairman of the Council and of each training committee;
- (b) arrange the compilation of statistics concerning the skilled work force and apprentices;
- 15 (c) conduct research into the requirements of the community for skilled tradesmen and the likely availability, from all sources, of qualified tradesmen, and into the number of apprentices required from time to time to ensure that the community's need for skilled tradesmen will be met;
- 20 (d) furnish the Council with such information and statistics as it requires for the exercise of its functions;
- (e) on his own motion and in such circumstances as may be prescribed, summon meetings of training committees, give notice of hearings to those committees and notify the persons affected of the decisions of those committees;
- 25 (f) prepare and issue forms of indenture for completion by the parties to apprenticeship contracts;
- (g) register—

- (i) approvals of applications to establish apprenticeships; and
- 30 (ii) indentures of apprenticeship;

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- (h) record the completion of terms of apprenticeship;
- (i) countersign completed indentures, and issue certificates of completion of terms of apprenticeship; and
- 5 (j) in co-operation with the Department of Technical and Further Education, maintain records concerning apprentices and their progress in courses at colleges.

(2) The Director may, in the case of a person who has completed a term of apprenticeship and satisfied all the requirements of the Department of Technical and Further Education in respect of the courses conducted by that
10 Department or approved by the Director-General of Technical and Further Education and prescribed under section 33 (1) for that person as an apprentice, issue that person with a certificate in the form prescribed.

Referral to training committees.

20. The director may refer—

- 15 (a) any matter with respect to which he proposes to recommend that a regulation be made;
- (b) any application for an approval under section 22 or an exemption under section 31 (1) or 33 (4); or
- 20 (c) any other matter relating to the training of apprentices, including a matter in the nature of a difference or dispute between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians with respect to apprenticeship training,

to such of the training committees as he considers appropriate in the circumstances for its consideration.
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Apprenticeship.

PART IV.**GENERAL PROVISIONS RELATING TO APPRENTICESHIP.****DIVISION 1.—*Establishment of Apprenticeship.*****Prohibition on certain employment.**

5 21. (1) An employer shall not employ a person under the age of 21 years in a trade prescribed by the regulated provisions of an award which applies to the employer, unless—

- 10 (a) that person is a probationer or a trainee apprentice in that trade and the employment of that person by the employer is not in breach of an order of a training committee or an apprenticeship conciliation committee;
- (b) approval has been given to the establishment of an apprenticeship for that person in that trade;
- (c) that person has completed an apprenticeship in that trade; or
- 15 (d) that person is entitled to recognition as a qualified tradesman in that trade pursuant to section 35 (6) or pursuant to section 23J (2) of the Principal Act.

20 (2) A regulation may declare that subsection (1) does not apply in respect of any trade specified or described in the regulation, being a trade that is prescribed by the regulated provisions of an award, and any such regulation shall have effect according to its tenor.

(3) A person who contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

Probation.

25 22. A person desirous of becoming an indentured apprentice shall be first employed as a probationer for a period of 3 months, or for such longer period, not exceeding 6 months in all, as the Director may, on application by the employer, approve and, where a probationer becomes an indentured apprentice, his period of probation shall be treated as part of his term of

30 apprenticeship.

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Indentured apprentices.

23. (1) Within 14 days of the employment of a probationer, the employer shall apply to the Director in the form prescribed for approval to establish an apprenticeship under indenture.

5 (2) On receipt of an application under subsection (1), the Director shall cause inquiries to be made as to whether approval should be given to the application and shall—

 (a) approve the application;

10 (b) except as provided in paragraph (c), refer the application to the appropriate training committee which may approve the application or make such order with respect to the probationer or his employer, or both, as it considers appropriate to the particular case, including an order that the probationer be no longer employed by the applicant in a specified trade; or

15 (c) where the Director is satisfied that the probationer is above the age of 21 years—refer the application to the appropriate apprenticeship committee (within the meaning of the Principal Act).

 (3) Where an application under subsection (1) has been approved or an order has been made under subsection (2) (b) with respect to any such
20 application, the Director shall notify the applicant accordingly and, on the expiration of the period of probation, or as soon as practicable thereafter, shall forward an indenture of apprenticeship to the employer for completion, if the application has been approved.

25 (4) An employer to whom an indenture of apprenticeship is forwarded for completion shall arrange for its completion and the return thereof to the Director within 28 days of its despatch by the Director who shall retain the indenture during the term of apprenticeship to which it relates.

 (5) Whether or not a notification of the employment of the probationer has been forwarded to the Director, the provisions of an award
30 which would apply to and in respect of the employment of the probationer by his employer if he were an indentured apprentice in the trade in which he is employed shall apply to and in respect of his employment during the period of probation.

35 (6) An employer who terminates the employment of a probationer shall forthwith notify the Director, in writing, of that termination.

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(7) An employer who fails to comply with subsection (1), (4) or (6) is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 2.—Apprenticeship under Indentures.

Extent to which indentures are binding.

5 24. (1) An apprentice who is a party to an indenture of apprenticeship shall be bound by the covenants contained therein throughout the term of the apprenticeship whether or not, during the term, he attains the age of 18 years.

10 (2) A parent or guardian of an apprentice who is a party to an indenture of apprenticeship shall be bound thereby until the apprentice attains the age of 18 years or until the term of the apprenticeship expires, whichever first occurs.

Assignment of indentures.

15 25. (1) An indenture of apprenticeship may not be assigned from one employer to another except in accordance with this section.

(2) An application for approval to the assignment of an apprentice's indenture shall be made in the form prescribed to the Director by the employer intending to employ the apprentice.

20 (3) On receipt of an application under subsection (2), the Director shall, after making such inquiries as he deems fit—

- (a) approve the proposed assignment; or
- (b) refer the application to the appropriate training committee, which may approve or refuse to approve the proposed assignment.

(4) Where—

- 25 (a) approval has been given to the assignment of an apprentice's indenture under subsection (3); and
- (b) the Director is satisfied that the apprentice's former employer has consented to the assignment,

30 the Director shall effect the assignment by giving notice of the assignment to all the parties thereto.

Apprenticeship.

(5) Where the Director—

(a) sends a notice to an employer who is a party to an indenture of apprenticeship—

5 (i) addressed to the last address of the employer known to the Director; and

 (ii) requesting the employer to notify the Director whether or not the employer agrees to the assignment of the indenture to another employer specified in the notice; and

10 (b) does not receive any reply to that request within 21 days next following the date on which the notice is sent,

the consent of the employer to whom the notice was sent to the assignment of the indenture to the other employer shall be deemed to have been given for the purposes of subsection (4).

Cancellation of indentures.

15 **26. (1)** Subject to subsection (2), an indenture of apprenticeship may be cancelled by agreement of all the parties thereto including, in the case of an apprentice under the age of 18 years, his parent or guardian, but shall not be otherwise terminated except by an order made, or in accordance with an approval given, under section 231 of the Principal Act.

20 **(2) Where the Director—**

(a) sends a notice to a party to an indenture of apprenticeship—

 (i) addressed to the last address of the party known to the Director; and

25 (ii) requesting the party to notify the Director whether or not the party agrees to the cancellation of the indenture; and

(b) does not receive any reply to that request within 21 days next following the date on which the notice is sent,

the agreement of the party to whom the notice was sent to the cancellation of the indenture shall be deemed to have been given for the purposes of sub-
30 section (1).

Apprenticeship.

(3) Within 14 days of the cancellation of an indenture of apprenticeship by agreement of all the parties thereto, the employer concerned shall forward notice of the cancellation to the Director.

(4) Where an indenture of apprenticeship is cancelled, each party
5 thereto shall forthwith surrender his copy of the indenture to the Director.

(5) A person who fails to comply with subsection (3) or (4) is guilty of an offence and liable to a penalty not exceeding \$500.

Death of employer, etc.

27. (1) Where the employer of an indentured apprentice dies and the
10 business in which the apprentice was employed is carried on by the executors or administrators for the time being of the will or estate of the deceased employer, the contract of apprenticeship shall be deemed not to have been determined by the death of the employer and shall, unless cancellation of the indenture of apprenticeship is, on the application of those executors or admin-
15 istrators, or the apprentice, approved by the appropriate apprenticeship committee (within the meaning of the Principal Act), be binding on those executors or administrators as if they were the employers of the apprentice.

(2) Where the employers of an indentured apprentice are partners
in a partnership and the business in which the apprentice is employed is
20 carried on by the partners for the time being after the death or retirement of a partner, the contract of apprenticeship shall be deemed not to have been determined by that death or retirement and shall, unless cancellation of the indenture of apprenticeship is, on the application of those partners, approved by the appropriate apprenticeship committee (within the meaning of the
25 Principal Act), be binding on those partners as if they were the employers of the apprentice.

Completion of apprenticeship.

28. (1) Upon the expiration of a term of apprenticeship by effluxion of time, the employer of an indentured apprentice shall so notify the Director
30 who shall certify on the indenture that the term thereof has been completed and forward it to the person who has completed the term of apprenticeship together with a certificate in the form prescribed.

Apprenticeship.

(2) An employer who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 3.—*Trainee Apprentices.*

Employment of trainee apprentices.

5 **29. (1)** Within 14 days of the employment of a trainee apprentice, the employer shall apply to the Director in the form prescribed for approval to establish a trainee apprenticeship.

(2) On receipt of an application pursuant to subsection (1), the Director shall cause inquiries to be made as to whether approval should be
10 given to the application and shall—

- (a) approve the application;
- (b) except as provided in paragraph (c), refer the application to the appropriate training committee which may approve the application or make such order with respect to the trainee apprentice or his
15 employer, or both, as it considers appropriate to the particular case, including an order that the trainee apprentice be no longer employed by the applicant in a specified trade; or
- (c) where the Director is satisfied that the trainee apprentice is above
20 the age of 21 years—refer the application to the appropriate apprenticeship committee (within the meaning of the Principal Act).

(3) Where an application under subsection (1) has been approved or an order has been made under subsection (2) (b) with respect to any such application, the Director shall notify the applicant accordingly and forward
25 to him a progress card for issue to the trainee apprentice, if the application has been approved.

(4) An employer who terminates the employment of a trainee apprentice shall forthwith notify the Director of that termination by endorsing the apprentice's progress card accordingly and returning the card to the
30 Director.

Apprenticeship.

(5) Upon the expiration of a term of apprenticeship by effluxion of time, the employer of a trainee apprentice shall complete the apprentice's progress card and return it to the Director who shall thereupon forward a certificate in the form prescribed to the person who has completed the term of apprenticeship.

(6) An employer who fails to comply with subsection (1), (4) or (5) is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 4.—Regulated Provisions of Awards.

Creation and effect of regulated provisions.

10 30. (1) A regulation made on the recommendation of the Director may deem specified provisions of the regulations to form part of an award which applies to an employer or employers specified or described in the regulations and any apprentices employed by him or them in a trade so specified.

15 (2) A negotiated provision of an award has no effect to the extent, if any, to which it is inconsistent with a regulated provision of the same award.

(3) Notwithstanding any provision of the Principal Act, but subject to subsection (4), a regulated provision of an award may not be rescinded or varied under that Act by the commission, a conciliation commissioner or an apprenticeship conciliation committee.

(4) Nothing in this section prevents—

25 (a) the commission from cancelling an apprenticeship award under section 8B (4) (a) or (b) or 9 (3) of the Principal Act and, where any such award is cancelled, the regulated provisions of the award shall cease to have effect to the extent specified by the commission; or

30 (b) the commission, the Commissioner or an apprenticeship conciliation committee from exercising, under the Principal Act, any of the functions conferred upon an apprenticeship conciliation committee by section 23D of that Act.

Apprenticeship.

Exemptions.

31. (1) The Director may, for such reason as he considers sufficient, by order in writing exempt a particular employer or apprentice from compliance with a regulated provision of an award and, while an order under this subsection is in force, the regulated provision does not apply to or in respect of the employer or apprentice.

(2) An exemption granted by an order made under subsection (1)—

(a) may be granted subject to such conditions as the Director thinks fit and specifies in the order; and

10 (b) has effect only while the conditions, if any, so specified are not being breached.

DIVISION 5.—Miscellaneous.**Duties of employers and apprentices.**

32. (1) The employer of an apprentice shall, by the best means in his power, teach the apprentice, or cause him to be taught, the trade in which he is apprenticed, and shall provide facilities for the practical training of the apprentice in that trade and shall give the apprentice every opportunity to learn that trade and to receive during the term of his apprenticeship such technical, trade or other training and instruction as may be prescribed under section 33 in respect of the apprentice or by any award governing the employment of the apprentice.

(2) An apprentice shall, during the term of his apprenticeship, faithfully serve his employer for the purpose of being taught the trade in which he is apprenticed and shall conscientiously and regularly accept such technical, trade or other training and instruction as may be prescribed under section 33 in respect of the apprentice or by any award governing his employment, in addition to the training and instruction provided by the employer.

Apprenticeship.

Attendance at technical college.

33. (1) Where the regulations prescribe a course conducted by the Department of Technical and Further Education or approved by the Director-General of Technical and Further Education as a required course for an apprentice in a specified trade, an apprentice who is subject to a contract of apprenticeship in that trade shall, during the periods fixed for the purpose by that Department—

- 10 (a) enrol for classes of instruction provided for that course appropriate to the stages, if any, of that course successfully completed by the apprentice; and
- (b) attend those classes.

(2) Where—

- (a) an apprentice is enrolled at a college for a class of instruction which he is required to attend by subsection (1); and
- 15 (b) the Director is satisfied by a certificate under the hand of the Principal of the college that the apprentice has failed to attend the class on a day or days specified in the certificate,

the Director may, by notice in or to the effect of the prescribed form served personally on the apprentice, require the apprentice to show cause, within
20 14 days of the date of service of the notice, why—

- (c) the Director should not refer to the appropriate training committee the question of whether a recommendation should be made by the committee to the Commissioner that the apprentice's employer should be authorised to suspend the apprentice without pay; or
- 25 (d) where the Director is satisfied that the apprentice has, without having provided the Director with true and adequate reasons, failed to attend the classes of instruction he was required to attend by subsection (1) on not less than 3 occasions in the period of 12 months preceding the day or, if more than 1 day is specified,
30 the last day specified in the certificate to which the notice relates— the Director should not refer to the appropriate training committee the question of whether a recommendation should be made by the committee to the Commissioner that the apprentice's indenture should be cancelled or his contract of employment terminated.

Apprenticeship.

(3) Where an apprentice has been suspended for a period of time from attendance at a class of instruction at a college by the Principal of the college, he shall, for the purposes of subsection (2), be deemed to have failed to attend the class for that period.

5 (4) For such reason as appears to him to be sufficient, the Director may, by order in writing, exempt—

(a) an apprentice specified in the order; or

(b) each apprentice of a class described in the order,

10 from any of the requirements imposed on the apprentice by subsection (1), subject to such conditions, if any, specified in the order as the Director thinks fit and any such order shall, subject to subsection (5), have effect according to its tenor.

(5) Where an exemption has been granted under subsection (4) subject to a condition, the exemption has effect in favour of an apprentice 15 in relation to whom it was granted only while he is not in breach of the condition.

(6) Any time spent by an apprentice—

(a) in attending a class of instruction at a college in compliance with—

(i) a requirement made of him by subsection (1); or

20 (ii) a condition subject to which he was exempted under subsection (4) from compliance with any such requirement; or

25 (b) where a condition referred to in paragraph (a) (ii) requires the apprentice to carry out a course of instruction or training elsewhere than at a class of instruction conducted at a college and the order in which the condition was specified provides that some or all of the time spent in carrying out the course or training shall be deemed to be time spent for the purposes of this subsection— 30 in carrying out that course or training, but only to the extent that the order so provides,

Apprenticeship.

shall—

- (c) be treated as part of his term of apprenticeship; and
- (d) be deemed to be ordinary time worked for the purpose of calculating wages to be paid to him under any award.

- 5 (7) An employer of an apprentice shall not hinder or prevent the apprentice from attending at a class of instruction which the apprentice is required to attend by subsection (1) or from carrying out a course or training in compliance with a condition specified under subsection (4) in an order which applies to the apprentice.
- 10 (8) An employer who breaches subsection (7) is guilty of an offence and liable to a penalty not exceeding \$1,000.

Supervision of practical training.

34. (1) A supervisor or the appropriate training committee, or both, may inspect the training of an apprentice in the premises of an employer or
15 in other premises in which the employer has arranged for the apprentice to be trained.

- (2) If the appropriate training committee is of the opinion that the practical training given or being given by an employer to an apprentice is inadequate in any respect, the committee may, by notice in writing addressed
20 to the employer, under the hand of the Director, require the employer to do such things in relation to the training of the apprentice as the committee may deem appropriate.

- (3) Where an employer on whom a notice has been served under subsection (2) has failed to comply with a requirement of the notice within
25 the time fixed in the notice for compliance with the requirement, the training committee which caused the notice to be so served may recommend to the Commissioner that he make an order with respect to that requirement.

Apprenticeship.

PART V.

RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING.

Recognition of service apprenticeships.

35. (1) In this section—

5 “defence force” means the defence force of the Commonwealth;

“service adult trade training” means training undertaken by a person as a member of the defence force pursuant to a scheme, not involving apprenticeship, for the trade training of a person over the age of 17 years;

10 “service apprenticeship” means apprenticeship served by a person as a member of the defence force.

(2) A training committee may confer with accredited representatives of the defence force on any matter concerning service apprenticeships or service adult trade training, with a view to ensuring that, upon his discharge
15 from the defence force, a person who has served a service apprenticeship or completed a period of service adult trade training will be accorded recognition in a civilian trade.

(3) The appropriate training committee may determine that the course of training provided for a class of service apprenticeship or service
20 adult trade training is such that an apprentice or adult trainee who satisfactorily completes the course, and complies with such further conditions as to experience or otherwise as the committee may determine, would be adequately trained to work as a tradesman in a comparable civilian trade.

(4) A determination of a training committee made under subsection
25 (3) shall be—

(a) set forth in an instrument signed by the Director; and

(b) filed by the Director,

and a copy of the instrument shall be forwarded by the Director to the relevant defence force authority.

Apprenticeship.

(5) The Director may issue a certificate in the form prescribed to a person who makes application therefor, as prescribed, and satisfies the Director that he has satisfactorily completed the course of training to which the certificate relates, being a course that is the subject of a determination made under subsection (3), and has complied with any other conditions prescribed in the determination.

(6) A certificate issued pursuant to this section shall entitle the person to whom it is issued to recognition as a qualified tradesman in the trade specified therein.

PART VI.

PROCEDURE.

DIVISION 1.—*Commencement of Proceedings.*

Applications.

36. (1) Proceedings relating to any matter which may be dealt with under this Act or the regulations by a training committee or the Director may be commenced at any time on application made to the Director by—

- (a) an association or industrial union whose members are employers, or an industrial union whose members are employees, in a trade for apprenticeships in which a training committee has been established;
- (b) an employer of apprentices in that trade;
- (c) an apprentice employed in that trade; or
- (d) the Director-General of Technical and Further Education.

(2) Where the manner in which any application referred to in subsection (1) is to be made is prescribed by the regulations, the application shall, subject to section 47, be made in that manner.

Apprenticeship.

(3) A person who in, or in connection with, an application made to the Director—

(a) makes a statement; or

(b) furnishes information,

5 that the person knows to be false or misleading in a material particular is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 2.—Training Committees.

Convening of meetings.

10 **37. (1)** A meeting of a training committee shall be convened by the Director—

(a) whenever he thinks fit; or

(b) within 5 days of his receipt of a written request signed by 2 members of the committee.

(2) The Director convenes a meeting of a training committee by—

15 (a) appointing a time and place for the meeting; and

(b) notifying, or sending notice to, the members of the committee other than himself.

Rules for conduct of business.

20 **38. (1)** Subject to the provisions of this Act and the regulations relating to matters of procedure, a training committee may make rules as to the order and conduct of its business and proceedings.

(2) A training committee may—

(a) subject to section 40 (4), conduct its proceedings in public or in private; and

25 (b) adjourn its proceedings to any time and place.

Apprenticeship.

Conferences.

39. Notwithstanding any other provision of this Division (except section 40 (4)), a training committee may confer with any person with respect to a matter before it.

5 Production of evidence.

40. (1) The Director may, by instrument in writing under his hand, require any person on whom the instrument is served personally or by post—

- (a) to appear before a training committee for the purpose of giving evidence; or
- 10 (b) subject to subsection (2), to produce to a training committee any document (including a document in the possession of, or belonging to, the Crown) that is relevant to the purposes for which the committee was established,

at a time and place specified in the instrument.

15 **(2)** Subject to subsection (3), no person shall, without his consent, be required—

- (a) under subsection (1), to produce his books; or
 - (b) under section 41 (1), to answer any question as to trade secrets, profits, losses, receipts and outgoings,
- 20 relating to his business or his financial position unless he raises the objection that the profits of an industry are not sufficient to enable him to grant the conditions which it is claimed that he should be required by the regulations or the provisions of an apprenticeship award to provide.

(3) Where a person raises an objection referred to in subsection (2),
25 he may be required, on the order of the Director, to produce the books used in connection with the carrying on of the business in respect of which the claim is made, and to answer questions with regard to the profits, losses, receipts and outgoings in connection with the industry to which the objection relates but he shall not be required, without his consent, to answer
30 questions regarding any trade secrets or his financial position.

Apprenticeship.

(4) A person subject to an order under subsection (3) shall not, without his consent, be required to answer questions otherwise than in the presence of the committee alone, and no person shall examine books produced pursuant to the order except the Director or an accountant, appointed
5 by the committee, who may report to the committee whether or not his examination of the books produced supports the answers given to the questions, but shall not otherwise disclose the contents of those books.

(5) An accountant referred to in subsection (4) shall, before examining any books produced, furnish the Director with a written undertaking
10 not to disclose any matter or evidence that is before the committee relating to—

- (a) trade secrets;
- (b) the profits or losses or the receipts and outgoings of any employer;
- (c) the books of any employer or witness produced before the com-
15 mittee; or

(d) the financial position of any employer or of any witness,
and if he breaches his undertaking he is guilty of an offence and liable to a penalty not exceeding \$1,000.

(6) Where a document is produced to a training committee in
20 response to a requirement made under subsection (1), the committee may take possession of the document for such period as it considers necessary for the purposes of the committee.

Questions of member of committee.

41. (1) Subject to section 40 (2)–(4), any member of a training com-
25 mittee may require a person who appears before the committee to answer a question that is reasonably related to the purposes for which the committee was established.

(2) A person is not excused from answering a question put to him by a member of a training committee on the ground that the answer might
30 tend to incriminate him but, where the person claims, before answering the question, that the answer might tend to incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings under section 42.

Apprenticeship.

Offences.

42. A person who—

(a) refuses, fails or neglects to comply with a requirement lawfully made of him by—

5 (i) the Director under section 40 (1) or an order of the Director made under section 40 (3); or

(ii) any member of a training committee under section 41 (1), to the extent to which he is lawfully able to comply with the requirement;

10 (b) in purported compliance with a requirement made of him under section 40 (1) (b) by the Director, knowingly produces information that is false or misleading in a material particular; or

(c) makes a statement that is false or misleading in a material particular when he is appearing before a training committee,

15 is guilty of an offence and liable to a penalty not exceeding \$500.

Procedure and decisions of committees.

43. (1) The Director shall preside as chairman at each meeting of a training committee.

20 (2) Any duly convened meeting of a training committee at which at least 1 member and the chairman of the committee are present shall be competent to transact any business of the committee and shall have and may exercise all the functions of the committee.

(3) The members of a training committee, other than the Director, shall each have 1 vote on any matter arising at a meeting of the committee, 25 but, in the event of an equality of votes, the chairman of the committee shall have a casting vote.

(4) A decision supported by a majority of votes cast at a meeting of a training committee shall be the decision of the committee.

Apprenticeship.

(5) Where, with respect to a matter arising at a meeting of a training committee, there are no votes of the other members of the committee, the chairman of the committee may decide the matter, in which case the matter shall be deemed to have been decided by the committee at the
5 meeting.

(6) If the chairman of a training committee is present—

(a) at a duly convened meeting of the committee; or

(b) at a time and place—

10 (i) appointed under section 37 (2) (a) for a meeting of the committee; or

(ii) to which any such meeting has been adjourned,

and all of the other members of the committee are absent from the meeting or from the place at that time, any matter that the committee is competent to deal with may be dealt with by the chairman and, if the matter is so dealt
15 with, it shall be deemed to have been dealt with by the committee at a meeting.

(7) No decision of a training committee shall be vitiated by reason only of any informality or want of form.

DIVISION 3.—*Miscellaneous.*

20 Intervention by the Crown.

44. Where, in the opinion of the Minister, the public interests are or would be likely to be affected, the Crown may intervene in any proceedings under this Act before a training committee and make such representations as it thinks necessary in order to safeguard those interests.

25 Legal representation.

45. (1) In proceedings under this Act before a training committee, no party shall, except with the consent of the committee and all other parties, be represented by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor.

Apprenticeship.

(2) Nothing in this section shall preclude any permanent employee of the Crown from appearing on behalf of the Crown in any proceedings before the training committee, but in any case where the permanent employee of the Crown so appearing is a barrister or solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or solicitor and the consent of the training committee to such representation shall not be refused.

Certain rules inapplicable.

46. Training committees and the Director exercising the jurisdiction conferred by this Act shall be governed in their procedures and in their decisions by equity and good conscience and shall not be bound to observe the rules of law regarding the admissibility of evidence.

Procedural regulations may be waived.

47. Each training committee and the Director shall have power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

PART VII.**SUPPLEMENTARY.****Appeals to the commission.**

48. (1) An appeal, in the manner prescribed, shall lie to the commission from any decision of a training committee—

- (a) to grant or refuse to grant an approval under section 23 (2), 25 (3) or 29 (2);
- (b) to make a determination under section 35 (3); or
- (c) to make or refuse to make any order it is empowered to make under this Act.

Apprenticeship.

(2) An appeal, in the manner prescribed, shall lie to the commission from any decision of the Director—

- (a) to grant or refuse an approval under section 22;
- (b) to grant an approval under section 23 (2), 25 (3) or 29 (2);
- 5 (c) to grant or refuse an exemption under section 31 (1) or 33 (4);
- (d) to impose or refuse to impose a condition upon an exemption under section 31 (2) or 33 (4); or
- (e) to make an order under section 40 (3).

(3) An appeal shall lie to the commission from any decision of an
10 industrial magistrate arising out of the jurisdiction conferred on him by this Act.

(4) An appeal pursuant to this section shall be by way of rehearing and, on the hearing of any such appeal, the commission may, in its discretion, call for and receive such further information and evidence as it considers
15 desirable.

(5) On the hearing of an appeal pursuant to this section against a decision of—

- (a) a training committee, the commission may require the members of the committee; or
 - 20 (b) the Director, the commission may require the members of any training committee (other than the Director),
- to sit with the commission, but as assessors only and without a vote.

(6) The commission may, in determining an appeal pursuant to this section, decide to vary or reverse the decision appealed against and make
25 such further or other decision as it considers the training committee, the Director or the industrial magistrate, as the case may be, ought to have made in the first place.

Apprenticeship.

(7) A decision of the commission made under subsection (6)—

(a) with respect to an appeal under subsection (1)—shall, except for the purposes of that subsection, be deemed to be the decision of the training committee concerned;

5 (b) with respect to an appeal under subsection (2)—shall, except for the purposes of that subsection, be deemed to be the decision of the Director; or

10 (c) with respect to an appeal under subsection (3)—shall, except for the purposes of that subsection, be deemed to be the decision of the industrial magistrate concerned,

and shall be carried into effect.

Premiums, etc., for apprenticeship.

49. (1) No person shall—

(a) directly or indirectly or by any pretence or device—

15 (i) require or permit any other person to pay or give; or

(ii) demand or receive from any other person,

any premium, fee, gift, reward, bonus or other consideration of any kind whatever; or

(b) require any other person to enter into a bond or guarantee,

20 for or with respect to, or as a prerequisite for, any person's entering into an indenture of apprenticeship or any other contract of apprenticeship (whether with the firstmentioned or any other person), without having first obtained the consent of the appropriate apprenticeship committee (within the meaning of the Principal Act) for the apprenticeship to which the
25 proposed indenture or other contract relates.

(2) A person who breaches subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

*Apprenticeship.***Powers of entry.**

50. (1) The commission, a training committee and a person authorised in writing by the commission, or by the Director, may at any time during working hours enter any building, mine, mine working, ship, vessel, place or premises of any kind wherein, or in respect of which, a trade for apprenticeships in which a training committee has been established is carried on, or in respect of which an award has been made under the Principal Act, or any offence against this Act is suspected to have been committed and may inspect and view any work, material, machinery, appliance, articles, books or documents therein subject, in the case of a person so authorised, to the terms of his authority.

(2) No person referred to in subsection (1) shall have authority to enter a private dwelling-house or the land used in connection therewith unless some manufacture or trade in which labour is employed is carried on therein.

(3) A person who hinders or obstructs the commission, a member thereof, a training committee or the members thereof, or any other person authorised as aforesaid, in the exercise of any power conferred by this section is guilty of an offence and liable to a penalty not exceeding \$1,000.

20 Common law actions.

51. (1) Notwithstanding the provisions of any other Act or any custom or usage, action for damages for breach of a contract of apprenticeship may be taken only before an industrial magistrate, in the manner prescribed.

(2) An industrial magistrate is hereby authorised and empowered to hear and determine an action commenced by any party to a contract of apprenticeship for damages for breach of the contract.

(3) An industrial magistrate may in such an action award such damages for breach of the contract of apprenticeship as he deems fit and may in relation thereto award costs in such amount as he shall assess in relation to a scale fixed by the commission.

Apprenticeship.

(4) In the exercise of the jurisdiction conferred by this section, an industrial magistrate shall be governed in his procedure and in his decision by equity and good conscience.

(5) Where proceedings are initiated with a view to recovery of damages for breach of an apprenticeship contract, an industrial magistrate, before commencing to hear the proceedings, shall refer the matter to the appropriate apprenticeship committee (within the meaning of the Principal Act) which shall endeavour to settle the matter by conciliation.

(6) If the Commissioner notifies the industrial magistrate that the apprenticeship conciliation committee to which the matter was referred under subsection (5) has not been able to settle the matter by conciliation, he shall, subject to section 48 (3), thereupon proceed to hear and determine the matter.

Recovery of penalties and certain damages.

15 52. (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily by an industrial magistrate appointed under the Principal Act or a court of petty sessions held before a stipendiary magistrate sitting alone.

20 (2) Except as provided in section 48, the provisions of the Principal Act, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the commission shall apply to proceedings under section 51 and to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act or the regulations as if the
25 proceedings were proceedings under that Act.

Information to be supplied.

53. (1) Where, immediately before 30th November in any year, there is a training committee to which functions with respect to apprenticeships in a trade are assigned under section 13 (2), an employer who carries on that
30 trade shall, on or before 31st January next succeeding that 30th November,

Apprenticeship.

forward to the Director a return in or to the effect of the prescribed form relating to tradesmen, apprentices and other persons employed by that employer in that trade on that 30th November.

(2) An employer who fails to comply with any requirement made of him by subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

Regulations.

54. (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.

(2) Without affecting the generality of subsection (1), regulations may be made for or with respect to—

- 15 (a) the forms to be used for the purposes of this Act, the regulations and section 23J of the Principal Act;
- (b) the covenants to be included in indentures of apprenticeship;
- (c) the registration of employers by the Director as a prerequisite to their employing apprentices and the keeping of a register of employers by the Director;
- 20 (d) the requirements to be met before approval to employ any apprentice may be granted and the circumstances in which the employment of a trainee apprentice shall be deemed to have been terminated;
- 25 (e) the proportion of apprentices to skilled tradesmen who may be employed by an employer in a specified trade;
- (f) the instruction and practical training to be provided for and undertaken by apprentices;
- (g) the supervision to be provided apprentices by their employers;
- 30 (h) the facilities to be provided apprentices for the purpose of their being trained;
- (i) the term to be served by an apprentice in apprenticeship;

Apprenticeship.

(j) the temporary transfer of an apprentice to the service of an employer and the deeming of time spent with that employer to be time spent in the apprenticeship;

5 (k) the issue of progress cards to trainee apprentices, the use of any such cards and their return to the Director or cancellation by him in specified circumstances;

10 (l) the issue of certificates to apprentices upon the completion of their terms of apprenticeship and the issue of other certificates under this Act or the regulations, whether or not to replace certificates previously issued under this Act or the regulations; and

(m) any other matter related to the training of apprentices.

(3) A regulation made pursuant to subsection (2) (i) may provide—

(a) that a term of apprenticeship may be comprised of separate discontinuous periods;

15 (b) that specified periods of service by an apprentice with an employer shall be deemed to be, or not to be, part of a term of apprenticeship;

20 (c) for a reduced term of apprenticeship based on outstanding achievement in studies at a college, outstanding progress in the employer's workshop, or standards of education or other training achieved before the commencement of apprenticeship; or

(d) that, in prescribed circumstances, a prescribed term of apprenticeship may, in a particular case, be reduced with the approval of the appropriate training committee.

25 (4) Subject to section 23H (2) of the Principal Act, where the term of an apprenticeship is—

(a) prescribed by the regulations; or

(b) reduced by a training committee pursuant to the regulations,

30 and the contract relating to the apprenticeship, whether made before or after the commencement of this section, provides for a term of apprenticeship longer than that so prescribed or to which the apprenticeship is so reduced, as the case may be, the contract shall be deemed to be varied to the extent necessary to provide a term of apprenticeship in conformity with the term so prescribed or reduced.

Apprenticeship.

(5) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(6) A regulation may impose a penalty not exceeding \$500 for any breach thereof.

Evidence.

55. Evidence of any order, decision, ruling or determination made under the authority of this Act may be given by the production of a copy thereof duly certified by the Director to be such a copy.

15 Giving of notice.

56. For the purposes of this Act and the regulations, a person may be given notice of any matter or thing by the Director's causing written notice of that matter or thing to be served on that person personally or by post.

Repeals.

20 57. Each Act specified in Column 1 of Schedule 3 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

Savings and transitional provisions.

58. Schedule 4 has effect.

Apprenticeship.

SCHEDULE 1.

(Sec. 7 (2).)

PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE COUNCIL.

Composition of the Council.

- 5 1. (1) The Council shall consist of 10 members of whom—
- (a) one, to be the chairman of the Council, shall be the person for the time being holding or acting in the office of Director;
 - (b) one shall be the person for the time being holding or acting in the office of Director-General of Technical and Further Education;
 - 10 (c) 4 shall, on the nomination of the Minister, be appointed by the Governor as representatives of employers; and
 - (d) 4 shall, on the nomination of the Minister, be appointed by the Governor as representatives of employees.
- (2) The provisions of the Public Service Act, 1979, shall not apply to or in
15 respect of the appointment by the Governor of a member of the Council and such a member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.
- (3) The office of a member of the Council shall, for the purposes of the Constitution Act, 1902, be deemed not to be an office of profit under the Crown.

20 Nominees.

2. (1) During the absence or illness of the member of the Council referred to in clause 1 (1) (a) and the Deputy Director of Apprenticeship, an officer of the Department of Industrial Relations nominated by the Minister may act as chairman of the Council and, while so acting, shall have and may exercise the functions conferred or
25 imposed upon the chairman in his capacity as a member of the Council.
- (2) The member of the Council referred to in clause 1 (1) (b) may nominate a person to act for him as a member of the Council and the person so nominated, while so acting, shall have and may exercise the functions conferred or imposed as a member of the Council upon the person for whom he acts.
- 30 (3) A member of the Council referred to in clause 1 (1) (c) or (d) may nominate a person to act for him as his deputy in the case of his illness or in his absence from a meeting of the Council and any deputy so nominated, while so acting, shall have and may exercise the functions conferred or imposed as a member of the Council upon the member for whom he acts.

Apprenticeship.

SCHEDULE 1—continued.**PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE
COUNCIL—continued.****Term of office.**

- 5 3. A person nominated by the Minister for membership of the Council shall be appointed for a term of not more than 5 years, and shall be eligible for reappointment from time to time upon the expiration of his term of office.

Remuneration.

- 10 4. A member of the Council shall be entitled to receive such remuneration, including allowances and fees for his services, as may be fixed from time to time by the Minister with respect to him.

Vacancies in offices of members.

5. (1) A member of the Council appointed on the nomination of the Minister shall be deemed to have vacated his office if he—
- 15 (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- 20 (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) resigns his office by writing under his hand addressed to the Minister;
- (e) is absent from 3 consecutive meetings of the Council otherwise than with leave granted by the Council; or
- 25 (f) is removed from office by the Governor.

- (2) Where a vacancy occurs (otherwise than by the retirement of a member on the expiration of his term of office) in the office of a member of the Council appointed on the nomination of the Minister, the Governor may, on the nomination of the Minister, appoint a person to fill the vacancy, and that person shall hold office during
- 30 the remainder of the term of office of the member whose office he fills.

- (3) During any vacancy in the membership of the Council the remaining members may conduct the business of the Council as if no vacancy existed.

Apprenticeship.

SCHEDULE 1—continued.

**PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE
COUNCIL—continued.**

(4) The Governor may, for any cause which to him seems sufficient, remove a
5 member of the Council referred to in subclause (1) from office.

Quorum for meetings.

6. Six members of the Council (including the chairman) shall constitute a quorum
for the purposes of any meeting of the Council and any duly convened meeting of the
Council at which a quorum is present shall be capable of exercising any of the functions
10 conferred or imposed upon the Council by this Act.

Decisions of Council.

7. (1) A decision supported by a majority of the votes cast at a meeting of the
Council at which a quorum is present shall be the decision of the Council.

(2) The chairman of the Council shall, in the event of an equality of votes, have
15 in addition to a deliberative vote, a second or casting vote.

Procedure.

8. Subject to this Schedule, the Council may regulate its own proceedings.

SCHEDULE 2.

(Sec. 12 (3).)

20 **PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES.**

Interpretation: Sch. 2.

1. In this Schedule—

“appointed member” means a member other than the person referred to in clause
2 (a);

25 “member” means a member of a training committee.

Apprenticeship.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.*

Composition of training committees.

2. Training committees shall each consist of the following members:—

- 5 (a) the person for the time being holding or acting in the office of Director, who shall be the chairman of the committee; and
- (b) an equal number of representatives of employers and employees respectively nominated in the prescribed manner by employers or associations or industrial unions of employers and by industrial unions of employees, each of whom
- 10 has consented to his nomination.

Qualifications for certain members.

3. (1) A person may be appointed as a member of—

- 15 (a) a training committee assigned functions under section 13 (2) with respect to apprenticeships in a trade or trades—only if he is or has been engaged in, or is acquainted with, that trade or those trades; or
- (b) a training committee before it has been assigned any such functions—only if he is or has been engaged in, or is acquainted with, a trade or trades.

(2) Notwithstanding subclause (1), where, by reason of the lack of a representative of employers or employees, it is not possible for the commission to establish

20 a training committee or to appoint a member to a vacancy on a training committee, the commission may appoint to the committee any person whom it considers to be acquainted with an appropriate trade or appropriate trades as a representative of employers or employees, as the case may require, and any person so appointed shall be deemed to comply with the requirements made with respect to him by clause 2 (b).

25 **Oath to be taken.**

4. (1) Subject to subclause (2), upon his appointment each member shall take the oath prescribed.

(2) Where a person has taken the prescribed oath upon his appointment as a member, he shall not, upon his subsequent appointment as a member, be required to

30 take that oath again if he has been recorded as having taken that oath in a register kept by the Director under subclause (3).

Apprenticeship.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.*

(3) The Director shall keep a register of the names of persons who have taken oaths in compliance with subclause (1).

5 Term of office.

5. An appointed member shall hold office until—

- (a) he resigns his office as a member;
- (b) the association or industrial union by which he was nominated to be a member notifies the Director that his nomination has been withdrawn; or
- 10 (c) the training committee of which he is a member is dissolved by the commission under section 12 (1) (b).

Deputy or alternate members.

6. (1) Subject to his having the qualifications required of an appointed member by clause 3 (1), one or more deputy or alternate members may be appointed in the
15 prescribed manner to act in the office of an appointed member in prescribed circumstances.

(2) Any act, matter or thing done by a deputy or alternate member while he is acting in the office of an appointed member shall be deemed to have been done by the appointed member.

20 Filling of certain vacancies.

7. (1) Where from any cause an appointed member ceases to hold his office, the commission may, subject to clause 3 (1), appoint a person to the vacancy so created.

(2) Where a person is appointed under clause 3 (2) or subclause (1) to a vacancy on a training committee, the committee as newly constituted may continue the
25 hearing of, and may determine any partly heard, proceedings before it.

Remuneration.

8. All members may be reimbursed such fares and out of pocket expenses as are approved by the Minister.

Apprenticeship.

SCHEDULE 2—continued.

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—continued.

Publication of appointments.

9. (1) Every appointment of a member shall be published in the Industrial Gazette.

5 (2) A copy of the Industrial Gazette containing a notice of the appointment of a member purporting to have been published pursuant to this Act shall be conclusive evidence that the person named in the notice was legally appointed to the office so named and had power to act in that office, and that appointment shall not be challenged for any cause.

SCHEDULE 3.

(Sec. 57.)

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
15 1969, No. 37 ..	Apprentices Act, 1969	The whole Act.
1970, No. 52 ..	Supreme Court Act, 1970	So much of the Second Schedule as amends Act No. 37, 1969.
20 1974, No. 72 ..	Technical and Further Education Act, 1974.	So much of Schedule 2 as amends Act No. 37, 1969.
1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amends Act No. 37, 1969.
1976, No. 54 ..	Miscellaneous Acts (Inspectors) Amendment Act, 1976.	Section 7.
25 1979, No. 31 ..	Apprentices (Amendment) Act, 1979	The whole Act.
1980, No. 24 ..	Miscellaneous Acts (Education Commission) Repeal and Amendment Act, 1980.	So much of Schedule 2 as amends Act No. 37, 1969.
30 1980, No. 186 ..	Apprentices (Amendment) Act, 1980	The whole Act.
1980, No. 187 ..	Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.	So much of Schedule 1 as amends Act No. 37, 1969.

Apprenticeship.

SCHEDULE 4.

(Sec. 58.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation.

5 1. (1) In this Schedule—

“former Act” means the Apprentices Act, 1969;

“the commencement” means the commencement of this Schedule.

10 (2) For the purposes of this Schedule, a training committee corresponds with an apprenticeship committee established under the former Act if members of the apprenticeship committee (other than the Director of Apprenticeship) are deemed by clause 4 (a) to be members of the training committee.

(3) Except as provided in this Schedule, nothing in this Schedule limits any saving made by the Interpretation Act, 1897.

New South Wales Apprenticeship Council.

15 2. On the commencement—

(a) a person who, immediately before the commencement, held office as a member of the New South Wales Apprenticeship Council under section 9 (2) (d) or (e) of the former Act shall, subject to this Act, be deemed, until the expiration of the term of office for which he was appointed as such a member, to be a member of the New South Wales Apprenticeship Council appointed under clause 1 (1) (c) or (d), respectively, of Schedule 1; and

20 (b) any nomination made under section 9 (4) of the former Act, being a nomination in force immediately before the commencement, shall be deemed to be made under clause 2 (2) of Schedule 1.

25 **Apprenticeship supervisors.**

3. On the commencement—

(a) a person who, immediately before the commencement, held office as an apprenticeship supervisor under section 68 (1) of the former Act shall be deemed to be an apprenticeship supervisor appointed under section 9;

30 (b) an assignment of duties made under section 68 (2) (d) of the former Act and in force immediately before the commencement shall be deemed to be an assignment of duties made by the Director under section 10 (1) (d); and

35 (c) any permission of the Minister granted before the commencement under section 68A (3) of the former Act shall be deemed to be a permission granted under section 11 (3).

Apprenticeship.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Apprenticeship training committees.

4. On the commencement—

- 5 (a) an apprenticeship committee established under the former Act before the commencement, and which has not been dissolved before the commencement, shall be deemed to be an apprenticeship training committee established under section 12 (1) (a) and a person (other than the Director of Apprenticeship) who, immediately before the commencement, held office as a member or a
10 deputy or alternate member of any such apprenticeship committee shall be deemed to be appointed, in accordance with this Act and the regulations, as a member or a deputy or alternate member, respectively, of that training committee;
- 15 (b) a training committee established by the operation of paragraph (a) shall be deemed to be assigned functions under section 13 (2) with respect to all apprenticeships, conditions of employment in which were, immediately before the commencement, prescribed by provisions set forth in the form of an award made under the former Act by its corresponding apprenticeship committee or by the commission on appeal under that Act from an award so
20 made;
- 25 (c) a matter submitted to the commission by an apprenticeship committee under section 18 (10) of the former Act before the commencement, not being a matter that may be dealt with by an apprenticeship conciliation committee, shall be deemed to have been submitted by the corresponding training committee under section 14 (4);
- (d) a notice of appointment of—
- 30 (i) a member of an apprenticeship committee, purporting to have been published under section 17 (13) of the former Act; or
- (ii) a member of a conciliation committee, who was, immediately before
35 1st July, 1969, a member of an apprenticeship council by reason of the operation of section 19 (3) of the Principal Act, as then in force, purporting to have been published under section 18 (10) of that Act,
- shall, where the person is deemed under paragraph (a) to be appointed as a member of a training committee, be deemed to be sufficient publication of his appointment to the training committee and shall be deemed to have been
40 published pursuant to this Act; and
- (e) a reference of a matter to an apprenticeship committee by the Apprenticeship Commissioner under section 18 (5) of the former Act before the commencement may, where it is a matter of a kind which may be referred to a training committee by the Director, be treated as a reference of the matter to the corresponding training committee by the Director under section 20.

Apprenticeship.

SCHEDULE 4—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

Director and Deputy Director of Apprenticeship.

5 (1) The person holding the office of Director of Apprenticeship under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed under section 17 as the Director.

10 (2) The person holding the office of Deputy Director of Apprenticeship under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed under section 18 (1) as the Deputy Director of Apprenticeship.

Saving of certain approvals and orders.

15 (1) Any approval given under section 28 (2), 29 (2) or 30 (2) of the former Act before the commencement by the Director of Apprenticeship or an apprenticeship committee, being, in the case of an approval under section 28 (2) or 30 (2) of the former Act, an approval with respect to a probationer or trainee apprentice not above the age of 21 years, shall, on the commencement, be deemed to have been given under section 23 (2), 25 (3) or 29 (2), respectively, by the Director or the corresponding training committee.

20 (2) Any order made under section 28 (2) of the former Act before the commencement by an apprenticeship committee, being an order with respect to a probationer not above the age of 21 years, shall, on the commencement, be deemed to have been made under section 23 (2) by the corresponding training committee.

Saving of certain applications.

25 (1) An application for approval to establish an apprenticeship made under section 28 (1) or 30 (1) of the former Act but not disposed of before the commencement shall, on the commencement, be deemed to be an application in the prescribed form for approval to establish an apprenticeship made under section 23 (1) or 29 (1), respectively.

30 (2) An application for approval to assign an indenture of apprenticeship made under section 29 (2) of the former Act but not disposed of before the commencement shall, on the commencement, be deemed to be an application in the prescribed form for approval to assign that indenture made under section 25 (2).

Apprenticeship.

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Saving of certain certificates, etc.**

8. (1) A certification of an indenture made or a certificate issued, before the commencement, under section 32 (1) (a) or (b) of the former Act shall, on the commencement, be deemed to be a certification of an indenture made or a certificate issued in the prescribed form under section 28 (1) or 29 (5), respectively.

(2) A certificate of proficiency issued, before the commencement, under section 32 (2) of the former Act shall, on the commencement, be deemed to be a certificate issued in the prescribed form under section 19 (2).

(3) A determination made, or certificate issued, before the commencement under section 37 (3) or (5), respectively, of the former Act shall, on the commencement, be deemed to be a determination made by a training committee under section 35 (3) or a certificate issued in the prescribed form under section 35 (5).

15 (4) The Director shall, on the application of a person who was an apprentice under an indenture deemed by the operation of subclause (1) to be certified under section 28 (1), issue a certificate to that person in the form prescribed for the purposes of section 28 (1).

(5) Any certificate issued by the Director pursuant to subclause (4) shall be deemed to be issued under section 28 (1).

Continuation of proceedings.

9. (1) Where, before the commencement, an apprenticeship committee had commenced under any provision of the former Act to deal with any matter and the corresponding training committee is empowered by this Act to deal with matters of a like nature, that training committee may, after the commencement, deal with and dispose of the matter as if the matter had been commenced under this Act.

(2) Where, before the commencement, an apprenticeship supervisor, the Director of Apprenticeship, an industrial magistrate or the commission had commenced under any provision of the former Act to deal with any matter and he or it is empowered by this Act to deal with matters of a like nature, the supervisor, Director, industrial magistrate or the commission, as the case may be, may, after the commencement, deal with and dispose of the matter as if the matter had been commenced under this Act.

Apprenticeship.

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Prescription of certain trades.

10. (1) Subject to subclause (2), where, immediately before the commencement, a
5 prescription of a trade is made in provisions deemed by clause 4 of Schedule 9 to the
Industrial Arbitration (Apprenticeship) Amendment Act, 1981, to comprise an award
made by an apprenticeship conciliation committee, that prescription shall, for the pur-
poses of section 21 (1), be deemed to be made by a regulated provision of the award.

(2) Subclause (1) ceases to have effect with respect to an award upon the
10 commencement of any regulated provision of the award made under this Act which
expressly prescribes a trade for the purposes of section 21 (1).

Saving of certain regulations.

11. (1) Any regulation in force under the former Act immediately before the
commencement shall, on the commencement, be deemed to have been made under
15 section 54.

(2) A reference in a regulation referred to in subclause (1) to the former Act
or to a provision of the former Act shall be construed as a reference to this Act or the
corresponding provision of this Act, respectively.

Saving of certain amendments.

20 12. The amendments made by section 5 (2) of, and the Second Schedule to, the
former Act which had effect immediately before the commencement shall have the
same effect as they would have had if this Act had not been enacted.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, May, 1981.*

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1981.

**An Act to make provisions with respect to apprenticeship and to repeal the
Apprentices Act, 1969.**

See also Industrial Arbitration (Apprenticeship) Amendment Bill, 1981.

Apprenticeship.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Apprenticeship Act, 1981".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsections (1) and (3), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

- (3) Section 53 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that occurs after the day appointed and notified under subsection (2).

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—THE NEW SOUTH WALES APPRENTICESHIP COUNCIL—ss. 7, 8.

PART III.—SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR ss. 9–20.

DIVISION 1.—Apprenticeship Supervisors—ss. 9–11.

Apprenticeship.

DIVISION 2.—*Apprenticeship Training Committees*—ss. 12–16.

DIVISION 3.—*The Director of Apprenticeship*—ss. 17–20.

PART IV.—GENERAL PROVISIONS RELATING TO APPRENTICESHIP—
ss. 21–34.

5 DIVISION 1.—*Establishment of Apprenticeship*—ss. 21–23.

DIVISION 2.—*Apprenticeship under Indentures*—ss. 24–28.

DIVISION 3.—*Trainee Apprentices*—s. 29.

DIVISION 4.—*Regulated Provisions of Awards*—ss. 30, 31.

DIVISION 5.—*Miscellaneous*—ss. 32–34.

10 PART V.—RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING—s.
35.

PART VI.—PROCEDURE—ss. 36–47.

DIVISION 1.—*Commencement of Proceedings*—s. 36.

DIVISION 2.—*Training Committees*—ss. 37–43.

15 DIVISION 3.—*Miscellaneous*—ss. 44–47.

PART VII.—SUPPLEMENTARY—ss. 48–58.

SCHEDULE 1.—PROVISIONS RELATING TO MEMBERSHIP AND PRO-
CEDURE OF THE COUNCIL.

20 SCHEDULE 2.—PROVISIONS RELATING TO MEMBERS OF TRAINING
COMMITTEES.

SCHEDULE 3.—REPEALS.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

Principal Act.

4. The Industrial Arbitration Act, 1940, is referred to in this Act as the
25 Principal Act.

Apprenticeship.

Interpretation.

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

5 “appropriate training committee”, in relation to any act, matter or thing concerning an apprenticeship, means the training committee to which functions are for the time being assigned under section 13 with respect to the apprenticeship;

10 “award” means all of the negotiated provisions and the regulated provisions, if any, which are in force for the time being with respect to an employer and any apprentices employed by him in a trade;

 “college” means a college within the meaning of the Technical and Further Education Act, 1974;

 “Commissioner” means the Conciliation Commissioner for Apprenticeships appointed under section 15 of the Principal Act;

15 “Council” means the New South Wales Apprenticeship Council constituted under section 7 (1);

 “Director” means the Director of Apprenticeship appointed under section 17;

20 “employer” means a person (including the Crown) employing an apprentice;

 “function” includes power, authority and duty;

 “indenture” includes any written contract;

25 “indentured apprentice” means an employee who is serving a period of training under an indenture for the purpose of rendering him fit to be a qualified worker in a trade;

 “negotiated provision” means a provision of an award or a variation thereof made under the Principal Act by the commission, a conciliation commissioner or an apprenticeship conciliation committee with respect to an employer and any apprentices employed by him in a trade;

30 “probationer” means a person employed in a trade with a view to ascertaining his suitability for engagement as an indentured apprentice;

Apprenticeship.

"regulated provision" means a provision made by the regulations and deemed by the regulations to form part of an award relating to an employer and any apprentices employed by him in a trade;

"regulations" means regulations made under this Act;

5 "supervisor" means an apprenticeship supervisor appointed under section 9;

"trade" includes a calling;

10 "trainee apprentice" means an employee, other than a probationer, who is serving a period of training, otherwise than under an indenture, for the purpose of rendering him fit to be a qualified worker in a trade;

"training committee" means an apprenticeship training committee established under section 12 (1).

(2) A reference in this Act to the exercise of a function includes, where 15 that function is a duty, a reference to the performance of that duty.

(3) For the purposes of section 27 (I) of the Interpretation Act, 1897, a notice served by post on a person under this Act or the regulations is properly addressed if it is addressed to the last address of the person known to the Director.

20 Construction of Act.

6. This Act shall be read and construed with the Principal Act.

PART II.

THE NEW SOUTH WALES APPRENTICESHIP COUNCIL.

Constitution of the Council.

25 7. (1) There shall be a New South Wales Apprenticeship Council which shall have and may exercise the functions conferred or imposed upon it by this Act.

Apprenticeship.

(2) Schedule 1 has effect with respect to the membership and procedure of the Council.

Functions of the Council.

8. (1) Subject to this Act, the Council shall—

5 (a) keep under review—

- (i) the requirements of the State for skilled tradesmen;
- (ii) the availability of qualified tradesmen to meet those requirements;
- (iii) the availability of young persons for apprenticeship;
- 10 (iv) the availability of vacancies for apprentices and the extent to which employers are participating in the training of apprentices;
- (v) the adequacy of the training of apprentices in employers' workshops and in colleges and the measures which can be
- 15 taken to improve that training;
- (vi) the adequacy of the apprenticeship system as a means of training skilled tradesmen and the desirability of modifying that system or of providing supplementary systems of training for skilled occupations; and
- 20 (vii) the measures which should be taken to promote apprenticeship;

(b) conduct research into all matters pertaining to its functions;

(c) disseminate information as to matters which it has a duty to keep under review;

25 (d) report to the Minister annually, and at such other times as it thinks fit, its conclusions on the matters which it has a duty to keep under review;

(e) make recommendations to the commission and to training committees in relation to any matter concerning apprenticeship or

30 otherwise relating to the training of skilled workers; and

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(f) consider, and report to the Minister on, any matter referred by him to the Council concerning apprenticeship or concerning the training of skilled workers by other means.

(2) A minority report or recommendation may be recorded by a member, or by members, of the Council in respect of any matter upon which a report or recommendation is made by the Council under subsection (1) and any such minority report or recommendation shall be submitted and considered with the report or recommendation of the Council by the person or body to whom or which it is submitted.

10 (3) For the purpose of exercising its functions under this Act, the Council may confer with any person, body or organisation and may, with the approval of the Minister concerned and of the Public Service Board and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

15

PART III.**SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR.****DIVISION 1.—*Apprenticeship Supervisors.*****Appointment of supervisors.**

20 9. The Governor may, under and in accordance with the Public Service Act, 1979, appoint apprenticeship supervisors who shall have the functions prescribed.

Functions of supervisors.

10. (1) A supervisor may, in respect of an industry in which apprentices are employed—

25 (a) generally supervise the adequacy of the training of apprentices by employers;

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(b) advise and assist employers in relation to the employment and training of apprentices and the formation and conduct of group apprenticeship schemes;

5 (c) investigate any complaints regarding the conditions of employment or the training of apprentices, alleged breaches of awards or of this Act or the regulations and alleged breaches of the Principal Act relating to apprentices;

(d) perform such duties as may be assigned by the Director; and

10 (e) on obtaining the authority of the Minister, institute proceedings for the imposition of a penalty for any breach of the provisions of this Act or the regulations or of the Principal Act.

15 (2) For the purpose of exercising his functions, a supervisor may at all reasonable times enter upon the premises of an employer in an industry in which apprentices are employed, and may require the production of time and pay sheets, copies of indentures and other documents relating to the employment of persons with respect to whom provision is made in or under this Act.

20 (3) No supervisor shall have authority under this Act to enter a private dwelling-house or the land used in connection therewith, unless some manufacturing process or trade in which labour is employed is carried out therein.

25 (4) Any person who obstructs a supervisor in the exercise of any of his functions under this Act, or fails to produce time and pay sheets or documents when duly required to do so under subsection (2), is guilty of an offence and liable to a penalty not exceeding \$500.

Disclosure of information.

30 11. (1) Subject to subsection (2), a person who is, or was at any time, a supervisor shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by him in connection with the administration or execution of this Act or the regulations.

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(2) Subsection (1) does not operate to prevent the disclosure of information where that disclosure is—

- (a) made in connection with the administration or execution of this Act or the regulations;
 - 5 (b) made with the prior permission of the Minister; or
 - (c) ordered by a court, or by any other body or person authorised by law to examine witnesses in the course of, and for the purpose of, the hearing and determination of any matter or thing by that court, body or person.
- 10 (3) The Minister may grant the permission referred to in subsection (2) (b) only if he is satisfied that to do so would be in the public interest.

(4) Any person who contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

DIVISION 2.—Apprenticeship Training Committees.

15 **Establishment of training committees.**

12. (1) The commission may, by its order—

- (a) establish an apprenticeship training committee and appoint the members of the committee, other than the Director, so that the committee is composed of members in accordance with Schedule 2; or
- 20 (b) dissolve a training committee.

(2) A training committee may be established by the commission—

- (a) on its own motion or upon application being made to it; or
- (b) so as to take the place of a dissolved training committee or a training committee whose appointed members have resigned or
- 25 otherwise ceased to hold office.

(3) Schedule 2 has effect with respect to the members of a training committee.

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Assignment of functions.

13. (1) In this section, "trade" includes a combination of trades.

(2) Subject to subsection (3), where the commission establishes a training committee it shall assign to the committee the functions of a training
5 committee under this Act with respect to—

- (a) all apprenticeships in a trade;
- (b) all apprenticeships in the trades carried on by a particular employer or a particular group of employers; or
- 10 (c) all apprenticeships in a trade except those referred to in paragraph (b) and with respect to which an assignment of functions has been made under this subsection to another training committee.

(3) The commission may, under subsection (2), assign to a training committee functions with respect to apprenticeships in a trade or trades only if each member of the committee, other than the Director, is or has
15 been engaged in, or is acquainted with, that trade or those trades, as the case may be.

Jurisdiction, generally.

14. (1) A training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2)
20 shall keep under review, and shall report to the Council at least once in every 2 years upon—

- (a) the need for tradesmen skilled in that trade;
- (b) the availability of qualified tradesmen to meet that need;
- (c) the availability of young persons for apprenticeship in that trade;
- 25 (d) the number of vacancies for apprentices in that trade and the extent to which employers are participating in the training of apprentices; and
- (e) the adequacy of the training in that trade provided by employers and given in colleges and the measures which can be taken to improve that training,
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in so far as those matters are known to the members of the committee and the employers and employees they were appointed to represent.

Apprenticeship.

(2) Whether or not the matter has been referred to it under section 20, a training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2) may at any time consider, and the chairman of the committee may report to the
5 Minister upon, any matter related to apprenticeship training in that trade or any matter with respect to which regulations may be made in relation to all apprenticeships or to apprenticeships in that trade.

(3) A training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2)
10 shall—

- (a) co-operate with the Department of Technical and Further Education in any matter concerning the technical education of apprentices in that trade; and
- (b) keep under review the facilities which are available in colleges for
15 the training of apprentices in that trade.

(4) A training committee may submit any question arising out of any matter before it to the commission for its opinion and direction.

(5) The commission shall consider any question referred to it under subsection (4) and may give directions to the training committee which sub-
20 mitted the question.

(6) Any direction of the commission given with respect to a question referred to it by a training committee shall be carried into effect by the committee.

Jurisdiction with respect to differences and disputes.

25 15. (1) Where a matter in the nature of a difference or dispute between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians with respect to apprenticeship training is referred to a training committee under section 20 (b) (ii), the committee shall—

- 30 (a) subject to subsection (2), conciliate on the difference or dispute with a view to inducing the parties to it to come to an agreement which will settle the matter and preserve the apprenticeship; or

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(b) refer the matter to the Commissioner so that it may be dealt with under the Principal Act.

(2) A training committee may, at any time after it commences to deal with a matter under subsection (1) (a) and for such reason as it considers sufficient, refer the matter to the Commissioner so that it may be dealt with under the Principal Act.

(3) Where a training committee refers a matter in the nature of a difference or dispute between an employer and an apprentice or his parents or guardians to the Commissioner under subsection (1) (b) or (2), it may
10 recommend in writing that the Commissioner—

- (a) order the employer or apprentice to make such redress (other than by way of damages for breach of contract) as the committee thinks appropriate;
- 15 (b) require the employer to afford the apprentice such further or better facilities for training within the scope of the employer's business as are specified in the recommendation;
- (c) authorise the employer to suspend the apprentice without pay for such period of not more than 12 months as is specified in the recommendation; or
- 20 (d) cancel the apprentice's indenture or, if he is a trainee apprentice, terminate his contract of employment.

Finality of decisions.

16. Except as provided in section 48—

- 25 (a) a decision of a training committee in the exercise of the functions conferred or imposed upon it by this Act shall be final; and
- (b) no proceeding of a training committee shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called into question by any court on any account whatever,

30 and no order of prohibition or of removal into the Supreme Court shall be made in respect of any order, proceeding or recommendation of a training committee in the exercise of the functions conferred or imposed upon it by this Act.

*Apprenticeship.***DIVISION 3.—*The Director of Apprenticeship.*****Appointment of Director.**

17. The Governor may, under and in accordance with the Public Service Act, 1979, appoint a Director of Apprenticeship who shall have the functions 5 conferred or imposed upon him by or under this Act.

Deputy Director of Apprenticeship.

18. (1) The Governor may, under and in accordance with the Public Service Act, 1979, appoint a Deputy Director of Apprenticeship.

(2) The Deputy Director of Apprenticeship shall, during—

- 10 (a) any temporary absence of the Director; or
(b) any vacancy in the office of Director,

have, and may exercise, the same functions as he would have if he were the Director.

15 (3) Anything done by the Deputy Director of Apprenticeship in the exercise of any of the functions conferred upon him by subsection (2) shall be deemed to have been done by the Director.

Functions of the Director.

19. (1) In addition to the functions otherwise conferred or imposed upon him by or under this Act, the Director shall—

- 20 (a) act as chairman of the Council and of each training committee;
(b) arrange the compilation of statistics concerning the skilled work force and apprentices;
25 (c) conduct research into the requirements of the community for skilled tradesmen and the likely availability, from all sources, of qualified tradesmen, and into the number of apprentices required from time to time to ensure that the community's need for skilled tradesmen will be met;

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- (d) furnish the Council with such information and statistics as it requires for the exercise of its functions;
- 5 (e) on his own motion and in such circumstances as may be prescribed, summon meetings of training committees, give notice of hearings to those committees and notify the persons affected of the decisions of those committees;
- (f) prepare and issue forms of indenture for completion by the parties to apprenticeship contracts;
- (g) register—
 - 10 (i) approvals of applications to establish apprenticeships; and
 - (ii) indentures of apprenticeship;
- (h) record the completion of terms of apprenticeship;
- (i) countersign completed indentures, and issue certificates of completion of terms of apprenticeship; and
- 15 (j) in co-operation with the Department of Technical and Further Education, maintain records concerning apprentices and their progress in courses at colleges.

(2) The Director may, in the case of a person who has completed a term of apprenticeship and satisfied all the requirements of the Department of
20 Technical and Further Education in respect of the courses conducted by that Department or approved by the Director-General of Technical and Further Education and prescribed under section 33 (1) for that person as an apprentice, issue that person with a certificate in the form prescribed.

Referral to training committees.

25 20. The Director—

- (a) shall refer any matter with respect to which he proposes to recommend that a regulation be made; and
- (b) may refer—
 - (i) any application for an approval under section 22; or

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- 5 (ii) any other matter relating to the training of apprentices, including a matter in the nature of a difference or dispute between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians with respect to apprenticeship training,
- to such of the training committees as he considers appropriate in the circumstances for its consideration.
-

PART IV.**GENERAL PROVISIONS RELATING TO APPRENTICESHIP.**

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DIVISION 1.—Establishment of Apprenticeship.**Prohibition on certain employment.**

21. (1) An employer shall not employ a person under the age of 21 years in a trade prescribed by the regulated provisions of an award which applies to the employer, unless—
- 15 (a) that person is a probationer or a trainee apprentice in that trade and the employment of that person by the employer is not in breach of an order of a training committee or an apprenticeship conciliation committee;
- 20 (b) approval has been given to the establishment of an apprenticeship for that person in that trade;
- (c) that person has completed an apprenticeship in that trade; or
- (d) that person is entitled to recognition as a qualified tradesman in that trade pursuant to section 35 (6) or pursuant to section 23J (2) of the Principal Act.

Apprenticeship.

(2) A regulation may declare that subsection (1) does not apply in respect of any trade specified or described in the regulation, being a trade that is prescribed by the regulated provisions of an award, and any such regulation shall have effect according to its tenor.

- 5 (3) A person who contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

Probation.

- 10 22. A person desirous of becoming an indentured apprentice shall be first employed as a probationer for a period of 3 months, or for such longer period, not exceeding 6 months in all, as the Director may, on application by the employer, approve and, where a probationer becomes an indentured apprentice, his period of probation shall be treated as part of his term of apprenticeship.

Indentured apprentices.

- 15 23. (1) Within 14 days of the employment of a probationer, the employer shall apply to the Director in the form prescribed for approval to establish an apprenticeship under indenture.

20 (2) On receipt of an application under subsection (1), the Director shall cause inquiries to be made as to whether approval should be given to the application and shall—

- (a) approve the application;
- 25 (b) except as provided in paragraph (c), refer the application to the appropriate training committee which may approve the application or make such order with respect to the probationer or his employer, or both, as it considers appropriate to the particular case, including an order that the probationer be no longer employed by the applicant in a specified trade; or
- 30 (c) where the Director is satisfied that the probationer is above the age of 21 years—refer the application to the appropriate apprenticeship committee (within the meaning of the Principal Act).

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(3) Where an application under subsection (1) has been approved or an order has been made under subsection (2) (b) with respect to any such application, the Director shall notify the applicant accordingly and, on the expiration of the period of probation, or as soon as practicable thereafter, 5 shall forward an indenture of apprenticeship to the employer for completion, if the application has been approved.

(4) An employer to whom an indenture of apprenticeship is forwarded for completion shall arrange for its completion and the return thereof to the Director within 28 days of its despatch by the Director who 10 shall retain the indenture during the term of apprenticeship to which it relates.

(5) Whether or not a notification of the employment of the probationer has been forwarded to the Director, the provisions of an award which would apply to and in respect of the employment of the probationer by his employer if he were an indentured apprentice in the trade in which he 15 is employed shall apply to and in respect of his employment during his period of probation.

(6) An employer who terminates the employment of a probationer shall forthwith notify the Director, in writing, of that termination.

(7) An employer who fails to comply with subsection (1), (4) or (6) is 20 guilty of an offence and liable to a penalty not exceeding \$500.

(8) In this section, "period of probation", in relation to a person who is or has been a probationer, means the period commencing when he is first employed by an employer as a probationer and ending when—

- (a) he becomes an indentured apprentice of the employer; or
- 25 (b) he leaves his employment with the employer, whichever first occurs.

DIVISION 2.—*Apprenticeship under Indentures.*

Extent to which indentures are binding.

24. (1) An apprentice who is a party to an indenture of apprenticeship 30 shall be bound by the covenants contained therein throughout the term of the apprenticeship whether or not, during the term, he attains the age of 18 years.

Apprenticeship.

(2) A parent or guardian of an apprentice who is a party to an indenture of apprenticeship shall be bound thereby until the apprentice attains the age of 18 years or until the term of the apprenticeship expires, whichever first occurs.

5 Assignment of indentures.

25. (1) An indenture of apprenticeship may not be assigned from one employer to another except in accordance with this section.

(2) An application for approval to the assignment of an apprentice's indenture shall be made in the form prescribed to the Director by the employer intending to employ the apprentice.

(3) On receipt of an application under subsection (2), the Director shall, after making such inquiries as he deems fit—

- (a) approve the proposed assignment; or
- (b) refer the application to the appropriate training committee, which may approve or refuse to approve the proposed assignment.

(4) Where—

- (a) approval has been given to the assignment of an apprentice's indenture under subsection (3); and
- (b) the Director is satisfied that the apprentice's former employer has consented to the assignment,

the Director shall effect the assignment by giving notice of the assignment to all the parties thereto.

(5) Where the Director—

- (a) sends a notice to an employer who is a party to an indenture of apprenticeship—
 - (i) addressed to the last address of the employer known to the Director; and
 - (ii) requesting the employer to notify the Director whether or not the employer agrees to the assignment of the indenture to another employer specified in the notice; and

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(b) does not receive any reply to that request within 21 days next following the date on which the notice is sent,

the consent of the employer to whom the notice was sent to the assignment of the indenture to the other employer shall be deemed to have been given for
5 the purposes of subsection (4).

Cancellation of indentures.

26. (1) Subject to subsection (2), an indenture of apprenticeship may be cancelled by agreement of all the parties thereto including, in the case of an apprentice under the age of 18 years, his parent or guardian, but shall not be
10 otherwise terminated except by an order made, or in accordance with an approval given, under section 231 of the Principal Act.

(2) Where the Director—

(a) sends a notice to a party to an indenture of apprenticeship—

15 (i) addressed to the last address of the party known to the Director; and

(ii) requesting the party to notify the Director whether or not the party agrees to the cancellation of the indenture; and

(b) does not receive any reply to that request within 21 days next following the date on which the notice is sent,

20 the agreement of the party to whom the notice was sent to the cancellation of the indenture shall be deemed to have been given for the purposes of subsection (1).

(3) Within 14 days of the cancellation of an indenture of apprenticeship by agreement of all the parties thereto, the employer concerned shall
25 forward notice of the cancellation to the Director.

(4) Where an indenture of apprenticeship is cancelled, each party thereto shall forthwith surrender his copy of the indenture to the Director.

Apprenticeship.

(5) A person who fails to comply with subsection (3) or (4) is guilty of an offence and liable to a penalty not exceeding \$500.

Death of employer, etc.

27. (1) Where the employer of an indentured apprentice dies and the business in which the apprentice was employed is carried on by the executors or administrators for the time being of the will or estate of the deceased employer, the contract of apprenticeship shall be deemed not to have been determined by the death of the employer and shall, unless cancellation of the indenture of apprenticeship is, on the application of those executors or administrators, or the apprentice, approved by the appropriate apprenticeship committee (within the meaning of the Principal Act), be binding on those executors or administrators as if they were the employers of the apprentice.

(2) Where the employers of an indentured apprentice are partners in a partnership and the business in which the apprentice is employed is carried on by the partners for the time being after the death or retirement of a partner, the contract of apprenticeship shall be deemed not to have been determined by that death or retirement and shall, unless cancellation of the indenture of apprenticeship is, on the application of those partners, approved by the appropriate apprenticeship committee (within the meaning of the Principal Act), be binding on those partners as if they were the employers of the apprentice.

Completion of apprenticeship.

28. (1) Upon the expiration of a term of apprenticeship by effluxion of time, the employer of an indentured apprentice shall so notify the Director who shall certify on the indenture that the term thereof has been completed and forward it to the person who has completed the term of apprenticeship together with a certificate in the form prescribed.

(2) An employer who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

Apprenticeship.

DIVISION 3.—Trainee Apprentices.**Employment of trainee apprentices.**

29. (1) Within 14 days of the employment of a trainee apprentice, the employer shall apply to the Director in the form prescribed for approval to
5 establish a trainee apprenticeship.

(2) On receipt of an application pursuant to subsection (1), the Director shall cause inquiries to be made as to whether approval should be given to the application and shall—

- (a) approve the application;
- 10 (b) except as provided in paragraph (c), refer the application to the appropriate training committee which may approve the application or make such order with respect to the trainee apprentice or his employer, or both, as it considers appropriate to the particular case, including an order that the trainee apprentice be no longer
15 employed by the applicant in a specified trade; or
- (c) where the Director is satisfied that the trainee apprentice is above the age of 21 years—refer the application to the appropriate apprenticeship committee (within the meaning of the Principal Act).

20 (3) Where an application under subsection (1) has been approved or an order has been made under subsection (2) (b) with respect to any such application, the Director shall notify the applicant accordingly and forward to him a progress card for issue to the trainee apprentice, if the application has been approved.

25 (4) An employer who terminates the employment of a trainee apprentice shall forthwith notify the Director of that termination by endorsing the apprentice's progress card accordingly and returning the card to the Director.

30 (5) Upon the expiration of a term of apprenticeship by effluxion of time, the employer of a trainee apprentice shall complete the apprentice's progress card and return it to the Director who shall thereupon forward a certificate in the form prescribed to the person who has completed the term of apprenticeship.

Apprenticeship.

(6) An employer who fails to comply with subsection (1), (4) or (5) is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 4.—Regulated Provisions of Awards.

Creation and effect of regulated provisions.

5 **30.** (1) A regulation may deem specified provisions of the regulations to form part of an award which applies to an employer or employers specified or described in the regulations and any apprentices employed by him or them in a trade so specified.

10 (2) A negotiated provision of an award has no effect to the extent, if any, to which it is inconsistent with a regulated provision of the same award.

15 (3) Notwithstanding any provision of the Principal Act, but subject to subsection (4), a regulated provision of an award may not be rescinded or varied under that Act by the commission, a conciliation commissioner or an apprenticeship conciliation committee.

(4) Nothing in this section prevents—

- 20 (a) the commission from cancelling an apprenticeship award under section 8B (4) (a) or (b) or 9 (3) of the Principal Act and, where any such award is cancelled, the regulated provisions of the award shall cease to have effect to the extent specified by the commission; or
- 25 (b) the commission, the Commissioner or an apprenticeship conciliation committee from exercising, under the Principal Act, any of the functions conferred upon an apprenticeship conciliation committee by section 23D of that Act.

(5) A regulation deeming specified provisions of the regulations to form part of an award may be made only on the recommendation of the appropriate apprenticeship committee (within the meaning of the Principal Act) for the award.

Apprenticeship.

Exemptions.

31. (1) The relevant committee may, for such reason as it considers sufficient, by order in writing exempt a particular employer or apprentice from compliance with a regulated provision of an award and, while an
5 order under this subsection is in force, the regulated provision does not apply to or in respect of the employer or apprentice.

(2) An exemption granted by an order made under subsection (1)—

(a) may be granted subject to such conditions as the relevant committee thinks fit and specifies in the order; and

10 (b) has effect only while the conditions, if any, so specified are not being breached.

(3) In this section, "relevant committee", in relation to an order exempting a particular employer or apprentice from compliance with a regulated provision of an award, means the appropriate apprenticeship
15 committee (within the meaning of the Principal Act) for the award.

DIVISION 5.—Miscellaneous.**Duties of employers and apprentices.**

32. (1) The employer of an apprentice shall, by the best means in his power, teach the apprentice, or cause him to be taught, the trade in which he
20 is apprenticed, and shall provide facilities for the practical training of the apprentice in that trade and shall give the apprentice every opportunity to learn that trade and to receive during the term of his apprenticeship such technical, trade or other training and instruction as may be prescribed under section 33 in respect of the apprentice or by any award governing the employ-
25 ment of the apprentice.

(2) An apprentice shall, during the term of his apprenticeship, faithfully serve his employer for the purpose of being taught the trade in which he is apprenticed and shall conscientiously and regularly accept such technical, trade or other training and instruction as may be prescribed under
30 section 33 in respect of the apprentice or by any award governing his employment, in addition to the training and instruction provided by the employer.

Apprenticeship.

Attendance at technical college.

33. (1) Where the regulations prescribe a course conducted by the Department of Technical and Further Education or approved by the Director-General of Technical and Further Education as a required course for an apprentice in a specified trade, an apprentice who is subject to a contract of apprenticeship in that trade shall, during the periods fixed for the purpose by that Department—

- 10 (a) enrol for classes of instruction provided for that course appropriate to the stages, if any, of that course successfully completed by the apprentice; and
- (b) attend those classes.

(2) Where—

- 15 (a) an apprentice is enrolled at a college for a class of instruction which he is required to attend by subsection (1); and
- (b) the Director is satisfied by a certificate under the hand of the Principal of the college that the apprentice has failed to attend the class on a day or days specified in the certificate,

the Director may, by notice in or to the effect of the prescribed form served personally on the apprentice, require the apprentice to show cause, within
20 14 days of the date of service of the notice—

- 25 (c) why the Director should not refer to the appropriate training committee the question of whether a recommendation should be made by the committee to the Commissioner that the apprentice's employer should be authorized to suspend the apprentice without pay; or
- (d) where the Director is satisfied that the apprentice has, without having provided the Director with true and adequate reasons, failed to attend the classes of instruction he was required to attend by subsection (1) on not less than 3 occasions in the period of
30 12 months preceding the day or, if more than 1 day is specified, the last day specified in the certificate to which the notice relates—
why the Director should not refer to the appropriate training committee the question of whether a recommendation should be made by the committee to the Commissioner that the apprentice's
35 indenture should be cancelled or his contract of employment terminated.

Apprenticeship.

(3) Where an apprentice has been suspended for a period of time from attendance at a class of instruction at a college by the Principal of the college, he shall, for the purposes of subsection (2), be deemed to have failed to attend the class for that period.

5 (4) Subject to subsection (9), for such reason as appears to it sufficient, the appropriate training committee may, by order in writing, exempt—

(a) an apprentice specified in the order; or

(b) each apprentice of a class described in the order,

10 from any of the requirements imposed on the apprentice by subsection (1), subject to such conditions, if any, specified in the order as the committee thinks fit and any such order shall, subject to subsection (5), have effect according to its tenor.

15 (5) Where an exemption has been granted under subsection (4) subject to a condition, the exemption has effect in favour of an apprentice in relation to whom it was granted only while he is not in breach of the condition.

20 (6) Any time occupied by an apprentice, during working hours, in attendance at a college or in carrying out a correspondence course (including time actually spent in travelling to and from a college) in compliance with—

(a) a requirement made of him by an award or subsection (1); or

(b) a condition subject to which he was exempted under the Principal Act or subsection (4) from compliance with any such requirement,

shall—

25 (c) be counted as and included as part of his term of apprenticeship; and

(d) be deemed to be time worked for the purpose of calculating wages to be paid to him under any award.

30 (7) Where an award or subsection (1) or a condition subject to which the apprentice is exempted under the Principal Act or subsection (4) from compliance with a requirement of an award or subsection (1)—

(a) requires that an apprentice shall attend at college for any class or course of instruction; or

Apprenticeship.

(b) requires that an apprentice shall obtain instruction by correspondence or in some other manner, specified in the condition, the employer of the apprentice shall allow him such time as is necessary during ordinary working hours for the purpose of that attendance or of taking full advantage of that instruction, as the case may require.

(8) An employer who breaches subsection (7) is guilty of an offence and liable to a penalty not exceeding \$1,000.

(9) Before a training committee makes an order under subsection (4), it shall—

- 10 (a) submit the terms of the order it proposes to make to the Director-General of Technical and Further Education; and
- (b) consider any representations—
- (i) made by him with respect to the proposed order; and
- 15 (ii) received by it within 10 days after the terms have been so submitted.

Supervision of practical training.

34. (1) A supervisor or the appropriate training committee, or both, may inspect the training of an apprentice in the premises of an employer or in other premises in which the employer has arranged for the apprentice to be trained.

(2) If the appropriate training committee is of the opinion that the practical training given or being given by an employer to an apprentice is inadequate in any respect, the committee may, by notice in writing addressed to the employer, under the hand of the Director, require the employer to do such things in relation to the training of the apprentice as the committee may deem appropriate.

(3) Where an employer on whom a notice has been served under subsection (2) has failed to comply with a requirement of the notice within the time fixed in the notice for compliance with the requirement, the training committee which caused the notice to be so served may recommend to the Commissioner that he make an order with respect to that requirement.

Apprenticeship.

PART V.**RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING.****Recognition of service apprenticeships.****35. (1) In this section—**

5 “defence force” means the defence force of the Commonwealth;

“service adult trade training” means training undertaken by a person as a member of the defence force pursuant to a scheme, not involving apprenticeship, for the trade training of a person over the age of 17 years;

10 “service apprenticeship” means apprenticeship served by a person as a member of the defence force.

(2) A training committee may confer with accredited representatives of the defence force on any matter concerning service apprenticeships or service adult trade training, with a view to ensuring that, upon his discharge
15 from the defence force, a person who has served a service apprenticeship or completed a period of service adult trade training will be accorded recognition in a civilian trade.

(3) The appropriate training committee may determine that the course of training provided for a class of service apprenticeship or service
20 adult trade training is such that an apprentice or adult trainee who satisfactorily completes the course, and complies with such further conditions as to experience or otherwise as the committee may determine, would be adequately trained to work as a tradesman in a comparable civilian trade.

(4) A determination of a training committee made under subsection
25 (3) shall be—

(a) set forth in an instrument signed by the Director; and

(b) filed by the Director,

and a copy of the instrument shall be forwarded by the Director to the relevant defence force authority.

Apprenticeship.

(5) The Director may issue a certificate in the form prescribed to a person who makes application therefor, as prescribed, and satisfies the Director that he has satisfactorily completed the course of training to which the certificate relates, being a course that is the subject of a determination made under subsection (3), and has complied with any other conditions prescribed in the determination.

(6) A certificate issued pursuant to this section shall entitle the person to whom it is issued to recognition as a qualified tradesman in the trade specified therein.

PART VI.

PROCEDURE.

DIVISION 1.—*Commencement of Proceedings.*

Applications.

15 **36. (1)** Proceedings relating to any matter which may be dealt with under this Act or the regulations by a training committee or the Director may be commenced at any time on application made to the Director by—

- 20 (a) an association or industrial union whose members are employers, or an industrial union whose members are employees, in a trade for apprenticeships in which a training committee has been established;
- (b) an employer of apprentices in that trade;
- (c) an apprentice employed in that trade; or
- (d) the Director-General of Technical and Further Education.

25 (2) Where the manner in which any application referred to in subsection (1) is to be made is prescribed by the regulations, the application shall, subject to section 47, be made in that manner.

Apprenticeship.

(3) A person who in, or in connection with, an application made to the Director—

(a) makes a statement; or

(b) furnishes information,

5 that the person knows to be false or misleading in a material particular is guilty of an offence and liable to a penalty not exceeding \$500.

*DIVISION 2.—Training Committees.***Convening of meetings.**

10 37. (1) A meeting of a training committee shall be convened by the Director—

(a) whenever he thinks fit; or

(b) within 5 days of his receipt of a written request signed by 2 members of the committee.

(2) The Director convenes a meeting of a training committee by—

15 (a) appointing a time and place for the meeting; and

(b) notifying, or sending notice to, the members of the committee referred to in clause 2 (1) (b) of Schedule 2 and the Director-General of Technical and Further Education.

Rules for conduct of business.

20 38. (1) Subject to the provisions of this Act and the regulations relating to matters of procedure, a training committee may make rules as to the order and conduct of its business and proceedings.

(2) A training committee may—

25 (a) subject to section 40 (4), conduct its proceedings in public or in private; and

(b) adjourn its proceedings to any time and place.

Apprenticeship.

Conferences.

39. Notwithstanding any other provision of this Division (except section 40 (4)), a training committee may confer with any person with respect to a matter before it.

5 Production of evidence.

40. (1) The Director may, by instrument in writing under his hand, require any person on whom the instrument is served personally or by post—

(a) to appear before a training committee for the purpose of giving evidence; or

10 (b) subject to subsection (2), to produce to a training committee any document (including a document in the possession of, or belonging to, the Crown) that relates to the employment of an apprentice and is relevant to the purposes for which the committee was established,

15 at a time and place specified in the instrument.

(2) Subject to subsection (3), no person shall, without his consent, be required—

(a) under subsection (1), to produce his books; or

20 (b) under section 41 (1), to answer any question as to trade secrets, profits, losses, receipts and outgoings,

relating to his business or his financial position unless he raises the objection that the profits of an industry are not sufficient to enable him to grant the conditions which it is claimed that he should be required by the regulations or the provisions of an apprenticeship award to provide.

25 (3) Where a person raises an objection referred to in subsection (2), he may be required, on the order of the Director, to produce the books used in connection with the carrying on of the business in respect of which the claim is made, and to answer questions with regard to the profits, losses, receipts and outgoings in connection with the industry to which the objection relates but he shall not be required, without his consent, to answer
30 questions regarding any trade secrets or his financial position.

Apprenticeship.

(4) A person subject to an order under subsection (3) shall not, without his consent, be required to answer questions otherwise than in the presence of the committee alone, and no person shall examine books produced pursuant to the order except the Director or an accountant, appointed
5 by the committee, who may report to the committee whether or not his examination of the books produced supports the answers given to the questions, but shall not otherwise disclose the contents of those books.

(5) An accountant referred to in subsection (4) shall, before examining any books produced, furnish the Director with a written undertaking
10 not to disclose any matter or evidence that is before the committee relating to—

- (a) trade secrets;
- (b) the profits or losses or the receipts and outgoings of any employer;
- (c) the books of any employer or witness produced before the committee; or
15

(d) the financial position of any employer or of any witness,
and if he breaches his undertaking he is guilty of an offence and liable to a penalty not exceeding \$1,000.

(6) Where a document is produced to a training committee in
20 response to a requirement made under subsection (1), the committee may take possession of the document for such period as it considers necessary for the purposes of the committee.

Questions of member of committee.

41. (1) Subject to section 40 (2)–(4), any member of a training committee
25 may require a person who appears before the committee to answer a question that is reasonably related to the purposes for which the committee was established.

(2) A person is not excused from answering a question put to him
30 by a member of a training committee on the ground that the answer might tend to incriminate him but, where the person claims, before answering the question, that the answer might tend to incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings under section 42.

Apprenticeship.

Offences.

42. A person who—

(a) refuses, fails or neglects to comply with a requirement lawfully made of him by—

5 (i) the Director under section 40 (1) or an order of the Director made under section 40 (3); or

(ii) any member of a training committee under section 41 (1), to the extent to which he is lawfully able to comply with the requirement;

10 (b) in purported compliance with a requirement made of him under section 40 (1) (b) by the Director, knowingly produces information that is false or misleading in a material particular; or

(c) makes a statement that is false or misleading in a material particular when he is appearing before a training committee,

15 is guilty of an offence and liable to a penalty not exceeding \$500.

Procedure and decisions of committees.

43. (1) The Director or a person nominated by him for that purpose, not being a member of the committee, shall preside as chairman at each meeting of a training committee.

20 (2) Any duly convened meeting of a training committee at which at least 1 member and the chairman of the committee are present shall be competent to transact any business of the committee and shall have and may exercise all the functions of the committee.

(3) The members of a training committee, other than the Director, 25 shall each have 1 vote on any matter arising at a meeting of the committee, but, in the event of an equality of votes, the chairman of the committee shall have a casting vote.

(4) A decision supported by a majority of votes cast at a meeting of a training committee shall be the decision of the committee.

Apprenticeship.

(5) Where, with respect to a matter arising at a meeting of a training committee, there are no votes of the other members of the committee, the chairman of the committee may decide the matter, in which case the matter shall be deemed to have been decided by the committee at the meeting.

(6) If the chairman of a training committee is present—

(a) at a duly convened meeting of the committee; or

(b) at a time and place—

10 (i) appointed under section 37 (2) (a) for a meeting of the committee; or

(ii) to which any such meeting has been adjourned,

and all of the other members of the committee are absent from the meeting or from the place at that time, any matter that the committee is competent to deal with may be dealt with by the chairman and, if the matter is so dealt with, it shall be deemed to have been dealt with by the committee at a meeting.

(7) No decision of a training committee shall be vitiated by reason only of any informality or want of form.

20 (8) The chairman of a training committee may not exercise the power granted him by subsection (3), (5) or (6) so as to cause a recommendation to be made by a training committee for the making of a regulation.

DIVISION 3.—Miscellaneous.**Intervention by the Crown.**

25 44. Where, in the opinion of the Minister, the public interests are or would be likely to be affected, the Crown may intervene in any proceedings under this Act before a training committee and make such representations as it thinks necessary in order to safeguard those interests.

Legal representation.

30 45. (1) In proceedings under this Act before a training committee, no party shall, except with the consent of the committee and all other parties, be represented by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor.

Apprenticeship.

(2) Nothing in this section shall preclude any permanent employee of the Crown from appearing on behalf of the Crown in any proceedings before the training committee, but in any case where the permanent employee of the Crown so appearing is a barrister or solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or solicitor and the consent of the training committee to such representation shall not be refused.

Certain rules inapplicable.

46. Training committees and the Director exercising the jurisdiction conferred by this Act shall be governed in their procedures and in their decisions by equity and good conscience and shall not be bound to observe the rules of law regarding the admissibility of evidence.

Procedural regulations may be waived.

47. Each training committee and the Director shall have power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

PART VII.**SUPPLEMENTARY.****Appeals to the commission.**

48. (1) An appeal, in the manner prescribed, shall lie to the commission from any decision of a training committee—

(a) to grant or refuse to grant an approval under section 23 (2), 25 (3) or 29 (2);

(b) to impose or refuse to impose a condition upon an exemption under section 31 (2) or 33 (4);

(c) to make a determination under section 35 (3); or

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(d) to make or refuse to make any order it is empowered to make under this Act.

(2) An appeal, in the manner prescribed, shall lie to the commission from any decision of the Director—

- 5 (a) to grant or refuse an approval under section 22;
 (b) to grant an approval under section 23 (2), 25 (3) or 29 (2); or
 (c) to make an order under section 40 (3).

(3) An appeal shall lie to the commission from any decision of an industrial magistrate arising out of the jurisdiction conferred on him by this
10 Act.

(4) An appeal pursuant to this section shall be by way of rehearing and, on the hearing of any such appeal, the commission may, in its discretion, call for and receive such further information and evidence as it considers desirable.

15 (5) On the hearing of an appeal pursuant to this section against a decision of—

- (a) a training committee, the commission may require the members of the committee; or
20 (b) the Director, the commission may require the members of any training committee (other than the Director),

to sit with the commission, but as assessors only and without a vote.

(6) The commission may, in determining an appeal pursuant to this section, decide to vary or reverse the decision appealed against and make such further or other decision as it considers the training committee, the
25 Director or the industrial magistrate, as the case may be, ought to have made in the first place.

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(7) A decision of the commission made under subsection (6)—

(a) with respect to an appeal under subsection (1)—shall, except for the purposes of that subsection, be deemed to be the decision of the training committee concerned;

5 (b) with respect to an appeal under subsection (2)—shall, except for the purposes of that subsection, be deemed to be the decision of the Director; or

10 (c) with respect to an appeal under subsection (3)—shall, except for the purposes of that subsection, be deemed to be the decision of the industrial magistrate concerned,

and shall be carried into effect.

Premiums, etc., for apprenticeship.

49. (1) No person shall—

(a) directly or indirectly or by any pretence or device—

15 (i) require or permit any other person to pay or give; or

(ii) demand or receive from any other person,

any premium, fee, gift, reward, bonus or other consideration of any kind whatever; or

(b) require any other person to enter into a bond or guarantee,

20 for or with respect to, or as a prerequisite for, any person's entering into an indenture of apprenticeship or any other contract of apprenticeship (whether with the firstmentioned or any other person), without having first obtained the consent of the appropriate apprenticeship committee (within the meaning of the Principal Act) for the apprenticeship to which the
25 proposed indenture or other contract relates.

(2) A person who breaches subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

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Powers of entry.

50. (1) The commission, a training committee and a person authorised in writing by the commission, or by the Director, may at any time during working hours enter any building, mine, mine working, ship, vessel, place or premises of any kind wherein, or in respect of which, a trade for apprenticeships in which a training committee has been established is carried on, or in respect of which an award has been made under the Principal Act, or any offence against this Act is suspected to have been committed and may inspect and view any work, material, machinery, appliance, articles, books or documents therein subject, in the case of a person so authorised, to the terms of his authority.

(2) No person referred to in subsection (1) shall have authority to enter a private dwelling-house or the land used in connection therewith unless some manufacture or trade in which labour is employed is carried on therein.

(3) A person who hinders or obstructs the commission, a member thereof, a training committee or the members thereof, or any other person authorised as aforesaid, in the exercise of any power conferred by this section is guilty of an offence and liable to a penalty not exceeding \$1,000.

20 Common law actions.

51. (1) Notwithstanding the provisions of any other Act or any custom or usage, action for damages for breach of a contract of apprenticeship may be taken only before an industrial magistrate, in the manner prescribed.

(2) An industrial magistrate is hereby authorised and empowered to hear and determine an action commenced by any party to a contract of apprenticeship for damages for breach of the contract.

(3) An industrial magistrate may in such an action award such damages for breach of the contract of apprenticeship as he deems fit and may in relation thereto award costs in such amount as he shall assess in relation to a scale fixed by the commission.

Apprenticeship.

(4) In the exercise of the jurisdiction conferred by this section, an industrial magistrate shall be governed in his procedure and in his decision by equity and good conscience.

(5) Where proceedings are initiated with a view to recovery of damages for breach of an apprenticeship contract, an industrial magistrate, before commencing to hear the proceedings, shall refer the matter to the appropriate apprenticeship committee (within the meaning of the Principal Act) which shall endeavour to settle the matter by conciliation.

(6) If the Commissioner notifies the industrial magistrate that the apprenticeship conciliation committee to which the matter was referred under subsection (5) has not been able to settle the matter by conciliation, he shall, subject to section 48 (3), thereupon proceed to hear and determine the matter.

Recovery of penalties and certain damages.

52. (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily by an industrial magistrate appointed under the Principal Act or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) Except as provided in section 48, the provisions of the Principal Act, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the commission shall apply to proceedings under section 51 and to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act or the regulations as if the proceedings were proceedings under that Act.

Information to be supplied.

53. (1) Where, immediately before 30th November in any year, there is a training committee to which functions with respect to apprenticeships in a trade are assigned under section 13 (2), an employer who carries on that trade shall, on or before 31st January next succeeding that 30th November,

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forward to the Director a return in or to the effect of the prescribed form relating to tradesmen, apprentices and other persons employed by that employer in that trade on that 30th November.

(2) An employer who fails to comply with any requirement made of him by subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

Regulations.

54. (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.

(2) Without affecting the generality of subsection (1), regulations may be made for or with respect to—

- 15 (a) the forms to be used for the purposes of this Act, the regulations and section 23J of the Principal Act;
- (b) the covenants to be included in indentures of apprenticeship;
- (c) the registration of employers by the Director as a prerequisite to their employing apprentices and the keeping of a register of employers by the Director;
- 20 (d) the requirements to be met before approval to employ any apprentice may be granted and the circumstances in which the employment of a trainee apprentice shall be deemed to have been terminated;
- 25 (e) the proportion of apprentices to skilled tradesmen who may be employed by an employer in a specified trade;
- (f) the instruction and practical training to be provided for and undertaken by apprentices;
- (g) the supervision to be provided apprentices by their employers;
- 30 (h) the facilities to be provided apprentices for the purpose of their being trained by their employers;
- (i) the term to be served by an apprentice in apprenticeship;

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(j) the temporary transfer of an apprentice to the service of an employer and the deeming of time spent with that employer to be time spent in the apprenticeship;

5 (k) the issue of progress cards to trainee apprentices, the use of any such cards and their return to the Director or cancellation by him in specified circumstances;

10 (l) the issue of certificates to apprentices upon the completion of their terms of apprenticeship and the issue of other certificates under this Act or the regulations, whether or not to replace certificates previously issued under this Act or the regulations; and

(m) any other matter related to the training of apprentices by their employers.

(3) A regulation made pursuant to subsection (2) (i) may provide—

15 (a) that a term of apprenticeship may be comprised of separate discontinuous periods;

(b) that specified periods of service by an apprentice with an employer shall be deemed to be, or not to be, part of a term of apprenticeship;

20 (c) for a reduced term of apprenticeship based on outstanding achievement in studies at a college, outstanding progress in the employer's workshop, or standards of education or other training achieved before the commencement of apprenticeship; or

25 (d) that, in prescribed circumstances, a prescribed term of apprenticeship may, in a particular case, be reduced with the approval of the appropriate training committee.

(4) Subject to section 23H (2) of the Principal Act, where the term of an apprenticeship is—

(a) prescribed by the regulations; or

(b) reduced by a training committee pursuant to the regulations,

30 and the contract relating to the apprenticeship, whether made before or after the commencement of this section, provides for a term of apprenticeship longer than that so prescribed or to which the apprenticeship is so reduced, as the case may be, the contract shall be deemed to be varied to the extent necessary to provide a term of apprenticeship in conformity with the term so prescribed or reduced.

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(5) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
5 or
- (c) authorise any matter or thing to be from time to time determined,
applied or regulated by any specified person or body,

or may do any combination of those things.

(6) A regulation may impose a penalty not exceeding \$500 for any
10 breach thereof.

(7) A regulation may provide that, in prescribed circumstances, a person shall be deemed to be or to have been, for a prescribed period, an indentured apprentice in the employment of another person who—

- (a) is employing or has employed the person (otherwise than as a
15 trainee apprentice subject to an apprenticeship established pursuant to an approval given under this Act or the Principal Act);
and
- (b) has breached or failed to comply with a provision of this Act relating to the employment of the person.

20 (8) A regulation may be made pursuant to subsection (7) upon the recommendation of an apprenticeship conciliation committee.

Evidence.

55. Evidence of any order, decision, ruling or determination made under the authority of this Act may be given by the production of a copy thereof
25 duly certified by the Director to be such a copy.

Giving of notice.

56. For the purposes of this Act and the regulations, a person may be given notice of any matter or thing by the Director's causing written notice of that matter or thing to be served on that person personally or by post.

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Repeals.

57. Each Act specified in Column 1 of Schedule 3 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

Savings and transitional provisions.

5 58. Schedule 4 has effect.

SCHEDULE 1.**(Sec. 7 (2).)****PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE COUNCIL.****Composition of the Council.**

- 10 1. (1) The Council shall consist of 11 members of whom—
- (a) one, to be the chairman of the Council, shall be the person for the time being holding or acting in the office of Director;
 - (b) one shall be the person for the time being holding or acting in the office of Director-General of Technical and Further Education;
 - 15 (c) 4 shall, on the nomination of the Minister, be appointed by the Governor as representatives of employers;
 - (d) 4 shall, on the nomination of the Minister, be appointed by the Governor as representatives of employees; and
 - (e) one shall be the person appointed under section 15 (1) of the Principal
- 20 Act to be the conciliation commissioner for apprenticeships.
- (2) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment by the Governor of a member of the Council and such a member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.
- 25 (3) The office of a member of the Council shall, for the purposes of the Constitution Act, 1902, be deemed not to be an office of profit under the Crown.

Apprenticeship.

SCHEDULE 1—continued.**PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE COUNCIL—continued.****Nominees.**

- 5 2. (1) During the absence or illness of the member of the Council referred to in clause 1 (1) (a) and the Deputy Director of Apprenticeship, an officer of the Department of Industrial Relations nominated by the Minister may act as chairman of the Council and, while so acting, shall have and may exercise the functions conferred or imposed upon the chairman in his capacity as a member of the Council.
- 10 (2) The member of the Council referred to in clause 1 (1) (b) may nominate a person to act for him as a member of the Council and the person so nominated, while so acting, shall have and may exercise the functions conferred or imposed as a member of the Council upon the person for whom he acts.
- 15 (3) A member of the Council referred to in clause 1 (1) (c) or (d) may nominate a person to act for him as his deputy in the case of his illness or in his absence from a meeting of the Council and any deputy so nominated, while so acting, shall have and may exercise the functions conferred or imposed as a member of the Council upon the member for whom he acts.

Term of office.

- 20 3. A person nominated by the Minister for membership of the Council shall be appointed for a term of not more than 5 years, and shall be eligible for reappointment from time to time upon the expiration of his term of office.

Remuneration.

- 25 4. A member of the Council shall be entitled to receive such remuneration, including allowances and fees for his services, as may be fixed from time to time by the Minister with respect to him.

Vacancies in offices of members.

5. (1) A member of the Council appointed on the nomination of the Minister shall be deemed to have vacated his office if he—
- (a) dies;
- 30 (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

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SCHEDULE 1—continued.**PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE
COUNCIL—continued.**

- 5 (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) resigns his office by writing under his hand addressed to the Minister;
- (e) is absent from 3 consecutive meetings of the Council otherwise than with leave granted by the Council; or
- 10 (f) is removed from office by the Governor.

(2) Where a vacancy occurs (otherwise than by the retirement of a member on the expiration of his term of office) in the office of a member of the Council appointed on the nomination of the Minister, the Governor may, on the nomination of the Minister, appoint a person to fill the vacancy, and that person shall hold office during
15 the remainder of the term of office of the member whose office he fills.

(3) During any vacancy in the membership of the Council the remaining members may conduct the business of the Council as if no vacancy existed.

(4) The Governor may, for any cause which to him seems sufficient, remove a member of the Council referred to in subclause (1) from office.

20 Quorum for meetings.

6. Six members of the Council (including the chairman) shall constitute a quorum for the purposes of any meeting of the Council and any duly convened meeting of the Council at which a quorum is present shall be capable of exercising any of the functions conferred or imposed upon the Council by this Act.

25 Decisions of Council.

7. (1) A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present shall be the decision of the Council.

(2) The chairman of the Council shall, in the event of an equality of votes, have in addition to a deliberative vote, a second or casting vote.

*Apprenticeship.*SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.***Procedure.**

8. Subject to this Schedule, the Council may regulate its own proceedings.

5

SCHEDULE 2.

(Sec. 12 (3).)

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES.

Interpretation: Sch. 2.

1. In this Schedule—

- 10 "appointed member" means a member other than the person referred to in clause 2 (1) (a);
- "member" means a member of a training committee.

Composition of training committees.

2. (1) Training committees shall each consist of the following members:—

- 15 (a) the person for the time being holding or acting in the office of Director;
- (b) an equal number of representatives of employers and employees respectively nominated in the prescribed manner by employers or associations or industrial unions of employers and by industrial unions of employees, each of whom has consented to his nomination; and
- 20 (c) the Director-General of Technical and Further Education or a person nominated by him to be a member, who shall—
- (i) be deemed not to be a member for the purposes of section 43 (3) and clauses 8 and 9; and
- 25 (ii) not be considered to be an appointed member within the meaning of this Schedule.

(2) A person nominated under section 43 (1) to be the chairman of a training committee shall, while he is acting as chairman of the committee, be deemed, except for the purposes of section 43 (3), to be a member of that committee, but shall not be considered to be an appointed member within the meaning of this Schedule.

*Apprenticeship.*SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.*

Qualifications for certain members.

3. (1) A person may be appointed as a member of—
- 5 (a) a training committee assigned functions under section 13 (2) with respect to apprenticeships in a trade or trades—only if he is or has been engaged in, or is acquainted with, that trade or those trades; or
- (b) a training committee before it has been assigned any such functions—only if he is or has been engaged in, or is acquainted with, a trade or trades.
- 10 (2) Notwithstanding subclause (1), where, by reason of the lack of a representative of employers or employees, it is not possible for the commission to establish a training committee or to appoint a member to a vacancy on a training committee, the commission may appoint to the committee any person whom it considers to be acquainted with an appropriate trade or appropriate trades as a representative of
- 15 employers or employees, as the case may require, and any person so appointed shall be deemed to comply with the requirements made with respect to him by clause 2 (b).

Oath to be taken.

4. (1) Subject to subclause (2), upon his appointment each member shall take the oath prescribed.
- 20 (2) Where a person has taken the prescribed oath upon his appointment as a member, he shall not, upon his subsequent appointment as a member, be required to take that oath again if he has been recorded as having taken that oath in a register kept by the Director under subclause (3).
- (3) The Director shall keep a register of the names of persons who have taken
- 25 oaths in compliance with subclause (1).

Term of office.

5. An appointed member shall hold office until—
- (a) he resigns his office as a member;
- 30 (b) the association or industrial union by which he was nominated to be a member notifies the Director that his nomination has been withdrawn; or
- (c) the training committee of which he is a member is dissolved by the commission under section 12 (1) (b).

Apprenticeship.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.*

Deputy or alternate members.

6. (1) Subject to his having the qualifications required of an appointed member by
5 clause 3 (1), one or more deputy or alternate members may be appointed in the
prescribed manner to act in the office of an appointed member in prescribed circum-
stances.

(2) Any act, matter or thing done by a deputy or alternate member while he
is acting in the office of an appointed member shall be deemed to have been done by
10 the appointed member.

Filling of certain vacancies.

7. (1) Where from any cause an appointed member ceases to hold his office, the
commission may, subject to clause 3 (1), appoint a person to the vacancy so created.

(2) Where a person is appointed under clause 3 (2) or subclause (1) to a vacancy
15 on a training committee, the committee as newly constituted may continue the
hearing of, and may determine any partly heard, proceedings before it.

Remuneration.

8. All members may be reimbursed such fares and out of pocket expenses as are
approved by the Minister.

20 Publication of appointments.

9. (1) Every appointment of a member shall be published in the Industrial Gazette.

(2) A copy of the Industrial Gazette containing a notice of the appointment of a
member purporting to have been published pursuant to this Act shall be conclusive
evidence that the person named in the notice was legally appointed to the office so
25 named and had power to act in that office, and that appointment shall not be chal-
lenged for any cause.

*Apprenticeship.***SCHEDULE 3.**

(Sec. 57.)

REPEALS.

Column 1.		Column 2.	
5	Year and number of Act.	Short title of Act.	Extent of repeal.
	1969, No. 37 ..	Apprentices Act, 1969	The whole Act.
	1970, No. 52 ..	Supreme Court Act, 1970	So much of the Second Schedule as amends Act No. 37, 1969.
10	1974, No. 72 ..	Technical and Further Education Act, 1974.	So much of Schedule 2 as amends Act No. 37, 1969.
	1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amends Act No. 37, 1969.
15	1976, No. 54 ..	Miscellaneous Acts (Inspectors) Amendment Act, 1976.	Section 7.
	1979, No. 31 ..	Apprentices (Amendment) Act, 1979	The whole Act.
	1980, No. 24 ..	Miscellaneous Acts (Education Commission) Repeal and Amendment Act, 1980.	So much of Schedule 2 as amends Act No. 37, 1969.
20	1980, No. 186 ..	Apprentices (Amendment) Act, 1980	The whole Act.
	1980, No. 187 ..	Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.	So much of Schedule 1 as amends Act No. 37, 1969.

25

SCHEDULE 4.

(Sec. 58.)

SAVINGS AND TRANSITIONAL PROVISIONS.**Interpretation.****1. (1) In this Schedule—**

- 30 "former Act" means the Apprentices Act, 1969;
 "the commencement" means the commencement of this Schedule.

- (2) For the purposes of this Schedule, a training committee corresponds with an apprenticeship committee established under the former Act if members of the apprenticeship committee (other than the Director of Apprenticeship) are deemed by
 35 clause 4 (a) to be members of the training committee.

- (3) Except as provided in this Schedule, nothing in this Schedule limits any saving made by the Interpretation Act, 1897.

*Apprenticeship.*SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***New South Wales Apprenticeship Council.**

2. On the commencement—

- 5 (a) a person who, immediately before the commencement, held office as a member of the New South Wales Apprenticeship Council under section 9 (2) (d) or (e) of the former Act shall, subject to this Act, be deemed, until the expiration of the term of office for which he was appointed as such a member, to be a member of the New South Wales Apprenticeship Council appointed under clause 1 (1) (c) or (d), respectively, of Schedule 1; and
- 10 (b) any nomination made under section 9 (4) of the former Act, being a nomination in force immediately before the commencement, shall be deemed to be made under clause 2 (2) of Schedule 1.

Apprenticeship supervisors.

15 3. On the commencement—

- (a) a person who, immediately before the commencement, held office as an apprenticeship supervisor under section 68 (1) of the former Act shall be deemed to be an apprenticeship supervisor appointed under section 9;
- 20 (b) an assignment of duties made under section 68 (2) (d) of the former Act and in force immediately before the commencement shall be deemed to be an assignment of duties made by the Director under section 10 (1) (d); and
- (c) any permission of the Minister granted before the commencement under section 68A (3) of the former Act shall be deemed to be a permission granted under section 11 (3).

25 **Apprenticeship training committees.**

4. On the commencement—

- (a) an apprenticeship committee established under the former Act before the commencement, and which has not been dissolved before the commencement, shall be deemed to be an apprenticeship training committee established under section 12 (1) (a) and a person (other than the Director of Apprenticeship) who, immediately before the commencement, held office as a member or a deputy or alternate member of any such apprenticeship committee shall be deemed to be appointed, in accordance with this Act and the regulations, as
- 30

Apprenticeship.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

a member or a deputy or alternate member, respectively, of that training committee;

- 5 (b) a training committee established by the operation of paragraph (a) shall be deemed to be assigned functions under section 13 (2) with respect to all apprenticeships, conditions of employment in which were, immediately before the commencement, prescribed by provisions set forth in the form of an award made under the former Act by its corresponding apprenticeship committee or by the commission on appeal under that Act from an award so made;
- 10
- (c) a matter submitted to the commission by an apprenticeship committee under section 18 (10) of the former Act before the commencement, not being a matter that may be dealt with by an apprenticeship conciliation committee, shall be deemed to have been submitted by the corresponding training committee under section 14 (4);
- 15
- (d) a notice of appointment of—
- (i) a member of an apprenticeship committee, purporting to have been published under section 17 (13) of the former Act; or
- 20 (ii) a member of a conciliation committee, who was, immediately before 1st July, 1969, a member of an apprenticeship council by reason of the operation of section 19 (3) of the Principal Act, as then in force, purporting to have been published under section 18 (10) of that Act,
- 25 shall, where the person is deemed under paragraph (a) to be appointed as a member of a training committee, be deemed to be sufficient publication of his appointment to the training committee and shall be deemed to have been published pursuant to this Act; and
- (e) a reference of a matter to an apprenticeship committee by the Apprenticeship Commissioner under section 18 (5) of the former Act before the commencement may, where it is a matter of a kind which may be referred to a training committee by the Director, be treated as a reference of the matter to the corresponding training committee by the Director under section 20.
- 30

Director and Deputy Director of Apprenticeship.

- 35 5. (1) The person holding the office of Director of Apprenticeship under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed under section 17 as the Director.

Apprenticeship.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (2) The person holding the office of Deputy Director of Apprenticeship under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed under section 18 (1) as the Deputy Director of Apprenticeship.

Saving of certain approvals and orders.

6. (1) Any approval given under section 28 (2), 29 (2) or 30 (2) of the former Act before the commencement by the Director of Apprenticeship or an apprenticeship committee, being, in the case of an approval under section 28 (2) or 30 (2) of the former Act, an approval with respect to a probationer or trainee apprentice not above the age of 21 years, shall, on the commencement, be deemed to have been given under section 23 (2), 25 (3) or 29 (2), respectively, by the Director or the corresponding training committee.
- 15 (2) Any order made under section 28 (2) of the former Act before the commencement by an apprenticeship committee, being an order with respect to a probationer not above the age of 21 years, shall, on the commencement, be deemed to have been made under section 23 (2) by the corresponding training committee.

Saving of certain applications.

- 20 7. (1) An application for approval to establish an apprenticeship made under section 28 (1) or 30 (1) of the former Act but not disposed of before the commencement shall, on the commencement, be deemed to be an application in the prescribed form for approval to establish an apprenticeship made under section 23 (1) or 29 (1), respectively.
- 25 (2) An application for approval to assign an indenture of apprenticeship made under section 29 (2) of the former Act but not disposed of before the commencement shall, on the commencement, be deemed to be an application in the prescribed form for approval to assign that indenture made under section 25 (2).

Saving of certain certificates, etc.

- 30 8. (1) A certification of an indenture made or a certificate issued, before the commencement, under section 32 (1) (a) or (b) of the former Act shall, on the commencement, be deemed to be a certification of an indenture made or a certificate issued in the prescribed form under section 28 (1) or 29 (5), respectively.

Apprenticeship.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) A certificate of proficiency issued, before the commencement, under section 32 (2) of the former Act shall, on the commencement, be deemed to be a certificate
5 issued in the prescribed form under section 19 (2).

(3) A determination made, or certificate issued, before the commencement under section 37 (3) or (5), respectively, of the former Act shall, on the commencement, be deemed to be a determination made by a training committee under section 35 (3) or a certificate issued in the prescribed form under section 35 (5).

10 (4) The Director shall, on the application of a person who was an apprentice under an indenture deemed by the operation of subclause (1) to be certified under section 28 (1), issue a certificate to that person in the form prescribed for the purposes of section 28 (1).

15 (5) Any certificate issued by the Director pursuant to subclause (4) shall be deemed to be issued under section 28 (1).

Continuation of proceedings.

20 9. (1) Where, before the commencement, an apprenticeship committee had commenced under any provision of the former Act to deal with any matter and the corresponding training committee is empowered by this Act to deal with matters of a like nature, that training committee may, after the commencement, deal with and dispose of the matter as if the matter had been commenced under this Act.

25 (2) Where, before the commencement, an apprenticeship supervisor, the Director of Apprenticeship, an industrial magistrate or the commission had commenced under any provision of the former Act to deal with any matter and he or it is empowered by this Act to deal with matters of a like nature, the supervisor, Director, industrial magistrate or the commission, as the case may be, may, after the commencement, deal with and dispose of the matter as if the matter had been commenced under this Act.

Prescription of certain trades.

30 10. (1) Subject to subclause (2), where—

- (a) immediately before the commencement, a prescription of a trade is made in provisions deemed by clause 4 of Schedule 9 to the Industrial Arbitration (Apprenticeship) Amendment Act, 1981, to comprise an award made by an apprenticeship conciliation committee; or

Apprenticeship.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (b) after the commencement, a prescription of a trade is made in the negotiated provisions of an award by the commission, a conciliation commissioner or an apprenticeship conciliation committee,

that prescription shall, for the purposes of section 21 (1), be deemed to be made by a regulated provision of the award.

- 10 (2) Subclause (1) ceases to have effect with respect to an award upon the commencement of any regulated provision of the award made under this Act which expressly prescribes a trade for the purposes of section 21 (1).

Saving of certain regulations.

11. (1) Any regulation in force under the former Act immediately before the commencement shall, on the commencement, be deemed to have been made under section 54.

- 15 (2) A reference in a regulation referred to in subclause (1) to the former Act or to a provision of the former Act shall be construed as a reference to this Act or the corresponding provision of this Act, respectively.

Saving of certain amendments.

- 20 12. The amendments made by section 5 (2) of, and the Second Schedule to, the former Act which had effect immediately before the commencement shall have the same effect as they would have had if this Act had not been enacted.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

APPRENTICESHIP ACT, 1981, No. 80

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 80, 1981.

An Act to make provisions with respect to apprenticeship and to repeal the
Apprentices Act, 1969. [Assented to, 3rd June, 1981.]

See also Industrial Arbitration (Apprenticeship) Amendment Act, 1981.

Apprenticeship.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Apprenticeship Act, 1981".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsections (1) and (3), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 53 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that occurs after the day appointed and notified under subsection (2).

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—THE NEW SOUTH WALES APPRENTICESHIP COUNCIL—ss. 7, 8.

PART III.—SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR
ss. 9–20.

DIVISION 1.—*Apprenticeship Supervisors*—ss. 9–11.

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DIVISION 2.—*Apprenticeship Training Committees*—ss. 12–16.

DIVISION 3.—*The Director of Apprenticeship*—ss. 17–20.

PART IV.—GENERAL PROVISIONS RELATING TO APPRENTICESHIP—
ss. 21–34.

DIVISION 1.—*Establishment of Apprenticeship*—ss. 21–23.

DIVISION 2.—*Apprenticeship under Indentures*—ss. 24–28.

DIVISION 3.—*Trainee Apprentices*—s. 29.

DIVISION 4.—*Regulated Provisions of Awards*—ss. 30, 31.

DIVISION 5.—*Miscellaneous*—ss. 32–34.

PART V.—RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING—s.
35.

PART VI.—PROCEDURE—ss. 36–47.

DIVISION 1.—*Commencement of Proceedings*—s. 36.

DIVISION 2.—*Training Committees*—ss. 37–43.

DIVISION 3.—*Miscellaneous*—ss. 44–47.

PART VII.—SUPPLEMENTARY—ss. 48–58.

SCHEDULE 1.—PROVISIONS RELATING TO MEMBERSHIP AND PRO-
CEDURE OF THE COUNCIL.

SCHEDULE 2.—PROVISIONS RELATING TO MEMBERS OF TRAINING
COMMITTEES.

SCHEDULE 3.—REPEALS.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

Principal Act.

4. The Industrial Arbitration Act, 1940, is referred to in this Act as the Principal Act.

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Interpretation.

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appropriate training committee”, in relation to any act, matter or thing concerning an apprenticeship, means the training committee to which functions are for the time being assigned under section 13 with respect to the apprenticeship;

“award” means all of the negotiated provisions and the regulated provisions, if any, which are in force for the time being with respect to an employer and any apprentices employed by him in a trade;

“college” means a college within the meaning of the Technical and Further Education Act, 1974;

“Commissioner” means the Conciliation Commissioner for Apprenticeships appointed under section 15 of the Principal Act;

“Council” means the New South Wales Apprenticeship Council constituted under section 7 (1);

“Director” means the Director of Apprenticeship appointed under section 17;

“employer” means a person (including the Crown) employing an apprentice;

“function” includes power, authority and duty;

“indenture” includes any written contract;

“indentured apprentice” means an employee who is serving a period of training under an indenture for the purpose of rendering him fit to be a qualified worker in a trade;

“negotiated provision” means a provision of an award or a variation thereof made under the Principal Act by the commission, a conciliation commissioner or an apprenticeship conciliation committee with respect to an employer and any apprentices employed by him in a trade;

“probationer” means a person employed in a trade with a view to ascertaining his suitability for engagement as an indentured apprentice;

Apprenticeship.

“regulated provision” means a provision made by the regulations and deemed by the regulations to form part of an award relating to an employer and any apprentices employed by him in a trade;

“regulations” means regulations made under this Act;

“supervisor” means an apprenticeship supervisor appointed under section 9;

“trade” includes a calling;

“trainee apprentice” means an employee, other than a probationer, who is serving a period of training, otherwise than under an indenture, for the purpose of rendering him fit to be a qualified worker in a trade;

“training committee” means an apprenticeship training committee established under section 12 (1).

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

(3) For the purposes of section 27 (I) of the Interpretation Act, 1897, a notice served by post on a person under this Act or the regulations is properly addressed if it is addressed to the last address of the person known to the Director.

Construction of Act.

6. This Act shall be read and construed with the Principal Act.

PART II.

THE NEW SOUTH WALES APPRENTICESHIP COUNCIL.

Constitution of the Council.

7. (1) There shall be a New South Wales Apprenticeship Council which shall have and may exercise the functions conferred or imposed upon it by this Act.

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(2) Schedule 1 has effect with respect to the membership and procedure of the Council.

Functions of the Council.

8. (1) Subject to this Act, the Council shall—

(a) keep under review—

- (i) the requirements of the State for skilled tradesmen;
- (ii) the availability of qualified tradesmen to meet those requirements;
- (iii) the availability of young persons for apprenticeship;
- (iv) the availability of vacancies for apprentices and the extent to which employers are participating in the training of apprentices;
- (v) the adequacy of the training of apprentices in employers' workshops and in colleges and the measures which can be taken to improve that training;
- (vi) the adequacy of the apprenticeship system as a means of training skilled tradesmen and the desirability of modifying that system or of providing supplementary systems of training for skilled occupations; and
- (vii) the measures which should be taken to promote apprenticeship;

(b) conduct research into all matters pertaining to its functions;

(c) disseminate information as to matters which it has a duty to keep under review;

(d) report to the Minister annually, and at such other times as it thinks fit, its conclusions on the matters which it has a duty to keep under review;

(e) make recommendations to the commission and to training committees in relation to any matter concerning apprenticeship or otherwise relating to the training of skilled workers; and

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- (f) consider, and report to the Minister on, any matter referred by him to the Council concerning apprenticeship or concerning the training of skilled workers by other means.

(2) A minority report or recommendation may be recorded by a member, or by members, of the Council in respect of any matter upon which a report or recommendation is made by the Council under subsection (1) and any such minority report or recommendation shall be submitted and considered with the report or recommendation of the Council by the person or body to whom or which it is submitted.

(3) For the purpose of exercising its functions under this Act, the Council may confer with any person, body or organisation and may, with the approval of the Minister concerned and of the Public Service Board and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

PART III.

SUPERVISORS, TRAINING COMMITTEES AND THE DIRECTOR.

DIVISION 1.—*Apprenticeship Supervisors.*

Appointment of supervisors.

9. The Governor may, under and in accordance with the Public Service Act, 1979, appoint apprenticeship supervisors who shall have the functions prescribed.

Functions of supervisors.

10. (1) A supervisor may, in respect of an industry in which apprentices are employed—

- (a) generally supervise the adequacy of the training of apprentices by employers;

Apprenticeship.

- (b) advise and assist employers in relation to the employment and training of apprentices and the formation and conduct of group apprenticeship schemes;
- (c) investigate any complaints regarding the conditions of employment or the training of apprentices, alleged breaches of awards or of this Act or the regulations and alleged breaches of the Principal Act relating to apprentices;
- (d) perform such duties as may be assigned by the Director; and
- (e) on obtaining the authority of the Minister, institute proceedings for the imposition of a penalty for any breach of the provisions of this Act or the regulations or of the Principal Act.

(2) For the purpose of exercising his functions, a supervisor may at all reasonable times enter upon the premises of an employer in an industry in which apprentices are employed, and may require the production of time and pay sheets, copies of indentures and other documents relating to the employment of persons with respect to whom provision is made in or under this Act.

(3) No supervisor shall have authority under this Act to enter a private dwelling-house or the land used in connection therewith, unless some manufacturing process or trade in which labour is employed is carried out therein.

(4) Any person who obstructs a supervisor in the exercise of any of his functions under this Act, or fails to produce time and pay sheets or documents when duly required to do so under subsection (2), is guilty of an offence and liable to a penalty not exceeding \$500.

Disclosure of information.

11. (1) Subject to subsection (2), a person who is, or was at any time, a supervisor shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by him in connection with the administration or execution of this Act or the regulations.

Apprenticeship.

(2) Subsection (1) does not operate to prevent the disclosure of information where that disclosure is—

- (a) made in connection with the administration or execution of this Act or the regulations;
- (b) made with the prior permission of the Minister; or
- (c) ordered by a court, or by any other body or person authorised by law to examine witnesses in the course of, and for the purpose of, the hearing and determination of any matter or thing by that court, body or person.

(3) The Minister may grant the permission referred to in subsection (2) (b) only if he is satisfied that to do so would be in the public interest.

(4) Any person who contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

DIVISION 2.—*Apprenticeship Training Committees.*

Establishment of training committees.

12. (1) The commission may, by its order—

- (a) establish an apprenticeship training committee and appoint the members of the committee, other than the Director, so that the committee is composed of members in accordance with Schedule 2; or
- (b) dissolve a training committee.

(2) A training committee may be established by the commission—

- (a) on its own motion or upon application being made to it; or
- (b) so as to take the place of a dissolved training committee or a training committee whose appointed members have resigned or otherwise ceased to hold office.

(3) Schedule 2 has effect with respect to the members of a training committee.

Apprenticeship.

Assignment of functions.

13. (1) In this section, "trade" includes a combination of trades.

(2) Subject to subsection (3), where the commission establishes a training committee it shall assign to the committee the functions of a training committee under this Act with respect to—

- (a) all apprenticeships in a trade;
- (b) all apprenticeships in the trades carried on by a particular employer or a particular group of employers; or
- (c) all apprenticeships in a trade except those referred to in paragraph (b) and with respect to which an assignment of functions has been made under this subsection to another training committee.

(3) The commission may, under subsection (2), assign to a training committee functions with respect to apprenticeships in a trade or trades only if each member of the committee, other than the Director, is or has been engaged in, or is acquainted with, that trade or those trades, as the case may be.

Jurisdiction, generally.

14. (1) A training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2) shall keep under review, and shall report to the Council at least once in every 2 years upon—

- (a) the need for tradesmen skilled in that trade;
- (b) the availability of qualified tradesmen to meet that need;
- (c) the availability of young persons for apprenticeship in that trade;
- (d) the number of vacancies for apprentices in that trade and the extent to which employers are participating in the training of apprentices; and
- (e) the adequacy of the training in that trade provided by employers and given in colleges and the measures which can be taken to improve that training,

in so far as those matters are known to the members of the committee and the employers and employees they were appointed to represent.

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(2) Whether or not the matter has been referred to it under section 20, a training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2) may at any time consider, and the chairman of the committee may report to the Minister upon, any matter related to apprenticeship training in that trade or any matter with respect to which regulations may be made in relation to all apprenticeships or to apprenticeships in that trade.

(3) A training committee to which functions with respect to apprenticeships in any trade are assigned for the time being under section 13 (2) shall—

- (a) co-operate with the Department of Technical and Further Education in any matter concerning the technical education of apprentices in that trade; and
- (b) keep under review the facilities which are available in colleges for the training of apprentices in that trade.

(4) A training committee may submit any question arising out of any matter before it to the commission for its opinion and direction.

(5) The commission shall consider any question referred to it under subsection (4) and may give directions to the training committee which submitted the question.

(6) Any direction of the commission given with respect to a question referred to it by a training committee shall be carried into effect by the committee.

Jurisdiction with respect to differences and disputes.

15. (1) Where a matter in the nature of a difference or dispute between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians with respect to apprenticeship training is referred to a training committee under section 20 (b) (ii), the committee shall—

- (a) subject to subsection (2), conciliate on the difference or dispute with a view to inducing the parties to it to come to an agreement which will settle the matter and preserve the apprenticeship; or

Apprenticeship.

- (b) refer the matter to the Commissioner so that it may be dealt with under the Principal Act.

(2) A training committee may, at any time after it commences to deal with a matter under subsection (1) (a) and for such reason as it considers sufficient, refer the matter to the Commissioner so that it may be dealt with under the Principal Act.

(3) Where a training committee refers a matter in the nature of a difference or dispute between an employer and an apprentice or his parents or guardians to the Commissioner under subsection (1) (b) or (2), it may recommend in writing that the Commissioner—

- (a) order the employer or apprentice to make such redress (other than by way of damages for breach of contract) as the committee thinks appropriate;
- (b) require the employer to afford the apprentice such further or better facilities for training within the scope of the employer's business as are specified in the recommendation;
- (c) authorise the employer to suspend the apprentice without pay for such period of not more than 12 months as is specified in the recommendation; or
- (d) cancel the apprentice's indenture or, if he is a trainee apprentice, terminate his contract of employment.

Finality of decisions.

16. Except as provided in section 48—

- (a) a decision of a training committee in the exercise of the functions conferred or imposed upon it by this Act shall be final; and
- (b) no proceeding of a training committee shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called into question by any court on any account whatever,

and no order of prohibition or of removal into the Supreme Court shall be made in respect of any order, proceeding or recommendation of a training committee in the exercise of the functions conferred or imposed upon it by this Act.

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DIVISION 3.—*The Director of Apprenticeship.*

Appointment of Director.

17. The Governor may, under and in accordance with the Public Service Act, 1979, appoint a Director of Apprenticeship who shall have the functions conferred or imposed upon him by or under this Act.

Deputy Director of Apprenticeship.

18. (1) The Governor may, under and in accordance with the Public Service Act, 1979, appoint a Deputy Director of Apprenticeship.

(2) The Deputy Director of Apprenticeship shall, during—

- (a) any temporary absence of the Director; or
- (b) any vacancy in the office of Director,

have, and may exercise, the same functions as he would have if he were the Director.

(3) Anything done by the Deputy Director of Apprenticeship in the exercise of any of the functions conferred upon him by subsection (2) shall be deemed to have been done by the Director.

Functions of the Director.

19. (1) In addition to the functions otherwise conferred or imposed upon him by or under this Act, the Director shall—

- (a) act as chairman of the Council and of each training committee;
- (b) arrange the compilation of statistics concerning the skilled work force and apprentices;
- (c) conduct research into the requirements of the community for skilled tradesmen and the likely availability, from all sources, of qualified tradesmen, and into the number of apprentices required from time to time to ensure that the community's need for skilled tradesmen will be met;

Apprenticeship.

- (d) furnish the Council with such information and statistics as it requires for the exercise of its functions;
- (e) on his own motion and in such circumstances as may be prescribed, summon meetings of training committees, give notice of hearings to those committees and notify the persons affected of the decisions of those committees;
- (f) prepare and issue forms of indenture for completion by the parties to apprenticeship contracts;
- (g) register—
 - (i) approvals of applications to establish apprenticeships; and
 - (ii) indentures of apprenticeship;
- (h) record the completion of terms of apprenticeship;
- (i) countersign completed indentures, and issue certificates of completion of terms of apprenticeship; and
- (j) in co-operation with the Department of Technical and Further Education, maintain records concerning apprentices and their progress in courses at colleges.

(2) The Director may, in the case of a person who has completed a term of apprenticeship and satisfied all the requirements of the Department of Technical and Further Education in respect of the courses conducted by that Department or approved by the Director-General of Technical and Further Education and prescribed under section 33 (1) for that person as an apprentice, issue that person with a certificate in the form prescribed.

Referral to training committees.**20. The Director—**

- (a) shall refer any matter with respect to which he proposes to recommend that a regulation be made; and
- (b) may refer—
 - (i) any application for an approval under section 22; or

Apprenticeship.

- (ii) any other matter relating to the training of apprentices, including a matter in the nature of a difference or dispute between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians with respect to apprenticeship training,

to such of the training committees as he considers appropriate in the circumstances for its consideration.

PART IV.

GENERAL PROVISIONS RELATING TO APPRENTICESHIP.

DIVISION 1.—*Establishment of Apprenticeship.*

Prohibition on certain employment.

21. (1) An employer shall not employ a person under the age of 21 years in a trade prescribed by the regulated provisions of an award which applies to the employer, unless—

- (a) that person is a probationer or a trainee apprentice in that trade and the employment of that person by the employer is not in breach of an order of a training committee or an apprenticeship conciliation committee;
- (b) approval has been given to the establishment of an apprenticeship for that person in that trade;
- (c) that person has completed an apprenticeship in that trade; or
- (d) that person is entitled to recognition as a qualified tradesman in that trade pursuant to section 35 (6) or pursuant to section 23J (2) of the Principal Act.

Apprenticeship.

(2) A regulation may declare that subsection (1) does not apply in respect of any trade specified or described in the regulation, being a trade that is prescribed by the regulated provisions of an award, and any such regulation shall have effect according to its tenor.

(3) A person who contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

Probation.

22. A person desirous of becoming an indentured apprentice shall be first employed as a probationer for a period of 3 months, or for such longer period, not exceeding 6 months in all, as the Director may, on application by the employer, approve and, where a probationer becomes an indentured apprentice, his period of probation shall be treated as part of his term of apprenticeship.

Indentured apprentices.

23. (1) Within 14 days of the employment of a probationer, the employer shall apply to the Director in the form prescribed for approval to establish an apprenticeship under indenture.

(2) On receipt of an application under subsection (1), the Director shall cause inquiries to be made as to whether approval should be given to the application and shall—

- (a) approve the application;
- (b) except as provided in paragraph (c), refer the application to the appropriate training committee which may approve the application or make such order with respect to the probationer or his employer, or both, as it considers appropriate to the particular case, including an order that the probationer be no longer employed by the applicant in a specified trade; or
- (c) where the Director is satisfied that the probationer is above the age of 21 years—refer the application to the appropriate apprenticeship committee (within the meaning of the Principal Act).

Apprenticeship.

(3) Where an application under subsection (1) has been approved or an order has been made under subsection (2) (b) with respect to any such application, the Director shall notify the applicant accordingly and, on the expiration of the period of probation, or as soon as practicable thereafter, shall forward an indenture of apprenticeship to the employer for completion, if the application has been approved.

(4) An employer to whom an indenture of apprenticeship is forwarded for completion shall arrange for its completion and the return thereof to the Director within 28 days of its despatch by the Director who shall retain the indenture during the term of apprenticeship to which it relates.

(5) Whether or not a notification of the employment of the probationer has been forwarded to the Director, the provisions of an award which would apply to and in respect of the employment of the probationer by his employer if he were an indentured apprentice in the trade in which he is employed shall apply to and in respect of his employment during his period of probation.

(6) An employer who terminates the employment of a probationer shall forthwith notify the Director, in writing, of that termination.

(7) An employer who fails to comply with subsection (1), (4) or (6) is guilty of an offence and liable to a penalty not exceeding \$500.

(8) In this section, "period of probation", in relation to a person who is or has been a probationer, means the period commencing when he is first employed by an employer as a probationer and ending when—

- (a) he becomes an indentured apprentice of the employer; or
- (b) he leaves his employment with the employer, whichever first occurs.

DIVISION 2.—Apprenticeship under Indentures.

Extent to which indentures are binding.

24. (1) An apprentice who is a party to an indenture of apprenticeship shall be bound by the covenants contained therein throughout the term of the apprenticeship whether or not, during the term, he attains the age of 18 years.

Apprenticeship.

(2) A parent or guardian of an apprentice who is a party to an indenture of apprenticeship shall be bound thereby until the apprentice attains the age of 18 years or until the term of the apprenticeship expires, whichever first occurs.

Assignment of indentures.

25. (1) An indenture of apprenticeship may not be assigned from one employer to another except in accordance with this section.

(2) An application for approval to the assignment of an apprentice's indenture shall be made in the form prescribed to the Director by the employer intending to employ the apprentice.

(3) On receipt of an application under subsection (2), the Director shall, after making such inquiries as he deems fit—

- (a) approve the proposed assignment; or
- (b) refer the application to the appropriate training committee, which may approve or refuse to approve the proposed assignment.

(4) Where—

- (a) approval has been given to the assignment of an apprentice's indenture under subsection (3); and
- (b) the Director is satisfied that the apprentice's former employer has consented to the assignment,

the Director shall effect the assignment by giving notice of the assignment to all the parties thereto.

(5) Where the Director—

- (a) sends a notice to an employer who is a party to an indenture of apprenticeship—
 - (i) addressed to the last address of the employer known to the Director; and
 - (ii) requesting the employer to notify the Director whether or not the employer agrees to the assignment of the indenture to another employer specified in the notice; and

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- (b) does not receive any reply to that request within 21 days next following the date on which the notice is sent,

the consent of the employer to whom the notice was sent to the assignment of the indenture to the other employer shall be deemed to have been given for the purposes of subsection (4).

Cancellation of indentures.

26. (1) Subject to subsection (2), an indenture of apprenticeship may be cancelled by agreement of all the parties thereto including, in the case of an apprentice under the age of 18 years, his parent or guardian, but shall not be otherwise terminated except by an order made, or in accordance with an approval given, under section 231 of the Principal Act.

(2) Where the Director—

- (a) sends a notice to a party to an indenture of apprenticeship—

(i) addressed to the last address of the party known to the Director; and

(ii) requesting the party to notify the Director whether or not the party agrees to the cancellation of the indenture; and

- (b) does not receive any reply to that request within 21 days next following the date on which the notice is sent,

the agreement of the party to whom the notice was sent to the cancellation of the indenture shall be deemed to have been given for the purposes of subsection (1).

(3) Within 14 days of the cancellation of an indenture of apprenticeship by agreement of all the parties thereto, the employer concerned shall forward notice of the cancellation to the Director.

(4) Where an indenture of apprenticeship is cancelled, each party thereto shall forthwith surrender his copy of the indenture to the Director.

Apprenticeship.

(5) A person who fails to comply with subsection (3) or (4) is guilty of an offence and liable to a penalty not exceeding \$500.

Death of employer, etc.

27. (1) Where the employer of an indentured apprentice dies and the business in which the apprentice was employed is carried on by the executors or administrators for the time being of the will or estate of the deceased employer, the contract of apprenticeship shall be deemed not to have been determined by the death of the employer and shall, unless cancellation of the indenture of apprenticeship is, on the application of those executors or administrators, or the apprentice, approved by the appropriate apprenticeship committee (within the meaning of the Principal Act), be binding on those executors or administrators as if they were the employers of the apprentice.

(2) Where the employers of an indentured apprentice are partners in a partnership and the business in which the apprentice is employed is carried on by the partners for the time being after the death or retirement of a partner, the contract of apprenticeship shall be deemed not to have been determined by that death or retirement and shall, unless cancellation of the indenture of apprenticeship is, on the application of those partners, approved by the appropriate apprenticeship committee (within the meaning of the Principal Act), be binding on those partners as if they were the employers of the apprentice.

Completion of apprenticeship.

28. (1) Upon the expiration of a term of apprenticeship by effluxion of time, the employer of an indentured apprentice shall so notify the Director who shall certify on the indenture that the term thereof has been completed and forward it to the person who has completed the term of apprenticeship together with a certificate in the form prescribed.

(2) An employer who fails to comply with subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

Apprenticeship.

*DIVISION 3.—Trainee Apprentices.***Employment of trainee apprentices.**

29. (1) Within 14 days of the employment of a trainee apprentice, the employer shall apply to the Director in the form prescribed for approval to establish a trainee apprenticeship.

(2) On receipt of an application pursuant to subsection (1), the Director shall cause inquiries to be made as to whether approval should be given to the application and shall—

- (a) approve the application;
- (b) except as provided in paragraph (c), refer the application to the appropriate training committee which may approve the application or make such order with respect to the trainee apprentice or his employer, or both, as it considers appropriate to the particular case, including an order that the trainee apprentice be no longer employed by the applicant in a specified trade; or
- (c) where the Director is satisfied that the trainee apprentice is above the age of 21 years—refer the application to the appropriate apprenticeship committee (within the meaning of the Principal Act).

(3) Where an application under subsection (1) has been approved or an order has been made under subsection (2) (b) with respect to any such application, the Director shall notify the applicant accordingly and forward to him a progress card for issue to the trainee apprentice, if the application has been approved.

(4) An employer who terminates the employment of a trainee apprentice shall forthwith notify the Director of that termination by endorsing the apprentice's progress card accordingly and returning the card to the Director.

(5) Upon the expiration of a term of apprenticeship by effluxion of time, the employer of a trainee apprentice shall complete the apprentice's progress card and return it to the Director who shall thereupon forward a certificate in the form prescribed to the person who has completed the term of apprenticeship.

Apprenticeship.

(6) An employer who fails to comply with subsection (1), (4) or (5) is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 4.—Regulated Provisions of Awards.

Creation and effect of regulated provisions.

30. (1) A regulation may deem specified provisions of the regulations to form part of an award which applies to an employer or employers specified or described in the regulations and any apprentices employed by him or them in a trade so specified.

(2) A negotiated provision of an award has no effect to the extent, if any, to which it is inconsistent with a regulated provision of the same award.

(3) Notwithstanding any provision of the Principal Act, but subject to subsection (4), a regulated provision of an award may not be rescinded or varied under that Act by the commission, a conciliation commissioner or an apprenticeship conciliation committee.

(4) Nothing in this section prevents—

- (a) the commission from cancelling an apprenticeship award under section 8B (4) (a) or (b) or 9 (3) of the Principal Act and, where any such award is cancelled, the regulated provisions of the award shall cease to have effect to the extent specified by the commission; or
- (b) the commission, the Commissioner or an apprenticeship conciliation committee from exercising, under the Principal Act, any of the functions conferred upon an apprenticeship conciliation committee by section 23D of that Act.

(5) A regulation deeming specified provisions of the regulations to form part of an award may be made only on the recommendation of the appropriate apprenticeship committee (within the meaning of the Principal Act) for the award.

Apprenticeship.

Exemptions.

31. (1) The relevant committee may, for such reason as it considers sufficient, by order in writing exempt a particular employer or apprentice from compliance with a regulated provision of an award and, while an order under this subsection is in force, the regulated provision does not apply to or in respect of the employer or apprentice.

(2) An exemption granted by an order made under subsection (1)—

- (a) may be granted subject to such conditions as the relevant committee thinks fit and specifies in the order; and
- (b) has effect only while the conditions, if any, so specified are not being breached.

(3) In this section, “relevant committee”, in relation to an order exempting a particular employer or apprentice from compliance with a regulated provision of an award, means the appropriate apprenticeship committee (within the meaning of the Principal Act) for the award.

DIVISION 5.—*Miscellaneous.***Duties of employers and apprentices.**

32. (1) The employer of an apprentice shall, by the best means in his power, teach the apprentice, or cause him to be taught, the trade in which he is apprenticed, and shall provide facilities for the practical training of the apprentice in that trade and shall give the apprentice every opportunity to learn that trade and to receive during the term of his apprenticeship such technical, trade or other training and instruction as may be prescribed under section 33 in respect of the apprentice or by any award governing the employment of the apprentice.

(2) An apprentice shall, during the term of his apprenticeship, faithfully serve his employer for the purpose of being taught the trade in which he is apprenticed and shall conscientiously and regularly accept such technical, trade or other training and instruction as may be prescribed under section 33 in respect of the apprentice or by any award governing his employment, in addition to the training and instruction provided by the employer.

Apprenticeship.

Attendance at technical college.

33. (1) Where the regulations prescribe a course conducted by the Department of Technical and Further Education or approved by the Director-General of Technical and Further Education as a required course for an apprentice in a specified trade, an apprentice who is subject to a contract of apprenticeship in that trade shall, during the periods fixed for the purpose by that Department—

- (a) enrol for classes of instruction provided for that course appropriate to the stages, if any, of that course successfully completed by the apprentice; and
- (b) attend those classes.

(2) Where—

- (a) an apprentice is enrolled at a college for a class of instruction which he is required to attend by subsection (1); and
- (b) the Director is satisfied by a certificate under the hand of the Principal of the college that the apprentice has failed to attend the class on a day or days specified in the certificate,

the Director may, by notice in or to the effect of the prescribed form served personally on the apprentice, require the apprentice to show cause, within 14 days of the date of service of the notice—

- (c) why the Director should not refer to the appropriate training committee the question of whether a recommendation should be made by the committee to the Commissioner that the apprentice's employer should be authorized to suspend the apprentice without pay; or
- (d) where the Director is satisfied that the apprentice has, without having provided the Director with true and adequate reasons, failed to attend the classes of instruction he was required to attend by subsection (1) on not less than 3 occasions in the period of 12 months preceding the day or, if more than 1 day is specified, the last day specified in the certificate to which the notice relates—why the Director should not refer to the appropriate training committee the question of whether a recommendation should be made by the committee to the Commissioner that the apprentice's indenture should be cancelled or his contract of employment terminated.

Apprenticeship.

(3) Where an apprentice has been suspended for a period of time from attendance at a class of instruction at a college by the Principal of the college, he shall, for the purposes of subsection (2), be deemed to have failed to attend the class for that period.

(4) Subject to subsection (9), for such reason as appears to it sufficient, the appropriate training committee may, by order in writing, exempt—

(a) an apprentice specified in the order; or

(b) each apprentice of a class described in the order,

from any of the requirements imposed on the apprentice by subsection (1), subject to such conditions, if any, specified in the order as the committee thinks fit and any such order shall, subject to subsection (5), have effect according to its tenor.

(5) Where an exemption has been granted under subsection (4) subject to a condition, the exemption has effect in favour of an apprentice in relation to whom it was granted only while he is not in breach of the condition.

(6) Any time occupied by an apprentice, during working hours, in attendance at a college or in carrying out a correspondence course (including time actually spent in travelling to and from a college) in compliance with—

(a) a requirement made of him by an award or subsection (1); or

(b) a condition subject to which he was exempted under the Principal Act or subsection (4) from compliance with any such requirement,

shall—

(c) be counted as and included as part of his term of apprenticeship; and

(d) be deemed to be time worked for the purpose of calculating wages to be paid to him under any award.

(7) Where an award or subsection (1) or a condition subject to which the apprentice is exempted under the Principal Act or subsection (4) from compliance with a requirement of an award or subsection (1)—

(a) requires that an apprentice shall attend at college for any class or course of instruction; or

Apprenticeship.

(b) requires that an apprentice shall obtain instruction by correspondence or in some other manner, specified in the condition, the employer of the apprentice shall allow him such time as is necessary during ordinary working hours for the purpose of that attendance or of taking full advantage of that instruction, as the case may require.

(8) An employer who breaches subsection (7) is guilty of an offence and liable to a penalty not exceeding \$1,000.

(9) Before a training committee makes an order under subsection (4), it shall—

- (a) submit the terms of the order it proposes to make to the Director-General of Technical and Further Education; and
- (b) consider any representations—
 - (i) made by him with respect to the proposed order; and
 - (ii) received by it within 10 days after the terms have been so submitted.

Supervision of practical training.

34. (1) A supervisor or the appropriate training committee, or both, may inspect the training of an apprentice in the premises of an employer or in other premises in which the employer has arranged for the apprentice to be trained.

(2) If the appropriate training committee is of the opinion that the practical training given or being given by an employer to an apprentice is inadequate in any respect, the committee may, by notice in writing addressed to the employer, under the hand of the Director, require the employer to do such things in relation to the training of the apprentice as the committee may deem appropriate.

(3) Where an employer on whom a notice has been served under subsection (2) has failed to comply with a requirement of the notice within the time fixed in the notice for compliance with the requirement, the training committee which caused the notice to be so served may recommend to the Commissioner that he make an order with respect to that requirement.

Apprenticeship.

PART V.

RECOGNITION OF CERTAIN DEFENCE FORCE TRAINING.

Recognition of service apprenticeships.

35. (1) In this section—

“defence force” means the defence force of the Commonwealth;

“service adult trade training” means training undertaken by a person as a member of the defence force pursuant to a scheme, not involving apprenticeship, for the trade training of a person over the age of 17 years;

“service apprenticeship” means apprenticeship served by a person as a member of the defence force.

(2) A training committee may confer with accredited representatives of the defence force on any matter concerning service apprenticeships or service adult trade training, with a view to ensuring that, upon his discharge from the defence force, a person who has served a service apprenticeship or completed a period of service adult trade training will be accorded recognition in a civilian trade.

(3) The appropriate training committee may determine that the course of training provided for a class of service apprenticeship or service adult trade training is such that an apprentice or adult trainee who satisfactorily completes the course, and complies with such further conditions as to experience or otherwise as the committee may determine, would be adequately trained to work as a tradesman in a comparable civilian trade.

(4) A determination of a training committee made under subsection (3) shall be—

(a) set forth in an instrument signed by the Director; and

(b) filed by the Director,

and a copy of the instrument shall be forwarded by the Director to the relevant defence force authority.

Apprenticeship.

(5) The Director may issue a certificate in the form prescribed to a person who makes application therefor, as prescribed, and satisfies the Director that he has satisfactorily completed the course of training to which the certificate relates, being a course that is the subject of a determination made under subsection (3), and has complied with any other conditions prescribed in the determination.

(6) A certificate issued pursuant to this section shall entitle the person to whom it is issued to recognition as a qualified tradesman in the trade specified therein.

PART VI.

PROCEDURE.

DIVISION 1.—*Commencement of Proceedings.*

Applications.

36. (1) Proceedings relating to any matter which may be dealt with under this Act or the regulations by a training committee or the Director may be commenced at any time on application made to the Director by—

- (a) an association or industrial union whose members are employers, or an industrial union whose members are employees, in a trade for apprenticeships in which a training committee has been established;
- (b) an employer of apprentices in that trade;
- (c) an apprentice employed in that trade; or
- (d) the Director-General of Technical and Further Education.

(2) Where the manner in which any application referred to in subsection (1) is to be made is prescribed by the regulations, the application shall, subject to section 47, be made in that manner.

Apprenticeship.

(3) A person who in, or in connection with, an application made to the Director—

- (a) makes a statement; or
- (b) furnishes information,

that the person knows to be false or misleading in a material particular is guilty of an offence and liable to a penalty not exceeding \$500.

DIVISION 2.—*Training Committees.*

Convening of meetings.

37. (1) A meeting of a training committee shall be convened by the Director—

- (a) whenever he thinks fit; or
- (b) within 5 days of his receipt of a written request signed by 2 members of the committee.

(2) The Director convenes a meeting of a training committee by—

- (a) appointing a time and place for the meeting; and
- (b) notifying, or sending notice to, the members of the committee referred to in clause 2 (1) (b) of Schedule 2 and the Director-General of Technical and Further Education.

Rules for conduct of business.

38. (1) Subject to the provisions of this Act and the regulations relating to matters of procedure, a training committee may make rules as to the order and conduct of its business and proceedings.

(2) A training committee may—

- (a) subject to section 40 (4), conduct its proceedings in public or in private; and
- (b) adjourn its proceedings to any time and place.

Apprenticeship.

Conferences.

39. Notwithstanding any other provision of this Division (except section 40 (4)), a training committee may confer with any person with respect to a matter before it.

Production of evidence.

40. (1) The Director may, by instrument in writing under his hand, require any person on whom the instrument is served personally or by post—

- (a) to appear before a training committee for the purpose of giving evidence; or
- (b) subject to subsection (2), to produce to a training committee any document (including a document in the possession of, or belonging to, the Crown) that relates to the employment of an apprentice and is relevant to the purposes for which the committee was established,

at a time and place specified in the instrument.

(2) Subject to subsection (3), no person shall, without his consent, be required—

- (a) under subsection (1), to produce his books; or
- (b) under section 41 (1), to answer any question as to trade secrets, profits, losses, receipts and outgoings,

relating to his business or his financial position unless he raises the objection that the profits of an industry are not sufficient to enable him to grant the conditions which it is claimed that he should be required by the regulations or the provisions of an apprenticeship award to provide.

(3) Where a person raises an objection referred to in subsection (2), he may be required, on the order of the Director, to produce the books used in connection with the carrying on of the business in respect of which the claim is made, and to answer questions with regard to the profits, losses, receipts and outgoings in connection with the industry to which the objection relates but he shall not be required, without his consent, to answer questions regarding any trade secrets or his financial position.

Apprenticeship.

(4) A person subject to an order under subsection (3) shall not, without his consent, be required to answer questions otherwise than in the presence of the committee alone, and no person shall examine books produced pursuant to the order except the Director or an accountant, appointed by the committee, who may report to the committee whether or not his examination of the books produced supports the answers given to the questions, but shall not otherwise disclose the contents of those books.

(5) An accountant referred to in subsection (4) shall, before examining any books produced, furnish the Director with a written undertaking not to disclose any matter or evidence that is before the committee relating to—

- (a) trade secrets;
- (b) the profits or losses or the receipts and outgoings of any employer;
- (c) the books of any employer or witness produced before the committee; or
- (d) the financial position of any employer or of any witness,

and if he breaches his undertaking he is guilty of an offence and liable to a penalty not exceeding \$1,000.

(6) Where a document is produced to a training committee in response to a requirement made under subsection (1), the committee may take possession of the document for such period as it considers necessary for the purposes of the committee.

Questions of member of committee.

41. (1) Subject to section 40 (2)–(4), any member of a training committee may require a person who appears before the committee to answer a question that is reasonably related to the purposes for which the committee was established.

(2) A person is not excused from answering a question put to him by a member of a training committee on the ground that the answer might tend to incriminate him but, where the person claims, before answering the question, that the answer might tend to incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings under section 42.

Apprenticeship.

Offences.

42. A person who—

- (a) refuses, fails or neglects to comply with a requirement lawfully made of him by—
 - (i) the Director under section 40 (1) or an order of the Director made under section 40 (3); or
 - (ii) any member of a training committee under section 41 (1), to the extent to which he is lawfully able to comply with the requirement;
- (b) in purported compliance with a requirement made of him under section 40 (1) (b) by the Director, knowingly produces information that is false or misleading in a material particular; or
- (c) makes a statement that is false or misleading in a material particular when he is appearing before a training committee,

is guilty of an offence and liable to a penalty not exceeding \$500.

Procedure and decisions of committees.

43. (1) The Director or a person nominated by him for that purpose, not being a member of the committee, shall preside as chairman at each meeting of a training committee.

(2) Any duly convened meeting of a training committee at which at least 1 member and the chairman of the committee are present shall be competent to transact any business of the committee and shall have and may exercise all the functions of the committee.

(3) The members of a training committee, other than the Director, shall each have 1 vote on any matter arising at a meeting of the committee, but, in the event of an equality of votes, the chairman of the committee shall have a casting vote.

(4) A decision supported by a majority of votes cast at a meeting of a training committee shall be the decision of the committee.

Apprenticeship.

(5) Where, with respect to a matter arising at a meeting of a training committee, there are no votes of the other members of the committee, the chairman of the committee may decide the matter, in which case the matter shall be deemed to have been decided by the committee at the meeting.

(6) If the chairman of a training committee is present—

(a) at a duly convened meeting of the committee; or

(b) at a time and place—

(i) appointed under section 37 (2) (a) for a meeting of the committee; or

(ii) to which any such meeting has been adjourned,

and all of the other members of the committee are absent from the meeting or from the place at that time, any matter that the committee is competent to deal with may be dealt with by the chairman and, if the matter is so dealt with, it shall be deemed to have been dealt with by the committee at a meeting.

(7) No decision of a training committee shall be vitiated by reason only of any informality or want of form.

(8) The chairman of a training committee may not exercise the power granted him by subsection (3), (5) or (6) so as to cause a recommendation to be made by a training committee for the making of a regulation.

DIVISION 3.—Miscellaneous.

Intervention by the Crown.

44. Where, in the opinion of the Minister, the public interests are or would be likely to be affected, the Crown may intervene in any proceedings under this Act before a training committee and make such representations as it thinks necessary in order to safeguard those interests.

Legal representation.

45. (1) In proceedings under this Act before a training committee, no party shall, except with the consent of the committee and all other parties, be represented by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor.

Apprenticeship.

(2) Nothing in this section shall preclude any permanent employee of the Crown from appearing on behalf of the Crown in any proceedings before the training committee, but in any case where the permanent employee of the Crown so appearing is a barrister or solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or solicitor and the consent of the training committee to such representation shall not be refused.

Certain rules inapplicable.

46. Training committees and the Director exercising the jurisdiction conferred by this Act shall be governed in their procedures and in their decisions by equity and good conscience and shall not be bound to observe the rules of law regarding the admissibility of evidence.

Procedural regulations may be waived.

47. Each training committee and the Director shall have power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

PART VII.**SUPPLEMENTARY.****Appeals to the commission.**

48. (1) An appeal, in the manner prescribed, shall lie to the commission from any decision of a training committee—

- (a) to grant or refuse to grant an approval under section 23 (2), 25 (3) or 29 (2);
- (b) to impose or refuse to impose a condition upon an exemption under section 31 (2) or 33 (4);
- (c) to make a determination under section 35 (3); or

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- (d) to make or refuse to make any order it is empowered to make under this Act.

(2) An appeal, in the manner prescribed, shall lie to the commission from any decision of the Director—

- (a) to grant or refuse an approval under section 22;
- (b) to grant an approval under section 23 (2), 25 (3) or 29 (2); or
- (c) to make an order under section 40 (3).

(3) An appeal shall lie to the commission from any decision of an industrial magistrate arising out of the jurisdiction conferred on him by this Act.

(4) An appeal pursuant to this section shall be by way of rehearing and, on the hearing of any such appeal, the commission may, in its discretion, call for and receive such further information and evidence as it considers desirable.

(5) On the hearing of an appeal pursuant to this section against a decision of—

- (a) a training committee, the commission may require the members of the committee; or
- (b) the Director, the commission may require the members of any training committee (other than the Director),

to sit with the commission, but as assessors only and without a vote.

(6) The commission may, in determining an appeal pursuant to this section, decide to vary or reverse the decision appealed against and make such further or other decision as it considers the training committee, the Director or the industrial magistrate, as the case may be, ought to have made in the first place.

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(7) A decision of the commission made under subsection (6)—

- (a) with respect to an appeal under subsection (1)—shall, except for the purposes of that subsection, be deemed to be the decision of the training committee concerned;
- (b) with respect to an appeal under subsection (2)—shall, except for the purposes of that subsection, be deemed to be the decision of the Director; or
- (c) with respect to an appeal under subsection (3)—shall, except for the purposes of that subsection, be deemed to be the decision of the industrial magistrate concerned,

and shall be carried into effect.

Premiums, etc., for apprenticeship.

49. (1) No person shall—

(a) directly or indirectly or by any pretence or device—

(i) require or permit any other person to pay or give; or

(ii) demand or receive from any other person,

any premium, fee, gift, reward, bonus or other consideration of any kind whatever; or

(b) require any other person to enter into a bond or guarantee,

for or with respect to, or as a prerequisite for, any person's entering into an indenture of apprenticeship or any other contract of apprenticeship (whether with the firstmentioned or any other person), without having first obtained the consent of the appropriate apprenticeship committee (within the meaning of the Principal Act) for the apprenticeship to which the proposed indenture or other contract relates.

(2) A person who breaches subsection (1) is guilty of an offence and liable to a penalty not exceeding \$1,000.

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Powers of entry.

50. (1) The commission, a training committee and a person authorised in writing by the commission, or by the Director, may at any time during working hours enter any building, mine, mine working, ship, vessel, place or premises of any kind wherein, or in respect of which, a trade for apprenticeships in which a training committee has been established is carried on, or in respect of which an award has been made under the Principal Act, or any offence against this Act is suspected to have been committed and may inspect and view any work, material, machinery, appliance, articles, books or documents therein subject, in the case of a person so authorised, to the terms of his authority.

(2) No person referred to in subsection (1) shall have authority to enter a private dwelling-house or the land used in connection therewith unless some manufacture or trade in which labour is employed is carried on therein.

(3) A person who hinders or obstructs the commission, a member thereof, a training committee or the members thereof, or any other person authorised as aforesaid, in the exercise of any power conferred by this section is guilty of an offence and liable to a penalty not exceeding \$1,000.

Common law actions.

51. (1) Notwithstanding the provisions of any other Act or any custom or usage, action for damages for breach of a contract of apprenticeship may be taken only before an industrial magistrate, in the manner prescribed.

(2) An industrial magistrate is hereby authorised and empowered to hear and determine an action commenced by any party to a contract of apprenticeship for damages for breach of the contract.

(3) An industrial magistrate may in such an action award such damages for breach of the contract of apprenticeship as he deems fit and may in relation thereto award costs in such amount as he shall assess in relation to a scale fixed by the commission.

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(4) In the exercise of the jurisdiction conferred by this section, an industrial magistrate shall be governed in his procedure and in his decision by equity and good conscience.

(5) Where proceedings are initiated with a view to recovery of damages for breach of an apprenticeship contract, an industrial magistrate, before commencing to hear the proceedings, shall refer the matter to the appropriate apprenticeship committee (within the meaning of the Principal Act) which shall endeavour to settle the matter by conciliation.

(6) If the Commissioner notifies the industrial magistrate that the apprenticeship conciliation committee to which the matter was referred under subsection (5) has not been able to settle the matter by conciliation, he shall, subject to section 48 (3), thereupon proceed to hear and determine the matter.

Recovery of penalties and certain damages.

52. (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily by an industrial magistrate appointed under the Principal Act or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) Except as provided in section 48, the provisions of the Principal Act, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the commission shall apply to proceedings under section 51 and to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act or the regulations as if the proceedings were proceedings under that Act.

Information to be supplied.

53. (1) Where, immediately before 30th November in any year, there is a training committee to which functions with respect to apprenticeships in a trade are assigned under section 13 (2), an employer who carries on that trade shall, on or before 31st January next succeeding that 30th November,

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forward to the Director a return in or to the effect of the prescribed form relating to tradesmen, apprentices and other persons employed by that employer in that trade on that 30th November.

(2) An employer who fails to comply with any requirement made of him by subsection (1) is guilty of an offence and liable to a penalty not exceeding \$500.

Regulations.

54. (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.

(2) Without affecting the generality of subsection (1), regulations may be made for or with respect to—

- (a) the forms to be used for the purposes of this Act, the regulations and section 23J of the Principal Act;
- (b) the covenants to be included in indentures of apprenticeship;
- (c) the registration of employers by the Director as a prerequisite to their employing apprentices and the keeping of a register of employers by the Director;
- (d) the requirements to be met before approval to employ any apprentice may be granted and the circumstances in which the employment of a trainee apprentice shall be deemed to have been terminated;
- (e) the proportion of apprentices to skilled tradesmen who may be employed by an employer in a specified trade;
- (f) the instruction and practical training to be provided for and undertaken by apprentices;
- (g) the supervision to be provided apprentices by their employers;
- (h) the facilities to be provided apprentices for the purpose of their being trained by their employers;
- (i) the term to be served by an apprentice in apprenticeship;

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- (j) the temporary transfer of an apprentice to the service of an employer and the deeming of time spent with that employer to be time spent in the apprenticeship;
- (k) the issue of progress cards to trainee apprentices, the use of any such cards and their return to the Director or cancellation by him in specified circumstances;
- (l) the issue of certificates to apprentices upon the completion of their terms of apprenticeship and the issue of other certificates under this Act or the regulations, whether or not to replace certificates previously issued under this Act or the regulations; and
- (m) any other matter related to the training of apprentices by their employers.

(3) A regulation made pursuant to subsection (2) (i) may provide—

- (a) that a term of apprenticeship may be comprised of separate discontinuous periods;
- (b) that specified periods of service by an apprentice with an employer shall be deemed to be, or not to be, part of a term of apprenticeship;
- (c) for a reduced term of apprenticeship based on outstanding achievement in studies at a college, outstanding progress in the employer's workshop, or standards of education or other training achieved before the commencement of apprenticeship; or
- (d) that, in prescribed circumstances, a prescribed term of apprenticeship may, in a particular case, be reduced with the approval of the appropriate training committee.

(4) Subject to section 23H (2) of the Principal Act, where the term of an apprenticeship is—

- (a) prescribed by the regulations; or
- (b) reduced by a training committee pursuant to the regulations,

and the contract relating to the apprenticeship, whether made before or after the commencement of this section, provides for a term of apprenticeship longer than that so prescribed or to which the apprenticeship is so reduced, as the case may be, the contract shall be deemed to be varied to the extent necessary to provide a term of apprenticeship in conformity with the term so prescribed or reduced.

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(5) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(6) A regulation may impose a penalty not exceeding \$500 for any breach thereof.

(7) A regulation may provide that, in prescribed circumstances, a person shall be deemed to be or to have been, for a prescribed period, an indentured apprentice in the employment of another person who—

- (a) is employing or has employed the person (otherwise than as a trainee apprentice subject to an apprenticeship established pursuant to an approval given under this Act or the Principal Act); and
- (b) has breached or failed to comply with a provision of this Act relating to the employment of the person.

(8) A regulation may be made pursuant to subsection (7) upon the recommendation of an apprenticeship conciliation committee.

Evidence.

55. Evidence of any order, decision, ruling or determination made under the authority of this Act may be given by the production of a copy thereof duly certified by the Director to be such a copy.

Giving of notice.

56. For the purposes of this Act and the regulations, a person may be given notice of any matter or thing by the Director's causing written notice of that matter or thing to be served on that person personally or by post.

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Repeals.

57. Each Act specified in Column 1 of Schedule 3 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

Savings and transitional provisions.

58. Schedule 4 has effect.

SCHEDULE 1.

(Sec. 7 (2).)

PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE COUNCIL.**Composition of the Council.**

1. (1) The Council shall consist of 11 members of whom—

- (a) one, to be the chairman of the Council, shall be the person for the time being holding or acting in the office of Director;
- (b) one shall be the person for the time being holding or acting in the office of Director-General of Technical and Further Education;
- (c) 4 shall, on the nomination of the Minister, be appointed by the Governor as representatives of employers;
- (d) 4 shall, on the nomination of the Minister, be appointed by the Governor as representatives of employees; and
- (e) one shall be the person appointed under section 15 (1) of the Principal Act to be the conciliation commissioner for apprenticeships.

(2) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment by the Governor of a member of the Council and such a member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

(3) The office of a member of the Council shall, for the purposes of the Constitution Act, 1902, be deemed not to be an office of profit under the Crown.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE
COUNCIL—*continued.***Nominees.**

2. (1) During the absence or illness of the member of the Council referred to in clause 1 (1) (a) and the Deputy Director of Apprenticeship, an officer of the Department of Industrial Relations nominated by the Minister may act as chairman of the Council and, while so acting, shall have and may exercise the functions conferred or imposed upon the chairman in his capacity as a member of the Council.

(2) The member of the Council referred to in clause 1 (1) (b) may nominate a person to act for him as a member of the Council and the person so nominated, while so acting, shall have and may exercise the functions conferred or imposed as a member of the Council upon the person for whom he acts.

(3) A member of the Council referred to in clause 1 (1) (c) or (d) may nominate a person to act for him as his deputy in the case of his illness or in his absence from a meeting of the Council and any deputy so nominated, while so acting, shall have and may exercise the functions conferred or imposed as a member of the Council upon the member for whom he acts.

Term of office.

3. A person nominated by the Minister for membership of the Council shall be appointed for a term of not more than 5 years, and shall be eligible for reappointment from time to time upon the expiration of his term of office.

Remuneration.

4. A member of the Council shall be entitled to receive such remuneration, including allowances and fees for his services, as may be fixed from time to time by the Minister with respect to him.

Vacancies in offices of members.

5. (1) A member of the Council appointed on the nomination of the Minister shall be deemed to have vacated his office if he—

- (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE
COUNCIL—*continued.*

- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) resigns his office by writing under his hand addressed to the Minister;
- (e) is absent from 3 consecutive meetings of the Council otherwise than with leave granted by the Council; or
- (f) is removed from office by the Governor.

(2) Where a vacancy occurs (otherwise than by the retirement of a member on the expiration of his term of office) in the office of a member of the Council appointed on the nomination of the Minister, the Governor may, on the nomination of the Minister, appoint a person to fill the vacancy, and that person shall hold office during the remainder of the term of office of the member whose office he fills.

(3) During any vacancy in the membership of the Council the remaining members may conduct the business of the Council as if no vacancy existed.

(4) The Governor may, for any cause which to him seems sufficient, remove a member of the Council referred to in subclause (1) from office.

Quorum for meetings.

6. Six members of the Council (including the chairman) shall constitute a quorum for the purposes of any meeting of the Council and any duly convened meeting of the Council at which a quorum is present shall be capable of exercising any of the functions conferred or imposed upon the Council by this Act.

Decisions of Council.

7. (1) A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present shall be the decision of the Council.

(2) The chairman of the Council shall, in the event of an equality of votes, have in addition to a deliberative vote, a second or casting vote.

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO MEMBERSHIP AND PROCEDURE OF THE COUNCIL—*continued.*

Procedure.

8. Subject to this Schedule, the Council may regulate its own proceedings.

SCHEDULE 2.

(Sec. 12 (3).)

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES.

Interpretation: Sch. 2.

1. In this Schedule—

“appointed member” means a member other than the person referred to in clause 2 (1) (a);

“member” means a member of a training committee.

Composition of training committees.

2. (1) Training committees shall each consist of the following members:—

- (a) the person for the time being holding or acting in the office of Director;
- (b) an equal number of representatives of employers and employees respectively nominated in the prescribed manner by employers or associations or industrial unions of employers and by industrial unions of employees, each of whom has consented to his nomination; and
- (c) the Director-General of Technical and Further Education or a person nominated by him to be a member, who shall—
 - (i) be deemed not to be a member for the purposes of section 43 (3) and clauses 8 and 9; and
 - (ii) not be considered to be an appointed member within the meaning of this Schedule.

(2) A person nominated under section 43 (1) to be the chairman of a training committee shall, while he is acting as chairman of the committee, be deemed, except for the purposes of section 43 (3), to be a member of that committee, but shall not be considered to be an appointed member within the meaning of this Schedule.

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.***Qualifications for certain members.**

3. (1) A person may be appointed as a member of—
- (a) a training committee assigned functions under section 13 (2) with respect to apprenticeships in a trade or trades—only if he is or has been engaged in, or is acquainted with, that trade or those trades; or
 - (b) a training committee before it has been assigned any such functions—only if he is or has been engaged in, or is acquainted with, a trade or trades.

(2) Notwithstanding subclause (1), where, by reason of the lack of a representative of employers or employees, it is not possible for the commission to establish a training committee or to appoint a member to a vacancy on a training committee, the commission may appoint to the committee any person whom it considers to be acquainted with an appropriate trade or appropriate trades as a representative of employers or employees, as the case may require, and any person so appointed shall be deemed to comply with the requirements made with respect to him by clause 2 (b).

Oath to be taken.

4. (1) Subject to subclause (2), upon his appointment each member shall take the oath prescribed.

(2) Where a person has taken the prescribed oath upon his appointment as a member, he shall not, upon his subsequent appointment as a member, be required to take that oath again if he has been recorded as having taken that oath in a register kept by the Director under subclause (3).

(3) The Director shall keep a register of the names of persons who have taken oaths in compliance with subclause (1).

Term of office.

5. An appointed member shall hold office until—
- (a) he resigns his office as a member;
 - (b) the association or industrial union by which he was nominated to be a member notifies the Director that his nomination has been withdrawn; or
 - (c) the training committee of which he is a member is dissolved by the commission under section 12 (1) (b).

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SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEMBERS OF TRAINING COMMITTEES—*continued.*

Deputy or alternate members.

6. (1) Subject to his having the qualifications required of an appointed member by clause 3 (1), one or more deputy or alternate members may be appointed in the prescribed manner to act in the office of an appointed member in prescribed circumstances.

(2) Any act, matter or thing done by a deputy or alternate member while he is acting in the office of an appointed member shall be deemed to have been done by the appointed member.

Filling of certain vacancies.

7. (1) Where from any cause an appointed member ceases to hold his office, the commission may, subject to clause 3 (1), appoint a person to the vacancy so created.

(2) Where a person is appointed under clause 3 (2) or subclause (1) to a vacancy on a training committee, the committee as newly constituted may continue the hearing of, and may determine any partly heard, proceedings before it.

Remuneration.

8. All members may be reimbursed such fares and out of pocket expenses as are approved by the Minister.

Publication of appointments.

9. (1) Every appointment of a member shall be published in the Industrial Gazette.

(2) A copy of the Industrial Gazette containing a notice of the appointment of a member purporting to have been published pursuant to this Act shall be conclusive evidence that the person named in the notice was legally appointed to the office so named and had power to act in that office, and that appointment shall not be challenged for any cause.

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SCHEDULE 3.

(Sec. 57.)

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1969, No. 37 ..	Apprentices Act, 1969	The whole Act.
1970, No. 52 ..	Supreme Court Act, 1970	So much of the Second Schedule as amends Act No. 37, 1969.
1974, No. 72 ..	Technical and Further Education Act, 1974.	So much of Schedule 2 as amends Act No. 37, 1969.
1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amends Act No. 37, 1969.
1976, No. 54 ..	Miscellaneous Acts (Inspectors) Amendment Act, 1976.	Section 7.
1979, No. 31 ..	Apprentices (Amendment) Act, 1979	The whole Act.
1980, No. 24 ..	Miscellaneous Acts (Education Commission) Repeal and Amendment Act, 1980.	So much of Schedule 2 as amends Act No. 37, 1969.
1980, No. 186 ..	Apprentices (Amendment) Act, 1980	The whole Act.
1980, No. 187 ..	Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.	So much of Schedule 1 as amends Act No. 37, 1969.

SCHEDULE 4.

(Sec. 58.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation.

1. (1) In this Schedule—

“former Act” means the Apprentices Act, 1969;

“the commencement” means the commencement of this Schedule.

(2) For the purposes of this Schedule, a training committee corresponds with an apprenticeship committee established under the former Act if members of the apprenticeship committee (other than the Director of Apprenticeship) are deemed by clause 4 (a) to be members of the training committee.

(3) Except as provided in this Schedule, nothing in this Schedule limits any saving made by the Interpretation Act, 1897.

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SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***New South Wales Apprenticeship Council.**

2. On the commencement—

- (a) a person who, immediately before the commencement, held office as a member of the New South Wales Apprenticeship Council under section 9 (2) (d) or (e) of the former Act shall, subject to this Act, be deemed, until the expiration of the term of office for which he was appointed as such a member, to be a member of the New South Wales Apprenticeship Council appointed under clause 1 (1) (c) or (d), respectively, of Schedule 1; and
- (b) any nomination made under section 9 (4) of the former Act, being a nomination in force immediately before the commencement, shall be deemed to be made under clause 2 (2) of Schedule 1.

Apprenticeship supervisors.

3. On the commencement—

- (a) a person who, immediately before the commencement, held office as an apprenticeship supervisor under section 68 (1) of the former Act shall be deemed to be an apprenticeship supervisor appointed under section 9;
- (b) an assignment of duties made under section 68 (2) (d) of the former Act and in force immediately before the commencement shall be deemed to be an assignment of duties made by the Director under section 10 (1) (d); and
- (c) any permission of the Minister granted before the commencement under section 68A (3) of the former Act shall be deemed to be a permission granted under section 11 (3).

Apprenticeship training committees.

4. On the commencement—

- (a) an apprenticeship committee established under the former Act before the commencement, and which has not been dissolved before the commencement, shall be deemed to be an apprenticeship training committee established under section 12 (1) (a) and a person (other than the Director of Apprenticeship) who, immediately before the commencement, held office as a member or a deputy or alternate member of any such apprenticeship committee shall be deemed to be appointed, in accordance with this Act and the regulations, as

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SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

a member or a deputy or alternate member, respectively, of that training committee;

- (b) a training committee established by the operation of paragraph (a) shall be deemed to be assigned functions under section 13 (2) with respect to all apprenticeships, conditions of employment in which were, immediately before the commencement, prescribed by provisions set forth in the form of an award made under the former Act by its corresponding apprenticeship committee or by the commission on appeal under that Act from an award so made;
- (c) a matter submitted to the commission by an apprenticeship committee under section 18 (10) of the former Act before the commencement, not being a matter that may be dealt with by an apprenticeship conciliation committee, shall be deemed to have been submitted by the corresponding training committee under section 14 (4);
- (d) a notice of appointment of—
 - (i) a member of an apprenticeship committee, purporting to have been published under section 17 (13) of the former Act; or
 - (ii) a member of a conciliation committee, who was, immediately before 1st July, 1969, a member of an apprenticeship council by reason of the operation of section 19 (3) of the Principal Act, as then in force, purporting to have been published under section 18 (10) of that Act,

shall, where the person is deemed under paragraph (a) to be appointed as a member of a training committee, be deemed to be sufficient publication of his appointment to the training committee and shall be deemed to have been published pursuant to this Act; and

- (e) a reference of a matter to an apprenticeship committee by the Apprenticeship Commissioner under section 18 (5) of the former Act before the commencement may, where it is a matter of a kind which may be referred to a training committee by the Director, be treated as a reference of the matter to the corresponding training committee by the Director under section 20.

Director and Deputy Director of Apprenticeship.

5. (1) The person holding the office of Director of Apprenticeship under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed under section 17 as the Director.

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SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) The person holding the office of Deputy Director of Apprenticeship under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed under section 18 (1) as the Deputy Director of Apprenticeship.

Saving of certain approvals and orders.

6. (1) Any approval given under section 28 (2), 29 (2) or 30 (2) of the former Act before the commencement by the Director of Apprenticeship or an apprenticeship committee, being, in the case of an approval under section 28 (2) or 30 (2) of the former Act, an approval with respect to a probationer or trainee apprentice not above the age of 21 years, shall, on the commencement, be deemed to have been given under section 23 (2), 25 (3) or 29 (2), respectively, by the Director or the corresponding training committee.

(2) Any order made under section 28 (2) of the former Act before the commencement by an apprenticeship committee, being an order with respect to a probationer not above the age of 21 years, shall, on the commencement, be deemed to have been made under section 23 (2) by the corresponding training committee.

Saving of certain applications.

7. (1) An application for approval to establish an apprenticeship made under section 28 (1) or 30 (1) of the former Act but not disposed of before the commencement shall, on the commencement, be deemed to be an application in the prescribed form for approval to establish an apprenticeship made under section 23 (1) or 29 (1), respectively.

(2) An application for approval to assign an indenture of apprenticeship made under section 29 (2) of the former Act but not disposed of before the commencement shall, on the commencement, be deemed to be an application in the prescribed form for approval to assign that indenture made under section 25 (2).

Saving of certain certificates, etc.

8. (1) A certification of an indenture made or a certificate issued, before the commencement, under section 32 (1) (a) or (b) of the former Act shall, on the commencement, be deemed to be a certification of an indenture made or a certificate issued in the prescribed form under section 28 (1) or 29 (5), respectively.

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SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) A certificate of proficiency issued, before the commencement, under section 32 (2) of the former Act shall, on the commencement, be deemed to be a certificate issued in the prescribed form under section 19 (2).

(3) A determination made, or certificate issued, before the commencement under section 37 (3) or (5), respectively, of the former Act shall, on the commencement, be deemed to be a determination made by a training committee under section 35 (3) or a certificate issued in the prescribed form under section 35 (5).

(4) The Director shall, on the application of a person who was an apprentice under an indenture deemed by the operation of subclause (1) to be certified under section 28 (1), issue a certificate to that person in the form prescribed for the purposes of section 28 (1).

(5) Any certificate issued by the Director pursuant to subclause (4) shall be deemed to be issued under section 28 (1).

Continuation of proceedings.

9. (1) Where, before the commencement, an apprenticeship committee had commenced under any provision of the former Act to deal with any matter and the corresponding training committee is empowered by this Act to deal with matters of a like nature, that training committee may, after the commencement, deal with and dispose of the matter as if the matter had been commenced under this Act.

(2) Where, before the commencement, an apprenticeship supervisor, the Director of Apprenticeship, an industrial magistrate or the commission had commenced under any provision of the former Act to deal with any matter and he or it is empowered by this Act to deal with matters of a like nature, the supervisor, Director, industrial magistrate or the commission, as the case may be, may, after the commencement, deal with and dispose of the matter as if the matter had been commenced under this Act.

Prescription of certain trades.

10. (1) Subject to subclause (2), where—

- (a) immediately before the commencement, a prescription of a trade is made in provisions deemed by clause 4 of Schedule 9 to the Industrial Arbitration (Apprenticeship) Amendment Act, 1981, to comprise an award made by an apprenticeship conciliation committee; or

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SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) after the commencement, a prescription of a trade is made in the negotiated provisions of an award by the commission, a conciliation commissioner or an apprenticeship conciliation committee,

that prescription shall, for the purposes of section 21 (1), be deemed to be made by a regulated provision of the award.

(2) Subclause (1) ceases to have effect with respect to an award upon the commencement of any regulated provision of the award made under this Act which expressly prescribes a trade for the purposes of section 21 (1).

Saving of certain regulations.

11. (1) Any regulation in force under the former Act immediately before the commencement shall, on the commencement, be deemed to have been made under section 54.

(2) A reference in a regulation referred to in subclause (1) to the former Act or to a provision of the former Act shall be construed as a reference to this Act or the corresponding provision of this Act, respectively.

Saving of certain amendments.

12. The amendments made by section 5 (2) of, and the Second Schedule to, the former Act which had effect immediately before the commencement shall have the same effect as they would have had if this Act had not been enacted.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
By Deputation from
His Excellency the Governor.

Government House,
Sydney, 3rd June, 1981.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

