

**BOARD OF VOCATIONAL EDUCATION AND TRAINING  
ACT 1994 No. 33**

NEW SOUTH WALES



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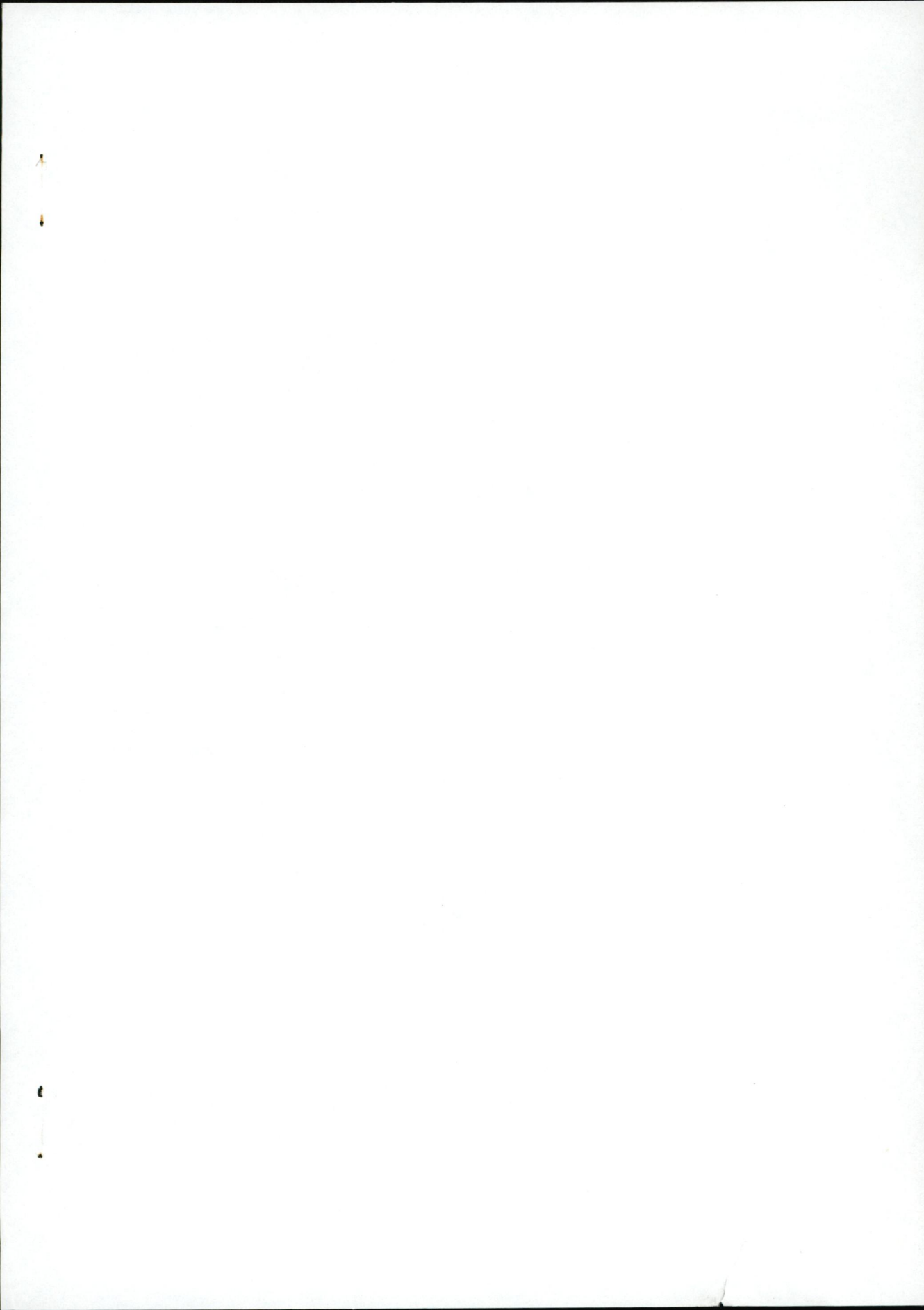
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**BOARD OF VOCATIONAL EDUCATION AND TRAINING  
ACT 1994 No. 33**

**NEW SOUTH WALES**



**Act No. 33, 1994**

An Act to establish the New South Wales Board of Vocational Education and Training and to define its objects and functions; and for other purposes. [Assented to 2 June 1994]

The Legislature of New South Wales enacts:

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the Board of Vocational Education and Training Act 1994.

### Commencement

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

### Definitions

3. (1) In this Act:

“**appointed member**” means a member of the Board appointed by the Minister as referred to in section 5 (2) (d);

“**Board**” means the New South Wales Board of Vocational Education and Training constituted by section 5;

“**Commonwealth Act**” means the Australian National Training Authority Act 1992 of the Commonwealth;

“**function**” includes a duty; “**confer a function**” includes impose a duty; “**exercise a function**” includes perform a duty;

“**National Statement**” means the statement set out in Schedule 1 to the Commonwealth Act, being the statement entitled “A National Vocational Education and Training System”, the text of which was agreed to by the Commonwealth and the States and published on 21 July 1992.

(2) In this Act, “**National Strategic Plan**”, “**State Training Agency**”, and “**State Training Profile**” have the same meanings as they have in the National Statement.

### Object of Act

4. The object of this Act is to establish the New South Wales Board of Vocational Education and Training as the body to be nominated by the Minister as the State Training Agency for the purposes of the Commonwealth Act.



## **PART 2—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING**

### **Constitution of the Board**

5. (1) There is by this Act constituted a corporation under the corporate name of the New South Wales Board of Vocational Education and Training.

(2) The Board is to consist of 9 part-time members, of whom:

- (a) one is to be the Director-General of the Department of Industrial Relations, Employment, Training and Further Education; and
- (b) one is to be the Managing Director of the TAFE Commission; and
- (c) one is to be the Executive Director of the Ministry of Education and Youth Affairs; and

(d) six are to be persons appointed by the Minister.

(3) The appointed members must be persons who, in the opinion of the Minister, have the necessary expertise to enable them to make a valuable contribution to the work and activities of the Board.

(4) One of the appointed members is, by the instrument of the member's appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board.

(5) Schedule 1 has effect with respect to the members and procedure of the Board.

(6) The Board is, for the purposes of any Act, taken to be a statutory body representing the Crown.

### **Objects of the Board**

6. The Board has the following objects:

- (a) to advise the Minister on State vocational and education training policies in the context of State and national priorities and objectives;
- (b) to promote and develop, in collaboration with other agencies, a State vocational education and training system delivering high quality and nationally recognised programs;
- (c) to prepare, in collaboration with industry and vocational education and training providers, State Training Profiles based on the National Strategic Plan and agreed planning parameters, for approval by the Minister;

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- (d) to recommend to the Minister the allocation of resources, including funding, to achieve optimal effectiveness and efficiency in the State's vocational education and training system;
- (e) to co-ordinate the provision of data on the performance of the State vocational education and training system to the Minister as required;
- (f) to prepare such plans and reports as may be required by the Minister;
- (g) to liaise with the Australian National Training Authority and with the State Training Agencies of other States and Territories;
- (h) to commission and conduct inquiries and foster research in vocational education and training;
- (i) to promote and develop, in consultation with the Vocational Education and Training Accreditation Board, a co-ordinated and effective State system for the accreditation of courses and registration of education and training providers;
- (j) to encourage the development of innovative programs and best practices and the creation of new partnerships between the consumers of vocational education and training and public and private providers;
- (k) in collaboration with other agencies, to develop effective communication mechanisms for the dissemination of information about State and national developments in vocational education and training;
- (l) to advise and make recommendations on any matter referred to the Board by the Minister.

### **Functions of the Board**

#### **7. (1) The Board:**

- (a) has such functions as are necessary or convenient to enable it to achieve its objects; and
- (b) has such other functions as are conferred on it by or under this or any other Act or law.

(2) In the exercise of its functions, the Board is subject to the control and direction of the Minister.

### **Minister may nominate the Board to be State Training Agency**

8. The Minister may, by order, nominate the Board as the State Training Agency for New South Wales for the purposes of the Commonwealth Act.

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**Advisory committees**

9. (1) The Board may establish advisory committees to assist it in the exercise of its functions.

(2) Any or all of the members of an advisory committee may be persons who are not members of the Board.

(3) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

**Delegation by the Board**

10. The Board may delegate to any person or body the exercise of any of its functions, other than this power of delegation.

**PART 3—MISCELLANEOUS**

**Exclusion of personal liability**

11. A matter or thing done or omitted to be done by the Board, a member of the Board or any person acting under the direction of the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act or law, subject the member or a person so acting personally to any action, liability, claim or demand.

**Amendment of other Acts**

12. Each Act in Schedule 2 is amended as set out in that Schedule.

**Review of Act**

13. (1) The Minister is to review this Act to determine whether the policy objectives of this Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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**SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND  
TRAINING**

(Sec. 5)

**Part 1—Members of the Board**

**Terms of office**

1. An appointed member of the Board holds office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

**Remuneration**

2. A member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Acting members and acting Chairperson**

3. (1) The Minister may appoint a person to act in the office of an appointed member during the illness or absence of the appointed member, and the acting member, while so acting, has and may exercise all the functions of the appointed member and is taken to be an appointed member.

(2) A person, in order to be appointed as an acting appointed member, must be qualified for appointment in the same way as the member for whom he or she is acting.

(3) The Minister may appoint a member of the Board to act in the office of Chairperson during the illness or absence of the Chairperson, and the acting Chairperson, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.

(4) A person who is acting as an appointed member of the Board, or as the Chairperson, is entitled, while so acting, to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) The Minister may at any time and for any reason remove a person from office as an acting appointed member or acting Chairperson.

(6) For the purposes of this clause, a vacancy in the office of an appointed member is taken to be an absence from office of the member.

**Filling of vacancy in office of a member**

4. If the office of an appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

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SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND  
TRAINING—*continued*

**Casual vacancies**

5. (1) An appointed member is taken to have vacated office if the member:
- (a) dies; or
  - (b) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings; or
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - (d) becomes a mentally incapacitated person; or
  - (e) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
  - (f) resigns office by instrument in writing addressed to the Minister; or
  - (g) is removed from office by the Minister under subclause (2).
- (2) The Minister may at any time and for any reason remove a person from office as appointed member of the Board.
- (3) The Chairperson is taken to have vacated office as Chairperson if the person:
- (a) resigns office by instrument in writing addressed to the Minister; or
  - (b) ceases to be a member of the Board.

**Conflict of interests**

6. (1) If:
- (a) a member of the Board has an interest in a matter being considered or about to be considered at a meeting of the Board; and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body; or
  - (b) is a partner, or is in the employment, of a specified person; or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

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**SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING—*continued***

(3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purpose of the making of a determination by the Board under subclause (4), a member of the Board who has an interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

**Effect of certain other Acts**

7. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the Board and a member of the Board is not, as a member, subject to that Act.

(2) If by or under any other Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

that provision does not operate to disqualify the person from holding that office and also the office of a member of the Board or from accepting and retaining any remuneration payable to the person under this Act as a member of the Board.

**Part 2—Procedure of the Board**

**General procedure**

8. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Board.

**Quorum**

9. The quorum for a meeting of the Board is 5 members, of whom one must be the Chairperson.



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SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING—*continued*

**Presiding member**

10. (1) The Chairperson is to preside at a meeting of the Board.
- (2) The Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

11. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**Minutes**

12. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

**First meeting**

13. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 2—AMENDMENT OF OTHER ACTS

(Sec. 12)

**Industrial and Commercial Training Act 1989 No. 77**

- (1) Long title:
- (a) Omit “the Industrial and Commercial Training Council and”.
  - (b) Omit “those bodies”, insert instead “that body”.
- (2) Section 4 (Definitions):
- (c) From section 4 (1), omit the definitions of “advisory committee”, “Council” and “recognised educational establishment”.
  - (d) After the definition of “Department” in section 4 (1), insert:
 

**“Director-General”** means the Director-General of the Department;
- (3) Part 2, Division 1:
- Omit the Division.
- (4) Section 22 (Vocational training orders):
- Omit “Council” wherever occurring, insert instead “Director-General”.

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (5) Section 23 (**Vocational training guidelines**):  
From section 23 (1), omit “Council”, insert instead “Director-General”.
- (6) Section 37 (**Courses of studies**):  
(a) Omit section 37 (1).  
(b) From section 37 (2), omit “any such”, insert instead “a required”.
- (7) Section 55 (**Courses of studies**):  
(a) Omit section 55 (1).  
(b) From section 55 (2), omit “any such”, insert instead “a required”.
- (8) Part 6, Division 1:  
Omit the Division.
- (9) Section 86 (**Appeals**):  
(a) From section 86 (j), omit “trade; or”, insert instead “trade.”.  
(b) Omit section 86 (k).
- (10) Section 98 (**Liability**):  
(a) Omit section 98 (a).  
(b) From section 98 (e), omit “the Council.”.  
(c) From section 98, omit “any member of the Council.”.
- (11) Section 99 (**Reports**):  
Omit the section.
- (12) Schedules 1, 2:  
Omit the Schedules.
- (13) Schedule 6 (**Savings, transitional and other provisions**):  
(a) At the end of clause 1 (1), insert:  
Board of Vocational Education and Training Act 1994.  
(b) From clause 1 (2), omit “this Act”, insert instead “the Act concerned”.  
(c) After Part 2, insert:  
**Part 3—Provisions consequent on the enactment of the Board of Vocational Education and Training Act 1994**

**Definitions**

15. In this Part:

“amending Act” means the Board of Vocational Education and Training Act 1994.

*Board of Vocational Education and Training Act 1994 No. 33*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

**Dissolution of the Council**

16. (1) The Industrial and Commercial Training Council is dissolved.  
 (2) The assets and liabilities of the Council become the assets and liabilities of the Crown.  
 (3) A reference in any Act or instrument to the Industrial and Commercial Training Council is taken to include a reference to the Director-General.

**Vocational training orders and guidelines**

17. A vocational training order or vocational training guideline that was in force immediately before the commencement of this clause is taken to be a vocational training order or vocational training guideline in force under this Act, as amended by the amending Act.

**Public Finance and Audit Act 1983 No. 152**

Schedule 2 (Statutory bodies):

Insert, in alphabetical order:

New South Wales Board of Vocational Education and Training.

**Vocational Education and Training Accreditation Act 1990 No. 120**

(1) Section 4 (Definitions):

- (a) In section 4 (1), insert in alphabetical order:

“declared calling” has the same meaning as it has in the Industrial and Commercial Training Act 1989;

“declared trade” has the same meaning as it has in the Industrial and Commercial Training Act 1989;

“official university” has the same meaning as it has in section 4 of the Higher Education Act 1988;

- (b) From the definition of “education or training provider” in section 4 (1), omit “(other than an official university within the meaning of section 4 of the Higher Education Act 1988)”.

- (c) From section 4 (1), omit the definition of “relevant authority”, insert instead:

“relevant authority”, in relation to a vocational course, means a person or body prescribed by the regulations in relation to that course;

(2) Section 5 (Constitution of the Board):

Omit section 5 (5).

(3) Section 12 (Accreditation):

- (a) From section 12 (2), omit “for accreditation”, insert instead “under subsection (1)”.



*Board of Vocational Education and Training Act 1994 No. 33*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

(b) After section 12 (2), insert:

(2A) The Board may, on the application of any person, accredit a vocational course relating to a declared trade or declared calling, whether or not the applicant is an education or training provider and whether or not the course is currently being conducted by an education or training provider.

(2B) An application under subsection (2A):

- (a) must specify the vocational course or courses to which it relates; and
- (b) must be in such form, and must be accompanied by such fee, as the Board may determine.

(c) At the end of section 12 (4), insert:

; and

(c) specifying the resources that are necessary for the conduct of the course.

(d) In section 12 (5), after “vocational course”, insert “the subject of an application under subsection (1)”.

(e) After section 12 (5), insert:

(6) The Board may not refuse to accredit a vocational course the subject of an application under subsection (2A) except on the following grounds:

- (a) that the course is not of sufficient quality to warrant accreditation; or
- (b) that the course does not comply with the relevant guidelines.

(4) Section 13 (**Withdrawal of accreditation**):

(a) From section 13 (1) (a), omit “conducted by an education or training provider”.

(b) In section 13 (2), after “vocational course”, insert “(being a course in respect of which accreditation has been granted on the basis of an application under section 12 (1) or 15 (1))”.

(c) After section 13 (2), insert:

(3) The Board may not withdraw accreditation from a vocational course (being a course in respect of which accreditation has been granted on the basis of an application under section 12 (2A) or 15 (2A)) except on the following grounds:

- (a) that the course is no longer of sufficient quality to warrant accreditation; or
- (b) that the course no longer complies with the relevant guidelines.

*Board of Vocational Education and Training Act 1994 No. 33*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

(5) Section 14 (**Decisions generally**):

- (a) From section 14, omit “the education or training provider concerned” wherever occurring, insert instead “the person or body (if any) on whose application accreditation is sought or was granted”.
- (b) From section 14 (1) (b), omit “the education or training provider”, insert instead “the person or body”.

(6) Section 15 (**Accreditation**):

- (a) From section 15 (2), omit “for accreditation”, insert instead “under subsection (1)”.
- (b) After section 15 (2), insert:
  - (2A) An authorised accrediting body may, on the application of any person, accredit a vocational course relating to a declared trade or declared calling, whether or not the applicant is an education or training provider and whether or not the course is currently being conducted by an education or training provider.
  - (2B) An application under subsection (2A):
    - (a) must specify the vocational course or courses to which it relates; and
    - (b) must be in such form, and must be accompanied by such fee, as the authorised accrediting body may, in accordance with its authority, determine.
- (c) At the end of section 15 (4), insert:
  - ; and
  - (c) specifying the resources that are necessary for the conduct of the course.
- (d) In section 15 (5), after “vocational course”, insert “the subject of an application under subsection (1)”.
- (e) After section 15 (5), insert:
  - (5A) An authorised accrediting body may not refuse to accredit a vocational course the subject of an application under subsection (2A) except on the following grounds:
    - (a) that the course is not of sufficient quality to warrant accreditation; or
    - (b) that the course does not comply with the relevant guidelines.

(7) Section 16 (**Withdrawal of accreditation**):

- (a) In section 16 (1), after “person”, insert “or body”.

*Board of Vocational Education and Training Act 1994 No. 33*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (b) In section 16 (2), after “vocational course”, insert “(being a course in respect of which accreditation has been granted on the basis of an application under section 15 (1))”.
- (c) After section 16 (2), insert:
- (2A) An authorised accrediting body may not withdraw accreditation from a vocational course (being a course in respect of which accreditation has been granted on the basis of an application under section 15 (2A)) except on such of the grounds referred to in section 13 (3) as are specified in its authority.
- (8) Section 17 (**Decisions generally**):
- (a) From section 17, omit “the education or training provider concerned” wherever occurring, insert instead “the person or body (if any) on whose application accreditation is sought or was granted”.
- (b) From section 17 (1) (b), omit “the education or training provider”, insert instead “the person or body”.
- (9) Section 19 (**Notification of change of name or address**):
- After “vocational course”, insert “in respect of which the provider is accredited or registered under this Act”.
- (10) Section 20:
- Omit the section, insert instead:
- Register of accredited courses and education or training providers**
20. The Board is to maintain a register in which the following particulars are recorded:
- (a) the title of each vocational course that is accredited under this Part;
- (b) the name and address of each education or training provider in respect of which a vocational course is accredited under this Part;
- (c) such other matters as the Board may determine.
- (11) Section 21 (**Evidentiary certificates**):
- From section 21 (b), omit “in relation to a specified education or training provider”.
- (12) Section 22 (**Transitional provisions**):
- After section 22 (4), insert:
- (5) A vocational course that is conducted by a registered education or training provider whose registration is suspended or withdrawn continues to be an accredited course (in respect of any person who, in the opinion of the Board, had substantially completed the course before the registration was suspended or withdrawn) until the person completes, fails or withdraws from the course.



*Board of Vocational Education and Training Act 1994 No. 33*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

(13) Section 22C (**Registration or approval**):

(a) After section 22C (6) (c), insert:

(c1) in the case of a course that includes matter the subject of proprietary rights (such as copyright), that the provider is not lawfully entitled to the benefit of those rights;

(b) After section 22C (6), insert:

(7) Subject to section 22P, an official university may not be registered as an education or training provider.

(14) Section 22D (**Variation, suspension or withdrawal of registration or approval**):

After section 22D (3) (g), insert:

(g1) in the case of a course that includes matter the subject of proprietary rights (such as copyright), that the provider is not lawfully entitled to the benefit of those rights;

(15) Section 22F (**Registration or approval**):

(a) After section 22F (6) (c), insert:

(c1) in the case of a course that includes matter the subject of proprietary rights (such as copyright), that the provider is not lawfully entitled to the benefit of those rights;

(b) After section 22F (6), insert:

(7) Subject to section 22P, an official university may not be registered as an education or training provider.

(16) Section 22P:

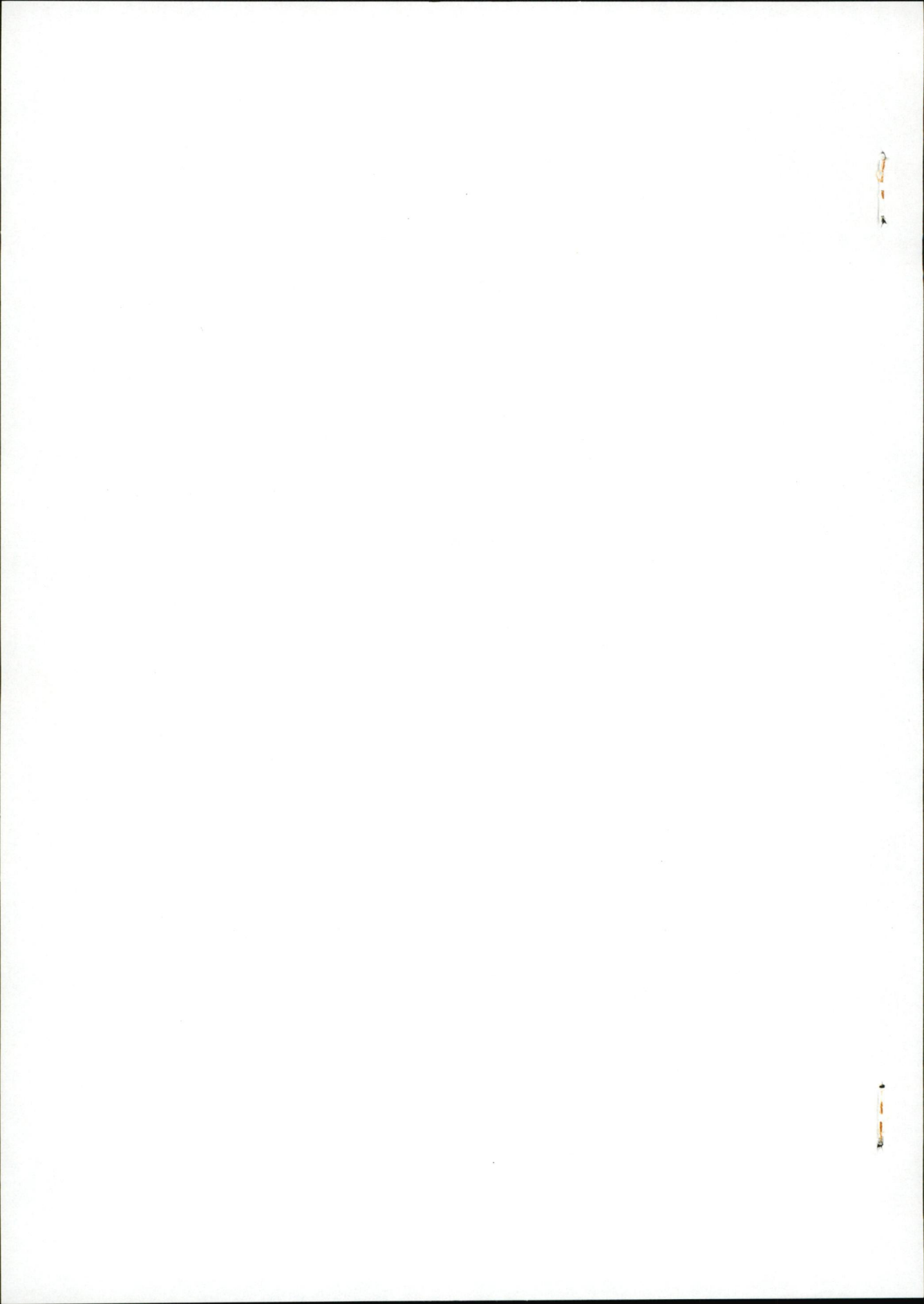
After section 22O, insert:

**Universities taken to be registered providers in relation to certain vocational courses**

22P. An official university is taken to be a registered provider of the vocational courses conducted by it in connection with declared trades and declared callings.

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[Minister's second reading speech made in—  
Legislative Assembly on 3 May 1994  
Legislative Council on 12 May 1994]



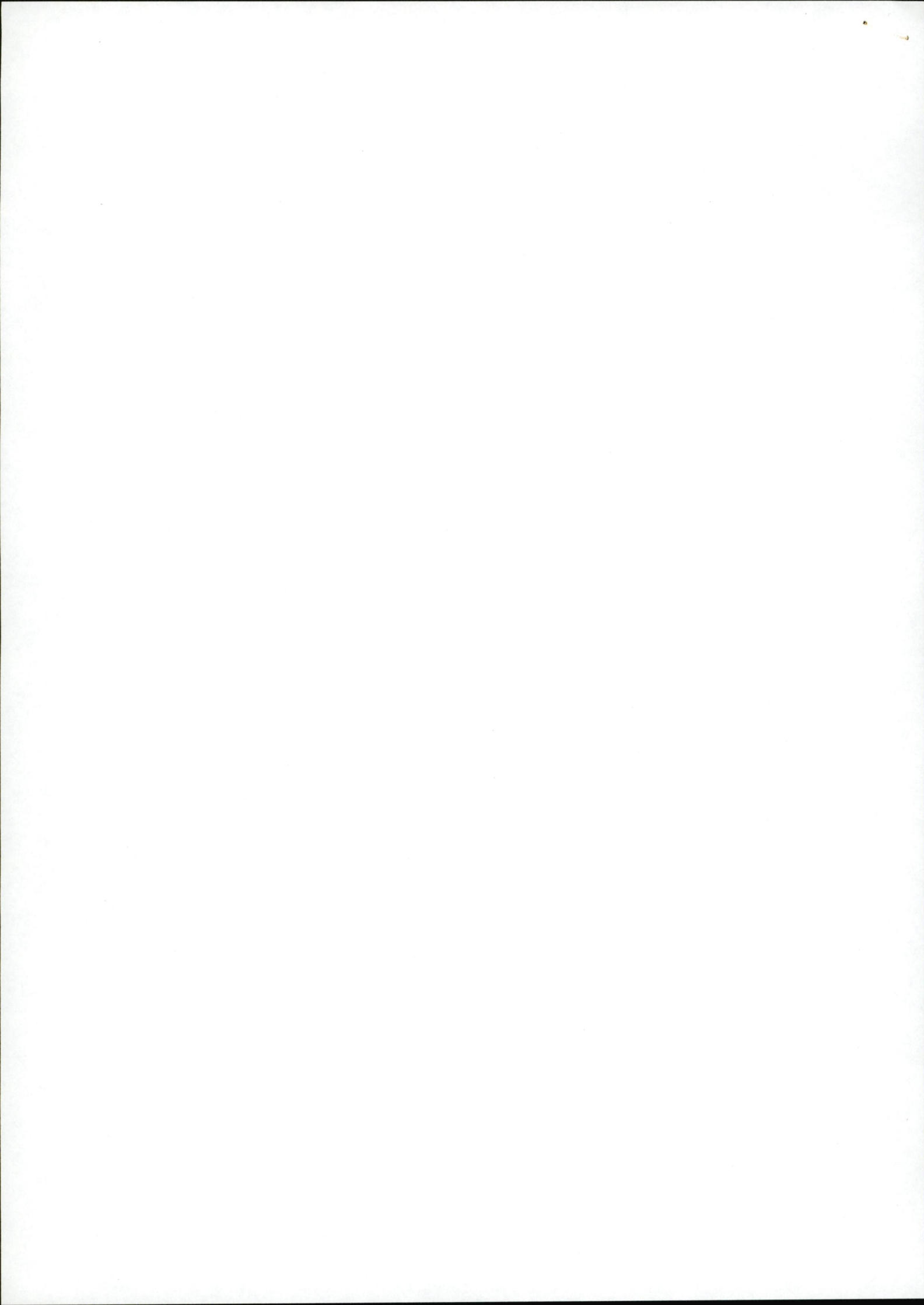
1.

MR PRESIDENT,

THE INTRODUCTION OF THE BOARD OF VOCATIONAL EDUCATION AND TRAINING BILL REPRESENTS A MAJOR MILESTONE IN THE REFORM OF THE VOCATIONAL EDUCATION AND TRAINING SYSTEM IN THIS STATE.

OVER THE LAST FOUR YEARS OR SO, THERE HAS BEEN A MAJOR FOCUS BY ALL GOVERNMENTS IN AUSTRALIA ON THE REFORM OF VOCATIONAL TRAINING. THERE HAS BEEN UNPRECEDENTED NATIONAL AGREEMENT THAT INVESTMENT IN THIS AREA REPRESENTS ONE OF THE MOST SIGNIFICANT WAYS TO IMPROVE OUR NATIONAL ECONOMIC PERFORMANCE.

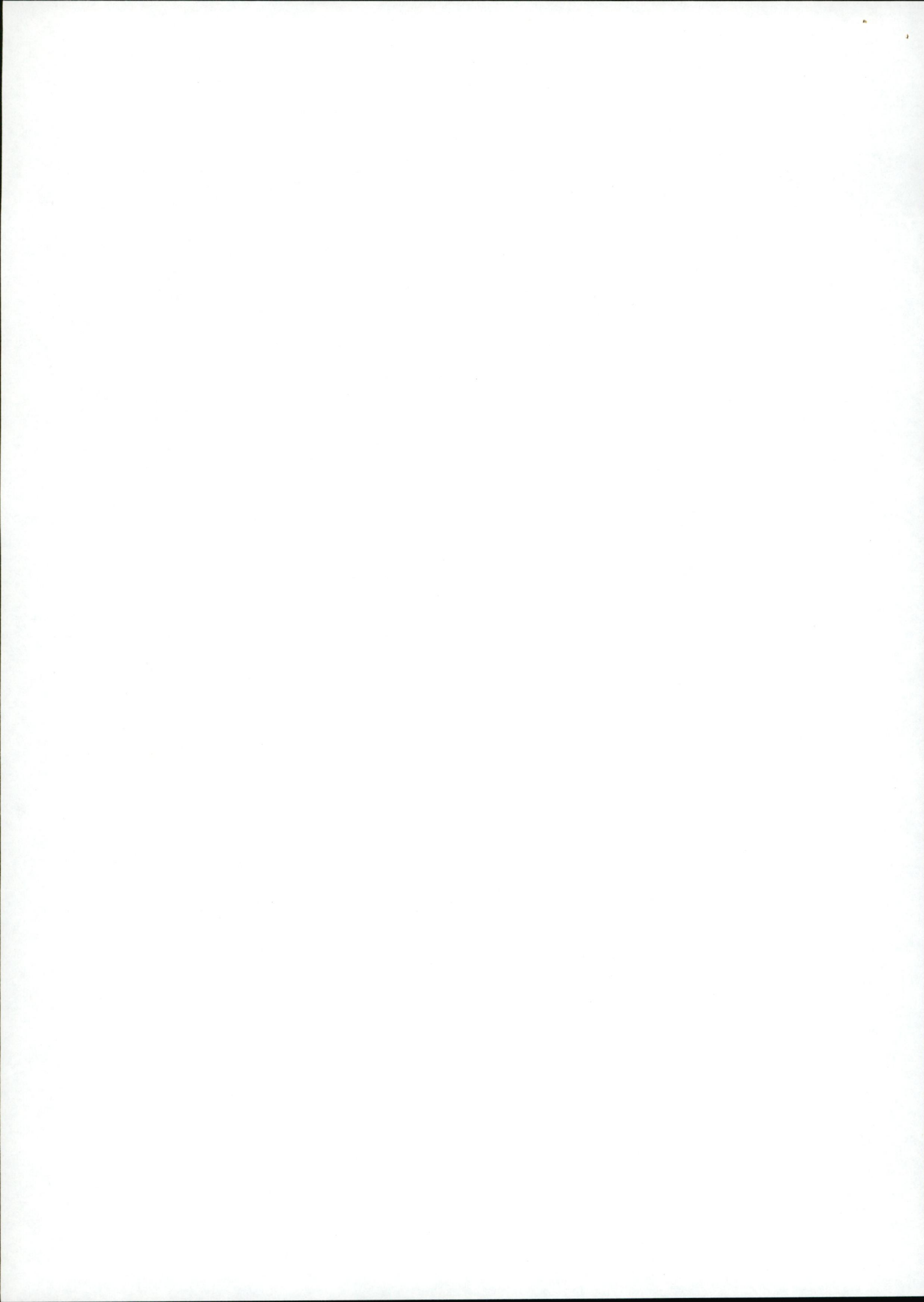
THE GROWING NATIONAL CONSENSUS ON THE IMPORTANCE OF THE VOCATIONAL EDUCATION AND TRAINING SYSTEM HAS BEEN INFLUENCED OVER RECENT YEARS BY THE PUBLICATION OF 3 MAJOR REPORTS.



2.

IN 1989, STATE AND COMMONWEALTH MINISTERS COMMISSIONED THE DEVESON COMMITTEE TO REPORT ON *THE TRAINING COSTS OF AWARD RESTRUCTURING*. THIS REPORT PREDICTED A MAJOR EXPANSION OF BOTH PUBLICLY AND PRIVATELY FUNDED TRAINING AND ADVOCATED THAT THIS EXPANSION SHOULD BE ACCOMPANIED BY STRUCTURAL REFORMS TO PROMOTE A COMPETITIVE TRAINING MARKET AND THE ESTABLISHMENT OF NATIONALLY CONSISTENT ARRANGEMENTS FOR THE ACCREDITATION AND RECOGNITION OF TRAINING.

THE REPORT RECOGNISED THAT GOVERNMENT ALONE COULD NOT FUND THE EXPANSION OF TRAINING REQUIRED TO MEET AUSTRALIA'S FUTURE SKILL NEEDS.

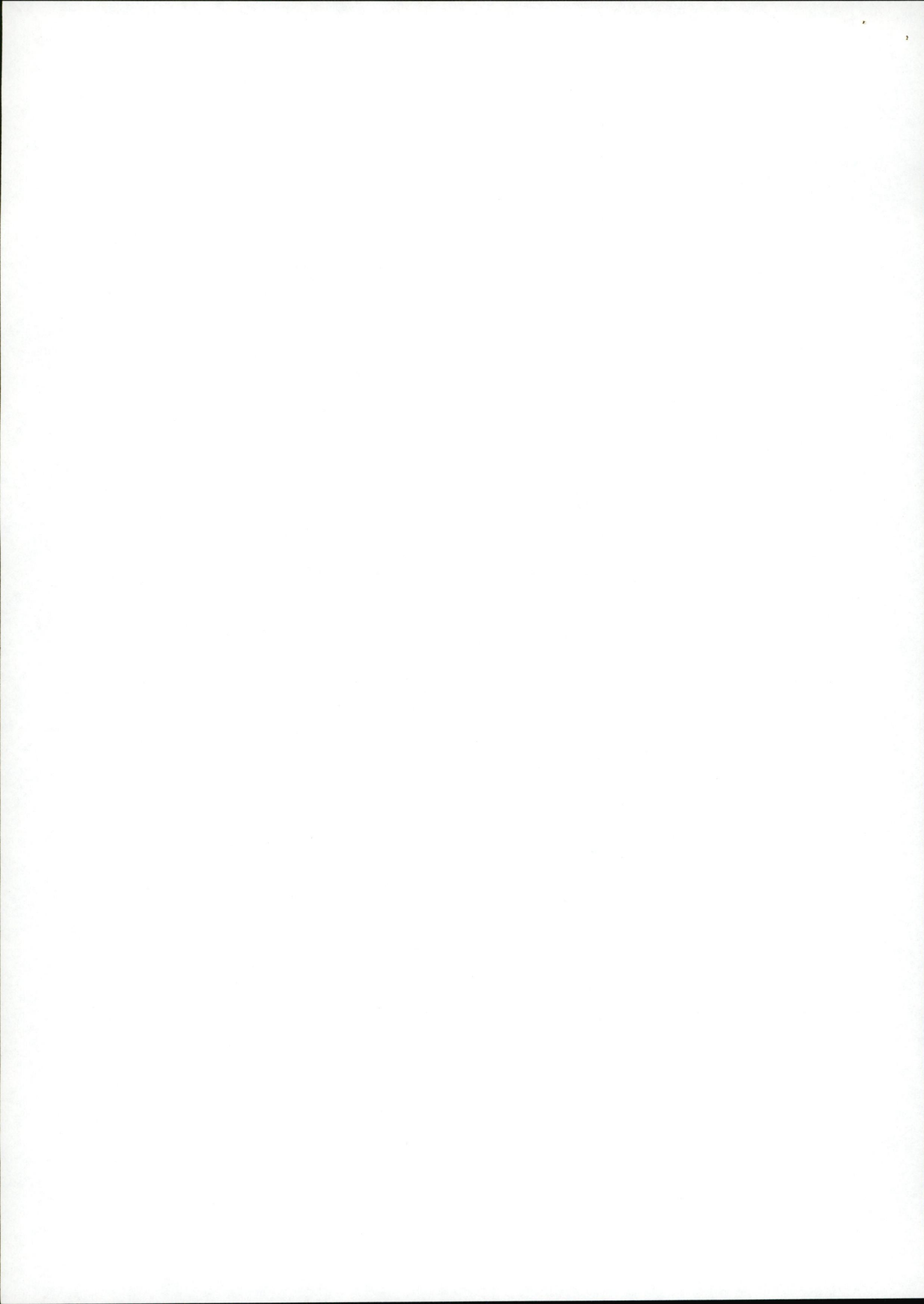




3.

SECONDLY, THE FINN REPORT ON *YOUNG PEOPLE'S PARTICIPATION IN POST-COMPULSORY EDUCATION AND TRAINING* SET TARGETS FOR TRAINING AND EDUCATIONAL PARTICIPATION, AND ALSO PROPOSED A SET OF SEVEN KEY COMPETENCIES AS BEING ESSENTIAL FOR YOUNG PEOPLE.

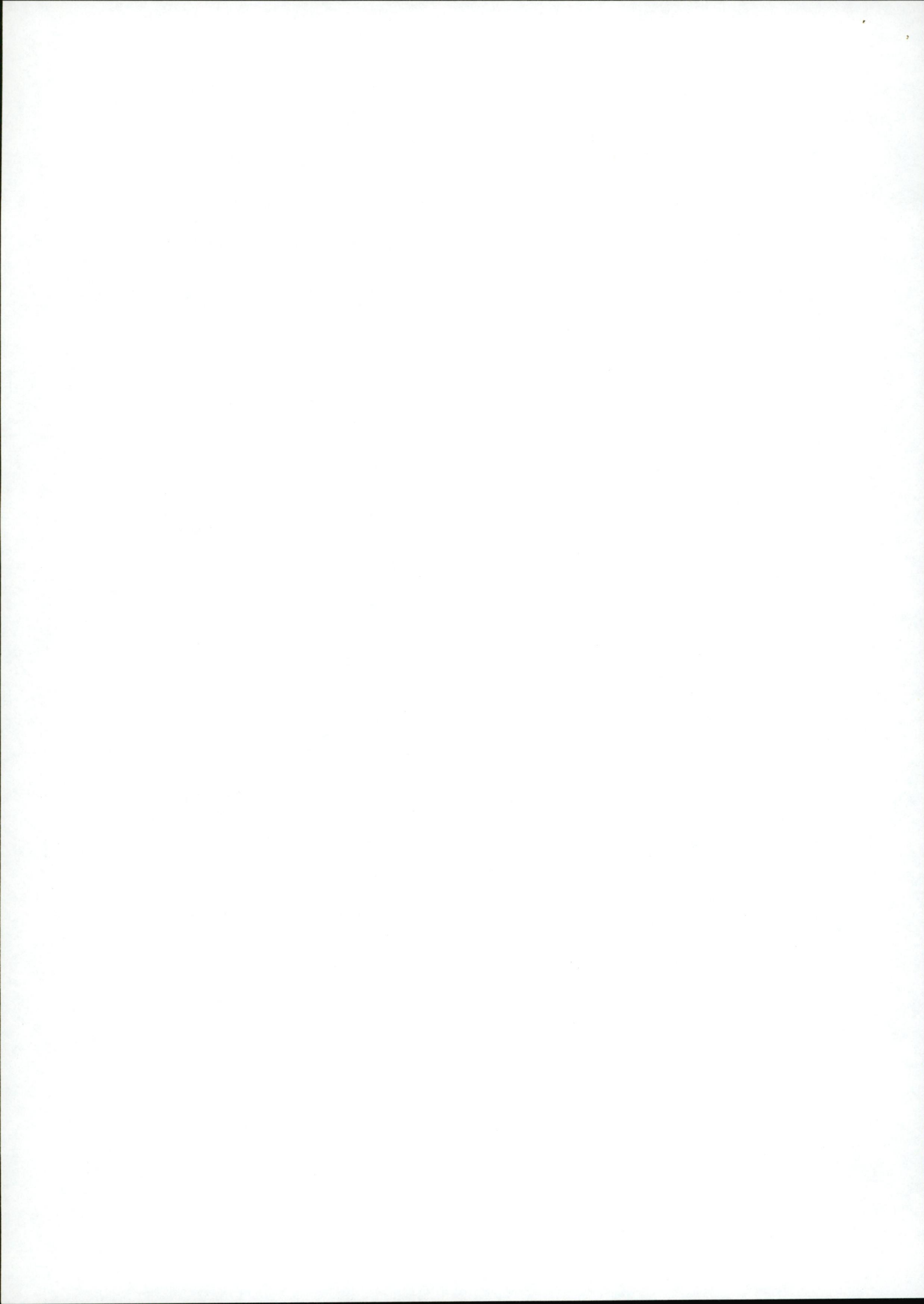
THE THIRD SIGNIFICANT REPORT WAS THE EMPLOYMENT AND SKILL FORMATION COUNCIL'S REPORT ON *THE AUSTRALIAN VOCATIONAL CERTIFICATE TRAINING SYSTEM*. UNLIKE THE FIRST TWO REPORTS, THIS REPORT'S RECOMMENDATIONS ARE YET TO BE FULLY ENDORSED. GOVERNMENTS ARE AWAITING THE RESULTS OF PILOT PROGRAMS BEFORE MAKING FINAL DECISIONS ON THE IMPLEMENTATION OF A NEW ENTRY LEVEL TRAINING SYSTEM, TO EXTEND BEYOND THOSE AREAS CURRENTLY COVERED BY APPRENTICESHIPS AND TRAINEESHIPS.



4.

MR PRESIDENT, SINCE THE LATE 1980'S WE HAVE SEEN AN INCREASING REALISATION OF THE IMPORTANCE OF THE VOCATIONAL TRAINING SECTOR. THE GROWING INTERNATIONALISATION OF OUR ECONOMY AND THE PRESSURES PLACED UPON INDUSTRY DURING THE RECENT RECESSION HAVE SERVED TO HIGHLIGHT THE ABSOLUTE IMPORTANCE OF DEVELOPING A MORE SKILLED WORK FORCE.

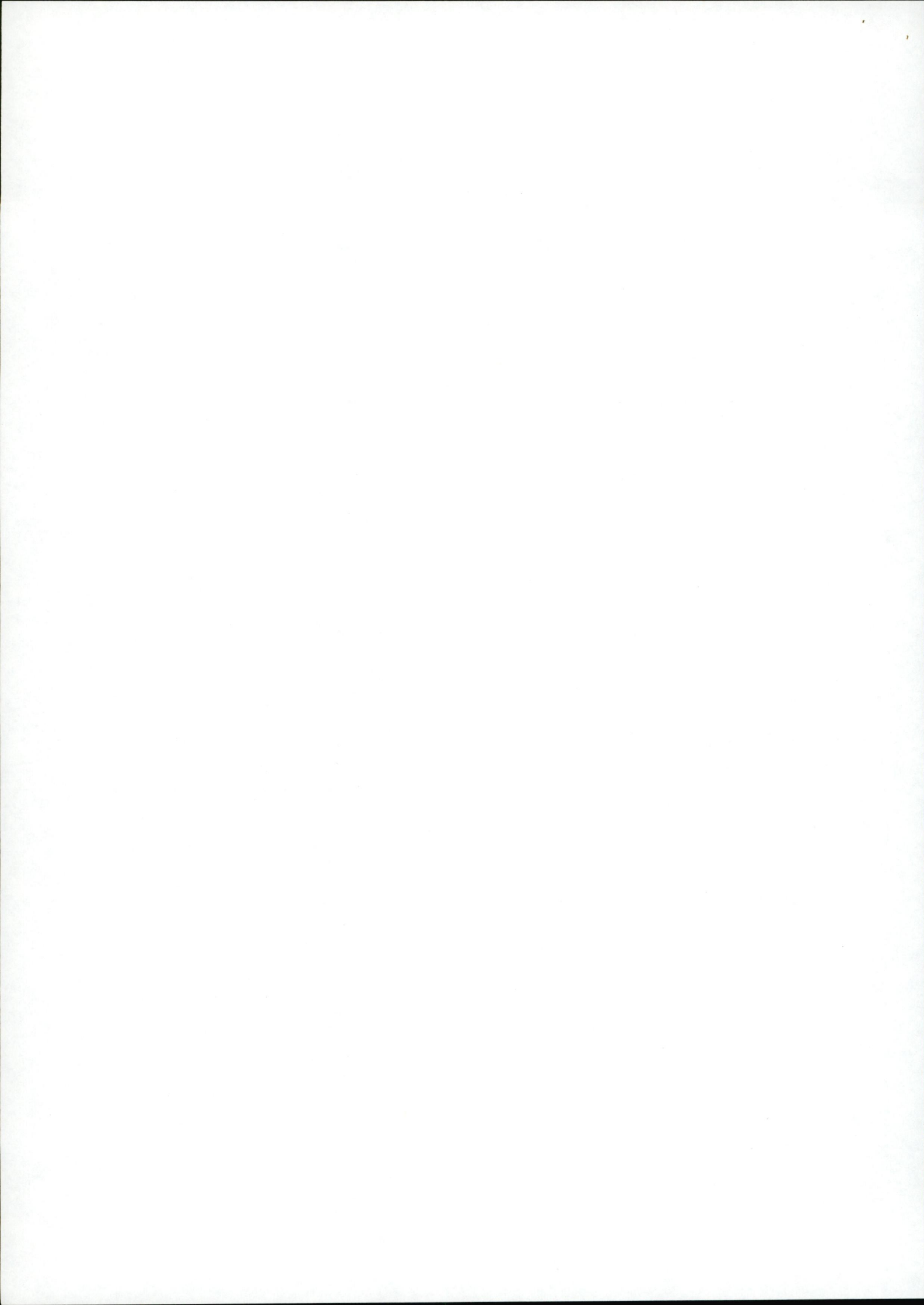
THESE FORCES HAVE ALSO HIGHLIGHTED THE IMPORTANCE OF DEVELOPING TRAINING ARRANGEMENTS WHICH ARE AVAILABLE TO THE WORK FORCE AT LARGE, REGARDLESS OF THEIR AGE, GENDER, LOCATION OR FAMILY CIRCUMSTANCES.



5.

MUCH HAS BEEN ACHIEVED ALREADY IN NEW SOUTH WALES IN THE TRAINING REFORM PROCESS. IN 1989 THIS GOVERNMENT INTRODUCED THE INDUSTRIAL AND COMMERCIAL TRAINING ACT WHICH ESTABLISHED A FRAMEWORK FOR THE BETTER MANAGEMENT OF ENTRY LEVEL TRAINING IN THIS STATE.

IN 1990 THIS GOVERNMENT INTRODUCED MAJOR REFORMS TO LEGISLATION GOVERNING THE NSW TAFE COMMISSION. IT ESTABLISHED AN INDEPENDENT BOARD OF ADULT AND COMMUNITY EDUCATION AND IT ESTABLISHED THE VOCATIONAL EDUCATION AND TRAINING ACCREDITATION BOARD.

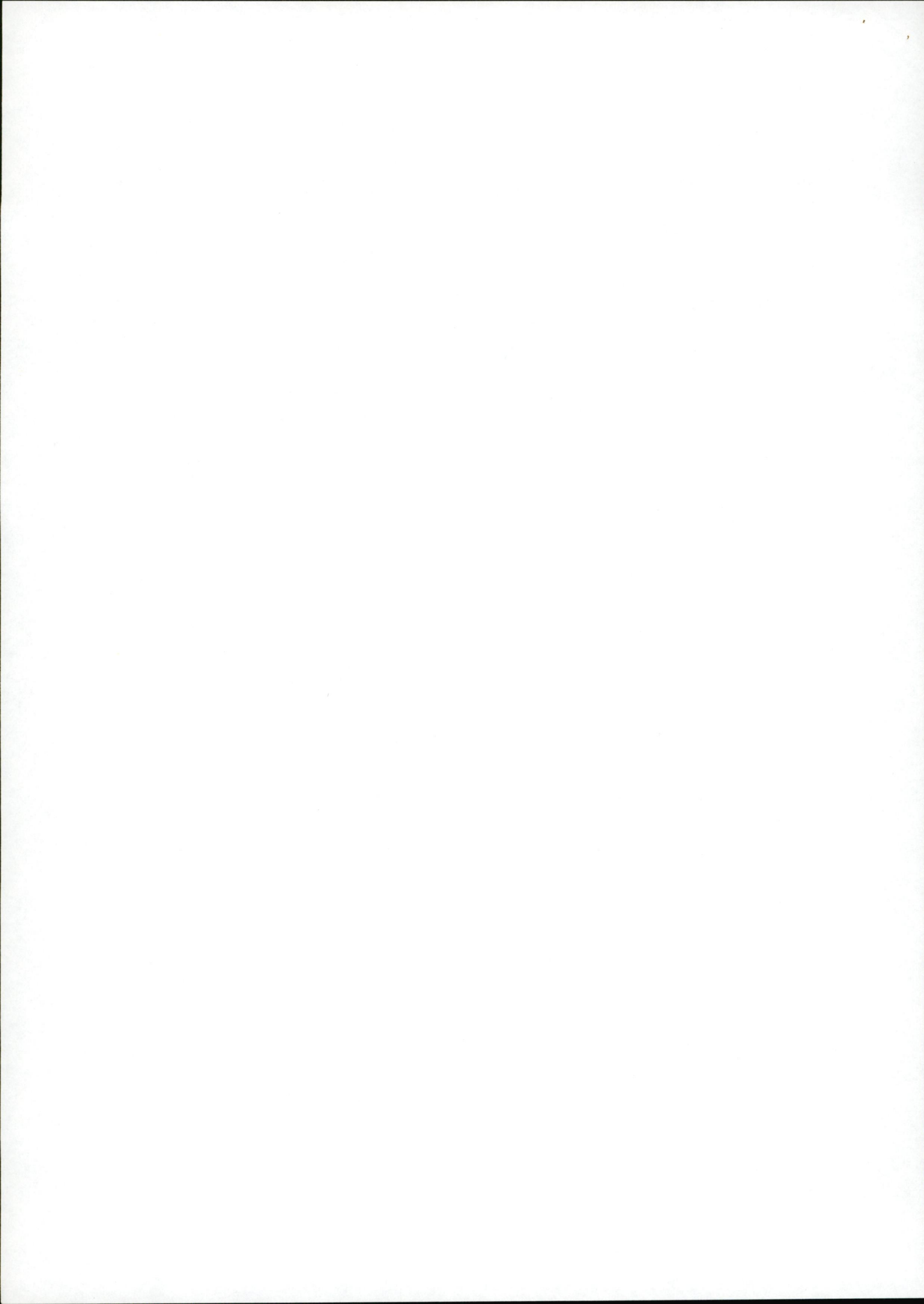




6.

SUCCESSFUL ACHIEVEMENT OF THE NSW TAFE COMMISSION OBJECTIVE TO "PROVIDE QUALITY EDUCATION AND TRAINING" FOR VOCATIONAL EDUCATION AND TRAINING CUSTOMERS IS AN INTEGRAL COMPONENT OF THE OVERALL REFORM PROCESS FOR VOCATIONAL EDUCATION AND TRAINING IN NEW SOUTH WALES.

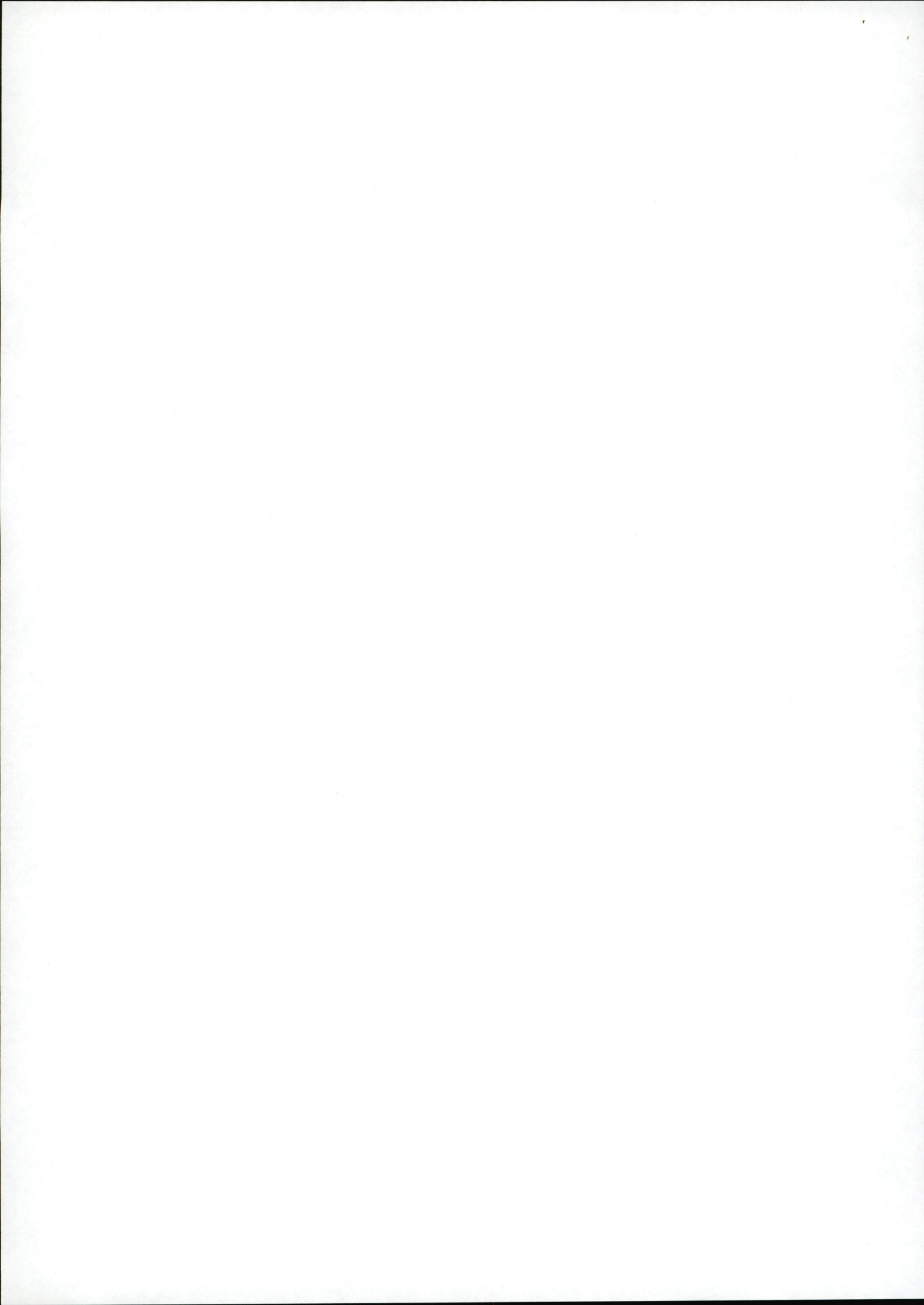
PARTICULARLY RELEVANT IN TERMS OF THE NATIONAL AGREEMENT IS THE TAFE COMMISSION'S CONTINUING EFFORT TO WORK TOWARDS A MORE EFFICIENT TOTAL TRAINING SYSTEM BY COLLABORATIVE EDUCATIONAL AND CAPITAL PLANNING INITIATIVES, SHARING RESOURCES WITH SCHOOLS, UNIVERSITIES, ADULT AND COMMUNITY EDUCATION CENTRES, AND PRIVATE TRAINING PROVIDERS AND REFINING RELATIONSHIPS WITH INDUSTRY CLIENTS.



7.

THE BOARD OF ADULT AND COMMUNITY EDUCATION HAS EXPANDED THE RANGE OF OPPORTUNITIES FOR THE PEOPLE OF NEW SOUTH WALES TO TAKE UP STUDY, MUCH OF IT OF A VOCATIONAL NATURE, FOR THE FIRST TIME, OR TO GET BACK INTO STUDY AFTER AN ABSENCE.

ARRANGEMENTS HAVE BEEN DEVELOPED FOR ENSURING THE QUALITY OF TRAINING THROUGH THE NEW SOUTH WALES VOCATIONAL EDUCATION AND TRAINING ACCREDITATION BOARD. THESE STANDARDS NOW FORM PART OF THE NATIONAL FRAMEWORK FOR THE RECOGNITION OF TRAINING ALLOWING A NATIONALLY RECOGNISED SYSTEM OF TRAINING STANDARDS.

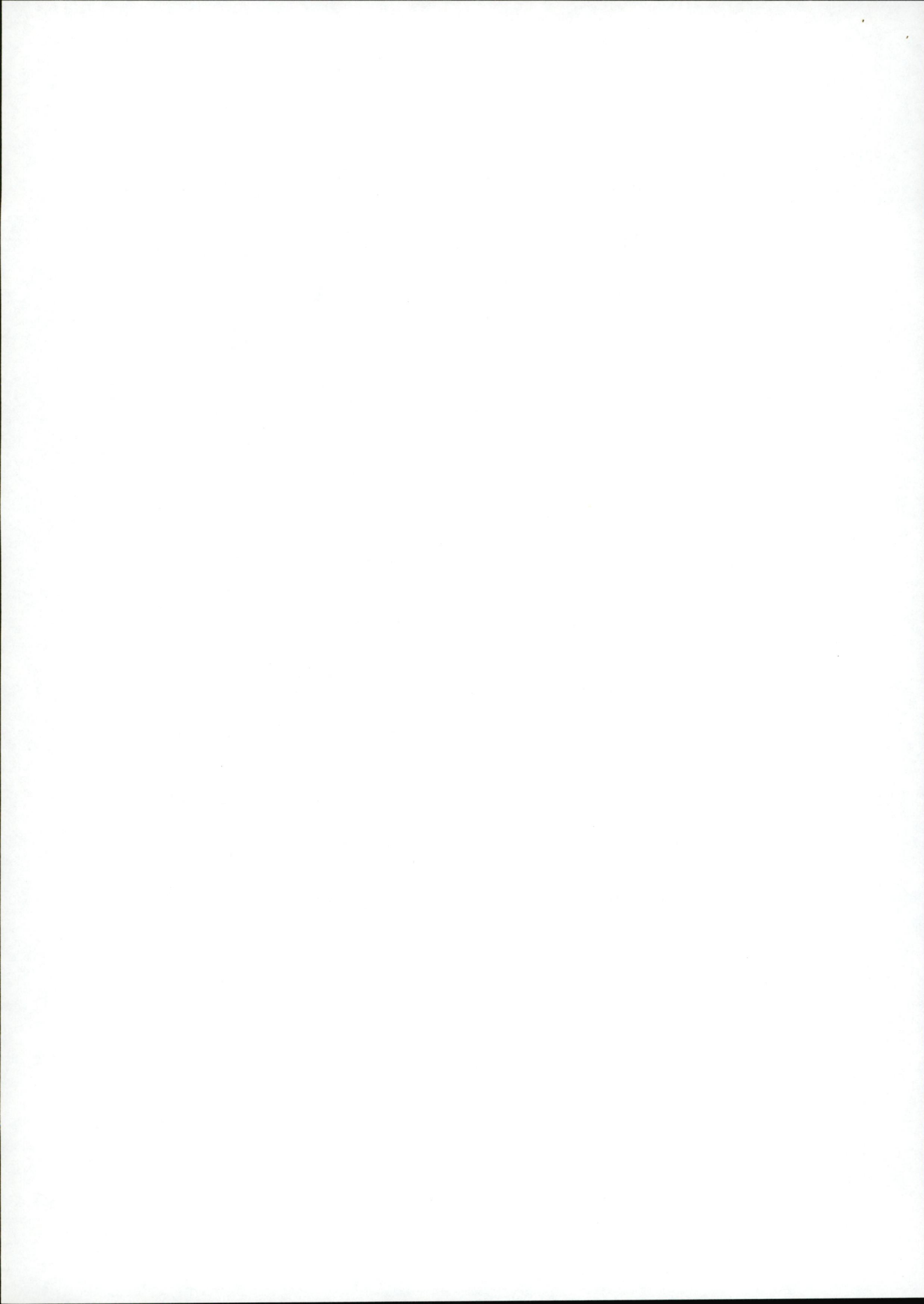




8.

A NEW NATIONAL QUALIFICATIONS FRAMEWORK HAS BEEN RECENTLY AGREED BETWEEN THE STATES AND THE COMMONWEALTH WHICH WILL ENSURE CONSISTENCY IN THE RECOGNITION OF ACCREDITED COURSES, TRAINING PROGRAMS, TRAINING PROVIDERS AND CREDENTIALS HELD BY INDIVIDUALS.

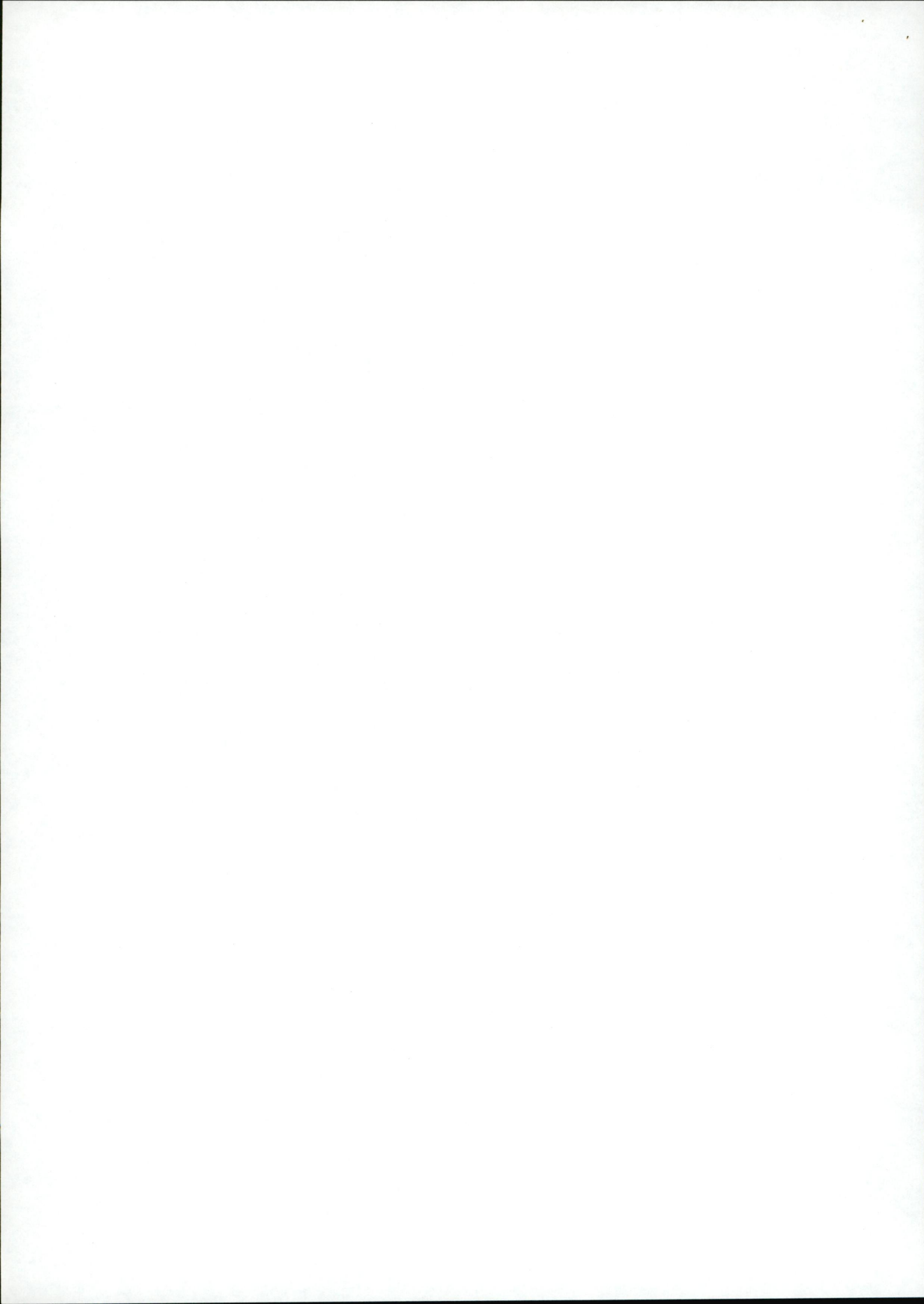
THE MOST SIGNIFICANT OF THE NATIONAL AGREEMENTS NEGOTIATED OVER RECENT YEARS HAS BEEN THE DECISION OF STATES, TERRITORIES AND THE COMMONWEALTH IN JULY 1992 TO ESTABLISH THE AUSTRALIAN NATIONAL TRAINING AUTHORITY, COMMONLY REFERRED TO AS ANTA. THE COMMONWEALTH PASSED LEGISLATION IN 1992 FOR THIS PURPOSE.



9.

ALONG WITH THE COMMONWEALTH GOVERNMENT'S BELATED RECOGNITION OF THE POOR FUNDING DEAL IT HAD DEALT THE STATES IN RELATION TO THE VOCATIONAL EDUCATION AND TRAINING SECTOR CAME A BURST OF RATHER NAIVE ENTHUSIASM TO TAKE OVER THE WHOLE SYSTEM FROM THE STATES.

MR PRESIDENT, THIS GOVERNMENT, ALONG WITH MOST OTHER STATE GOVERNMENTS AT THE TIME, REJECTED THIS OVERTURE ON THE GROUNDS THAT CENTRALISED CONTROL OF THE TRAINING SYSTEM FROM CANBERRA WOULD NOT BE THE BEST WAY TO DEVELOP A FLEXIBLE AND RESPONSIVE SYSTEM.

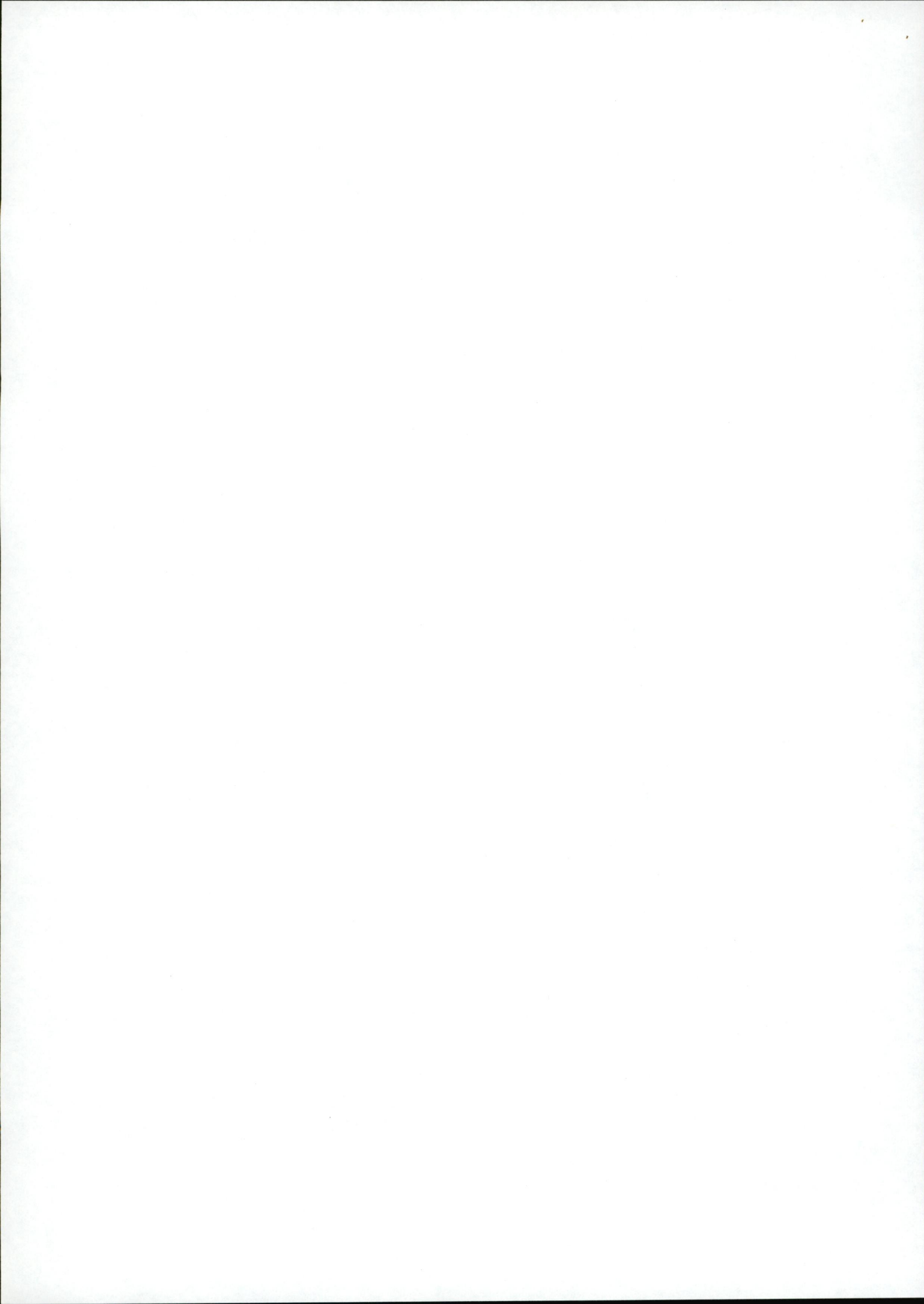




10.

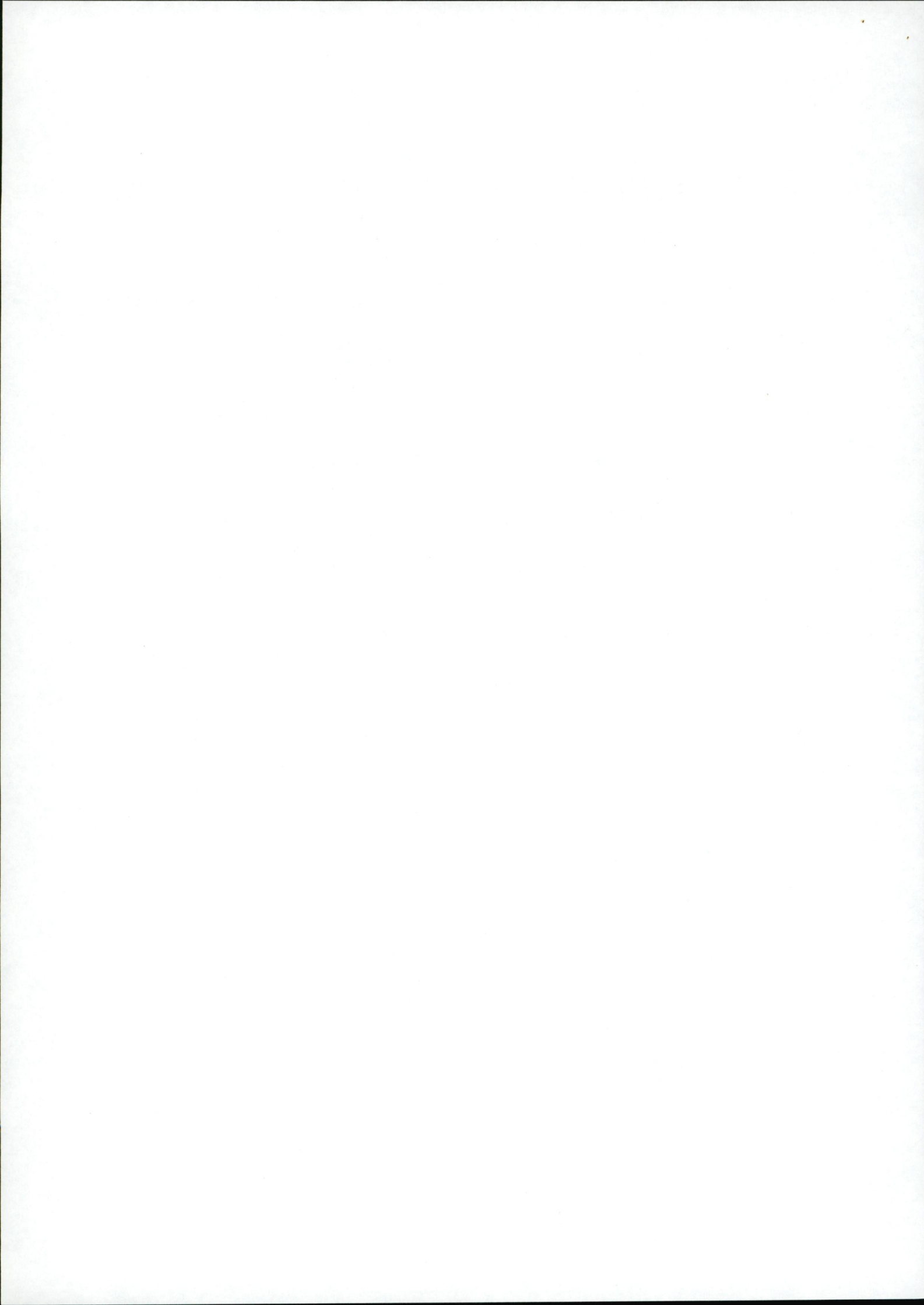
WHAT THIS GOVERNMENT IS ON ABOUT IS DEVELOPING A TRAINING SYSTEM DRIVEN BY MARKET NEEDS RATHER THAN BY BUREAUCRATS; A SYSTEM WHICH ALLOWS FOR NATIONAL CONSISTENCY BUT ALSO RECOGNISES THAT THE STATES HAVE QUITE DIFFERENT INDUSTRY STRUCTURES AND QUITE DIFFERENT TRAINING NEEDS.

IN JULY 1992 THE NOW PREMIER PLAYED A LEADING ROLE IN NEGOTIATING THE ANTA AGREEMENT WITH THE COMMONWEALTH AND THE OTHER STATES AND TERRITORIES. IT BALANCES THE NATIONAL INTERESTS OF THE COMMONWEALTH GOVERNMENT TO SEE A NATIONALLY CONSISTENT SYSTEM, ADDRESSING VALID NATIONAL GOALS FOR VOCATIONAL EDUCATION AND TRAINING, WITH THE STATE'S PRIMARY RESPONSIBILITY TO ENSURE THAT THE SPECIFIC TRAINING NEEDS OF ITS CITIZENS AND ITS ENTERPRISES ARE EFFECTIVELY ADDRESSED THROUGH ITS PUBLICLY FUNDED TRAINING SYSTEM.



MR PRESIDENT, THE ANTA AGREEMENT IS NOT JUST ABOUT NATIONAL CONSISTENCY. IT ALSO REPRESENTS A MEANS BY WHICH MORE FUNDING FOR TRAINING CAN BE CHANNELLED FROM THE COMMONWEALTH TO THE STATES. OVER THE INITIAL THREE YEAR PERIOD OF OPERATION OF THE ANTA AGREEMENT, THE COMMONWEALTH HAS INJECTED AN ADDITIONAL \$720 MILLION OF GROWTH FUNDING INTO NATIONAL VOCATIONAL EDUCATION AND TRAINING.

WHILE THE NEW SOUTH WALES SHARE OF THIS REPRESENTS LESS THAN 10% OF OUR TOTAL STATE EXPENDITURE ON VOCATIONAL EDUCATION AND TRAINING, IT HAS ALLOWED FOR EXPANSION OF TRAINING IN SUCH FIELDS AS HOSPITALITY, COMPUTING, TRANSPORT, BUSINESS ADMINISTRATION, ENGINEERING, HEALTH, COMMUNITY SERVICES AND A WIDE RANGE OF PREPARATORY PROGRAMS.

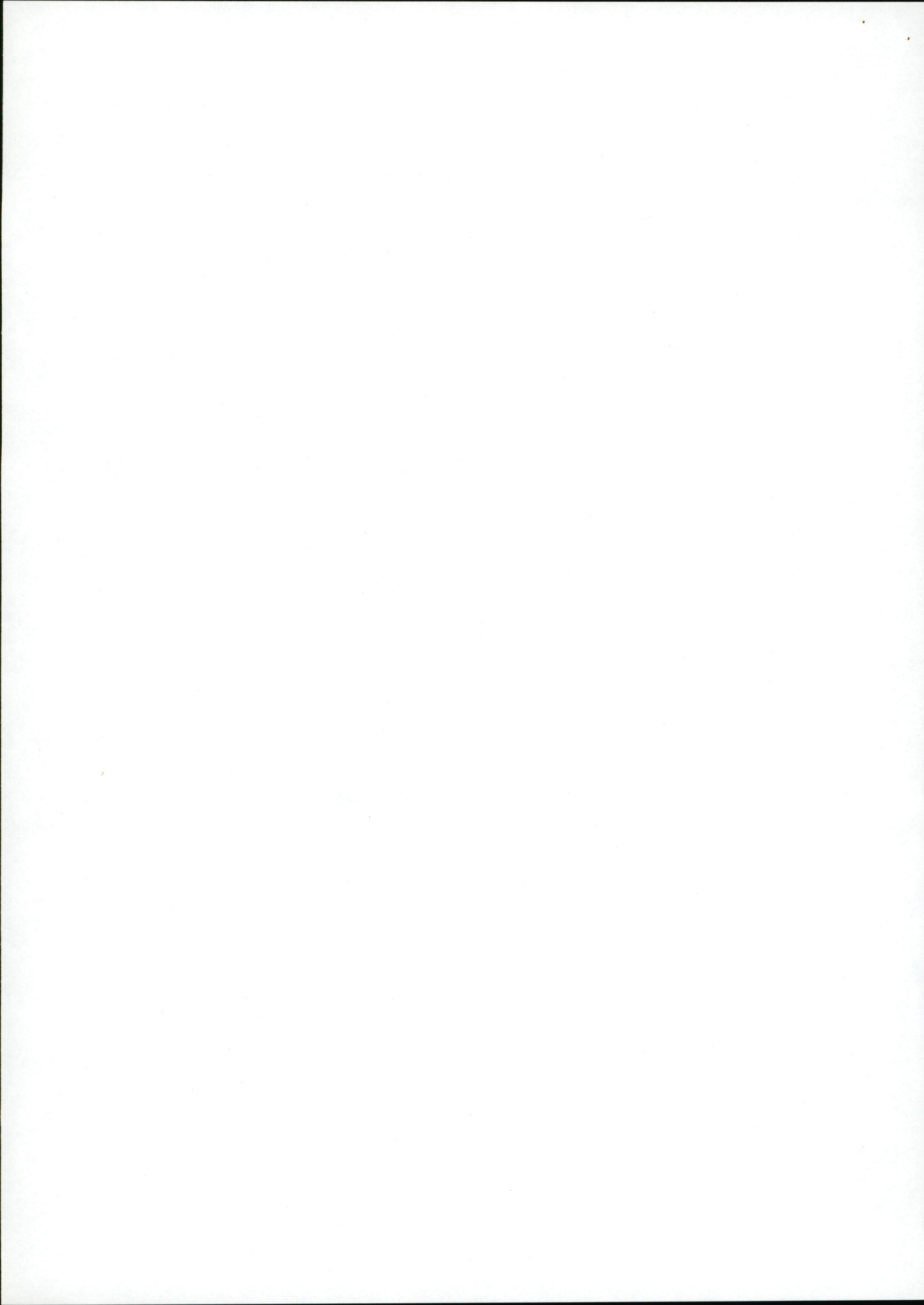




12.

MOST OF THE GROWTH FUNDING RECEIVED SO FAR HAS BEEN ALLOCATED TO THE NEW SOUTH WALES TAFE COMMISSION. HOWEVER, THIS YEAR, IN ACKNOWLEDGMENT OF THE ANTA OBJECTIVES, \$3 MILLION HAS BEEN ALLOCATED TO A PILOT PRIVATE PROVIDER PROGRAM. THIS, MR PRESIDENT, IS A DEMONSTRATION OF THIS GOVERNMENT'S DESIRE TO BROADEN THE TRAINING MARKET AND TO ALLOW FOR CONSISTENCY WITH THE ANTA AGREEMENT OBJECTIVES.

A KEY ASPECT OF THE ANTA AGREEMENT IS THAT THE STATE SHOULD SPEAK WITH ONE VOICE IN ITS NEGOTIATION WITH THE AUSTRALIAN NATIONAL TRAINING AUTHORITY. THE AGREEMENT AND THE COMMONWEALTH LEGISLATION REQUIRE THE ESTABLISHMENT OF A STATE TRAINING AGENCY.

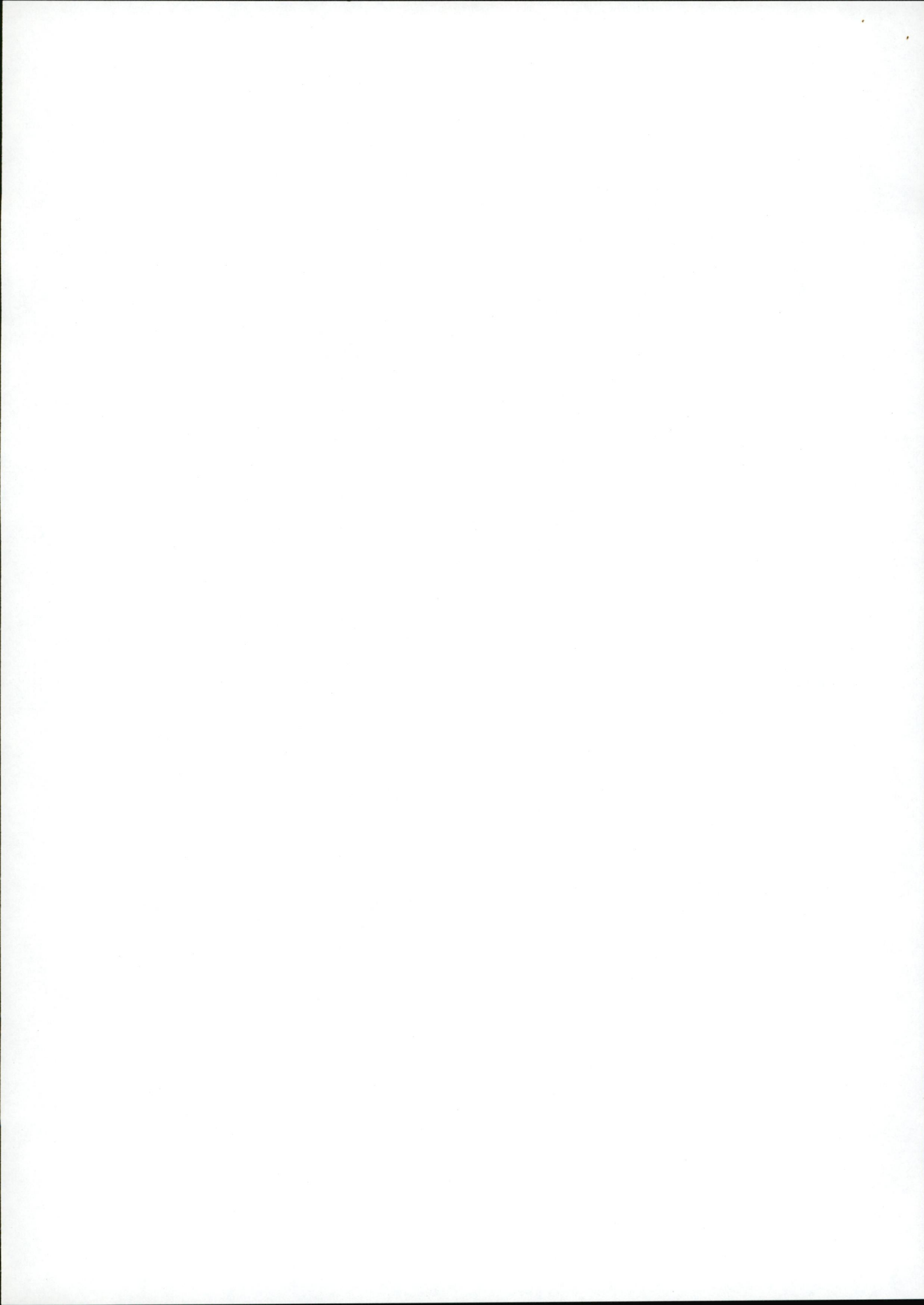


13.

INDEED, CLAUSE 10 OF THAT AGREEMENT STATES THAT THE "RELATIONSHIP BETWEEN STATE TRAINING AGENCIES AND ANTA WILL BE FORMALLY DEFINED IN COMMONWEALTH AND STATE LEGISLATION".

A CENTRAL ROLE OF THIS STATE AGENCY IS TO IDENTIFY THE STATE'S TRAINING PRIORITIES FOR THE COMING YEAR AND TO NEGOTIATE THE STATE'S SHARE OF GROWTH FUNDING WITH ANTA TO MEET THESE PRIORITIES.

AS A RESULT OF THE ANTA AGREEMENT, THE NEW SOUTH WALES GOVERNMENT APPOINTED SIR NICHOLAS SHEHADIE, AC, OBE, TO HEAD UP AN INTERIM NEW SOUTH WALES VOCATIONAL EDUCATION AND TRAINING AGENCY.



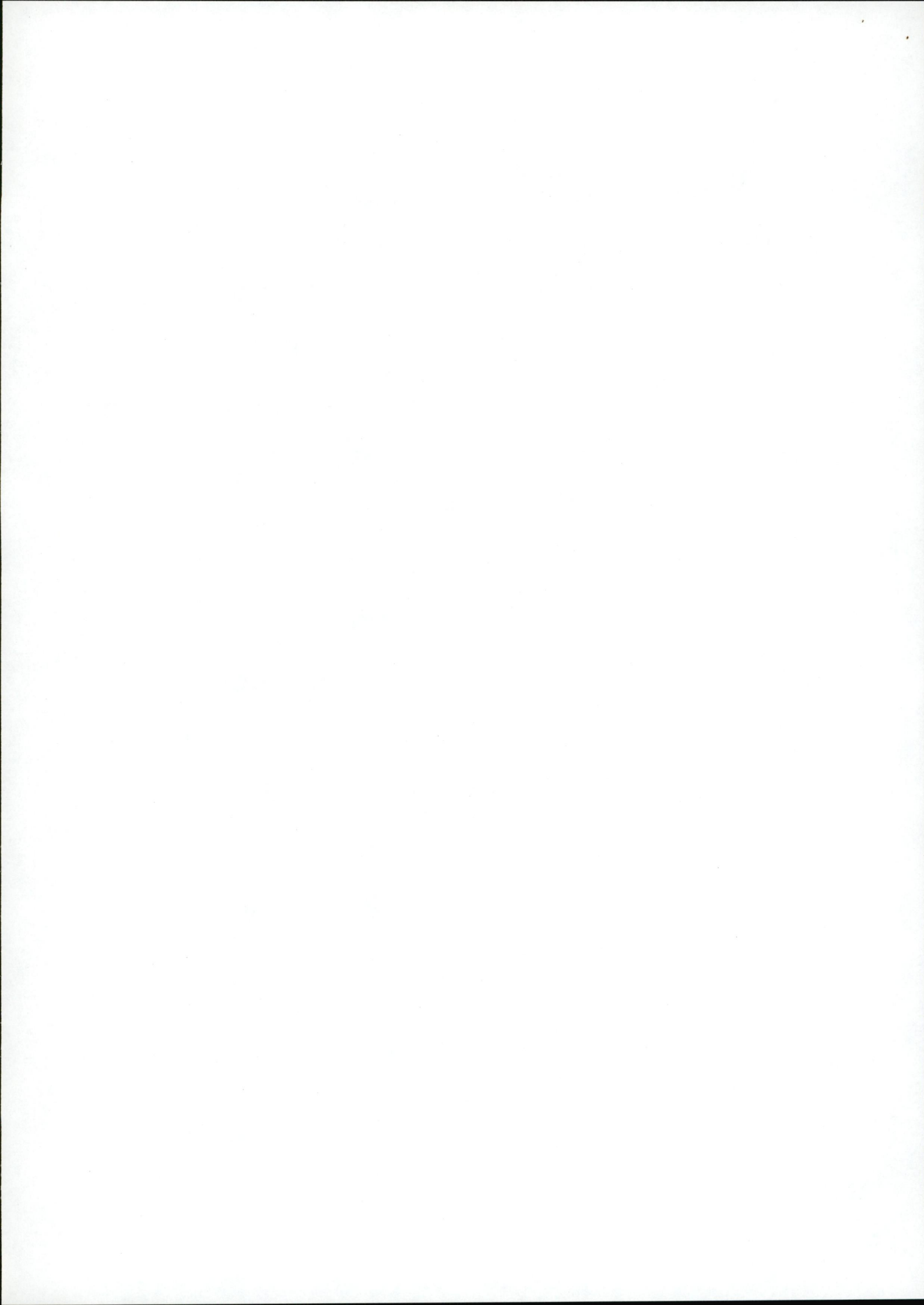


14.

THE INTERIM AGENCY CONDUCTED A PUBLIC INQUIRY TO DETERMINE HOW BEST THIS STATE MIGHT PUT IN PLACE THE STRUCTURES AND PROCESSES REQUIRED UNDER THE ANTA AGREEMENT. THE INTERIM AGENCY CONSULTED WIDELY IN TERMS OF ADVERTISEMENTS CALLING FOR SUBMISSIONS AND PUBLIC MEETINGS HELD IN METROPOLITAN AND COUNTRY AREAS.

THE INTERIM AGENCY RECOMMENDED THE ESTABLISHMENT OF THE NSW BOARD OF VOCATIONAL EDUCATION AND TRAINING TO CARRY OUT THE FUNCTIONS OF THE STATE TRAINING AGENCY. THE BOARD WILL BE A POLICY AND PLANNING ADVISORY BODY ON THE VOCATIONAL EDUCATION AND TRAINING SYSTEM IN NEW SOUTH WALES.

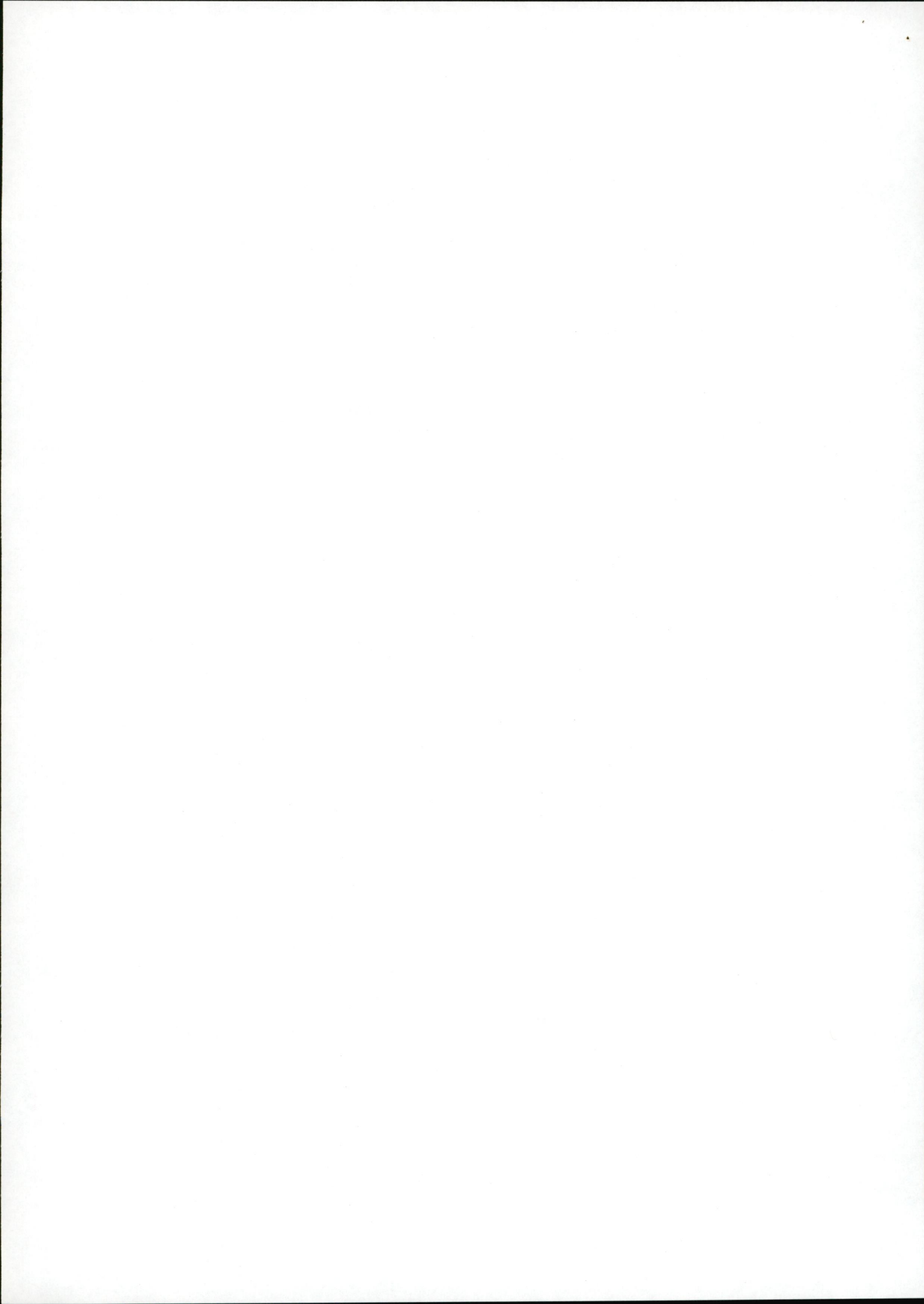
FURTHER, THE INTERIM AGENCY RECOMMENDED THAT THE BOARD CONSIST OF NINE MEMBERS, BEING:



15.

- ▼ AN INDEPENDENT CHAIR;
- ▼ FIVE MEMBERS APPOINTED BY THE MINISTER;
- ▼ THE DIRECTOR-GENERAL OF THE DEPARTMENT OF INDUSTRIAL RELATIONS, EMPLOYMENT TRAINING AND FURTHER EDUCATION;
- ▼ THE MANAGING DIRECTOR OF THE TAFE COMMISSION;
- ▼ THE EXECUTIVE DIRECTOR OF THE MINISTRY OF EDUCATION AND YOUTH AFFAIRS.

ACCORDINGLY, ON 5 NOVEMBER 1993 MY COLLEAGUE THE MINISTER FOR INDUSTRIAL RELATIONS AND EMPLOYMENT ANNOUNCED THE MEMBERS OF THE BOARD, NOMINATED ON THE BASIS OF THEIR EXPERTISE TO ENABLE THEM TO MAKE A VALUABLE CONTRIBUTION TO THE WORK AND ACTIVITIES OF THE BOARD. THE BOARD IS CHAIRED BY SIR NICHOLAS SHEHADIE.



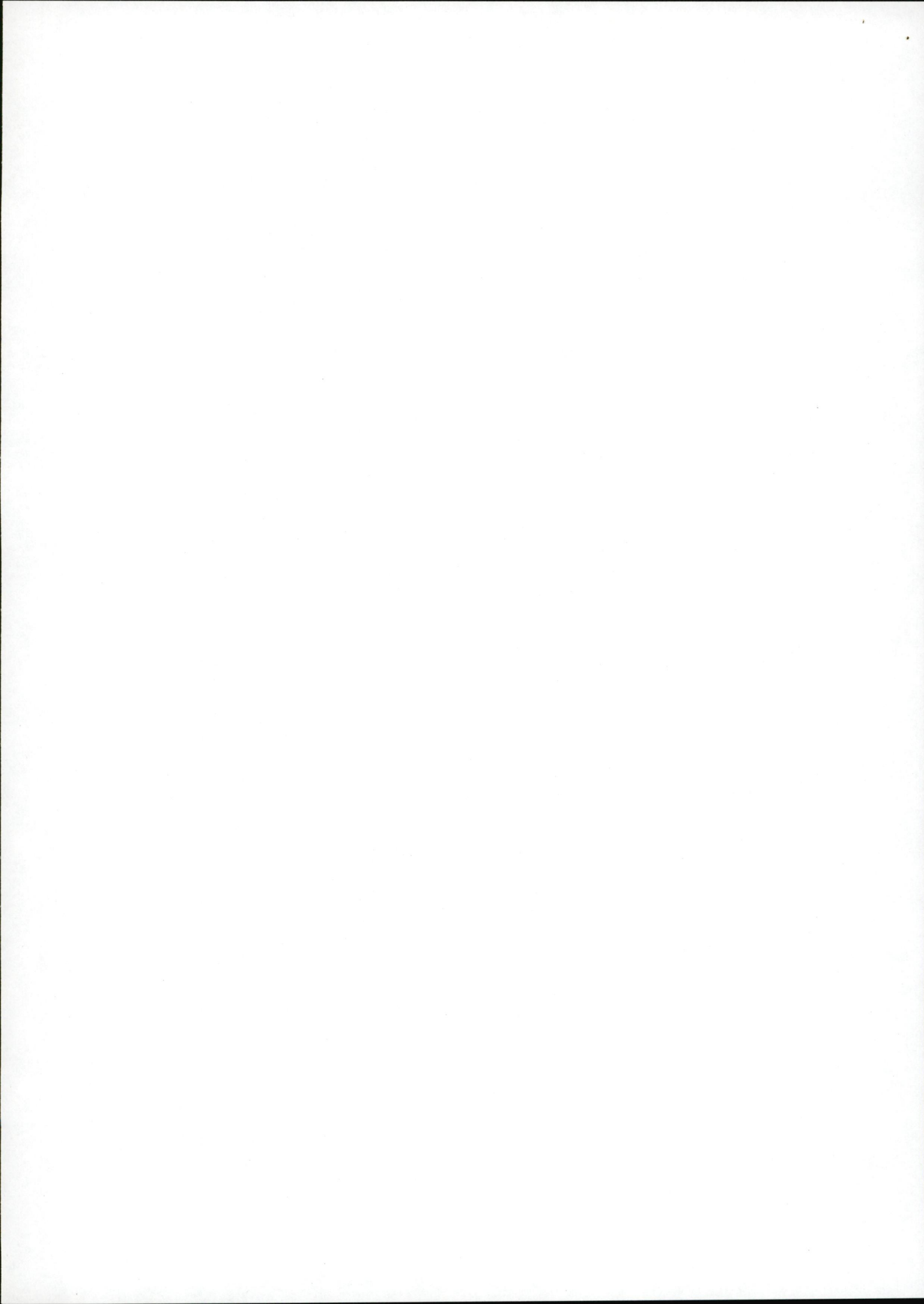
16.

IN KEEPING WITH THE TERMS OF THE COMMONWEALTH LEGISLATION, THE MINISTER HAS NOMINATED THE BOARD OF VOCATIONAL EDUCATION AND TRAINING AS THE STATE TRAINING AGENCY FOR NEW SOUTH WALES.

THE INTERIM AGENCY RECOMMENDED THAT THE BOARD SHOULD HAVE 12 SPECIFIC OBJECTS, AND THESE HAVE BEEN INCLUDED IN THE BILL. THEY ARE:

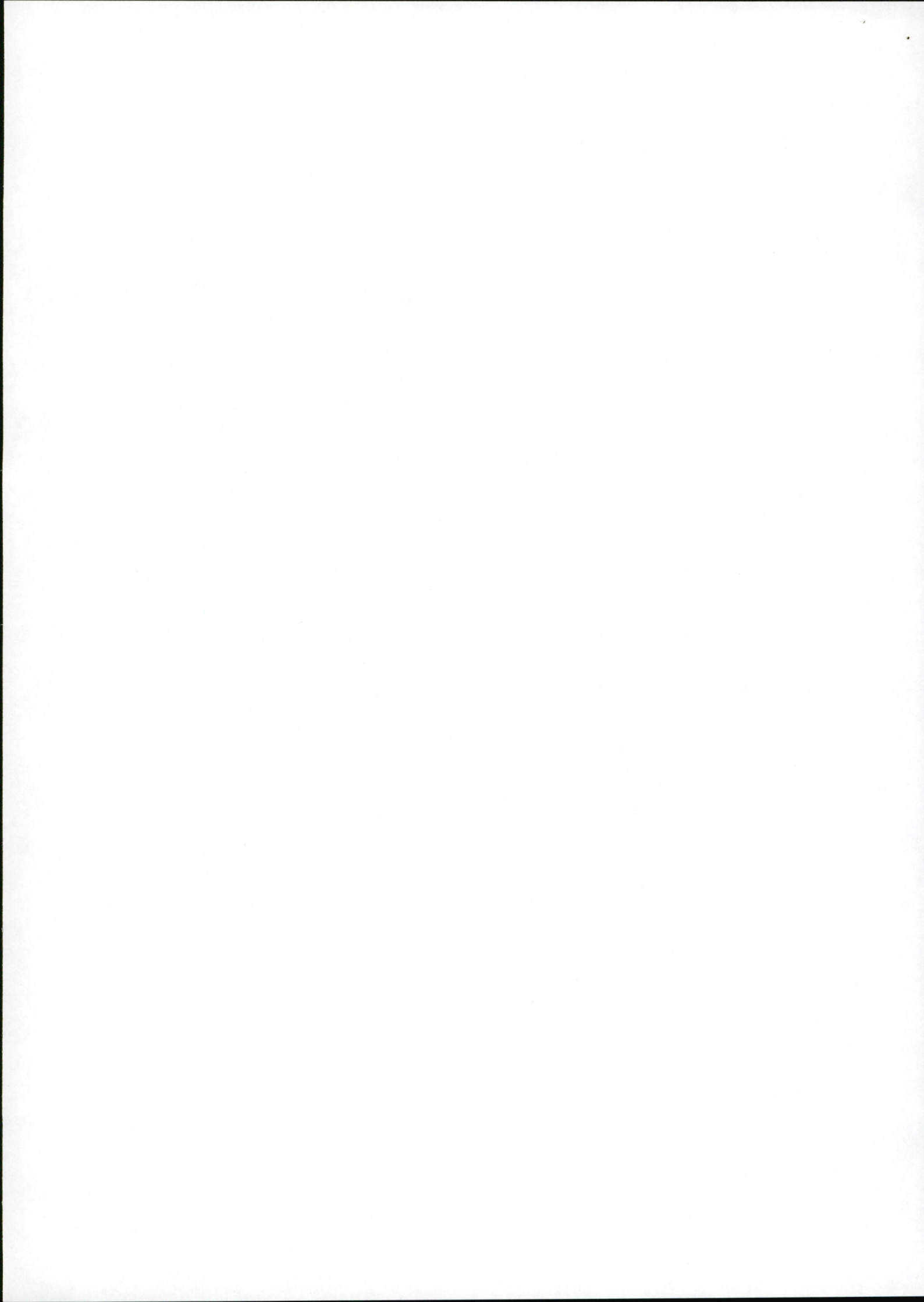
1. TO ADVISE THE MINISTER ON STATE VOCATION EDUCATION AND TRAINING POLICIES IN THE CONTEXT OF STATE AND NATIONAL PRIORITIES AND OBJECTIVES;
2. TO PROMOTE AND DEVELOP, IN COLLABORATION WITH OTHER AGENCIES, A STATE VOCATIONAL EDUCATION AND TRAINING SYSTEM DELIVERING HIGH QUALITY AND NATIONALLY RECOGNISED PROGRAMS;





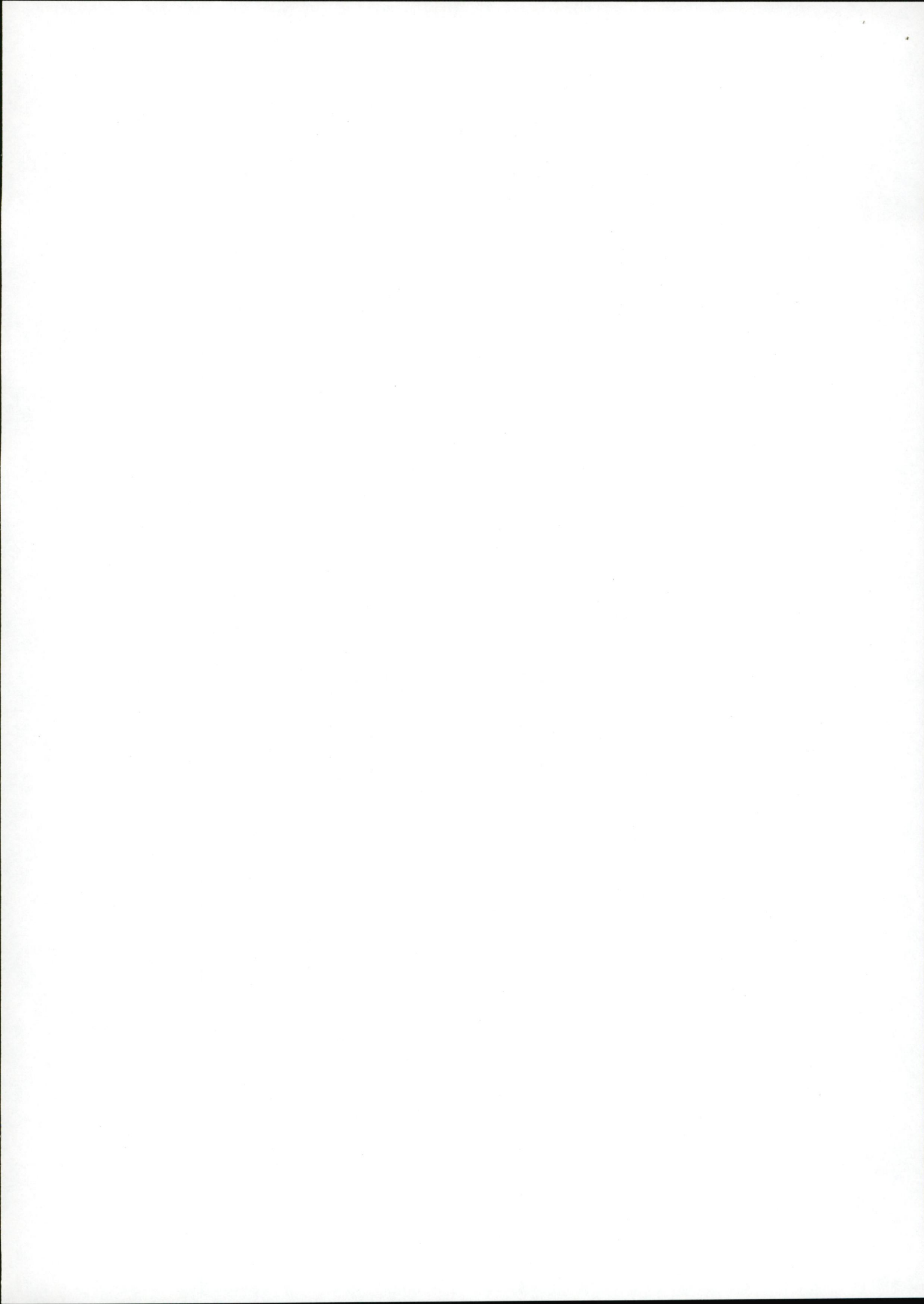
17.

3. TO PREPARE, IN COLLABORATION WITH INDUSTRY AND VOCATIONAL EDUCATION AND TRAINING PROVIDERS, STATE TRAINING PLANS, PROFILES AND REPORTS BASED ON THE NATIONAL STRATEGIC PLAN AND AGREED PLANNING PARAMETERS, FOR APPROVAL BY THE MINISTER;
4. TO RECOMMEND TO THE MINISTER THE ALLOCATION OF RESOURCES TO ACHIEVE OPTIMAL EFFECTIVENESS AND EFFICIENCY IN THE STATE'S VOCATIONAL EDUCATION AND TRAINING SYSTEM;
5. TO CO-ORDINATE THE PROVISION OF STATEWIDE DATA ON THE PERFORMANCE OF THE VOCATIONAL EDUCATION AND TRAINING SYSTEM TO THE MINISTER AS REQUIRED;



18.

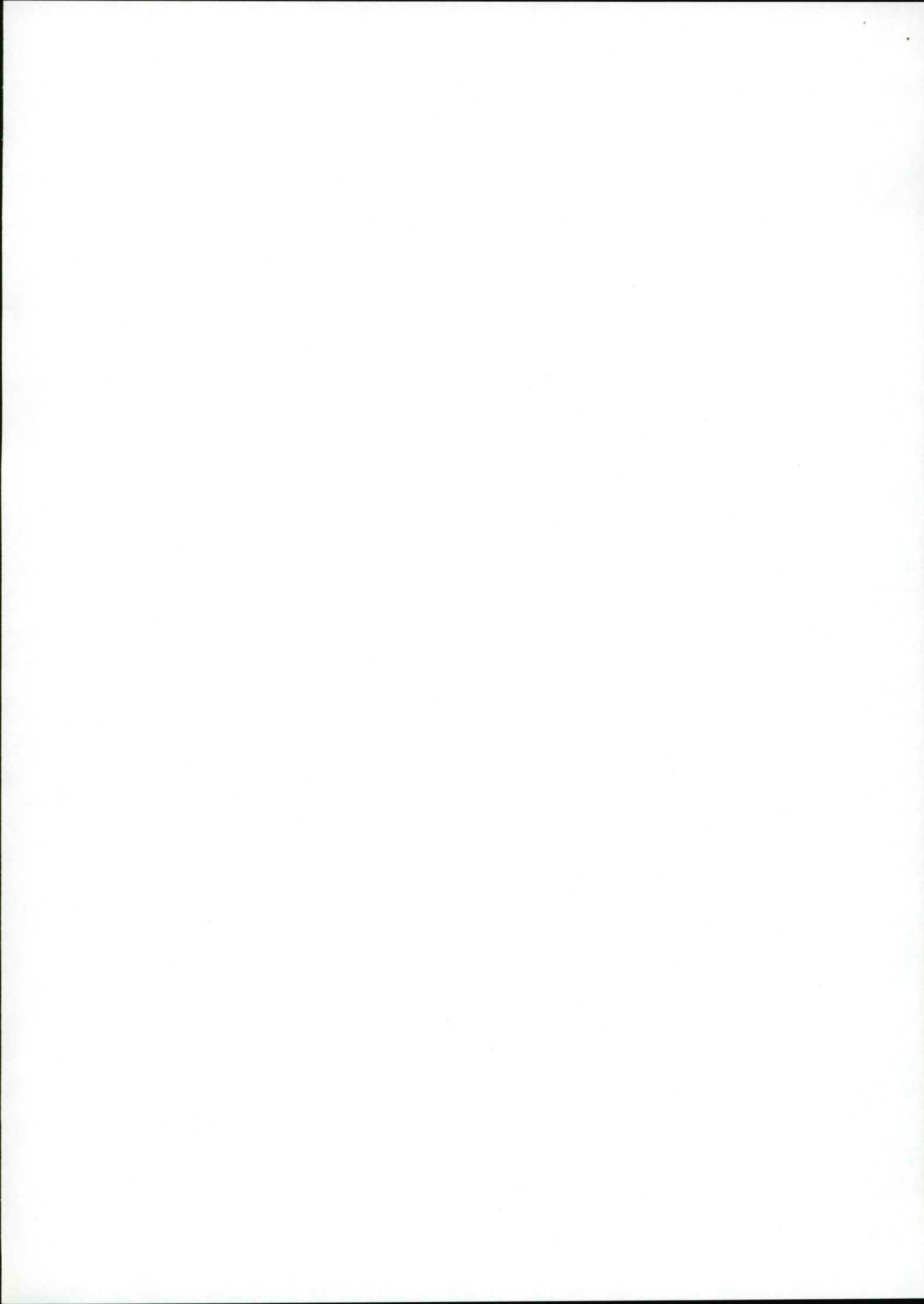
6. TO PREPARE SUCH PLANS AND REPORTS AS MAY BE REQUIRED BY THE MINISTER AND TO MEET THE GOVERNMENT'S REQUIREMENTS;
7. TO LIAISE WITH THE AUSTRALIAN NATIONAL TRAINING AUTHORITY AND OTHER STATE/TERRITORY TRAINING AGENCIES;
8. TO COMMISSION AND/OR CONDUCT INQUIRIES AND FOSTER RESEARCH IN VOCATIONAL EDUCATION AND TRAINING;
9. TO PROMOTE AND DEVELOP, IN CONSULTATION WITH THE NSW VOCATIONAL EDUCATION AND TRAINING ACCREDITATION BOARD, A CO-ORDINATED AND EFFECTIVE STATE SYSTEM FOR THE ACCREDITATION OF COURSES AND REGISTRATION OF PROVIDERS;





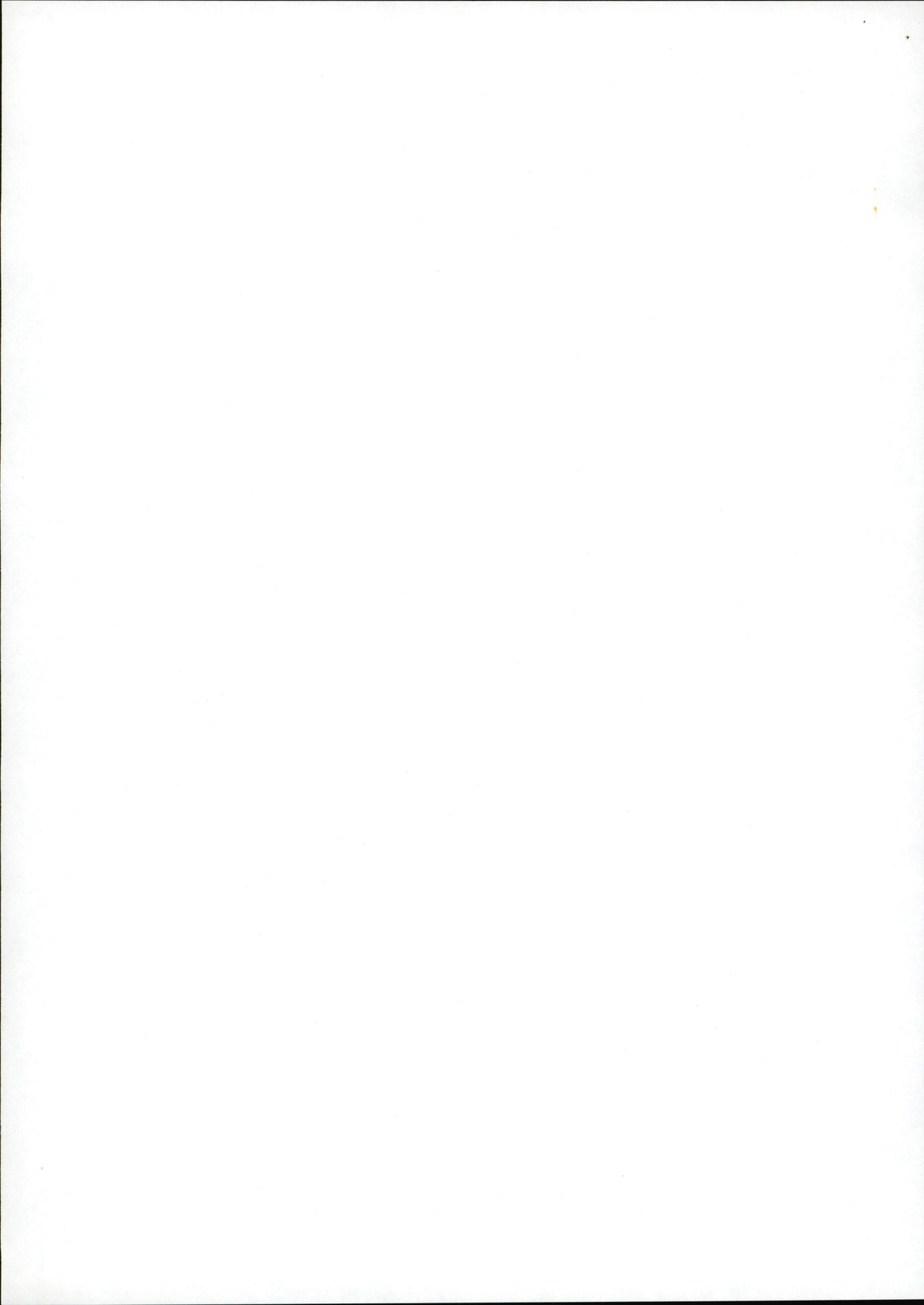
10. TO ENCOURAGE THE DEVELOPMENT OF INNOVATIVE PROGRAMS, BEST PRACTICE MODELS AND THE CREATION OF NEW PARTNERSHIPS BETWEEN THE USERS OF VOCATIONAL EDUCATION AND TRAINING AND PUBLIC AND PRIVATE PROVIDERS;
11. IN COLLABORATION WITH OTHER AGENCIES, TO DEVELOP EFFECTIVE COMMUNICATION MECHANISMS FOR THE DISSEMINATION OF INFORMATION ABOUT STATE AND NATIONAL DEVELOPMENTS IN VOCATIONAL EDUCATION AND TRAINING; AND
12. TO ADVISE AND MAKE RECOMMENDATIONS ON ANY MATTER REFERRED TO THE BOARD BY THE MINISTER.

THESE OBJECTS DO NOT LIMIT OR RESTRICT THE STATUTORY FUNCTIONS OF ANY OTHER BODIES PROVIDING VOCATIONAL EDUCATION AND TRAINING SERVICES UNDER THE EDUCATION REFORM ACT, THE TAFE COMMISSION ACT, AND THE HIGHER EDUCATION ACT.



MR PRESIDENT, TURNING TO THE CONSEQUENTIAL AMENDMENTS OF THE INDUSTRIAL AND COMMERCIAL TRAINING ACT 1989. THESE AMENDMENTS FLOW FROM RECOMMENDATIONS OF THE INTERIM AGENCY.

THE INDUSTRIAL AND COMMERCIAL TRAINING ACT 1989 HAS BEEN AMENDED TO DISSOLVE THE INDUSTRIAL AND COMMERCIAL TRAINING COUNCIL. THE APPRENTICESHIP AND TRAINEESHIP REGULATORY FUNCTIONS PREVIOUSLY EXERCISED BY THAT COUNCIL HAVE BEEN TRANSFERRED TO THE DIRECTOR-GENERAL OF THE DEPARTMENT OF INDUSTRIAL RELATIONS, EMPLOYMENT, TRAINING AND FURTHER EDUCATION. THE MOST IMPORTANT OF THESE IS THE ISSUING OF VOCATIONAL TRAINING ORDERS IN RESPECT OF DECLARED TRADES AND DECLARED CALLINGS.



21.

MINOR AMENDMENTS HAVE BEEN MADE TO THE VOCATIONAL EDUCATION AND TRAINING ACCREDITATION ACT 1990. OF THESE, I CONSIDER THE MOST IMPORTANT TO BE THAT WHICH, IN RESPECT OF DECLARED TRADES AND DECLARED CALLINGS, ENABLES ANY PERSON OR BODY TO MAKE AN APPLICATION TO THE BOARD FOR ACCREDITATION OF A VOCATIONAL COURSE.

THIS PROVIDES ADDED FLEXIBILITY FOR INDUSTRY GROUPS, INCLUDING EMPLOYER AND EMPLOYEE ASSOCIATIONS, TO BECOME MORE CLOSELY INVOLVED IN STRUCTURED ENTRY LEVEL TRAINING ARRANGEMENTS.

MR PRESIDENT, THIS BILL REPRESENTS A MAJOR STEP TOWARDS THE IMPLEMENTATION OF A BETTER RESOURCED, A BETTER CO-ORDINATED AND A MORE RESPONSIVE VOCATIONAL EDUCATION AND TRAINING SYSTEM FOR NEW SOUTH WALES.

I COMMEND THE BILL TO THIS HOUSE.





FIRST PRINT

**BOARD OF VOCATIONAL EDUCATION AND TRAINING  
BILL 1994**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The objects of this Bill are:

- (a) to constitute the New South Wales Board of Vocational Education and Training as the body to be nominated by the Minister as the State Training Agency for the purposes of the Australian National Training Authority Act 1992 of the Commonwealth; and
- (b) to define the objects and functions of the proposed Board; and
- (c) to dissolve the Industrial and Commercial Training Council; and
- (d) to make further provision with respect to the accreditation of vocational courses by the Vocational Education and Training Accreditation Board; and
- (e) to enact other provisions of a minor, consequential and ancillary nature.

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The Bill contains the following provisions:

**PART 1—PRELIMINARY**

**Clause 1** specifies the short title of the proposed Act.

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

**Clause 3** defines certain expressions (“appointed member”, “Board”, “Commonwealth Act”, “function”, “National Statement”, “National Strategic Plan”, “State Training Agency” and “State Training Profile”) for the purposes of the proposed Act.

**Clause 4** specifies that the object of the proposed Act is to establish the proposed Board as the body to be nominated by the Minister as the State Training Agency for the purposes of the Commonwealth Act.

*Board of Vocational Education and Training 1994*

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**PART 2—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING**

**Clause 5** constitutes the proposed Board under the corporate name of the "New South Wales Board of Vocational Education and Training". The proposed Board is to consist of 9 part-time members, of whom 3 (the Director-General of the Department of Industrial Relations, Employment, Training and Further Education, the Managing Director of the TAFE Commission and the Executive Director of the Ministry of Education and Youth Affairs) are to be ex-officio members and 6 are to be Ministerial appointees. For the purposes of any Act, the proposed Board is to be a statutory body representing the Crown.

**Clause 6** specifies the objects of the proposed Board. The objects are, generally speaking, to promote and develop, in collaboration with other agencies, the system of vocational education and training in New South Wales.

**Clause 7** confers on the proposed Board certain functions for the purpose of enabling it to achieve its objects. In the exercise of its functions, the proposed Board is to be subject to the direction and control of the Minister.

**Clause 8** enables the Minister to nominate the proposed Board as the State Training Agency for New South Wales for the purposes of the Commonwealth Act.

**Clause 9** enables the proposed Board to appoint advisory committees to assist it in the exercise of its functions.

**Clause 10** enables the proposed Board to delegate its functions to other persons and bodies.

**PART 3—MISCELLANEOUS**

**Clause 11** excludes members of the proposed Board and other persons acting under the direction of the proposed Board from personal liability for acts and omissions by them in the exercise of their functions.

**Clause 12** is a formal provision that gives effect to the Schedule of amendments to other Acts.

**Clause 13** provides for the review of the Act at the end of 5 years after its date of assent.

**SCHEDULES**

**Schedule 1** contains provisions with respect to the members and procedure of the proposed Board.

**Schedule 2:**

- (a) amends the Industrial and Commercial Training Act 1989 so as:
- to dissolve the Industrial and Commercial Training Council; and
  - to confer on the Director-General of the Department of Industrial Relations, Employment, Training and Further Education some of the functions previously exercised by the Council; and
  - to make other provisions consequent on the dissolution of the Council; and

*Board of Vocational Education and Training 1994*

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- (b) amends the Public Finance and Audit Act 1983 so as to subject the proposed Board to the requirements of that Act in relation to financial auditing; and
- (c) amends the Vocational Education and Training Accreditation Act 1990 so as:
- to enable the Vocational Education and Training Accreditation Board to specify, as a condition of accreditation, the resources that are necessary for the conduct of an accredited vocational course (Items (3) (c) and (6) (c)); and
  - to enable that Board to have regard to such matters as the copyright in a vocational course in deciding whether or not to register an education or training provider in relation to that course (Items (14) and (15) (a)); and
  - to prevent universities from being registered under the Act, but to declare that they are taken to be registered providers in relation to the vocational courses conducted by them in relation to declared trades and declared callings (within the meaning of the Industrial and Commercial Training Act 1989) (Items (13) (b), (15) (b) and (16)); and
  - to enable that Board to accredit vocational courses that relate to declared trades and declared callings without having to have regard to the persons or bodies by whom the courses are to be conducted (the remaining Items).
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FIRST PRINT

**BOARD OF VOCATIONAL EDUCATION AND TRAINING  
BILL 1994**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

**PART 1—PRELIMINARY**

1. Short title
2. Commencement
3. Definitions
4. Object of Act

**PART 2—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING**

5. Constitution of the Board
6. Objects of the Board
7. Functions of the Board
8. Minister may nominate the Board to be State Training Agency
9. Advisory committees
10. Delegation by the Board

**PART 3—MISCELLANEOUS**

11. Exclusion of personal liability
12. Amendment of other Acts
13. Review of Act

**SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING**

**SCHEDULE 2—AMENDMENT OF OTHER ACTS**

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**BOARD OF VOCATIONAL EDUCATION AND TRAINING  
BILL 1994**

**NEW SOUTH WALES**



No.           , 1994

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**A BILL FOR**

An Act to establish the New South Wales Board of Vocational Education and Training and to define its objects and functions; and for other purposes.

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*Board of Vocational Education and Training 1994*

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**The Legislature of New South Wales enacts:**

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the Board of Vocational Education and  
5 Training Act 1994.

**Commencement**

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

**Definitions**

- 10 3. (1) In this Act:
- “**appointed member**” means a member of the Board appointed by  
the Minister as referred to in section 5 (2) (d);
- “**Board**” means the New South Wales Board of Vocational Education  
and Training constituted by section 5;
- 15 “**Commonwealth Act**” means the Australian National Training  
Authority Act 1992 of the Commonwealth;
- “**function**” includes a duty; “**confer a function**” includes impose a  
duty; “**exercise a function**” includes perform a duty;
- 20 “**National Statement**” means the statement set out in Schedule 1 to  
the Commonwealth Act, being the statement entitled “A National  
Vocational Education and Training System”, the text of which was  
agreed to by the Commonwealth and the States and published on 21  
July 1992.
- (2) In this Act, “**National Strategic Plan**”, “**State Training Agency**”,  
25 and “**State Training Profile**” have the same meanings as they have in  
the National Statement.

**Object of Act**

4. The object of this Act is to establish the New South Wales Board  
of Vocational Education and Training as the body to be nominated by the  
30 Minister as the State Training Agency for the purposes of the  
Commonwealth Act.



*Board of Vocational Education and Training 1994*

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**PART 2—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING**

**Constitution of the Board**

5. (1) There is by this Act constituted a corporation under the corporate name of the New South Wales Board of Vocational Education and Training. 5

(2) The Board is to consist of 9 part-time members, of whom:

(a) one is to be the Director-General of the Department of Industrial Relations, Employment, Training and Further Education; and

(b) one is to be the Managing Director of the TAFE Commission; and 10

(c) one is to be the Executive Director of the Ministry of Education and Youth Affairs; and

(d) six are to be persons appointed by the Minister.

(3) The appointed members must be persons who, in the opinion of the Minister, have the necessary expertise to enable them to make a valuable contribution to the work and activities of the Board. 15

(4) One of the appointed members is, by the instrument of the member's appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board. 20

(5) Schedule 1 has effect with respect to the members and procedure of the Board.

(6) The Board is, for the purposes of any Act, taken to be a statutory body representing the Crown.

**Objects of the Board** 25

6. The Board has the following objects:

(a) to advise the Minister on State vocational and education training policies in the context of State and national priorities and objectives;

(b) to promote and develop, in collaboration with other agencies, a State vocational education and training system delivering high quality and nationally recognised programs; 30

(c) to prepare, in collaboration with industry and vocational education and training providers, State Training Profiles based on the National Strategic Plan and agreed planning parameters, for approval by the Minister; 35



*Board of Vocational Education and Training 1994*

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- (d) to recommend to the Minister the allocation of resources, including funding, to achieve optimal effectiveness and efficiency in the State's vocational education and training system;
- 5 (e) to co-ordinate the provision of data on the performance of the State vocational education and training system to the Minister as required;
- (f) to prepare such plans and reports as may be required by the Minister;
- 10 (g) to liaise with the Australian National Training Authority and with the State Training Agencies of other States and Territories;
- (h) to commission and conduct inquiries and foster research in vocational education and training;
- 15 (i) to promote and develop, in consultation with the Vocational Education and Training Accreditation Board, a co-ordinated and effective State system for the accreditation of courses and registration of education and training providers;
- (j) to encourage the development of innovative programs and best practices and the creation of new partnerships between the consumers of vocational education and training and public and private providers;
- 20 (k) in collaboration with other agencies, to develop effective communication mechanisms for the dissemination of information about State and national developments in vocational education and training;
- 25 (l) to advise and make recommendations on any matter referred to the Board by the Minister.

**Functions of the Board**

- 7. (1) The Board:
  - 30 (a) has such functions as are necessary or convenient to enable it to achieve its objects; and
  - (b) has such other functions as are conferred on it by or under this or any other Act or law.
- (2) In the exercise of its functions, the Board is subject to the control and direction of the Minister.

35 **Minister may nominate the Board to be State Training Agency**

8. The Minister may, by order, nominate the Board as the State Training Agency for New South Wales for the purposes of the Commonwealth Act.

*Board of Vocational Education and Training 1994*

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**Advisory committees**

9. (1) The Board may establish advisory committees to assist it in the exercise of its functions.

(2) Any or all of the members of an advisory committee may be persons who are not members of the Board. 5

(3) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

**Delegation by the Board** 10

10. The Board may delegate to any person or body the exercise of any of its functions, other than this power of delegation.

**PART 3—MISCELLANEOUS**

**Exclusion of personal liability**

11. A matter or thing done or omitted to be done by the Board, a member of the Board or any person acting under the direction of the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act or law, subject the member or a person so acting personally to any action, liability, claim or demand. 15  
20

**Amendment of other Acts**

12. Each Act in Schedule 2 is amended as set out in that Schedule.

**Review of Act**

13. (1) The Minister is to review this Act to determine whether the policy objectives of this Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 25

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. 30

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*Board of Vocational Education and Training 1994*

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**SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND TRAINING**

(Sec. 5)

**Part 1—Members of the Board**

**5 Terms of office**

1. An appointed member of the Board holds office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

**Remuneration**

10 2. A member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Acting members and acting Chairperson**

15 3. (1) The Minister may appoint a person to act in the office of an appointed member during the illness or absence of the appointed member, and the acting member, while so acting, has and may exercise all the functions of the appointed member and is taken to be an appointed member.

(2) A person, in order to be appointed as an acting appointed member, must be qualified for appointment in the same way as the member for whom he or she is acting.

20 (3) The Minister may appoint a member of the Board to act in the office of Chairperson during the illness or absence of the Chairperson, and the acting Chairperson, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.

25 (4) A person who is acting as an appointed member of the Board, or as the Chairperson, is entitled, while so acting, to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) The Minister may at any time and for any reason remove a person from office as an acting appointed member or acting Chairperson.

30 (6) For the purposes of this clause, a vacancy in the office of an appointed member is taken to be an absence from office of the member.

**Filling of vacancy in office of a member**

4. If the office of an appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.



*Board of Vocational Education and Training 1994*

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SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND  
TRAINING—*continued*

**Casual vacancies**

5. (1) An appointed member is taken to have vacated office if the member:
- (a) dies; or 5
  - (b) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings; or 10
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - (d) becomes a mentally incapacitated person; or 15
  - (e) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
  - (f) resigns office by instrument in writing addressed to the Minister; or 20
  - (g) is removed from office by the Minister under subclause (2).
- (2) The Minister may at any time and for any reason remove a person from office as appointed member of the Board.
- (3) The Chairperson is taken to have vacated office as Chairperson if the person:
- (a) resigns office by instrument in writing addressed to the Minister; or 25
  - (b) ceases to be a member of the Board.

**Conflict of interests**

6. (1) If:
- (a) a member of the Board has an interest in a matter being considered or about to be considered at a meeting of the Board; and 30
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member: 35
- (a) is a member, or is in the employment, of a specified company or other body; or
  - (b) is a partner, or is in the employment, of a specified person; or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1). 40

*Board of Vocational Education and Training 1994*

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SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND  
TRAINING—*continued*

5 (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

10 (5) For the purpose of the making of a determination by the Board under subclause (4), a member of the Board who has an interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board for the purpose of making the determination; or

15 (b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

**Effect of certain other Acts**

20 7. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the Board and a member of the Board is not, as a member, subject to that Act.

(2) If by or under any other Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- 25 (b) prohibiting the person from engaging in employment outside the duties of that office,

that provision does not operate to disqualify the person from holding that office and also the office of a member of the Board or from accepting and retaining any remuneration payable to the person under this Act as a member of the Board.

**Part 2—Procedure of the Board**

30 **General procedure**

8. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Board.

**Quorum**

35 9. The quorum for a meeting of the Board is 5 members, of whom one must be the Chairperson.



*Board of Vocational Education and Training 1994*

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SCHEDULE 1—THE BOARD OF VOCATIONAL EDUCATION AND  
TRAINING—*continued*

**Presiding member**

10. (1) The Chairperson is to preside at a meeting of the Board.
- (2) The Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 5

**Voting**

11. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**Minutes**

12. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board. 10

**First meeting**

13. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit. 15

**SCHEDULE 2—AMENDMENT OF OTHER ACTS**

(Sec. 12)

**Industrial and Commercial Training Act 1989 No. 77**

- (1) Long title:
- (a) Omit “the Industrial and Commercial Training Council and”. 20
- (b) Omit “those bodies”, insert instead “that body”.
- (2) Section 4 (**Definitions**):
- (c) From section 4 (1), omit the definitions of “advisory committee”, “Council” and “recognised educational establishment”.
- (d) After the definition of “Department” in section 4 (1), insert: 25
- “**Director-General**” means the Director-General of the Department;
- (3) Part 2, Division 1:
- Omit the Division.
- (4) Section 22 (**Vocational training orders**):
- Omit “Council” wherever occurring, insert instead “Director-General”. 30

*Board of Vocational Education and Training 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (5) Section 23 (**Vocational training guidelines**):  
From section 23 (1), omit “Council”, insert instead “Director-General”.
- 5 (6) Section 37 (**Courses of studies**):  
(a) Omit section 37 (1).  
(b) From section 37 (2), omit “any such”, insert instead “a required”.
- (7) Section 55 (**Courses of studies**):  
(a) Omit section 55 (1).  
(b) From section 55 (2), omit “any such”, insert instead “a required”.
- 10 (8) Part 6, Division 1:  
Omit the Division.
- (9) Section 86 (**Appeals**):  
(a) From section 86 (j), omit “trade; or”, insert instead “trade.”.  
(b) Omit section 86 (k).
- 15 (10) Section 98 (**Liability**):  
(a) Omit section 98 (a).  
(b) From section 98 (e), omit “the Council.”.  
(c) From section 98, omit “any member of the Council.”.
- 20 (11) Section 99 (**Reports**):  
Omit the section.
- (12) Schedules 1, 2:  
Omit the Schedules.
- (13) Schedule 6 (**Savings, transitional and other provisions**):  
(a) At the end of clause 1 (1), insert:  
25           Board of Vocational Education and Training Act 1994.  
(b) From clause 1 (2), omit “this Act”, insert instead “the Act concerned”.  
(c) After Part 2, insert:  
          **Part 3—Provisions consequent on the enactment of the Board of  
          Vocational Education and Training Act 1994**
- 30           **Definitions**  
          15. In this Part:  
          “**amending Act**” means the Board of Vocational Education and  
          Training Act 1994.

*Board of Vocational Education and Training 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

**Dissolution of the Council**

16. (1) The Industrial and Commercial Training Council is dissolved.  
 (2) The assets and liabilities of the Council become the assets and liabilities of the Crown.  
 (3) A reference in any Act or instrument to the Industrial and Commercial Training Council is taken to include a reference to the Director-General.

5

**Vocational training orders and guidelines**

17. A vocational training order or vocational training guideline that was in force immediately before the commencement of this clause is taken to be a vocational training order or vocational training guideline in force under this Act, as amended by the amending Act.

10

**Public Finance and Audit Act 1983 No. 152**

Schedule 2 (Statutory bodies):

15

Insert, in alphabetical order:

New South Wales Board of Vocational Education and Training.

**Vocational Education and Training Accreditation Act 1990 No. 120**

(1) Section 4 (Definitions):

20

- (a) In section 4 (1), insert in alphabetical order:

“**declared calling**” has the same meaning as it has in the Industrial and Commercial Training Act 1989;

“**declared trade**” has the same meaning as it has in the Industrial and Commercial Training Act 1989;

“**official university**” has the same meaning as it has in section 4 of the Higher Education Act 1988;

25

- (b) From the definition of “education or training provider” in section 4 (1), omit “(other than an official university within the meaning of section 4 of the Higher Education Act 1988)”.

- (c) From section 4 (1), omit the definition of “relevant authority”, insert instead:

30

“**relevant authority**”, in relation to a vocational course, means a person or body prescribed by the regulations in relation to that course;

(2) Section 5 (Constitution of the Board):

35

Omit section 5 (5).

(3) Section 12 (Accreditation):

- (a) From section 12 (2), omit “for accreditation”, insert instead “under subsection (1)”.



*Board of Vocational Education and Training 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

(b) After section 12 (2), insert:

(2A) The Board may, on the application of any person, accredit a vocational course relating to a declared trade or declared calling, whether or not the applicant is an education or training provider and whether or not the course is currently being conducted by an education or training provider.

(2B) An application under subsection (2A):

(a) must specify the vocational course or courses to which it relates; and

(b) must be in such form, and must be accompanied by such fee, as the Board may determine.

(c) At the end of section 12 (4), insert:

; and

(c) specifying the resources that are necessary for the conduct of the course.

(d) In section 12 (5), after “vocational course”, insert “the subject of an application under subsection (1)”.

(e) After section 12 (5), insert:

(6) The Board may not refuse to accredit a vocational course the subject of an application under subsection (2A) except on the following grounds:

(a) that the course is not of sufficient quality to warrant accreditation; or

(b) that the course does not comply with the relevant guidelines.

(4) Section 13 (**Withdrawal of accreditation**):

(a) From section 13 (1) (a), omit “conducted by an education or training provider”.

(b) In section 13 (2), after “vocational course”, insert “(being a course in respect of which accreditation has been granted on the basis of an application under section 12 (1) or 15 (1))”.

(c) After section 13 (2), insert:

(3) The Board may not withdraw accreditation from a vocational course (being a course in respect of which accreditation has been granted on the basis of an application under section 12 (2A) or 15 (2A)) except on the following grounds:

(a) that the course is no longer of sufficient quality to warrant accreditation; or

(b) that the course no longer complies with the relevant guidelines.

*Board of Vocational Education and Training 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (5) Section 14 (**Decisions generally**):
- (a) From section 14, omit “the education or training provider concerned” wherever occurring, insert instead “the person or body (if any) on whose application accreditation is sought or was granted”. 5
  - (b) From section 14 (1) (b), omit “the education or training provider”, insert instead “the person or body”.
- (6) Section 15 (**Accreditation**):
- (a) From section 15 (2), omit “for accreditation”, insert instead “under subsection (1)”. 10
  - (b) After section 15 (2), insert:
    - (2A) An authorised accrediting body may, on the application of any person, accredit a vocational course relating to a declared trade or declared calling, whether or not the applicant is an education or training provider and whether or not the course is currently being conducted by an education or training provider. 15
    - (2B) An application under subsection (2A):
      - (a) must specify the vocational course or courses to which it relates; and
      - (b) must be in such form, and must be accompanied by such fee, as the authorised accrediting body may, in accordance with its authority, determine. 20
  - (c) At the end of section 15 (4), insert:
    - ; and
    - (c) specifying the resources that are necessary for the conduct of the course. 25
  - (d) In section 15 (5), after “vocational course”, insert “the subject of an application under subsection (1)”.
  - (e) After section 15 (5), insert:
    - (5A) An authorised accrediting body may not refuse to accredit a vocational course the subject of an application under subsection (2A) except on the following grounds: 30
      - (a) that the course is not of sufficient quality to warrant accreditation; or
      - (b) that the course does not comply with the relevant guidelines. 35
- (7) Section 16 (**Withdrawal of accreditation**):
- (a) In section 16 (1), after “person”, insert “or body”.



*Board of Vocational Education and Training 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (b) In section 16 (2), after “vocational course”, insert “(being a course in respect of which accreditation has been granted on the basis of an application under section 15 (1))”.
- 5 (c) After section 16 (2), insert:
- (2A) An authorised accrediting body may not withdraw accreditation from a vocational course (being a course in respect of which accreditation has been granted on the basis of an application under section 15 (2A)) except on such of the grounds referred to in section 13 (3) as are specified in its authority.
- 10
- (8) Section 17 (**Decisions generally**):
- (a) From section 17, omit “the education or training provider concerned” wherever occurring, insert instead “the person or body (if any) on whose application accreditation is sought or was granted”.
- 15 (b) From section 17 (1) (b), omit “the education or training provider”, insert instead “the person or body”.
- (9) Section 19 (**Notification of change of name or address**):
- After “vocational course”, insert “in respect of which the provider is accredited or registered under this Act”.
- 20 (10) Section 20:
- Omit the section, insert instead:
- Register of accredited courses and education or training providers**
20. The Board is to maintain a register in which the following particulars are recorded:
- 25 (a) the title of each vocational course that is accredited under this Part;
- (b) the name and address of each education or training provider in respect of which a vocational course is accredited under this Part;
- (c) such other matters as the Board may determine.
- 30 (11) Section 21 (**Evidentiary certificates**):
- From section 21 (b), omit “in relation to a specified education or training provider”.
- (12) Section 22 (**Transitional provisions**):
- After section 22 (4), insert:
- 35 (5) A vocational course that is conducted by a registered education or training provider whose registration is suspended or withdrawn continues to be an accredited course (in respect of any person who, in the opinion of the Board, had substantially completed the course before the registration was suspended or withdrawn) until the person completes, fails or withdraws from the course.
- 40

*Board of Vocational Education and Training 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (13) Section 22C (**Registration or approval**):
- (a) After section 22C (6) (c), insert:
- (c1) in the case of a course that includes matter the subject of proprietary rights (such as copyright), that the provider is not lawfully entitled to the benefit of those rights; 5
- (b) After section 22C (6), insert:
- (7) Subject to section 22P, an official university may not be registered as an education or training provider.
- (14) Section 22D (**Variation, suspension or withdrawal of registration or approval**): 10
- After section 22D (3) (g), insert:
- (g1) in the case of a course that includes matter the subject of proprietary rights (such as copyright), that the provider is not lawfully entitled to the benefit of those rights; 15
- (15) Section 22F (**Registration or approval**):
- (a) After section 22F (6) (c), insert:
- (c1) in the case of a course that includes matter the subject of proprietary rights (such as copyright), that the provider is not lawfully entitled to the benefit of those rights; 20
- (b) After section 22F (6), insert:
- (7) Subject to section 22P, an official university may not be registered as an education or training provider.
- (16) Section 22P: 25
- After section 22O, insert:
- Universities taken to be registered providers in relation to certain vocational courses**
- 22P. An official university is taken to be a registered provider of the vocational courses conducted by it in connection with declared trades and declared callings. 30
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