



# **Skilling Australia's Workforce (Repeal and Transitional Provisions) Act 2005**

**No. 107, 2005**

**An Act to repeal certain Acts relating to vocational education and training, to deal with transitional matters arising from the repeal of those Acts, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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**An Act to repeal certain Acts relating to vocational education and training, to deal with transitional matters arising from the repeal of those Acts, and for related purposes**

*[Assented to 24 August 2005]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Skilling Australia's Workforce (Repeal and Transitional Provisions) Act 2005*.

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## 2 Commencement

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

| <b>Commencement information</b>   |  |                     |
|---|--|---------------------|
| <b>Column 1</b>   | <b>Column 2</b>  | <b>Column 3</b>     |
| <b>Provision(s)</b>   | <b>Commencement</b>  | <b>Date/Details</b> |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent.   | 24 August 2005      |
| 2. Schedules 1 and 2  | At the same time as sections 3 to 47 of the <i>Skilling Australia's Workforce Act 2005</i> commence. | 24 August 2005      |

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

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

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Transitional provisions**

### **Part 1—Definitions**

#### **1 Definitions**

In this Schedule, unless the contrary intention appears:

**ANTA** means the Australian National Training Authority that was established under section 5 of the ANTA Act.

**ANTA Act** means the *Australian National Training Authority Act 1992* as in force immediately before the transition time.

**asset** means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

**liability** means any liability, duty or obligation, whether actual, contingent or prospective.

**transition time** means the time at which sections 3 to 47 of the *Skilling Australia's Workforce Act 2005* commence.

## **Part 2—Assets, liabilities and legal proceedings**

### **2 Vesting of assets of ANTA**

- (1) This item applies to the assets of ANTA immediately before the transition time.
- (2) At the transition time, the assets to which this item applies cease to be assets of ANTA and become assets of the Commonwealth without any conveyance, transfer or assignment. The Commonwealth becomes the successor in law in relation to these assets.

### **3 Vesting of liabilities of ANTA**

- (1) This item applies to the liabilities of ANTA immediately before the transition time.
- (2) At the transition time, the liabilities to which this item applies cease to be liabilities of ANTA and become liabilities of the Commonwealth without any conveyance, transfer or assignment. The Commonwealth becomes the successor in law in relation to these liabilities.

### **4 Substitution of the Commonwealth as a party to pending proceedings**

If any proceedings to which ANTA was a party were pending in any court or tribunal immediately before the transition time, the Commonwealth is substituted for ANTA, from the transition time, as a party to the proceedings.

### **5 Transfer of custody of ANTA records**

- (1) This item applies to any records or documents that were in the custody of ANTA immediately before the transition time.
- (2) The records and documents are to be transferred into the custody of the Commonwealth at or after the transition time.

## **Part 3—Miscellaneous**

### **6 Instruments**

- (1) This item applies to an instrument if it:
  - (a) was in force immediately before the transition time; and
  - (b) is an instrument covered by one or more of the following subparagraphs:
    - (i) an instrument that was made by ANTA;
    - (ii) an instrument to which ANTA was a party;
    - (iii) an instrument that was given to, or in favour of, ANTA;
    - (iv) an instrument under which any right or liability accrues or may accrue to ANTA;
    - (v) any other instrument in which a reference is made to ANTA.
- (2) An instrument to which this item applies continues to have effect on and after the transition time as if a reference in the instrument to ANTA were a reference to the Commonwealth.

### **7 Members of ANTA**

A person who, immediately before the transition time, held office as a member of ANTA ceases at the transition time, by force of this item, to hold that office.

### **8 Repayment of payments made by ANTA**

- (1) If, before the transition time, ANTA had made a payment to a State or to another person under Part 3 of the ANTA Act on particular terms and conditions:
    - (a) the Commonwealth is treated, on and after that time, as if it had made the payment on the same terms and conditions; and
    - (b) if the Minister is satisfied that the State or other person has failed to fulfil such a term or condition—the Minister may, on behalf of the Commonwealth, give notice to the State or the other person that the Minister is so satisfied.
  - (2) A State or another person to whom a notice is given by the Commonwealth under paragraph (1)(b) is liable to pay to the Commonwealth, immediately, an amount equal to:
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- (a) the amount of the payment; or
  - (b) so much of the amount of the payment as is specified in the notice.
- (3) A notice given under paragraph (1)(b) is not a legislative instrument.
- (4) This item does not affect the availability to the Commonwealth of any legal or equitable remedy for a failure to fulfil a term or condition of a payment that was made by ANTA, to a State or to another person, before the transition time under Part 3 of the ANTA Act.

### **9 Annual audit reports by States—payments in respect of 2004 and 2005**

- (1) This item applies in respect of the following reporting periods:
  - (a) the year 2004;
  - (b) the 6 month period ending on 30 June 2005.
- (2) Each State to which funds were paid by ANTA in respect of the reporting period must give the Minister a written statement by a qualified auditor:
  - (a) specifying the amounts of those funds spent in respect of the period; and
  - (b) certifying that the amounts so spent were spent for the purposes for which they were allocated to the State by ANTA.
- (3) The statement must be given to the Minister:
  - (a) in respect of the year 2004—not later than 30 September 2005; and
  - (b) in respect of the 6 month period ending on 30 June 2005—not later than 31 December 2005.
- (4) This item does not apply to a State in respect of the year 2004 if the State has given a report to the Minister in respect of that year under section 17 of the ANTA Act before the transition time.

### **10 Final financial reports**

- (1) The Minister must prepare the report referred to in section 9 of the *Commonwealth Authorities and Companies Act 1997* in relation to ANTA for the financial year ending on 30 June 2005.

- (2) The obligation under section 9 of the *Commonwealth Authorities and Companies Act 1997* imposed on ANTA to prepare an annual report for the financial year ending on 30 June 2005 is satisfied if the report is prepared by the Minister.

## **11 Final annual national report**

- (1) The Minister must, as soon as practicable after the transition time, cause to be laid before each House of the Parliament an annual national report for the year 2004, representing the draft annual national report prepared by ANTA for that year under section 18 of the ANTA Act.
- (2) The draft annual national report for 2005 prepared by the Minister under section 44 of the *Skilling Australia's Workforce Act 2005* must include the information for the 6 month period ending on 30 June 2005 that ANTA would have been required to include in the draft annual national report under section 18 of the ANTA Act.

## **12 Exemption from stamp duty and other State or Territory taxes**

- (1) No stamp duty or other tax is payable under a law of a State or a Territory in respect of an exempt matter, or anything connected with an exempt matter.
- (2) For the purposes of this item, an *exempt matter* is:
- (a) the vesting of an asset or liability under this Schedule; or
  - (b) the operation of this Schedule in any other respect.
- (3) The Minister may certify in writing:
- (a) that a specified matter is an exempt matter; or
  - (b) that a specified thing was connected with a specified exempt matter.
- (4) In all courts, and for all purposes (other than for the purposes of criminal proceedings), a certificate under subitem (3) is prima facie evidence of the matters stated in the certificate.
- (5) A certificate under subitem (3) is not a legislative instrument.

## **13 Certificates taken to be authentic**

A document that appears to be a certificate made or issued under a particular provision of this Schedule:

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- (a) is taken to be such a certificate; and
  - (b) is taken to have been properly given;
- unless the contrary is established.

#### **14 Delegation by Minister**

- (1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Schedule to:
  - (a) the Secretary of the Department; or
  - (b) an SES employee, or acting SES employee, in the Department.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

#### **15 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Schedule to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
  - (a) the amendments or repeals made by this Act; or
  - (b) the enactment of this Act.

## **Schedule 2—Repeal of Acts**

### ***Australian National Training Authority Act 1992***

#### **1 The whole of the Act**

Repeal the Act.

### ***Vocational Education and Training Funding Act 1992***

#### **2 The whole of the Act**

Repeal the Act.

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*[Minister's second reading speech made in—  
House of Representatives on 11 May 2005  
Senate on 16 June 2005]*

(63/05)

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