

**COMMERCE AND INDUSTRY TRAINING COUNCIL ACT,
1985, No. 21**

NEW SOUTH WALES.



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**COMMERCE AND INDUSTRY TRAINING COUNCIL ACT,
1985, No. 21**

New South Wales



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ELIZABETHÆ II REGINÆ

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Act No. 21, 1985.

An Act to constitute the Commerce and Industry Training Council of New South Wales; to define its functions; and for other purposes. [Assented to, 22nd April, 1985.]

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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 "Commerce and Industry Training Council Act, 1985".

Commencement.

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

(2) Except as provided by subsection (1), 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.

Interpretation.

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

"Chairperson" means the Chairperson of the Council;

"Council" means the Commerce and Industry Training Council of New South Wales constituted by this Act;

"excluded training" means—

(a) training for a trade, within the meaning of the Apprenticeship Act, 1981;

(b) training provided for children at a State school or a certified school, within the meaning of the Public Instruction (Amendment) Act, 1916; and

(c) training consisting of courses and other educational and training activities provided by the Department of Technical and Further Education pursuant to the Technical and Further Education Act, 1974;

"member" means a member of the Council;

"regulation" means a regulation made under this Act.

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

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty; and
- (c) a reference to training includes a reference to re-training.

(3) The Chairperson may be referred to as the Chairman or Chairwoman, as the case may require.

PART II.

THE COMMERCE AND INDUSTRY TRAINING COUNCIL OF NEW SOUTH WALES.

The Council.

4. (1) There is hereby constituted a corporation under the corporate name of the "Commerce and Industry Training Council of New South Wales".

(2) The Council—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Council shall consist of 14 members of whom—

- (a) one shall be the Secretary of the Department of Industrial Relations or, in the absence of that person, another person nominated by that person to act as a member; and
- (b) the others shall be appointed by the Governor.

(4) Schedule 1 has effect with respect to the members.

(5) Schedule 2 has effect with respect to the procedure of the Council.

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Chairperson.

5. (1) The Secretary of the Department of Industrial Relations or, in the absence of that person, the other person nominated for the time being under section 4 (3) (a) by that person, shall be the Chairperson of the Council.

(2) The Chairperson—

- (a) is responsible, as the chief executive officer of the Council, for the management of the affairs of the Council subject to and in accordance with any directions of the Council; and
- (b) shall have and may exercise such other functions as are conferred or imposed on the Chairperson by or under this or any other Act.

Staff of the Council.

6. (1) Such staff as may be necessary to enable the Council to exercise its functions shall be employed under the Public Service Act, 1979.

(2) The Council may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

PART III.

FUNCTIONS OF THE COUNCIL.

Functions of the Council.

7. (1) The principal object of the Council is to advise the Minister with respect to the on the job training of persons engaged or to be engaged in commerce and industry in New South Wales.

(2) In subsection (1), a reference to training does not include a reference to excluded training.

(3) Without affecting the generality of subsection (1), the Council may and, when requested by the Minister to do so, shall make reports or recommendations to the Minister in relation to—

- (a) the need for human resources planning generally and the need to encourage innovative training methods utilising new technology, changing work practices and existing resources;

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- (b) the promotion of a greater amount and a higher standard of training in and for commerce and industry;
- (c) the desirability for and the economic feasibility of providing accreditation and certification of training of different types undertaken in the fields of commerce and industry;
- (d) the need for and the provision of training personnel in commerce and industry;
- (e) the manner of achieving increased consultation and co-operation in respect of training matters at places of work;
- (f) the methods for publicising the benefits to be derived from training to individuals and to commerce and industry generally;
- (g) the particular action which could be taken to create additional training opportunities for school leavers and other young people, retrenched employees, women seeking to rejoin the workforce, disabled people, Aborigines, migrants (particularly those with English language problems) and other disadvantaged persons or identifiable groups of persons;
- (h) the making of appropriate regulations under this Act and the effectiveness of any regulations so made; and
- (i) the making of administrative provisions and other legislative provisions relating to training for the purpose of meeting changing needs arising from developments taking place in commerce and industry.

(4) In the exercise of its functions, the Council shall have particular regard to promoting, to the greatest extent practicable, the efficient use of existing resources which are or may be used for the purpose of training.

(5) The Council shall, for the purpose of exercising its functions, liaise and co-operate with any person or body (whether situated within or outside New South Wales) concerned with training for the purposes of commerce or industry.

Minority reports, etc.

8. If a member does not support a report or recommendation to be made to the Minister by the Council pursuant to section 7, the report or recommendation shall, if the member so requires, be accompanied by a minority report or recommendation supported by the member.

PART IV.

MISCELLANEOUS.

Shortened references to Council.

9. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Commerce and Industry Training Council" shall be read and construed as a reference to the Commerce and Industry Training Council of New South Wales constituted by this Act.

Authentication of certain documents.

10. Every document requiring authentication by the Council may be sufficiently authenticated without the seal of the Council if signed by the Chairperson or by any other person authorised to do so by the Chairperson.

Proof of certain matters not required.

11. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Council;
- (b) any resolution of the Council;
- (c) the appointment of, or the holding of office by, any member; or
- (d) the presence or nature of a quorum at any meeting of the Council.

Committees.

12. Subject to the regulations, the Council may, with the approval of the Minister, establish such committees of members, of members and other persons or of other persons as it thinks fit for the purpose of assisting it to exercise its functions.

Regulations.

13. (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

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prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the meetings of the Council and the procedure at those meetings;
- (b) the establishment, constitution, meetings and functions of committees referred to in section 12 and the procedure at those meetings;
- (c) the design, content and implementation of training programmes for commerce and industry;
- (d) the qualifications of persons to be engaged in any capacity in those training programmes;
- (e) accreditation and certification in connection with those training programmes; and
- (f) fees payable in connection with those training programmes.

(2) In subsection (1), a reference to training programmes does not include a reference to programmes related to excluded training.

(3) 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.

SCHEDULE 1.

(Sec. 4 (4).)

PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL.

Interpretation.

1. In this Schedule, “appointed member” means a member appointed by the Governor.

*Commerce and Industry Training Council 1985*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—*continued.***Qualifications of appointed members.**

2. Of the appointed members—

- (a) 3 shall be appointed on the nomination of the Minister from a panel of 6 persons nominated by the Labor Council of New South Wales;
- (b) 3 shall be appointed on the nomination of the Minister from a panel of 6 persons nominated by such bodies or organisations representing employers as are approved by the Minister;
- (c) 2, being persons having knowledge and experience relating to training in commerce or industry, or both, shall be appointed on the nomination of the Minister;
- (d) 1 shall be appointed on the nomination of the Minister otherwise than pursuant to paragraphs (a)–(c);
- (e) 2 shall be appointed on the nomination of the Minister for Education to represent the Departments of Education and of Technical and Further Education, respectively;
- (f) 1 shall be appointed on the nomination of the Minister for Employment and Minister for Finance; and
- (g) 1 shall be appointed on the nomination of the Minister for Industry and Decentralisation and Minister for Small Business and Technology.

Acting members.

3. (1) The Minister who, pursuant to clause 2, has nominated an appointed member may, from time to time, nominate another person to act in the office of the member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Governor may remove any person from the office for which the person was nominated under subclause (1).

(3) In sections 8 and 11, clauses 8, 9 and 10 and Schedule 2, a reference to a member includes a reference to a person acting in the office of a member under this clause.

Terms of office.

4. Subject to this Schedule, an appointed member shall hold office for such period not exceeding 4 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration.

5. A member or a person acting in the office of a member 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.

Filling of vacancy in office of appointed member.

6. In the event of the office of an appointed member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—*continued.*

Casual vacancies.

7. (1) An appointed member shall be deemed to have vacated office if the member—
- (a) dies;
 - (b) absents himself or herself from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Council (which leave the Council is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Council for being absent from those meetings;
 - (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;
 - (d) 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;
 - (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (f) resigns the office by instrument in writing addressed to the Minister;
 - (g) attains the age of 70 years; or
 - (h) is removed from office by the Governor under subclause (2) or (3).
- (2) The Governor may remove an appointed member from office.
- (3) Without affecting the generality of subclause (2), the Governor may remove from office an appointed member who contravenes the provisions of clause 8.

Disclosure of pecuniary interests.

8. (1) A member who has a direct or indirect pecuniary interest—
- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Council; or
 - (b) in a thing being done or about to be done by the Council,
- shall, 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 Council.
- (2) A disclosure by a member at a meeting of the Council that the member—
- (a) is a member, or is in the employment, of a specified company or other body;
 - (b) is a partner, or is in the employment, of a specified person, or

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—*continued.*

- (c) has some other specified interest relating to a specified company or other body or a specified person.

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Council shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Council from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Council, or take part in any decision of the Council, with respect to that matter; or
 (b) exercise any functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Council or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is an employer or an employee engaged in commerce or industry or an officer of the Public Service.

(7) A reference in this clause to a meeting of the Council includes a reference to a meeting of a committee referred to in section 12.

Effect of certain other Acts.

9. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—*continued.*

Liability of members, etc.

10. No matter or thing done by the Council, and no matter or thing done by any member or by any person acting under the direction of the Council, shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

SCHEDULE 2.

(Sec. 4 (5).)

PROVISIONS RELATING TO THE PROCEDURE OF THE COUNCIL.

General procedure.

1. The procedure for the calling of meetings of the Council and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Council.

Quorum.

2. Seven members, of whom one shall be the Chairperson or, in the absence of the Chairperson, the member nominated under clause 3 (1), shall form a quorum and any duly convened meeting of the Council at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise all the functions of the Council.

Presiding member.

3. (1) The Chairperson or, in the absence of the Chairperson, another member nominated by the Minister for the purpose shall preside at a meeting of the Council.

(2) The person presiding at any meeting of the Council shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

4. 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.

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SCHEDULE 2—*continued.*

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

Minutes.

5. The Council shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Council.

Calling of meetings.

6. (1) Except as provided by subclause (2), the Council shall meet at such times as are determined by the Chairperson or, in the absence of the Chairperson, by the Minister.

(2) The Chairperson shall call a meeting of the Council if requested to do so by not less than 3 other members.
