



New South Wales

# Apprenticeship and Traineeship Amendment Bill 2017

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Apprenticeship and Traineeship Act 2001* (*the Act*) as follows:

- (a) to abolish the Vocational Training Review Panel (the *Review Panel*),
- (b) to provide for a right to apply to the Civil and Administrative Tribunal (*NCAT*) for an administrative review of certain decisions of the Commissioner for Vocational Training (the *Commissioner*) under the Act (replacing the right to apply to the Review Panel for a review of those decisions and the right of external appeal to NCAT from decisions of the Review Panel),
- (c) to confer on the Commissioner the functions of the Review Panel relating to the hearing and determination of complaints under the Act,
- (d) to provide for a process of conciliation in the first instance for complaints made by a party to an apprenticeship or traineeship, and for review by the Commissioner where complaints cannot be settled,
- (e) to declare that certain provisions of the Act and regulations made under the Act are excluded from the application of section 9 of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth so that State laws will apply to certain organisations registered under the Commonwealth Act that provide training, assessment or instruction in relation to recognised trade vocations or recognised traineeship vocations,
- (f) to provide that trainee apprenticeships are not permitted to be established under the Act,

- (g) to provide for the making of applications for the establishment of apprenticeships or traineeships by an agent on behalf of an employer,
- (h) to further provide for the matters of which the Commissioner must be satisfied before approving an application for the establishment of an apprenticeship or traineeship,
- (i) to further provide for the making of training contracts and training plans,
- (j) to require apprentices and trainees to undergo assessments of competence before being issued with a certificate of proficiency in the relevant vocation,
- (k) to enable the Commissioner to require an applicant for the recognition of trade training to undergo an assessment of competence and seek expert advice in connection with the application,
- (l) to require the Commissioner to obtain the unanimous recommendation of nominated industrial representatives before determining that applicants for recognition of qualifications or experience are adequately trained to pursue certain vocations,
- (m) to further provide for the making of orders prohibiting employers from entering into apprenticeships or traineeships,
- (n) to remove requirements to issue craft certificates and certificates of completion,
- (o) to require applications under the Act to be made in the manner and form approved by the Commissioner,
- (p) to provide for the issue of penalty notices for certain offences against the Act or regulations made under the Act,
- (q) to increase the maximum amount of penalty that can be imposed for certain offences against the Act or regulations,
- (r) to make other minor and consequential amendments, including savings and transitional provisions consequent on the proposed amendments.

## Outline of provisions

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

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

## **Schedule 1      Amendment of Apprenticeship and Traineeship Act 2001 No 80**

### **Abolition of Review Panel**

**Schedule 1 [73]** (proposed clause 30 of Schedule 4) abolishes the Review Panel. Proposed clause 29 of Schedule 4 provides that the functions of the Review Panel of dealing with pending proceedings will continue until one year after the day on which Division 2 of Part 6 of the Act is repealed by **Schedule 1 [64]** (or until an earlier or later date appointed by the regulations). **Schedule 1 [15], [16], [18], [21], [31], [32], [62], [63], [67], [68], [72], [74] and [77]** make consequential amendments.

**Schedule 1 [60]** provides for a right to apply to NCAT for an administrative review of certain decisions of the Commissioner under the Act. The amendment replaces the right to apply to the Review Panel for a review of a decision of the Commissioner, and the right of appeal to NCAT from decisions of the Review Panel.

**Schedule 1 [41]** confers on the Commissioner various functions that are currently conferred on the Review Panel relating to the recognition of trade training and qualifications and the hearing of complaints about a party's failure to discharge obligations under an apprenticeship or traineeship. **Schedule 1 [43], [46]–[49], [52], [54] and [57]** make consequential amendments.

**Schedule 1 [44]** provides that a complaint is to be referred to a conciliator authorised by the Commissioner in the first instance (rather than requiring the Commissioner to attempt to bring the parties to a settlement before referring the complaint to the Review Panel). **Schedule 1 [51]** makes a consequential amendment.

### **Application of Commonwealth National Vocational Education and Training Regulator Act 2011 and regulation of registered training organisations**

The *National Vocational Education and Training Regulator Act 2011* of the Commonwealth (the **Commonwealth Act**) provides that a training organisation registered by the National Vocational Education and Training Regulator (a **registered training organisation**) which operates in New South Wales is not subject to New South Wales law in relation to certain matters, including the regulation of registered training organisations and related investigative powers, sanctions and enforcement. However, the application of the Commonwealth Act is subject to any declaration made by New South Wales that a matter is an “excluded matter” to which the Commonwealth Act will not apply.

**Schedule 1 [2]** declares that certain provisions under the Act and regulations relating to registered training organisations providing training, assessment or instruction relating to any recognised trade vocation or recognised traineeship vocation and the exercise of related investigative powers, sanctions or enforcement (**State apprenticeship and traineeship regulation provisions**) constitute an “excluded matter” for the purposes of the provision of the Commonwealth Act that makes all registered training organisations immune to New South Wales law.

Pursuant to a power conferred by section 11 of the Commonwealth Act, the amendment also displaces the Commonwealth Act to the extent that it would render inoperative State apprenticeship and traineeship regulation provisions that are inconsistent with the Commonwealth Act.

**Schedule 1 [29]** sets out duties of registered training organisations in relation to the following matters:

- (a) the provision of information to the employer in relation to the progress of the apprentice or trainee in obtaining the relevant qualification,
- (b) the review of the training plan,
- (c) obtaining the confirmation of the employer before determining whether the apprentice or trainee has acquired the competencies of the relevant qualification,
- (d) notifying the Commissioner that the apprentice or trainee has become eligible to be awarded the relevant qualification by the registered training organisation,
- (e) notifying the Commissioner of any failure by the employer to allow the apprentice or trainee to commence or participate in the relevant training, to allow the organisation to conduct the relevant training or assessment or to provide any information requested by the organisation for the purpose of assessments of competence in relation to the relevant training.

**Schedule 1 [25]** provides for other duties of registered training organisations in relation to training plans (as explained below).

### **Training contracts and training plans**

**Schedule 1 [11] and [14]** (proposed section 7 (4)) make it clear that an application for the establishment of an apprenticeship or traineeship must be accompanied by a proposed training contract and a training plan proposal, in the form approved by the Commissioner and prepared in accordance with the vocational training order, rather than details required by the order. The Commissioner may require the applicant to lodge with the application the final training plan instead of a training plan proposal.

**Schedule 1 [25]** requires the relevant registered training organisation in relation to an apprenticeship or traineeship to prepare a training plan in the form approved by the Commissioner within 12 weeks after being notified of the approval of the establishment of the apprenticeship or

traineeship. The organisation must keep a copy of the training plan and make the plan available for inspection on request by the Commissioner. The requirements do not apply if a training plan has already been lodged with the Commissioner (including as part of the application for establishment of the apprenticeship or traineeship).

**Schedule 1 [17]** requires the Commissioner to notify the relevant registered training organisation after determining an application for establishment of an apprenticeship or traineeship.

### **Suspension and cancellation**

**Schedule 1 [34]** modifies the process for suspension or cancellation of an apprenticeship or traineeship. Currently, an apprenticeship or traineeship may only be suspended or cancelled on the application of one or both of the parties. The amendment enables the Commissioner to suspend or cancel an apprenticeship or traineeship on the Commissioner's own initiative after giving the parties notice of the proposed suspension or cancellation and the opportunity to make submissions. The Commissioner may not suspend or cancel an apprenticeship or traineeship unless satisfied that both parties consent or that it is reasonable in the circumstances to do so. The Commissioner must give notice of the suspension or cancellation specifying the grounds of suspension or cancellation, the date on which it takes effect and, in the case of suspension, the period of suspension.

**Schedule 1 [45]** provides that the Commissioner is not required to give prior notice to the employer and apprentice or trainee of the suspension of an apprenticeship or traineeship pending the hearing of a complaint.

### **Competency assessments**

**Schedule 1 [35]** enables the Commissioner to require an apprentice or trainee to undergo a competency assessment by a registered training organisation nominated by the Commissioner before issuing the apprentice or trainee with a certificate of proficiency for the relevant vocation.

**Schedule 1 [37]** enables the Commissioner to provide a copy of the report of the assessment to the Australian Skills Quality Authority.

**Schedule 1 [43]** (proposed section 36) enables the Commissioner to require an applicant for recognition of qualifications or experience in a particular trade vocation to undergo a competency assessment by a registered training organisation nominated by the Commissioner, and seek expert advice, before determining that the applicant is adequately trained to pursue the vocation.

**Schedule 1 [75]** makes a consequential amendment.

**Schedule 1 [70]** provides that the regulations may make provision for or with respect to competency assessments and related consultation processes.

### **Penalties**

**Schedule 1 [65]** provides for the issue of penalty notices for offences against the Act or the regulations. Penalty notices may be issued by persons authorised in writing by the Commissioner.

**Schedule 1 [10]** increases, from 20 penalty units to 100 penalty units, the maximum penalty amount for the following offences:

- (a) failing to apply for the establishment of an apprenticeship or traineeship within 28 days after employing an apprentice or trainee,
- (b) employing a person under the age of 21 years in a recognised trade vocation who is not an apprentice or qualified tradesperson in the vocation.

**Schedule 1 [26]** increases, from 20 penalty units to 200 penalty units, the maximum penalty amount for the offence of an employer knowingly placing an apprentice or trainee with a host employer who is a prohibited employer.

**Schedule 1 [40]** increases, from 20 penalty units to 200 penalty units, the maximum penalty amount for the following offences:

- (a) requiring an apprentice or trainee to make payments or give bonds with respect to the establishment of an apprenticeship or traineeship,

- (b) failing to comply with certain requirements of, or obstructing, an industry training officer,
- (c) giving false or misleading information in relation to an application under the Act,
- (d) disclosing trade secrets and other business information obtained in connection with the administration or execution of the Act.

**Schedule 1 [39]** increases, from 10 penalty units to 100 penalty units, the maximum penalty amount for the offence of falsely advertising or representing that a person or body is registered under the Act as a group training organisation.

**Schedule 1 [50]** increases, from 5 penalty units to 50 penalty units, the maximum penalty amount for the following offences in connection with the hearing of a complaint:

- (a) failing to comply with a requirement to attend the hearing or produce a document,
- (b) failing to comply with a requirement to answer a question, or making a false or misleading statement, at the hearing,
- (c) misconduct at the hearing.

**Schedule 1 [71]** increases, from 10 penalty units to 100 penalty units, the maximum penalty amount that may be imposed for an offence under the regulations.

### Miscellaneous amendments

**Schedule 1 [1], [61], [74]** (omission of definition of *public servant*) and **[76]** are law revision amendments consequent on the enactment of the *Government Sector Employment Act 2013* and the Commonwealth *Fair Work Act 2009*.

**Schedule 1 [3]** confers on the Commissioner the function of issuing vocational training guidelines currently conferred on the Secretary of the Department of Industry.

**Schedule 1 [4], [5] and [9]** make minor amendments to clarify references to the expressions *required training*, *appropriate qualification* and *recognised traineeship vocation*, respectively.

**Schedule 1 [6]** provides that a vocational training order in relation to a recognised trade vocation or recognised traineeship vocation may specify the units of competency forming part of the training for the vocation.

**Schedule 1 [7]** updates a reference to the website on which vocational training orders are published.

**Schedule 1 [8]** inserts a note explaining the effect of registration of an employer or apprentice or trainee (in the register of apprenticeships and traineeships established under the Act) in relation to eligibility for funding under State and Commonwealth incentive schemes.

**Schedule 1 [13]** requires an application for the establishment of an apprenticeship or traineeship by an employer who proposes to place the apprentice or trainee with a host employer to specify the business address (rather than any postal or other address), ACN (if any) and ABN of the host employer.

**Schedule 1 [14]** (proposed section 7 (5B)) enables an agent approved by the Commissioner to make an application for the establishment of an apprenticeship or traineeship on behalf of an employer if the agent certifies that certain relevant documentation has been duly executed by the parties. Proposed section 7 (5C) enables the Commissioner to refuse to accept applications lodged by the agent if the agent fails to provide the certification.

**Schedule 1 [14]** (proposed section 7 (5D)) provides that the establishment of an apprenticeship under which the employer does not undertake to employ the apprentice for the whole of the term of the apprenticeship (a *trainee apprenticeship*) is not permitted under the Act. **Schedule 1 [12], [20], [22], [23] and [28]** make consequential amendments.

**Schedule 1 [19]** specifies additional matters (relating to conditions of employment and the requirements of vocational training orders) of which the Commissioner must be satisfied before approving an application for the establishment of an apprenticeship or traineeship.

**Schedule 1 [24]** makes it clear that a training contract that binds the employer and apprentice or trainee is the contract most recently executed between the parties, as varied under the Act.

**Schedule 1 [36]** removes provisions enabling the Commissioner to issue craft certificates or certificates of completion (instead of certificates of proficiency) to apprentices or trainees who have completed an apprenticeship or traineeship but not yet been awarded an appropriate qualification. **Schedule 1 [42], [43], [74] and [79]** make consequential amendments.

**Schedule 1 [43]** (proposed section 37) makes special provision in relation to the recognition of qualifications or experience of a person in a recognised trade vocation for which the person requires a certificate of proficiency in order to work in the vocation. For the purpose of determining an application for recognition of the qualifications or experience, the Commissioner is to nominate representatives of industrial organisations that represent employees and employers (at least one of each). The Commissioner may determine that the person is adequately trained to pursue the vocation only if the industrial representatives make a unanimous recommendation to that effect. The Commissioner is to provide to the industrial representatives any information obtained by the Commissioner in connection with the application. The regulations may make further provision for or with respect to applications and determinations. **Schedule 1 [43]** also repeals a provision containing matters that are dealt with by proposed sections 36 and 37.

**Schedule 1 [55]** enables the Commissioner to specify limitations on orders prohibiting employers from entering into apprenticeships or traineeships. **Schedule 1 [53]** defines orders of this kind as *prohibition orders* and makes a consequential amendment. **Schedule 1 [14]** (proposed section 7 (6)), **[26] and [56]** also make consequential amendments.

**Schedule 1 [58]** enables the Commissioner to vary a prohibition order.

**Schedule 1 [59]** makes it an offence for an employer who is subject to a prohibition order to employ an apprentice or trainee contrary to the order. **Schedule 1 [26]** makes a consequential amendment to remove a more limited offence applying to employment under host employment arrangements.

**Schedule 1 [66]** provides that applications under the Act must be made in the manner and form approved by the Commissioner.

**Schedule 1 [73]** contains provisions of a savings or transitional nature relating to the following matters:

- (a) the abolition of the Vocational Training Review Panel, including the manner in which proceedings pending in the Vocational Training Review Panel, NCAT or a court are to be dealt with,
- (b) the preparation of training plans,
- (c) the making and settlement of complaints,
- (d) the suspension and cancellation of apprenticeships and traineeships,
- (e) trade recognition and assessment,
- (f) trainee apprenticeships,
- (g) vocational training guidelines issued by the Secretary of the Department of Industry.

**Schedule 1 [69]** omits a provision authorising the Secretary to delegate the Secretary's functions under the Act. The provision is made redundant by the conferral of those functions on the Commissioner by the proposed Act.

**Schedule 1 [74]** inserts definitions of *prohibition order*, *relevant registered training organisation* and *training plan*. **Schedule 1 [27], [30], [33], [38] and [78]** make consequential amendments.

## **Schedule 2      Amendment of other Acts and instruments**

**Schedule 2** makes consequential amendments to other Acts and instruments as follows:

- (a) the *Apprenticeship and Traineeship Regulation 2017* is amended to remove provisions and references that are made redundant by the proposed Act,
- (b) the *Civil and Administrative Tribunal Regulation 2013* is amended to provide that fees are not payable for the lodgment of an administrative review application under the Act,

- (c) the *Hairdressers Act 2003* and the *Government Information (Public Access) Regulation 2009* are amended to remove matter relating to the Vocational Training Review Panel.



New South Wales

# Apprenticeship and Traineeship Amendment Bill 2017

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New South Wales

# Apprenticeship and Traineeship Amendment Bill 2017

No. , 2017

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## **A Bill for**

An Act to amend the *Apprenticeship and Traineeship Act 2001* to make further provision with respect to the regulation of apprenticeships and traineeships; to make related amendments to other legislation; and for other purposes.

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

1

**1 Name of Act**

2

This Act is the *Apprenticeship and Traineeship Amendment Act 2017*.

3

**2 Commencement**

4

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

5

<b>Schedule 1</b>	<b>Amendment of Apprenticeship and Traineeship Act 2001 No 80</b>	1
		2
<b>[1] Whole Act (except where otherwise amended by this Schedule)</b>		3
	Omit “public servant” and “public servants” wherever occurring.	4
	Insert instead “Public Service employee” and “Public Service employees”, respectively.	5
<b>[2] Section 3A</b>		6
	Insert after section 3:	7
<b>3A Application of National Vocational Education and Training Regulator Act 2011 (Cth)</b>		8
		9
(1)	In this section:	10
	<i>Commonwealth Act</i> means the <i>National Vocational Education and Training Regulator Act 2011</i> of the Commonwealth.	11
	<i>State apprenticeship and traineeship regulation provisions</i> means the provisions of this Act and the regulations:	12
(a)	regulating organisations providing training, assessment or instruction in relation to a recognised trade vocation or a recognised traineeship vocation, and	13
		14
(b)	providing for the approval by or under this Act of training, assessment or instruction provided by organisations, and	15
		16
(c)	providing for the standards to be complied with under this Act by organisations, and	17
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(d)	providing for the exercise of investigative powers, sanctions and enforcement by or under this Act in relation to such matters.	19
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(2)	The State apprenticeship and traineeship regulation provisions are declared to be an excluded matter for the purposes of section 10 of the Commonwealth Act in relation to section 9 (Immunity from State and Territory laws) of the Commonwealth Act to the extent that section 9 would prevent the application of the State apprenticeship and traineeship regulation provisions to an NVR registered training organisation (within the meaning of the Commonwealth Act) providing training, assessment or instruction in relation to a recognised trade vocation or a recognised traineeship vocation.	22
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(3)	Without limiting subsection (2), each provision of this Act (and of any regulations made under this Act) is declared to be a VET legislation displacement provision for the purposes of section 11 of the Commonwealth Act generally.	32
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<b>[3] Section 4 Vocational training guidelines</b>		36
	Omit “Secretary” from section 4 (1). Insert instead “Commissioner”.	37
<b>[4] Section 6 Vocational training orders</b>		38
	Omit “required training for a particular recognised trade vocation or recognised traineeship vocation” from section 6 (1).	39
		40
	Insert instead “training that an apprentice or trainee who is employed in a recognised trade vocation or recognised traineeship vocation is required to undertake in connection with that vocation”.	41
		42
		43

<b>[5] Section 6 (1) (c)</b>	1
Omit “appropriate”.	2
<b>[6] Section 6 (1) (c1)</b>	3
Insert after section 6 (1) (c):	4
(c1) the units of competency forming part of the training for that vocation,	5
<b>[7] Section 6, note</b>	6
Omit “Department of Education and Training website at <a href="http://apprenticeship.det.nsw.edu.au">http://apprenticeship.det.nsw.edu.au</a> ”.	7
Insert instead “Department of Industry website at <a href="https://www.training.nsw.gov.au/promotions/apprenticeships_traineeships.html">https://www.training.nsw.gov.au/promotions/apprenticeships_traineeships.html</a> ”.	8
<b>[8] Part 2, Division 2</b>	9
Insert before section 7 in the Division:	10
<b>Note.</b> Certain information relating to apprenticeships and traineeships established under this Division (including the names of the employer and apprentice or trainee) is required to be recorded in the register of apprenticeships and traineeships (see Division 5). Registration of a person as an employer or apprentice or trainee may render the person eligible for certain payments available under State or Commonwealth incentive schemes. Eligibility for those payments may be affected by changes in circumstances such as a variation of the training contract or training plan approved under this Division in relation to the apprenticeship or traineeship or the transfer, suspension or cancellation of the apprenticeship or traineeship.	11
<b>[9] Section 7 Applications to establish apprenticeships and traineeships</b>	12
Omit “(including a recognised traineeship vocation that is, or forms part of, a recognised trade vocation)” from section 7 (1) (b).	13
<b>[10] Sections 7 (2) and 25 (1)</b>	14
Omit “20 penalty units” wherever occurring. Insert instead “100 penalty units”.	15
<b>[11] Section 7 (3) (a) and (a1)</b>	16
Omit section 7 (3) (a). Insert instead:	17
(a) must be accompanied by the proposed training contract (as executed by the prospective employer and prospective apprentice or trainee), and	18
(a1) must be accompanied by the training plan proposal (as endorsed by the relevant registered training organisation), and	19
<b>[12] Section 7 (3) (d)</b>	20
Omit the paragraph.	21
<b>[13] Section 7 (3) (e)</b>	22
Omit “and address”. Insert instead “, business address, ACN (if any) and ABN”.	23
<b>[14] Section 7 (4)–(6)</b>	24
Omit the subsections. Insert instead:	25
(4) A <i>training plan proposal</i> is a document prepared by the prospective employer and prospective apprentice or trainee outlining the following matters in relation to the proposed apprenticeship or traineeship:	26

(a)	the proposed arrangements for the provision of training to the prospective apprentice or trainee,	1 2
(b)	the appropriate qualification or qualifications proposed to be awarded to the prospective apprentice or trainee.	3 4
(5)	The proposed training contract and training plan proposal:	5
(a)	must be set out in the form approved by the Commissioner, and	6
(b)	must be prepared in accordance with the relevant vocational training order.	7 8
(5A)	The Commissioner may require the applicant to lodge with the application a training plan for the proposed apprenticeship or traineeship instead of a training plan proposal.	9 10 11
(5B)	An application under this section may be made on behalf of the employer by an agent of the employer approved by the Commissioner if the agent certifies that the relevant training contract and any associated documentation have been duly executed by the parties to the contract.	12 13 14 15
(5C)	The Commissioner may refuse to accept applications lodged by a particular agent (and must notify the relevant applicants accordingly) if the agent fails to comply with this section or any requirement of the regulations in relation to any application lodged by the agent.	16 17 18 19
(5D)	The establishment of a trainee apprenticeship is not permitted under this Act, even if the relevant industrial award or agreement recognises that the apprenticeship may be undertaken as a trainee apprenticeship.	20 21 22
(6)	An application under this section may not be made by a prohibited employer contrary to a prohibition order.	23 24
<b>[15]</b>	<b>Section 8 Determination of applications</b>	25
	Omit section 8 (1) (c).	26
<b>[16]</b>	<b>Section 8 (2)</b>	27
	Omit the subsection.	28
<b>[17]</b>	<b>Section 8 (4)</b>	29
	Insert “and the relevant registered training organisation” after “applicant”.	30
<b>[18]</b>	<b>Sections 9 (1), 10 (1) and 20 (4)</b>	31
	Omit “or Review Panel, as the case may be,” wherever occurring.	32
<b>[19]</b>	<b>Section 9 (1) (a1)–(a4)</b>	33
	Insert after section 9 (1) (a):	34
(a1)	that the employer will employ the apprentice or trainee under conditions that do not contravene the relevant industrial award or agreement, and	35 36
(a2)	that the apprentice or trainee is capable of undertaking the required training in the relevant vocation, and	37 38
(a3)	that the proposed training contract has been prepared in accordance with the relevant vocational training order, and	39 40
(a4)	that the employment provided, or to be provided, by the employer complies with the relevant vocational training order, and	41 42

<b>[20] Section 9 (2)</b>	1
Omit the subsection.	2
<b>[21] Sections 10 (3) and 77 (e)</b>	3
Omit “or Review Panel” wherever occurring.	4
<b>[22] Section 12 Training contracts</b>	5
Omit “a full apprenticeship” from section 12 (2) (a). Insert instead “an apprenticeship”.	6
<b>[23] Section 12 (2) (b)</b>	7
Omit the paragraph.	8
<b>[24] Section 12 (2A)</b>	9
Insert after section 12 (2):	10
(2A) A reference in this section to a training contract is a reference to the training contract most recently executed by the employer and apprentice or trainee, as varied in accordance with this Act.	11 12 13
<b>[25] Section 12A</b>	14
Insert after section 12:	15
<b>12A Training plans</b>	16
(1) A training plan is to be prepared in respect of each apprenticeship or traineeship.	17 18
(2) A training plan for an apprenticeship or traineeship is a document prepared in accordance with the relevant vocational training order that indicates, in particular:	19 20 21
(a) the arrangements for the provision of training to the apprentice or trainee that have been agreed to by the employer and the relevant registered training organisation, and	22 23 24
(b) the appropriate qualification or qualifications to be awarded to the apprentice or trainee in relation to the apprenticeship or traineeship, and	25 26
(c) the units of competency forming part of the training for the relevant vocation.	27 28
(3) The training plan is to be prepared by the relevant registered training organisation in relation to the apprenticeship or traineeship in consultation with the employer and the apprentice or trainee.	29 30 31
(4) The training plan is to be lodged with the application for the establishment of the apprenticeship or traineeship, if required by the Commissioner.	32 33
(5) If a training plan was not required to be lodged with the application, the relevant registered training organisation must prepare the plan within 12 weeks after the organisation is notified that the establishment of the apprenticeship or traineeship has been approved. Maximum penalty: 50 penalty units.	34 35 36 37 38
(6) A training plan is to be in the form approved by the Commissioner.	39
(7) The relevant registered training organisation in relation to the apprenticeship or traineeship to which a training plan relates must:	40 41

(a)	keep a copy of the training plan, in a manner approved by the Commissioner, for the period specified by the Commissioner, and	1 2
(b)	make the training plan available for inspection on request by the Commissioner.	3 4
	Maximum penalty: 50 penalty units.	5
<b>[26]</b>	<b>Section 14 Duties of employers using host employment arrangements</b>	6
	Omit section 14 (3) and (4). Insert instead:	7
(3)	An employer (the <i>principal employer</i> ) must not place an apprentice or trainee with a host employer if the principal employer knows:	8 9
(a)	that the host employer is a prohibited employer, and	10
(b)	that the employment of the apprentice or trainee by the host employer would be contrary to the relevant prohibition order.	11 12
	Maximum penalty: 200 penalty units.	13
<b>[27]</b>	<b>Section 15 Duties of employers to notify Commissioner of certain matters</b>	14
	Insert “relevant” after “change in the” in section 15 (1) (c).	15
<b>[28]</b>	<b>Section 15 (1) (f)</b>	16
	Omit the paragraph. Insert instead:	17
(f)	any notice given to the apprentice or trainee of the employer’s intention to terminate the employment of the apprentice or trainee.	18 19
<b>[29]</b>	<b>Section 16A</b>	20
	Insert after section 16:	21
<b>16A</b>	<b>Duties of registered training organisations</b>	22
(1)	A relevant registered training organisation for an apprenticeship or traineeship:	23 24
(a)	must provide to the employer, on request, information in relation to the progress of the apprentice or trainee in obtaining the relevant qualification, and	25 26 27
(b)	must review the training plan at least once every 6 months and, in addition, on any date determined in consultation with the employer and the apprentice or trainee, and	28 29 30
(c)	must obtain the confirmation of the employer before determining whether the apprentice or trainee has acquired the competencies of the relevant qualification, and	31 32 33
(d)	must, as soon as practicable after the apprentice or trainee becomes eligible to be awarded the relevant qualification by the registered training organisation, notify the Commissioner of that fact.	34 35 36
	Maximum penalty: 200 penalty units.	37
(2)	The relevant registered training organisation must also notify the Commissioner of the following matters within 21 days after the matter arises:	38 39
(a)	any failure by the employer to allow the apprentice or trainee to commence or participate in the training specified in the training plan,	40 41
(b)	any failure by the employer to allow the organisation to conduct the training or assessment components specified in the training plan,	42 43

(c)	any failure by the employer to provide any information requested by the organisation for the purpose of assessments of competence in relation to the training specified in the training plan.	1 2 3
	Maximum penalty: 200 penalty units.	4
<b>[30]</b>	<b>Section 19 Attendance at relevant registered training organisation</b>	5
	Omit “a relevant”. Insert instead “the relevant”.	6
<b>[31]</b>	<b>Section 20 Transfer of apprenticeships and traineeships</b>	7
	Omit section 20 (2) (c) and (3).	8
<b>[32]</b>	<b>Section 21 Variation of training contracts and training plans on application by a party</b>	9
	Omit section 21 (3) (c) and (4).	10
<b>[33]</b>	<b>Sections 21A (1) and 23 (1) (b) and (3) (b)</b>	11
	Omit “a registered training organisation” wherever occurring.	12
	Insert instead “the relevant registered training organisation”.	13
<b>[34]</b>	<b>Section 22</b>	14
	Omit the section. Insert instead:	15
<b>22</b>	<b>Suspension and cancellation of apprenticeships and traineeships</b>	16
(1)	The Commissioner may, on the application of the employer and the apprentice or trainee (or either of them alone) or on the Commissioner’s own initiative, suspend or cancel an apprenticeship or traineeship.	17 18 19
(2)	The Commissioner may not suspend or cancel the apprenticeship or traineeship unless the Commissioner is satisfied:	20 21
(a)	that both the employer and the apprentice or trainee consent to the suspension or cancellation, or	22 23
(b)	that it is reasonable in the circumstances to do so.	24
(3)	In addition, the Commissioner may not suspend or cancel an apprenticeship or traineeship on the application of the employer or the apprentice or trainee or on the Commissioner’s own initiative unless the Commissioner:	25 26 27
(a)	has given notice to the employer and the apprentice or trainee of the Commissioner’s intention to suspend or cancel the apprenticeship or traineeship, and	28 29 30
(b)	has given the employer and apprentice or trainee at least 21 days within which to make submissions to the Commissioner with respect to the proposed suspension or cancellation, and	31 32 33
(c)	has taken any such submissions into consideration.	34
(4)	The Commissioner must give notice to the employer and apprentice or trainee of a suspension or cancellation under this section specifying:	35 36
(a)	the grounds for the suspension or cancellation, and	37
(b)	the date from which the suspension or cancellation takes effect, and	38
(c)	in the case of suspension—the period of suspension.	39



<b>[35] Section 23 (1) (c) and (3) (c)</b>	1
Insert at the end of section 23 (1) (b) and (3) (b):	2
and	3
(c) has, if required by the Commissioner, been assessed by any other registered training organisation nominated by the Commissioner as having acquired the competencies of that vocation,	4 5 6
<b>[36] Section 23 (2) and (4)</b>	7
Omit the subsections.	8
<b>[37] Section 23 (4)</b>	9
Insert after section 23 (3):	10
(4) The Commissioner may provide to the Australian Skills Quality Authority a copy of the report of an assessment under subsection (1) (c) or (3) (c) (including any information contained in the report that is personal information under the <i>Privacy and Personal Information Protection Act 1998</i> or health information under the <i>Health Records and Information Privacy Act 2002</i> ).	11 12 13 14 15
<b>[38] Section 28 Register of apprenticeships and traineeships</b>	16
Omit “registered training organisation associated with the apprenticeship or traineeship” from section 28 (2) (i).	17 18
Insert instead “relevant registered training organisation”.	19
<b>[39] Section 29 Advertising of group training organisations</b>	20
Omit “10 penalty units”. Insert instead “100 penalty units”.	21
<b>[40] Sections 33 (1), 67 (2), 69, 70 and 71 (1)</b>	22
Omit “20 penalty units” wherever occurring. Insert instead “200 penalty units”.	23
<b>[41] Sections 35 (2) and (3), 42, 45 (1), 46 (1) (a) (ii), 51 (1)–(5), 52 and 53 (1) and (2)</b>	24
Omit “Review Panel” and “Review Panel’s” wherever occurring.	25
Insert instead “Commissioner” and “Commissioner’s”, respectively.	26
<b>[42] Section 35 (5)</b>	27
Omit “or a craft certificate, whichever is appropriate.”.	28
<b>[43] Sections 36 and 37</b>	29
Omit the sections. Insert instead:	30
<b>36 Recognition of other trade training—applications</b>	31
(1) A person may apply to the Commissioner for recognition of the person’s qualifications or experience in a particular recognised trade vocation.	32 33
(2) The Commissioner may require the applicant to undergo an assessment by a registered training organisation nominated by the Commissioner to determine whether the applicant has acquired the competencies of the recognised trade vocation (an <i>independent competency assessment</i> ).	34 35 36 37
(3) A registered training organisation may not be nominated to conduct an independent competency assessment if the organisation has previously provided training to the applicant in the recognised trade vocation.	38 39 40

- (4) The Commissioner may refuse to deal with the application if the applicant fails to comply with a requirement to undergo an independent competency assessment. 1  
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- (5) If the report of an independent competency assessment specifies that the applicant requires further training to acquire the competencies of the recognised trade vocation, the Commissioner may refuse to determine the application until the Commissioner is satisfied that the applicant has satisfactorily completed the training. 4  
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- (6) The Commissioner may seek expert advice in connection with the application from any person who, in the Commissioner's opinion, has special knowledge of, and experience in, the recognised trade vocation. 9  
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- (7) The regulations may provide that the Commissioner must, in specified circumstances, seek expert advice in connection with an application under this section from specified persons or classes of persons. 12  
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- (8) The Commissioner may provide to the Australian Skills Quality Authority a copy of the report of an independent competency assessment (including any information contained in the report that is personal information under the *Privacy and Personal Information Protection Act 1998* or health information under the *Health Records and Information Privacy Act 2002*). 15  
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- 37 Recognition of other trade training—determinations** 20
- (1) If the Commissioner is satisfied that an applicant for recognition of qualifications or experience in a particular recognised trade vocation (other than a certified vocation) has acquired the competencies of the vocation, the Commissioner may determine that the applicant is adequately trained to pursue that vocation. 21  
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- (2) A recognised trade vocation is a ***certified vocation*** if a person is required to have a certificate of proficiency in order to obtain a licence, permit or other authority under an Act to work in the vocation. 26  
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- (3) In making a determination under subsection (1), the Commissioner must have regard to: 29  
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- (a) the length of time for which the applicant has been working in the recognised trade vocation, and 31  
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- (b) the nature and duration of any instruction or training received by the applicant in the recognised trade vocation, and 33  
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- (c) the nature of any qualifications held by the applicant in relation to the recognised trade vocation, and 35  
36
- (d) any expert advice obtained in connection with the application, and 37
- (e) the applicant's performance in any examination or test set by the Commissioner or any independent competency assessment, and 38  
39
- (f) such other matters as the Commissioner considers relevant. 40
- (4) The following provisions apply in relation to the determination of an application for recognition of qualifications or experience in a certified vocation: 41  
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43
- (a) the Commissioner is to nominate at least one employee representative and one employer representative (the ***industrial representatives***) for the purpose of making a recommendation under this section as to whether the applicant is adequately trained to pursue the certified vocation, 44  
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(b)	the Commissioner may determine that the applicant is adequately trained to pursue the recognised trade vocation, but only if the industrial representatives have unanimously recommended that the applicant is adequately trained to pursue that vocation,	1 2 3 4
(c)	the industrial representatives must have regard to the matters specified in subsection (3) (a)–(e) (and such other matters as the representatives consider relevant) in making a recommendation under this section,	5 6 7
(d)	the Commissioner must have regard to the matters specified in subsection (3) in making a determination under this section.	8 9
(5)	The Commissioner is to provide to the industrial representatives any information obtained by the Commissioner in connection with the application and required by the representatives for the purpose of making the recommendation. For that purpose, the Commissioner is authorised to disclose to the industrial representatives personal information (within the meaning of the <i>Privacy and Personal Information Protection Act 1998</i> ) and health information (within the meaning of the <i>Health Records and Information Privacy Act 2002</i> ).	10 11 12 13 14 15 16 17
(6)	A determination under this section must be set out in an instrument signed by the Commissioner.	18 19
(7)	The Commissioner must issue a certificate of proficiency to the person to whom the determination relates.	20 21
(8)	The regulations may make provision for or with respect to:	22
(a)	applications for the recognition of qualifications or experience in a recognised trade vocation, and	23 24
(b)	the making of determinations and recommendations under this section.	25
(9)	In this section:	26
	<i>employee representative</i> , in relation to an application under this section, means a representative of an organisation that represents employees in industrial matters relating to the recognised trade vocation to which the application relates.	27 28 29 30
	<i>employer representative</i> , in relation to an application under this section, means a representative of an organisation that represents employers in industrial matters relating to the recognised trade vocation to which the application relates.	31 32 33 34
<b>[44] Section 40</b>		35
	Omit the section. Insert instead:	36
<b>40 Conciliation</b>		37
(1)	The Commissioner is to refer a complaint made by a party to an apprenticeship or traineeship to a conciliator in the first instance.	38 39
(2)	The conciliator must attempt to bring the parties to a settlement acceptable to each of them.	40 41
(3)	If such a settlement is not achievable, the Commissioner is to deal with the complaint in accordance with this Part.	42 43
(4)	In this section:	44
	<i>conciliator</i> means a person employed in the Department who is authorised in writing by the Commissioner as a conciliator for the purposes of this section.	45 46

<b>[45] Section 41 Suspension of apprenticeships and traineeships pending hearing</b>	1
Insert “, without prior notice to the employer and apprentice or trainee,” after “Commissioner may” in section 41 (1).	2 3
<b>[46] Section 44 Procedure generally</b>	4
Omit “Review Panel is not bound by the rules of law governing the admission of evidence but may inform itself on any matter in such manner as it” from section 44 (1).	5 6
Insert instead “Commissioner is not bound by the rules of evidence, and may be informed in any manner that the Commissioner”.	7 8
<b>[47] Section 44 (4)</b>	9
Omit “Review Panel” and “it considers”.	10
Insert instead “Commissioner” and “the Commissioner considers”, respectively.	11
<b>[48] Sections 46 (1) and 47 (1)</b>	12
Omit “presiding member of the Review Panel” wherever occurring.	13
Insert instead “Commissioner”.	14
<b>[49] Section 46 (2)</b>	15
Omit “Review Panel may retain possession of a document produced to it under this section for such period as it”.	16 17
Insert instead “Commissioner may retain possession of a document produced to the Commissioner under this section for such period as the Commissioner”.	18 19
<b>[50] Sections 46 (4), 47 (3) and 48</b>	20
Omit “5 penalty units” wherever occurring. Insert instead “50 penalty units”.	21
<b>[51] Section 50 Conciliation</b>	22
Omit the section.	23
<b>[52] Section 51 Determinations</b>	24
Omit “it is satisfied” from section 51 (3). Insert instead “the Commissioner is satisfied”.	25
<b>[53] Section 53 Orders prohibiting employer from entering into apprenticeships and traineeships</b>	26 27
Omit “, either indefinitely or for a specified period” from section 53 (1) (a).	28
Insert instead “(a <i>prohibition order</i> )”.	29
<b>[54] Section 53 (1) (b)</b>	30
Omit “if it does”. Insert instead “if the Commissioner does”.	31
<b>[55] Section 53 (1A)</b>	32
Insert after section 53 (1):	33
(1A) A prohibition order may be unlimited or limited as to particular circumstances specified in the order.	34 35
<b>[56] Section 53 (2)</b>	36
Omit “An order under this section”. Insert instead “A prohibition order”.	37

<b>[57] Section 53 (2) (a)</b>	1
Omit “its intention”. Insert instead “the Commissioner’s intention”.	2
<b>[58] Section 53 (2A)</b>	3
Insert after section 53 (2):	4
(2A) The Commissioner may vary a prohibition order by notice in writing to the employer.	5 6
<b>[59] Section 53 (4)</b>	7
Insert after section 53 (3):	8
(4) A prohibited employer must not employ an apprentice or trainee (including under a host employment arrangement) contrary to a prohibition order. Maximum penalty: 200 penalty units.	9 10 11
<b>[60] Part 5</b>	12
Omit the Part. Insert instead:	13
<b>Part 5 Reviews</b>	14
<b>54 Administrative review of decisions by Civil and Administrative Tribunal</b>	15
A person aggrieved by any of the following decisions of the Commissioner may apply to the Civil and Administrative Tribunal for an administrative review under the <i>Administrative Decisions Review Act 1997</i> of the decision:	16 17 18
(a) a decision to dismiss an application for establishment of an apprenticeship or traineeship,	19 20
(b) a decision to issue a vocational training direction,	21
(c) a decision to dismiss an application for approval to the transfer of an apprenticeship or traineeship,	22 23
(d) a decision to approve or dismiss an application for the variation of a training contract or training plan,	24 25
(e) a decision to suspend or cancel an apprenticeship or traineeship,	26
(f) a decision to refuse to register a person as an existing worker trainee,	27
(g) a decision to refuse to register a person or body as a group training organisation or to suspend or cancel the registration of a person or body as a group training organisation,	28 29 30
(h) a decision to refuse to issue a certificate of proficiency under Part 2 or 3,	31
(i) a decision determining a complaint under Part 4,	32
(j) a decision to give a direction under section 52,	33
(k) a decision to make an order declaring an employer to be a prohibited employer or authorising the transfer to other employers of an apprenticeship or traineeship.	34 35 36

<b>[61] Section 56 Commissioner</b>	1
Omit “appointed under Part 2 of the <i>Public Sector Management Act 1988</i> ”.	2
Insert instead “employed under the <i>Government Sector Employment Act 2013</i> ”.	3
<b>[62] Section 58 Delegation by Commissioner</b>	4
Omit “Subject to section 60 (5), the”. Insert instead “The”.	5
<b>[63] Section 58, note</b>	6
Omit the note.	7
<b>[64] Part 6, Division 2</b>	8
Omit the Division.	9
<b>[65] Section 73A</b>	10
Insert after section 73:	11
<b>73A Penalty notices</b>	12
(1) A penalty notice officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.	13 14
(2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.	15 16
(3) The <i>Fines Act 1996</i> applies to a penalty notice issued under this section. <b>Note.</b> The <i>Fines Act 1996</i> provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.	17 18 19 20 21
(4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).	22 23 24 25
(5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	26 27 28
(6) In this section, <i>penalty notice officer</i> means a person authorised in writing by the Commissioner as a penalty notice officer for the purposes of this section.	29 30
<b>[66] Section 74 Applications and notices</b>	31
Omit section 74 (1). Insert instead:	32
(1) An application under this Act must be made in the manner and form approved by the Commissioner.	33 34
<b>[67] Section 77 Liability</b>	35
Omit section 77 (b).	36
<b>[68] Section 77</b>	37
Omit “any member of the Review Panel,”.	38

<b>[69] Section 78 Delegation by Secretary</b>	1
Omit the section.	2
<b>[70] Section 81 Regulations</b>	3
Insert after section 81 (1) (d):	4
(d1) assessments for the purpose of determining whether a person has acquired the competencies of a recognised trade vocation (including consultation processes to be conducted in connection with the determination of assessment standards and procedures), and	5 6 7 8
<b>[71] Section 81 (2)</b>	9
Omit “10 penalty units”. Insert instead “100 penalty units”.	10
<b>[72] Schedule 1 The Vocational Training Review Panel</b>	11
Omit the Schedule.	12
<b>[73] Schedule 4 Savings, transitional and other provisions</b>	13
Insert at the end of the Schedule:	14
<b>Part 5 Provisions consequent on enactment of Apprenticeship and Traineeship Amendment Act 2017</b>	15 16 17
<b>28 Definitions</b>	18
(1) In this Part:	19
<i>abolition day</i> —see clause 30.	20
<i>amending Act</i> means the <i>Apprenticeship and Traineeship Amendment Act 2017</i> .	21 22
<i>appeal body</i> means NCAT or a court.	23
<i>NCAT</i> means the Civil and Administrative Tribunal established by the <i>Civil and Administrative Tribunal Act 2013</i> .	24 25
<i>pending proceedings</i> are proceedings (including appeals) that:	26
(a) were instituted or commenced before the repeal day, and	27
(b) have not been finally determined before that day by the appeal body in which the proceedings were instituted or commenced.	28 29
<i>repeal day</i> —see clause 29.	30
<i>Review Panel</i> means the Vocational Training Review Panel as constituted under section 59 immediately before the repeal day.	31 32
<i>transition period</i> —see clause 29.	33
<i>unexercised right</i> means a right that:	34
(a) was available to be exercised immediately before the repeal day, and	35
(b) had not yet been exercised before that day.	36
(2) For the purposes of this Part, proceedings are not finally determined if:	37
(a) any period for bringing an appeal as of right in respect of the proceedings has not expired (ignoring any period that may be available by way of extension of time to appeal), or	38 39 40

(b)	any appeal in respect of the proceedings is pending (whether or not it is an appeal brought as of right).	1 2
<b>29</b>	<b>Functions of Review Panel cease on repeal day</b>	3
(1)	The functions of the Review Panel cease on and from the repeal day, except as provided by this Part.	4 5
(2)	The <i>repeal day</i> is the day on which Division 2 of Part 6 of this Act is repealed by the amending Act.	6 7
(3)	During the transition period, the Review Panel continues to be constituted for the purposes only of exercising the functions conferred by this Part.	8 9
(4)	The <i>transition period</i> is the period commencing on the repeal day and ending on the abolition day.	10 11
(5)	The Commissioner may continue and complete anything begun by the Review Panel before the repeal day, except anything that would involve the exercise of a function conferred on the Review Panel by this Part.	12 13 14
<b>30</b>	<b>Abolition of Vocational Training Review Panel</b>	15
(1)	The Review Panel is to be abolished on the abolition day.	16
(2)	The <i>abolition day</i> is:	17
(a)	the day that is one year after the repeal day, or	18
(b)	an earlier or later day appointed by the regulations.	19
(3)	On the abolition day, each member of the Review Panel ceases to hold office as a member and is not entitled to any remuneration or compensation because of the loss of that office.	20 21 22
(4)	Subclause (3) has effect despite anything to the contrary in any other legislation concerning the circumstances or processes for the removal of (or the vacation of office by) a member of the Review Panel.	23 24 25
<b>31</b>	<b>Pending proceedings and unexercised rights: reviews by Review Panel</b>	26
(1)	During the transition period, the Review Panel may continue to deal with pending proceedings in the Review Panel.	27 28
(2)	For that purpose:	29
(a)	the Review Panel continues to have and may exercise all the functions that the Panel had in relation to the proceedings immediately before the repeal day, and	30 31 32
(b)	the provisions of any Act, statutory rule or other law that would have applied to or in respect of the Review Panel or the pending proceedings had the amending Act not been enacted continue to apply.	33 34 35
(3)	On and from the repeal day, a person who has an unexercised right to apply to the Review Panel for a review of a decision of the Commissioner under this Act may apply to NCAT for an administrative review of the decision under the <i>Administrative Decisions Review Act 1997</i> .	36 37 38 39
<b>32</b>	<b>Pending proceedings and unexercised rights: appeals to NCAT or court</b>	40
(1)	This clause applies to:	41
(a)	pending proceedings before NCAT on an appeal against a decision of the Review Panel, or before a court on an appeal against (or for the	42 43



judicial review of) a decision of NCAT determining an appeal under this Act, and	1 2
(b) an unexercised right to appeal to NCAT against a decision of the Review Panel, or to appeal to a court against a decision of NCAT determining an appeal under this Act.	3 4 5
(2) On and from the repeal day:	6
(a) the appeal body in which proceedings are pending may continue to deal with the proceedings until they are concluded, and	7 8
(b) a person who has an unexercised appeal right may appeal against the decision to which that right relates to the appeal body to which the decision was originally appealable.	9 10 11
(3) For those purposes:	12
(a) the appeal body continues to have and may exercise all the functions that the appeal body had in relation to the pending proceedings or appeal immediately before the repeal day, and	13 14 15
(b) the provisions of any Act, statutory rule or other law (including provisions concerning the time within which to appeal) that would have applied to or in respect of the pending proceedings or appeal had the amending Act not been enacted continue to apply.	16 17 18 19
<b>33 Training plans</b>	20
(1) Section 12A, as inserted by the amending Act, applies in respect of an existing apprenticeship or traineeship as if a reference to the compliance period were a reference to the period of 12 weeks commencing on the day on which that section commences.	21 22 23 24
(2) Section 7 (5A), as inserted by the amending Act, extends to an application for an apprenticeship or traineeship made but not determined before the commencement of that subsection.	25 26 27
(3) In this clause:	28
<i>compliance period</i> means the period of 12 weeks after notification of approval of the establishment of an apprenticeship or traineeship.	29 30
<i>existing apprenticeship or traineeship</i> means an apprenticeship or traineeship in force immediately before commencement of section 12A.	31 32
<b>34 Complaints</b>	33
(1) This clause applies to a complaint made under section 39 but not finally determined before the repeal day.	34 35
(2) The following provisions apply to a complaint made by a party to an apprenticeship or traineeship that was not settled or referred to the Review Panel under section 40 before the repeal day:	36 37 38
(a) section 40 (1), as in force immediately before its substitution by the amending Act, continues to apply to the complaint,	39 40
(b) if a settlement is not achievable, the Commissioner is to deal with the complaint in accordance with Part 4 of the Act, as amended by the amending Act.	41 42 43

<b>35</b>	<b>Suspension and cancellation of apprenticeships and traineeships</b>	1
(1)	Except as provided by this clause, section 22, as substituted by the amending Act, applies to any apprenticeship or traineeship in force immediately before the substitution.	2 3 4
(2)	Section 22, as in force immediately before its substitution by the amending Act, continues to apply to any application for suspension or cancellation of an apprenticeship or traineeship made but not finally determined before the substitution.	5 6 7 8
<b>36</b>	<b>Trade recognition and assessment</b>	9
(1)	An amendment made by the amending Act to section 23 applies to any apprentice or trainee who completes his or her term of apprenticeship or traineeship after the commencement of the amendment.	10 11 12
(2)	Sections 36 and 37, as in force immediately before their substitution by the amending Act, continue to apply to any application made under those sections but not determined before the substitution. However, on and from the repeal day, any reference in those sections to the Review Panel is to be read as a reference to the Commissioner.	13 14 15 16 17
<b>37</b>	<b>Trainee apprenticeships</b>	18
	Section 7 (5D), as inserted by the amending Act, does not affect:	19
(a)	any existing trainee apprenticeship not completed before the commencement of that subsection, or	20 21
(b)	any application for a trainee apprenticeship made but not determined before that commencement.	22 23
<b>38</b>	<b>Vocational training guidelines</b>	24
	Any vocational training guideline issued by the Secretary under section 4 and in force immediately before the amendment of that section by the amending Act is taken to have been issued by the Commissioner.	25 26 27
<b>[74]</b>	<b>Dictionary</b>	28
	Omit the definitions of <i>certificate of completion</i> , <i>craft certificate</i> , <i>full apprenticeship</i> , <i>public servant</i> and <i>Review Panel</i> .	29 30
	Insert in appropriate order:	31
	<i>prohibition order</i> —see section 53.	32
	<i>relevant registered training organisation</i> , in relation to an apprenticeship or traineeship, means the registered training organisation by which the training is, or is to be, provided.	33 34 35
	<i>training plan</i> —see section 12A.	36
<b>[75]</b>	<b>Dictionary, definitions of “certificate of proficiency” and “qualified tradesperson”</b>	37
	Omit “, 36” wherever occurring.	38
<b>[76]</b>	<b>Dictionary, paragraph (b) of the definition of “industrial award or agreement”</b>	39
	Insert “the <i>Fair Work Act 2009</i> of the Commonwealth or” after “provisions of”.	40
<b>[77]</b>	<b>Dictionary, definition of “probationary period”</b>	41
	Omit “or Review Panel’s” wherever occurring.	42

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|---|---|
| <b>[78] Dictionary, definition of “prohibited employer”</b>                                     | 1 |
| Omit “an order is in force under section 53”. Insert instead “a prohibition order is in force”. | 2 |
| <b>[79] Dictionary, paragraphs (a) and (b) of the definition of “qualified tradesperson”</b>    | 3 |
| Omit “craft certificate or” wherever occurring.   | 4 |

<b>Schedule 2</b>	<b>Amendment of other Acts and instruments</b>	1
<b>2.1</b>	<b>Apprenticeship and Traineeship Regulation 2017</b>	2
<b>[1]</b>	<b>Clause 4 Applications to establish apprenticeships and traineeships</b>	3
	Omit clause 4 (1) and (4).	4
<b>[2]</b>	<b>Clause 4 (2)</b>	5
	Insert “under section 7 of the Act” after “application”.	6
<b>[3]</b>	<b>Clauses 5, 6, 9, 10 and 13</b>	7
	Omit the clauses.	8
<b>[4]</b>	<b>Clause 12 Fees</b>	9
	Omit “craft certificate, certificate of completion or” wherever occurring in clause 12 (1) (c) and (d).	10 11
<b>2.2</b>	<b>Civil and Administrative Tribunal Regulation 2013</b>	12
	<b>Clause 6 Circumstances where no fee or reduced fee is payable</b>	13
	Omit “external appeal” from clause 6 (1) (d).	14
	Insert instead “administrative review application”.	15
<b>2.3</b>	<b>Government Information (Public Access) Regulation 2009</b>	16
	<b>Schedule 3 Agencies declared to be part of other agencies</b>	17
	Omit the matter relating to the Vocational Training Review Panel.	18
<b>2.4</b>	<b>Hairdressers Act 2003 No 62</b>	19
	<b>Section 4 When is an individual “qualified to act as a hairdresser”?</b>	20
	Omit “the Vocational Training Review Panel has determined” wherever occurring in section 4 (1) (b) and (c).	21 22
	Insert instead “a determination has been made”.	23