

SOUTH AUSTRALIA

**INDUSTRIAL AND COMMERCIAL TRAINING ACT, 1981**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **15 August 1991**.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# INDUSTRIAL AND COMMERCIAL TRAINING ACT, 1981

being

Industrial and Commercial Training Act, 1981, No. 17 of 1981  
[Assented to 19 March 1981]<sup>1</sup>

as amended by

Industrial and Commercial Training Act Amendment Act, 1985, No. 10 of 1985 [Assented to 7 March 1985]<sup>2</sup>  
Statutes Amendment (Remuneration) Act, 1985, No. 59 of 1985 [Assented to 30 May 1985]<sup>3</sup>  
Industrial and Commercial Training Act Amendment Act, 1987, No. 11 of 1987 [Assented to 9 April 1987]  
Industrial and Commercial Training Act Amendment Act, 1989, No. 5 of 1989 [Assented to 9 March 1989]<sup>4</sup>  
Statutes Repeal and Amendment (Remuneration) Act, 1990, No. 18 of 1990 [Assented to 19 April 1990]<sup>5</sup>

<sup>1</sup> Came into operation 19 May 1981: *Gaz.* 7 May 1981, p. 1345.

<sup>2</sup> Came into operation 18 March 1985: *Gaz.* 14 March 1985, p. 624.

<sup>3</sup> Came into operation 13 June 1985: *Gaz.* 13 June 1985, p. 2132.

<sup>4</sup> Came into operation 20 April 1989: *Gaz.* 13 April 1989, p. 1006.

<sup>5</sup> Came into operation 19 April 1990: *Gaz.* 19 April 1990, p. 1136.

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.*

**An Act to make provision for industrial and commercial training; to repeal the Apprentices Act, 1950-1978; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the *Industrial and Commercial Training Act, 1981*.

**Commencement**

2. This Act shall come into operation on a day to be fixed by proclamation.

**Arrangement of Act**

3. This Act is arranged as follows:

PART I—PRELIMINARY

PART II—ADMINISTRATION

DIVISION I—INDUSTRIAL AND COMMERCIAL TRAINING COMMISSION

DIVISION II—THE FUNCTIONS OF THE COMMISSION

DIVISION III—TRAINING ADVISORY COMMITTEES

DIVISION IV—THE DISPUTES AND DISCIPLINARY COMMITTEE

DIVISION V—STAFF OF THE COMMISSION

DIVISION VI—POWERS OF ENTRY AND INSPECTION

PART III—FORMS OF TRAINING

DIVISION I—CONTRACTS OF TRAINING

DIVISION II—TRAINEE SCHEME

DIVISION III—COURSES OF PRE-VOCATIONAL TRAINING

PART IV—MISCELLANEOUS

**Repeal and transitional provisions**

4. (1) The *Apprentices Act, 1950-1978*, is repealed.

(2) Any indentures of apprenticeship in force immediately before the commencement of this Act shall, subject to this Act, continue in force as if they were contracts of training.

(3) A determination, approval or decision of the Apprenticeship Commission in force under the repealed Act immediately before the commencement of this Act shall, subject to variation or revocation by the Commission under this Act, remain in force under this Act as if it were a determination, approval or decision of the Commission under this Act.

**Interpretation**

5. In this Act, unless the contrary intention appears—

"apprentice" means a person whom another has agreed to train in a trade under a contract of training:

3.

"the Commission" means the Industrial and Commercial Training Commission established under this Act:

"contract of training" means a contract (including an indenture of apprenticeship) under Division I of Part III in respect of training in a trade or other declared vocation:

"declared vocation" means—

(a) a trade;

or

(b) an occupation declared by regulation to be a declared vocation for the purposes of this Act:

"the disputes and disciplinary committee" or "the committee" means the Disputes and Disciplinary Committee established under Division IV of Part II:

"occupation" includes any form of work in industry or commerce:

"pre-vocational training" means training designed as preparation for training in an occupation:

"trade" means an occupation declared by regulation to be a trade:

"training" means training (including courses of instruction, on-the-job training and off-the-job training) in the knowledge and skills required in industry or commerce.

**Relation of Act to other Acts and awards**

6. (1) In the event of an inconsistency between this Act and the *Industrial Conciliation and Arbitration Act, 1972-1979*, or any regulation, award, order or industrial agreement made under that Act, the provisions of this Act prevail to the extent of the inconsistency.

(2) Notwithstanding subsection (1), any provision of an award or industrial agreement requiring an employer to employ apprentices in preference to junior employees shall remain in full force and effect.

**Crown bound**

7. This Act binds the Crown.

PART II

ADMINISTRATION

DIVISION I—INDUSTRIAL AND COMMERCIAL TRAINING COMMISSION

**Establishment of the Commission**

8. (1) There shall be a commission entitled the "Industrial and Commercial Training Commission".

(2) The Commission shall be under the control and direction of the Minister.

**Constitution of the Commission**

9. The Commission shall consist of nine members, appointed by the Governor, of whom—

- (a) one, who shall be a full-time member, shall be appointed to be Chairman of the Commission;
- (b) one shall be the Director of the Office of Employment and Training or his nominee;
- (c) one shall be the Director-General of Further Education or his nominee;
- (d) three shall be persons nominated by the Minister, after consultation with employer associations (including the South Australian Employers' Federation Inc., the Chamber of Commerce and Industry, South Australia, Inc., the Master Builders' Association of South Australia Inc., and the Metal Industries Association, South Australia), to represent the interests of employers;

and

- (e) three shall be persons nominated by the Minister, after consultation with the United Trades and Labor Council of South Australia, to represent the interests of employees.

**Terms and conditions of office of members of Commission**

10. (1) The Chairman of the Commission shall be appointed for a term of office of five years and upon such conditions as the Governor determines, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) The Governor may appoint a person employed under the *Public Service Act, 1967-1978*, to be Deputy Chairman of the Commission and that person may attend the meetings of the Commission and, in the absence of the Chairman, shall act in the place of and have all the powers, authorities, functions and duties of the Chairman.

(3) A member of the Commission (other than the Chairman) shall be appointed—

- (a) if he is one of the first members of the Commission—for a term of office not exceeding three years specified in the instrument of his appointment;

and

- (b) in any other case—for a term of office of three years,

and upon such conditions as the Governor determines, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(4) Subject to subsection (5), the Governor may appoint a suitable person to be a deputy of a member of the Commission (other than the Chairman), and the deputy while acting in the absence of that member, shall have all the powers, authorities, functions and duties of that member.

(5) The provisions of this Act requiring nomination and consultation before the appointment of a member apply in relation to the appointment of a deputy of that member.

5.

(6) The Governor may remove a member of the Commission from office for—

- (a) any breach of, or non-compliance with, the conditions of his appointment;
  - (b) mental or physical incapacity that prevents him from satisfactorily carrying out the duties of his office;
  - (c) neglect of duty;
- or
- (d) dishonourable conduct.

(7) The office of a member of the Commission shall become vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice addressed to the Minister;

or

- (d) he is removed from office by the Governor pursuant to subsection (6).

(8) Upon the office of a member of the Commission becoming vacant, a person shall be appointed in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

**Remuneration and expenses**

**11.** A member of the Commission is entitled to such remuneration and expenses as may be determined by the Governor.

**Quorum, etc.**

**12.** (1) Five members of the Commission of whom—

- (a) one must be the Chairman or the Deputy Chairman;
- (b) at least one must be a member appointed to represent the interests of employers;

and

- (c) at least one must be a member appointed to represent the interests of employees,

shall constitute a quorum of the Commission.

(2) The Chairman or, in the absence of the Chairman, the Deputy Chairman shall preside at a meeting of the Commission.

6.

(3) A decision carried by a majority of the votes cast by the members of the Commission present at a meeting of the Commission shall be a decision of the Commission.

(4) Each member present at a meeting of the Commission shall be entitled to one vote on any matter arising for decision by the Commission at that meeting and, in the event of an equality of votes, the member presiding at the meeting shall have a second or casting vote.

(5) The Commission shall cause minutes to be kept of its proceedings.

(6) Subject to this Act, the proceedings of the Commission shall be conducted in such manner as the Commission may determine.

### **Delegation**

**13.** (1) The Commission may, by instrument in writing, delegate any of its powers or functions—

(a) to the Chairman or Deputy Chairman of the Commission;

(b) to a training advisory committee;

or

(c) to any other person.

(2) A delegation under subsection (1) shall be revocable at will and shall not prevent the Commission from acting in any matter itself.

## **DIVISION II—THE FUNCTIONS OF THE COMMISSION**

### **Functions of Commission**

**14.** (1) The functions of the Commission are—

(a) to inquire into, and keep under review, the training that is being, or should be, provided in order to develop the knowledge and skills required in industry and commerce;

(b) to inquire into, and keep under review, systems and methods of training for trades and other declared vocations and to report to the Minister on such systems and methods and on the numbers of apprentices and other trainees for the time being in training in the various trades and other declared vocations;

(c) to make recommendations to the Minister relating to the occupations that should constitute trades or declared vocations;

(d) to determine the objectives, nature, syllabus content and duration of training in—

(i) trades and other declared vocations;

(ii) trainee schemes;

or

7.

- (iii) schemes of pre-vocational training;
- (e) to determine matters relating to the entry into, observance, discharge, assignment, transfer, variation, suspension or cancellation of contracts of training (not being matters related to disciplining a party to a contract of training);
- (f) to determine matters relating to the training to be provided by employers to persons employed under contracts of training;
- (g) to approve facilities provided, or to be provided, at governmental or non-governmental institutions for the purposes of training in—
  - (i) trades and other declared vocations;
  - (ii) trainee schemes;or
  - (iii) schemes of pre-vocational training;
- (h) to assess by such means as the Commission thinks fit the competency of apprentices or other trainees;
- (i) to grant, or arrange for the granting of, certificates to persons completing programmes of training determined by the Commission;
- (j) to determine credits to be allowed in respect of the training required under this Act on the basis of training previously undertaken, or on any other basis;
- (k) to enter into reciprocal arrangements with appropriate bodies with respect to the recognition of industrial or commercial training qualifications;
- (ka) to assess by such means as the Commission thinks fit the competency of persons who have acquired qualifications or skills otherwise than through programmes of training determined by the Commission and, in appropriate cases, to issue certificates recognizing such qualifications or skills;
- (l) to collect data and statistics in relation to industrial and commercial training;
- (m) to promote and encourage—
  - (i) the implementation of industrial and commercial training programmes and participation by others in such programmes;and
  - (ii) the establishment of off-the-job training centres by employers or groups of employers;

8.

(n) to advise the Minister—

(i) on matters referred by the Minister to the Commission for advice;

and

(ii) generally in relation to the administration of this Act;

and

(o) to carry out any other functions and duties assigned to the Commission by or under this Act.

(2) The Commission shall, wherever practicable, consult and co-operate with governmental authorities, institutions, employer or employee associations or other persons or bodies that may be affected by recommendations that it may make or actions that it may take in the performance of its functions under this Act.

(3) The Commission may establish such committees and sub-committees as it thinks necessary to advise it upon any aspect of its functions under this Act.

### DIVISION III—TRAINING ADVISORY COMMITTEES

#### **Establishment of training advisory committees**

**15.** (1) The Minister may, upon the recommendation of the Commission, establish a training advisory committee in respect of any part of industry or commerce.

(2) A training advisory committee shall consist of not less than seven members appointed by the Minister, of whom—

(a) one shall be the Chairman of the Commission, or his nominee, who shall be chairman of the committee;

(b) one shall be the Director-General of Further Education, or his nominee;

(c) one shall be appointed to represent the Minister of the Commonwealth Government with responsibility for matters related to industrial and commercial training;

and

(d) the remainder shall comprise equal numbers of persons appointed to represent the interests of employers and employees, respectively, engaged in that part of industry or commerce for which the committee is being or has been established.

(3) A member shall not be appointed under subsection (2)(d) except after consultation with the relevant association of employers or employees.

(4) A training advisory committee may, with the approval of the Commission, co-opt such additional members as it thinks fit but a co-opted member shall not be entitled to vote on any matter arising for decision by the committee.

9.

(5) The terms and conditions of office of a member of a training advisory committee shall be as determined by the Minister.

(6) Four members of a training advisory committee (of whom one must be the chairman of the committee, at least one must be a member appointed to represent the interests of employers and at least one must be a member appointed to represent the interests of employees) shall constitute a quorum of a training advisory committee.

(7) A decision carried by a majority of the votes of the members present at a meeting of a training advisory committee shall be a decision of the committee.

(8) Each member present at a meeting of a training advisory committee shall be entitled to one vote on any matter arising for decision by the committee at that meeting and, in the event of an equality of votes, the chairman shall have a second or casting vote.

(9) Subject to any direction of the Commission, the proceedings of a training advisory committee shall be conducted in such manner as it may determine.

#### **Sub-committees**

**16.** (1) A training advisory committee may establish sub-committees to assist it on any aspect of its functions.

(2) A sub-committee may be established in relation to a trade or group of trades or on any other basis, and, if established in relation to a trade or group of trades, shall be referred to as a "Trade Advisory Sub-Committee".

(3) A sub-committee established under this section shall consist of such members of the training advisory committee as the training advisory committee thinks fit, and may include persons who are not members of that training advisory committee.

(4) The membership of a Trade Advisory Sub-Committee established under this section must include equal numbers of members appointed to represent the interests of employers and members appointed to represent the interests of employees.

(5) The terms and conditions of office of a member of a sub-committee shall be as determined by the Commission.

(6) At any meeting of a sub-committee, at least one member appointed to represent the interests of employers and at least one member appointed to represent the interests of employees must be present.

(7) A decision carried by a majority of the votes of the members present at a meeting of a sub-committee shall be a decision of the sub-committee.

(8) Each member present at a meeting of a sub-committee shall be entitled to one vote on any matter arising for decision by the sub-committee at that meeting and, in the event of an equality of votes, the member presiding at the meeting shall have a second or casting vote.

(9) Subject to any direction of the training advisory committee, the proceedings of a sub-committee shall be conducted in such manner as it may determine.

**Function of training advisory committees**

17. The function of a training advisory committee established in respect of any part of industry or commerce is to advise and make recommendations to the Commission, either of its own motion or at the request of the Commission, on—

- (a) apprenticeship in that part of industry or commerce;
- (b) any other aspect of the training that is being provided for trades or other declared vocations or occupations in that part of industry or commerce;

or

- (c) any new forms of training that should be introduced in order to develop knowledge or skills required in that part of industry or commerce.

**DIVISION IV—THE DISPUTES AND DISCIPLINARY COMMITTEE**

**The Disputes and Disciplinary Committee**

18. (1) There shall be a committee entitled the "Disputes and Disciplinary Committee".

(2) Where a matter is referred to the committee under this Act, the committee shall be constituted of—

- (a) the Chairman, or the Deputy Chairman, of the Commission;

and

- (b) two other members of the Commission—

- (i) one being a member appointed to represent the interests of employers;

and

- (ii) one being a member appointed to represent the interests of employees,

appointed by the Commission to be members of the committee for the purposes of the hearing and determination of that matter.

(3) The committee is not subject to control or direction by the Commission, and, subject to subsection (4), the Commission has no power to overrule or otherwise interfere with a decision or order of the committee.

(4) If the Commission, acting at the direction of the Minister, requests the committee to review its decision or order upon any matter, the committee shall review the decision or order and may, upon the review, confirm, vary or revoke the decision or order subject to the review or make any other decision or order in substitution for that decision or order.

DIVISION V—STAFF OF THE COMMISSION

**Staff of the Commission**

19. (1) The Governor may, subject to the *Public Service Act, 1967-1981*, appoint such officers and employees as are required for the proper administration of this Act.

(2) A person appointed under subsection (1) shall hold office subject to, and in accordance with, the *Public Service Act, 1967-1981*.

(3) The Commission may, with the consent of a Minister administering any Department of the Public Service, make use of the services of officers employed in that Department.

DIVISION VI—POWERS OF ENTRY AND INSPECTION

**Powers of entry and inspection**

20. (1) For the purposes of this Act, a member of the Commission, or a person authorized by the Commission to exercise the powers conferred by this section may—

- (a) enter at any reasonable time any place or premises in which industrial or commercial training is provided;
- (b) inspect the place or premises, anything in the place or premises, and work in progress in the place or premises;
- (c) question any person involved in training on any matter relevant to the inspection;

and

- (d) require the production of any record or document required to be kept by or under this Act and inspect, examine and copy it.

(2) Subject to subsection (3), a person shall not—

- (a) hinder or obstruct a member of the Commission or other person in the exercise of a power conferred by this section;
- (b) refuse or fail to answer truthfully to the best of his knowledge, information and belief any question put to him pursuant to subsection (1);

or

- (c) without lawful excuse, fail to comply with a requirement made under this section.

Penalty: Five hundred dollars.

(3) A person is not obliged to answer a question put to him under this section if the answer would tend to incriminate him of an offence.

PART III

FORMS OF TRAINING

DIVISION I—CONTRACTS OF TRAINING

**Training under contracts of training**

**21.** (1) An employer shall not undertake to train a person (whether as an apprentice or otherwise) in a trade except in pursuance of a contract of training.

Penalty: Five hundred dollars.

(2) Subsection (1) does not apply in relation to the further training or re-training of a person who has already completed the training required under a contract of training, or who has an equivalent trade or vocational qualification.

(2a) An employer may undertake to train a person in a declared vocation (other than a trade) under a contract of training.

(3) A contract of training—

(a) shall be in the prescribed form that is relevant to the trade or other declared vocation to which the contract relates;

and

(b) shall contain the appropriate prescribed conditions.

\* \* \* \* \*

(6) An employer shall within two weeks after employing a person under a contract of training furnish the Commission with a copy of the contract of training and with the particulars required by the regulations.

Penalty: Five hundred dollars.

(7) Two or more employers may, with the approval of the Commission, enter into a contract of training with the same apprentice or other trainee.

(8) The Commission may enter into a contract of training, assuming the rights and obligations of an employer under the contract.

(9) The Commission shall not exercise its powers under subsection (8) except—

(a) upon a temporary basis;

or

(b) where it is not reasonably practicable for some other employer to enter into the contract of training.

(10) A party to a contract of training may, before the end of the probationary period for that contract, terminate the contract by notice in writing to the other party or parties to the contract.

(10a) In subsection (10)—

"probationary period" in relation to a contract of training for a trade or other declared vocation, means the period prescribed in relation to that trade or vocation commencing from the commencement of the term of the contract.

(11) Where a contract of training is terminated under subsection (10), the employer shall, within seven days of the termination, notify the Commission, in writing, of the termination.

Penalty: Five hundred dollars.

(12) Where a contract of training is transferred or assigned from one employer to another (whether by virtue of subsection (14) or otherwise), the employer to whom the contract is transferred or assigned shall, within seven days of the transfer or assignment, notify the Commission, in writing, of the transfer or assignment.

Penalty: Five hundred dollars.

(13) Subject to this Act, a contract of training may not be terminated or suspended without the approval of the Commission.

(14) A change in the ownership of a business does not result in the termination of a contract of training entered into by the former owner but, where a change of ownership occurs, the rights, obligations and liabilities of the former owner under the contract shall, by force of this subsection, be transferred to the new owner.

(15) Where the prescribed form of a contract of training is unsuited to the expression of a proposed agreement, the Commission may authorize such variation of the form as it considers necessary.

**Requirements in relation to employment under contract of training**

**21a.** (1) Where an apprentice or other trainee is employed under a contract of training, the following requirements must be satisfied—

- (a) the place of employment must be approved by the Commission;
- (b) the equipment and methods to be used in training must be approved by the Commission;
- (c) the persons who are to supervise his work must be approved by the Commission;
- (d) the ratio between the number of persons employed under contracts of training and the number of persons who are to supervise their work must not exceed the appropriate ratio fixed under subsection (5).

(2) An approval under subsection (1) may be given subject to such conditions as the Commission thinks fit.

(3) The Commission may, by notice served on an employer, withdraw its approval given under subsection (1) if—

(a) in the Commission's opinion—

(i) the place in which the apprentice or other trainee is employed;

(ii) the equipment and methods used in training;

or

(iii) the persons who supervise his work,

are no longer suitable;

or

(b) there has been a breach of or a failure to comply with a condition to which the Commission's approval was subject.

(4) The Commission shall not give an approval under subsection (1) at variance with an order of the disputes and disciplinary committee.

(5) The Commission may fix a ratio for the purposes of subsection (1)(d)—

(a) in relation to a particular employer—by notice served on the employer;

or

(b) in relation to a class of employers—by notice published in the *Gazette*,

and a ratio so fixed may be varied by subsequent notice under this subsection.

(6) An employer who employs an apprentice or other trainee under a contract of training shall, if a requirement of this section is not complied with, be guilty of an offence.

Penalty: Five hundred dollars.

**Age not to be disqualification**

22. No person is, by reason of his age, disqualified from entering into a contract of training.

**Term of contract of training**

23. (1) The term of a contract of training shall be determined by or in accordance with the regulations.

(1a) The Commission may, of its own motion or on the application of the parties to a contract of training or proposed contract of training, determine—

(a) that the whole or a part of a period of training that occurred before the date of the contract be treated as a period of training served under the contract;

(b) that the whole or a part of a period of training that occurred under a previous contract of training be treated as a period of training served under the contract of training;

or

(c) that a period for which the apprentice or other trainee was absent from his employment under the contract of training be excluded from consideration in computing the length of his service under the contract of training.

(1b) Subject to subsection (1c), the term of a contract of training shall be computed and the contract shall be construed and shall apply in accordance with a determination made by the Commission under subsection (1a).

(1c) Where a conflict occurs between a determination of the Commission under this section and a determination of the disputes and disciplinary committee, the determination of the committee shall prevail.

(2) Where an apprentice or other trainee has completed at least three-quarters of the term of his contract of training, and the Commission is satisfied of the competence of the apprentice or other trainee, the Commission may, of its own motion, or on the application of all parties to the contract, relieve the apprentice or other trainee of his obligations under the contract, and he shall then be deemed to have completed the training required of him under the contract.

(3) The Commission may, by notice in writing to the parties to a contract of training, increase or reduce the term of the contract.

(4) This section does not prejudice the extension of the term of a contract of training by the disciplinary committee.

#### **Contract of training to provide for employment**

**24.** (1) A contract of training must provide for the employment of the apprentice or other trainee who is to be trained under the contract.

(2) The Commission may, upon the application of all parties to a contract of training, alter the contract so that it provides for part-time training instead of full-time training, or full-time training instead of part-time training.

#### **Requirement to attend approved courses of instruction**

**25.** (1) An apprentice or other trainee under a contract of training is required—

(a) to attend such courses of instruction as may be determined by the Commission;

(b) to comply with requirements of the Commission as to hours of attendance at approved courses of instruction;

(c) to comply with requirements of the regulations as to total hours of attendance at approved courses of instruction;

(d) to complete the courses of instruction that he is required to attend to the satisfaction of the Commission;

and

(e) to comply with any other requirements of the Commission in relation to his training.

(2) An employer shall permit an apprentice or other trainee employed by him under a contract of training to carry out his obligations under this section.

Penalty: Five hundred dollars.

(3) Where an apprentice or other trainee attends an approved course of instruction previously undertaken by the apprentice or trainee, the time spent reattending that course need not be counted for the purpose of determining the wages payable to the apprentice or trainee, but, with that exception, the time spent attending or reattending any such course is to be treated for all purposes as part of the employment of an apprentice or other trainee.

### **Disputes and discipline**

26. (1) Where—

(a) a dispute arises between parties to a contract of training;

or

(b) a party to a contract of training is aggrieved by the conduct of another party,

a party to the contract may refer the matter to the disputes and disciplinary committee.

(2) Where the Commission suspects on reasonable grounds that a party to a contract of training has contravened, or failed to comply with, a provision of the contract or this Act, it may refer the matter to the disputes and disciplinary committee.

(3) The committee shall inquire into a matter referred to it under this section, and may, if it thinks fit, by order, exercise one or more of the following powers:

(a) it may reprimand a party in default;

(b) it may suspend a person from his employment under a contract of training for a period not exceeding four weeks commencing on the date of, or on a date occurring before or after, the date of the order;

(c) it may confirm or revoke a suspension imposed under subsection (7) and, in the event of revocation, order the employer to pay any wages that would, but for the suspension, have been payable under the contract;

(d) it may extend the term of a contract of training;

(e) it may cancel a contract of training as at the date of, or at a date occurring before or after, the date of the order;

(f) it may order a party to the contract to pay such wages or take such other action that, in the opinion of the committee, he is required to take under the contract or under this Act;

- (g) it may excuse a party to the contract from performing one or more of his obligations under the contract;
- (h) it may order that, for the purpose of computing the period of training that has been served by an apprentice or other trainee, any period or periods specified in the order be excluded;
- (i) it may withdraw the approval granted by the Commission under this Division in relation to the employment by an employer of apprentices or other trainees;
- (j) it may order an employer not to employ any apprentices or other trainees in addition to those named in the order without the approval of the committee;
- (k) it may make any consequential orders that the committee thinks necessary or expedient.

(4) The term of a contract of training shall be computed and the contract shall be construed and shall apply in accordance with an order made by the committee under subsection (3).

(5) The withdrawal of approval by the committee under subsection (3)(i) may relate to a particular apprentice or other trainee or to all the apprentices or other trainees employed by the employer.

(6) Where, pursuant to subsection (3), the committee orders one party to a contract of training to pay a sum of money to another party to the contract, that sum may be recovered by the other party as a debt.

(7) If an employer has reasonable grounds to believe that an apprentice or other trainee employed by him under a contract of training is guilty of wilful and serious misconduct, the employer may (without first obtaining the approval of the Commission) suspend him from his employment under the contract, and shall, in that event, refer the matter forthwith to the committee and confirm the reference in writing within three days of the suspension.

Penalty: Five hundred dollars.

(8) A suspension under subsection (7) shall, unless confirmed by the committee, not operate for more than seven working days.

(9) Notice shall be given by the committee to the Commission of the cancellation of a contract of training under subsection (3).

(10) The committee may consult with the relevant training advisory committee (if any) before exercising its powers under this section.

(11) The committee may, at any time, vary or revoke an order made by it under this section.

(12) A person shall not contravene, or fail to comply with, an order of the disputes and disciplinary committee under this section.

Penalty: Five hundred dollars.

(13) In this section—

"party to a contract of training" or "party" includes a person who was formerly a party to a contract of training.

#### DIVISION II—TRAINEE SCHEMES

##### **Schemes of training**

**27.** (1) The Commission may determine and approve such schemes of training as it considers necessary or desirable to advance knowledge and skills required in industry and commerce.

(2) This section does not apply to training in trades or other declared vocations.

(3) A scheme shall provide for such courses of instruction, on-the-job training and off-the-job training as the Commission considers necessary.

(4) The Commission may issue, or arrange for the issue of, an appropriate certificate to a person who successfully completes a scheme of training under this section.

#### DIVISION III—COURSES OF PRE-VOCATIONAL TRAINING

##### **Courses of pre-vocational training**

**28.** (1) The Commission may determine and approve courses of pre-vocational training.

(2) A person who successfully completes a course of pre-vocational training shall be entitled to such credits in respect of the training required for the relevant occupation as may be determined by the Commission.

PART IV

MISCELLANEOUS

**Report**

**29.** (1) The Commission shall, within three months after the end of each financial year, present a report to the Minister on the work of the Commission during that financial year.

(2) The Minister shall, as soon as practicable after receiving a report under subsection (1) cause copies of the report to be laid before both Houses of Parliament.

**Validity of acts of Commission, etc., and immunity**

**30.** (1) An act or proceeding of the Commission, or of a committee or sub-committee established by or under this Act, shall not be invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the appointment of a member or purported member, an act or proceeding of the Commission, committee or sub-committee shall be as valid and effectual as if the member or purported member had been duly appointed.

(2) No liability shall attach to a member of the Commission or of a committee or sub-committee established by or under this Act, or to any other person, for any act or omission by him in the exercise or discharge of his powers, functions or duties under this Act.

(3) A liability that would, but for subsection (2), lie against a person shall lie instead against the Crown.

**Making and retention of records**

**31.** (1) An employer who employs persons under contracts of training shall keep such records as are prescribed.

Penalty: Five hundred dollars.

(2) An employer shall retain a record kept by him under subsection (1) for at least two years after the expiry or termination of the contract of training to which the record relates.

Penalty: Five hundred dollars.

**Proceedings**

**32.** Proceedings for offences against this Act shall be disposed of summarily.

**Regulations**

**33.** (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient—

(a) for the purposes of this Act;

or

20.

(b) for the purpose of dealing with matters relevant to any aspect of training to which this Act applies, or to the rights and obligations of parties to a contract of training.

(2) A regulation may provide a penalty (not exceeding five hundred dollars) for breach of, or non-compliance with the regulation.

**APPENDIX**

## Legislative History

Section 3:	amended by 10, 1985, s. 3
Section 5:	definition of "the disciplinary committee" repealed and definition of "the disputes and disciplinary committee" inserted in its place by 10, 1985, s. 4(a) definition of "pre-vocational training" amended by 10, 1985, s. 4(b)
Section 9:	amended by 11, 1987, s. 2
Section 11:	amended by 59, 1985, s. 8; substituted by 18, 1990, s. 13
Section 13(1):	amended by 10, 1985, s. 5
Section 14(1):	amended by 5, 1989, s. 3
Section 17:	amended by 5, 1989, s. 4
Heading preceding section 18:	amended by 10, 1985, s. 6
Section 18:	substituted by 10, 1985, s. 7
Section 21(1):	amended by 5, 1989, s. 5(a)
Section 21(2a):	inserted by 5, 1989, s. 5(b)
Section 21(4) and (5):	repealed by 10, 1985, s. 8(a)
Section 21(10):	substituted by 5, 1989, s. 5(c)
Section 21(10a):	inserted by 5, 1989, s. 5(c)
Section 21(12):	amended by 10, 1985, s. 8(b)
Section 21(13) - (15):	inserted by 10, 1985, s. 8(c)
Section 21a:	inserted by 10, 1985, s. 9
Section 23(1a) - (1c):	inserted by 10, 1985, s. 10
Section 25(3):	inserted by 10, 1985, s. 11; substituted by 5, 1989, s. 6
Section 26:	substituted by 10, 1985, s. 12
Section 28(2):	amended by 10, 1985, s. 13
Section 31(2):	amended by 10, 1985, s. 14