

**VOCATIONAL EDUCATION AND TRAINING
ACCREDITATION (AMENDMENT) ACT 1993 No. 86**

NEW SOUTH WALES



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**VOCATIONAL EDUCATION AND TRAINING
ACCREDITATION (AMENDMENT) ACT 1993 No. 86**

NEW SOUTH WALES



Act No. 86, 1993

An Act to amend the Vocational Education and Training Accreditation Act 1990 to provide for the registration of providers of vocational courses; to provide for the approval of providers of courses to overseas students; to amend the Higher Education Act 1988 consequentially; and for other purposes. [Assented to 29 November 1993]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Vocational Education and Training Accreditation (Amendment) Act 1993.

Commencement

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

Amendment of Vocational Education and Training Accreditation Act 1990 No. 120

3. The Vocational Education and Training Accreditation Act 1990 is amended as set out in Schedule 1.

Amendment of Higher Education Act 1988 No. 12

4. The Higher Education Act 1988 is amended as set out in Schedule 2.

**SCHEDULE 1—AMENDMENT OF VOCATIONAL
EDUCATION AND TRAINING ACCREDITATION ACT 1990**

(Sec. 3)

(1) Long title:

After “vocational courses”, insert “, the approval of providers of courses to overseas students and the registration of providers of vocational courses”.

(2) Section 3:

Omit the section, insert instead:

Objects

3. The objects of this Act are:

- (a) to provide for the accreditation of vocational courses conducted within New South Wales; and
- (b) to provide for the registration of persons or bodies that conduct such courses; and

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

- (c) to provide for the approval of persons or bodies (other than official universities) to provide courses to overseas students within New South Wales, that approval forming the basis for registration under the Commonwealth Act; and
- (d) to promote consistency of standards in vocational education and training; and
- (e) to encourage the recognition of vocational courses that are accredited under this Act.

(3) Section 4 (**Definitions**):

- (a) From section 4 (1), omit the definitions of **“authority”**, **“education or training provider”**, **“relevant guidelines”** and **“vocational course”**, insert in alphabetical order:

“approved provider” means an education or training provider that is for the time being approved under this Act to provide courses to overseas students;

“authorised registering body” means a person or body (other than the Board) that is authorised under this Act to register education or training providers to conduct vocational courses or approve education or training providers to provide courses to overseas students;

“authority” means an authority under this Act under which a person or body is authorised:

- (a) to accredit vocational courses; or
- (b) to register education or training providers to conduct vocational courses; or
- (c) to approve education or training providers to provide courses to overseas students;

“course” means a course of education or training;

“education or training provider” means a person or body (other than an official university within the meaning of section 4 of the Higher Education Act 1988) that conducts vocational courses or provides courses to overseas students;

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

“overseas student” and **“intending overseas student”**
have the same meanings as in the Commonwealth Act;

“registered provider” means an education or training
provider that is for the time being registered under this
Act to conduct vocational courses;

“relevant guidelines” means:

(a) in relation to a vocational course—guidelines in
force under this Act that apply to such a course;
or

(b) in relation to an education or training provider—
guidelines in force under this Act that apply to
such a provider;

“the Commonwealth Act” means the Education Services
for Overseas Students (Registration of Providers and
Financial Regulation) Act 1991 of the Commonwealth;

“vocational course” means a course or proposed course
of vocational education or vocational training, but does
not include a course that constitutes or is proposed to
constitute the whole or part of a course of studies that
leads to a degree:

(a) conferred by or on behalf of an official university
within the meaning of section 4 of the Higher
Education Act 1988; or

(b) conferred by or on behalf of a corporation, body
or institution approved by regulations made for
the purposes of that section; or

(c) if that course of studies is an advanced education
course approved under that Act.

(b) Omit section 4 (2), insert instead:

(2) In this Act, a reference to a course conducted, or
provided, by an education or training provider includes a
reference to a course to be conducted, or to be provided, by
the provider.

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

(4) Section 4A:

After section 4, insert:

References to courses

4A. (1) Registration under this Act to conduct vocational courses may (according to the terms of the registration) apply to such courses generally, to specified classes of such courses or to specified courses only.

(2) Approval under this Act to provide courses to overseas students may (according to the terms of the approval) apply to such courses generally, to specified classes of such courses or to specified courses only.

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

(a) Omit section 5 (2), insert instead:

(2) The Board is to comprise 11 members, being:

(a) the General Manager; and

(b) 10 part-time members appointed by the Minister.

(b) At the end of section 5 (3), insert:

; and

(f) one is to be a person having such qualifications or experience in the provision, accreditation or evaluation of education or training for overseas students as the Minister considers appropriate.

(6) Section 6 (**Objects and functions of the Board**):

Omit section 6 (1), insert instead:

(1) The objects of the Board are as follows:

(a) to accredit, and to authorise other persons and bodies to accredit, vocational courses;

(b) to register, and to authorise other persons and bodies to register, education or training providers to conduct vocational courses;

(c) to approve, and to authorise other persons and bodies to approve, education or training providers to provide courses to overseas students;

**SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued***

- (d) to establish guidelines for the accreditation of vocational courses and for the registration and approval of education or training providers;
- (e) to advise the Minister on matters concerning the accreditation of vocational courses and the registration and approval of education or training providers;
- (f) to liaise with licensing authorities and other bodies (both in New South Wales and elsewhere) in connection with the accreditation of vocational courses and the registration and approval of education or training providers;
- (g) to investigate, and to report on, matters concerning the accreditation of vocational courses and the registration and approval of education or training providers.

(7) Part 3A:

After section 22, insert:

**PART 3A—REGISTRATION AND APPROVAL OF
EDUCATION OR TRAINING PROVIDERS**

Division 1—Guidelines and authorities

Guidelines as to registration and approval

22A. (1) The Board may from time to time issue guidelines to be adopted in relation to the registration or approval of education or training providers. The guidelines may relate to matters including the following:

- (a) registration or approval procedures;
- (b) the resources required to conduct a vocational course, or to provide a course to overseas students, in a competent manner;
- (c) the financial requirements and ethical standards to be satisfied by education or training providers;
- (d) the conditions to be imposed on the registration or approval of education or training providers.

(2) Copies of each guideline issued under this section are to be kept at the office of the Board and are to be made available for public inspection free of charge, and for purchase, during ordinary office hours.

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

Authorised registering bodies

22B. (1) The Board may, on the application of any person or body, grant an authority to the person or body to register education or training providers to conduct vocational courses or approve education or training providers to provide courses to overseas students.

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

(3) An authority may be granted:

- (a) unconditionally or subject to such conditions (which may be imposed when the authority is granted or at any later time) as the Board may determine; and
- (b) authorising the registration or approval of providers generally or of specified providers or of specified classes of providers.

(4) Examples of the conditions that may be imposed include the following:

- (a) conditions specifying the period for which the authority is to remain in force;
- (b) conditions requiring the payment (including periodic payment while the authority remains in force) by the authorised registering body of fees to the Board in respect of the authority or in respect of registrations or approvals granted by that body;
- (c) conditions regulating the fees that may be charged by the authorised registering body in respect of registrations or approvals;
- (d) conditions that restrict the functions of the authorised registering body to particular functions, or to a class of functions;
- (e) conditions that limit the conditions that may be imposed by the authorised registering body on registrations or approvals;
- (f) conditions that specify the conditions that must be imposed by the authorised registering body on registrations or approvals.

**SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued***

(5) The Board may:

- (a) revoke an authority; or
- (b) revoke or vary any condition to which an authority is subject; or
- (c) impose additional conditions on the authority.

(6) An authorised registering body cannot register itself to conduct vocational courses or approve itself to provide courses to overseas students.

Division 2—Registration and approval by the Board

Registration of approval

22C. (1) The Board may, on the application of an education or training provider, register the provider to conduct vocational courses or approve the provider to provide courses to overseas students.

(2) An application for registration or approval must:

- (a) specify the name of the provider; and
- (b) specify the address of the premises in or from which the courses are conducted; and
- (c) be in such form, and must be accompanied by such fee, as the Board may determine; and
- (d) specify the courses and the details of any accreditation or approval obtained in respect of the courses.

(3) The Board may require an applicant to furnish further information in relation to the application.

(4) Registration or approval may be granted unconditionally or subject to such conditions (which may be imposed when the registration or approval is granted or at any later time) as the Board determines.

(5) Examples of the conditions that may be imposed include the following:

- (a) conditions specifying the period for which the registration or approval is to remain in force;
- (b) conditions specifying the premises in or from which the courses are to be conducted;

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

(c) conditions requiring the payment (including periodic payment while the registration or approval remains in force) of fees to the Board in respect of the registration or approval.

(6) The Board must not refuse to register or approve an education or training provider except on one or more of the following grounds:

- (a) that the provider has not furnished such further information in relation to the provider's application as the Board requires;
- (b) that the provider does not have the resources to conduct the relevant courses competently;
- (c) that the provider's financial arrangements or ethical standards do not warrant the registration or approval of the provider;
- (d) that the provider or the provider's resources do not comply with the relevant guidelines.

Variation, suspension or withdrawal of registration or approval

22D. (1) The Board may, on its own motion or on the application of any person or body, do any of the following in relation to a registered or approved provider (whether the provider's registration or approval was granted by the Board or otherwise):

- (a) vary the registration or approval so that it applies to different courses;
- (b) revoke or vary any condition to which the registration or approval is subject;
- (c) impose additional conditions on the registration or approval;
- (d) withdraw or suspend the registration or approval.

(2) The suspension of a provider's registration or approval may be lifted at any time by the Board (whether or not it was imposed by the Board). Before lifting the suspension, the Board may require the payment of a fee determined by the Board.

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

- (3) The Board must not withdraw or suspend a registration or approval except on one or more of the following grounds:
- (a) the provider requests the withdrawal or suspension;
 - (b) the provider is not conducting courses;
 - (c) the provider has ceased to exist;
 - (d) the provider does not comply with the relevant guidelines;
 - (e) the provider's financial arrangements or ethical standards are such that they would not warrant the registration or approval of the provider if it were now to apply for registration or approval;
 - (f) a reasonable doubt exists as to the provider's financial capacity to continue to meet its contractual obligations to its students, staff or other persons;
 - (g) the provider does not have the resources competently to conduct or provide the courses in respect of which it is registered or approved;
 - (h) the resources of the provider do not comply with the relevant guidelines;
 - (i) the provider has engaged in misleading or deceptive conduct in connection with the recruitment of intending overseas students;
 - (j) in the case of an approval—the provider has failed to comply with a requirement of the Commonwealth Act, or of a regulation under that Act, in relation to a course to which the approval relates;
 - (k) the provider has contravened this Act, the regulations or a condition to which the provider's registration or approval is subject;
 - (l) the provider has contravened a code of practice in force under Part 7 of the Fair Trading Act 1987 which relates to the conduct of any vocational course conducted by the provider or to the provision of any course provided by the provider to overseas students.

**SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued***

Notice and considerations

22E. (1) Before the Board makes any decision under this Division (other than a decision to require an education or training provider to furnish further information in relation to an application or a decision to grant an application unconditionally):

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned; and
- (b) it must give the provider a reasonable opportunity to make representations to the Board in relation to the proposed decision.

(2) Before the Board makes any decision under this Division (other than a decision to require an education or training provider to furnish further information in relation to an application):

- (a) it must cause notice of the proposed decision to be served on any person or body prescribed by the regulations for the purposes of this section; and
- (b) it must give the prescribed person or body (if any) a reasonable opportunity to make representations to the Board in relation to the proposed decision.

(3) In making a decision under this Division, the Board must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(4) The Board must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the provider and the prescribed person or body (if any).

**Division 3—Registration and approval by authorised
registering body**

Registration or approval

22F. (1) An authorised registering body may, on the application of an education or training provider, register the provider to conduct vocational courses or approve the provider to provide courses to overseas students.

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

- (2) An application for registration or approval must:
- (a) specify the name of the provider; and
 - (b) specify the address of the premises in or from which the courses are conducted; and
 - (c) be in such form, and must be accompanied by such fee, as the body may determine; and
 - (d) specify the courses and the details of any accreditation or approval obtained in respect of the courses.

(3) The authorised registering body may require an applicant to furnish further information in relation to the application.

(4) Registration or approval may be granted unconditionally or subject to such conditions (which may be imposed when the registration or approval is granted or at any later time) as the authorised registering body determines.

(5) Examples of the conditions that may be imposed include the following:

- (a) conditions specifying the period for which the registration or approval is to remain in force;
- (b) conditions specifying the premises in or from which the courses are to be conducted;
- (c) conditions requiring the payment (including periodic payment while the registration or approval remains in force) of fees to the authorised registering body in respect of the registration or approval;
- (d) conditions specified in the authority granted to the authorised registering body under this Act as conditions that may be imposed by the body.

(6) The authorised registering body must not refuse to register or approve an education or training provider except on one or more of the following grounds:

- (a) that the provider has not furnished such further information in relation to the provider's application as the body requires;
- (b) that the provider does not have the resources to conduct the relevant courses competently;

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

- (c) that the provider's financial arrangements and ethical standards do not warrant the registration or approval of the provider;
- (d) that the provider or the provider's resources do not comply with the relevant guidelines;
- (e) that the body has no authority to register or approve the provider.

Variation, suspension or withdrawal of registration or approval

22G. (1) An authorised registering body may, on its own motion or on the application of any person or body, do any of the following in relation to an education or training provider registered or approved by it:

- (a) vary the registration or approval so that it applies to different courses;
- (b) revoke or vary any condition to which the registration or approval is subject;
- (c) impose additional conditions on the registration or approval;
- (d) withdraw or suspend the registration or approval.

(2) The suspension of a provider's registration or approval may be lifted at any time by the authorised registering body that imposed the suspension. Before lifting the suspension, the authorised registering body may require the payment of a fee determined by the Board.

(3) The authorised registering body must not withdraw or suspend the registration or approval except on one or more of the grounds set out in section 22D (3).

Limits of authority

22H. An authorised registering body must exercise its functions under this Division in accordance with its authority and must observe any conditions to which that authority is subject.

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

Notice and considerations

22I. (1) Before an authorised registering body makes any decision under this Division (other than a decision to require an education or training provider to furnish further information in relation to an application or a decision to grant an application unconditionally):

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned; and
- (b) it must give the provider a reasonable opportunity to make representations to the authorised registering body in relation to the proposed decision.

(2) Before an authorised registering body makes any decision under this Division (other than a decision to require an education or training provider to furnish further information in relation to an application):

- (a) it must cause notice of the proposed decision to be served on the Board and on any person or body prescribed by the regulations for the purposes of this section; and
- (b) it must give the Board and the prescribed person or body (if any) a reasonable opportunity to make representations to the authorised registering body in relation to the proposed decision.

(3) In making a decision under this Division, the authorised registering body must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(4) The authorised registering body must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the provider, the Board and the prescribed person or body (if any).

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*

Division 4—General

Advertising

22J. (1) A person must not advertise or otherwise represent that an education or training provider is or has been registered, endorsed or otherwise approved (however expressed) to conduct a vocational course or to provide a course to overseas students unless the advertisement or representation specifies the name of the person or body by which the registration, endorsement or approval has been given.

(2) A person must not advertise or otherwise represent that an education or training provider may, will or is to be registered, endorsed or otherwise approved (however expressed) to conduct a vocational course or to provide a course to overseas students.

(3) A person must not falsely advertise or otherwise falsely represent that an education or training provider is or has been registered, endorsed or otherwise approved (however expressed) to conduct a vocational course or to provide a course to overseas students.

Maximum penalty: 10 penalty units.

Effect of suspension

22K. For the purposes of section 22J only, a registration or approval granted under this Part is taken not to be in force during any period of suspension under this Part.

Notification of change of name or address

22L. A registered provider or approved provider is to cause notice of any change in the name or the address of the provider to be given to the Board and, if the registration or approval was granted by an authorised registering body, also to that body.

Register of providers and courses

22M. The Board is to maintain a register in which the following particulars are recorded:

SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION AND TRAINING ACCREDITATION ACT 1990—*continued*

- (a) the name and address of each registered provider and each approved provider;
- (b) the titles of the courses in respect of which the provider is registered or approved;
- (c) the addresses of the places in or from which the courses are conducted;
- (d) such other matters as the Board may determine.

Evidentiary certificates

22N. A certificate that is signed by the General Manager and that certifies that:

- (a) on a specified date or during a specified period a specified person or body was or was not a registered provider or an approved provider; or
- (b) as such a provider, was or was not registered or approved to conduct or provide courses generally, a specified class of courses or a specified course,

is admissible in any proceedings and is evidence of the fact or facts so certified.

Saving of registration or approval

22O. (1) An education or training provider that has been registered or approved by an authorised registering body does not cease to be a registered or approved provider (as appropriate) just because the body can no longer grant the registration or approval or the body has ceased to exist.

(2) An education or training provider does not cease to be a registered or approved provider just because there is a change in the name of the provider.

(8) Section 24 (Powers of inspectors):

In section 24 (1) (a), after “Act”, insert “or the office or business premises of a registered provider or an approved provider”.

**SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued*****(9) Section 33 (Regulations):**

At the end of section 33 (1), insert:

; and

- (i) records to be kept by registered providers and approved providers; and
- (k) certificates to be issued under this Act to registered providers and approved providers.

(10) Section 35:

After section 34, insert:

Savings and transitional provisions
35. Schedule 2 has effect.

(11) Schedule 2:

After Schedule 1, insert:

**SCHEDULE 2—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 35)

PART 1—PRELIMINARY

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the Vocational Education and Training Accreditation (Amendment) Act 1993.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to that Act or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

**SCHEDULE 1—AMENDMENT OF VOCATIONAL EDUCATION
AND TRAINING ACCREDITATION ACT 1990—*continued***

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done before the date of its publication.

**PART 2—VOCATIONAL EDUCATION AND
TRAINING ACCREDITATION (AMENDMENT) ACT
1993**

Deemed approval

2. (1) An education or training provider registered or purportedly registered under the Commonwealth Act immediately before the commencement of Schedule 1 (11) to the Vocational Education and Training Accreditation (Amendment) Act 1993 in respect of one or more courses in respect of New South Wales is taken to have been approved under this Act to provide those courses to overseas students.

(2) The approval under this Act is taken to be subject to a condition that the approval expires:

- (a) in the case of registration, or purported registration, under the Commonwealth Act which has also been approved by the Executive Director of the Ministry of Education and Youth Affairs—on the date or after the period when the approval by the Executive Director is expressed to expire; or
- (b) in other cases—12 months after the commencement of Schedule 1 (11) to the Vocational Education and Training Accreditation (Amendment) Act 1993.

Members of Board

3. The amendment made by Schedule 1 (5) to the Vocational Education and Training Accreditation (Amendment) Act 1993 does not affect the continuity of the office of a member of the Board.

**SCHEDULE 2—AMENDMENT OF HIGHER EDUCATION
ACT 1988**

(Sec. 4)

(1) Section 4B:

After section 4A, insert:

Approval to conduct courses for overseas students

4B. (1) The object of this section is to provide for the approval of official universities (within the meaning of section 4) as the basis for their registration under the Commonwealth Act.

(2) The Executive Director of the Ministry of Education and Youth Affairs may approve an official university (within the meaning of section 4) to provide courses of education or training to overseas students (within the meaning of the Commonwealth Act).

(3) The approval may be granted unconditionally or subject to such conditions (which may be imposed when the approval is granted or at any later time) as the Executive Director determines.

(4) The Executive Director may vary, withdraw or suspend the approval and may vary or revoke any condition to which it is subject.

(5) In this section, “the Commonwealth Act” means the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991 of the Commonwealth.

(2) Schedule 1 (**Savings and Transitional Provisions**):

(a) Omit clause 2 (1), insert instead:

(1) The regulations may contain provisions of a savings or transitional nature consequent on the following enactments:

This Act.

Miscellaneous Acts (Higher Education) Amendment Act 1988.

Schedule 2 to the Vocational Education and Training Accreditation (Amendment) Act 1993.

SCHEDULE 2—AMENDMENT OF HIGHER EDUCATION ACT
1988—*continued*

(b) At the end of Schedule 1, insert:

**PART 3—APPROVALS TO PROVIDE COURSES TO
OVERSEAS STUDENTS**

Deemed approval

8. (1) An official university (within the meaning of section 4) registered or purportedly registered under the Commonwealth Act immediately before the commencement of Schedule 2 to the Vocational Education and Training Accreditation (Amendment) Act 1993 to provide courses to overseas students is taken to have been approved under section 4B' of this Act to provide those courses.

(2) In this clause, "overseas student" and "the Commonwealth Act" have the same meanings as in section 4B.

*[Minister's second reading speech made in—
Legislative Assembly on 28 October 1993
Legislative Council on 10 November 1993]*