



BERMUDA

NATIONAL TRAINING BOARD ACT 1997

1997 : 18

TABLE OF CONTENTS

PART I
PRELIMINARY

- 1 Citation
- 2 Interpretation

PART II
THE NATIONAL TRAINING BOARD

- 3 Establishment of National Training Board
- 3A Establishment of One-Stop Career Centre
- 4 Functions of the Board
- 5 Appointment and functions of Occupation Advisory Committee, etc.
- 6 Additional functions of Occupation Advisory Committee
- 7 Staff of the Board
- 8 Functions of Director
- 9 Minister may give policy directions
- 10 Power to obtain information from employers
- 11 Reports of the Board

PART III
CONTRACTS OF APPRENTICESHIP AND TRAINING

- 12 Permission to employ apprentices and trainees
- 13 Entitlement to enter into contract of apprenticeship or training
- 14 Medical examination
- 15 Registration of contracts
- 16 Transfer of contract
- 17 Partnerships
- 18 Termination or extension of contract

NATIONAL TRAINING BOARD ACT 1997

19 Probationary period

PART IV
MISCELLANEOUS

20 Suspension of apprentice or trainee
21 Record of employment
22 Limitations in regard to method of payment and overtime
23 Miscellaneous functions of Board
24 Training schemes
25 Procedure respecting schemes
26 Supervision of apprentices and trainees
27 Designation and powers of training officer
28 Regulations
29 Application
30 Savings
31 Exemption
32 Institution of proceedings
33 General penalty
34 Repeal

FIRST SCHEDULE

SECOND SCHEDULE

Constitution of Committees

[Preamble and words of enactment omitted]

PART I
PRELIMINARY

Citation

1 This Act may be cited as the National Training Board Act 1997 and shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

Interpretation

2 (1) In this Act, unless the context otherwise requires—

“additional committee” means a committee appointed under section 5(1)(b);

“apprentice” or “trainee” means a person who enters into a contract of apprenticeship or training in an occupation in respect of which a scheme is in force with an employer for the purpose of receiving occupational training, for a period of not less than four years in the case of an apprentice or not more than three years in the case of a trainee, or such lesser period as the Board in either case, determines under section 23;

NATIONAL TRAINING BOARD ACT 1997

- “the Board” means the National Training Board established under section 3;
- “certificate”, other than in section 10(4), means a certificate issued by the Board under section 4(c);
- “Director” means the Director of the Department of Labour and Training, designated as such under subsection (2);
- “employer” means a person who has entered into a contract of apprenticeship or training as employer with an apprentice or trainee, and includes the employer’s agent, representative, foreman or manager who is placed in authority over the apprentice or trainee;
- “Executive Officer” *[Repealed by 2011 : 47 s. 2]*
- “financial year” means the Government financial year;
- “Minister” means the Minister for the time being responsible for the National Training Board;
- “occupation” includes a trade, profession or vocation, which a person pursues to make a livelihood;
- “Occupation Advisory Committee” means an Occupation Advisory Committee appointed under section 5(1)(a);
- “occupational training” means training in relation to an occupation;
- “One-Stop Career Centre” or “the Centre” means the One-Stop Career Centre established under section 3A;
- “on-the-job training” means training provided by an employer for an employee for the purpose of enhancing that employee’s career development;
- “scheme” means a scheme formulated under section 24;
- “test” includes any means by which an apprentice or a trainee is continuously assessed;
- “training officer” means the training officer referred to in section 7;

(2) The Minister may by notice published in the Gazette designate any public officer as Director of the Department of Labour and Training for the purposes of this Act and may, in like manner, revoke such designation.

[NB “Executive Officer” replaces “Registrar” throughout Act – see 2002:22 s.8 & Sch. These amendments are not noted in each place where they occur. Note that the amendment to s.2 by s.8 & Sch of 2002:22 resulted in two definitions of “Executive Officer” which have been combined on consolidation]

[Section 2 “Minister” amended by BR83/2001 effective 21 December 2001; “Executive Officer” inserted, “Minister” and “training officer” amended, by 2002:22 s.2, s.8 & Sch effective 15 August 2002; section 2 subsections (1) and (2) amended, and “Director” and “One-Stop Career Centre” inserted by 2011 : 47 s. 2 effective 18 December 2011]

PART II

THE NATIONAL TRAINING BOARD

Establishment of National Training Board

3 (1) The National Training Board is hereby established.

(2) The Board shall perform the functions assigned to it by this Act and by any other statutory provision.

(3) The provisions of the First Schedule shall have effect with respect to the constitution of the Board and otherwise in relation thereto.

Establishment of One-Stop Career Centre

3A (1) There is established the One-Stop Career Centre for the facilitation of employment by means of classifying, organizing and coordinating the essential expertise and resources of the—

- (a) National Training Board Section;
- (b) Career Development Section; and
- (c) Labour Relations Section.

(2) For the purposes of subsection (1) but subject to subsection (4), the Board shall determine the mission, strategic direction and priorities of the One-Stop Career Centre and shall establish performance goals for the Centre in accordance with this Act and regulations made under subsection (5).

(3) Subject to subsection (4), the Board—

- (a) shall cause the One-Stop Career Centre to be managed so as to ensure effective coordination between the Sections referred to in subsection (1) for the attainment of the objective of facilitating employment; and
- (b) may review and revise the mission, strategic direction and priorities of the One-Stop Career Centre, so as to continue to have in place relevant performance goals for the facilitation of employment.

(4) The Minister may give the Board such directions with regard to the exercise of the duties of the Board provided under subsections (2) and (3) as he may deem appropriate and may at any time require the Board to revise the mission, strategic direction and priorities of the One-Stop Career Centre.

(5) The Minister may make regulations to provide for any matter relating to the One-Stop Career Centre and for its management.

(6) Regulations made under subsection (4) shall be subject to the negative resolution procedure.

[Section 3A inserted by 2011 : 47 s. 3 effective 18 December 2011]

NATIONAL TRAINING BOARD ACT 1997

Functions of the Board

- 4 (1) The functions of the Board are—
- (a) to take such measures as it considers necessary for ensuring an adequate supply of trained manpower in occupations in all branches of economic activity in Bermuda;
 - (b) to take such measures as it considers necessary for improving the quality and efficiency of training for apprentices and trainees;
 - (c) to institute, review and maintain a system of tests in respect of occupations, and for granting certificates of efficiency to, and making reports on, persons who submit themselves to such tests;
 - (d) to protect and promote the welfare of apprentices and trainees;
 - (e) to investigate, and where possible, settle any dispute or other matter arising out of a contract between an apprentice or a trainee and an employer that may be referred to the Board;
 - (f) to take such measures as it considers necessary to promote, encourage and assist employers in providing on-the-job training for employees;
 - (g) to take such measures as it considers necessary to promote, encourage and assist in the re-training of employees where, owing to changing economic activities in Bermuda, such re-training is, in the opinion of the Board, necessary; and
 - (h) to direct or assist in the placement of Bermudians who are seeking employment in Bermuda.
 - (i) to determine, periodically, the mission, strategic direction and priorities of the One-Stop Career Centre in accordance with best practice;
 - (j) to exercise a general supervision of the affairs, purposes and functions of the One-Stop Career Centre;
 - (k) to develop processes and systems for the integration of programmes into the public schools;
 - (l) to enhance and develop the academic standing of the programmes of the One-Stop Career Centre by entering into agreements or arrangements, as the Minister may approve, with other institutions of further education, both locally and overseas, for—
 - (i) the provision of instruction;
 - (ii) granting of degrees, diplomas or certificates; or
 - (iii) professional development;
 - (m) to establish and maintain strategic relationships and associations with the business community;

NATIONAL TRAINING BOARD ACT 1997

- (n) to take such measures as it considers necessary to promote good labour relations for Bermuda's workforce;
 - (o) to identify opportunities that can assist individuals to obtain education, skills and career development;
 - (p) to report outcomes and continuous quality improvements to the Ministry when required to do so; and
 - (q) to do all such other functions that are required for the effective implementation of the objectives of this Act.
- (2) In this section "Bermudian" means—
- (a) a person who possesses Bermudian status; and
 - (b) a person who possesses spouse's rights,

within the meaning of those expressions as used in the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*].

[Section 4 subsections (1)(i) - (q) inserted by 2011 : 47 s. 4 effective 18 December 2011]

Appointment and functions of Occupation Advisory Committee, etc.

- 5 (1) The Board may, with the prior written approval of the Minister—
- (a) appoint a committee in respect of any one or more occupations, to be called an "Occupation Advisory Committee", which shall perform the functions specified in subsection (2), and the additional functions specified in section 6; and
 - (b) appoint such other additional committees as the Board considers appropriate for the purpose of assisting the Board in the performance of any of its functions.
- (2) An Occupation Advisory Committee appointed under subsection (1)(a) shall advise the Board on such matters relating to training in the occupation or occupations in respect of which it has been appointed as the Board may refer to it and shall perform in relation to such training such of the functions of the Board as the Board may, in writing, delegate to it.
- (3) The provisions of the Second Schedule shall have effect with respect to the constitution of an Occupation Advisory Committee and additional committees and otherwise in relation thereto.

Additional functions of Occupation Advisory Committee

- 6 The additional functions of an Occupation Advisory Committee in respect of the occupation or occupations to which it relates are—
- (a) to undertake research or assist persons in undertaking research into matters relating to occupational training;
 - (b) to advise the Board on all aspects of occupational training;

NATIONAL TRAINING BOARD ACT 1997

- (c) to advise the Board on the training facilities to be provided at institutions for persons employed, or seeking training, in an occupation;
- (d) to advise on or make arrangements for giving selection criteria in respect of persons wishing to be employed as apprentices or trainees;
- (e) to apply or make arrangements for tests and other methods of ascertaining the standards of efficiency to be recommended by the Occupation Advisory Committee for apprentices or trainees; and
- (f) to recommend the form and terms of contracts that are to be entered into by apprentices and trainees.

Staff of the Board

7 The staff of the Board shall be public officers and shall consist of a Director, a training officer and such other officers as the Board considers appropriate.

[Section 7 repealed and replaced by 2002:22 s.3 effective 15 August 2002; Section 7 amended by 2011 : 47 s. 5(a) effective 18 December 2011]

Functions of Director

8 The Director—

- (a) shall be the secretary of the Board;
- (b) shall be responsible for the day to day management of the Board;
- (c) shall have such functions as are assigned to him by this Act and by any other statutory provision; and
- (d) shall have such additional functions as the Board, in the performance of its functions, may assign to him.

[Section 8 repealed and replaced by 2002:22 s.3 effective 15 August 2002; Section 8 amended by 2011 : 47 s. 5(b) effective 18 December 2011]

Minister may give policy directions

9 The Minister may, after consultation with the Board, give such general or specific direction as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary in the public interest, and the Board shall give effect to any such direction.

Power to obtain information from employers

10 (1) The Board may require employers to furnish such returns and other information of a kind approved by the Minister and to keep such records of a kind approved by him and produce such records for examination by or on behalf of the Board as appear to the Board to be necessary for carrying out its functions.

(2) Subject to subsection (3), returns and other information furnished in pursuance of subsection (1) and any information obtained on an examination made in pursuance thereof shall not, without the consent of the employer to whose business the

NATIONAL TRAINING BOARD ACT 1997

returns or information relate, be disclosed otherwise than to the Minister, the Board or an Occupation Advisory Committee, or to any person entitled to take part in the proceedings of the Board or of such committee.

(3) Subsection (2) shall not apply—

- (a) to the disclosure of returns or information in the form of a summary or similar returns or information furnished by or obtained from a number of employers, if the summary is so framed as not to enable particulars relating to any particular business to be ascertained from it;
- (b) to any disclosure of information made for the purpose of any criminal proceedings, whether pursuant to this Act or not, or for the purpose of any report of any such proceedings.

(4) A certificate purporting to be issued by or on behalf of the Minister and stating that he has approved any kind of information, return or record for the purpose of subsection (1) shall, in any legal proceedings, unless the contrary is proved, be evidence of the facts stated in the certificate.

(5) A person is guilty of an offence if he—

- (a) fails to comply with any requirement made under subsection (1); or
- (b) knowingly or recklessly furnishes, in pursuance of any requirement made under subsection (1), any return or other information which is false in any material particular; or
- (c) wilfully makes a false entry in any record required to be produced under subsection (1) or, with intent to deceive, makes use of any such entry which he knows to be false; or
- (d) discloses any information in contravention of subsection (2).

Reports of the Board

11 (1) The Board shall, within three months after the end of each financial year forward to the Minister a report on the activities of the Board during that financial year and on the Board's policy and programme for future years.

(2) The report referred to in subsection (1) shall specify any directions given by the Minister to the Board during that year.

(3) The Minister shall cause copies of the report to be laid before both houses of the Legislature.

PART III

CONTRACTS OF APPRENTICESHIP AND TRAINING

Permission to employ apprentices and trainees

12 (1) A person wishing to employ another person as an apprentice or trainee shall apply to the Board.

(2) In granting an application under subsection (1), the Board shall specify the maximum number of apprentices or trainees who may be employed at any one time by the applicant.

(3) The Board may not grant an application under this section unless the Board is satisfied that the applicant's establishment offers reasonable opportunities for the proper training of the number of persons proposed to be employed by him as apprentices or trainees.

(4) A person who is aggrieved by a decision of the Board under this section may appeal to the Minister whose decision is final.

(5) A person who fails to comply with subsection (1) is guilty of an offence.

Entitlement to enter into contract of apprenticeship or training

13 (1) Subject to subsection (2), a person who—

- (a) is sixteen years of age or over;
- (b) has completed a period of education required by law;
- (c) has, in the case of an occupation in respect of which a scheme is in force, the qualifications prescribed by that scheme; and
- (d) is certified to be fit in accordance with section 14,

is entitled to enter into a contract of apprenticeship or training in that occupation.

(2) Subject to subsection (3), a minor may not enter into a contract of apprenticeship or training unless he first obtains the consent of his parent or guardian.

(3) A magistrate may, on the application of any interested party, dispense with the consent of the parent or guardian to the contract which shall, in such event, be of like force and effect as a contract having such consent.

Medical examination

14 (1) An employer shall, before employing an apprentice or trainee who is under eighteen years of age, obtain from the apprentice or trainee a medical certificate, from a registered medical practitioner, certifying that the apprentice or trainee is fit to be employed in the occupation in which he seeks apprenticeship or training.

(2) In this section "registered medical practitioner" has the meaning assigned to that expression by section 1 of the Medical Practitioner's Act 1950 [*title 30 item 8*].

NATIONAL TRAINING BOARD ACT 1997

Registration of contracts

15 (1) Every contract of apprenticeship or training made after the coming into operation of this Act, shall be in the prescribed form.

(2) An employer who enters into a contract of apprenticeship or training with any person shall, within six weeks thereafter, lodge for registration with the Director in such manner as may be prescribed—

- (a) the contract of apprenticeship or training and three copies thereof; and
- (b) the medical certificate obtained under section 14.

(3) An employer who fails to comply with subsection (2) is guilty of an offence.

(4) A contract of apprenticeship or training made after the coming into operation of this Act, is not binding until it is registered by the Director.

(5) The Director may refuse to register a contract of apprenticeship or training if, in his opinion, the contract—

- (a) is not in the interest of the apprentice or trainee; or
- (b) is not made in accordance with a scheme.

(6) In coming to a decision under subsection (5), the Director shall, in addition to any other matter, have regard to the prospects of the apprentice or trainee obtaining employment at the expiration of the contract in the occupation in which he seeks to be trained.

(7) Where the Director refuses to register a contract of apprenticeship or training under subsection (5), he shall, within fourteen days after so refusing, communicate his refusal in writing to the Board, the employer and the apprentice or trainee.

(8) In every case where the Director registers a contract under this Act, he shall—

- (a) endorse on the contract and on the three copies thereof the particulars of registration and return the contract and two copies to the employer; and
- (b) file one copy.

(9) The employer shall give a copy of the contract to the apprentice or trainee and a copy to his parent or guardian, if any.

(10) A person who is aggrieved by the refusal of the Director to register a contract may, within thirty days from the date on which the decision of the Director is communicated to him, appeal to the Board, and the decision of the Board shall be final.

(11) The Director shall cause to be registered at the office of the Registrar-General every contract of apprenticeship or training entered into pursuant to this Act, and for this purpose the Registrar-General shall establish and maintain, in such manner as the Registrar-General considers appropriate, a register.

[Section 15 amended, and subsection (11) added, by 2002:22 s.4, s.8 & Sch effective 15 August 2002; Section 15 amended by 2011 : 47 s. 5(b) effective 18 December 2011]

NATIONAL TRAINING BOARD ACT 1997

Transfer of contract

16 (1) The rights and obligations of an employer under any contract of apprenticeship or training may, with the consent of all the parties thereto and with the approval of the Board, be transferred to another employer.

(2) The Board may refuse to approve the transfer of the contractual rights and obligations of any employer if, in its opinion, the transfer is not in the interest of the apprentice or trainee.

(3) A minor may with the same consent as is required under section 13(2), consent to a transfer under subsection (1).

(4) The transferee shall, within one month after the date on which the instrument of transfer is signed by him, lodge the instrument with the Director for registration.

(5) Where a contract is transferred under this section, the transferee has all the rights and obligations under the contract that were vested in the transferor and to which the transferor was subject at the time of the transfer.

(6) A person who fails to comply with subsection (4) is guilty of an offence.

[Section 16 amended by 2002:22 s.8 & Sch effective 15 August 2002; amended by 2011 : 47 s. 5(b) effective 18 December 2011]

Partnerships

17 Where, under any contract of apprenticeship or training, an apprentice or trainee is employed by persons in partnership, then, unless the apprentice or trainee otherwise elects, his contract of apprenticeship or training does not terminate by reason only of the death or retirement of a partner if the business of the partnership is continued by a surviving or continuing partner, whether alone or jointly with others; and the contractual rights and obligations of the employer are transferred to the person or partners continuing the business.

Termination or extension of contract

18 (1) Subject to section 19, a contract of apprenticeship or training may be terminated or extended—

(a) by mutual agreement in writing of the parties thereto, with, in the case of an apprentice or trainee who is a minor, the same consent as is required under section 13(2); or

(b) by the Board at the instance of any party thereto if the Board is satisfied that it is expedient so to do.

(2) Where the Board intends to terminate a contract under subsection (1)(b), the Board shall, prior to such termination, communicate its intention, in writing, to the employer and to the apprentice or trainee.

(3) The employer shall give notice in writing to the Director of the termination of any contract under subsection (1)(a).

(4) An employer who fails to comply with subsection (3) is guilty of an offence.

NATIONAL TRAINING BOARD ACT 1997

(5) The Board may not exercise the powers conferred upon it by subsection (1)(b) unless it has given both parties to the contract or their representatives an opportunity to be heard by, or to make representations to, the Board.

(6) The Director shall endorse on the filed copy of the contract of apprenticeship or training the fact of its termination or extension.

(7) A person who is aggrieved by the Board's termination or extension of a contract of apprenticeship or training may appeal to the Minister within two months from the date on which the decision of the Board is communicated to him.

(8) Where the Minister sets aside the decision of the Board to terminate a contract, he may give such direction as he thinks fit relating to the payment of any amount due as wages that would have been payable to the apprentice or trainee if the contract had not been terminated, and any amount so directed to be paid may be recovered by the apprentice or trainee from the employer as a civil debt before a magistrate, notwithstanding that the amount sought to be recovered exceeds the normal monetary limit on the jurisdiction of the Magistrate's Court.

(9) The decision of the Minister under subsection (8) shall be endorsed by the Director upon the filed copy of the contract of apprenticeship or training.

(10) A contract that is terminated under this section, is terminated for all purposes, but without limiting or affecting any right of action that may have accrued before the date of termination.

[Section 18 amended by 2002:22 s.8 & Sch effective 15 August 2002; amended by 2011 : 47 s. 5(b) effective 18 December 2011]

Probationary period

19 (1) The first three months of every contract of apprenticeship or the first two months in the case of a contract of training, is a probationary period during which the contract may be terminated by either party; and any agreement to the contrary is void.

(2) An employer shall within one month after the date of termination of the contract give notice in writing to the Director of its termination.

(3) The probationary period may be extended or shortened by the Board.

(4) An employer who fails to comply with subsection (2) is guilty of an offence.

[Section 19 amended by 2002:22 s.8 & Sch effective 15 August 2002; amended by 2011 : 47 s. 5(b) effective 18 December 2011]

PART IV

MISCELLANEOUS

Suspension of apprentice or trainee

20 (1) An employer who is satisfied that an apprentice or trainee who has entered into a contract with him has committed a fundamental breach of the terms of the contract or of

NATIONAL TRAINING BOARD ACT 1997

any conditions of apprenticeship or training applicable to the apprentice or trainee may forthwith suspend the apprentice or trainee.

(2) An employer who suspends an apprentice or trainee shall report the matter in writing to the Director within three working days after the suspension; and the Board shall investigate the matter and may confirm or set aside the suspension of the apprentice or trainee, or vary the terms of the suspension.

(3) Whether or not a complaint is made by an employer to the Board, the Board may, where an investigation by it reveals that the apprentice or trainee has *prima facie* committed a fundamental breach of his contract, suspend the apprentice or trainee and report in writing to the employer the fact of that suspension.

(4) No wages shall accrue to an apprentice or trainee during a period of suspension.

(5) Where the Board sets aside the suspension of an apprentice or trainee under subsection (2), the employer shall pay to the apprentice or trainee such wages as may have been withheld from him during the period of suspension.

(6) An employer who fails to comply with subsection (2) is guilty of an offence.

(7) A person who is aggrieved by the Boards' action under this section may appeal within fourteen days after the date of such action to the Minister; and the decision of the Minister is final.

[Section 19 amended by 2002:22 s.8 & Sch effective 15 August 2002; Section 20 amended by 2011 : 47 s. 5(b) effective 18 December 2011]

Record of employment

21 (1) Every employer of an apprentice or trainee shall keep, in respect of every apprentice or trainee, records of the remuneration paid to, and the time worked by, the apprentice or trainee, together with such other particulars as may be prescribed.

(2) The records shall be kept in such form and manner as the Board approves.

(3) A person who employs an apprentice or trainee shall keep records to which this section refers for a period of three years after the date of the last entry in the record.

(4) A person who fails to comply with subsection (1) or (3) is guilty of an offence.

Limitations in regard to method of payment and overtime

22 (1) Subject to subsection (2), any term or condition of a contract of apprenticeship or training is void if—

(a) it provides that the whole or any part of the wages of an apprentice or trainee is to be based upon the quantity of work done; or

(b) it requires an apprentice or trainee under the age of eighteen years to work overtime.

(2) Notwithstanding subsection (1), where, in the case of a particular occupation, the Board considers it appropriate so to do the Board may, in writing, permit the inclusion

of such a term or condition as is referred to in that subsection for such period and subject to such restrictions as the Board considers necessary and in such a case, subsection (1) shall not apply to that term or condition.

Miscellaneous functions of Board

23 (1) Where, during the term of his contract, an apprentice or trainee is absent from work, other than for purposes of leave provided for in the contract, for a period of thirty days or more, or for a number of periods amounting in the aggregate to thirty days or more, the Board may order that the term of the contract of apprenticeship or training be extended by the number of days for which the apprentice or trainee has been absent, and the contract shall be extended accordingly.

(2) Where the Board is satisfied that a person has undergone previous technical training relevant to the occupation in which he desires to be trained, the Board may authorise the Director to reduce the period of apprenticeship or training to be served to such lesser period as it specifies.

(3) Where the Board is satisfied that an apprentice or trainee during the period of his contract has acquired, relevant to the occupation in which he is trained, a degree of proficiency that would justify the reduction of the period of apprenticeship or training, the Board may authorise the Director, subject to the approval and consent of the apprentice or trainee and the employer, to reduce the period of apprenticeship or training to such lesser period as the Board specifies; and the Director shall comply with such authorisation.

[Section 23 amended by 2002:22 s.8 & Sch effective 15 August 2002; Section 23 amended by 2011 : 47 s. 5(b) effective 18 December 2011]

Training schemes

24 (1) The Board may, with the approval of the Minister and subject to section 26 formulate schemes for regulating the training of apprentices or trainees in any occupation.

(2) A term of any contract of apprenticeship or training registered before the date of the coming into force of the scheme may not be revoked or varied by means of a scheme.

(3) A scheme may contain, in respect of any occupation to which it relates—

- (a) the qualifications, including the age and educational standards required for apprentices or trainees;
- (b) the practical training that employers are required to provide for their apprentices or trainees;
- (c) the theoretical training that is required to be provided by, or at the expense of, employers for their apprentices or trainees, or that apprentices or trainees are required to undergo, and the manner in which the apprenticeship or training is to be provided or undergone;
- (d) the proficiency tests or examinations that apprentices or trainees are required to take;

- (e) the maximum number of ordinary working hours apprentices or trainees may be required or permitted to work during any week or in any day;
- (f) the days on which, the hours in any day before or after which, and the intervals during which, no apprentice or trainee can be required or permitted to work;
- (g) the maximum period of overtime that apprentices or trainees may be required or permitted to work on any day or during any specified period;
- (h) the minimum wages and other conditions that apply to apprentices and trainees;
- (i) the minimum remuneration and other conditions that apply in respect of any period during which an apprentice or trainee is unable, by reason of any condition of apprenticeship or training, or other circumstances, to render service to his employer during ordinary working hours;
- (j) any other matter that, in the opinion of the Board, with the approval of the Minister, is necessary for the effective operation of the scheme.

(4) Different conditions of apprenticeship or training may be specified in a scheme in respect of different classes of employers, apprentices, trainees or occupations; and the Board may, in determining the different conditions for any scheme, apply any method of differentiation it thinks fit.

(5) A scheme may be amended by a subsequent scheme or by an order made by the Board with the approval of the Minister.

(6) A scheme or an order referred to in this section is not subject to the Statutory Instruments Act 1977.

[Section 24 subsection (6) inserted by 2009:51 s.2 effective 22 December 2009]

Procedure respecting schemes

25 (1) Before a scheme comes into operation, the Board shall cause to be published twice, with an interval of at least seven but not more than fourteen days between each publication, in the Gazette, a notice of its intention to make a scheme.

(2) A notice under subsection (1) shall contain a statement of a place where copies of the proposed scheme may be inspected, or are available, at a prescribed fee and a time that is not less than forty-five days from the first date of such publication, within which any objection to the proposed scheme may be submitted to the Board.

(3) An objection to a proposed scheme must be in writing and must contain the grounds of objection and any proposed deletions from, or additions or modifications to, the proposed scheme.

(4) At the expiration of the time specified for the making of objections, the Board may, with the approval of the Minister—

- (a) withdraw the proposed scheme;

NATIONAL TRAINING BOARD ACT 1997

- (b) give effect to the proposed scheme as published under subsection (2); or
- (c) give effect to the proposed scheme, subject to such deletions, additions or modifications as it thinks fit.

(5) No deletion from, addition or modification to, any proposed scheme may be made under paragraph (c) of subsection (4) if in the opinion of the Board such deletion, addition, or modification would effect important alterations in the character of the proposed scheme as published.

(6) The Board may, with the approval of the Minister, amend a proposed scheme otherwise than as permitted under paragraph (c) of subsection (4), but in that case all the provisions of this section apply to that amended scheme as if it were an original proposed scheme.

(7) When a proposed scheme is finalised, the Board shall cause it to be published in the Gazette.

(8) A notice or a scheme referred to in this section is not subject to the Statutory Instruments Act 1977.

[Section 25 subsection (8) inserted by 2009:51 s.3 effective 22 December 2009]

Supervision of apprentices and trainees

26 (1) For the purposes of this Act, an employer of apprentices or trainees shall, subject to the approval of the Board, appoint a person—

- (a) to be responsible for the general supervision of the training of apprentices and trainees; and
- (b) to be responsible for the day to day guidance of apprentices or trainees in matters related to their occupation, at each work place where apprentices or trainees are regularly employed for a period of not less than three months at a time.

(2) Where the Board is not satisfied with the competence of the person appointed as supervisor of apprentices or trainees, it may, by notice in writing, specify the nature of the training which the Board requires that person to undertake before his appointment may be approved.

(3) An employer who fails to comply with this section is guilty of an offence.

Designation and powers of training officer

27 (1) *[Deleted]*

(2) The training officer may, for the purposes of determining whether the provisions of this Act are being complied with—

- (a) at any reasonable time, enter any premises in which he has reasonable grounds for believing that an apprentice or trainee is, or has within the previous six months been, employed;

NATIONAL TRAINING BOARD ACT 1997

- (b) examine any person whom he finds on premises entered under paragraph (a) whom he has reasonable grounds for believing to be or to have been, within the preceding six months, employed on such premises;
 - (c) require any apprentice or trainee to appear before him at a prescribed place for the purpose of being questioned;
 - (d) require the production or delivery up of any of the records required to be kept by this Act and of any document relating thereto or relating to the business of any person whom the training officer has reasonable grounds for believing is, or was within the preceding six months, the employer of an apprentice or trainee; and
 - (e) examine and make extracts from copies of any documents produced or delivered up under paragraph (d).
- (3) The training officer—
- (a) shall not enter or inspect a private dwelling-house without the consent of the occupier thereof;
 - (b) shall on the occasion of a visit or inspection, notify the employer or his representative of his presence, and produce if required so to do, appropriate identification; and
 - (c) shall, if required by the employer, be accompanied during any inspection or examination by the employer or his representative.
- (4) A person who—
- (a) assaults or obstructs the training officer in the performance of his functions under this section;
 - (b) uses indecent, abusive or insulting language to the training officer in the performance of his functions; or
 - (c) fails to comply with any requirement made by the training officer under this section,

is guilty of an offence.

- (5) The Director has all the powers of the training officer under this section.

[Section 27 subsection (1) deleted, and subsections (2)-(5) amended, by 2002:22 s.5, s.8 & Sch effective 15 August 2002; Section 27 amended by 2011 : 47 s. 5(b) effective 18 December 2011]

Regulations

- 28 (1) The Board may, with the approval of the Minister, make regulations—
- (a) prescribing the form and terms of any contract of apprenticeship or training;
 - (b) relating to the manner of proof of educational qualifications;

NATIONAL TRAINING BOARD ACT 1997

- (c) prescribing the nature of returns that employers are required to furnish to the Board, and the period during which the returns are to be furnished;
- (d) prescribing the procedure for the registration and transfer of contracts of apprenticeship or training, and for the notification of the expiration or termination of such contracts;
- (e) for the holding of tests in respect of any specified occupation, and for the granting of a certificate of proficiency to any person who voluntarily enters for, and passes, any such test, notwithstanding that that person is neither an apprentice nor trainee;
- (ee) prescribing fees to be paid by a person who enters for any test instituted, and for the granting of a certificate of proficiency, by the Board;
- (f) prescribing the form and manner in which notice of completion of apprenticeship or training is to be given by employers;
- (g) prescribing the form of certificates of completion of apprenticeship or training; and
- (h) generally for giving effect to the provisions of this Act.

(2) Regulations under this section may differentiate between different classes of employers or classes of apprentices or trainees and different occupations.

(3) Regulations made under this section are subject to the negative resolution procedure.

[Section 28 subsection (1)(ee) added by 2002:22 s.6 effective 15 August 2002; subsection (3) inserted by 2009:51 s.4 effective 22 December 2009]

Application

29 This Act binds the Crown.

Savings

30 A contract of apprenticeship that is valid on the date that this Act comes into operation shall be deemed to comply with section 15.

Exemption

31 (1) The Minister may by order, exempt any person or class of persons from the operation of this Act, or any regulations or any scheme made, or direction given, thereunder.

(2) An order made under this section is subject to negative resolution procedure.

Institution of proceedings

32 The Director or training officer may institute proceedings in court in respect of any offence under this Act or any regulations made thereunder, so however, that no proceedings

NATIONAL TRAINING BOARD ACT 1997

for an offence against this Act shall be instituted without the consent, in writing, of the Director of Public Prosecutions.

[Section 32 amended by 1999:8 s.2 & Sch 1 effective 1 April 1999; and by 2002:22 s.8 & Sch effective 15 August 2002; Section 32 amended by 2011 : 47 s. 5(b) effective 18 December 2011]

General penalty

33 A person guilty of an offence under this Act is liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars.

[Section 33 amended by 2005 : 8 s. 2 effective 15 October 2010]

Repeal

34 The Apprenticeship and Training Act 1971 is repealed.

FIRST SCHEDULE

(section 3)

CONSTITUTION OF NATIONAL TRAINING BOARD

1 (1) The Board shall consist of a Chairman, a Deputy Chairman and not more than twenty members appointed by the Minister as hereinafter provided and the *ex officio* members specified in sub-paragraph (4).

(2) For the purposes of sub-paragraph (1) the Minister may make appointments from among persons who are able to make a meaningful contribution for the attainment of the objectives of this Act and who represent—

- (a) training boards established under Departments and Ministries;
- (b) professional institutions, associations and trades; and
- (c) any other sector of the community.

(3) The members of the Board referred to in sub-paragraph (1) shall be appointed by the Minister by instrument in writing.

(4) The following persons shall be *ex officio* members of the Board, that is to say,—

- (a) the Permanent Secretary of the Ministry responsible for education, or his nominee;
- (b) the Permanent Secretary of the Ministry responsible for works and engineering, or his nominee;
- (c) the Permanent Secretary of the Ministry responsible for labour and training, or his nominee;
- (d) the Financial Secretary or, his nominee;
- (e) the Chief Immigration Officer or, his nominee;
- (f) the Director of the Department of Human Resources, or his nominee.

(5) Notice of appointment of a member of the Board shall be published in the Gazette.

[Paragraph 1(5) erroneously numbered 1(4). Correction made under s.11(j) of the Computerization and Revision of Laws Act 1989 on 3 March 2011]

2 (1) An appointed member shall hold office for such term, not exceeding three years, as is specified in the instrument of appointment, and may from time to time be re-appointed.

NATIONAL TRAINING BOARD ACT 1997

(2) The term of office of appointed members shall be such as to ensure, so far as possible, the expiration in any year of not more than one half of the terms of office of those members.

3 A member of the Board, other than the Chairman, may resign his office by Instrument in writing addressed to the Minister, transmitted through the Chairman, and from the date of the receipt of the instrument by the Minister, if no date is specified therein, that member ceases to be a member of the Board.

4 The Chairman may at any time resign his office by instrument in writing addressed to the Minister, and from the date of the receipt of such instrument by the Minister, if no date is specified therein, he ceases to be Chairman and to be a member of the Board.

5 A person who is appointed to fill a vacancy created by a member who did not complete his term of office shall hold office—

- (a) for the unexpired portion of that member's term and no longer; or
- (b) for such term as the Minister may determine in accordance with paragraph 2(1).

6 No fewer than five appointed members shall form a quorum at a meeting of the Board.

7 An *ex officio* member may attend a meeting of the Board and may assist the Board in its deliberation on any matter, but an *ex officio* member shall not be counted for the purpose of constituting a quorum and shall have no vote.

8 (1) The Chairman or, in his absence, the Deputy Chairman, shall preside at a meeting of the Board.

(2) If both the Chairman and the Deputy Chairman are absent the appointed members present shall elect from among their numbers an appointed member to preside at that meeting.

9 (1) Any question proposed for a decision by the Board shall be determined by a majority of the votes of the appointed members present and voting at a meeting of the Board.

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

10 (1) Subject to sub-paragraphs (2) and (3), the Board shall meet as often as it considers it necessary so to do for the exercise and performance of its functions under this Act and, without prejudice to the generality of the foregoing, shall, in any event, meet no fewer than ten times in a financial year.

(2) The Chairman may at any time, and shall, at the request in writing of the Minister or of any two members of the Board, convene a special meeting of the Board.

NATIONAL TRAINING BOARD ACT 1997

(3) A notice convening a special meeting of the Board shall state the purpose for which the special meeting is being convened.

(4) Subject to sub-paragraph (5), meetings of the Board shall be held at such places, on such dates and at such times as the Chairman may determine and notice of such place, date and time shall be given in writing, to each member of the Board at least forty-eight hours, before the time fixed for such meeting.

(5) In the case of a special meeting a notice required by sub-paragraph (4) shall be sufficient if, notwithstanding that the notice does not comply with that sub-paragraph, it is, in the circumstance of the case, reasonable.

(6) The Chairman shall cause minutes of all meetings of the Board to be kept.

11 The [Director] or his representative shall be the Secretary of the Board.

12 All documents made by, and all decisions of, the Board are to be signified under the hand of the Chairman or any member authorised to act in that behalf, or by the Secretary.

13 Minutes of each meeting are to be duly kept by the Secretary or other person appointed by the Board for the purpose, and are to be confirmed by the Board at its next meeting and signed by the Chairman or other person presiding at that meeting.

14 The Board may co-opt persons to attend any of its meetings for the purpose of assisting or advising it respecting any matter with which it is dealing, but a person so co-opted does not have a right to vote.

15 The validity of any act or proceeding of the Board shall not be affected by any vacancy among the members, or by any defect in the appointment of a member, or by any failure to comply with any requirement of paragraph 10.

16 Appointed members shall be paid such fees and allowances out of the funds of the Board as the Board may, with the approval of the Minister, determine.

17 Subject to the provisions of this Act, the Board shall meet for the despatch of business, and otherwise regulate its affairs, as it thinks fit.

18 In this Schedule "appointed member" means a member of the Board appointed by the Minister under paragraph 1(2).

[First Schedule para 1(4)(b) amended, and para 1(4)(f) added, by 2002:22 s.7 effective 15 August 2002; reference to "Registrar" in para 11 mistakenly omitted from Schedule of amendments in 2002:22, corrected on consolidation; First Schedule paragraph 1(4) amended by BR 5 / 2011 para. 5 effective 25 February 2011; First Schedule paragraph 1(2)(d) amended by 2011 : 28 s. 14 effective 4 August 2011; First Schedule amended by 2011 : 47 s. 6 effective 18 December 2011]

SECOND SCHEDULE

(section 5)

CONSTITUTION OF COMMITTEES

1 (1) A committee appointed under section 5(1)(a) or (b) shall consist of not more than six persons.

(2) The Minister shall, in respect of a committee, appoint one member of that committee to be Chairman and another to be Deputy Chairman respectively.

2 (1) A member of a committee may, with the permission of the Chairman of that committee, appoint a person to act for him in case of his absence from a particular meeting.

(2) No person appointed to act as a member of a committee in pursuance of subparagraph (1) may appoint a person to act for himself nor may be appointed to act for more than one member; otherwise he may perform all the functions of a member of that committee.

3 A member of a committee shall hold office for a period not exceeding three years, but is eligible for re-appointment.

4 Where a vacancy occurs in respect of a committee, the Minister may appoint a person to fill that vacancy for the unexpired portion of the period in respect of which the vacancy occurs.

5 The Minister may revoke the appointment of a member of a committee who—

- (a) is absent from three consecutive meetings of the committee without leave of the Minister;
- (b) is unable to perform his duties as a member of the committee; or
- (c) fails to comply with a direction given by the Board.

6 The Board may assign a person to be secretary of a committee.

7 A committee shall meet as often as the Chairman of the committee decides, but at intervals not exceeding three months.

8 A quorum consists of four members.

[Assent Date: 1 September 1997]

Amended by:

1999 : 8
BR 83 / 2001
2002 : 22

NATIONAL TRAINING BOARD ACT 1997

2005 : 8
2009 : 51
BR 5 / 2011
2011 : 28
2011 : 47]