

Version No. 004**Victorian Qualifications Authority Act 2000****Act No. 97/2000**

Version incorporating amendments as at 12 November 2003

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1. Purposes	1
2. Commencement	1
3. Definitions	1
PART 2—VICTORIAN QUALIFICATIONS AUTHORITY	5
4. Establishment of Authority	5
5. Objectives of the Authority	5
6. Functions of Authority	6
7. Powers of Authority	7
8. Ministerial directions	8
9. Membership of Authority	8
10. Terms and conditions of appointment	10
11. Acting members	11
12. Validity of acts or decisions of the Authority	11
13. Meetings of the Authority	12
14. Public service staff	12
15. Establishment of committees	13
16. Delegation of Authority's power	13
17. Victorian Qualifications Authority Fund	14
18. Investment powers	15
PART 3—SPECIAL FUNCTIONS OF AUTHORITY	16
Division 1—Registers	16
19. State Register of Accredited Courses and Recognised Qualifications	16
20. Register of education and training organisations	17

<i>Section</i>	<i>Page</i>
Division 2—Investigation, Accreditation and Registration	17
21. Investigation of a course or part of a course by Authority	17
22. Accreditation of a course or part of a course	18
23. Registration of education and training organisations	19
Division 3—Issue of Qualifications	22
24. Who can issue qualifications?	22
24A. Cancellation or alteration of statements	22
Division 4—Offences	23
25. Offences by unregistered persons	23
26. Offences in relation to accredited courses and recognised qualifications	24
Division 5—Overseas Students	25
27. Approval of providers of courses for overseas students	25
Division 6—Enforcement	28
28. Authorised officers	28
29. Identification	28
30. Powers of authorised officers	28
31. Proceedings for offences	29
32. Offences by corporations etc.	30
33. Evidentiary	31
PART 4—GENERAL	32
34. Regulations	32
35. Borrowing and Investment Powers Act 1987	32
36. Transitional provisions for new Authority	32
37. Consequential amendments	35
PART 5—VICTORIAN LEARNING AND EMPLOYMENT SKILLS COMMISSION	36
38. Amendment of name and functions of State Training Board	36
39. Membership	37
40. New section 99 inserted	39
99. Transitional provisions	39
41. Consequential amendments	39

<i>Section</i>	<i>Page</i>
SCHEDULES	40
SCHEDULE 1	40
SCHEDULE 2	41
<hr/> <hr/>	
ENDNOTES	43
1. General Information	43
2. Table of Amendments	44
3. Explanatory Details	45

Version No. 004

Victorian Qualifications Authority Act 2000

Act No. 97/2000

Version incorporating amendments as at 12 November 2003

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes

The main purposes of this Act are to establish the Victorian Qualifications Authority and to re-constitute the State Training Board of Victoria as the Victorian Learning and Employment Skills Commission and to make consequential amendments to other Acts to transfer certain accreditation and registration functions of other educational authorities to the new Authority.

2. Commencement

- (1) Subject to sub-section (2), the provisions of this Act (including the items in the Schedules) come into operation on a day or days to be proclaimed.
- (2) If a provision referred to in sub-section (1) does not come into operation before 1 December 2001, it comes into operation on that day.

3. Definitions

In this Act—

"accredited", in relation to a course, means a course that is registered as accredited on the State Register as being suitable for the purposes of a qualification;

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 1—Preliminary

s. 3

"assessment process", in relation to a course,
means the methods and criteria used or to be
used to determine whether a student has
achieved the learning outcomes or
competencies specified for that course;

"Authority" means the Victorian Qualifications
Authority established by section 4;

"authorised officer" means an officer authorised
under section 28;

"Chairperson" means the Chairperson of the
Authority;

"Commission" means the Victorian Learning and
Employment Skills Commission under the
**Vocational Educational and Training Act
1990**;

"course" means—

- (a) a course normally undertaken in, or
designed to be undertaken in, year 11 or
12 of the school years; or
- (b) a course leading to the issue of the
VCE; or
- (c) a vocational education and training
course or a sequence of vocational
education and training; or
- (d) a further education course—

and includes—

- (e) a program of study or training leading
to the award or issue of a particular
qualification; and
- (f) a subject or other part of a program of
study or training leading to the award
or issue of a particular qualification;
and

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 1—Preliminary

s. 3

(g) any other study or training notified by the Minister in the Government Gazette to be a course for the purposes of this Act;

"course leading to a qualification" means a course the satisfactory completion of which will entitle the student to be awarded or issued with the qualification;

"Department" means the Department of Education and Training;

S. 3 def. of "Department" amended by No. 27/2003 s. 6(1).

"Director" means the Director employed under section 14;

"Fund" means the Victorian Qualifications Authority Fund established under section 17;

"further education" means that part of technical and further education which is not vocational education and training and which is not provided or offered by a university or an autonomous college;

"learning outcome", in relation to a course, means a written statement of what a student will know and be able to do as a result of successfully undertaking the course;

"member" means member of the Authority and includes the Chairperson;

"qualification" means the recognition, by the award or issue of a certificate or otherwise, that a student has achieved particular learning outcomes or competencies;

"recognised qualification" means a qualification that is registered on the State Register;

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 1—Preliminary

s. 3

"Register" means the State Register of Accredited Courses and Recognised Qualifications maintained under section 19;

"Register of Education and Training Organisations" means the Register of Education and Training Organisations maintained under section 20;

"registered education and training organisation" means a person or body registered under section 20 to deliver an accredited course or issue a recognised qualification;

"school" means a State school within the meaning of the **Education Act 1958** or a school registered as a secondary school under Part III of that Act;

"technical and further education" has the same meaning as in the **Tertiary Education Act 1993**;

"VCE" means the Victorian Certificate of Education;

"vocational education and training" means—

- (a) that part of technical and further education which is directed to the development of skills in relation to a trade or vocation; and
- (b) apprenticeships and other forms of training which are based in the workplace.

PART 2—VICTORIAN QUALIFICATIONS AUTHORITY

4. Establishment of Authority

- (1) There is established a Victorian Qualifications Authority.
- (2) The Authority—
 - (a) is a body corporate with perpetual succession;
 - (b) has a common seal;
 - (c) may sue and be sued in its corporate name;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal must be kept as directed by the Authority and must only be used as authorised by the Authority.
- (4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

5. Objectives of the Authority

The objectives of the Authority are to—

- (a) develop and monitor standards for education and training normally undertaken in, or designed to be undertaken in the years after year 10;
- (b) ensure and support appropriate linkages between qualifications;
- (c) facilitate procedures which make it easier for people to re-enter education and training and acquire qualifications throughout their lives.

6. Functions of Authority

- (1) The functions of the Authority are to—
- (a) develop policies, criteria and standards for the accreditation of courses, the recognition of qualifications, the quality assurance for qualifications issued in accordance with this Act and the registration of courses, qualifications and education and training organisations;
 - (b) accredit courses and register accredited courses;
 - (c) recognise qualifications (including qualifications developed outside Victoria and Australia) and provide for the registration of recognised qualifications;
 - (d) approve providers of accredited courses and persons who can issue recognised qualifications and to register those providers and persons;
 - (e) issue recognised qualifications and qualifications for accredited courses;
 - (f) enter into arrangements with other agencies for those agencies to develop and modify courses;
 - (g) promote and develop linkages between accredited courses and recognised qualifications and support articulation between those courses and courses in other sectors of education;
 - (h) monitor—
 - (i) patterns of participation by students in accredited courses or other education or training that leads to the issue of a recognised qualification; and

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 7

-
- (ii) the outcomes of those courses, recognised qualifications and education and training;
 - (i) perform any other function conferred on the Authority by this or any other Act.
 - (2) The Authority must consider advice from—
 - (a) the Victorian Curriculum and Assessment Authority about courses in schools normally undertaken in years 11 and 12 and qualifications issued to students in those years of school; and
 - (b) the Adult, Community and Further Education Board about courses and qualifications in further education; and
 - (c) the Commission about courses and qualifications in vocational education and training.
 - (3) The Authority must consult with the relevant Authority, Board or Commission referred to in sub-section (2), and may consult any other relevant person or body, about linkages between qualifications or parts of qualifications.

7. Powers of Authority

- (1) For the purpose of performing its functions, the Authority has power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.
- (2) This section does not limit any other power given to the Authority by any other provision of this Act.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 8

8. Ministerial directions

- (1) The Minister may give to the Authority written directions in relation to the exercise of its powers or the performance of its functions, including discretionary powers and functions.
- (2) The Authority must comply with any directions given under sub-section (1).
- (3) The Authority must include in its annual report a copy of each direction given to it under sub-section (1) in the period to which the report relates.

9. Membership of Authority

- (1) The Authority consists of not less than 10 and not more than 15 members of whom—
 - (a) one is to be appointed by the Governor in Council as the Chairperson on the nomination of the Minister as a person who, in the Minister's opinion, is highly regarded in the area of post compulsory education;
 - (b) one is to be the Secretary to the Department or the nominee of the Secretary;
 - (c) one is to be the Chairperson or the nominee of the Chairperson of the Victorian Curriculum and Assessment Authority;
 - (d) one is to be the Chairperson or the nominee of the Chairperson of the Commission;
 - (e) one is to be the Chairperson or the nominee of the Chairperson of the Adult, Community and Further Education Board;
 - (f) the remaining members are to be appointed by the Governor in Council on the nomination of the Minister in accordance with sub-section (2).

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 9

-
- (2) In nominating persons to the Governor in Council for appointment to the Authority under subsection (1)(f) the Minister must have regard to ensuring that—
- (a) the members of the Authority include—
 - (i) at least 4 persons who are engaged in providing post compulsory education;
 - (ii) at least 4 persons with knowledge of or experience in industry;
 - (iii) at least 1 person who is engaged in providing higher education;
 - (b) the composition of the Authority—
 - (i) is a fair and balanced reflection of the diversity of the community; and
 - (ii) reflects both metropolitan and country interests;
 - (c) there is sufficient financial and management expertise amongst the members of the Authority.
- (3) An appointed member may resign from office by delivering to the Governor in Council a signed letter of resignation.
- (4) The Governor in Council may at any time remove an appointed member from office.
- (5) The office of an appointed member becomes vacant if—
- (a) the member becomes bankrupt; or
 - (b) the member is found guilty of an offence which is, or which would if committed in Victoria be, an indictable offence; or

- (c) the member is absent from 3 consecutive meetings of the Authority without the leave of the Chairperson, or in the case of the Chairperson without the Minister's leave.

10. Terms and conditions of appointment

- (1) An appointment as member is for the term, not exceeding 3 years, specified in the instrument of appointment but a member is eligible for re-appointment.
- (2) A member holds office on a part-time basis.
- (3) A member, other than a person who holds a full-time government office or a full-time office in the public service, teaching service or with a statutory authority, is entitled to the remuneration and travelling and personal expenses that are specified in the instrument of the person's appointment.
- (4) A member must in the exercise of his or her functions—
 - (a) act honestly; and
 - (b) exercise reasonable care and diligence; and
 - (c) not make improper use of any information acquired as a member of the Authority; and
 - (d) disclose to the Authority any conflict of interest or duties except those arising directly out of the person's qualification for membership of the Authority.
- (5) A member is appointed subject to any other terms and conditions that are specified in the instrument of appointment and that are not inconsistent with this Act.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 11

11. Acting members

- (1) If a member is unable to perform his or her duties or is absent from duty or there is a vacancy in the office of a member, the Minister may appoint a person whom the Minister considers suitable to act in the place of that member during that inability, absence or until the vacancy is filled or for any other period specified in the instrument of appointment.
- (2) A person so appointed, while acting in the place of the member or during the vacancy in the office of a member—
 - (a) has all the powers and may perform all the functions of the member; and
 - (b) if the person does not hold a full-time government office or a full-time office in the public service, the teaching service or with a statutory authority, is entitled to be paid any remuneration and travelling or other allowances that the member would have been entitled to under section 10(3).
- (3) An acting member may resign his or her office in writing delivered to the Governor in Council.
- (4) The Governor in Council may remove or suspend an acting member from office

12. Validity of acts or decisions of the Authority

An act or decision of the Authority is not invalid only because—

- (a) of a vacancy in the office of a member; or
 - (b) of a defect or irregularity in or in connection with the appointment of a member; or
 - (c) in the case of a presiding or acting member, the occasion for that person so presiding or acting had not arisen or had ceased.
-

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 13

13. Meetings of the Authority

- (1) The Chairperson must preside at any meeting of the Authority at which he or she is present.
- (2) If the Chairperson is absent, a member elected by the members present at an Authority meeting must preside.
- (3) A majority of members in office at the time constitutes a quorum.
- (4) A question arising at an Authority meeting is determined by a majority of votes and, if the votes are equal, the person presiding has a casting vote.
- (5) Meetings of the Authority (of which there must be at least 6 in each year) shall be held at the times and places determined by the Authority or directed by the chairperson.
- (6) The Authority may permit members to participate in a particular meeting, or all meetings, by telephone, closed circuit television or other means of communication.
- (7) The Authority must keep a record of the decisions and full and accurate minutes of its meetings.
- (8) Subject to this Act, the Authority may regulate its own proceedings.

14. Public service staff

- (1) A Director and any other employees that are necessary for the purposes of this Act may be employed under Part 3 of the **Public Sector Management and Employment Act 1998**.
- (2) The Director is responsible for implementing any policy or decision of the Minister or the Authority made in accordance with this Act.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 15

15. Establishment of committees

- (1) The Authority may, to facilitate its functioning, establish any committee and appoint members to it including any person who is not a member of the Authority.
- (2) A committee may exercise any power or perform any function delegated to it by the Authority.

16. Delegation of Authority's power

- (1) The Authority may, by instrument under its common seal, delegate any function or power of the Authority, other than this power of delegation to any of the following—
 - (a) a member of the Authority;
 - (b) a member or the members of a committee established under section 15;
 - (c) the Director or any other person employed under section 14;
 - (d) the Secretary or any other person employed in the Department;
 - (e) the Commission;
 - (f) the Adult Community and Further Education Board;
 - (g) the Victorian Curriculum and Assessment Authority.
- (2) The Authority may, by instrument under its common seal, delegate any power of the Authority to award or issue qualifications to any of the persons or bodies referred to in sub-section (1) or a registered education and training organisation.
- (3) The Authority may, by instrument under its common seal, delegate to a registered education and training organisation the power under section 21 to investigate—

S. 16(3)
inserted by
No. 27/2003
s. 5.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 17

- (a) a vocational education and training course or a sequence of vocational education and training;
- (b) a further education course, other than a further education course leading to the issue of a higher education award within the meaning of the **Tertiary Education Act 1993**;
- (c) any part of a course referred to in paragraph (a) or (b)—

that the registered education and training organisation provides or proposes to provide to determine whether it should be registered as accredited or continue to be registered as accredited.

17. Victorian Qualifications Authority Fund

- (1) The Authority must establish and maintain a Fund to be known as the Victorian Qualifications Authority Fund.
- (2) There must be paid into the Fund—
 - (a) any investment income received by the Authority; and
 - (b) the proceeds of the sale of any investment made by the Authority; and
 - (c) any other money received by the Authority.
- (3) There must be paid out of the Fund any payment that is authorised by the Authority to be made out of the Fund for or towards the costs and expenses of the exercise of powers or performance of functions by the Authority.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 2—Victorian Qualifications Authority

s. 18

-
- (4) The Authority may invest money in the Fund—
- (a) in any manner in which a trustee may invest trust funds under the **Trustee Act 1958**; or
 - (b) in any other manner approved by the Minister.

18. Investment powers

The Authority has the investment powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

PART 3—SPECIAL FUNCTIONS OF AUTHORITY

Division 1—Registers

**19. State Register of Accredited Courses and
Recognised Qualifications**

- (1) The Authority must maintain a State Register of Accredited Courses and Recognised Qualifications.
- (2) If the Authority determines that a course or part of a course should be registered as accredited on the Register the Authority must register the course or part of the course as accredited on the Register.
- (3) The Authority must, on the request of the Minister—
 - (a) record on the Register a qualification that the Minister is satisfied should be registered as a recognised qualification; and
 - (b) strike off the Register a qualification that the Minister is satisfied should be struck off the Register.
- (4) The Authority may record on the Register any other qualification that the Authority is satisfied should be registered as a recognised qualification.
- (5) If the Authority determines that a course should be struck off the Register, the Authority must strike the course off the Register.
- (6) The Authority may do any of the things referred to in sub-section (2) or (5) in relation to a course whether or not the course has been investigated under this Part.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 20

-
- (7) The Authority must not record on the Register any qualification that is a higher education award within the meaning of the **Tertiary Education Act 1993**.

20. Register of education and training organisations

- (1) The Authority must establish and maintain a register of persons or bodies who—
- (a) are authorised by the Authority under section 23 to provide accredited courses; and
 - (b) are authorised by the Authority under section 23 to award or issue recognised qualifications.
- (2) The Register must specify—
- (a) the name of the registered person or body; and
 - (b) any limitations or restrictions on the registration.

Division 2—Investigation, Accreditation and Registration

21. Investigation of a course or part of a course by Authority

- (1) The Authority may investigate any course or part of a course to determine whether it should be registered as accredited.
- (2) The Authority may, on the application of a person or body that has applied for registration or is registered under section 20, investigate a course or part of a course to determine whether it should be registered as accredited.
- (3) The Authority may investigate a course or part of a course which is registered as accredited to determine whether it should continue to be registered as accredited.
-

- (4) If the Authority investigates a course or part of a course under sub-section (1), (2) or (3) it must prepare a written report on the content and educational standard of the course.
- (5) The Authority may charge the prescribed fee (if any) for an investigation under sub-section (1) or (2).

22. Accreditation of a course or part of a course

A course or part of a course may be accredited if—

- (a) the following matters are appropriate to the qualification (if any) to which the course leads—
 - (i) the aims and learning outcomes of the course or part of a course;
 - (ii) the scope of the studies of the course or part of a course;
 - (iii) the assessment processes for the course or part of the course to be used to determine whether a student has achieved the learning outcomes of the course or part of the course; and
- (b) the course or part of a course and the methods adopted in delivering it are likely to achieve the specified purposes of the course or part of a course; and
- (c) the contents and standards of the course or part of a course and the methods adopted in delivering it are consistent with any relevant national standards about the principles, processes or other matters to be applied in accrediting the course or part of a course.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 23

23. Registration of education and training organisations

- (1) Any person or body that provides or proposes to provide an accredited course may apply to the Authority for registration of that person or body with respect to that course under section 20.
- (2) Any person or body that proposes to award, confer or issue a recognised qualification may apply to the Authority for registration of that person or body with respect to that qualification under section 20.
- (3) A registration may be limited or restricted by reference to—
 - (a) the course or class of courses determined by the Authority; or
 - (b) the qualification or class of qualifications determined by the Authority; or
 - (c) any other circumstances determined by the Authority.
- (4) In determining whether to register a person or body the Authority may have regard to government policies and priorities, any recommendation of any relevant industry training board, any national standard relating to the recognition of providers and to all or any of the following matters in relation to the person, body, course or qualification—
 - (a) financial standards;
 - (b) marketing and promotion;
 - (c) recruitment and selection of students;
 - (d) class sizes;

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 23

-
- (e) delivery and assessment of training;
 - (f) premises, equipment, materials and resources;
 - (g) issuing of qualifications;
 - (h) qualifications and experience of staff;
 - (i) contracts with respect to students;
 - (j) student grievance procedures;
 - (k) recording and reporting requirements;
 - (l) previous experience in providing courses or issuing qualifications;
 - (m) the cost of services to be provided;
 - (n) the ability of the person or body to comply with and the person or body's record of compliance with any guidelines issued by the Authority about any of the matters mentioned in this section.
- (5) The Authority may from time to time issue guidelines about the matters referred to in sub-section (4).
 - (6) A registration remains in force for a period specified by the Authority not exceeding 5 years unless sooner suspended or cancelled.
 - (7) The Authority may suspend or cancel a registration.
 - (8) In determining whether to suspend or cancel a registration the Authority may have regard to all or any of the matters mentioned in sub-section (4).
 - (9) A person whose interests are affected by a decision of the Authority under this section—
 - (a) not to register a person or body; or
-

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 23

- (b) to suspend or cancel a registration—
 may apply to the Victorian Civil and
 Administrative Tribunal for review of the
 decision.
- (10) An application for review must be made within
 28 days after the later of—
- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and
 Administrative Tribunal Act 1998**, the
 person requests a statement of reasons for the
 decision, the day on which the statement of
 reasons is given to the person or the person is
 informed under section 46(5) of that Act that
 a statement of reasons will not be given.
- (11) The Authority may charge the fee prescribed (if
 any) for an application under sub-section (1) or
 (2).
- (12) This section—
- (a) does not apply to or in relation to a school
 providing a course or part of a course
 normally undertaken in, or designed to be
 undertaken in year 11 or 12 of the school
 years including a course leading to the issue
 of the VCE; and
- (b) does apply to or in relation to a school
 providing an accredited vocational education
 and training course or an accredited further
 education course or part of such a course
 whether or not that course or part of a course
 will be given credit towards or contribute to
 the VCE.

S. 23(11)
 amended by
 No. 34/2001
 s. 12.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 24

Division 3—Issue of Qualifications

24. Who can issue qualifications?

- (1) The Authority may recognise the completion of an accredited course or part of an accredited course or the award or issue of a recognised qualification by the issue of a written statement or otherwise.
- (2) A person or body that is registered under section 20 may recognise—
 - (a) the completion of an accredited course or part of an accredited course that it is registered to provide; or
 - (b) the award or issue of a recognised qualification that it is registered to award or issue—

by the issue of a written statement or otherwise.

24A. Cancellation or alteration of statements

- (1) The Authority may cancel or alter a statement or document provided under section 24(1) recognising the completion of an accredited course or part of an accredited course by a student or the award or issue of a recognised qualification to a student if the Authority is satisfied that the records of the student's assessment have been altered by the Victorian Curriculum and Assessment Authority and the alterations affect the recognition by the Authority of the completion of that accredited course or part of that accredited course by the student or the award or issue of a recognised qualification to the student.
- (2) The Authority may issue a new statement or document in respect of a student referred to in sub-section (1) recognising the completion of an accredited course or part of an accredited course by a student or the award or issue of a recognised qualification to a student on the basis of the

records of the student's assessment that have been altered by the Victorian Curriculum and Assessment Authority.

Division 4—Offences

25. Offences by unregistered persons

- (1) A person or body must not use the name or title of "registered provider" or any other name, title, letters or description implying or that may reasonably be understood to imply that the person or body is registered under section 20 to provide a course or part of a course unless the person or body is registered under section 20.

Penalty: For a natural person—60 penalty units.
For a body corporate—300 penalty units.

- (2) A person or body must not use any name, title, letters or description implying that the person or body is registered to provide a course or part of a course under section 20 in particular circumstances unless the person or body is registered under section 20 in relation to those circumstances.

Penalty: For a natural person—60 penalty units.
For a body corporate—300 penalty units.

- (3) This section—

- (a) does not apply to or in relation to a school providing a course or part of a course normally undertaken in, or designed to be undertaken in year 11 or 12 of the school years including a course leading to the issue of the VCE; and

- (b) does apply to or in relation to a school providing an accredited vocational education and training course or an accredited further education course or part of such a course whether or not that course or part of a course will be given credit towards or contribute to the VCE.

26. Offences in relation to accredited courses and recognised qualifications

- (1) A person or body must not in relation to a course or part of a course provided by the person or body use the name or title of "government accredited" or any other name, title, letters or description implying or that may reasonably be understood to imply that the course or part of a course is registered as accredited under section 19 unless the person or body is registered under section 20.

Penalty: For a natural person—60 penalty units.

For a body corporate—300 penalty units.

- (2) A person or body must not in relation to a qualification awarded or issued by that person or body use the term "government recognised" or any other term, title, letters or description implying or that may reasonably be understood to imply that the qualification is a recognised qualification unless the person or body is registered under section 20.

Penalty: For a natural person—60 penalty units.

For a body corporate—300 penalty units.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 27

-
- (3) Sub-section (1)—
- (a) does not apply to or in relation to a school providing a course or part of a course normally undertaken in, or designed to be undertaken in year 11 or 12 of the school years including a course leading to the issue of the VCE; and
 - (b) does apply to or in relation to a school providing an accredited vocational education and training course or an accredited further education course or part of such a course whether or not that course or part of a course will be given credit towards or contribute to the VCE.

Division 5—Overseas Students

27. Approval of providers of courses for overseas students

- (1) The Authority may approve a person or body to provide any course to students from overseas.
- (2) The person or body referred to in sub-section (1) may apply in writing to the Authority for approval of that person or body under sub-section (1).
- (3) In deciding whether to approve a person or body the Authority may have regard to all or any of the following matters in relation to the person, body or course—
 - (a) financial standards;
 - (b) marketing and promotion;
 - (c) recruitment and selection of students;
 - (d) class sizes;
 - (e) delivery and assessment of training;

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 27

- (f) premises, equipment, materials and resources;
 - (g) issuing of qualifications;
 - (h) qualifications and experience of staff;
 - (i) contracts with respect to students;
 - (j) student grievance procedures;
 - (k) recording and reporting requirements;
 - (l) previous experience in providing courses;
 - (m) the ability of the person or body to comply with and the person's or body's record of compliance with any Act of the Commonwealth or a State or Territory of the Commonwealth relating to education services for overseas students;
 - (n) student housing and accommodation;
 - (o) welfare services for students;
 - (p) the ability of the person or body to comply with and the person or body's record of compliance with any guidelines issued by the Authority about any of the matters mentioned in this section;
 - (q) any other matter relating to the management or operation of the person or body.
- (4) The Authority may from time to time issue guidelines dealing with all or any of the matters referred to in sub-section (3).
- (5) An approval under this section remains in force for 5 years from the date of approval unless sooner suspended or cancelled.
- (6) If the Authority is satisfied that a person or body approved under sub-section (1) is no longer suitable to be approved the Authority may suspend or cancel the approval.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 27

-
- (7) A person whose interests are affected by a decision of the Authority under this section—
- (a) not to approve a person or body; or
 - (b) to suspend or cancel the approval of a person or body—
- may apply to the Victorian Civil and Administrative Tribunal for review of the decision.
- (8) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (9) The Authority must notify the Secretary referred to in the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991 of the Commonwealth as soon as practicable of an approval under sub-section (1) or a cancellation or suspension of an approval under sub-section (6) or a decision of the Victorian Civil and Administrative Tribunal pursuant to an application under sub-section (7).
- (10) The Authority may charge the prescribed fee (if any) for an application under sub-section (2).
- (11) In this section—
- "course"** does not include any course—
- (a) provided by a school endorsed under section 65(1) of the **Education Act 1958**; or
-

- (b) endorsed under section 6 of the
Tertiary Education Act 1993.

Division 6—Enforcement

28. Authorised officers

The Director may appoint a person employed under section 14 as an authorised officer for the purposes of this Act.

29. Identification

- (1) The Director must furnish an authorised officer with an identification card bearing a recent photograph of the officer.
- (2) An authorised officer must produce his or her identity card for inspection—
 - (a) before exercising a power under this Part; and
 - (b) at any time during the exercise of a power under this Part, if asked to do so.

Penalty: 10 penalty units.

30. Powers of authorised officers

- (1) An authorised officer with any necessary help, may enter, at any time during ordinary working hours on any day, any premises—
 - (a) where a person or body registered under section 20 is providing a course or part of a course or where the officer has reasonable cause to believe that a person or body registered under section 20 is providing a course or part of a course; and
 - (b) where a person or body approved under section 27 is providing a course or part of a course to overseas students or where the officer has reasonable cause to believe that a

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 31

- person or body approved under section 27 is providing a course or part of a course to overseas students; and
- (c) in the case of a place referred to in paragraph (a), may make any inquiries or inspect and examine any documents relating to the matters referred to in section 23(4) and take copies or extracts from those documents; and
 - (d) in the case of a place referred to in paragraph (b), may make any inquiries or inspect and examine any documents relating to the matters referred to in section 27(3) and take copies or extracts from those documents.
- (2) An authorised officer may not exercise any power under sub-section (1)—
- (a) in relation to premises if the occupier of the premises has required the officer to produce his or her identification card for inspection by the occupier and the officer fails to comply with the requirement; or
 - (b) in relation to premises used as or mainly as residential premises, except with the consent of the occupier.
- (3) A person must not obstruct delay or intimidate an authorised officer when the officer is exercising or attempting to exercise his or her functions as an authorised officer.

Penalty: 60 penalty units.

31. Proceedings for offences

- (1) Proceedings for an offence against this Act may only be taken by a person employed under section 14 who is authorised by the Director either generally or in a particular case to take those proceedings.

- (2) All courts must take judicial notice of the fact that an employee under sub-section (1) has valid authority to take proceedings referred to in sub-section (1).

32. Offences by corporations etc.

- (1) If a corporation contravenes any provision of this Act, the person who is the principal executive officer (however described) of the corporation is deemed to have contravened the same provision if that person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision pursuant to sub-section (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act.
- (4) If a provision of this Act is contravened in respect of an unincorporated body of persons—
- (a) the person who is the principal executive officer (however described) of the body at the time of the contravention is deemed to have contravened the same provision at that time; and
 - (b) if there was a governing body of the unincorporated body at the time of the contravention, each person who is a member of the governing body of that unincorporated body at that time is also deemed to have contravened the provision at that time.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 3—Special Functions of Authority

s. 33

33. Evidentiary

- (1) In any proceedings for an offence under this Act a certificate signed by or on behalf of the Director and stating that on any specified date a person or body is or is not or was or was not registered or registered with specific limitations or restrictions under section 20 is admissible in evidence in the proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.
 - (2) A certificate signed by or on behalf of the Director purporting to record a determination, resolution or decision of the Authority is evidence of the making of that determination, resolution or decision by the Authority.
-

PART 4—GENERAL

34. Regulations

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) fixing fees to be charged by the Authority for any services provided by it; or
 - (b) any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
 - (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstance.

35. Borrowing and Investment Powers Act 1987

At the end of Schedule 1 to the **Borrowing and Investment Powers Act 1987** insert—

"41 Victorian Qualifications Authority 20, 20A and 21".

36. Transitional provisions for new Authority

- (1) The State Register of Accredited Courses and Recognised Qualifications under section 78A of the **Vocational Education and Training Act 1990** as in force immediately before the commencement of section 19 is deemed to be the State Register of Accredited Courses and Recognised Qualifications under section 19.
- (2) A course that was, immediately before the commencement of section 19, registered as accredited on the State Register of Accredited Courses and Recognised Qualifications under section 78A of the **Vocational Education and Training Act 1990** as in force immediately before

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 4—General

s. 36

the commencement of section 19 is deemed to be registered on the State Register of Accredited Courses and Recognised Qualifications under section 19.

- (3) A qualification that was, immediately before the commencement of section 19, registered as a recognised qualification on the State Register of Accredited Courses and Recognised Qualifications under section 78A of the **Vocational Education and Training Act 1990** as in force immediately before that commencement is deemed to be registered as a recognised qualification on the State Register of Accredited Courses and Recognised Qualifications under section 19.
 - (4) A course that was accredited as part of the VCE under the **Board of Studies Act 1993**, immediately before the commencement of section 19, is deemed to be an accredited course for the purposes of this Act and registered on the State Register.
 - (5) The qualification known as the VCE that was issued by the Board of Studies, immediately before the commencement of section 19, is deemed to be a recognised qualification for the purposes of this Act and registered on the State Register.
 - (6) A person or body that was, immediately before the commencement of section 20, registered under section 81 of the **Vocational Education and Training Act 1990** or section 13F of the **Adult, Community and Further Education Act 1991**, as in force immediately before that commencement, is deemed to be registered as an education and training organisation under section 20.
-

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 4—General

s. 36

-
- (7) A person or body that was, immediately before the commencement of section 27, providing a course that was endorsed under section 85 of the **Vocational Education and Training Act 1990**, is deemed to be a person or body that is approved under section 27 to provide that course to students from overseas.
- (8) If a person or body is deemed to be registered under this section, and the registration of that person or body under the **Vocational Education and Training Act 1990**, immediately before the commencement of section 20, was subject to conditions, limitations or restrictions, the registration of that person or body under this Act is deemed to be subject to the same conditions, limitations or restrictions as those to which the registration under the **Vocational Education and Training Act 1990** was subject.
- (9) If a person or body is deemed to be registered under this section, and the registration of that person or body under the **Vocational Education and Training Act 1990**, immediately before the commencement of section 20, was suspended the registration of that person or body under this Act is deemed to be suspended for the remainder of the period for which that person or body's registration would have been suspended under the **Vocational Education and Training Act 1990**.
- (10) If—
- (a) a person or body was, immediately before the commencement of section 27, providing a course that was endorsed under section 85 of the **Vocational Education and Training Act 1990**; and
-

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 4—General

s. 37

- (b) that person or body is deemed by this section to be a person or body that is approved under section 27 to provide that course to students from overseas; and
- (c) immediately before the commencement of section 27 the endorsement of that course was suspended—

the approval of that person or body is deemed to be suspended for the remainder of the period for which the endorsement would have been suspended under the **Vocational Education and Training Act 1990**.

- (11) If a guideline was issued by the State Training Board under Part 6 of the **Vocational Education and Training Act 1990**, as in force immediately before the commencement of section 20, the guideline is deemed to be a guideline issued by the Authority for the purposes of Part 3 of this Act.
- (12) If a fee was fixed by the State Training Board under Part 6 of the **Vocational Education and Training Act 1990**, as in force immediately before the commencement of section 20, the Authority can continue to charge the fee for the corresponding services provided by the Authority under this Act until 9 months after that date of commencement.

37. Consequential amendments

On the coming into operation of an item in Schedule 1, the Act specified in the heading to that item is amended as set out in that item.

**PART 5—VICTORIAN LEARNING AND EMPLOYMENT
SKILLS COMMISSION**

**38. Amendment of name and functions of State
Training Board**

- (1) For section 8(1) of the **Vocational Education and Training Act 1990** substitute—

"(1) There is established a Commission to be called the Victorian Learning and Employment Skills Commission."

- (2) In section 9(1) of the **Vocational Education and Training Act 1990**—

- (a) for paragraph (a) **substitute**—

"(a) to advise the Minister about the development and implementation of policy frameworks for post compulsory education and training and employment in Victoria that will ensure high quality services and programs are provided to meet the needs of industry, government and individuals;

(ab) to advise the Minister about state wide planning for post compulsory education and training and employment;

(ac) to advise the Minister about emerging post compulsory education and training requirements of government, industry, the community and individuals;

(ad) to advise on the planning for the integration of post compulsory education and training and labour market programs;"

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 5—Victorian Learning and Employment Skills Commission

s. 39

(b) for paragraph (d) **substitute**—

- "(d) to provide for the delivery of post compulsory education and training in Victoria by education and training organisations registered under the **Victorian Qualifications Authority Act 2000**;
- (da) to monitor the outcomes of post compulsory education and training for the broad purposes of economic and regional development, community and individual development and social justice;
- (db) to support local learning and employment networks of providers and stakeholders in post compulsory education and training programs and services;"

39. Membership

For section 13(1) of the **Vocational Education and Training Act 1990** **substitute**—

"(1) The Commission consists of—

- (a) a person appointed by the Governor in Council on the nomination of the Minister as Chairperson;
- (b) the Chairperson of the Victorian Qualifications Authority established by the **Victorian Qualifications Authority Act 2000** or his or her nominee;
- (c) the Chairperson of the Adult, Community and Further Education Board established by the **Adult, Community and Further Education Act 1991** or his or her nominee;

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 5—Victorian Learning and Employment Skills Commission

s. 39

- (d) the Secretary of the Department or his or her nominee;
 - (e) not more than five other members appointed by the Governor in Council on the nomination of the Minister.
- (1A) The Minister must nominate a person to be Chairperson who, in the Minister's opinion, is experienced in industry or government.
- (1B) In nominating other members, the Minister must have regard to—
- (a) ensuring that the membership of the Commission includes at least 5 persons with knowledge of or experience in industry;
 - (b) ensuring that the membership of the Commission includes persons who have backgrounds in vocational education and training and community development;
 - (c) ensuring that the composition of the Commission is a fair and balanced reflection of the diversity of the community;
 - (d) ensuring that the composition of the Commission reflects both metropolitan and country interests;
 - (e) ensuring that there is sufficient financial and management expertise on the Commission."

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Part 5—Victorian Learning and Employment Skills Commission

s. 40

40. New section 99 inserted

After section 98 of the **Vocational Education and Training Act 1990** insert—

"99. Transitional provisions

- (1) The Victorian Learning and Employment Skills Commission is deemed to be the same body as the State Training Board of Victoria despite the changes to the name and structure of the Board by sections 38 and 39 of the **Victorian Qualifications Authority Act 2000**, and no act matter or thing is to be affected because of those changes of name and structure.
- (2) On and after the commencement of section 38 of the **Victorian Qualifications Authority Act 2000**, a reference to the State Training Board of Victoria in an Act, subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** or any document whatever, unless inconsistent with the context or subject matter, is deemed to be a reference to the Victorian Learning and Employment Skills Commission.
- (3) The members of the State Training Board of Victoria who held office immediately before the commencement of section 39 of the **Victorian Qualifications Authority Act 2000**, go out of office on that commencement."

41. Consequential amendments

On the coming into operation of an item in the Schedule 2, the Act specified in the heading to that item is amended as set out in that item.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Sch. 1

SCHEDULES

SCHEDULE 1

Section 37

1. Adult, Community and Further Education Act 1991

- 1.1 Sections 13A, 13B, 13C, 13D and 13F are **repealed**.
- 1.2 Sections 27(k) and 27A are **repealed**.

2. Education Act 1958

In section 64LC(1) for "the Board of Studies or the State Training Board" **substitute** "the Victorian Qualifications Authority".

3. Vocational Education and Training Act 1990

- 3.1 In section 1, paragraph (e) is **repealed**.
- 3.2 In section 3, the definitions of "accredited course", "recognised qualification", and "State Register of Accredited Courses and Recognised Qualifications" are **repealed**.
- 3.3 In section 4, paragraphs (e), (ea) and (h) are **repealed**.
- 3.4 In section 20B(1), for ", 59(2), 74, 81 and 85" **substitute** "and 59(2)".
- 3.5 Part 6 is **repealed**.
- 3.6 In section 91D(1)(a), sub-paragraphs (ii) and (iii) are **repealed**.
- 3.7 In section 91D(1), paragraphs (c) and (d) are **repealed**.
- 3.8 In section 93(1), paragraph (b) is **repealed**.
- 3.9 In section 94B(1), for ", 59(2), 74, 81 or 85" **substitute** "or 59(2)".
- 3.10 In section 98, sub-sections (3) and (4) are **repealed**.

4. Tertiary Education Act 1993

In section 9, in the definition of "higher education award" for "section 78A of the **Vocational Education and Training Act 1990**" **substitute** "section 19 of the **Victorian Qualifications Authority Act 2000**".

SCHEDULE 2

Section 41

1. Accident Compensation Act 1985

In section 5(1), in the definition of "remuneration" for "State Training Board" **substitute** "Victorian Learning and Employment Skills Commission".

2. Adult, Community and Further Education Act 1991

2.1 In section 3, the definition of "State Training Board" is **repealed**.

2.2 In section 3, **insert** the following definition—

' **"Commission"** means the Victorian Learning and Employment Skills Commission;'

2.3 In sections 6(2), 12 and 13, for "State Training Board" (wherever occurring) **substitute** "Commission".

2.4 In section 6(2)(b) for "two Boards" **substitute** "Board and the Commission".

2.5 In section 27, for paragraph (g) **substitute**—

"(g) the Commission or the Director of that Commission; or".

2.6 In section 28(1), for paragraph (g) **substitute**—

"(g) the Commission or the Director of that Commission; or".

2.7 In section 29, for paragraph (e) **substitute**—

"(e) the Commission or the Director of that Commission; or".

3. Pay-roll Tax Act 1971

In section 10(1) (k) for "State Training Board" **substitute** "Victorian Learning and Employment Skills Commission".

4. Swinburne University of Technology Act 1992

In section 34 (c) for "State Training Board" **substitute** "Victorian Learning and Employment Skills Commission".

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Sch. 2

5. Vocational Education and Training Act 1990

- 5.1 In section 1(a) for "State Training Board" **substitute** "Victorian Learning and Employment Skills Commission".
- 5.2 In section 3, **insert** the following definition—
' "**Commission**" means the Victorian Learning and Employment Skills Commission;'
- 5.3 In sections 4(d), 5(1), 6(1), 8(2) and (3), 9(1) and (2), 9A, 9B, 9C, 10(1), (3), (4), (5) and (7), 11, 12 (1) and (2), 14(2) and (3), 16, 18, 19, 20, 20AA, 20B, 21, 22, 22C, 23, 24, 29, 38, 50, 51, 53, 56, 57, 58, 59, 60, 63, 64, 87(2)(c), 88, 90, 93, 93AA, 94A and 94B, for "the Board" (wherever occurring) **substitute** "the Commission".
- 5.4 In Schedule 3, in items 2(3), 5(2)(b) and (3) and 6(2), for "the Board" (wherever occurring) **substitute** "the Commission".
-

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Endnotes

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 2 November 2000

Legislative Council: 23 November 2000

The long title for the Bill for this Act was "to establish the Victorian Qualifications Authority and to reconstitute the State Training Board of Victoria as the Victorian Learning and Employment Skills Commission and to make consequential amendments to other Acts and for other purposes."

The **Victorian Qualifications Authority Act 2000** was assented to on 5 December 2000 and came into operation on 1 March 2001: Government Gazette 1 March 2001 page 304.

Victorian Qualifications Authority Act 2000
Act No. 97/2000

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Victorian Qualifications Authority Act 2000** by Acts and subordinate instruments.

Post Compulsory Education Acts (Amendment) Act 2001, No. 34/2001

Assent Date: 19.6.01
Commencement Date: S. 12 on 3.5.02: Government Gazette 2.5.02 p. 789
Current State: This information relates only to the provision/s amending the **Victorian Qualifications Authority Act 2000**

Vocational Education and Training (TAFE Qualifications) Act 2003, No. 27/2003

Assent Date: 13.5.03
Commencement Date: Ss 5, 6(1) on 30.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Victorian Qualifications Authority Act 2000**

Victorian Qualifications Authority (Amendment) Act 2003, No. 89/2003

Assent Date: 11.11.03
Commencement Date: S. 12 on 12.11.03: s. 2(1)
Current State: This information relates only to the provision/s amending the **Victorian Qualifications Authority Act 2000**

3. Explanatory Details

No entries at date of publication.