



## Skilling Australia's Workforce Bill 2005

Carol Kempner  
Social Policy Section

### Contents

Purpose.....	2
Background.....	2
Main Provisions .....	5
Concluding Comments.....	7
Endnotes.....	7

## Skilling Australia's Workforce Bill 2005

**Date Introduced:** 11 May 2005

**House:** House of Representatives

**Portfolio:** Education, Science and Training

**Commencement:** Procedural provisions commence on Royal Assent and substantive provisions (ss.3-47) commence on Royal Assent or 1 July whichever is later.

### Purpose

The Bill provides for a new funding framework for the provision of grants to the states and territories for vocational education and training (VET) for 2005-2008 and also provides for their appropriation. This follows from the abolition of the Australian National Training Authority (ANTA) and the associated funding arrangements which were provided for under the ANTA Agreement, which is covered by the companion Bill, Skilling Australia's Workforce (Repeal and Transitional Provisions) Bill 2005.

### Background

Commonwealth funds make up approximately one third of public expenditure on the VET system in Australia. A significant part of the Commonwealth's expenditure has been by way of grants to the States and Territories to support them in their role as providers and administrators of VET. Other Commonwealth funds for VET include funding for specific Commonwealth programmes such as New Apprenticeships and school based vocational education and training. This Bill establishes the new framework under which grants to the states and territories will be allocated. It will take the place of the ANTA Agreement funding framework. This *Bills Digest* should be read together with that for Skilling Australia's Workforce (Repeal and Transitional Provisions) Bill 2005 which deals with the abolition of ANTA.

On the presentation of his new Ministry after winning the 2004 election the Prime Minister announced that 'from July 2005 the Australian National Training Authority will be abolished and its responsibilities taken into the department, bringing about significant administrative savings. A Ministerial Council on Vocational Education will be established to ensure continued harmonisation of a national system of standards, assessment and accreditation, with goals agreed in a Commonwealth-State Funding Agreement'.<sup>1</sup> In February 2005 the Department of Education, Science and Training (DEST) released a 'directions paper' presenting the principles which would guide the change and setting out of a model for a new national training system.<sup>2</sup> This formed the basis for its consultations with major stakeholders.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

There are three principles guiding the new national training arrangements – that industry and business needs must drive training policies, that there should be better quality training outcomes through more flexible and accelerated pathways and that processes should be simplified and streamlined.

## **The Proposed New National Training Arrangements**

The governance structure for the new training arrangements includes multilateral and bilateral funding agreements, a Ministerial Council for VET, a National Industry Skills Committee to provide the Ministerial Council with advice, and a National Senior Officials Committee, which will be assisted by specific Action Groups established on a needs basis. Planning and reporting processes such as those currently provided under the *Directions and Resource Allocations* document and process will be adjusted, performance reporting will emphasise outcomes and the National Training Statistics committee will continue to operate. Initially the production of the Annual National Report will be overseen by a short-term Steering Committee involving the Australian Government and States and Territories. The National Centre for Vocational Education Research will consult about research priorities and manage the national research programme.

Proposed for the national skills framework is a continuation of the role of the Industry Skills Councils, the establishment of a new Ministerial-owned company to manage training materials and products, the amalgamation of the National VET Quality Agency and the National Skills Agency, and public reporting of the performance of Registered Training Organisations (RTOs).

## **Commonwealth Influence over VET**

The government's new national training framework shares many features with its predecessor - a role for the Ministerial Council, an umbrella multilateral agreement covering the strategic direction of the VET system and corresponding policies and priorities now to be called the *Commonwealth-State Agreement for Skilling Australia's Workforce*, and *bilateral agreements* such as the former agreed annual state VET plans. However, there are some very significant points of departure. Though there have been consultations about the proposed framework since the unexpected announcement that ANTA would be abolished, much of the strategic direction is being set through legislation and the imposition of statutory conditions on the receipt of payments. Furthermore, with the transfer of authority to the Minister and the Minister's department, Commonwealth influence is reinforced as the arrangements will no longer be administered at 'arms length' by a statutory authority.

The Commonwealth's interest in exerting stronger influence over vocational education and training is not new. In fact it was a proposal by the Commonwealth to take over responsibility for the TAFE system in 1991 that led to a Heads of Government agreement (ANTA Agreement) which established the national co-operative system of training management, which is now being changed. Concerns about Australia's international

### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

competitiveness, youth unemployment and the direction of education and training had led the Commonwealth to propose a package of assistance of some \$720 million over three years, conditional on changes to the inter-governmental arrangements for the management of TAFE training. The Commonwealth's preference for taking over the funding of TAFE systems at the time arose from concerns that with increases in Commonwealth funding, states may reduce their own funding. However, the states were reluctant to lose responsibility for the VET sector, which they regarded as integral to their economic interests. The ANTA Agreement was therefore an accommodation of both Commonwealth and states interests, a way of ensuring that the Commonwealth would provide cumulative growth funds of \$70 million annually and that in return the States would maintain their levels of funding.<sup>3</sup>

However, this arrangement only lasted as long as the first agreement, from 1993-96. With the Coalition's coming to power in 1996 the fundamental underpinnings of this arrangement were challenged, specifically with its abolition of growth funding but also with reductions in expenditure through efficiency dividends and requirements for the states to achieve growth through efficiencies. Though the Commonwealth did re-introduce growth funding in the 2001-03 ANTA Agreement, the growth component offered for a 2004-06 agreement was found by the states to be unsatisfactory so agreement was not reached.<sup>4</sup> The Commonwealth agreed to a twelve month rollover of the agreement but it withdrew indexation on growth funding and maintained all other funding at 2003 levels.<sup>5</sup> The extra \$110 million which had been offered as part of the proposed ANTA Agreement was made contestable and was initially used to tender for 7,500 new training places in priority areas - older workers, parents returning to work and people with a disability, worth \$20.5 million.<sup>6</sup> This reinforced a trend in the Coalition's pattern of expenditure on VET for favouring programmes it controls. While it has generally contained its grants to the States (except for the growth element in recent years), expenditure on its own programmes such as New Apprenticeships, has expanded during its time in office.<sup>7</sup>

## Funding and Conditionality

The following table shows funding levels under the *Vocational Education and Training Funding Act 1992* from 2003-2005, and the appropriations provided for in this Bill for 2006-2008.

2003	2004	2005	2006	2007	2008
\$m	\$m	\$m	\$m	\$m	\$m
1,113.907	1,129.418	1,148.059	1,231.017	1,269.533	1,290.737

The Commonwealth government has already put its funding offer and package of conditions to the states. It has been reported that the states and territories have rejected the

### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

training arrangements. The states have been disappointed that there has been no new money other than that which was withdrawn when the negotiations last failed. They have also expressed concerns about the conditionality of the offer. In the meantime there has been an agreement that current funding will continue to the end of 2005.<sup>8</sup>

The critical point of difference between the Commonwealth and the states has been over funding for growth at a time of growing skills shortages.<sup>9</sup> The states have argued that inadequate funding is a major impediment to the VET system's ability to respond to skills needs. However, the Commonwealth's priorities as indicated by its changes to the national training arrangements introduced under the banner 'Skilling Australia's Workforce', are about targeting what it regards as systemic impediments to meeting Australia's skills needs.

While the government acknowledges the success of ANTA in its 'directions paper', it talks about the need for more appropriate governance, accountability and operational arrangements and the 'need to keep training focussed on current and future skills needs and reinvigorate the leadership role of business and industry'.<sup>10</sup> The new statutory conditions therefore are about accelerating some of these changes. Among other things they seek to develop the training market by enhancing competition through user choice targets, making TAFEs more commercial, levelling the playing field by making public infrastructure available to private providers and changing industrial relations and management practices in the TAFE sector.

With the government's emphasis on training policy being driven by industry and business needs, it is also restricting the use of funds for the provision of 'education or training for private recreational pursuits or hobbies'. How these are defined is unclear particularly as the condition would appear to relate more to why people do their courses rather than what courses they do. In 2003 one in three VET students were not studying for a qualification.<sup>11</sup> While many of these would be self funded, they would be users of infrastructure and other services supported by government funding. To what extent they may be affected by such a policy is unclear. Limiting publicly funded VET to the workforce appears to reinforce a narrow perspective of the contribution of VET to social and economic well being. It also appears incompatible with developing lifelong learning pathways particularly in an ageing society, matters which are the subject of the government's own discussion paper on adult learning.<sup>12</sup>

## Main Provisions

**Part 2** provides the framework under which grants (referred to as financial assistance) to the states for capital and recurrent expenditure will be administered. **Division 1** includes general provisions. **Item 5** enables the Minister to make determinations authorising payment of financial assistance for a year and **Item 6** enables the allocation of financial assistance to States for a year by the Ministerial Council which is comprised of the Ministers from the Commonwealth and each State that is party to the agreement provided

### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

for in the following item. **Item 7** requires that the Minister may only authorise the payment to a State if a written agreement the *Commonwealth-State Agreement for Skilling Australia's Workforce* is in force between the Commonwealth and that State and that if a State does not become party to this agreement in 2005 it will not be entitled to receive financial assistance under the Act so long as the 2005 agreement remains in force (**7(1)(c)(i)**). Payment for the 2006 year is also conditional on another written agreement provided for under the aforementioned agreement, the *bilateral agreement* is in force. The *bilateral agreement* must also comply with the conditions set out in Division 4 (**7(2)**). **Item 8** makes the payments subject to conditions in the Act, in the *Skilling Australia's Workforce Agreement* and in the *bilateral agreement*.

**Division 2** deals with each statutory condition for the granting of assistance. **Item 10** is that the payments be used for vocational education and training as specified in the *Skilling Australia's Workforce Agreement* and in the *bilateral agreement*. **Item 11** is to maximise user choice policy for employers of New Apprentices including increasing by 5 per cent each year the proportion that are eligible for user choice (**11(e)**) and developing a standard national contract setting out standards and terms and conditions to apply to VET providers eligible to receive user choice funding (**11(f)**). **Item 12** requires that the State implement workplace reforms in relation to technical and further education institutions (TAFE institutions) including Australian Workplace Agreements, performance management and consistency with freedom of association (**12(1)(b)(d)(g)**), and capacity for stronger leadership and authority for TAFE Directors, revenue generation and retention, and entrepreneurial and commercial business planning (**12(1)(c)(e)(f)**). **Item 13** requires implementation of competence-based training rather than time based requiring the removal of barriers in State awards and advancing a consistent national system of occupational licensing. **Item 14** requires that use of publicly funded infrastructure be increased by making it available commercially. There are also conditions for the use of capital grants, the maintenance and responsibilities of State training authorities including consultation with clients, **items 15, 16 and 17**. There are also things a State must not do including use of payments for providing services to overseas students or for providing education or training for private recreational pursuits or hobbies, **items 18 and 19**.

**Division 3, item 20** details the requirements for the *Skilling Australia's Workforce Agreement* which includes national goals and objectives and national policies, priorities and initiatives, a commitment to support a national training system and a capacity for the making of a *bilateral agreement* which may specify additional conditions.

**Division 4** details the conditions for *bilateral agreements* which include certification that payments have been spent, reports on financial expenditure and performance and that other conditions may be specified.

**Part 3** provides for the minister to make determinations authorising payments and for the Ministerial Council to allocate financial assistance for strategic national initiatives. States must satisfy the requirements of Part 2, the *Skilling Australia's Workforce Agreement* must be in force and it must be consistent with the terms of this agreement.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

**Part 4** relates to repayments should statutory conditions not be met and for overpayments.

**Part 5, item 37** appropriates and sets limits on payments for each year from 2005 to 2008. **Item 37(3)** allows for regulations to increase the amounts by reference to an index.

**Part 6**, allows for the Minister to make payments in such a way, including through instalments, and at such times as the Minister determines and to reduce payments for false or misleading statements, **items 38 and 39**. **Item 44** requires the Minister to prepare a draft annual report as soon as practicable including information on the financial assistance paid under the Act to States and to persons other than States and on the performance of the national training system. It must also include reports provided by State Training Authorities. It must be submitted to the Ministerial Council within 6 months after the end of the year and the draft as approved or amended must be tabled in each House of the Parliament within 15 sitting days after it has been received by the Minister. The same 15 sitting days time frame applies to the tabling of the *Skilling Australia's Workforce Agreement* and any amendments to that agreement (**item 45**) and to its publication on the Internet (**item 46**).

### **Instruments Declared Not to be Legislative Instruments**

There are a number of instruments in the Bill declared not to be legislative instruments and will therefore not be registered on the Federal Register of Legislative Instruments. As a result they will not be tabled or subject to Parliamentary scrutiny. They include **items 3(3), 5(3), 15(2), 22(3), 27(3), 30(2), 32(3), 33(2), 34(3), 37(5), 38(2), 39(3)**.

### **Concluding Comments**

The new training arrangements have inherited many of the co-operative elements of the ANTA framework including the Ministerial Council and multilateral and bilateral agreements. However, statutory conditionality and the more direct role of the department in the administration of these arrangements would provide the Commonwealth with greater influence over VET than it has had in the past. Furthermore, it is also using this influence to further its industrial relations reform agenda. At this early stage these new arrangements have not been well received by the states and territories. It remains to be seen to what extent the Commonwealth succeeds in using the funding lever to achieve co-operation to establish its new national training arrangements.

### **Endnotes**

- 
- 1 Media Release, The Hon. John Howard, Fourth Howard Ministry, 22 October 2004, <http://parlinfoweb.aph.gov.au/piweb/repository1/media/pressrel/br7e60.pdf>, accessed on 24 November 2004.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

- 2 *Skilling Australia: new directions for Vocational education and Training*, February 2005, Department of Education, Science and Training, 2005  
[http://www.dest.gov.au/NR/rdonlyres/3E9602E2-C6DA-431C-BF65-E053006AC4DB/2236/Skilling\\_Australia.pdf](http://www.dest.gov.au/NR/rdonlyres/3E9602E2-C6DA-431C-BF65-E053006AC4DB/2236/Skilling_Australia.pdf) accessed on 20 May 2005
- 3 For a succinct overview of the economic and policy environment which led to the ANTA Agreement see Tom Dumbrell, *Resourcing Vocational Education and Training in Australia*, NCVET, 2004, pp.7-11 <http://www.ncver.edu.au/research/proj/nr1006.pdf>
- 4 For an overview of the Agreements and the often troubled negotiations see 'Vocational Education and Training Funding Amendment Bill 2004', *Bills Digest* no. 055, 2004-05, Department of the Parliamentary Library, 2004.
- 5 *Campus Review*, January 28-February 3 2004, p.6, [Places at stake after talks fail](#).
- 6 [Media Release, Dr Brendan Nelson, 17 May 2004, MIN 705/04 Successful tenders to deliver 7,500 new training places](#)
- 7 Expenditure on New Apprenticeships has grown from approximately \$525.4 million in 1999-00 to an expected \$794.3 million in 2005-06.
- 8 Alethea Mouhtouris, 'Facing off: the training funding battle is on', *Campus Review*, v.15, no. 15, April 2005  
[http://parlinfoweb.parl.net/parlinfo/view\\_document.aspx?ID=151296&TABLE=jrnart](http://parlinfoweb.parl.net/parlinfo/view_document.aspx?ID=151296&TABLE=jrnart) and also David Crawshaw, 'Clash over Federal Skills Funds', *Canberra Times*, 16 April 2005  
[http://parlinfoweb.parl.net/parlinfo/view\\_document.aspx?ID=837678&TABLE=pressclp](http://parlinfoweb.parl.net/parlinfo/view_document.aspx?ID=837678&TABLE=pressclp) and Sophie Morris, 'Nelson takes on States over Training', *Australian Financial Review*, 13 April 2005  
[http://parlinfoweb.parl.net/parlinfo/view\\_document.aspx?ID=838385&TABLE=pressclp](http://parlinfoweb.parl.net/parlinfo/view_document.aspx?ID=838385&TABLE=pressclp)
- 9 For an overview of some of the issues relating to estimating growth see 'Vocational Education and Training Funding Amendment Bill 2004', *Bills Digest* no. 055, 2004-05, Department of the Parliamentary Library, 2004. It should also be noted that the states fund the training bill for New Apprenticeships so growth in the numbers of participants would not only have affected Commonwealth expenditures but also state expenditures. For information on skills shortages see Department of Employment, Workplace Relations and Small Business, *National Skills Shortage List 2004*,  
<http://www.workplace.gov.au/workplace/Category/Publications/LabourMarketAnalysis/NationalSkillsShortageList2004.htm>, accessed on 18 May 2005.
- 10 *Skilling Australia*, Op.cit., p.1
- 11 *Students and Courses 2003*, NCVET, 2004  
<http://www.ncver.edu.au/statistics/vet/ann03/sum03/sum03.pdf> accessed on 19 May 2005.
- 12 *Adult Learning in Australia: a Consultation Paper*, DEST 2003  
[http://www.dest.gov.au/NR/rdonlyres/992FC0D2-A79A-4156-B4B6-2BC7FDF0B959/2206/you\\_can\\_too.pdf](http://www.dest.gov.au/NR/rdonlyres/992FC0D2-A79A-4156-B4B6-2BC7FDF0B959/2206/you_can_too.pdf)

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*



---

© Copyright Commonwealth of Australia 2005

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Department of Parliamentary Services, other than by senators and members of the Australian Parliament in the course of their official duties.

This brief has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Information and Research Service, nor do they constitute professional legal opinion.

---

Members, Senators and Parliamentary staff can obtain further information from the Information and Research Services on (02) 6277 6277 2724.

***Warning:***

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*