



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

TERTIARY AND
VOCATIONAL EDUCATION
ACT, No. 20 OF 1990

[Certified on 1st June, 1990]

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*Tertiary and Vocational Education
Act, No. 20 of 1990*

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L.D.—O.46/87

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A TERTIARY AND VOCATIONAL EDUCATION COMMISSION ; TO PROVIDE FOR PLANS FOR THE DEVELOPMENT OF TERTIARY EDUCATION AND VOCATIONAL EDUCATION AND ITS IMPLEMENTATION THEREOF ; FOR THE ESTABLISHMENT OF A NATIONAL APPRENTICE AND INDUSTRIAL TRAINING AUTHORITY ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the *Tertiary and Vocational Education Act, No. 20 of 1990*. Short title.

PART I

CHAPTER I

ESTABLISHMENT OF THE TERTIARY AND VOCATIONAL EDUCATION COMMISSION

2. There shall be established a Commission which shall be called the *Tertiary and Vocational Education Commission* (hereinafter referred to as "the Commission"). Establishment of Tertiary and Vocational Education Commission.
3. (1) The general objects of the Commission shall be—
(a) the planning, co-ordination and development of tertiary education and vocational education at all levels in keeping with human resource needs of the economy ;
(b) the development of a nationally recognised systems for granting of tertiary education awards and vocational education awards including certificates, and other academic distinctions ; and
(c) the maintenance of academic and training standards in institutes, agencies and all other establishments providing tertiary education and vocational education. Objects of the Commission.
- (2) In the development of tertiary education and vocational education the Commission shall be guided by the directive principles set out in sub-paragraph (h) of paragraph (2) of Article 27 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**Powers
of the
Commission.**

4. The Commission shall have the power—

- (a) to advise the Minister on the general policy relating to tertiary education and vocational education;
- (b) to ensure that the general policy in regard to tertiary education and vocational education is given effect to;
- (c) to co-ordinate the system of tertiary education and vocational education;
- (d) to submit reports to the Minister on the financial, staff and other requirements of institutes registered under this part of this Act;
- (e) to make or pay, with the approval of the Minister grants and subsidies to institutes, persons and establishments registered under this Part of this Act, in respect of any purpose authorized by a Development Plan;
- (f) to determine the facilities necessary to ensure the proper welfare of students and staff of all institutes and establishments registered under this Part of this Act;
- (g) to make rules; and
- (h) to do all such other acts which in the opinion of the Commission are necessary for or conducive or incidental to the attainment of the objects of the Commission.

**General
directions
by the
Minister.**

5. (1) The Minister shall be responsible for the general direction of tertiary education and vocational education and the administration of this Act.

(2) The Minister may from time to time issue to the Commission such general written directions as he may deem necessary in a pursuance of national policy to enable him to discharge effectively his responsibility for tertiary education and vocational education and the administration of this Act:

Provided however, the Minister shall not issue and such directions to the Commission relating to the exercise by the Commission of its powers under section 20 and section 26.

(3) The Minister may from time to time call on the Commission to furnish such information as he may deem necessary relating to its functions and duties.

(4) The Commission shall comply with such directions and the governing authority of every institute, agency and other establishment providing tertiary education and vocational education shall afford such facilities or provide such information to the Commission as may be necessary to enable the Commission to comply with such direction.

6. (1) The Commission shall consist of the following members :—

Constitution.
of the
Commission.

- (a) the Director-General of Tertiary Education and Vocational Education ;
- (b) the Chairman of the National Apprentice and Industrial Training Authority ;
- (c) the Director-General of the National Institute of Education established by the National Institute of Education Act, No. 28 of 1985 ; and
- (d) the Director of Technical Education of the Ministry of the Minister in Charge of the subject of Higher Education ;
- (e) not less than four and not more than six persons appointed by the President in consultation with the Minister (hereinafter referred to as "appointed members") from among persons experienced in the field of Industry, Commerce or Education.

(2) A person shall be disqualified from being an appointed member of the Commission, if he is or becomes a Member of Parliament or a Member of a Provincial Council.

(3) The President shall in consultation with the Minister appoint one of the appointed members of the Commission to be the Chairman of the Commission (hereinafter referred to as "the Chairman") .

(4) Subject to the provisions of section 7, every appointed member of the Commission shall hold office for a period of four years from the date of his appointment to such office.

7. (1) The President may after consultation with the Minister by order made in writing remove an appointed member from office without assigning any reason therefor, and thereupon such member shall be deemed to have vacated office.

Vacation of
office.

(2) An appointed member may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister.

(3) In the event of the vacation of office by death, resignation or removal of any appointed member, the President may in accordance with the provisions of paragraph (d) of subsection (1) of section 6, appoint any other person to succeed such member. Any person so appointed in place of such appointed member, shall hold office during the unexpired term of office of the member whom he succeeds.

**Meetings of
the Com-
mission.**

8. (1) The Chairman shall preside at every meeting of the Commission. In the absence of the Chairman from any such meeting the members present shall elect one of the members present to preside at such meeting.

(2) The quorum for any meeting shall be decided by the Commission.

(3) All question for decision at any meeting of the Commission shall be decided by the vote of the majority of the members present. In the case of an equality of votes, the Chairman or member presiding shall in addition to his own vote, have a casting vote.

(4) The Chairman shall—

(i) be responsible for the preparation of the agenda for the meetings of the Commission and the submission for the consideration of the Commission of policies and measures considered by him to be necessary for the purpose of carrying out the principles and provisions of this Act; and

(ii) exercise such powers as are delegated by the Commission for the purpose of controlling its affairs.

(5) Subject to the provisions of subsections (3) and (4), the Commission may regulate its own procedure in regard to its meetings and the transaction of business at such meetings.

(6) No act or decision or proceeding of the Commission shall be invalidated by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.

(7) If the Chairman is by reason of leave, illness, absence from Sri Lanka or other cause, is temporarily unable to perform the duties of his office the Minister may appoint one of the members as acting Chairman for such period the Chairman is unable to perform the duties of his office.

9. (1) The Commission may establish committees to assist it in the performance of its functions and may appoint any such persons as it may deem fit to be members of any such committees.

(2) The Commission may delegate to a committee established under subsection (1) such of its powers as it may deem fit, but shall not be divested of any power which it may have delegated to a committee. The Commission may amend or revoke any decision made by a committee.

10. (1) There shall be appointed—

- (a) a Director-General of the Commission under the name and style Director-General of Tertiary Education and Vocational Education (in this Act referred to as "the Director-General") ;
- (b) a Secretary to the Commission ; and
- (c) such other officers and other staff as is deemed necessary to assist the Director-General.

(2) The Director-General shall be the head of the office of the Commission and be responsible for its administration.

(3) The Director-General shall—

- (a) be responsible for the supervision of institutes registered under section 14 and of persons and establishment conducting specified courses registered under section 15 ;
- (b) exercise such powers and functions as are delegated by the Commission.

(4) In the exercise of the powers vested in him under subsections (2) and (3) of this section, the Director-General shall have the power to make such order as may seem necessary to him.

(5) The Commission shall have the power to amend, revise or revoke any order made by the Director-General.

(6) The property of the Commission and the exclusive right to sue for and recover moneys and other property due to the Commission shall vest in the Director-General along with the power for him to sue and to make such contracts and conveyances, and to do all other lawful things

Director-
General and
staff of the
Commission.

relating to such property; and any civil or criminal proceedings taken by virtue of this section by the Director-General shall not be discontinued and shall not abate by reason of his death, resignation, retirement, or removal from office, but may be carried on by and in the name of his successor in office.

CHAPTER II

DEVELOPMENT PLAN

Development Plan.

11. (1) The Commission shall, from time to time in accordance with the guidelines including criteria for eligibility or entry requirements issued by the Minister prepare a plan or plans as the case may be, for the development of tertiary education and vocational education in Sri Lanka. The Minister shall with his report thereon submit such plan or plans to the President for approval.

(2) The President may in consultation with the Minister approve such plan or plans with or without amendments.

(3) Each such plan approved under subsection (2) by the President, shall be published in the *Gazette* by the Minister as a Tertiary Education and Vocational Education Development Plan (in this Act referred to as "the Development Plan"). The Commission shall be responsible for giving effect to all Development Plans.

(4) Upon a request by a Chief Minister of a Province, the Minister may direct the Commission to prepare a plan under subsection (1) for the development of tertiary education and vocational education in the said Province. The President shall before making a determination under subsection (2) consult the Chief Minister thereof.

(5) The Commission may with the approval of the Minister make any grants or pay any subsidy in respect of any purpose authorized by a Development Plan.

(6) The general institutions for the provisions of tertiary education and vocational education or tertiary education or vocational education shall be Regional Colleges, Technical Colleges and Shilpayathanas.

(7) The provisions of this section shall not apply in respect of the University Grants Commission established under the Universities Act, No. 16 of 1978.

12. (1) The Commission may under subsection (1) of section 11 prepare plans for any nationally recognised system of tertiary education awards and vocational education awards, including the recognition of any registered examination or examination for such purpose.

(2) Whenever a Development Plan includes a scheme of awards referred to in subsection (1), such scheme of awards shall be recognised as a national tertiary education and vocational education award.

Commission
to prepare
plans for
nationally
recognized
system of
tertiary
education
and
vocational
education
awards.

CHAPTER III

REGISTRATION

13. (1) A Development Plan may specify a tertiary education course or vocational education course conducted by any person or establishment other than—

Determina-
tion of
specified
courses.

- (a) any institute registered under the provisions of subsection (1) of section 14;
- (b) any institute exempt under the provisions of subsection (6) of section 14; or
- (c) the National Apprentice and Industrial Training Authority,

as a specified course.

(2) The Minister may by Order published in the *Gazette* appoint a date from which such course will be deemed to be a specified course for the purposes of section 15.

14. (1) No person shall, establish, manage, run or control any institute for the provision of tertiary education and vocational education, or tertiary education or vocational education without being registered under this Act.

Registration
of Institutes.

(2) Any development plan may classify the categories of persons and establishments providing tertiary education and vocational education or tertiary education or vocational education as the case may be, for the purpose of registration under subsection (1).

(3) Application for registration shall be made to the Director-General. On receipt of such application the Director-General shall submit a report on the suitability of the institute including the facilities available, and the adequacy of the staff of the institute to the Commission.

(4) Where the Commission is satisfied on the report submitted by the Director-General, that the institute is able to adequately provide tertiary education and vocational education or tertiary education or vocational education as the case may be, in conformity with the Development Plans, the Commission shall approve such application. Upon the approval the Director-General shall register such institute, under such name and style specified by the Commission. The Commission shall also specify the governing authority of the institute and the appropriate category under which the institute is to be registered.

(5) The Director-General shall cause to be published in the *Gazette* from time to time a list of the institutes registered under subsection (4), and such other particulars relating to those institutes as are prescribed.

(6) Provisions of this section shall not apply to—

- (i) universities and other Higher Educational Institutes established under the provisions of the Universities Act No. 16 of 1978 ;
- (ii) the Council of Legal Education established under the Council of Legal Education Ordinance (Cap. 276) ;
- (iii) the National Institute of Education established by the National Institute of Education Act No. 28 of 1985 ; and
- (iv) the Colleges of Education established by the Colleges of Education Act, No. 30 of 1986.

**Registration
of specified
courses.**

15. (1) No person or establishment shall conduct any tertiary education and vocational education course or tertiary education course or vocational education course being a specified course without being registered under this Act.

(2) Application for registration shall be made to the Director-General. On receipt of such application the Director-General shall submit a report on the suitability of the person or establishment including the facilities available and the adequacy of the staff of the person or establishment to the Commission.

(3) Where the Commission is satisfied on the report submitted by the Director-General, that the person or establishment is able to adequately provide tertiary education and vocational education or tertiary education or

vocational education as the case may be in conformity, with the Development Plan, the Commission shall approve such application. Upon approval the Director-General shall register such person or establishment, under such name and style specified by the Commission. The Commission shall also specify the governing authority of the establishment or person and the appropriate category under which the establishment or person is to be registered.

(4) The Director-General shall cause to be published in the *Gazette* from time to time a list of the persons or establishments registered under subsection (3), and such other particulars relating to those establishments or persons as are prescribed.

16. (1) No person or establishment shall conduct any examination for conferring or granting any tertiary education award or vocational education award, without being registered with the Director-General under this Act :

Provided however, the provisions of this subsection shall not apply in respect of—

(a) any institute registered under subsection (1) of section 14;

(b) any institute exempt under subsection (6) of section 14;

(c) any person or establishment conducting specified courses registered under subsection (1) of section 15; and

(d) any examination conducted for the employees or trainees of one single institution or organization for its internal purposes.

Registration
of recognized
examination.

(2) There shall be prescribed the information to be furnished for the purpose of registration under the provisions of this section.

(3) Application for registration shall be made to the Director-General and the Director-General shall forward to the Commission all applications which are in conformity with the prescribed procedure.

(4) The Commission shall approve all applications which conform to the prescribed procedure. Upon approval the Director-General shall register such examination.

(5) The Director-General shall cause to be published in the *Gazette* from time to time a list of the examinations registered under subsection (4).

Commission's powers in respect of persons and institutes establishments registered under sections 14 and 15.

17. (1) The Commission may exercise the following powers in respect of any institute registered under section 14 and any persons and establishments registered under section 15—

- (a) to determine in accordance with the application for registration the courses of studies and training to be provided at any institute registered under section 14;
- (b) to determine the requirements for admission to—
 - (i) each study and training course conducted by any registered person or establishment; and
 - (ii) each specified course;
- (c) to determine the qualifications of the staff;
- (d) to issue guidelines for—
 - (i) the curricula in respect of courses of studies; and
 - (ii) the syllabus in respect of training courses, and to ensure the compliance of such guidelines by registered institutes, persons or establishments conducting specified courses;
- (e) to determine the academic and training standards to be maintained;
- (f) to determine the type of examinations to be conducted for the grant of certificates, distinctions and other awards;
- (g) to determine the facilities necessary to ensure the proper welfare of the students and the staff;
- (h) to determine the duties of managers and heads of registered institutes and the manner of the performance of their duties;

- (i) to approve the curriculum and determine the manner in which any examination is to be conducted in respect of national tertiary education awards and vocational education awards;
- (j) to determine the qualifications, period of training, salaries, appointment, grading, suspension and removal of instructors;
- (k) to determine the days on which and the hours during which students shall attend lectures and the days which shall be observed as holidays by all registered institutes and places where specified courses are conducted;
- (l) to determine the standards of accommodation to be maintained in registered institutes and any place where specified courses are conducted; and
- (m) to determine the manner of exhibition of notices by a person conducting any specified course under section 15.

(2) The Minister may on the advice of the Commission by Order published in the *Gazette* specify the number of students to be trained in respect of any particular course of study or training and the reasons for so specifying. Upon the publication of such Order the Commission may determine in accordance with the provisions of such Order the number of students to be admitted for such specified course, in all institutes registered under section 14 and by any person or establishment registered under section 15.

18. The Director-General or any officer assisting the Director-General to whom such power is delegated, shall have the power—

- (a) to call for information and returns from—
 - (i) registered institutes;
 - (ii) persons and establishments conducting specified course; and
 - (iii) persons and establishments conducting registered examinations, as are required by the Commission; and
- (b) to enter and inspect the premises of a registered institute, person or establishment, or any premises where any specified course is being conducted.

Powers of
Director-
General in
respect
of Institutes
persons
and estab-
lishments
registered
under this
Act.

**Appeals
against
refusal to
register.**

19. Any person whose application for registration under section 14 or section 15 is refused by the Commission, he may, within two weeks of the notification of such decision, appeal in writing against such decision to the Secretary to the Ministry of the Minister, and the decision of such Secretary on any such appeal shall be final and conclusive.

**Cancellation
of
registration.**

20. (1) The Commission shall have the power to cancel a registration granted under section 14 or section 15 on any one or more of the following grounds :—

- (a) acting in violation of national policy ;
- (b) acting in contravention of the Development Plan ;
- (c) breach of any conditions of registration or any condition imposed by the Commission under the provisions of section 17 ;
- (d) improper conduct of examinations ;
- (e) inability to impart instructions in accordance with any rules made by the Commission in that behalf ;
- (f) mismanagement of the affairs of any registered institute or any person or establishment conducting a specified course ; and
- (g) failure to provide information or permit inspection under section 18.

(2) The Commission may from time to time direct the Director General to inquire and to submit a report to the Commission as to the cancellation of the registration of any registered institute or any person or establishment conducting a specified course on any of the grounds specified in subsection (1) :

Provided the Commission may with the approval of the Minister appoint any other suitable person to conduct such an inquiry where—

- (i) the Director-General is temporarily unable to perform his duties due to leave, sickness, absence from Sri Lanka or any other cause ;
- (ii) the appointment of such person is necessary to expedite inquiries ; or
- (iii) in the opinion of the Commission such inquiry should not be conducted by the Director-General.

(3) The Director-General or any other person conducting the inquiry shall, after due notice to affected parties, conduct an inquiry and submit a report to the Commission on the findings of the inquiry and the recommendations with copies to the affected parties.

(4) On receipt of the notice under subsection (3) the Commission may by notice sent to the party affected, require him, within such time as specified in the notice, to show cause why his registration should not be cancelled and where such party fails to do so within the time specified, the Commission may cancel the registration.

(5) Where on receipt of a notice under subsection (4), the party fails to show cause to the satisfaction of the Commission, the Commission may by order, cancel the registration, subject to an appeal to the Court of Appeal under section 21.

(6) The order made under subsection (5) shall take effect—

(a) where no appeal is made to the Court of Appeal under section 21, upon the expiration of the period within which an appeal may be made to such court; or

(b) where an appeal is made to the Court of Appeal under section 21, upon the Court of Appeal affirming the order of the Commission.

21. Any institute, person or establishment may, within four weeks of the order of cancellation of the registration under subsection (5) of section 20, appeal to the Court of Appeal on any question of law, and where an appeal is made, the registration of such institute, person or establishment shall stand suspended until the determination of such appeal.

Appeals
against
cancellation.

CHAPTER IV

ASSOCIATE DEGREES

22. Any development plan may make provision for the award of associate degrees in any specified branches of learning by any institute referred to in section 23 and section 24.

Associate
Degree.

**Award of
Associate
Degrees by
Institutes
of Higher
Learning.**

23. (1) Notwithstanding anything contrary in any other law, any Institute of Higher Learning may, in accordance with any Development Plan and with the approval of the relevant Minister if any and the Minister, award associate degrees in such specified branches of learning.

(2) Any Institute of Higher Learning empowered to award associate degrees under the provisions of subsection (1), shall subject to the provisions of subsection (4) of section 25 have the following powers:—

- (a) to make rules, specifying the examinations and other conditions that are necessary for the award of associate degrees;
- (b) to register affiliated colleges, for the purpose of conducting courses of studies leading to the award of associate degrees;
- (c) to hold examinations for the purpose of ascertaining students of registered affiliated colleges who have reached the required standard for the award of associate degrees; and
- (d) to award associate degrees to such students who have passed the required examinations and fulfilled all conditions prescribed by rules made under paragraph (a).

**Associate
Degree
Institutes.**

24. (1) The Minister may, in accordance with any Development Plan, by Order published in the *Gazette*, recognise any institute other than an Institute of Higher Learning as an associate degree institute for the purpose of awarding associate degrees in such branches of learning as are specified therein.

(2) The order under subsection (1) shall specify—

- (a) the name and style of the institute;
- (b) the seat of the institute;
- (c) the person petitioning for establishment of the institute;
- (d) the category or the categories of associate degrees that may be conferred and granted by such institute;
- (e) the structure of the institute.

(3) In addition to such powers as may be specified in the Order made under subsection (1), an institute shall also have the power—

- (a) to register students and provide for instruction in such branches of learning as are specified in the order;
- (b) make rules, specifying the governing authority of the institute and its powers, the style of office of the chief academic and administrative offices of the institute, and their powers and functions, the academic board of the institute, its composition and their powers, and examinations and other conditions that are necessary for the award of associate degrees;
- (c) to hold examination for the purpose of ascertaining the students who have acquired proficiency in the courses of study in such branches of learning as are specified in the order;
- (d) in accordance with the order, to grant and confer associate degrees to such students who have passed the required examinations and fulfilled all the conditions prescribed by rules made under paragraph (b);
- (e) to employ such staff as may be necessary for the administration of the institute; and
- (f) to do such other acts as are necessary for the welfare of the staff and students of the institute.

25. (1) There shall be established an Associate Degree Committee (hereinafter referred to as "the Committee") of the Commission which shall consist of the following persons:—

Associate
Degree
Committee.

- (a) the Chairman of the Commission who shall be the Chairman of the Committee;
- (b) two members nominated by the Commission;
- (c) one member nominated by the University Grants Commission; and
- (d) one member nominated by the National Institute of Education.

(2) The members of the Committee shall hold office for a period of four years.

(3) The Minister shall before making an order under the provisions of subsection (1) of section 24 obtain a report from the Committee in relation to such institute including the educational facilities provided therein.

(4) The Committee shall exercise the following powers:—

- (a) determine the requirements for the admission of students to courses of study leading to the award of associate degrees;
- (b) determine the courses of study which shall be provided in each institute, being courses of study in such branches of learning as are specified in the Order and the examinations to be held to ascertain whether students who have followed such courses of study have acquired proficiency therein;
- (c) determine from time to time in accordance with any Development Plan, the number of students who shall be admitted annually to each such institute in respect of the different courses of study being conducted at such institutes;
- (d) determine the qualifications of the teaching staff of such institutes; and
- (e) determine the facilities to be provided and the academic standards to be maintained at such institutes.

(5) For the purpose of this section "institute" includes Institute of Higher Learning, Associate Degree Institute, and affiliated colleges.

Revocation
of Order
made
under
section 24.

26. (1) The Minister may on the recommendation of the Commission revoke any order made under section 24.

(2) The Commission may recommend the revocation of any such order in respect of any associate degree institute on any one or more of the following grounds:—

- (a) acting in violation of the national policy;
- (b) failure to conform to the relevant Development Plan; or

- (c) contravention of any condition imposed under section 24 and where such failure has resulted in—
 - (i) inadequate facilities for the provision of education in such institute; or
 - (ii) the education at the institute does not accord effectively with national interest or educational policies in respect of tertiary education;
- (d) failure to conduct or the improper conduct of examinations for the award of associate degrees; and
- (e) mismanagement of the institute leading to a disruption of educational activity.

(3) (a) Before making a recommendation with respect to an associate degree institute, the Commission shall by notice sent to the institute, require it within such time as is specified in such notice to show cause why a recommendation revoking the order made under section 24 in respect of such institute, should not be made to the Minister.

(b) Where the institute fails to show cause within the time allowed or fails to show cause to the satisfaction of the Commission, the Commission shall recommend to the Minister, the revocation of the order made under section 24, in respect of such institute. The Commission shall cause a copy of such recommendation to be sent to the institute.

(4) The Minister may, subject to the provisions of section 27, on the receipt of the recommendation after a lapse of six weeks by notice published in the *Gazette* revoke the said order.

(5) The Minister may make an order under subsection (1) of section 26 on the recommendation of the Commission—

(a) where no appeal is made to the Court of Appeal under section 27, upon the expiration of the period within which an appeal may be made to such court; or

**Appeal
against
revocation.**

(b) where an appeal is made to the Court of Appeal, upon the Court of Appeal affirming the recommendation of the Commission.

27. Any Institute aggrieved by the recommendation made under section 26 may appeal to the Court of Appeal on any question of law within six weeks of the making of such recommendation by the Commission, and the provisions of section 21 shall apply, *mutatis mutandis*, in respect of such appeal.

CHAPTER V

MISCELLANEOUS

Regulations

28. (1) The Minister may make regulations in respect of matters for which regulations are authorized or required to be made by this Part of this Act.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

**Director-
General
to apply
to court.**

29. (1) The Director-General may apply to court for an order under the provisions of subsection (3), whenever,—

(a) any tertiary education course or vocational educational course is being conducted by any institute not being registered under the provisions of section 14 ; or

(b) where any specified course is being conducted by any person or establishment without being registered under the provisions of section 15 ; or

(c) where any examination is being conducted by any person or establishment without being registered under the provisions of section 16 ; or

(d) where any associate degree is awarded by any institute not being an institute recognized by an order made under the provisions of section 24.

(2) Any certificate issued by the Director-General to the effect that—

(a) any institute is not registered under the provisions of section 14; or

(b) any specified course is not registered under the provisions of section 15; or

(c) any examination is not registered under the provisions of section 16; or

(d) any institute for awarding associate degree is not recognised by an order made under the provisions of section 24,

shall be *prima facie* evidence of the fact stated therein.

(3) The court shall after inquiry and being satisfied that—

(a) any tertiary education course or a vocational education course is being conducted by any institute not being registered under the provisions of section 14; or

(b) any specified course is being conducted by any person or establishment without being registered under the provisions of section 15; or

(c) any examination is being conducted by any person or establishment without being registered under the provisions of section 16; or

(d) any Associate Degree is awarded by any institute not recognised by an Order made under the provisions of section 24,

make an order prohibiting either—

(i) any person managing any institute referred to in sub-paragraph (a) from conducting any tertiary education course or vocational education course; or

(ii) any person or any person managing any establishment referred to in sub-paragraph (b) from conducting any specified course; or

- (iii) any person or any person managing any establishment from conducting such examination referred to in sub-paragraph (c) ; or
 - (iv) any person managing any institute referred to in sub-paragraph (d) from awarding any associate degree as is appropriate in relation to the said application.
- (4) The Director-General may apply to court for any interim order to prevent the violation of the provisions of sections 14, 15, 16 and 24 until an application made under subsection (1) is determined by court and the court may make such order as it deems fit for such purpose.

**Exemption
from
registration
of certain
institutes**

30. (1) The Minister may for a period not exceeding one year from the date of commencement of this Act exempt any institute or any category of institutes from registration under the provisions of section 14.

(2) The Minister may prescribe by any interim regulation, for registration of institutes under the provisions of section 14, for the registration of examination under the provisions of section 16 and such regulation shall take effect either for a period not exceeding three years from the commencement of this Act or the publishing of the relevant development plan, whichever happens earlier.

**Exemption
from
provisions
of sections
14 and 16
certain
statutory
bodies.**

31. The Minister may by order published in the *Gazette* exempt from the provisions of section 14 and section 16 any statutory body established by an Act of Parliament having as its objectives the provision of tertiary education and the certification in respect of any professions where the Minister is satisfied that the education provided and the examinations conducted is of a sufficient standard and is in accordance with national policy.

**Commission
to submit
a report.**

32. (1) The Commission shall from time to time report to the President and the Minister the measures taken to give effect to the development plans.

(2) The Commission shall, before the expiry of a period of six months after the closure of each financial year transmit a report giving full account of its activities during that year to the Minister who shall cause copies thereof to be tabled in Parliament.

33. The provisions of this Act shall not apply in respect of—

- (a) the Kotalawela Defence Academy established by the Kotalawela Defence Academy Act, No. 68 of 1981;
- (b) the Buddhist and Pali University established by the Buddhist and Pali University Act, No. 74 of 1981; and
- (c) Universities and other Higher Education Institutes established under the provisions of the Universities Act, No. 16 of 1978.

Exemption from application of this Act

34. Section 37 subsection (2) part IV General (c) of the Education Ordinance (Chapter 185) is hereby repealed.

Repeal of certain sections of Education Ordinance.

35. In this Part of this Act, unless the context otherwise requires—

“associate degree” means a tertiary education distinction styled “Associate” in the specified branch of learning awarded upon the completion of a minimum of two years of training, being a distinction either—

- (a) recognised for the purpose of further study in a University or similar institution; or
- (b) recognised for the purpose of engaging in an occupation; and

“education” includes training.

Interpretations

PART II

CHAPTER VI

ESTABLISHMENT OF THE NATIONAL APPRENTICE AND INDUSTRIAL TRAINING AUTHORITY

36. (1) There shall be established an Authority which shall be called the National Apprentice and Industrial Training Authority (hereinafter in this Part referred to as “the Authority”) and which shall consist of the persons who are for the time being appointed as members of the Authority under section 39.

Establishment of the National apprentice and Industrial Training Authority.

(2) The Authority shall, by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

**Objects
of the
Authority.**

37. (1) The objects of the Authority shall be—
- (a) planning, organizing and providing of vocational training;
 - (b) specifying standards in relation to vocational training;
 - (c) conducting of examinations and issuing of certificates and other awards in relation to vocational training;
 - (d) conducting National Trade Tests;
 - (e) conducting research and development in vocational training;
 - (f) holding of competitions to promote the development of various skills;
 - (g) developing the training capacities of establishments and other institutions providing vocational training;
 - (h) to advise the Commission in regard to vocational training; and
 - (i) to have links with institutions in Sri Lanka and abroad having similar objects and to equate and or validate certificates, diplomas and degrees in allied subjects and courses.

**The powers
of the
Authority.**

38. The Authority may exercise all or any of the following powers:—

- (a) conduct National Trade Tests in those fields that have been approved by the Minister;
- (b) the training and control of training of instructors in respect of vocational training;
- (c) provision of in-plant training for all tertiary level educational institutes;
- (d) preparation of schemes of training for in-plant training;
- (e) implement such measures as are approved by the Minister for the development of the training capacity of training establishments;
- (f) establish and manage with the approval of the Minister, any institute or centre for vocational training;
- (g) advise the Minister on any matter when so directed by the Minister;

(h) determine different categories of trainees including apprentices; and

(i) do all such other things which in the opinion of the Authority, are necessary to facilitate the proper carrying out of its objects or the performance of its duties.

39. (1) The Authority shall consist of the following members to be appointed by the Minister:—

Constitution
of the
Authority.

(a) a Chairman;

(b) a Vice Chairman;

(c) the Director-General (hereinafter referred to as the "ex-officio member"); and

(d) not more than twelve other members—

(i) representing governmental institutions, trade unions, commerce and industry; or

(ii) having special knowledge of and experience in matters relating to vocational training.

(2) All members of the Authority, other than the ex-officio member, shall be appointed for a period of four years.

(3) The Chairman and the Vice Chairman shall exercise such powers as are delegated to them by the Authority.

(4) The Minister may, if he considers it expedient so to do, remove, by order published in the *Gazette* any member of the Authority other than the ex-officio member without assigning any reason therefor, and such removal shall not be called in question in any court.

(5) A member of the Authority in respect of whom an order under subsection (4) is made by the Minister, shall vacate his office on the date of the publication of such order in the *Gazette*.

(6) Any member of the Authority other than the ex-officio member may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister.

(7) Where any member of the Authority other than the ex-officio member dies, resigns or is removed from office, the Minister may, having regard to the provisions of sub-section (1) of this section, appoint any other person to be a member in place of the member who dies, resigns or is removed from office. Any person so appointed in place of such member, shall hold office during the unexpired part of the term of office of such member whom he succeeds.

Act not invalidated by reason of a vacancy.

40. No act or proceeding of the Authority shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members, or a defect in the appointment of any member thereof.

The seal of the Authority.

41. (1) The seal of the Authority shall be in the custody of the Chairman of the Authority and may be altered in such manner as may be determined by the Authority.

(2) The application of the seal of the Authority shall be authenticated by the signature of the Chairman of the Authority, and any other officer of the Authority authorized by the Authority to authenticate the application of the seal.

Meetings of the Authority.

42. (1) The meetings of the Authority shall be held once at least in every two months.

(2) The quorum for any meeting of the Authority shall be as determined by the Authority by rules made in that behalf.

(3) The Chairman, or in his absence the Vice-Chairman, or in the case of the absence of both, a member chosen by the members present, shall preside at every meeting of the Authority.

(4) All questions for decision at any meeting of the Authority shall be decided by the vote of the majority of the members present. In case of an equality of votes, the presiding officer shall have a casting vote.

(5) Subject to the preceding provisions of this section, rules may be made under this Act in respect of the meetings of the Authority, the procedure to be followed, and the business to be transacted, at such meetings.

43. The Minister shall, with the approval of the Minister in charge of the subject of Finance, determine the remuneration payable to the members of the Authority.

Remuneration of the members of the Authority.

44. The Authority may, with the concurrence of both the Minister and the Minister in charge of the subject of Finance, or in accordance with the terms of any general authority given with like concurrence, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms, such sums as the Authority may require for meeting the obligations of the Authority and exercising, discharging or performing the powers, functions or duties under this Act:

Borrowing powers of the Authority.

Provided, however, that the aggregate of the amounts outstanding in respect of any loan raised by the Authority under this section shall not at any time exceed such amount as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

45. (1) The Authority may establish committees to assist the Authority in the discharge of its functions. The members of any such committee shall be appointed by the Authority.

Committees of the Authority.

(2) The Authority may delegate to any committee appointed by the Authority under subsection (1) any of its functions so, however, that such delegation shall not be deemed or construed to preclude the Authority from discharging any such function so delegated. The Authority shall have the power to amend or revoke any decision made by any committee in consequence of such delegation.

(3) The members of any committee may receive such remuneration or allowances as may be determined by the Minister out of the Fund of the Authority.

46. (1) The Minister may, from time to time, give special or general directions to the Authority in regard to the general policy on vocational training, and such other matters as he may deem appropriate and it shall be the duty of the Authority to comply with such directions:

Directions by the Minister.

Provided that the Minister shall, in issuing directions under subsection (1) with regard to any matter affecting the subjects or functions assigned to any other Minister, act in consultation with the Minister.

(2) Directions given under subsection (1) shall conform to Development Plans prepared under this Act.

47. The Chairman of the Authority shall be the chief executive officer of the Authority.

Chief Executive Officer.

**Powers of
the Authority
in regard to
appointment
the staff of
the Authority
and their
training.**

48. (1) The Authority may appoint to the staff of the Authority such officers and servants as the Authority may deem necessary.

(2) Subject to the other provisions of this Act, the Authority may—

- (a) appoint, dismiss and exercise disciplinary control over the staff of the Authority;
- (b) fix the wages or salary or other remuneration of such staff;
- (c) determine the terms and conditions of service of such staff;
- (d) establish and regulate a provident fund or scheme for the benefit of such staff and may make contributions towards such fund or scheme on terms not less favourable than those provided by the Employees Trust Fund Act, No. 46 of 1980.

(3) Rules may be made under this Act in respect of all or any of the matters referred to in subsection (2).

**Appointment
of officers
from other
services to
the staff of
the Authority.**

49. (1) At the request of the Authority any officer in the public service may, with the consent of that officer and the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent, or with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978 shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978 shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period,

any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations to such contract.

50. (1) The Authority may appoint any officer or servant of the Authority by name or by office, to be an inspector for the purposes of this Act.

Appointment
of the
Inspector.

(2) Every inspector shall be furnished with a certificate of appointment as an inspector by the Authority. Such certificate shall be in such form as may be provided by rules made under this Act, and shall, if so required when within any establishment, be produced by the inspector to the occupier or person holding a responsible position of management at the establishment.

51. (1) Subject to any rules made in that behalf, an inspector shall have power to do all or any of the following Acts :—

Powers of the
Inspector.

(a) for the purpose of this Act, to enter, inspect and examine any establishment or part thereof at all reasonable times by day or night;

(b) to examine any trainee being trained in any establishment, or to require the production of any register, record or other documents maintained in such establishment in pursuance of this Act, and to take on the spot or otherwise any statement of any person which he may consider necessary for carrying out the objects of this Act;

(c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act, or any rule or regulations made thereunder are being observed in the establishment;

(d) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matter which is being investigated by him, every person whom he finds on the premises or the establishment entered by him by virtue of the aforesaid powers or whom he has reasonable ground for believing to be or to have been employed in such establishment or to be in possession, custody or control of anything referred to in this subsection;

(e) to require any person referred to in paragraph (d) to appear before him at a time and place fixed by him, and then and there question that person concerning any matter which is being investigated by him ; and

(f) to exercise such other powers as may be prescribed.

(2) The owner or occupier of any establishment, his agents and servants shall at all times furnish the means or facilities required by an inspector as are necessary for the purpose of exercising his powers under subsection (1).

**Delegation
of powers,
functions
and duties to
officers and
servants of
the Authority.**

52. The Authority may delegate any of its powers, functions or duties to any officer or servant of the Authority, and any such power, function or duty, so delegated shall be exercised, discharged or performed by such officer or servant subject to the special or general directions of the Authority.

**The Fund of
the Authority.**

53. (1) There shall be established a fund called the "National Apprentice and Industrial Training Fund", (hereinafter in this Act referred to as "the Fund") which shall consist of—

(a) such contributions from the consolidated Fund as may be authorized by any Appropriation Act or by resolution of the Parliament ;

(b) all sums paid or recovered as training fees under this Act ;

(c) grants or voluntary contributions from other sources ; and

(d) borrowings from banks or other sources.

(2) There shall be paid out of the Fund—

(a) approved expenditure incurred by employers under the provisions of this Part of this Act in respect of training provided ; and

(b) other expenditure necessary for the purpose of carrying out the objects of the Authority and the exercise, discharge and performance of its powers, functions and duties.

(3) Any expenditure determined by the Minister on the advice of the Authority as necessary for the provision of training under this Part of this Act, shall be deemed to be approved expenditure for the purpose of the provisions of subsection (2).

54. All surplus moneys in the Fund which are not required to meet any immediate expenditure incurred or to be incurred by the Authority shall be deposited by the Authority in the General Treasury on such terms as may be determined by the Minister in charge of the subject of Finance.

Surplus moneys.

55. The Authority shall, in respect of each financial year cause proper books of accounts to be kept of its income and expenditure and of all its other transactions.

Accounts of the Authority.

56. (1) The financial year of the Authority shall be the calendar year.

Financial year of the Authority.

(2) The provisions of Article 154 of the Constitution relating to the audit of accounts of public corporations shall apply to the audit of the accounts of the Authority.

57. The Authority shall, on the receipt of the audited accounts and the Auditor General's report each year, transmit such report and such accounts together with the statement by the Authority of its activities during the financial year to which such report relates, to the Minister who shall cause copies thereof to be laid before the Parliament within twelve months of the close of the financial year of the Authority to which the accounts relate.

The Auditor General's report and report of the annual activities of the Authority to be transmitted to the Minister.

58. (1) The Minister may direct the Commission in accordance with the provisions of section 11 to prepare a development plan for the development of vocational training in Sri Lanka.

Minister to direct the Commission to make Development Plans.

(2) The Development Plan referred to in subsection (1) may provide for—

- (a) guidelines for initial training, further training and re-training;
- (b) the number of training places to be made available for the purposes of vocational training;

- (c) the maximum number of trainees to be trained in respect of different categories;
- (d) the guidelines to be followed in the preparation of syllabuses for trainees;
- (e) the qualifications for selection as trainees;
- (f) the manner of testing and examining trainees for the award of certificates and other distinctions;
- (g) the qualifications of the staff;
- (h) the provision of in-plant training for students of institutes registered under section 14 of this Act and Universities; and
- (i) the broadening of general education and vocational education of the various categories of trainees, and the manner of providing such general education and vocational education.

(3) It shall be the duty of the Authority to act in compliance with the Development Plan and where the Authority fails to act in accordance with such Plan, the Commission may, with the consent of the Minister, issue orders for the revision or amendment of any instructions issued by the Authority contrary to such Plans, and the Authority shall comply with such orders.

(4) The Minister shall, in consultation with the Commission and in accordance with any Development Plan, prescribe the certificates to be awarded by the Authority.

Initial training.

59. The object of initial training shall be to provide, to any trainee through a systematic training programme, a broadly conceived basic preparation for an occupation and the necessary technical abilities and knowledge to engage in such occupation.

Minister to prescribe occupations in respect of which initial training may be provided.

60. (1) The Minister shall from time to time prescribe by regulations the occupations in respect of which initial training may be provided.

(2) The regulations under subsection (1) shall provide for—

- (a) the occupations in which initial training may be provided (hereinafter referred to as "trainee occupations");

- (b) the duration of training;
- (c) the abilities and knowledge to be imparted in the course of training;
- (d) the training by stages, if any;
- (e) training outside the training premises;
- (f) the examination standards to be maintained; and
- (g) such other matters which in the opinion of the Minister are necessary and connected with the provision of initial training.

(3) The Authority shall in accordance with the regulation issue Training Orders specifying the syllabus, time table and any other matter pertaining to initial training in respect of that trainee occupation.

(4) Where the recognition of a trainee occupation is revoked by the Minister, but the contract of initial training is not terminated, the provision hitherto in force shall apply to such contract.

61. (1) Provision may be made in the Training Orders issued under section 60 for part of the initial training to be provided in suitable institutions outside the training places, if and in so far as such an arrangement is considered necessary and conducive by the Authority for the provision of such training.

Provision
to be made
for institu-
tions outside
training
places to
provide initial
training.

(2) The Authority may enter into an agreement with any institution, for imparting of general and vocational education for any trainees selected for initial training, under the provisions of this Part of this Act.

62. (1) Initial training for a trainee occupation, shall be given only in accordance with the relevant Training Order.

Nature of
training to
be given.

(2) Initial training in occupations other than a trainee occupation shall not be provided for young persons under eighteen years of age, unless it is intended to prepare them for a subsequent course of instruction.

(3) With the object of developing and assessing new forms of training and new occupations in respect of which initial training may be given, the Minister may, from time to time on the advice of the Authority and in consultation

with the Commission, make regulations under subsection (2) of section 60 prescribing occupations in respect of which initial training may be provided.

**Qualification
of a
trainee.**

63. A person shall not be qualified for being engaged as a trainee under the provisions of this Part of this Act—

- (a) if he is under the age of sixteen years ; and
- (b) unless he satisfies the prescribed standards of education and physical fitness applicable in the case of the particular trainee occupation or any other occupation in respect of which training is to be given, and which he intends to follow.

Contracts.

64. (1) Any employer who intends to engage a trainee for purposes of providing initial training to such trainee shall prior to engaging him, enter into an initial training contract (hereinafter referred to as "the contract") with such trainee and register such contract with the Authority.

(2) It shall be the obligation of all employers who intend engaging trainees to inform the Authority of the number and nature of vacancies available in his establishment for engaging trainees.

**Written
form of
contracts.**

65. (1) The contract referred to in section 64 shall be in writing, and may contain any one or more of the following particulars, to be determined by the Authority :—

- (a) the nature, syllabus, time table and purpose of the training, and especially the form of occupation for which the training is to be provided ;
- (b) the period of probation, provided such period shall not be less than one month and not exceed three months in duration ;
- (c) the commencement and duration of the initial training period ;
- (d) any training programme to be followed outside the training premises ;
- (e) the length of the normal daily hours of training ;
- (f) the payment of any remuneration or allowance during period of initial training and the rate to be applied ;

- (g) the amount of leave the trainee is entitled to during the period of initial training;
- (h) the conditions on which notice may be given of the termination of the contract; and
- (i) any other particulars as may seem necessary.

(2) The contract shall be signed by the employer (hereinafter referred to as "the training employer") and the trainee, and where he is under the age of majority by his legal representative.

(3) The training employer shall immediately after signing the contract provide the trainee or his legal representative as the case may be, with a copy of the signed contract.

(4) The provisions of subsections (2) and (3) shall apply, to and in relation to any amendments that may be made.

66. (1) An initial training period shall begin with a period of probation and end on the expiry of the period of training as specified in the contract:

Period of initial training.

Provided however, where a trainee passes his final examination before the expiry of his period of training, his period of initial training shall end on his passing the examination.

(2) Where a trainee fails his final examination, his contract shall, if he so requests, be extended until the next occasion on which he can sit for the examination, subject to a maximum period of one year.

67. (1) A training employer shall make an application to the Authority to have a contract entered into with a trainee to be entered in the register as soon as the contract is concluded. He shall attach a copy of the contract to his application. The same shall apply, *mutatis mutandis*, where the essential stipulations of the contract are amended.

Registration of contracts.

(2) Every training employer shall give notice to the Authority.—

(a) of any previous training connected to or relating to vocational training received by the trainee; and

(b) of the appointment of training officers.

Authority to specify the maximum number of contracts.

68. (1) The Authority may, where it deems fit, and taking into consideration the employment opportunities available, and with the approval of the Minister make an order published in the Gazette specifying the maximum number of contracts that could be registered in respect of each trainee occupation.

(2) Any employer who intends entering into a contract with a trainee shall, prior to entering into such contract, check with the Authority as to whether the maximum number of contracts in that particular trainee occupation has been registered with the Authority.

(3) Any aggrieved party whether an employer or a person who wish to be trained as a trainee as the case may be, may appeal to the Minister and on appeal the Minister may amend or set aside the decision of the Authority in regard to subsection (1).

Entry of amendment, and deletion.

69. (1) Every contract and every amendment of its essential stipulations, shall be entered in the register if—

(a) the contract complies with the provisions of this Part of this Act, and the regulations made thereunder; and

(b) the training employer has the necessary personnel and technical qualifications and the training premises are suitable for the engagement of trainees and the provision of his training;

(2) The Authority may refuse to enter in the register a contract where the conditions specified in the provision specified hereinbefore are not fulfilled and the shortcomings are not remedied, as provided in subsection (2) of section 70.

Authority to order remedies whose shortcomings are found.

70. Where shortcomings are discovered regarding the suitability of any employer to provide initial training to trainees, and a remedy is found to be available which will not cause any danger to the trainees, the Authority shall order such employer concerned, to apply the remedy within such time as it may specify.

Termination without notice,during probation period.

71. An initial training period may be terminated without notice at any time during the period of probation.

72. (1) The contract may be terminated after the expiry of the period of probation, only if an application for termination is made to the Authority and the Authority allows such application.

Notice of
termination.

(2) The procedure for making such application and the conduct of any inquiry in respect of such application and the grounds for allowing such application shall be as prescribed.

(3) Where the Authority makes an order allowing an application for termination of a contract made under subsection (1) on the ground that any one party to the contract has failed to carry out the terms and conditions of such contract, then—

(a) if such party is the training employer, such employer shall pay to the trainee such compensation as may be determined by the Authority; or

(b) if such party is the trainee, he shall refund to such training employer as costs of such initial training such amount as may be determined by the Authority.

(4) Any party aggrieved by the decision of the Authority may appeal against such decision to the Secretary to the Ministry of the Minister.

73. The Authority shall maintain a register of initial training contracts, in which the essential stipulations of each contract shall be entered.

Register of
initial
training
contract.

74. (1) Any agreement or contract restricting a trainee in his pursuit of a trainee occupation after the end of his initial training period shall be null and void:

Invalid
agreements.

Provided however the provision shall not apply to any agreement entered into by any trainee and a training employer, whereby such trainee commits himself during the last three months of the contract to—

(a) becoming a party to an employment relationship with the training employer for an unspecified period of time after the initial training period stipulated in the contract comes to an end:

(b) becoming a party to an employment relationship with the training employer for a specified period not exceeding five years after the expiry of the period of initial training, the training employer defrays the cost of providing the trainee with additional instruction outside the framework of initial training relationship, and such cost is commensurate with the period for which the commitment is assumed.

(2) Any agreement outside the contract—

- (a) imposing an obligation on the trainee to pay for his initial training ;
- (b) imposing penalties to be embodied in the contract ;
- (c) imposing any exclusions or limitations of claims to compensation for damages ;
- (d) determining the rate of compensation for damages as a lump sum,

shall be null and void.

(3) Any contract or agreement entered into, without complying with the provisions of this Part of this Act, shall be null and void.

**Duties of a
training
employer.**

75. (1) A training employer shall—

- (a) ensure that the necessary skills and knowledge for the trainee to achieve the purpose of his training, are imparted to him, in accordance with Training Orders issued by the Authority on that behalf, so that the purpose of the training can be achieved within the appointed time ;
- (b) give the training himself or expressly entrust it to any officer determined by him as being suitable for that purpose ; and
- (c) provide the trainee with requisite materials, such as tools and supplies, necessary for his training and the passing of his interim and final examinations, even where such examinations take place after the initial training period had ended.

(2) A training employer shall allow a trainee necessary time for pursuing his studies and to sit for his examination.

(3) The provisions of this section shall also apply where training programmes have to be followed outside the training place.

76. A trainee shall make every effort to acquire the skill and knowledge necessary for him to achieve the purpose of his training. He shall more particularly—

Duties of a trainee.

- (a) perform carefully the jobs entrusted to him as part of his training;
- (b) take part in training programmes for which he has been granted time off under subsection (2) of section 75;
- (c) comply with the instructions given to him as part of his training by the training employer, or any training officer entitled to give him such instructions;
- (d) have regard for the rules of behaviour observed in the training place;
- (e) use tools, machinery and other installations with due care; and
- (f) not reveal any business or trade secrets.

77. The Authority shall ensure that the nature, number, size and location of training establishments are such, that qualitatively and quantitatively sufficient number of vocational training places are guaranteed and that optimal use is made of such training establishments, while giving due consideration to the demand for training places to be expected in the future.

Powers of the Authority in respect of training establishments.

78. (1) The Authority shall monitor the development of training places and submit a report to the Commission and the Minister, by the thirty first of March, each year. The report shall describe the probable further development of the supply of training places during the years ahead and where there are indications that a balanced supply of training places may be put at risk, the report shall also include proposals for remedying such situation.

Vocational Training Report.

(2) The report referred to in subsection (1) shall further include the following details:—

(a) for the preceding calender year—

- (i) the vocational training contracts concluded during the preceding twelve months;
- (ii) the number of training places not filled and the number of those persons registered at that time with the Authority as seeking training places:

(b) for the current calendar year—

(i) the number of persons expected to be seeking training places ; and

(ii) the number of training places expected to be on offer up to thirtieth of September of the year under review.

Who may engage trainees.

79. (1) No employer shall engage any persons as trainees unless—

(a) the nature and equipment of the training premises are suitable for initial training ; and

(b) the ratio between the number of trainees and the number of training vacancies or skilled staff in his service, is appropriate (unless the ratio is not detrimental to the training notwithstanding).

(2) Training premises where the necessary knowledge and skills cannot be imparted in their entirety, shall be deemed to be suitable if the shortcomings can be remedied by means of training programmes conducted outside the premises.

Schemes for further training.

80. (1) Further training shall be designed to enable a person to maintain or extend his vocational training and abilities and adapt himself to technical development or obtain promotion in any field of trainee occupation in which he had already received an initial training.

(2) The Authority may in accordance with guidelines provided for in the Development Plan prepare schemes for further training.

(3) The Authority, in consultation with the establishment which may request for further training on behalf of its employees shall determine the subject matter, standards, procedure and conduct of such examinations, and shall constitute boards of examiners for such purpose.

(4) The Authority may hold examinations, or authorize other agencies to hold examinations on its behalf, in order to test the knowledge, skills and experience acquired as a result of further training.

81. (1) Re-training shall be designed to qualify a person for training in any trainee occupation, other than in the trainee occupation in which he has already received an initial training.

Re-training programmes.

(2) Re-training schemes shall, as regard their subject matter, nature, purpose and duration, correspond to the special requirements relating to any field of vocational training.

(3) Every re-training scheme shall be in accordance with guidelines provided for in the Development Plan.

(4) The Authority shall determine the subject matter, purpose, standards, procedure and conditions of admission for such examinations, and shall establish boards of examiners for the purpose.

(5) The Authority may hold examinations to test the knowledge, skills, and experience acquired as a result of re-training. Such examinations shall correspond to the special requirements relating to the relevant field of vocational training.

82. (1) The Authority shall have the power to hold National Trade Tests in accordance with any Development Plan.

Formulation of National Trade Tests.

(2) The Authority shall conduct the National Trade Test or shall authorize any other agency to hold such National Trade Test under the direction of the Authority.

(3) In accordance with the Development Plan and subject to the direction and control of the Commission, the Authority shall implement a scheme to issue certificates to those who have successfully completed National Trade Tests and acquired the required skills and proficiency in the particular trade.

83. (1) There shall be levied and paid for each year a training cess in respect of every establishment specified in any Training Levy Order made under subsection (2).

Training cess.

(2) The Minister may, with the consent of the Minister in charge of the subject of Finance, make a Training Levy Order. Such Order shall be published in the Gazette.

(3) The Training Levy Order may specify—

- (a) the establishments liable to pay such cess;
- (b) the establishments liable to pay such cess;

- (c) the prescribed manner of payment;
- (d) the prescribed date of payment; and
- (e) the person or institution authorised to collect such cess.

(4) Where the training cess for any year due in respect of any establishment subject to the cess is not paid to the Authority, the Authority may in its discretion order that a sum not exceeding fifteen per centum of the amount of the cess be added to the cess and recovered therewith. Any sum so added to the cess shall be deemed to constitute a part of the cess.

(5) Where the training cess for any year due in respect of any establishment subject to the cess is not paid to the Authority such cess may be recovered by the Authority in like manner as though it were a debt due to the State.

(6) Provisions of subsections (2) and (3) of section 96 shall apply, *mutatis mutandis*, in respect of such order.

Employer to maintain records of progress.

84. (1) Every employer shall maintain records of the progress of training of each trainee undergoing vocational training in his establishment, in such form as may be prescribed.

(2) Every employer shall furnish to the Authority, such information and returns in respect of trainee undergoing training in his establishment, in such form and at such intervals as may be prescribed.

Records of the Authority.

85. The Authority shall maintain such records as are necessary in such form as may be prescribed.

Binding effect of contract.

86. Any person who induces or procures any party to a contract of training to commit a contravention of this Act or who otherwise incites, instigates, aids or abets such contravention shall be guilty of an offence under this Act.

No writ to issue against person or property of a member of the Authority.

87. No writ against person or property shall be issued against a member of the Authority in any action brought against the Authority.

88. All officers and servants of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and
servants of
the Authority
deemed to
be public
servants.

89. (1) No suit or prosecution shall lie—

Protection
for action
taken under
this Act or
on the
direction of
the Authority.

(a) against the Authority for any Act which in good faith is done or purported to be done by the Authority under this Act; or

(b) against any member, officer, servant or agent of the Authority for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any such suit or prosecution shall be credited to the funds of the Authority.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds be paid out of funds of the Authority unless such expense is recovered by him in such suit or prosecution.

90. (1) If any training employer—

Offences by
a training
employer.

(a) engages as a trainee any person who is not qualified to be so engaged;

(b) fails to carry out the terms and conditions of a contract of training; or

(c) contravenes the provisions of this Act relating to the number of trainees which he is required to engage under such provisions,

such training employer shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

- (2) If any training employer or any other person—
 - (a) required to furnish any information or return—
 - (i) refuses or neglects to furnish such information or return ; or
 - (ii) furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true ; or
 - (iii) refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished by him ;
 - (b) refuses, or wilfully neglects to afford any other officer duly authorized by the Authority, any reasonable facility for making any entry, inspection, examination or inquiry authorized by or under this Act ;
 - (c) requires a trainee to work overtime without obtaining approval as provided in the contract of initial training ;
 - (d) employs a trainee on any work which is not connected with his training ;
 - (e) falsely holds out to be an inspector ;
 - (f) makes any statement to an inspector which is false in any material particular and which he knows to be false ;
 - (g) refuses or fails to comply with any lawful direction given by an inspector ;
 - (h) hinders or obstructs an inspector in the exercise of his powers or duties ; or
 - (i) fails to comply with any request to pay the penalties, such training employer or other person, shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

General penalty.

91. Any person guilty of an offence under this Part of this Act, for which no other punishment is expressly provided in this Act, shall, on conviction, after summary trial before a Magistrate, be liable to a fine not exceeding ten thousand rupees.

92. Where an offence under this Part of this Act is committed by a body of persons, then,—

Offences by bodies of persons.

- (a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and
- (b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Part of this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

93. The Authority may make rules in respect of all Rules. matters for which rules are required or authorized to be made. No such rule shall come into operation until it has been approved by the Minister.

94. (1) The Minister may make regulations in respect of matters for which regulations are authorized to be made by this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) the technical and personal qualifications of persons who will provide training;
- (b) the exemptions to be granted in respect of qualifications of persons providing training; and
- (c) the suitability of training places.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after the publication in the *Gazette*, be brought before the Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

**Repeal
and savings.**

95. (1) The National Apprenticeship Act, No. 49 of 1971, hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Act—

- (a) all movable and immovable property of, all assets and liabilities of and all contracts entered into by the National Apprenticeship Board shall vest in the Authority ;
- (b) all officers and servants of the National Apprenticeship Board on the day immediately preceding the date of commencement of this Act shall where such officer or servant consents to be an employee of the Authority, be deemed to be officers and servants of such Authority with effect from the date of commencement of this Act;
- (c) all contracts of apprenticeship entered into under the provisions of the National Apprenticeship Act, No. 49 of 1971 shall be deemed to be contracts entered into under the provisions of this Act ; and
- (d) all rules, training standards made by the National Apprenticeship Board shall, notwithstanding anything to the contrary in this Act, be valid for a period not exceeding two years from the date of operation of this Act, provided, that the Authority may at any time amend, modify or repeal such rules or training standards.

**Authority to
exercise
powers for a
period of
two years
notwith-
standing the
absence of a
Development
Plan.**

96. (1) The Authority may with the permission of the Minister for a period of two years from coming into operation of this Act enter into contract of Apprenticeship and the provisions of the National Apprenticeship Act, No. 49 of 1971, shall apply to the said contracts as if the said Act has not been repealed.

(2) The Minister may for a period of not exceeding two years from the commencement of this Act authorise the Authority to exercise any power, function or duty in the absence of any Development Plan.

(3) The Minister may, for the purpose of facilitating the transfer of functions from the National Apprenticeship Board to the Authority and for making provisions for any unforeseen difficulty make transitional orders, which will have effect for a period of not more than two years from the commencement of this Act, notwithstanding anything to the contrary in the provisions of this Act.

97. For the purpose of this Part of this Act, unless the Interpretation context otherwise requires—

“employer” means any person who employs any other person to do work in any establishment for remuneration and includes any person responsible for the supervision and control of employees in such establishment;

“establishment” means any place where any industry, trade, business or profession is carried on;

“specified profession” means a profession in respect of which provision has not been made by law for the vocational training of members prior to entry into such profession and is specified by the Minister with the consent of the governing body of the profession if any, for the provision of vocational training under this Part of this Act.

“trainee” means any person who is undergoing a course of training under the provisions of this Part of this Act and includes an apprentice; and

“vocational training” means initial training, further training and re-training.



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