

LAWS OF THE REPUBLIC OF VANUATU

CONSOLIDATED EDITION 2004

VANUATU NATIONAL TRAINING COUNCIL

Act 13 of 1999
Act 4 of 2007

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VANUATU NATIONAL TRAINING COUNCIL

An Act to establish the Vanuatu National Training Council and for related purposes.

Be it enacted by the President and the Parliament as follows:

PART 1 - PRELIMINARY

1. Interpretation

In this Act, unless the contrary intention appears:

apprentice means a person who is receiving supervised training at work that leads to a recognised trade qualification;

cadetship means a program of work experience undertaken by a person who is undertaking a course of study;

Council means the Vanuatu National Training Council established under section 2;

course means any vocational education or training course, whether formal or informal, and includes a professional education course;

course provider means an individual or body (incorporated or unincorporated) that provides a course;

local authority means a local government council or a municipal council;

member means a member of the Council;

Minister means the Minister responsible for matters relating to education;

register means the register established under section 22.

registration means registration under Part 3A of this Act;

student fees means fees paid by students for tuition, instructional materials, excursions, facilities, accommodation and subsistence;

training provider means a person or an organisation that provides, or offers to provide training;

vocational course means a program of vocational training leading to a qualification or statement of attainment;

vocational training means any form of training (including training provided by correspondence and electronic means) by means of which technical or trade knowledge can be acquired or developed, whether the training is given at school or at the workplace;

VQF means the document known as *Vanuatu Qualifications Framework*, which sets out the policy framework that defines the qualifications recognised nationally in technical and vocational education and training within Vanuatu;

VQTS means the document known as *Vanuatu Quality Training Standard*, as in force from time to time, that defines the criteria and standards for registration of training organisations and the accreditation of courses in the vocational education and training sector;

PART 2 – VANUATU NATIONAL TRAINING COUNCIL

DIVISION 1 – ESTABLISHMENT, FUNCTIONS AND POWERS

2. Establishment of the Vanuatu National Training Council

(1) The Vanuatu National Training Council is established.

(2) The Council:

- (a) is a body corporate with perpetual succession; and
- (b) is to have a common seal; and
- (c) may sue and be sued in its corporate name.

3. Functions of the Council

The Council has the following functions:

- (a) to promote and co-ordinate effective vocational education and training at all levels within the community, and to provide advice to the Minister on the costs and financing of vocational education and training;
- (b) to provide advice to the Minister on the allocation of funds from foreign donors in the area of vocational education and training;
- (c) to provide advice to the Minister on the objectives and role of, and relationships between, course providers;
- (d) to adopt a relevant and inclusive national training structure, including multiple skill levels and associated qualifications;
- (e) to encourage the adoption of national skill standards with advice from appropriate industry based groups;

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- (f) to accredit courses and to authorise course providers (both public and private sector providers) to display a seal denoting nationally accredited quality training for accredited courses;
- (g) to advise on proposed legislation establishing vocational education or training schemes, including workplace training and work experience for students;
- (h) to report and provide advice to the Minister on the funding of vocational education and training activities;
- (i) to provide information on the availability of accredited courses;
- (j) to support research to determine the labour market and training needs of Vanuatu;
- (k) to register training providers and accredit courses;
- (l) such other functions as are conferred on it by or under this Act or any other Act;
- (la) to promote quality vocational education and training at all levels;
- (lb) to oversee training, apprenticeship and cadetship agreement;
- (lc) to support a system of trade testing;
- (ld) to promote processes to recognise qualification from other jurisdiction..
- (m) such other functions as the Minister may prescribe by notice in the *Gazette*.

4. Powers of the Council

- (1) The Council has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1), the powers include the following:
 - (a) to enter into contracts;
 - (b) to acquire, hold and dispose of real and personal property;
 - (c) to do anything incidental to any of the powers specified in this subsection or otherwise conferred on the Council.

4A Council may issue guidelines

- (1) The Council may from time to time issue guidelines in relation to:
 - (a) the registration of training providers; or
 - (b) the accreditation of vocational courses; or
 - (c) courses for overseas students.

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- (2) The guidelines issued under subsection (1) may relate to all or any of the following matters:
- (a) registration and accreditation procedures;
 - (b) course programs and nomenclature;
 - (c) the resources required to provide vocational courses in a competent manner;
 - (d) the financial requirements and ethical standards to be satisfied by training organisations;
 - (e) conditions to be imposed on registration or accreditation;
 - (f) conditions for a security bond.
- (3) A copy of a guideline issued under this section is to be kept at the office of the Council and is to be made available for public inspection, free of charge, or for purchase during any ordinary hours of work.

5. Council to have regard to Government policy

In the performance of its functions and in the exercise of its powers, the Council must have regard to the policy of the government in relation to vocational education and training.

DIVISION 2 - MEMBERSHIP

6. Composition of the Council

- (1) The Council consists of 8 members.
- (2) The members must include:
- (a) a person from the Ministry responsible for vocational education and training; and
 - (b) a person from the Ministry responsible for labour; and
 - (c) a representative of the Vanuatu Chamber of Commerce and Industry; and
 - (d) a representative of the non-formal education sector nominated by the Vanuatu Rural Development and Training Centers Association; and
 - (e) the principal of the Vanuatu National Institute of Technology; and
 - (f) a representative of the Ministry responsible for women's affairs; and
 - (g) a representative of the Vanuatu National Council of Women; and

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- (h) a representative of tertiary institutions in Vanuatu.
- (3) At least 2 members of the Council must be women.
- (4) The Minister is, in consultation with a senior representative from his or her Ministry, the Commissioner for Labour and the Vanuatu Chamber of Commerce and Industry, to appoint each member.
- (5) A member holds office for 3 years and is eligible for reappointment.
- (6) A person may hold office as a member concurrently with any other office.
- (7) A person must not be appointed as a member if he or she:
 - (a) is a member of Parliament or a member of a local authority; or
 - (b) is insolvent or an undischarged bankrupt; or
 - (c) is a person having professional qualifications and is disqualified or suspended from practicing his or her profession for misconduct.
- (8) A member of the Council is a leader within the meaning of the Leadership Code Act No. 2 of 1998.

6A Alternate members

- (1) Each member appointed to the Council under section 6 must:
 - (a) appoint an alternate member to the Council; and
 - (b) notify the Council of the person appointed as the alternate member.
- (2) An alternate member appointed under paragraph 1(a) is subject to the same conditions as the member for whom he or she is the alternate.
- (3) If a member appointed under section 6 is absent from Vanuatu or is unable to perform his or her duties, the alternate member has and may exercise all powers, functions, duties and responsibilities of that member.
- (4) An alternate member may, unless the Council otherwise directs, attend all meetings of the Council, but must not, except where he or she is attending in the absence of the member for whom he or she is the alternate, take part in any debate, vote on any matter or be counted for the purpose of ascertaining a quorum.

7. Chairperson and Deputy Chairperson

- (1) The members of the Council must select a member to be the Chairperson and another member to be the Deputy Chairperson.

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- (2) The Chairperson and Deputy Chairperson each hold office for a term of 3 years and are eligible for reappointment.
- (3) The Chairperson and Deputy Chairperson may resign his or her office by giving a written resignation to the Council.

8. Removal of members and acting members

- (1) The Minister may, with the approval of the Council of Ministers, remove a member if he or she:
 - (a) becomes a member of Parliament or a member of a local authority; or
 - (b) is convicted of an offence and sentenced to imprisonment for 3 months or longer; or
 - (c) is absent from 3 consecutive meetings without the leave of the Council; or
 - (d) becomes insolvent or an undischarged bankrupt; or
 - (e) is a person having professional qualifications and becomes disqualified or suspended from practicing his or her profession for misconduct.
- (2) A member may resign by giving his or her resignation in writing to the Minister.
- (3) The Council may appoint a person to act as a member if the member is absent from Vanuatu or is for any reason unable to perform his or her duties. A person must not be appointed to act for more than 3 months.

9. Terms and conditions

- (1) A member is not to be paid any fees, salary or allowances for being a member of the Council.
- (2) However, a member must be reimbursed for all reasonable out of pocket expenses, including travel costs, incurred by the member in connection with the performance of his or her duties as a member of the Council.

10. Disclosure of interests

A member who:

- (a) has a personal business interest in a matter under consideration by the Council; or
- (b) is likely to have a conflict of interest in relation to the matter;

must disclose that interest to the Council in accordance with section 16 of the Leadership Code Act No.2 of 1998.

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10A Protection for action taken under this Act

- (1) No suit or prosecution lies:
 - (a) against the Council for anything done in good faith by the Council under this Act or Regulation; or
 - (b) against a member, Chief Executive Officer, employee or inspector of the Council for anything done by him or her in good faith in the performance of his or her functions under this Act or the Regulations.
- (2) Any legal cost for a suit or prosecution brought against a person referred to in subsection (1) in respect of anything done or purported to have been done by the person under this Act or the Regulations may be paid by the Council if the court holds that the act was done in good faith, unless the expenses are recovered by the person in the action.”

DIVISION 3 - MEETINGS AND PROCEDURES

11. Meetings of the Council

- (1) The Council must hold such meetings as are necessary for the performance of its functions.
- (2) At a meeting a quorum consists of 5 members.
- (3) Questions arising at a meeting are to be determined by a majority of the votes of the members present and voting.
- (4) If the voting at a meeting is equal, the person presiding at the meeting has a casting vote.
- (5) A resolution in writing signed by not less than 5 members is valid and effective as if it had been passed at a meeting of the Council.

12. Council may regulate its procedures

Subject to this Act, the Council may determine and regulate its own procedures.

DIVISION 4- CONSULTATIVE COMMITTEE AND OTHER COMMITTEES

13. Consultative committee

- (1) The Council must establish a Consultative Committee within 28 days after the commencement of this Act.
- (2) The Consultative Committee is to provide advice to the Council about:
 - (a) matters of policy and strategic planning relating to vocational education and training; and
 - (b) such other matters as the Council may request.

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- (3) The Consultative Committee must meet at least 2 times a year and determine its own procedures.
- (4) The Consultative Committee must have one representative from each of the following bodies:
- (a) the Ministry responsible for rural business development;
 - (b) the Ministry responsible for industry and trade;
 - (c) the Ministry responsible for women's affairs;
 - (d) the Vanuatu National Council of Women;
 - (e) the Vanuatu Chamber of Commerce and Industry;
 - (f) the Vanuatu Council of Trade Unions;
 - (g) the Vanuatu Rural Development and Training Centres Association;
 - (h) the Church Schools;
 - (i) the Vanuatu Christian Council;
 - (j) the Council of Chiefs – Malvatumauri;
 - (k) the Public Service Commission;
 - (l) the Vanuatu National Institute of Technology;
 - (m) the University of the South Pacific;
 - (n) the Agence Universitaire de La Francophonie;
 - (o) the League of Credit Unions;
 - (p) any other interested Ministries;
 - (q) any other interested non-government organisations.
- (5) The Consultative Committee must have 2 representatives from the private sector.

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14. Other committees

- (1) The Council may form such other committees as are necessary for the performance of its functions.
- (2) A committee is to determine its own procedures.
- (3) A committee may include among its membership persons who are not members of the Council or the Consultative Committee.

PART 3 - LIST AND REGISTER OF COURSES

15. List of courses

- (1) The Council must establish and maintain a list of courses.
- (2) The list may contain such information about a course as the Council considers appropriate.
- (3) A course provider must provide information on his or her courses to the Council whenever required by the Council.

16. The Register

- (1) The Council must establish a register of accredited courses.
- (2) The register must include such information in relation to each registered training provider and accredited course as the Council determines in writing.
- (2A) A registered training provider who is an organisation must provide information about the organisation to the Council whenever required by the Council.
- (3) The Council is responsible for the form and maintenance of the register.
- (4) The Council must remove from the register any training provider that ceases to be registered and course that ceases to be an accredited course.
- (5) The Council may publish annually, a copy of the register in the Gazette.

17 Application for accreditation of a vocational course

- (1) Any person may apply to the Council for accreditation of a vocational course.
- (2) An application for accreditation of a vocational course must:
 - (a) be in writing and in the form specified by the Council; and
 - (b) be accompanied by a fee prescribed by the Council.
- (3) The Council may require the applicant to provide such information as the Council considers relevant to the application.

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17A Accreditation of vocational courses by the Council

- (1) If the Council receives an application to have a vocational course accredited, the Council may:
- (a) accredit the vocational course; or
 - (b) refuse to accredit the vocational course.
- (2) In deciding whether to approve the application for a vocational course, the Council must have regard to the VQTS standards, the VQF and any regulations made under this Act.
- (3) Without limiting subsection (2), the Council may refuse to accredit a vocational course if the Council is satisfied that:
- (a) the course is not of sufficient quality to warrant accreditation; or
 - (b) the course does not comply with the registration and accreditation standards.
- (4) If the Council decides to accredit a vocational course, the Council must register the vocational course on the Register as an accredited course.

17B Accreditation subject to conditions

- (1) The vocational course accredited by the Council under section 17A is subject to conditions imposed by the Council at the time the Council accredits the course or at any later time.
- (2) Without limiting subsection (1), the Council may impose conditions:
- (a) to require payment of fees to the Council in respect of the accreditation of the course; and
 - (b) to require specified information to be provided to the Council within a specified period of time.

17C Council may cancel accreditation

- (1) The Council may cancel accreditation of a vocational course that has been accredited by the Council for all or any of the following reasons:
- (a) the course is no longer of sufficient quality to warrant accreditation;
 - (b) the course no longer complies with the VQTS standards or the registration or accreditation guidelines;
 - (c) the person who applied for accreditation of the course:
 - (i) requests the cancellation; or

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- (ii) no longer exists; or
 - (iii) has contravened a condition of the accreditation; or
 - (iv) has contravened the Act or any Regulations made under the Act.
- (2) If the Council cancels the accreditation of a vocational course for any of the reasons under subsection (1), the Council must amend the Register accordingly.

17D Requirements relating to decisions of the Council

- (1) The Council must, prior to refusing an application to accredit a vocational course or imposing a condition on the accreditation of a vocational course or cancelling the accreditation of a vocational course (other than at the request of the applicant):
- (a) cause a notice of the proposed decision to be served on the person who applied for accreditation or who was granted accreditation; and
 - (b) give the person a reasonable opportunity to make representations to the Council in relation to the proposed decision.
- (2) Paragraph 1(b) does not apply if the Council is of the opinion that it is in the public interest for the decision to have effect immediately.
- (3) In making a decision under subsection (1), the Council must have regard to the registration and accreditation guidelines and any representations made under that subsection in relation to the decision.
- (4) If the Council makes a decision under subsection (1), the Council must cause a notice of its decision, together with its reasons for the decision to be served on the person who applied for accreditation.

18 Period of accreditation and renewal

- (1) The accreditation of a vocational course by the Council is to have effect for a period not exceeding 5 years which is to be specified by the Council.
- (2) Subsection (1) does not apply if the registration is cancelled earlier by the Council.
- (3) A person may apply to the Council for renewal of the accreditation of a vocational course not less than 6 months (or such other period as the Council may, if it thinks fit, determine in any particular case) before the accreditation expires.
- (4) If an application is made under subsection (3), the accreditation of the vocational course to which the application relates is to continue to have effect until such time the Council decides on the application.
- (5) An application for renewal of accreditation of a vocational course must be accompanied by a fee prescribed by the Regulation.

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- (6) The Regulation referred to under subsection (5) is to be made by the Minister after consultation with the Council.
- (7) The Council must not renew the period of accreditation of a vocational course unless the Council is satisfied that the course continues to meet the VQTS standards acceptable to the Council.
- 19. Council may accredit a course without application**
- (1) The Council may, by determination in writing, accredit a course without an application for accreditation being made.
- (2) If the Council makes a determination accrediting a particular course, the Council must enter the course on the register as if an application for accreditation of the course had been made and approved.
- 20. Course provider to notify council of changes**
- (1) The provider of an accredited course must, within one month after any changes are made to the course that might affect its accreditation, inform the Council in writing of the changes.
- (1A) A registered Training Provider must inform the Council of any changes to its circumstances that is likely to affect its registration, within one month from the date on which the Registered Training Provider has identified such changes.
- (2) A person who fails to comply with subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 250,000 Vatu.
- 21. Offence to provide false information about a course**
- A course provider who provides false or misleading information about a course to the Council is guilty of an offence punishable on conviction by a fine not exceeding 500,000 Vatu.
- 22. Appeal rights**
- (1) If the Council rejects an application for registration of a training provider or accreditation of a course, the applicant may appeal to the Minister for a review of the decision.
- (2) The appeal must be in writing and the appellant must lodge the appeal with the Minister within 14 days after receiving notice of the Council's decision under subsection 17(4).
- (3) The Minister may confirm, vary or revoke the Council's decision and must give written notice of his or her decision to the appellant.

PART 3A- REGISTRATION OF A TRAINING PROVIDER

DIVISION 1 APPLICATION, DECISION ON APPLICATION AND CONDITIONS OF REGISTRATION

22A Application for registration

- (1) A person may apply to the Council for registration as a training provider.
- (2) The application must be in such form and be accompanied by such fee, as may be determined by the Council.
- (3) The Council may require the applicant to provide any further information as the Council considers necessary for the application.

22B Council to decide application for registration

- (1) On receiving an application for registration as a training provider, the Council may:
 - (a) register the applicant as a training provider; or
 - (b) refuse to register the applicant as a training provider.
- (2) In deciding the application, the Council is to have regard to the VQTS standards and the registration and accreditation guidelines.
- (3) In considering whether an applicant complies with the Registered Training Provider standards, the Council may conduct a compliance audit of the applicant and have regard to the findings of the audit.
- (4) The Council may, despite any other provisions of this section, refuse to register an applicant as a training provider if the Council is satisfied that the applicant is not suitable to be registered as a training provider.
- (5) In determining whether an applicant is suitable to be registered as a training provider, the Council may have regard to such matters as it considers relevant including the registration and accreditation guidelines.
- (6) If the Council decides to grant the application, the Council must:
 - (a) register the applicant as a training provider; and
 - (b) register the training provider's scope of registration; and
 - (c) if the Council imposes any conditions under section 22C, register those conditions in relation to the training provider; and
 - (d) provide the training provider with a statement of registration.

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22C Conditions of registration

- (1) The registration of a training provider is subject to the following conditions:
- (a) the Registered Training Provider must comply with the VQTS standards;
 - (b) the Registered Training Provider must notify the Council in writing of any substantial change to the Registered Training Providers control, management or operation before, or as soon as practicable after, the change occurs;
 - (c) the Registered Training Provider must:
 - (i) submit to any compliance audit conducted by the Council; and
 - (ii) take all necessary steps to comply with the Registered Training Providers standards if a compliance audit shows that the Registered Training Provider does not comply with those standards;
 - (d) the Registered Training Provider must not contravene any provision of this Act or any other Act;
 - (e) the Registered Training Provider must provide the Council with any information the Council reasonably requires in relation to:
 - (i) the Registered Training Providers operations; or
 - (ii) a condition of its registration.
- (2) A Registered Training Provider must not contravene a condition of its registration.
- (3) Without limiting subsection (1), the Council may prescribe further conditions.

DIVISION 2 PERIOD OF REGISTRATION AND REQUIREMENTS ON DECISIONS OF THE COUNCIL ON REGISTRATION

22D Period of registration and renewal

- (1) The registration of a training provider by the Council is to have effect for a period not exceeding 5 years which is to be specified by the Council.
- (2) Subsection (1) does not apply if the registration is cancelled earlier by the Council.
- (3) The registration of a training provider may be renewed by the Council if an application for renewal is made to the Council not less than 3 months (or such other period as the Council may, if it thinks fit, determine in any particular case) before the registration expires.
- (4) If an application for renewal of the registration of a training provider is made under this section, the registration of a training provider continues to have effect until such time the Council decides on the application.

22E Requirements relating to decisions of the Council under this Part

- (1) If the Council intends to make a decision under this Part, the Council must:
- (a) cause a notice of the proposed decision to be served on the person concerned; and
 - (b) give the person a reasonable opportunity to make representations to the Council in relation to the proposed decision.
- (2) The decision referred to under subsection (1) does not include a decision:
- (a) to require a person to provide further information in relation to an application for registration as a training provider; or
 - (b) to grant such an application unconditionally.
- (3) Paragraph 1(b) does not apply if the Council decides that it is in the public interest for the decision to have effect immediately.
- (4) In making any decision under this Part, the Council must have regard to:
- (a) the VQTS standards; and
 - (b) any representations made under this section in relation to the proposed decision; and
 - (c) the regulations made under this Act.
- (5) The Council must within one month from the date on which the Council makes a decision serve a notice of the decision made by the Council under this Part together with the reasons for the decision on the person to which the decision relates.

DIVISION 3 CANCELLATION, SUSPENSION AND AMENDMENT OF REGISTRATION

22F Council may cancel, suspend or amend registration

- (1) Subject to subsection (2), the Council may:
- (a) amend the scope of registration or recorded conditions of a training provider which restricts the operations of the training provider in Vanuatu or any other jurisdiction; or
 - (b) suspend the registration , or part of the scope of registration of a training provider; or
 - (c) cancel the registration of a training provider that has been registered by the Council.

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- (2) The Council may perform any action under subsection (1) in relation to a registered training provider, if the registered training provider:
- (a) requests the Council to suspend or cancel its registration; or
 - (b) no longer provides the courses in respect of which it is registered; or
 - (c) ceases to exist; or
 - (d) fails to comply with the registered training providers' standards or the registration and accreditation guidelines; or
 - (e) has the financial arrangements or ethical standards that would not warrant the registration of the training provider if it were now to apply for registration; or
 - (f) does not have the financial capacity to continue to meet its contractual obligations to its students, staff or other persons; or
 - (g) does not have the resources to competently provide the courses in respect of which it is registered; or
 - (h) have the resources that do not comply with the registered training provider standards or the registration and accreditation guidelines; or
 - (i) has contravene any provisions of this Act or a condition of its registration; or
 - (j) does not adequately provide information as requested by the Council.
- (3) The Council may amend the register if the Council:
- (a) amends the scope of registration or the conditions recorded of a training provider in the register in relation to the registered training provider; or
 - (b) suspends the registration, or part of the scope of registration, of a training provider; or
 - (c) cancels the registration of a training provider.

PART 3B OFFENCES

22G Claiming falsely to be a registered training provider

- (1) A person who is not a registered training provider must not claim to be a registered training provider.
- (2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding VT 500,000 or a term of imprisonment not exceeding 1 year or both.

22H Providing false qualification or statement of attainment

- (1) A person must not:
 - (a) issue, or claim to be able to issue, a qualification (certificate, diploma), or a statement of attainment; or
 - (b) provide, or claim to be able to provide, training or assessments that results in the issuing of a qualification or a statement of attainment,

unless the person is a registered training provider who operates within the scope of its registration.

- (2) A person who contravenes subsection (1) is liable on conviction to a fine not exceeding VT500, 000 or a term of imprisonment not exceeding 1 year or both.

22I False advertisement

- (1) A person must not in an advertisement for overseas student:
 - (a) falsely advertise or otherwise falsely represent that the person is or has been approved by the Council to provide a course for overseas student; or
 - (b) otherwise represent that the person may or has been approved by the Council to provide a course for overseas student.
- (2) A training provider must not in an advertisement for its vocational training:
 - (a) refer to the Government of Vanuatu, the Minister or the Council unless the advertisement is approved by the Council; or
 - (b) guarantee that students who graduate will obtain employment; or
 - (c) make any statement or claim that any opinion of the Council in any decision is false or misleading.
- (3) If the Council has reasonable grounds to believe that a training provider has contravened subsections (1) or (2), the Council may by written notice to the training provider require the training provider to cease using the advertisement.

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- (4) A training provider who continues to use an advertisement after receiving the notice in subsection (3), is guilty of an offence and is liable on conviction to a fine not exceeding VT500, 000 or a term of imprisonment not exceeding 12 months or both.

22J Providing false or misleading information to the Council

A training provider or a course provider who provides false or misleading information to the Council is guilty of an offence and is liable on conviction to a fine not exceeding VT500, 000.

PART 3C OVERSEAS STUDENTS

DIVISION 1 APPROVAL OF PERSONS TO PROVIDE COURSES TO OVERSEAS STUDENTS AND CONDITIONS FOR APPROVAL

22K Council to approve persons to provide courses to overseas students

- (1) A person who intends to provide courses for overseas students must apply to the Council for registration as a training provider for overseas student.
- (2) If the Council approves an application under subsection (1), the approval may, (according to its terms) apply:
- (a) to such courses generally; or
 - (b) to specified classes of such courses; or
 - (c) to a specified course or courses.
- (3) An application to provide courses for overseas students must be in such form, and be accompanied by such fee, as may be determined by the Council.
- (4) The Council may require an applicant to furnish further information in relation to the application.

22L Conditions for approval

- (1) The Council may grant the approval unconditionally or subject to such conditions as may be imposed when the approval is granted or at any later time as the Council determines.
- (2) The conditions imposed under subsection (1) may include:
- (a) conditions that specify the period of the approval; or
 - (b) conditions that specify the premises in or from which the course to which the approval relates is to be conducted; or
 - (c) conditions that requires the payment (including periodic payment while the approval remains in force) of fees to the Council in respect of the approval.

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22M Council may refuse application

- (1) The Council may refuse an application to provide courses for overseas students on one or more of the following grounds:
- (a) the applicant has not provided further information in relation to the application as the Council requires; or
 - (b) the applicant does not have the resources to provide the courses competently; or
 - (c) the applicant's financial arrangements or ethical standards do not warrant the approval of the applicant; or
 - (d) the applicant or the applicant's resources do not comply with the approval guidelines.

22N Council may amend, suspend or cancel approval

- (1) The Council may amend, suspend or cancel an approval if:
- (a) the training provider requests the Council to cancel or approve the approval; or
 - (b) the training provider no longer provides courses for overseas students; or
 - (c) the training provider ceases to exist; or
 - (d) the training provider has failed to comply with the approval guidelines; or
 - (e) the training provider's financial arrangements or ethical standards are such that would not warrant the approval of the provider if the provider applies for approval; or
 - (f) a reasonable doubt exists on the training provider's financial capacity to continue to meet its contractual obligations to its students, staff or other persons; or
 - (g) the training provider does not have the resources to provide the courses competently; or
 - (h) the resources of the training provider does not comply with the approved guidelines; or
 - (i) the training provider has engaged or engages in misleading or deceptive conduct in connection with the recruitment of intending overseas students; or
 - (j) the training provider has contravened a condition of the approval; or
 - (k) the training provider has contravened this Act or any Regulations under this Act.

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DIVISION 2 REQUIREMENTS ON APPROVAL, GUIDELINES AND DISCLOSURE OF INFORMATION

22O Requirements on decisions of the Council under this Part

- (1) If the Council intends to make a decision under this Part (other than the decision to require a person to provide further information in relation to an application for approval to the Council), the Council must, prior to making the decision:
 - (a) cause notice of the proposed decision to be served on the person concerned; or
 - (b) give the person a reasonable opportunity to make representations to the Council in relation to the proposed decision.
- (2) Paragraph 1(b) does not apply if the Council is of the opinion that it is in the public interest for the decision to take effect immediately.
- (3) If the Council makes a decision under this Part, the Council must have regard to the approved guidelines and any representations made under this section in relation to the proposed decision.
- (4) The Council must serve a notice of any decision made by the Council under this Part, together with the reasons for the decision on the person to which the decision relates.

22P Approval guidelines

- (1) The Council may from time to time issue guidelines in relation to the approval of persons to provide courses for overseas students.
- (2) Any such guidelines issued by the Council under subsection (1) may relate to the following matters:
 - (a) the approval procedures; or
 - (b) the resources required to provide courses for overseas students in a competent manner; or
 - (c) the financial requirements and ethical standards to be satisfied by the training provider; or
 - (d) the conditions to be imposed on the approval of persons to provide courses for overseas students; or
 - (e) the amount of, and conditions to be attached to any security bond.
- (3) A copy of a guideline issued under this section is to be kept at the office of the Council and is to be made available for public inspection, free of charge, or for purchase during any ordinary hours of work.

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22Q Disclosure of information

The Council may disclose to any person, any information the Council has on or that arises from:

- (a) an application by a person under this Part; or
- (b) the approval of a training provider to provide a course or courses for overseas students; or
- (c) any action taken by the Council in relation to a training provider.

DIVISION 3 SECURITY BONDS

22R Security Bonds

- (1) An applicant who applies to the Council for an approval to provide courses for overseas students must also submit evidence of a security bond to the Council.
- (2) The security bond referred to in subsection (1) must be an amount determined by the Council and be:
 - (a) in the form of a guarantee bond; or
 - (b) in the form of a letter of credit; or
 - (c) in any other form acceptable to the Council.
- (3) The security bond must be sufficient to cover the costs of course fees paid by the overseas students, and the reasonable costs of repatriation of overseas students to their place of recruitment.
- (4) If the Council has reasonable cause to believe that a security bond provided by the applicant under this section is no longer sufficient, the Council may at any time require the applicant to provide an additional security bond in any of the manner described under subsection 2.
- (5) If an applicant is authorised by the Council to provide courses for overseas students, the applicant must ensure that a security bond is in force for as long as the overseas students remain in Vanuatu.

22S Forfeiture of security bond

- (1) The Council may forfeit the security bond, if, in the Council's opinion, the applicant is unable to, or refuses to:
 - (a) refund student's fees; or
 - (b) repatriate students to their place of recruitment.

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- (2) The Council is to determine the amounts to be distributed and if the amount of all student fees to be refunded and repatriation costs exceeds the amount of the security bond, the Council must distribute the security bond on a pro rata basis.

PART 4 – FINANCIAL MATTERS

23. Funds of the Council

- (1) The funds of the Council consist of:
- (a) money received by way of fees and charges paid to the Council; and
 - (b) any other money received by the Council from any other sources.
- (2) The Council is to open and maintain such bank accounts as it considers necessary.
- (3) The funds of the Council are to be paid to the credit of such of its bank accounts as the Council determines.
- (4) The funds of the Council are to be applied:
- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Council in the performance of its functions or the exercise of its powers; and
 - (b) in payment of any remuneration payable by the Council.
- (5) The Council may invest any money that is not required for the performance of its functions.

24. Council to keep proper accounts

- (1) The Council must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared for each financial year.
- (2) The Council's accounts for each financial year must be audited within 3 months after the end of the financial year by the Auditor General or a person authorised by the Auditor General.

PART 5 – EXECUTIVE OFFICER AND STAFF

25. Executive officer

- (1) The Council must appoint a person as the Executive Officer of the Council.
- (2) The person appointed as the Executive Officer must:
 - (a) be appointed on merit; and
 - (b) be able to demonstrate relevant experience and competence in vocational education and training matters.
- (3) The Executive Officer is to be appointed for a period of at least 3 years and may be reappointed.

26. Functions and powers of the executive officer

The Executive Officer has the following functions:

- (a) to manage the continuing development of the Vanuatu national training structure;
- (b) to implement and evaluate accreditation procedures;
- (c) to promote and market the Council;
- (d) to prepare high quality reports to assist the Council in undertaking its functions;
- (e) such other functions as are specified by the Council.

27. Terms and conditions

The Council must determine the terms and conditions of appointment of the Executive Officer not provided for by this Act.

28. Staff of the Council

- (1) The Council is to have such staff as are necessary for the Council to perform its functions having regard to the budget of the Council.
- (2) Staff of the Council:
 - (a) are to be appointed by the Council on merit, and on similar terms and conditions applicable to employees of the Public Service within the meaning of the *Public Service Act No.11 of 1998*; or
 - (b) may be seconded to the Council by ministries, departments or agencies of the government; or

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- (c) may be provided to the Council by organisations other than the government and funded by those organisations.
- (3) The *Public Service Act No.11 of 1998* does not apply to staff referred to in paragraph (2)(a) or (c).

PART 5A AUDIT

28A Compliance Audit

- (1) The Council may at any time, conduct a compliance audit :
 - (a) of a training provider that has been registered by the Council or that applies to the Council for registration; or
 - (b) of any of the training provider's operation (whether those operations are conducted in Vanuatu or elsewhere).
- (2) The Council may conduct an audit of the operations in Vanuatu (including delivery by correspondence and electronic means) of a training provider registered overseas if the Council has reasonable cause to believe that the training provider is not complying with the provider and accreditation standards relevant to Vanuatu.

28B Charge for compliance audit

- (1) The Council may by written notice to a registered training provider require the registered training provider to pay a fee in respect of a compliance audit of the registered training provider.
- (2) A fee payable under subsection (1) must not exceed the reasonable costs of conducting the compliance audit.
- (3) A registered training provider must pay a fee required by the Council under subsection (1).

28C Disclosure of information

The Council may disclose to any person any information the Council has or that arises from:

- (a) an application by a person for registration as a training provider; or
- (b) a training provider's registration; or
- (c) a compliance audit conducted by the Council; or
- (d) any action taken by the Council in relation to the registered training provider; or
- (e) the exercise of a function by a person at the request of another registering body.

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28D Delegation by Council

The Council may delegate to a Council member or any employee of the Council, any of the powers or functions of the Council under this Act for such period as may be specified by the Council.

28E Council may engage inspectors

The Council may engage a person who has technical skills or knowledge to be an inspector for the purposes of this Act or to advise the Council on matters relating to the jurisdiction of the Council.

28F Powers of inspectors

- (1) An inspector may, for the purpose of conducting a compliance audit or ascertaining whether or not a provision of this Act has been complied with, at all reasonable times-
 - (a) enter the premises of a training provider; and
 - (b) inspect the premises, any documents found on the premises and the conduct of any course at the premises; and
 - (c) remove, or make copies of, any such document found on the premises
- (2) To avoid doubt, the powers of an inspector under subsection (1) may be exercised only during the ordinary operating hours of any such premises concerned.
- (3) An inspector must in exercising the powers conferred by this section:
 - (a) if requested to do so by any person on the premises, produce evidence of his or her identification for inspection; and
 - (b) avoid as far as practicable, doing anything that is likely to impede the conduct of any course at the premises.
- (4) A person must not assault, delay, obstruct, hinder or impede an inspector in the performance of his or her duties under this Act.
- (5) A person who contravenes subsection (4) is guilty of an offence and is liable on conviction to a fine not exceeding VT500, 000 or imprisonment to a term not exceeding 6 months or both.

PART 6 – MISCELLANEOUS

29. Annual report

- (1) The Council must, within 90 days after the end of each financial year of the Council, give a report to the Minister relating to the operations of the Council for that year.
- (2) The Minister must table a copy of the report in the Parliament within 14 sitting days of the Parliament after receiving the report.

30. Regulations

- (1) The Minister may, by Order in writing, make regulations prescribing all matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Minister must make regulations on the advice of the Council.
- (3) Without limiting subsection (1), the Minister may make regulations relating to the following matters:
 - (a) the custody and use of the seal of the Council;
 - (b) applications under this Act;
 - (c) fees payable under this Act;
 - (d) information to be supplied to the Council by training organisations and training providers;
 - (e) records to be kept by the registered training organisations and training providers;
 - (f) certificates to be issued under this Act to persons who undertake or complete accredited vocational course;
 - (g) provisions for vocational training by correspondence and electronic means;
 - (h) mediation of disputes between training providers and students;
operation of any scheme of apprenticeship, cadetship and trade testing;
 - (i) qualification of training providers.

VANUATU NATIONAL TRAINING COUNCIL**31. Commencement**

This Act commences on the day on which it is published in the *Gazette*.

Table of Acts

Vanuatu National Training Council Act No. 13 of 1999. Assented to 10.09.1999. Date of commencement, 18.10.1999. (ref: Gaz #29, 18.10.99)

2007 Vanuatu National Training Council Act No. 4

Table of amendments

Sec 1 (definition)	Amended by Act 4 of 2007
Para 3(f)	Repealed & substituted by Act 4 of 2007
Para 3(k)	Repealed & substituted by Act 4 of 2007
Para 3(la) – (ld)	Inserted by Act 4 of 2007
Sec 4A	Inserted by Act 4 of 2007
Sec 6A	Inserted by Act 4 of 2007
Sec 10A	Inserted by Act 4 of 2007
Sec 15(3)	Repealed & substituted by Act 4 of 2007
Sec 16(1)	Amended by Act 4 of 2007
Sec 16(2)	Amended by Act 4 of 2007
Sec 16(2A)	Inserted by Act 4 of 2007
Sec 16(4)	Amended by Act 4 of 2007
Sec 16(5)	Repealed & substituted by Act 4 of 2007
Sec 17, 17A-17D	Repealed & substituted by Act 4 of 2007
Sec 18	Repealed & substituted by Act 4 of 2007
Sec 20(1A)	Inserted by Act 4 of 2007
Sec 22(1)	Amended by Act 4 of 2007
PART 3A	Added by Act 4 of 2007
Sec 22A-22S	Added by Act 4 of 2007
PART 5A	Inserted by Act 4 of 2007
Sec 28A - 28F	Inserted by Act 4 of 2007