



Training Guarantee (Administration) Amendment Act 1994

No. 57 of 1994

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Training Guarantee (Administration) Amendment Act 1994

No. 57 of 1994

An Act to amend the *Training Guarantee (Administration) Act 1990*, and for related purposes

The Parliament of Australia enacts:

[Assented to 7 April 1994]

Short title etc.

1.(1) This Act may be cited as the *Training Guarantee (Administration) Amendment Act 1994*.

(2) In this Act, “**Principal Act**” means the *Training Guarantee (Administration) Act 1990*¹.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

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Interpretation

3. Section 4 of the Principal Act is amended:

- (a) by omitting “25 and 26” from the definition of “eligible training expenditure” and substituting “25, 26 and 26A”;
- (b) by inserting “a subsidy or” after “include” in the definition of “reimbursement”;
- (c) by omitting the definition of “training guarantee shortfall” and substituting the following definition:

“ **‘training guarantee shortfall’** has the meaning given by sections 14 and 15C;

Note: Sections 15A and 15D provide for a training guarantee shortfall to be reduced in certain cases.”;

(d) by inserting the following definitions:

“ **‘business group’** has the meaning given by section 4AA;

‘employer group’, in relation to a year, means 2 or more entities in relation to which this Act applies, because of paragraph 12(3)(a), as if the entities were a single employer during that year;

‘entity’ means a person as defined by:

- (a) the definition of ‘person’ in this section; and
- (b) section 11A;

but does not include a body politic;

‘training guarantee excess’ has the meaning given by section 14A;

Note: Sections 15A and 15D provide for how a training guarantee excess is to be applied.”.

4. After section 4 of the Principal Act the following section is inserted:

Interpretation—meaning of “business group”

“4AA.(1) For the purposes of this Act, a business group consists of:

- (a) a corporation and all corporations that are its subsidiaries (whether or not the corporation is itself a subsidiary of some other corporation); or
- (b) the following entities:
 - (i) an entity that controls another entity; and
 - (ii) each entity that the first-mentioned entity controls;

whether or not the first-mentioned entity is itself controlled by some other entity.

“(2) For the purposes of this Act, the question whether one corporation is a subsidiary of another is to be determined in the same way as the question whether one corporation (within the meaning of the Corporations Law) is a subsidiary of another is determined under that Law.

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“(3) For the purposes of this Act as it applies in relation to a year (**‘the relevant year’**) the question whether one entity controls another is to be determined in the same way as the question whether one Part 3.6 entity controls another is determined for the purposes of Part 3.6 of the Corporations Law.

Note: Section 294B of the Corporations Law provides for when one Part 3.6 entity is taken to control another for the purposes of Part 3.6 of that Law.

“(4) In this section:

‘company’ has the same meaning as in the Corporations Law;

‘financial year’ has the same meaning as in the Corporations Law;

‘Part 3.6 of the Corporations Law’ means that Part as it applies in relation to a company in relation to a financial year ending on 30 June in the relevant year;

‘Part 3.6 entity’ means an entity within the meaning of Part 3.6 of the Corporations Law.”.

Interpretation—meaning of “minimum allowable apprentice or trainee amount”

5. Section 6 of the Principal Act is amended:

(a) by omitting from paragraph (b) “for a later year” and substituting “for a year commencing after 1 July 1990 but before 1 July 1993”;

(b) by adding at the end the following word and paragraphs:

“; and (c) for the year commencing on 1 July 1993—\$2,260; and

(d) for a later year—the amount calculated in relation to the year using the formula:

$$\frac{\text{minimum allowable apprentice or trainee amount for immediately preceding year}}{\text{indexation factor for year}}.$$

Election by members of business group

6. Section 12 of the Principal Act is amended:

(a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) Two or more entities may elect to have themselves treated as a single employer in relation to a year for the purposes of this Act.

“(2) An election in relation to a year must be made in writing in the prescribed form on or before 30 September in the next year.”;

(b) by omitting from subsection (3) “If members of a business group make an election:” and substituting “Subject to this section, if 2 or more entities (**‘the members’**) make an election in relation to a year:”;