

SKILLS FOR ALL

TRAINING FOR JOBS

South Australia's Traineeship and Apprenticeship System

Information booklet

Traineeship and Apprenticeship Services

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Skills for All



Government of
South Australia

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Introduction

This booklet has been developed as an information resource that describes South Australia's traineeship and apprenticeship system. It is primarily intended for trainees and apprentices and the employers of trainees and apprentices.

The booklet describes the traineeship and apprenticeship system by posing a series of questions and answers, and providing relevant information.

While the booklet can be read from cover to cover, it is suggested that the reader consults the contents page to find the topic relevant to their enquiry.

Throughout this booklet, the terms 'trainees', 'apprentices' and 'employers' are interchanged with the term 'parties' to a training contract.

This booklet should be used as a guide only. If you are seeking more detailed information, please contact Traineeship and Apprenticeship Services on 1800 673 097.

The traineeship and apprenticeship system in South Australia is administered under the *Training and Skills Development Act 2008*, which can be accessed at www.legislation.sa.gov.au

Traineeship and Apprenticeship Services (TAS)

Traineeship and Apprenticeship Services is a directorate within the State Government Department of State Development. Working under delegation from the Training and Skills Commission, Traineeship and Apprenticeship Services is responsible for regulating South Australia's traineeship and apprenticeship system by:

- registering employers to train trainees and apprentices
- approving training contracts
- approving variations to training contracts
- approving completions of training contracts
- issuing letters and certificates that acknowledge the successful completion of a traineeship or apprenticeship (Note: Trade Certificates are only issued to apprentices)
- providing information, advice and assistance to trainees, apprentices and employers, and the general public

For information, advice or assistance ring 1800 673 097 or email: dsd.tas@sa.gov.au

Disclaimer: Use of the information and data contained within this booklet is at your sole risk. If you rely on the information in this booklet, you are responsible for ensuring by independent verification its accuracy, currency and completeness

What is a traineeship or apprenticeship?

A traineeship or apprenticeship is a contract between a registered employer and a trainee or apprentice, whereby the employer undertakes to train and employ the trainee or apprentice in a vocation or trade, and the trainee or apprentice undertakes structured learning and paid employment for a specific period of time to achieve a relevant qualification.

A traineeship usually lasts between twelve months to three years, depending on the area of employment undertaken.

An apprenticeship is in a traditional trade occupation that usually lasts for three or four years.

A traineeship or apprenticeship may be full-time, part-time or school-based; this depends on the industrial award or agreement.

Both trainees and apprentices study for a nationally recognised qualification, which will allow them to work anywhere in Australia. Training providers generally deliver the training, and issue the relevant qualification for the trade or vocation to trainees and apprentices.

A list of traineeships and apprenticeships available in South Australia can be accessed on the *Traineeship and Apprenticeship Pathways Schedule (TAPS)* at www.skills.sa.gov.au/apprenticeforms

Employer registration

How does an employer become registered to train trainees and apprentices?

It is a legal requirement that employers be registered to train employees under a training contract. Before entering into a training contract, employers need to apply to Traineeship and Apprenticeship Services for registration. Registration may be for a period of up to 5 years.

Employers need to complete the Employer Registration Application Form, which may be accessed at www.skills.sa.gov.au/apprenticeforms and forward it to Traineeship and Apprenticeship Services for assessment and approval of registration. Registered employers are placed on the **State Training and Skills Register** (the 'State Register'), which can be viewed at www.tasc.sa.gov.au

The State Register details the trades and vocations in which each employer is registered to train trainees and apprentices. In SA, all apprenticeships are linked to trades (traditional trade occupations) and all traineeships are linked to vocations (non-trade occupations).

Registered employers must apply to Traineeship and Apprenticeship Services to vary their registration if they wish to train in trades or vocations additional to those stated on their scope of registration. Their scope of registration will be updated on the State Register if their application is granted. An employer may also cancel their registration.

What are the criteria for registration?

To determine whether or not an employer meets the relevant registration requirements, Traineeship and Apprenticeship Services will assess the following criteria in accordance with the *Training and Skills Development Act 2008* and the Training and Skills Commission Guidelines:

- the place of employment
- the equipment to be used
- the methods of training
- appropriate licensing of businesses*

- the ratio of trainees/apprentices to supervisors
- the supervision arrangements, including the qualifications and experience of supervisors
- whether the employer is a fit and proper person, taking into account the prior conduct of the employer or an associate
- other matters, including occupational health, safety and welfare.

* For instance, any person (including a company) that carries on a business as a building work contractor, including conducting the business of performing building work with a view to the sale or letting of buildings, must be licensed as a contractor under the *Building Work Contractors Act 1995* (including sub-contractors).

Supervision of trainees and apprentices

The Training and Skills Commission has set the following supervision ratios, which apply to all traineeships and apprenticeships that commenced from 1 January 2010, regardless of the industrial award or agreement under which they are employed.

Traineeships

Year/Stage of Traineeship	Ratio
Applies to any year or stage of a traineeship	1 supervisor: 5 trainees

Apprenticeships

Year/Stage of Apprenticeship	Ratio
1st or 2nd year or stage of an apprenticeship	1 supervisor: 1 apprentice
3rd or 4th year or stage of an apprenticeship	An appropriate level of supervision is to be determined by the employer
	Note: the ratio must not exceed 1 supervisor: 5 apprentices

The maximum number of apprentices and trainees that one supervisor may supervise is five. If a supervisor is responsible for providing direct supervision to a first or second year/stage apprentice, the same supervisor may provide general supervision to any combination of up to four trainees or third or fourth year/stage apprentices.

Trainees and apprentices must not be responsible for supervising other trainees or apprentices.

Licences

Employers must demonstrate that supervisors of trainees or apprentices have the appropriate occupational licences. These include Plumbers, Gas Fitters, Electricians, Refrigeration Mechanics, Land Agents, Travel Agents, Security Guards and persons installing or maintaining security alarm or surveillance systems. For more information on South Australian licensing requirements, see the Consumer and Business Services (CBS) website www.cbs.sa.gov.au

Record Keeping

An employer is responsible for keeping all relevant records relating to the training and employment of a trainee or apprentice that they employ.

The Training and Skills Commission has developed guidelines that identify all records that employers must keep for each trainee or apprentice that they employ. These records should be retained for 7 years from the

date that the training contract expires, or is completed. The *Guidelines for records to be kept by employers of apprentices and trainees under section 70 of the Training and Skills Development Act 2008* can be found at www.tasc.sa.gov.au (then click on 'Guidelines').

Cancellation, variation or suspension of registration

Traineeship and Apprenticeship Services, acting under delegation from the Training and Skills Commission, may cancel, suspend or vary an employer's registration if the employer contravenes the TSD Act 2008 or a corresponding law or a condition of the registration. It must give an employer 28 days written notice of the nature of the action it intends to take, and the employer is able to make representation to Traineeship and Apprenticeship Services within that period.

For more information and advice about the employer registration process, please phone 1800 673 097 or visit the website www.skills.sa.gov.au/apprenticeships-traineeships

Appeals

An employer may make an appeal against a decision, which refuses an application for registration, imposes or varies a condition of their registration, or suspends or cancels their registration, to the District Court, within 28 days of the making of the decision they wish to appeal.

If the employer has not received the reasons for the decision in writing, the employer can write to the Training and Skills Commission, asking it to state the reasons for the decision. The employer has 28 days from the time the reasons are given in writing, in which to appeal.

Contact the District Court Civil Registry on (08) 8204 0289 for further information about the appeals process relating to section 61 of the TSD Act 2008, and for the relevant form. The District Court Civil Registry is located at Ground Level, Sir Samuel Way Building, 241-259 Victoria Square, Adelaide. The Registry is open Monday to Friday, 9.00am to 5.00pm.

Mining employers and trainees/apprentices under 18 years

Under section 17 of *the Mines and Works Inspection Act 1920*, employers in the mining industry are required to apply to the Minister for Mineral Resources Development for permission to employ a person under the age of 18 years to work underground in a mine. This includes prospective trainees and apprentices, who are under the age of 18 years. Employers should contact Traineeship and Apprenticeship Services for further advice about the process – phone 1800 673 097.

Training contract

What is a training contract?

A training contract is a legally binding document that is agreed between a trainee or apprentice and their registered employer. The training contract combines paid work with structured training aimed at achieving a nationally recognised qualification. The training contract and the relevant industrial award or agreement form the basis of the employment and training conditions.

The training contract establishes:

- apprentice/trainee details
- employer details
- parent/guardian details (if applicable)
- the trade or vocation

- the qualification that will be delivered by the training provider
- the nominal term of the contract
- the probationary period
- the industrial arrangement underpinning the employment conditions
- whether the contract is full-time, part-time or school based (note: trainees/apprentices cannot be employed on a casual basis)
- the number of hours of work and training per week
- the selected training provider
- the obligations of both the employer and the trainee or apprentice
- credit to reduce the term of the training contract.

In South Australia, training contracts are administered under Part 4 of the *Training and Skills Development Act 2008*.

The Training and Skills Commission publishes guidelines on matters relating to Part 4 of the *Training and Skills Development Act 2008*. These guidelines provide further information on the administration of particular aspects of the system, such as the approval of a training contract. The guidelines are available on the Commission's website at www.tasc.sa.gov.au

Who is involved?

The parties to the training contract consist of a trainee or apprentice and employer. A parent or legal guardian is also a party to the training contract if the trainee or apprentice is under eighteen years of age.

How do the parties enter into a training contract?

The parties should contact an Australian Apprenticeships Centre for assistance with the establishment of a training contract. The Australian Apprenticeships Centre will then lodge the completed training contract with Traineeship and Apprenticeship Services for approval.

Australian Apprenticeships Centres (AACs)

Australian Apprenticeships Centres are non-government organisations contracted by the Australian Government to help employers and trainees and apprentices to enter into a training contract.

Australian Apprenticeships Centres are responsible for:

- assisting the parties to prepare training contracts
- providing information to assist with the selection of an appropriate qualification
- providing information to assist with the selection of a training provider
- ensuring that a training contract is lodged with Traineeship and Apprenticeship Services
- administering incentive payments to eligible employers
- administering a range of income support payments to eligible trainees and apprentices.

For further information regarding Australian Apprenticeships Centres or incentive payments, telephone 13 38 73 or visit www.australianapprenticeships.gov.au

Training Providers

Training providers must be Registered Training Organisations to deliver nationally recognised qualifications. In South Australia, they must also be *Skills for All* training providers to be part of the State Government's *Skills for All* training initiative. The selection of a training provider is a joint decision made by the trainee or apprentice and the employer.

The training provider is responsible for:

- assisting the employer and trainee or apprentice with the development of the Training Plan
- lodging the Training Plan with Traineeship and Apprenticeship Services
- providing recognition of prior learning (RPL) or recognition of current competencies (RCC)
- delivering training and assessing competencies
- providing mentoring and advice to employers, trainees and apprentices
- issuing a parchment recognising successful completion of a qualification or issuing a Statement of Attainment to recognise the completion of a unit of competency
- reporting all absences, late attendances and misconduct to the employer.

Training contract requirements

What should be considered when entering a training contract?

- Employers need to be registered to train trainees or apprentices in a specific trade or vocation under a training contract.
- Training contracts cannot be undertaken on a casual basis.
- Employment conditions must comply with the industrial award or agreement nominated on the training contract. Note that not all traineeships can be undertaken on a part-time basis.
- The probationary period is determined by the trade or vocation and the nominal term of the training contract – refer to the *Traineeship and Apprenticeship Pathways Schedule* at www.skills.sa.gov.au/apprenticeforms
- Trainees and apprentices must work and be paid for the hours on the training contract.
- An employer can only train a person in a trade under a training contract.

What is a probationary period?

All training contracts include a probationary period which varies in length, depending on the chosen trade or vocation.

The probationary period commences at the beginning of the training contract and provides an opportunity for the parties to assess their compatibility and to determine the trainee or apprentice's suitability for the vocation.

Either party may withdraw from the contract during this period, provided that the appropriate notice is given. The applicable award or industrial agreement usually states the amount of notice that has to be given. The employer must notify Traineeship and Apprenticeship Services in writing within one week of either party withdrawing.

The following is a guide only:

Term of contract	Length of Probationary Period
12 months	1 month
13 to 24 months	2 months
More than 24 months	3 months

All changes affecting the term of the training contract, such as termination, change of qualification, transfer to a new employer or suspension of the training contract, must be mutually agreed by the parties after the probationary period has passed.

Trainees and apprentices must work and be paid for the hours nominated on the training contract. This may include time at training, depending on the industrial award or agreement.

What are the minimum hours required for part-time training contracts?

Where part-time traineeships and apprenticeships are allowed, the minimum number of hours to be worked under a part time contract are:

Term of contract	Minimum part time hours per week
Up to 23 months	15 hours
24 to 48 months	25 hours
School based	8 hours

What obligations do employers have under a training contract?

Under a training contract an employer is obligated to:

- ensure that the trainee or apprentice is properly inducted into the workplace
- provide employment and training for the term of the contract
- provide a trainee or apprentice with appropriate supervision at all times
- release the trainee or apprentice to undertake relevant training and assessment
- comply with the wages and conditions stipulated in the industrial award or agreement
- submit the training contract through the AAC to Traineeship and Apprenticeship Services within 28 days of signing the training contract
- comply with other relevant legislation such as the *Work Health and Safety Act 2012*
- gain the mutual agreement of the trainee or apprentice in order to vary, terminate or complete the training contract.
- ensure that undue pressure or unfair tactics are not exerted on the trainee or apprentice in relation to entering into the training contract, or any processes associated with the training contract once it has commenced.

What obligations do trainees and apprentices have under a training contract?

Under a training contract, a trainee or apprentice is obligated to:

- attend work and training at the agreed times
- observe the conditions of employment, and follow any lawful and reasonable direction from the employer
- work towards achieving the qualification
- undertake any training and assessment required
- gain the mutual agreement of the employer in order to vary, terminate or complete the training contract
- ensure that undue pressure or unfair tactics are not exerted on the employer in relation to entering into the training contract, or any processes associated with the training contract once it has commenced.

How will the parties be advised if a training contract is approved?

Each training contract is assessed to ensure that all legislative requirements have been met. When the training contract is approved, all parties will receive written confirmation from Traineeship and Apprenticeship Services.

This will include:

- the commencement date
- the nominal term of the contract (eg 4 years)
- the occupation and qualification
- the estimated completion date
- the name of the training provider
- the name of the award or agreement under which the trainee or apprentice is to be employed.

How will the parties be advised if a training contract is declined?

All parties will be advised in writing if a training contract is declined. A training contract may be declined for various reasons, including:

- the employer is not registered
- the legislative requirements have not been met
- relevant supporting documentation has not been submitted
- the trainee or apprentice is ineligible due to visa restrictions.

What if circumstances change in relation to the training contract?

A change of circumstances may require a training contract to be varied. All variations must be mutually agreed by the parties and an application forwarded to Traineeship and Apprenticeship Services for approval. It is recommended that the parties seek advice from Traineeship and Apprenticeship Services prior to varying the contract. Phone 1800 673 097 for advice.

For example, you will need to request a variation to your training contract if you wish to change:

- the occupation and/or qualification
- the registered training organisation
- the hours of employment and training undertaken per week
- the duration of the training contract
- or if you wish to transfer to a new employer.

School based traineeships and apprenticeships

School based traineeships and apprenticeships combine schooling at the senior secondary level with training and employment, which contribute to the achievement of the South Australian Certificate of Education (SACE), or an equivalent qualification, and a vocational education and training (VET) qualification.

The prospective school based trainee or apprentice must be enrolled in years 10, 11 or 12 and undertaking South Australian Secondary Certificate of Education or equivalent qualification subjects. In addition they must have completed a workplace health and safety awareness program before commencing the school based traineeship or apprenticeship.

For the training contract to be approved as a school based arrangement, the school Principal, or their delegate, must endorse the Training Plan. If the school Principal or delegate does not endorse the Training Plan, the training contract may still be approved, but it will not be treated as a school based traineeship or apprenticeship.

The combined hours of employment and training for a school based traineeship or apprenticeship may be averaged over 26 week intervals, providing the Training Plan for the training contract includes evidence, in the form of a schedule or timetable, of a pattern of employment and training proposed until the end of each calendar year.

At the conclusion of a school based trainee's or apprentice's schooling, the training contract will be converted to full-time, unless other arrangements are agreed by the parties and approved by Traineeship and Apprenticeship Services. For further information relevant to your circumstances call 1800 673 097.

The Training and Skills Commission Guidelines for the approval of school based traineeships and apprenticeships are available at www.tasc.sa.gov.au

Training

What choices can be made about the training?

The parties to the training contract can make decisions about the training associated with the traineeship/apprenticeship. The employer and trainee or apprentice may choose:

- the training provider
- the method, timing and location of training
- the core and elective units of competency for the qualification
- the assessment arrangements.

Note: The parties can negotiate with the training provider to compress the off-the-job training delivery into a shorter timeframe in order to maximise the opportunity for early completion of the training contract.

How is training delivered?

The employer provides the trainee or apprentice with day to day training in the workplace that is relevant to the trade or vocation.

Training associated with the qualification can be delivered either off-the-job or on-the-job. Where the training is fully on-the-job, the training provider mentors the employer to provide training to the trainee or apprentice, and assesses the trainee or apprentice to confirm competencies have been achieved.

Off-the-job training occurs when training is delivered by the training provider at the workplace or off-site. The training can be delivered in the following ways:

- day release from the workplace
- block release from the workplace (eg a block release of 2 weeks)
- a combination of the above.

Where it is a combination of on and off-the-job training, the training provider delivers the training and assesses the trainee or apprentice's competencies.

What is a Training Plan?

The Training Plan is a document that outlines:

- the qualification to be undertaken
- the number of hours required to complete the qualification
- the units of competency that will be undertaken
- whether recognition of prior learning or current competencies (RPL/RCC) has been offered
- whether the training is to be delivered 'on-the-job' or 'off-the-job'.

The parties to the training contract must agree on the training requirements and develop a Training Plan with the chosen training provider. Lodgement of a Training Plan with Traineeship and Apprenticeship Services is a pre-requisite for the approval of the training contract.

There are two types of Training Plan. One is for use with school based traineeships and apprenticeships and the other for all other training contracts. The school-based Training Plan differs in that it must be endorsed by the school Principal or their delegate; and where the combined hours of employment and training for a school based traineeship or apprenticeship will be averaged (only available for school based training contracts), the Training Plan must include evidence of the pattern of employment and training.

Who pays for the training?

The State Government provides *Skills for All* funding for eligible trainees and apprentices. This funding is provided directly to the chosen training provider. Information is available on the *Skills for All* website www.skills.sa.gov.au or call the *Skills for All* Infoline on 1800 506 266.

Many modern awards require employers to reimburse apprentices for the cost of training fees and text books required for the apprenticeship, as long as the apprentice makes satisfactory progress.

Travel and accommodation allowances

Provisions under modern awards

Many modern awards state that employers of apprentices attending block release training as part of their apprenticeship must pay for travel to and from training, including meals whilst travelling. The amount payable by an employer can be reduced by the amount the apprentice is eligible to receive through State Government travel and accommodation allowances (see below), provided the employer has notified the apprentice in writing that the allowance is available, or the apprentice has received the allowance.

Further information on apprentice entitlements is available at www.fairwork.gov.au/find-help-for/apprentices-and-trainees/apprentice-entitlements. Enquiries on apprentice travel, accommodation and other related expenses under modern awards may be directed to the Fair Work Infoline on **13 13 94**.

State Government travel and accommodation allowances

The travel and accommodation allowance is the State Government's contribution towards an apprentice's or trainee's travel and accommodation costs incurred while attending off-the-job training.

Apprentices/trainees who reside in a non-metropolitan area and travel a round trip distance in excess of 150km to attend their training may be eligible to receive travel and accommodation allowances.

For key eligibility criteria and to access further information on the process for making travel and accommodation claims, contact TAS on 1800 673 097 or go to www.skills.sa.gov.au/apprenticeships-traineeships/wages-and-allowances-for-apprentices-and-trainees

Wages and conditions

Wages and conditions of employment are determined as far as possible by the agreement of employers and employees at the workplace or enterprise level, and are based upon minimum standards set by the state and federal industrial relations systems. In South Australia, trainees and apprentices must be employed in accordance with the applicable industrial award or agreement, and the name of the award or agreement is specified on the training contract.

The National Workplace Relations System

On 1 January 2010, South Australia's entire private sector became part of the national system of industrial relations. This means that all private sector employees, including those in the non-government community services sector, have minimum wages determined by the Fair Work Commission. *The Fair Work Act 2009* (Commonwealth) establishes the Fair Work Commission as the independent tribunal for the national workplace relations system.

The public sector, including almost all Government Business Enterprises (except TransAdelaide and SA Water) and local government, remain in the state industrial relations system and are subject to the *Fair Work Act 1994 (South Australia)*.

Modern awards

Modern awards are part of the national industrial relations system. From 1 January 2010, modern awards replaced existing awards in most industries. Modern awards are industry or occupation-based enforceable minimum employment standards, which apply to most private sector employees, in addition to the National Employment Standards (NES).

The *Fair Work Act 2009* provides employees with a safety net of minimum terms and conditions of employment through 10 minimum workplace entitlements in the National Employment Standards (NES). They include minimum entitlements relating to annual leave, personal leave, long service leave, overtime rates, paid public holidays, etc. A complete copy of the NES can be accessed at www.fwc.gov.au

Modern awards are intended to cover all employers and employees, who perform work in those industries or occupations covered by a particular modern award. However, some employees will be covered by enterprise agreements, or will be 'award free'.

Federal system employers

If an employer falls under the jurisdiction of the federal industrial relations system, the employer and their trainees and apprentices will be covered for industrial purposes by the Commonwealth *Fair Work Act 2009*.

Rates of pay for apprentices will be contained in the relevant modern award or agreement, usually in the section on rates of pay or wages.

Rates of pay for school based trainees and apprentices in the federal industrial relations system will generally be contained in Schedule C of the relevant modern award.

Rates of pay for full-time and part-time trainees will generally be found in Schedule D of the relevant modern award. Schedule D contains the National Training Wage Schedule.

- For information or advice on appropriate rates of pay or conditions of employment for work that is covered by federal industrial legislation and modern awards or agreements, please contact the **Fair Work Infoline on 13 13 94**, open: 8.00am – 6.00pm local time, Monday to Friday, or go to www.fairwork.gov.au

State system employers

If an employer falls under the jurisdiction of the state industrial relations system, the employer and their trainees and apprentices will be covered for industrial purposes by the state *Fair Work Act 1994*.

Rates of pay will be contained in the applicable industrial award or agreement for those under the state industrial relations system.

- For information or advice on appropriate rates of pay or conditions of employment for work that is covered by state industrial legislation and state awards or agreements, please contact the **SafeWork SA Help Centre on 1300 365 255** or go to www.safework.sa.gov.au

Disputes about wages and conditions of employment

A party to the training contract, who has a dispute or grievance about wages and conditions of employment, can refer the matter to the **South Australian Industrial Relations Commission (SAIRC)** for consideration and resolution, irrespective of whether their employer falls within state or federal industrial relations jurisdiction – call 8207 0999 or go to www.industrialcommission.sa.gov.au

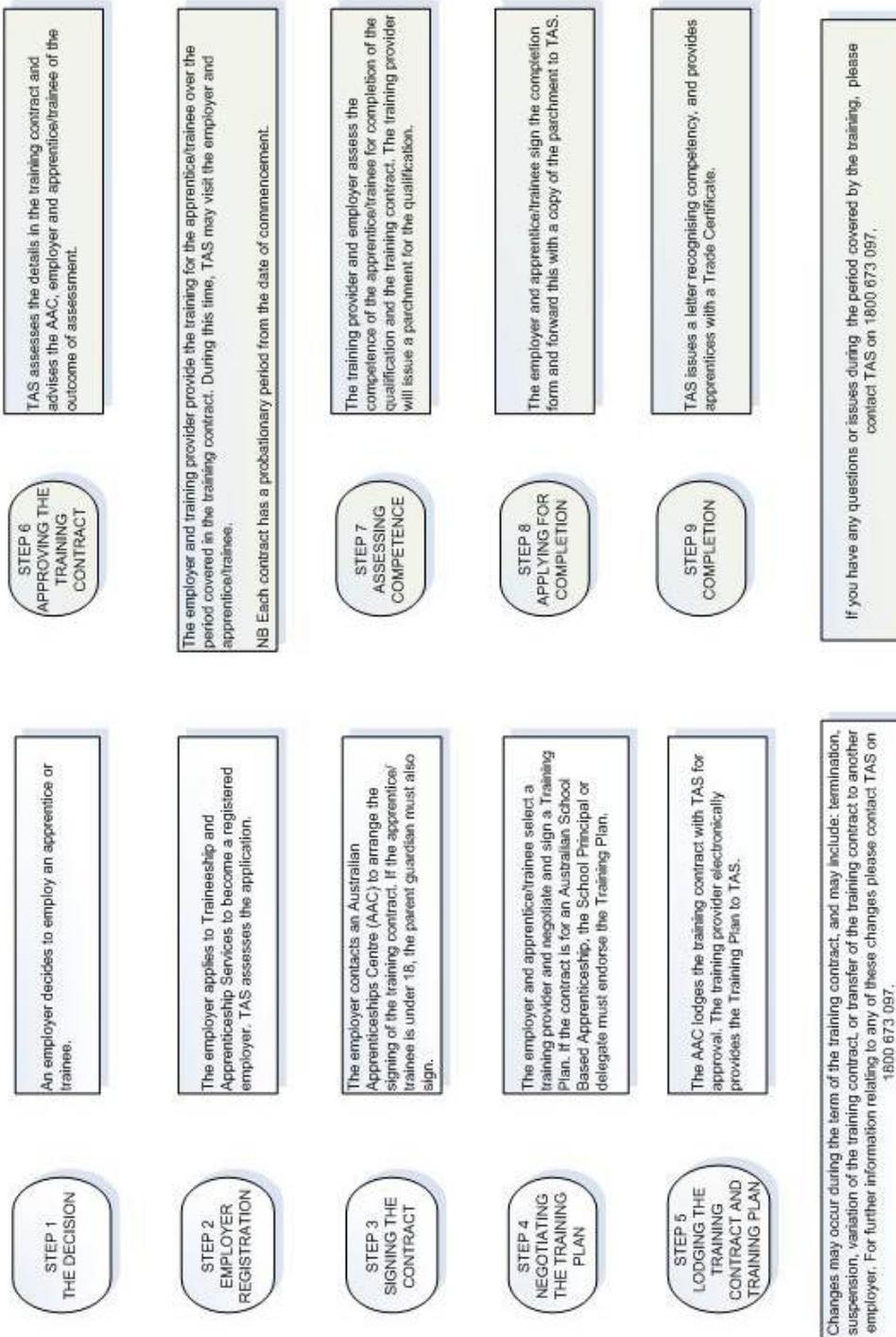
A party to a training contract underpinned by a national system modern award or agreement, may also use the Dispute Resolution provisions in modern awards. Go to the Fair Work Commission, www.fairwork.gov.au for information and application forms.

A trainee/apprentice, who is in the **state** industrial relations system (that is, employed in the state public sector, including most Government Business Enterprises, and local government entities), and has a complaint about wages and conditions of employment (eg annual leave or sick leave), can seek advice from SafeWork SA. Call the **SafeWork SA Help Centre** on 1300 365 255 Monday – Friday.

A trainee/apprentice, who is in the **federal** industrial relations system, and has a complaint about wages and conditions, may seek advice from the **Fair Work Ombudsman**. Call the Fair Work Infoline on 13 13 94, open 8.00am – 6.00pm local time, Monday – Friday or go to the Fair Work Ombudsman website: www.fairwork.gov.au

Traineeship and Apprenticeship Services advises all employers to seek advice from either the Fair Work Ombudsman or SafeWork SA if there is any doubt about the appropriate industrial instrument for the employment of any apprentice or trainee.

TRAINING CONTRACT STEPS FROM SIGN UP TO SIGN OFF



Credit for a training contract

Can a person receive credit for previous training contracts?

A trainee or apprentice may be given 'credit' or recognition for relevant skills or experience in the nominated traineeship or apprenticeship.

Credit should be requested at the time of signing the training contract if a trainee or apprentice has partly completed the same occupation and qualification under a previous training contract. In this situation, credit will be given automatically, and this will reduce the term of the training contract.

If the parties do not want credit to be given automatically for time served under a previous training contract, they should submit their reasons in writing to Traineeship and Apprenticeship Services.

Can credit be given for qualifications and skills already achieved?

A trainee or apprentice may seek credit for relevant training and industry experience, such as pre-vocational training or pre-apprenticeship training, and for relevant units of competency and qualifications that they have already achieved. Following negotiation with the training provider, this may result in fewer 'units of competency' needing to be completed for the qualification.

Supporting documentation should be forwarded to Traineeship and Apprenticeship Services.

What are Recognition of Prior Learning and Recognition of Current Competencies?

The process that is used to assess an individual's existing skills and competencies is called Recognition of Prior Learning (RPL) or Recognition of Current Competencies (RCC). This assessment determines whether any of the units of competency have already been achieved, or the skills and competencies have been demonstrated.

The training provider must offer RPL/RCC to the trainee or apprentice when developing the Training Plan.

Suspension of a training contract

What is a suspension?

A suspension is a cessation of a training contact for a period of time agreed by the apprentice or trainee and the employer, and approved by the Training and Skills Commission.

The Training and Skills Commission has developed guidelines in relation to the suspension of training contracts. These guidelines include themes such as:

- when a suspension applies or does not apply
- general information
- reasons for suspensions
- disputes regarding suspensions
- acceptable duration of the suspension.

Examples of non-business related reasons for a suspension include where the trainee or apprentice:

- suffers an injury
- requires maternity leave
- requires extended sick leave, and sick leave entitlements are not available
- requests absence for personal reasons.

Examples of business related reasons for a suspension may include business re-structuring and business re-location.

An application for a suspension for a business related reason must be an action of last resort and the employer must provide evidence that they have exhausted other avenues to avoid the need for a suspension, including:

- allowing the trainee or apprentice to complete outstanding off-the-job training or to bring forward off-the-job training. **Note:** The employer is responsible for paying wages if the trainee or apprentice attends training while on suspension.
- placing the trainee or apprentice with another employer, host employer or group training organisation. Refer to the Training and Skills Commission's *Guidelines for the approval of employers of apprentices and trainees who utilise hosting arrangements* at www.tasc.sa.gov.au
- negotiating a reduction in hours, if it is possible under the industrial award or agreement, and varying the training contract accordingly
- asking the trainee or apprentice to take accrued leave, for example, annual leave and rostered days off.

There must be a clear understanding that the training contract will be continued after the suspension.

At the conclusion of the suspension period, the estimated completion date of the training contract is adjusted to include the time lost during the suspension.

Off-the-job training may continue during the suspension period in special circumstances. This needs to be discussed and negotiated with Traineeship and Apprenticeship Services and the training provider.

For detailed information regarding suspension visit: www.tasc.sa.gov.au/guidelines/apprenticeships-traineeships

If you still have questions, contact Traineeship and Apprenticeship Services on 1800 673 097.

A normal suspension will not be approved where the employer has issues or concerns about an apprentice's or trainee's performance or behaviour. Further information should be sought from Traineeship and Apprenticeship Services by phoning 1800 673 097.

Suspension for wilful and serious misconduct

If an employer believes a trainee or apprentice is guilty of wilful *and* serious misconduct, they can make an application to suspend the trainee or apprentice from employment under the training contract, *for up to seven working days*.

An employer must notify the SA Industrial Relations Commission (SAIRC) of a suspension of a trainee or apprentice for wilful and serious misconduct **immediately** by phoning the Registry of the SA Industrial Relations Commission, or by fax, email or personally attending the Registry at the following address:

Industrial Registrar
Industrial Relations Commission of South Australia
Riverside Centre, North Terrace
ADELAIDE SA 5000

PO Box 3636, Rundle Mall SA 5000

Email: IndustrialTribunals@sa.gov.au
Office hours: 8.30am – 5.00pm

Ph: (08) 8207 0999
Fax: (08) 8115 1380

www.industrialcommission.sa.gov.au

The employer must confirm the suspension in writing **within 3 days** of the suspension. A conciliation conference will be held within **7 working days** of the date of the suspension. If the matter is not resolved at conciliation, it will proceed to a full hearing at a later date. The SAIRC may confirm or extend the suspension.

A trainee or apprentice has the right to dispute a suspension if they believe that the suspension is unjust or the length of the suspension is unreasonable.

Termination of a training contract

How do the parties terminate a training contract?

Following the expiry of the probationary period, a training contract can be terminated with the mutual agreement of both parties.

A party to a training contract cannot legally terminate a training contract on their own. Only the Training and Skills Commission can terminate a training contract. Generally the Training and Skills Commission will approve the termination if it is assured both parties have freely agreed to the termination. Parties to the contract must not be bullied or coerced into terminating a training contract. Contact Traineeship and Apprenticeship Services on 1800 673 097 for advice if agreement cannot be reached.

A termination application form that has an agreed termination date and is signed by both parties must be submitted to Traineeship and Apprenticeship Services before a training contract can be finalised. However, the South Australian Industrial Relations Commission may also order the termination of a training contract following the lodgement of a dispute or grievance with them.

Transfer to a new employer

Can a training contract be transferred to another employer?

A training contract may be transferred to another employer with the agreement of the current employer, the new employer and the trainee or apprentice. Traineeship and Apprenticeship Services will assess the suitability of unregistered employers to become registered employers of trainees and apprentices.

A transfer can only occur if there is no break in service between employers.

A new probationary period does not apply in these circumstances.

It is not possible to transfer a South Australian Training contract to an interstate employer. The current South Australian training contract must be terminated if the trainee or apprentice moves interstate. An extract of training can be provided on request to use as evidence for credit towards an interstate contract.

Completion of a training contract

How can a training contract be completed or finalised?

A training contract may be completed when:

- the parties have agreed that competency in the workplace has been achieved, and

- the training organisation has certified that the qualification specified in the training contract has been completed.

An application form requesting completion of the training contract must be submitted to Traineeship and Apprenticeship Services (TAS) for approval. This form can be provided on request or can be downloaded from the website www.skills.sa.gov.au/apprenticeforms

If the completion application is approved, the Training and Skills Commission will:

- issue a completion notice to trainees and apprentices
- issue a Trade Certificate to apprentices.

Change of business ownership or sale of a business

What happens when a business changes ownership?

A change in the ownership of a business or part of business does not result in the termination of a training contract. The rights, obligations and liabilities of the former employer under the training contract are transferred to the new employer.

Traineeship and Apprenticeship Services must be notified of a change of business ownership within 21 days of the date of transfer. You can do this by phoning 1800 673 097.

Business downturn or closure

What are the options if there is a downturn in business or re-location to new premises?

A downturn in business or re-location to new premises that affects the ongoing work and training of a trainee or apprentice may require one of the following options:

- suspension of the training contract
- transfer of the training contract to another employer
- completion of the training contract
- termination of the training contract.

The employer must contact Traineeship and Apprenticeship Services for advice specific to their situation. All parties must agree before any changes to the training contract can be approved. Phone 1800 673 097 for further assistance.

What happens when a business closes?

If a business ceases to operate, there may be an option to either complete the training contract or transfer it to another employer. It will be necessary to terminate the training contract if these options are not available.

Absence through injury or illness

What if a trainee or apprentice suffers a work related injury or illness?

In South Australia, there are occupational health, safety and welfare laws to ensure the workplace is safe. These laws are the *Work Health and Safety Act 2012* and the *Workers Rehabilitation and Compensation Act 1986*.

A trainee or apprentice can have their training contract suspended until they are ready to return to work.

If a trainee or apprentice is injured at work, or suffer a work-related illness, or die in employment, the SA Workers Rehabilitation and Compensation Scheme (WorkCover SA) can provide assistance and benefits, which can include:

- income maintenance
- medical expenses
- approved rehabilitation services
- lump sum payment for non-economic loss
- travel expenses for medical treatment and rehabilitation
- death benefits.

Contact WorkCover SA on 13 18 55 for more information or visit www.workcover.com

What if a trainee or apprentice is pregnant or suffers a non-work related injury or illness?

If a trainee or apprentice is unable to work for a period of time that is not covered by leave entitlements (eg sick leave, annual leave), an employer should contact Traineeship and Apprenticeship Services to discuss suspension of the training contract. Phone 1800 673 097 for further information.

Asbestos safety

Asbestos products were used widely in the past, especially in housing products such as wall cladding, eaves, roofing, water and sewer pipes, lagging on pipes, and switchboards. Asbestos products can also be found in brake and clutch linings.

Asbestos products are safe, unless they are disturbed and release asbestos fibres into the air. These fibres can then be inhaled. South Australia has strict legislation for anyone working with or removing asbestos products.

If you are required to carry out any work on any asbestos product, your employer must provide you with appropriate training and supervision, develop a standard operating procedure for you to carry out the work, and very importantly, you must be provided with the appropriate personal protective equipment.

More information can be obtained from SafeWork SA's website: www.safework.sa.gov.au or contact the SafeWork Help and Early Intervention Centre on 1300 365 255.

Workers compensation and rehabilitation

Employers are responsible for the injuries or illnesses sustained by their trainees and apprentices while training, whether this training takes place at the workplace, at school or another site. Trainees will generally be covered by their employer's workers compensation insurance if they suffer a compensable injury or illness while attending training activities associated with the achievement of a qualification under a training contract arrangement. They would generally be covered by their school's workers compensation insurance if they sustain a compensable injury or illness while undertaking non-employment, school related activities, such as school based education, sports activities or VET in schools.

Workers compensation is a very complex area, and it is recommended that more specific advice be obtained from WorkCover SA, or the relevant self-insured employer's insurer in relation to individual circumstances.

A WorkCover premium exemption is available to all employers (including self-insured employers) registered with WorkCover SA who employ an eligible apprentice or trainee. The exemption applies in relation to remuneration of eligible trainees who commenced before 23 May 2013, and the apprentice exemption applies regardless of their commencement date. There are also exemptions for eligible trainees of registered South Australian Group Training Organisations. For more information contact WorkCover SA on 13 18 55 or visit www.workcover.com

Behaviour and performance

How should an employer address behaviour or performance issues?

A trainee or apprentice should have their performance managed in the same way as other employees. There is a high onus on the employer to ensure that their trainee or apprentice is provided with clear feedback and direction about their performance, in relation to the development of the skills required under the training contract and the Training Plan.

It is important to use open and honest communication, and all parties should clearly understand the performance issues, and come to an agreement as to how they will be resolved. It would be helpful if a record is kept of all discussions, and the parties develop a written plan with expected outcomes, which can be used to track progress and monitor performance.

If the matter cannot be resolved, is of a serious nature, or further advice is required, contact TAS on 1800 673 097 or go directly to the South Australian Industrial Relations Commission by phoning 8207 0999 or visit the website www.industrialcommission.sa.gov.au

What if a trainee or apprentice does not achieve competency within the training contract term?

If competency is not achieved within the training contract term, the training contract may be extended to enable a trainee or apprentice to achieve competency. An application for an extension of the training contract must be signed by all parties and submitted to Traineeship and Apprenticeship Services for approval before the nominal completion date. If the apprentice is undertaking a trade, the training must be completed under a training contract.

Contact Traineeship and Apprenticeship Services on 1800 673 097 for information and advice relevant to your circumstances.

What happens when a trainee or apprentice is accused of willful and serious misconduct?

If an employer believes a trainee or apprentice is guilty of willful *and* serious misconduct, they can make an application to suspend the trainee or apprentice from employment under the training contract, *for up to seven working days*. See 'Suspension for Willful and Serious Misconduct'.

Compliance

How are the legislative obligations communicated and enforced?

Education

Traineeship and Apprenticeship Services (TAS) provides information and advice to ensure that parties to training contracts know their rights and obligations, and helps them to meet their obligations under the

Training and Skills Development Act 2008 and the training contract. As the regulator, TAS is charged with protecting the integrity of the traineeship and apprenticeship system in the public interest.

TAS is committed to the education of the participants in the traineeship and apprenticeship system, and makes every effort to encourage compliance with the legislation and training contract obligations. TAS conducts group inductions for trainees and apprentices, who are employed by group training organisations, and in other appropriate circumstances, and publishes information on its website and in hard copy to assist employers, trainees and apprentices. Information packages, information and advice can be obtained by calling the TAS Information Service on **1800 673 097** or by emailing TAS at dsd.tas@sa.gov.au

Enforcement options

Where parties fail to comply with Part 4 of the *Training and Skills Development Act 2008*, they commit an offence. When a breach of the Act occurs, consideration will be given to the circumstances of each case. Matters will be investigated and may be dealt with through:

- issuing a Letter of Warning, or an Expiation Caution, to identify the area of non-compliance and the need to comply with legislative requirements
- issuing a Compliance Notice, requiring compliance within a specified timeframe
- issuing an Expiation Notice requiring payment of an expiation fee of \$315 to financially penalise those who remain non-compliant
- prosecution through the court system; in cases where the responsible party fails to comply with the legislation, after being given reasonable opportunity to do so, the matter will be taken to the Magistrates Court. A fine of up to \$5000 may be imposed after successful prosecution
- cancelling, varying or suspending an employer's registration, or placing conditions on an employer's registration.

Grievances and disputes

Where do I go if I have a grievance or dispute?

The SA Industrial Relations Commission

If an issue arises in the workplace, both parties to the training contract should discuss their concerns with the other party, and try to resolve the issue. Problems are usually easier to resolve if they are dealt with as soon as possible. This makes it more likely that working relationships and the training contract can be maintained. If the issues cannot be resolved, the parties should contact Traineeship and Apprenticeship Services on 1800 673 097 for assistance.

The parties may go directly to the SA Industrial Relations Commission (SAIRC), phone **8207 0999**. The SAIRC handles all grievances and disputes relating to training contracts.

A party to the training contract must lodge an application with the SAIRC to have the SAIRC consider a dispute or a grievance. The application form (*Application in respect to a dispute or grievance relating to a Training Contract*) can be obtained from the SA Industrial Commission Registry (the Registry) or the SA Industrial Relations Commission website: www.industrialcommission.sa.gov.au

An application should be lodged within the term of the training contract or **within 6 months** after completion, expiry, termination or cancellation of the relevant training contract.

It is in the interests of all parties that the application is made as soon as it is clear that the dispute/grievance is unable to be resolved in the workplace.

The completed application must be delivered to the SA Industrial Relations Commission personally or by post, fax or email. If lodged by fax or email, the original must be available during proceedings, if required. You should keep a copy of the application form for your record.

You should deliver, post, fax or email the completed application form (and any attachments) to:

Industrial Registrar
Industrial Relations Commission of South Australia
Riverside Centre, North Terrace
ADELAIDE SA 5000

PO Box 3636, Rundle Mall SA 5000

Email: IndustrialTribunals@sa.gov.au

Office hours: 8.30am – 5.00pm

Ph: (08) 8207 0999

Fax: (08) 8115 1380

www.industrialcommission.sa.gov.au

How will my grievance or dispute be handled?

The SAIRC will hold compulsory conciliation conferences with the parties to see if it can get the parties in dispute to reach an agreement about how their differences could be resolved. In cases that cannot be settled by agreement, the applicant can choose to have the matter heard and determined by the SAIRC.

On receipt of the application form, the Registry staff, who provide administrative support to the SAIRC, will set a date for a conciliation conference, which will generally be **within 14 calendar days** of the date of filing the application. The Registry will provide parties with the details of the conference, and will send a copy of the completed application and any attachments to the other party (the respondent).

At the conciliation conference, grievances and disputes will be dealt with quickly, informally and in a clear manner, with the aim of resolving them by agreement. The SAIRC will provide a fair, clear method for determining matters which aren't resolved by agreement. Refer to the *Guide to Applications under the Training and Skills Development Act*, which provides information about the dispute resolution process.

Can I be represented by a lawyer or union officer at the SA Industrial Relations Commission?

Only the parties whose interests are directly connected to the matter before the SAIRC are permitted to attend. Depending on the type of matter before the SAIRC, this would include the apprentice or trainee, the employer, Traineeship and Apprenticeship Services (acting under delegation from the Training and Skills Commission), and the apprentice or trainee's parent or guardian, where they are a party to the training contract.

There are restrictions in relation to who may represent a party:

- A 'body corporate' may be represented by an officer or employee of the body, provided he/she is not a legal practitioner or registered agent, but at the first conference, the officer or employee should ask the IRC member for permission to do that.
- If a party satisfies the SAIRC member that he or she will be disadvantaged if not represented by another person, the SAIRC may permit representation by that person, providing he/she is not a legal practitioner or registered agent, nor acting for fee or reward.

- The SAIRC may permit others to participate or observe if it is appropriate, after considering the views of all parties. The attendance of support persons, provided that they do not act in a representational role, would be one of the circumstances where permission will ordinarily be given.

Fair Work Commission

A party to a training contract underpinned by a national system modern award or agreement may use the Dispute Resolution provisions in modern awards and agreements. Go to www.fwc.gov.au where you will find information and application forms. The Fair Work Commission can only exercise the powers outlined in the dispute resolution procedure, or agreed to by the parties.

The Fair Work Commission may assist with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion. The tribunal may arbitrate the dispute if the dispute resolution procedure allows it or the parties agree.

Training Advocate

Where do I go if I have a problem?

The Training Advocate provides a free, confidential consultation, tailored to meet your needs. The services include:

- information and advice about the training system
- promoting the benefits of education and training
- an independent complaint-handling process and investigation of complaints
- advocacy, which may include speaking for, and negotiating on behalf of an employer or a trainee or apprentice in the resolution of any matters arising within the training system
- monitoring, to advise the State Government on ways to improve the quality of training.

If you are participating in training and believe you are being unfairly treated or that the training is not satisfactory, you can contact the Training Advocate on 1800 006 488 or visit 55 Currie Street Adelaide (entrance at bus stop W1) 8.30 – 5.30pm weekdays. The 1800 number is monitored after hours to respond to urgent messages. For more information please visit www.trainingadvocate.sa.gov.au

Complaints process and suggestions for improvement

Your complaints will help us to manage our performance and make continual improvements to how we conduct our business. We are committed to handling your complaints in a way that is customer-focused, fair, accessible, responsive, effective and accountable.

What is a complaint?

A complaint is an expression of dissatisfaction with any services about:

- a decision made in relation to your training contract
- legislation, policy, guidelines
- the conduct or behaviour of a Traineeship and Apprenticeship Services staff member
- programs
- customer service.

How can I make a complaint?

You can make a complaint using the following methods:

- Telephone 1800 673 097 - Please note, complaints that cannot be resolved informally over the telephone may need to be put in writing
- Letter – posted to the Director, Traineeship and Apprenticeship Services, DSD, GPO Box 320, Adelaide SA 5001
- Fax (08) 8463 4466
- Email dsd.tas@sa.gov.au

If you choose not to include your name or signature on a written complaint, your complaint may not be able to be resolved.

You must clearly explain the reason you are dissatisfied, and what you would like done in relation to the issue you are complaining about.

Note: A complaint may not always result in a change or corrective action being taken. Our response will depend on the nature and circumstances of the complaint, and the legislative and policy framework under which traineeships and apprenticeships operate.

Your complaint will be acknowledged within 2 days of its receipt by Traineeship and Apprenticeship Services.

Suggestions for improvement

Your suggestions and feedback help us to improve our products and services. Suggestions or feedback can relate to Traineeship and Apprenticeship Services' policies, procedures, forms, information materials, processes or systems.

Suggestions or feedback can be made using the contact methods listed above.

Australian Apprenticeships Centres

Note: Refer to the Australian Apprenticeships Centres website www.australianapprenticeships.gov.au/find-my-aac/full-list to find an Australian Apprenticeships Centre near you.

Adelaide

AUSNAC – CVGT
Phone 13 28 48

Business SA
Phone (08) 8300 0255

MEGT (Australia) Ltd
Phone 13 63 48

Sarina Russo Apprenticeships
Phone 1300 178 776

South Australian Country

Business SA
Phone (08) 8300 0255

MAS National
Phone 1300 627 628

MEGT (Australia) Ltd
Phone 13 63 48

For all training contract matters, call the TAS Information Service

Toll free 1800 673 097

Email dsd.tas@sa.gov.au

Training and Skills Commission Guidelines for Traineeships and Apprenticeships

Note: These guidelines were in place at the time of printing. As the guidelines are subject to change and new guidelines will be developed, you will need to visit the tasc.sa.gov.au website for the most recent copy, and any new guidelines that have been approved.

Topic	Name of guidelines
Employer registration to train apprentices or trainees	Guidelines for the registration of an employer to train an apprentice/trainee under the Training and Skills Development Act 2008
Employer registration to host apprentices or trainees with other employers	Guidelines for the registration of employers of apprentices and trainees who utilise hosting arrangements
Records to be kept by employers	Guidelines for records to be kept by employers of apprentices and trainees
Approval of training contracts	Guidelines for the approval of training contracts under the Training and Skills Development Act 2008
<i>Associated document</i> Standard Training Plan	<i>Associated document</i> Training Plan for a South Australian Apprenticeship or Traineeship training contract
Approval of school based training contracts	Guidelines for the approval of school based traineeships and apprenticeships
<i>Associated document</i> School based Training Plan	<i>Associated document</i> Training Plan for a South Australian School Based Apprenticeship or Traineeship training contract
Minimum hours of paid employment and training	Determination of the Training and Skills Commission minimum hours of paid employment and training for part-time contracts of training
Probationary periods and standard conditions for training contracts	Guidelines for determining probationary periods and standard conditions for contracts of training under Section 45 of the Training and Skills Development Act 2003
Suspension of training contracts	Guidelines for determining the approval of the suspension of a training contract
Completion of training contracts	Guidelines for competency based traineeship and apprenticeship completions
Authority to enter and inspect premises	Guidelines for persons authorised by the Commission under Section 73 to enter and inspect premises
Supervision of apprentices and trainees	Guidelines for persons who supervise apprentices and trainees
Declaration of trades and vocations	Guidelines for the approval of applications for the declaration of trades and vocations under the Training and Skills Development Act 2008. Section/s of the Act: 6