

South Australia's Traineeship and Apprenticeship System

Information booklet

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Government
of South Australia

Department of
State Development

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Introduction

A traineeship or apprenticeship is a contract between a registered employer and a trainee or apprentice.

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 Regulation and Contract Management (part of the South Australian Government Department of State Development) on **1800 673 097**. For further detail on the services provided by Regulation and Contract Management, please see page 26.

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

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

Training Contracts and Training

The Training Contract combines paid work with structured training aimed at achieving a nationally recognised qualification.

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 vocation undertaken. An apprenticeship is in a 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. The employer will provide training and work that is relevant to their trade or vocation. Training providers deliver the off-job 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)* by going to www.skills.sa.gov.au/apprenticeforms

Training Contract

What is a Training Contract?

A Training Contract is a legally binding document that is agreed to by 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 length 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 18 years of age.

How do the parties enter into a Training Contract?

The parties should contact an Apprenticeship Network Provider for assistance with the establishment of a Training Contract. The Apprenticeship Network Provider will then lodge the completed Training Contract with Regulation and Contract Management for assessment.

Before a Training Contract can be signed, the employer must register their business to employ and train an apprentice or trainee. For information on employer registration go to page 18.

Apprenticeship Network Providers (ANPs)

Apprenticeship Network Providers are non-government organisations contracted by the Australian Government to help employers and trainees and apprentices to enter into a Training Contract.

Apprenticeship Network Providers are responsible for:

- assisting the parties to prepare Training Contracts
- providing information to assist with the selection of an appropriate qualification and training provider
- pre-commencement support services including screening, testing and job-matching to ensure the trainee or apprentice is well suited to their chosen trade or vocation.
- ensuring that a Training Contract is lodged with Regulation and Contract Management
- administering incentive payments to eligible employers
- administering a range of income support payments to eligible trainees and apprentices.

For further information regarding Apprenticeship Network Providers or incentive payments, telephone 13 38 73 or go to www.australianapprenticeships.gov.au

Training Providers

Training providers must be Registered Training Organisations to deliver nationally recognised qualifications. 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 a Training Plan
- lodging the Training Plan with Regulation and Contract Management
- 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. Each individual Training Contract will state the length of probationary period applicable to that contract. 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, by written notice to the other party or parties. The employer must notify Regulation and Contract Management in writing within 7 days of either party withdrawing.

The following is a guide to standard probationary periods for contract signed up on or after 1 February 2016:

Term of contract	Length of Probationary Period
Up to and including 24 months	60 days
More than 24 months	90 days

Any Variation to a Training Contract, including while the probationary period is still active, requires the mutual agreement of all parties to the Training Contract. Undue pressure or unfair tactics must not be exerted by any party to obtain agreement for a variation.

Trainees and apprentices must work and be paid for the hours nominated on the Training Contract. This includes the time spent 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 signed up after 1 February 2016 are:

Training Contract Type	Averaging of Hours Period	Part-Time Minimum Hours
Non-school based	May be averaged over 4 weeks	15 hours per week
School-based	May be averaged over 3 months	7.5 hours per week

Contracts signed up prior to February 1 2016 retain existing minimum hours and averaging arrangements, but may be varied in line with the new arrangements detailed above.

What obligations do employers have under a Training Contract?

Under a Training Contract an employer is obliged to:

- 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 ANP to Regulation and Contract Management within 28 days of signing the Training Contract
- comply with other relevant legislation such as the *Work Health and Safety Act 2012*

What obligations do trainees and apprentices have under a Training Contract?

Under a Training Contract, a trainee or apprentice is obliged 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

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. If the Training Contract is approved, all parties will receive written confirmation from Regulation and Contract Management. You should check this email or letter to ensure all details are correct.

This will include:

- the commencement date
- the nominal term of the contract (eg 48 months)
- 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 Regulation and Contract Management for assessment. Only Regulation and Contract Management (acting under delegations from the Training and Skills Commission) or the South Australian Employment Tribunal may approve a variation to a Training Contract. It is recommended that the parties seek advice from Regulation and Contract Management prior to varying the contract. Phone **1800 673 097** for advice.

For example, you will need to request a variation to your Training Contract to change:

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

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 credit is requested for time served under an interstate contract, an extract of service is required from the relevant state training authority in the jurisdiction in which the trainee or apprentice undertook the training.

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 Regulation and Contract Management.

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.

School based traineeships and apprenticeships

A traineeship or apprenticeship may commence while the trainee or apprentice is still at school; this is known as a school based traineeship or apprenticeship.

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 3 months 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 Regulation and Contract Management. 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 provided by the registered training provider is delivered. The employer and trainee or apprentice may choose:

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

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 delivered by the registered training provider 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.

What is a Training Plan?

The Training Plan is a document that outlines:

- the qualification to be undertaken
- 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'
- whether an arrangement to average hours has been entered into.

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 Regulation and Contract Management is a pre-requisite for the approval of the Training Contract.

Where the hours of employment and training for a traineeship or apprenticeship will be averaged the Training Plan must indicate this. If hours are to be averaged a record of the pattern of employment and training must be retained by the employer and be available upon request.

There are two types of Training Plan. One is used for 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.

Who pays for the training?

Many modern awards require employers to pay for or reimburse apprentices for the cost of training fees and text books required for the apprenticeship, as long as they make satisfactory progress. Where the award or industrial agreement does not state whether the apprentice or employer is responsible for these costs, this should be negotiated between the parties at the commencement of the contract.

The State Government provides a training subsidy through the **WorkReady** initiative for eligible trainees and apprentices, if their qualification is included on the WorkReady Subsidised Training List and can be delivered by an eligible training provider. This funding is provided directly to the chosen training provider. Information is available on the *WorkReady* website www.skills.sa.gov.au or call the Skills and Employment Infoline on **1800 506 266**.

Behaviour and performance

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 the Traineeship and Apprenticeship Information Service on **1800 673 097** or contact the South Australian Employment Tribunal by phoning **8207 0999** or visit the website www.saet.sa.gov.au

Training Contract Steps

1. The Decision

An employer decides to employ an apprentice or trainee.

2. Employer Registration

The employer applies to Regulation and Contract Management to become a registered employer of apprentices or trainees, and once approved can proceed to step 3.

3. Signing the Training Contract

The employer contacts and Apprenticeship Network Provider (ANP) to negotiate the signing of the training contract. If the apprentice/trainee is under 18, the parent or guardian must also sign. The ANP will provide a signed copy of the contract to all parties.

4. Lodging the Training Contract

The ANP lodges the Training Contract with Regulation and Contract management for assessment.

5. Negotiating the Training Plan

The employer and apprentice/trainee select a training provider and negotiate and sign a Training Plan. If the contract is for an Australian School based Apprenticeship, the school Principal or delegate must endorse the Training Plan.

6. Lodging the Training Plan

The training provider provides the Training Plan to Regulation and Contract Management.

7. Approving the Training Contract

Regulation and Contract Management assesses the details in the Training Contract and advises the ANP, employer and apprentice/trainee of the outcome of assessment.

The employer and training provider provide the training for the apprentice/trainee over the period covered in the Training Contract. During this time, Regulation and Contract Management may visit the employer and apprentice/trainee.

8. Assessing Competence

The training provider and employer assess the competence of the apprentice/trainee for completion of the qualification and the Training Contract. The training provider will issue a parchment for the qualification.

9. Applying for Completion

Once the employer and apprentice/trainee agree to complete the training contract, they sign the completion form and forward it with a copy of the parchment to Regulation and Contract Management.

10. Completion

Regulation and Contract Management assesses the completion application, and if approved issues an email/letter recognising that competency has been achieved, and provides the apprentice with a Trade Certificate.

Changes to your Training Contract

Changes may occur during the term of the Training Contract, and may include: termination, suspension, variation or the Training Contract, or transfer of the Training Contract to another employer. For further information relating to any of these changes please call the Traineeship and Apprenticeship Information Service in **1800 673 097**.

Sometimes your employment or training arrangements change. An application must be submitted to vary the training contract.

Suspension of a training contract

What is a suspension?

A suspension is a temporary cessation of a Training Contract for a period of time agreed by the apprentice or trainee and the employer, and approved by Regulation and Contract Management, or by a decision of the SA Employment Tribunal.

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
- 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
- requests absence for personal reasons.

Examples of business related reasons for a suspension may include relocation of the business or damage to the premises.

An application for a suspension for a business related reason can be for a period of up to 30 days. It 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. Employers may seek advice from the Fair Work Ombudsman on the payment of wages payable to a trainee or apprentice for attendance at training while the contract is suspended
- negotiating a reduction in hours, if it is possible under the industrial award or agreement and the Training and Skills Commission's hours of employment and training guideline, and varying the Training Contract accordingly
- asking the trainee or apprentice to take accrued leave, for example, annual leave and rostered days off
- if there has been a downturn in business, refer to the 'Business Downturn or Closure' section for more information.

There must be a clear understanding that the Training Contract will be continued after the suspension. A period of suspension will alter the nominal completion date of the Training Contract. Off-the-job training may continue during the suspension period in special circumstances.

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

If you still have questions, contact the Traineeship and Apprenticeship Information Service on **1800 673 097**.

A suspension will not be approved where the employer has issues or concerns about an apprentice's or trainee's performance or behaviour. Further information and advice should be sought by calling **1800 673 097**.

Suspension for wilful and serious misconduct

If an employer has reasonable grounds to believe a trainee or apprentice is guilty of wilful and serious misconduct, they can suspend the trainee or apprentice from employment under the Training Contract, *for up to seven working days*.

An employer must notify the South Australian Employment Tribunal of a suspension of a trainee or apprentice for wilful and serious misconduct **immediately** by phoning the Registry of the SA Employment Tribunal, or by fax, email or by personally attending the Registry at the following address:

SAET Registrar
Level 6, Riverside Centre, North Terrace
ADELAIDE SA 5000

Postal Address: PO Box 3636, Rundle Mall SA 5000

Email: saet@sa.gov.au

Office hours: 8.30am – 5.00pm

Ph: (08) 8207 0999

Fax: (08) 8115 1380

Web: www.saet.sa.gov.au

The employer must confirm the suspension in writing **within 3 days** of the suspension. The SAET will arrange a compulsory conciliation conference to be held between the parties within 7 working days of the suspension. If the matter is not resolved at conciliation, it will proceed to a full hearing at a later date. The SAET 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, only the Training and Skills Commission or the SAET 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 Information Service 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 Regulation and Contract Management before a Training Contract can be finalised. However, the South Australian Employment Tribunal 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. Regulation and Contract Management 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.

Extension of a training contract

Employers have a responsibility to work with the apprentice or trainee and the training provider to ensure they obtain their qualification and achieve competency on-the job within the contract term. An extension of a Training Contract should only be necessary in exceptional circumstances, such as:

- if there are significant delays or interruptions to the training beyond the control of the employer or apprentice/trainee
- if both parties decide the apprentice/trainee needs more time to demonstrate competence in line with industry standards.

Both parties to the Training Contract must decide well in advance of the expiry date of the Training Contract that there is a need to extend, and then submit an application to do so. Please note that an application for extension cannot be accepted once the nominal completion date has passed.

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 the apprentice/trainee has achieved competency in the workplace
- 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 Regulation and Contract Management for assessment. This form can be provided on request or can be downloaded from the website www.skills.sa.gov.au/apprenticeforms

It must be accompanied by evidence that the training organisation has certified that the apprentice or trainee has completed the qualification specified in the Training Contract.

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.

In assessing an application, Regulation and contract management may take steps to verify that the obligations of the parties under the contract have been fulfilled.

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*.

If injured or ill, 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 suffers a work-related illness, or dies in employment, the SA Workers Rehabilitation and Compensation Scheme (ReturnToWorkSA) 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 **ReturnToWorkSA** on 13 18 55 for more information or visit www.rtwsa.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 see 'Suspension of a Training Contract'.

What an employer needs to know

In South Australia employers must apply to Regulation and Contract Management for registration to employ and train an apprentice or trainee.

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 Regulation and Contract Management for registration. Registration may be for a period of up to 5 years and may be renewed periodically.

Employers need to complete the Employer Registration Application Form, which may be accessed at www.skills.sa.gov.au/apprenticeforms, and forward it to Regulation and Contract Management for assessment of their application. The details of registered employers are placed on the **Training and Skills Register** (the 'Register'), and can be viewed at employerregister.tasc.sa.gov.au

The Training and Skills Register details the trades or vocations in which an employer can 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 Regulation and Contract Management 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 Training and Skills Register if their application is granted. An employer may also apply to have their registration cancelled.

What are the criteria for registration?

To determine whether or not an employer meets the registration requirements, Regulation and Contract Management 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 supervisors to trainees/apprentices
- 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 subcontractors).

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 to 5 trainees

Apprenticeships	
Year/Stage of Apprenticeship	Ratio
1 st or 2 nd year or stage of an apprenticeship	1 supervisor to 1 apprentice
3 rd or 4 th 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 to 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. In certain licensed occupations, apprentices will be contacted by Consumer and Business Services (CBS) to issue them with an "apprentice license" once they have an approved Training Contract. 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, and can be required to provide them to an authorised person.

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 must 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

Regulation and Contract Management, 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 Regulation and Contract Management 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/apprenticeforms

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.

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 Regulation and Contract Management for further advice about the process on **1800 673 097**.

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.

Regulation and Contract Management must be notified of a change of business ownership within 21 days of the date of transfer. You can do this by completing the Change of Ownership form which can be accessed from www.skills.sa.gov.au/apprenticeforms

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 relocation 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.

The employer must contact Regulation and Contract Management for specific advice about 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.

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.

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

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

Compliance

How are the legislative obligations communicated and enforced?

Education

As the regulator, Regulation and Contract Management is charged with protecting the integrity of the traineeship and apprenticeship system in the public interest. Regulation and Contract Management 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.

Regulation and Contract Management 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. Regulation and Contract Management conducts information sessions for apprentices, trainees, employers and supervisors, 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 Traineeship and Apprenticeship Information Service, toll free on **1800 673 097** or by emailing dsd.tas@sa.gov.au

Enforcement options

Where parties fail to comply with Part 4 of the *Training and Skills Development Act 2008*, they may be in breach of the Act. 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, identifying 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 for more serious instances of non-compliance. A fine of up to \$10,000 may be imposed after successful prosecution
- cancelling, varying or suspending an employer's registration, or placing conditions on an employer's registration.

Allowances, wages and conditions

Apprentices and trainees are paid to attend work and training in accordance with their industrial agreement.

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.

An apprentice or trainee must be paid for time spent to attend training.

Many modern awards require employers to pay for or reimburse apprentices for the cost of training fees and text books required for the apprenticeship, as long as they make satisfactory progress. Where the award or industrial agreement does not state whether the apprentice or employer is responsible for these costs, this should be negotiated between the parties.

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 or trainees who reside in a non-metropolitan area and travel a round trip distance in excess of 150km to attend training may be eligible. For more information on travel and accommodation allowances, call the Traineeship and Apprenticeship Information Service 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

All private sector employees, including those in the non-government community services sector, have minimum wages determined by the Fair Work Commission (FWC). The *Fair Work Act 2009* (Commonwealth) establishes the Fair Work Commission (FWC) as the independent tribunal for the national workplace relations system.

The FWC is an independent body responsible for:

- Hearing unfair dismissal and unlawful termination applications
- Approving registered agreements
- Making and changing modern awards
- Making changes to pay and entitlements in awards and registered agreements.

The Fair Work Ombudsman (FWO) is an independent statutory office which ensures compliance with the **Fair Work Act 2009** (Commonwealth), awards and registered agreements. The FWO also provides advice and education on pay rates and workplace conditions, and can be contacted by calling the Fair Work Infoline on **13 13 94** or visiting www.fairwork.gov.au

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. 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 ten minimum workplace entitlements in the National Employment Standards (NES). They include minimum entitlements relating to annual leave, personal leave, long service leave, paid public holidays, etc. A complete copy of the NES can be accessed at www.fairwork.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 *Fair Work Act 2009* (Commonwealth).

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 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 – 5.30pm local time, Monday to Friday, or visit the Fair Work Ombudsman website www.fairwork.gov.au

State 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 Employment Tribunal (SAET)** for consideration and resolution, irrespective of whether their employer falls within state or federal industrial relations jurisdiction – call 8207 0999 or go to www.saet.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 www.fwc.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 – 5.30pm local time, Monday – Friday or go to the Fair Work Ombudsman website: www.fairwork.gov.au

Regulation and Contract Management 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.

Where to go for assistance

Regulation and Contract Management operates the Traineeship and Apprenticeship Information Service.

Call 1800 673 097 or email dsd.tas@sa.gov.au

Regulation and Contract Management

Regulation and Contract Management is a directorate within the State Government Department of State Development. Working under delegation from the Training and Skills Commission, Regulation and Contract management 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
- 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
- assisting employers, apprentices and trainees with workplace issues relating to their Training Contract.

Regulation and Contract Management operates the Traineeship and Apprenticeship Information Service 8.30am – 5.30pm Monday-Friday. For information, advice or assistance ring 1800 673 097 or email dsd.tas@sa.gov.au

Regulation and Contract Management is certified as a quality organisation under the ISO 9001 standard.

Office of the Training Advocate

The Office of 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 training and employment
- 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 Office of Training Advocate on **1800 006 488** or visit Level 5, 131-139 Grenfell Street Adelaide, 9.00am – 5.00pm weekdays. The 1800 number is monitored after hours to respond to urgent messages. For details please visit www.trainingadvocate.sa.gov.au

Grievances and disputes

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

The SA Employment Tribunal (SAET)

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 an issue cannot be resolved, the parties should contact the Traineeship and Apprenticeship Information Service on toll free **1800 673 097** for assistance. Depending on the situation Regulation and Contract Management staff may meet with the parties to assist in resolving the issues.

The parties may contact SA Employment Tribunal (SAET) by phoning **8207 0999**. The SAET handles all grievances and disputes relating to Training Contracts.

A party to the Training Contract must lodge an application with the SAET to have the SAET consider a dispute or a grievance. The application form (*Application for resolution of dispute – training and skills development*) can be obtained from the SAET Registry (the Registry) or via the SAET website: www.saet.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 Employment Tribunal 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 records.

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

SAET Registrar
SA Employment Tribunal
Level 6, Riverside Centre, North Terrace
ADELAIDE SA 5000

PO Box 3636, Rundle Mall SA 5000

Email: saet@sa.gov.au

Office hours: 8.30am – 5.00pm

Ph: (08) 8207 0999

Fax: (08) 8115 1380

www.saet.sa.gov.au

How will my grievance or dispute be handled?

The SAET 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 SAET.

On receipt of the application form, the Registry staff, who provide administrative support to the SAET, 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 SAET 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 Employment Tribunal?

Parties to the training contract should contact the SA Employment Tribunal for information about their rights to representation.

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.

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 Regulation and Contract Management staff member
- programs
- customer service.

How can I make a complaint?

Telephone **1800 673 097** - Please note, complaints that cannot be resolved informally over the telephone may need to be put in writing

In writing:

- Letter – posted to the Director, Regulation and Contract Management, 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 why 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 two days of its receipt by Regulation and Contract Management.

Suggestions for improvement

Your suggestions and feedback help us to improve our products and services. Suggestions or feedback can relate to Regulation and Contract Management's policies, procedures, forms, information materials, processes or systems.

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

Apprenticeship Network Providers

Note: Refer to the Australian Apprenticeships website to find an Apprenticeship Network Provider near you: www.australianapprenticeships.gov.au/find-my-aasn/full-list

Apprenticeship Support Australia

Phone 1300 363 831

Web www.apprenticeshipsupport.com.au

MAS National

Phone 1300 627 628

Web www.masnational.com.au

MEGT

Phone 13 63 48

Web www.megt.com.au

For all Training Contract matters, contact the Traineeship and Apprenticeship 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
Associated document 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
Associated document 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