INDUSTRIAL TRAINING ACT 1975

INDUSTRIAL TRAINING LEGISLATION AMENDMENT REGULATIONS 2008
Industrial Training Act 1975

Industrial Training Legislation Amendment Regulations 2008

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation
These regulations are the Industrial Training Legislation Amendment Regulations 2008.

2. Commencement
These regulations come into operation as follows:
(a) regulations 1 and 2 — on the day on which these regulations are published in the Gazette;
(b) the rest of the regulations — on 1 August 2008.
Part 2 — *Industrial Training (General Apprenticeship) Regulations 1981*

3. The regulations amended

The amendments in this Part are to the *Industrial Training (General Apprenticeship) Regulations 1981*.

4. Regulation 3 amended

Regulation 3 is amended by deleting “trades and groups of trades specified in the Schedule 1.” and inserting instead —

“apprenticeship trades.”.

5. Regulation 4 amended

Regulation 4 is amended as follows:

(a) by deleting the definitions of “advisory board”, “apprentice” and “approved college”;

(b) by inserting in the appropriate alphabetical positions —

“registered training provider” has the meaning given in the *Vocational Education and Training Act 1996* section 5(1);

“Training Contract” means the document entitled “Apprenticeship/Traineeship Training Contract Western Australia”, prepared by the Department, the text of which is set out in Schedule 1;
6. **Regulation 7 replaced**

Regulation 7 is repealed and the following regulation is inserted instead —

"7. **Probationary employment**

(1) A notification to the Registrar under section 29A of the Act is to be made by submitting to the Registrar a duly completed and executed copy of the Training Contract.

(2) If an employer submits the Training Contract in accordance with subregulation (1), the employer is taken to have made an application to the Director under section 29A of the Act for approval to establish the apprenticeship specified in the Training Contract."

7. **Regulation 8 amended**

Regulation 8(3) is amended by deleting “employer, the probationer and the parent or guardian of the probationer” and inserting instead —

"employer and the probationer (and, if the probationer is under 18 years of age, the probationer’s parent or guardian)"

8. **Regulation 9 amended**

Regulation 9(2) is repealed and the following subregulations are inserted instead —

"(2) If the employment of a probationer is terminated during the period of probation, the employer shall, within 5 working days after the termination, notify the Registrar of that fact."
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(3) If at the expiration of the period of probation, the employer or the apprentice (or, if the apprentice is under 18 years of age, the apprentice’s parent or guardian) does not wish to continue with the employment, the employer shall, within 5 working days after the expiration of the period of probation, notify the Registrar of that fact.

Note: The heading to amended regulation 9 is to read “Extension, termination and expiration of probationary period”.

9. Regulation 10 replaced

Regulation 10 is repealed and the following regulation is inserted instead —

“10.  Agreement

(1) For the purposes of section 30(1)(b) of the Act, an apprenticeship agreement is to be in the form of the Training Contract.

(2) A Training Contract duly completed and executed by an employer and an apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian) has effect as an apprenticeship agreement only if —

(a) the Training Contract is submitted in accordance with regulation 7(1); and

(b) the establishment of the apprenticeship specified in the Training Contract is approved by the Director; and

(c) no notice is required to be given under regulation 9(2) or (3) in respect of the employment.
(3) The following provisions apply in relation to a Training Contract that has effect under subregulation (2) —
   (a) the employer and the apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian) are to be taken to have entered into the apprenticeship agreement on the day after the period of probation expires;
   (b) the employer is to be taken to have made an application to the Registrar under section 31(2) of the Act, on the 14th day after the period of probation expires, for registration of the apprenticeship agreement.

(4) The Registrar shall not register an apprenticeship agreement unless he or she is satisfied that no objection in relation to that apprenticeship has been lodged, or, if an objection has been so lodged, the Director has approved of the registration of the agreement.

10. Regulation 12 amended
   (1) Regulation 12(4) is amended by deleting “, the apprentice and the parent or guardian of the apprentice” and inserting instead —
      “and the apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.

   (2) Regulation 12(6) is amended by deleting “and his parent or guardian,” and inserting instead —
      “(and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian),”.
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11. Regulation 13 amended

(1) Regulation 13(1) is amended by deleting “or guardian” and inserting instead —

“(or, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.  

(2) Regulation 13(3) is amended by deleting “and his parent or guardian” and inserting instead —

“(and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.  

(3) Regulation 13(4) is amended by deleting “employer, the apprentice and parent or guardian of the apprentice” and inserting instead —

“employer and the apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.  

12. Regulation 15 amended

Regulation 15 is amended by deleting “apprentice, his parent or guardian” and inserting instead —

“apprentice (or, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.  

13. **Regulation 17 amended**

   (1) Regulation 17(9) is amended by deleting “his parent or guardian” and inserting instead —
   “
   him (or, if he is under 18 years of age, his parent or guardian)
   ”.

   (2) Regulation 17(14) is amended by deleting “the Technical Education Division of the Education Department or an approved college” and inserting instead —
   “    a registered training provider    ”.

14. **Regulation 18 amended**

   (1) Regulation 18(1) is repealed and the following subregulation is inserted instead —
   “
   (1) The results of every examination of an apprentice conducted by a registered training provider shall be forwarded by that registered training provider to the Director.
   ”.

   (2) Regulation 18(2) is amended by deleting “Technical Education Division or approved college, as the case requires,” and inserting instead —
   “    registered training provider    ”.
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15. Regulation 23 amended
Regulation 23(5) is amended by deleting “Regulation 29A of the Industrial Commission Regulations 1980” and inserting instead —

“Regulation 101 of the Industrial Relations Commission Regulations 2005”.

Note: The heading to amended regulation 23 is to read “Appeals to The Western Australian Industrial Relations Commission”.

16. Regulation 24 inserted
After regulation 23 the following regulation is inserted —

“24. Transitional provisions
Schedule 2 sets out transitional provisions.”.

17. Schedules 2 and 3 replaced by Schedules 1 and 2
Schedules 2 and 3 are repealed and the following Schedules are inserted instead —

“Schedule 1 — Training Contract
[r. 4]"
This contract forms a legally binding agreement between an employer and employee for the training of Apprentices and Trainees leading to a nationally recognised qualification. In signing this contract the parties are bound by the obligations detailed below and the legislation of the State or Territory in which this training contract is to be registered.

Training Contract Declaration

We, the employer, (apprenticeship and parent or guardian [where applicable] have read and understood the Training Contract Obligations outlined below.

We declare that to the best of our knowledge the details set out on the Training Contract are true and correct. We understand that the giving of false or misleading information is a serious offence.

We understand that the information provided in this Training Contract:

- is collected for the purposes of registration, preparing statistics, reporting, programme administration, monitoring and evaluation, calculating contributions and advances paid to employers and apprentices and is treated as confidential and is not made available to external bodies or any other third parties.
- may be disclosed and used for the purposes of: (a) the Australian Government, including the Department of Education, Science and Training (DEEWR) and its agencies, the State/ Territory government department and agencies, employers, (b) the Australian Apprenticeships Centre, Registered Training Organisations, can government education authorities and the trial contacts or agents of any of these organisations, departments and agencies;
- may also be shared with another (DEEWR) and its agencies or the Australian Apprenticeships Centre; and
- may otherwise be obtained without consent when authorised or required by law.

We understand that the Apprenticeship/Traineeship Contract is legally binding in accordance with the Training Contract Obligations set out in this contract and the legislation of the State or Territory to which the Training Contract is to be registered.

We understand that the Training Contract can be terminated within the period of the contract and/or, in accordance with the requirements of the relevant State/Territory legislation, and that the period of the contract is determined by the relevant State/Territory Training Authority or relevant industry or professional body in accordance with the qualifications and vocation.

We understand to be eligible for and sign the Training Plan with the chosen RTO as required by the relevant State/Territory Training Authority.

The employer representative [on behalf of the employee named in Question 08]
Surname [family name] Given names (in full)

Signed this day: / / 
Signature of employer representative

The apprentice/apprentees
Surname [family name] Given names (in full)

Signed this day: / / 
Signature of apprentice/apprentees

Signed this day: / / 
Signature of parent/guardian (for apprentices/apprentees under 18 years of age)

Name of Apprenticeship/Traineeship (as designated by legislation/authority)

Training Contract Obligations

For the employer, apprentice or trainee, and parent or guardian [where applicable]
We agree that:
- the Contract continues from the date stated in question 2, provided that it has been registered or approved under the provisions of the relevant State/Territory legislation in force.
- the Contract can only be changed according to State/Territory legislation and the State/Territory Training Authority rules as directed by the program delivery organizations in the State/Territory in which the contract is registered;
- the apprentice/trainee can see, and amend, any information about himself/herself in the Contract or held by the employee in relation to this Contract;
- we will try to resolve any dispute we have between us, and if we cannot, we will contact the State/Territory Training Authority to request assistance or to access the appropriate dispute resolution process;
- the Contract can be cancelled by the relevant State/Territory Training Authority or Australian Government Department;
- the Apprenticeship/Traineeship is successfully completed when there is agreement from the employer, apprenticeship and Registered Training Organisation, and/or, as appropriate, the State/Territory Training Authority, that the apprenticeship or traineeship has been successfully completed;
- the Apprenticeship/Traineeship is successfully completed when there is agreement from the employer, apprenticeship and Registered Training Organisation, and/or, as appropriate, the State/Territory Training Authority, that the apprenticeship or traineeship has been successfully completed;
- the Apprenticeship/Traineeship is successfully completed when there is agreement from the employer, apprenticeship and Registered Training Organisation, and/or, as appropriate, the State/Territory Training Authority, that the apprenticeship or traineeship has been successfully completed;
- the Apprenticeship/Traineeship is successfully completed when there is agreement from the employer, apprenticeship and Registered Training Organisation, and/or, as appropriate, the State/Territory Training Authority, that the apprenticeship or traineeship has been successfully completed;
- the Apprenticeship/Traineeship is successfully completed when there is agreement from the employer, apprenticeship and Registered Training Organisation, and/or, as appropriate, the State/Territory Training Authority, that the apprenticeship or traineeship has been successfully completed;
- as outlined in the Apprenticeship/Traineeship reference, in question 4, without the agreement of the employer/apprentice/trainee, the registered apprenticeship or traineeship required by the contract must be terminated in accordance with the relevant State/Territory legislation.

For the employee
I agree that I will:
- employ and train the apprentice/apprentees as set out in our Training Plan and ensure the apprentice/apprentees understands the choices that relate to regaining the training;
- provide the appropriate facilities and experienced personnel to facilitate the training and ensure the apprentice/apprentees receive adequate work and work experience in accordance with the Training Plan.
- make sure the apprentice/apprentees complete all the tasks assigned to them in accordance with our Training Plan.
- provide work that is relevant and appropriate to the qualification and be able to identify the needs of the qualification referred to in this Contract;
- inform the apprentice/apprentices from work and pay the apprentice/apprentices wages and superannuation and any other conditions as set out in the Training Plan;
- ensure that the training is delivered according to the requirements of the Apprenticeship/Traineeship and is not the same as the Training Plan;
- ensure the Training Plan is reviewed and updated each year, and monitor and support the apprentice/apprentices progress;
- if the training is not delivered to the apprentice/apprentices, make sure we follow the Training Plan, and make any changes if necessary to the Training Plan as required by the Training Contract.

For the parent or guardian
I agree that I will:
- make sure the training does not involve any irrelevant work, and give the apprentice/apprentices the support and encouragement they need to complete the training;
- work towards delivering the qualification stated in our Training Contract;
- undertake any training and assessment as part of the Training Plan.
- meet with our RTO and the apprentice/apprentices to make sure we follow the Training Plan, and make any changes if necessary to the Training Plan as required by the Training Contract.

I understand that this is an offence, it is a serious matter and I may be punished if I break this contract.

I understand that I may be required to sign this contract on behalf of the apprentice/apprentice/trainee when he/she is under 18 years of age.

I understand that this contract is legally binding in accordance with the Training Contract Obligations set out in this contract and the legislation of the State or Territory to which the Training Contract is to be registered.

I understand that the Training Contract can be terminated within the period of the contract and/or, in accordance with the requirements of the relevant State/Territory legislation, and that the period of the contract is determined by the relevant State/Territory Training Authority or relevant industry or professional body in accordance with the qualifications and vocation.

I understand to be eligible for and sign the Training Plan with the chosen RTO as required by the relevant State/Territory Training Authority.

The employer representative [on behalf of the employee named in Question 08]
Surname [family name] Given names (in full)

Signed this day: / / 
Signature of employer representative

The apprentice/apprentees
Surname [family name] Given names (in full)

Signed this day: / / 
Signature of apprentice/apprentees

Signed this day: / / 
Signature of parent/guardian (for apprentice/apprentees under 18 years of age)

Name of Apprenticeship/Traineeship (as designated by legislation/authority)
### Industrial Training Legislation Amendment Regulations 2008

#### Part 2  
**Industrial Training (General Apprenticeship) Regulations 1981**

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**Employer Details**

- Legal name of employer (Refer to information to Help Complete the Training Contract)
- Australian Business Number (ABN) of your legal entity
- Trading name
- Postal Address
- Telephone number
- Business name
- Mobile

**Employment and Training Details**

- Type of employer
- Name of apprenticeship
- Details of workplace
- Total number of people employed for the trade
- Name of persons able to demonstrate the relevant competencies
- Name of contact person for this workplace
- Telephone number

**Registered Training Organisation Details**

- Name of Registered Training Organisation (RTO)
- Telephone number

**Australian Apprenticeships Centre Details**

- Name of Australian Apprenticeships Centre
- Telephone number
Information You Need to Know

National Code of Good Practice for Australian Apprenticeships
The code explains the rights and responsibilities of the people who sign this contract. Free copies of the code are available from your Australian Apprenticeships Centre.

Making choices
a. Choosing a Registered Training Organisation (RTO)
The employer and the apprenticeship must select an RTO to provide training from a list available from your State/Territory Apprenticeships Centre.

b. Training Plan

Qualifications and records
Once the apprenticeship successfully completes all assessment requirements of the Training Plan, the RTO must issue the qualification specified in the Plan. If the RTO does not complete the assessment requirements as specified in the Training Plan, then the RTO must issue a Statement of Attainment. The RTO will keep the records.

Allowances and Incentives
A range of Australian Government and State/Territory incentives and subsidies may be available from time to time. For more information, see the information on Australian Government Australian Apprenticeships Incentives section of this document.

Information to Help Complete the Training Contract

Questions 1, 2, 21 and 25 – Title, Level and Code of Qualification
Apprenticeship/Trainee who successfully complete their training receive a nationally recognised qualification. Qualification titles and levels are listed in the relevant nationally endorsed Industry Training Package or accredited training course. Titles and levels are also on the Australian Qualifications Framework (www.deewr.gov.au). Your Australian Apprenticeships Centre or RTO can also provide this information.

Questions 3 and 5 – Commencement date of employment – WA only
The commencement date is in question 3 is the commencement date of the period of probation. During the period of probation, a reference in this Contract to an apprentice/trainee is to be taken as a reference to a probationer where appropriate. For an apprenticeship, this Contract is subject to approval under WA training legislation (or approval given, in accordance with the training legislation, for establishment of the apprenticeship), and the probation period is paid probation and the employer, apprentice and parent or guardian (where applicable) wish to continue with the employment after probation. This Contract will have effect, and only then will it have effect, as the apprenticeship agreement. The employer, apprentice and parent or guardian (where applicable) are to be taken to have entered into the apprenticeship agreement on the day after the probation period expires.

Question 6 – Training Apprenticeships – NSW only
NSW training legislation provides for trainee apprenticeships. Trainee apprentices do not undergo a probationary period and are mainly available in the building and construction industry. They may work for both employers in the same industry at different levels. The employer or employee can terminate trainee apprenticeships on the period of notice required in their trainee award. Trainee apprentices complete the same job in the job and off the job training as other apprentices and, at the conclusion of the trainee apprenticeship, receive the same qualifications and certificates.

Question 7 – Existing Worker
An existing worker is defined as a person who has been employed by the applicant employer continuously for more than 3 months full-time or 12 months casual or part-time or a combination of both, immediately prior to the commencement date as shown in question 3. State/Territory Apprenticeship Centres may not apply to existing worker arrangements. You should contact your nominated Australian Apprenticeships Centre for advice on whether eligibility for these arrangements.

Question 13 – New Zealand Passport Holders
Australian Government incentives are only available to New Zealand passport holders if the applicant has been resident in Australia for 6 months or more. However, a Training Contract with the New Zealand passport holder could still be registered. Contact your Australian Apprenticeships Centre or State/Territory Trading Authority for more information.

Question 18 – Australian School-based Apprenticeship
Australian Apprenticeship training undertaken by a student will be an Australian School-based Apprenticeship when all of the following apply:

1. The student is enrolled in a senior secondary certificate under the relevant Education Act
2. The school is an education provider at which the student is enrolled acknowledges and endorses the Training Plan/Outline required by the Apprenticeship/Traineeship Training Contract
3. The Australian School-based Apprenticeship is recognised on the senior secondary certificate.
Question 24 — Credit
An apprenticeship may gain "credit" for relevant prior learning or experience. This prior learning or experience must be formally recognised and may meet the duration of the Apprenticeship/Traintee. Credit may also allow industrial workplace arrangements and incentive payments. For more information contact your Australian Apprenticeships Centre or RTD.
Your RTD should discuss the issue of credit for prior learning with you during the negotiation of the Training Plan associated with this contract of training.

Question 28 — Legal Name of Employer
The employer must provide the name of the employer's legal entity. This will be a person's name, a company name, or the name of an incorporated association, NOT a trading name, business name, or name of a trust.

Questions 34 and 35 — Group Training Organisation
A group training organisation employs apprentices/trainees and places them with host employers. The host employer and the company providing the group training services must be separate legal entities.

Question 36 — Full-time/Part-time Apprentices and Trainees
Apprenticeship/traineeships may be undertaken full-time or part-time. A full-time apprentice/trainee is one whose ordinary hours of employment, including the training component, and not less than the usual hours of employment for a full-time employee in that occupation, per time period vary across Australia and across occupations. Averaging of hours may be possible in some jurisdictions. Please check with your State/Territory Training Authority.
For more information contact an Australian Apprenticeships Centre in your region or State/Territory Training Authority. See the Contacts for Further Information and Assistance section for further contact details.

Question 41 — Business Relationship
A business relationship includes a pre-existing or current business relationship between the employer and the apprentice/trainee, for example, when the apprentice/trainee is a partner, a director of the company, a previous director or partner or involved in franchise arrangements.

The following State/Territory training authority can also provide further information:

Western Australia

Apprentice Centre
Department of Education and Training
Locked Bag 145
Leederville WA 6903
Ph: 13 19 54
Ph: (08) 9318 5450
Fax: (08) 9318 5431
Web: www.apprenticecentre.wa.gov.au
Schedule 2 — Transitional provisions


(1) In this clause —

“pre - 1 August 2008 regulations” means these regulations as in force immediately before 1 August 2008.

(2) Regulations 7 to 10, 12, 13, 15 and 17(9) and Schedules 2 and 3 of the pre – 1 August 2008 regulations continue to apply to and in relation to a person who commenced employment as a probationer before 1 August 2008.

(3) These regulations do not apply to and in relation to a person who commenced employment as a probationer before 1 August 2008 to the extent that they are inconsistent with the provisions of the pre – 1 August 2008 regulations applied under subclause (2).
Industrial Training Legislation Amendment Regulations 2008

Part 3 — Industrial Training (Apprenticeship Training) Regulations 1981

18. The regulations amended

The amendments in this Part are to the Industrial Training (Apprenticeship Training) Regulations 1981.

19. Regulation 4 amended

Regulation 4 is amended as follows:

(a) in the definition of “directed” by deleting “the Director of Technical Education or”;

(b) in the definition of “directed” by deleting “an approved college;” and inserting instead —

“a registered training provider;”;

(c) by inserting in the appropriate alphabetical position —

“Council” means the Training Accreditation Council established by the Vocational Education and Training Act 1996 section 25(1);

20. Regulation 5 amended

Regulation 5(3) is repealed.

21. Regulation 7 amended

Regulation 7(2) is amended by deleting “the Technical Education Division of the Education Department or an approved college” and inserting instead —

“a registered training provider”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.